

REGULAR MEETING.

COUNCIL CHAMBER, CITY OF INDIANAPOLIS, IND.
MONDAY, March 19, 1906.

The Common Council of the City of Indianapolis, met in the Council chamber, Monday evening, March 19, 1906, at 7:30 o'clock, in regular session. President Frederick W. Eppert in the chair.

Present: The Hon. Frederick W. Eppert, President of the Common Council, and 16 members, viz.: Messrs. Brown, Hamlet, Wood, Davis, Neukom, Smither, Rhodes, Bangs, Uhl, Stickelman, Portteus, Royse, Sullivan, Hofmann, Hilkené and Henry.

Absent, 4, viz.: Messrs. Cottey, Hartmann, Donovan and Wright.

Mr. Uhl moved that the reading of the Journal be dispensed with. Carried.

COMMUNICATIONS FROM THE MAYOR.

EXECUTIVE DEPARTMENT,
CITY OF INDIANAPOLIS.
INDIANAPOLIS, IND., March 17, 1906.

To the President and Members of the Common Council:

GENTLEMEN: I herewith return with my signature and approval General Ordinance No. 5, 1906, being "An ordinance to amend Section one hundred and ten (110) of an ordinance, entitled, 'An ordinance providing for all matters concerning, affecting or relating to the construction, alteration, repair or removal of buildings, structures and appurtenances thereof erected, or to be erected, in the City of Indianapolis, Indiana,' approved June 6, 1904.'

Respectfully,
CHARLES A. BOOKWALTER,
Mayor.

COMMUNICATIONS FROM CITY OFFICERS.

DEPARTMENT OF PUBLIC WORKS,
OFFICE OF THE BOARD,
INDIANAPOLIS, IND., March 9, 1906.

To the President and Members of the Common Council:

DEAR SIR: I am directed by the Board of Public Works to forward to you franchise of the Chicago, Indianapolis and Evansville R. R., approved by the Board of Public Works and the Mayor, to be presented to the Council for approval.

Yours truly,
BOARD OF PUBLIC WORKS,
Per F. J. Noll, Jr., *Clerk.*

DEPARTMENT OF PUBLIC WORKS,
OFFICE OF THE BOARD,
INDIANAPOLIS, IND., March 13, 1906.

To the President and Members of the Common Council:

DEAR SIR: I am directed by the Board of Public Works to forward to you a corrected ordinance to be substituted for the one introduced into the Council Monday, March 5th, granting the Board of Public Works permission to pave Twentieth street from Talbott to Central avenue with asphalt roadway.

Trusting same will be introduced at the next meeting, we remain,

Yours truly,
BOARD OF PUBLIC WORKS,
Per F. J. Noll, Jr., *Clerk.*

DEPARTMENT OF PUBLIC WORKS,
OFFICE OF THE BOARD,
INDIANAPOLIS, IND., March 8, 1906.

To the President and Members of the Common Council:

DEAR SIR: Enclosed find switch contract approved by the Board of Public Works, which we would like to have you present to the Council for approval as soon as possible.

Yours truly,
BOARD OF PUBLIC WORKS,
Per F. J. Noll, Jr., *Clerk.*

INTRODUCTION OF GENERAL ORDINANCES.

General Ordinance No. 7—1906: An ordinance authorizing and empowering the Board of Public Works of the City of Indianapolis, Indiana, to improve Twentieth street from the east property line of Talbott avenue to the west property line of Central avenue, except the crossings of Alabama street, Delaware street and New Jersey street, by grading and paving the

roadway with asphalt from gutter line to gutter line to a uniform width of twenty-one and thirty-three hundredths (21.33) feet laid on a six (6) inch gravel concrete foundation including the wings of intersecting alleys; placing the necessary inlets and stratified limestone marginal stones in accordance with Improvement Resolution No. 4389, 1906, adopted by the Board of Public Works, and fixing the time when the same shall take effect.

WHEREAS, The Board of Public Works of the City of Indianapolis, Indiana, did on the 24th day of January, 1906, adopt Improvement Resolution No. 4389, 1906, for the improvement of Twentieth street from the east property line of Talbott avenue, to the west property line of Central avenue, except the crossings at Alabama, Delaware and New Jersey streets, by grading and paving the roadway with asphalt from gutter line to gutter line to a uniform width of twenty-one and thirty-three hundredths (21.33) feet laid on a six (6) inch gravel concrete foundation including the wings of intersecting alleys; placing the necessary inlets and stratified limestone marginal stones as shown on plans; and

WHEREAS, The said Board of Public Works did at the same time fix the 9th day of February, 1906, at 10 o'clock, A. M., as a date to hear all persons interested or whose property is affected by said proposed improvement; and the notice of the passage of said resolution and of the said time for hearing was published on the 25th day of January, 1906, and the 1st day of February, 1906, in the Indianapolis Sentinel, a daily newspaper of general circulation, printed and published in the City of Indianapolis, and notices by mail duly forwarded as provided by law; and

WHEREAS, On the 9th day of February, 1906, the Board having met in regular session, took final action on said Improvement Resolution without modification; and

WHEREAS, On the 20th day of February, 1906, a written remonstrance was filed with the Board against the improvement of Twentieth street, and the same was referred to the City Civil Engineer for investigation and report; and

WHEREAS, On the 28th day of February, 1906, the City Civil Engineer filed his written report that a majority of the resident property owners had signed said remonstrance; and

WHEREAS, On the 28th day of February, 1906, the said Board of Public Works directed that said resolution be referred to the Common Council of the City of Indianapolis, with a request that said Council pass an ordinance authorizing and empowering the said Board of Public Works to improve the roadway of said Twentieth street with asphalt, in accordance with said resolution; now, therefore,

SECTION 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That the Board of Public Works of said City be, and the same is, hereby authorized and empowered to improve Twentieth street from the east property line of Talbott avenue to the west property line of Central avenue, except the crossings of Alabama, Delaware and New Jersey streets, by grading and paving the roadway with asphalt from gutter line to gutter line to a uniform width of twenty-one and thirty-three hundredths (21.33) feet laid on a six (6) inch gravel concrete foundation including the wings of intersecting alleys; placing the necessary inlets and stratified limestone marginal stones, in accordance with Improvement Resolution No. 4389, 1906, adopted by the Board of Public Works on the 24th day of January, 1906.

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

Referred to Committee on Sewers, Streets and Alleys.

General Ordinance No. 8—1906: An ordinance ratifying, confirming and approving a certain contract and agreement made and entered into on the 9th day of March, 1906, between the City of Indianapolis, by and through its Board of Public Works, and the Chicago, Indianapolis and Evansville Railway Company, whereby said Railway Company is authorized to construct its track, or tracks, along and across certain streets, alleys and public places in the City of Indianapolis, and to maintain same and operate thereon; prescribing the terms and conditions upon which such rights are granted; and fixing a time when the same shall take effect.

WHEREAS, heretofore, to-wit: On the 9th day of March, 1906, the City of Indianapolis, by and through its Board of Public Works, entered into the following agreement with the Chicago, Indianapolis and Evansville Railway Company, viz.:

THIS AGREEMENT, made and entered into this 9th day of March, 1906, 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 Chicago, Indianapolis and Evansville Railway Company, (hereinafter called the Railway 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*: That

WHEREAS, Said Railway Company has presented its written petition to the Board of Public Works of said City of Indianapolis asking permission to be allowed to construct, maintain and operate a line of railway from the corporate limits of said City on the western side thereof to, or near, Senate avenue in said City between Market street on the north and Court street on the south, with switches, side-tracks and turn-outs, including a line or turn-out, in a southwesterly direction from the east side of Geisendorf street to a point south of Maryland street between Plum street and the first alley west of Plum street, as shown by the plat of said line of railway filed in the office of said Board of Public Works, and asking permission of said Board of Public Works to authorize said Railway Company to so construct, lay, maintain and operate its line of railway with tracks, necessary switches, side-tracks and turn-outs on, over, across and along public grounds, streets and alleys in and through said City.

Now, *Therefore*, Said Board of Public Works of said City of Indianapolis, in consideration of the several agreements of said Railway Company, party of the second part, hereinafter contained, prescribed, expressed, and set forth, does hereby (subject to the ratification and approval of the Common Council of said City), consent, authorize, empower and permit said Chicago, Indianapolis and Evansville Railway Company, subject to the conditions hereinafter prescribed and expressed, to construct its grade, structures, lay its ties and rails, construct, equip, operate and run its line of railway upon the following route within the limits of said City, to-wit:

Route.

Beginning with the center line of a double track railway, at a point on the west corporation line of said City about sixty-nine (69) feet north of the center line of Clark street produced; thence north eighty-eight (88) degrees, fifteen (15) minutes east (Magnetic, February 12, 1906,) across a north and south alley one hundred and eighty-five (185) feet to the center of Tremont street, seventy-two (72) feet north of the intersection of Tremont and Clark streets; thence across Tremont street north eighty-eight (88) degrees, fifteen (15) minutes east, ninety-six and seven-tenths (96.7) feet to the beginning of a three (3) degree curve to the right; thence with said three (3) degree curve across a north and south alley between Tremont street and Bismark avenue to the west line of Bismark avenue, twenty-five (25) feet from the intersection of the north line of Clark street and the west line of Bismark avenue; thence with said curve across Bismark avenue to the north line of Clark street, seventy-nine and five-tenths (79.5) feet from the intersection of the east line of Bismark avenue and north line of Clark street; thence with said three (3) degree curve across

Clark street to west line of Sheffield avenue, seven and five-tenths (7.5) feet from the intersection of the west line of Sheffield avenue and south line of Clark street; thence with said three (3) degree curve across Sheffield avenue and a twenty-five (25) foot alley, between Sheffield and Belmont avenues, to east line of Belmont avenue, one hundred and ninety-three and six-tenths (193.6) feet south of the intersection of the west line of Belmont avenue and south line of Clark street; thence across Belmont avenue one hundred seventy and three-tenths (170.3) feet to the end of said three (3) degree curve; thence south fifty-four (54) degrees, thirty (30) minutes east on a line tangent to said three (3) degree curve, across alley, to the west line of Reynolds avenue, one hundred and forty-two and five-tenths (142.5) feet north of the intersection of the north line of Eleventh street and west line of Reynolds avenue; thence with said tangent across Reynolds avenue and the alley between Reynolds and Elder avenues to a point in the north line of Eleventh street, one hundred and thirty (130) feet east of the intersection of the east line of Reynolds avenue and north line of Eleventh street; thence across Eleventh street and an east and west alley between Tenth and Eleventh streets to a point in the west line of Elder avenue, five hundred and forty-nine (549) feet from the intersection of the north line of Tenth street and west line of Elder avenue; thence across Elder avenue and an alley between Elder and Miley avenues to a point in the west line of Miley avenue two hundred and seventy-five (275) feet north from the intersection of the north line of Tenth street and west line of Miley avenue; thence across Miley avenue and a north and south alley and an east and west alley, between Miley avenue and Cable street, to a point in the west line of Cable street, forty-six and seven-tenths (46.7) feet north of the intersection of north line of Tenth street and west line of Cable street; thence across Cable street with said tangent to a point in the north line of Tenth street, sixteen and five-tenths (16.5) feet from the intersection of the north line of Tenth street and east line of Cable street; thence across Tenth street with said tangent to a point in the west line of boulevard, or Sherman Drive, one hundred and eighty-nine (189) feet south of the intersection of the south line of Tenth street and west line of Sherman Drive; thence across Sherman Drive to a point in the north line of Walnut street, eight hundred and eighty (880) feet east from the intersection of the north line of Walnut street and the east line of Sherman Drive; thence with tangent, across Walnut street and a north and south alley, between Kane and Parkman streets, to a point in the west line of Parkman street, one hundred and fifty (150) feet south of the intersection of the west line of Parkman street and south line of Walnut street; thence with said tangent, across Parkman street and a north and south alley between Parkman and Porter streets, to a point in the west line of Porter street, a distance of thirty-two and four-tenths (32.4) feet north of the intersection of the north line of North street and west line of Porter street; thence across Porter and North streets and a north and south alley to a point in the west line of Elwood street, one hundred and twenty-five (125) feet from the intersection of the west line of Elwood street and south line of North street; thence with said tangent across Elwood street and a north and south alley between Elwood and Caldwell streets to a point in the west line of Caldwell street, three hundred and forty-seven and five-tenths (347.5) feet from the intersection of the west line of Caldwell street and south line of North street; thence with said tangent across Caldwell street to a point in the north line of Michigan street, eighty-five (85) feet from the intersection of the east line of Caldwell street and north line of Michigan street; thence with said tangent across Michigan street to a point in the west line of Hanson avenue, thirty-nine (39) feet south of the intersection of the south line of Michigan street and west line of Hanson avenue; thence with said tangent across Hanson avenue one hundred and fifty-four and nine-tenths (154.9) feet from the east line of Hanson avenue to the beginning of a one (1) degree curve to the right; thence with said

one (1) degree curve to a point in the north line of Holborn street, two hundred and twenty (220) feet east from the intersection of the east line of Hanson avenue and north line of Holborn street; thence with said one (1) degree curve crossing Holborn street to a point in the north line of Vermont street two hundred and seventy (270) feet east from the intersection of the east line of Hanson avenue and north line of Vermont street; thence across Vermont street one hundred seventeen and nine-tenths (117.9) feet to the end of said one (1) degree curve; thence south forty-nine (49) degrees, twenty-two (22) minutes east on a line tangent to said one (1) degree curve across an east and west alley to a point in the north line of New York street five hundred forty-eight and eight-tenths (548.8) feet east from the intersection of the east line of Hanson avenue and north line of New York street; thence with said tangent across New York street ten hundred twenty-one (1021) feet to the beginning of a three (3) degree curve to the left; thence with said three (3) degree curve to a point in the line of Wabash street twenty-three (23) feet west of the intersection of west line of Blake street and north line of Wabash street; thence with said three (3) degree curve in Wabash street and across Blake street to a point in the east line of Blake street, three hundred one (301) feet north from the intersection of the north line of Market and east line of Blake streets; thence with the said three (3) degree curve across an east and west alley, and north and south alley, to a point in the west line of Douglas street two hundred seven (207) feet north from the intersection of the west line of Douglas street and the north line of Market street; thence across Douglas street and a north and south alley with said three (3) degree curve to a point in the west line of Geisendorf street, one hundred thirty-three (133) feet north from the intersection of the north line of Market street and the west line of Geisendorf street; thence across Geisendorf street, one hundred sixty-one (161) feet to the end of said three (3) degree curve; thence south seventy-four (74) degrees, fifty-two (52) minutes east on a line tangent to said three (3) degree curve, two hundred and ninety-two (292) feet to a point in the west line of Blackford street, fifteen (15) feet north from the intersection of the west line of Blackford street and the north line of Market street; thence continuing in an easterly direction with any number of tracks between the north line of Court street on the south and a line for a sidewalk curb on the north side of Market street, the said line for the curb on the north side of Market street, to be parallel with, and twenty (20) feet south from, the north line of said Market street, across Blackford street, the first alley east of Blackford street, California street, the first alley east of California street, West street, the first alley east of West street, and Missouri street, and in said Market street to a point thirty (30) feet west of the first alley east of Missouri street. Also two (2) additional tracks in addition to the main tracks aforesaid, branching from the said main tracks at or near the south line of Holborn street, and running along the south side of said main tracks in a southeasterly direction, the said additional tracks to cross the north line of Vermont street at a point about twenty-six (26) feet west of the center of the two aforesaid main tracks; thence crossing Vermont street, one hundred and forty-two and two-tenths (142.2) feet to a point about twenty-six (26) feet west of the end of the one degree curve of the said two main tracks; thence on a line nearly parallel to and south of the main line heretofore described, across an east and west alley to a point in the north line of New York street four hundred eighty-nine (489) feet east from the intersection of the east line of Hanson avenue and the north line of New York street; thence continuing on a straight line across New York street to a point in the west line of Sanborn street three and five-tenths (3.5) feet south from the intersection of the south line of New York street and west line of Sanborn street; thence with said straight line across Sanborn street, and across an east and west alley, to a point in the north line of Owosso avenue, a distance of two hundred (200) feet east from the intersection of the east line

of Sanborn street and north line of Owosso avenue; thence to a point in the west line of Wabash street, twenty-three (23) feet west of the intersection of west line of Blake street and north line of Wabash street; thence following underneath the line of the two (2) main tracks heretofore described (said two (2) main tracks to be elevated as hereinafter provided) from the north side of Wabash street to the east line of Blackford street. Also beginning and running with four tracks from a point in the east line of Blackford street about sixty-four (64) feet south from the intersection of the east line of Blackford street with the south line of Market street; running thence in a westerly direction on a tangent across Blackford and Market streets to the beginning of a curve to the south or left, with a radius of eight hundred seventy-two (872) feet, which point of curve is three hundred and eighty-two (382) feet west from the west line of Blackford street; thence with said curve, with a radius of eight hundred seventy-two (872) feet to a point in the center of Geisendorf street one hundred twenty-one (121) feet north from the intersection of Market and Geisendorf streets; thence with said curve, crossing a north and south alley to a point in the center of Douglas street one hundred thirty-two (132) feet north from the intersection of Market and Douglas streets; thence with said curve, crossing a north and south alley to a point in the center of Blake street, ninety-eight (98) feet north from the intersection of Market and Blake streets; thence on said curve with a radius of eight hundred seventy-two (872) feet to the end of said curve, a distance of three hundred three (303) feet from the center of Blake street, measured along said curve; thence with the tangent to said curve four hundred (400) feet to the beginning of a curve to the south or left, with a radius of six hundred sixty-seven (667) feet; thence with said curve to a point in the center of Washington street, three hundred ninety-three (393) feet west from the intersection of Washington street and Perry avenue; thence with said curve to a point in the west line of Plum street, four (4) feet south from the intersection of the south line of Washington street with the west line of Plum street; thence with said curve, crossing an east and west alley between Washington and Maryland streets to a point in the center of Maryland street, eighty-two (82) feet west of the intersection of Maryland and Plum streets; thence with said curve across Maryland street. Also a north connecting track with the track, or tracks, (commonly known as the Belt Railroad) of The Indianapolis Union Railway Company starting at a point in the west line of Elder avenue, a distance of five hundred forty-nine (549) feet from the intersection of the north line of Tenth street and west line of Elder avenue, following a six (6) degree curve to the left from the main line across Elder avenue, and a north and south alley, between Miley and Elder avenues to a point in the west line of Miley avenue, a distance of three hundred thirty-five (335) feet north from the intersection of the north line of Tenth street and west line of Miley avenue; thence with said six (6) degree curve across Miley avenue, and a north and south alley, between Miley avenue and Cable street, to a point in the west line of Cable street, a distance of two hundred seventy (270) feet from the intersection of the north line of Tenth street and the west line of Cable street; thence with said six (6) degree curve across Cable street and in Torbett street, a distance of two hundred twelve and five-tenths (212.5) feet to a point in the north line of Torbett street, one hundred fifty-five (155) feet east from the intersection of the east line of Cable street and the north line of Torbett street; thence with said six (6) degree curve, one hundred and fifteen (115) feet to a point in the west line of a fifty (50) foot street with no name, thirty (30) feet north from the intersection of the north line of Torbett street and west line of said fifty (50) foot street; thence with said six (6) degree curve across said fifty (50) foot street and an alley to a point on the Belt Railroad to the end of said six (6) degree curve. Also a south connecting track with the track, or tracks, (commonly known as the Belt Railroad) of the Indianapolis Union Railway Company starting at

a point in the east line of Miley avenue two hundred fifty (250) feet north from the intersection of the north line of Tenth street and east line of Miley avenue; thence with a ten (10) degree curve to the right, crossing an east and west alley, between Tenth and Eleventh streets and a north and south alley between Miley avenue and Cable street, to a point in the west line of Cable street five (5) feet north from the intersection of the north line of Tenth and the west line of Cable street; thence with said ten (10) degree curve across Tenth street to a point in the south line of Tenth street, thirty (30) feet west from the intersection of the east line of Cable street produced, to the south line of Tenth street; thence with said ten (10) degree curve to a point on said Belt Railroad. The general route of said Railway shall be substantially as herein above provided but, as the necessities of the case may require, in the work of construction, or subsequent re-

No substantial variation.

construction or renewal, of any of the work, the precise points, distances, curves and angles hereinabove shown may be varied from; provided no such variation shall depart substantially from the general plan and route as aforesaid, nor shall any such variation be such as to cross any other street or alley, or as to cross any street or alley between other streets, than as hereinabove shown.

Provided, however, That the right of said Railway Company to construct, maintain and operate said railway in said City, as aforesaid, is granted and held upon and subject to the terms and conditions following, to-wit:

1. All tracks of said Railway Company—excepting only two (2) tracks to descend from the elevation so as to cross Wabash street and Blake street at grade of Blake street and continuing thence in an easterly direction to the west line of Missouri street, and intended for the carriage of freight to and from the elevation to the surface of the ground (elsewhere hereinafter called the freight tracks); and excepting tracks north and west of Michigan street (to be elevated in the future as hereinafter provided)—*shall be elevated*, with steel structures, or steel bridges, at street and alley crossings, all as follows:

Elevated tracks.

Michigan street will be crossed by an overhead steel bridge, with abutments on the street lines and supporting columns on the curb lines, giving a clear span from curb to curb, and with a clearance of not less than fourteen (14) feet beneath the bridge.

Hanson avenue will be crossed by an overhead steel bridge, with abutments on the street lines, giving a clear span across the street, and with a clearance of not less than fourteen (14) feet beneath the bridge. Holborn street (to be vacated as hereinafter provided) will be crossed at an elevation of 712.5 city datum.

Vermont street will be crossed by an overhead steel bridge, with abutments on the street lines, and supporting columns at the curb lines, giving a clear span between the curbs and with a clearance of not less than fourteen (14) feet beneath the bridge. An east and west alley between New York and Vermont streets (to be vacated as hereinafter provided) will be crossed at an elevation of not to exceed 718.6 city datum.

New York street will be crossed by overhead steel bridge, or bridges, with abutments at the street lines, and supporting columns at the curb lines, giving a clear span between the curbs, and with a clearance of not less than fourteen (14) feet and six inches beneath the bridge, or bridges.

Sanborn street (to be vacated as hereinafter provided) will be crossed at an elevation of about 710.4 city datum. An east and west alley between Sanborn street and Owosso avenue (to be vacated as hereinafter provided) will be crossed at an elevation of about 708.8 city datum.

From the west side of Blake street to a point thirty (30) feet west of the first alley east of Missouri street all tracks (excepting only said freight tracks) shall be upon elevated steel structure, or structures, with street and alley crossings as follows:

At Wabash and Blake streets there shall be supporting columns at curb

lines, with clear spans from curb to curb, and a clearance of not less than eighteen (18) feet beneath the bridge or bridges.

The north and south alley, and the east and west alley between Blake and Douglas streets will be crossed by overhead steel bridge, or bridges, with clear spans across said alleys, giving a clearance beneath the bridge, or bridges, of about eighteen (18) feet above the rails of said two (2) freight tracks.

Douglas street will be crossed by an overhead steel bridge, with a clear span across the street, giving a clearance beneath the bridge of about eighteen (18) feet above the rails of said two (2) freight tracks.

The north and south alley between Douglas and Geisendorf streets will be crossed by an overhead steel bridge, with a clear span across said alley, having a clearance of about eighteen (18) feet beneath the bridge above the rails of said two (2) freight tracks.

Geisendorf street will be crossed by an overhead steel bridge, with a clear span across the street, giving a clearance beneath the bridge above the rails of said freight tracks of about eighteen (18) feet.

Blackford street will be crossed by an overhead steel bridge, with supporting columns at the curb lines, having a clear span between the curbs, with a clearance of about twenty-one and one-half ($21\frac{1}{2}$) feet beneath the bridge to the top of the rails of said freight tracks. A north and south alley between Blackford and California streets (to be vacated as hereinafter provided) will be crossed at an elevation of about 731.3 city datum. California street (to be vacated as hereinafter provided) will be crossed at an elevation of about 731.3 city datum. A north and south alley between California and West streets (to be vacated as hereinafter provided) will be crossed at an elevation of 731.3 city datum.

West street will be crossed by an overhead steel bridge, or bridges, with supporting columns at the curb lines, with a clear span, or spans, between the curbs, and a clearance of about twenty-one and one-half ($21\frac{1}{2}$) feet beneath the bridge, or bridges. A north and south alley between West and Missouri streets (to be vacated as hereinafter provided) will be crossed at an elevation of 731.3 city datum.

Missouri street will be crossed by overhead steel bridge, or bridges, having supporting columns at the curb lines, with clear span, or spans, between the curbs, and a clearance of not less than twenty-one and one-half ($21\frac{1}{2}$) feet beneath the bridge, or bridges, and the top of the rails of the railroad track now on said street.

All tracks on, or in, Market street will be upon elevated steel structure or structures, as aforesaid, extending along the line of the route from west to east in said street, and between the south line of said street and the aforesaid line for a curb on the north side of said street, the columns in said street supporting the same to be along a line parallel with and ten (10) feet north of the south line of said street and along said line for a curb on the north side, as aforesaid, and along a line parallel, as near as may be, and midway between said line ten (10) feet from the south line of said street and said line for a curb on the north side of said street; none of said columns to be nearer than twenty-five (25) feet apart from east to west, and at the crossings of West street and Missouri street there shall be a clear span from curb to curb across the street, and the clearance underneath all of said structure on Market street to be not less than twenty-one and one-half ($21\frac{1}{2}$) feet; *Provided further*, That in consideration of the right to occupy said Market street with elevated structure, or structures, as aforesaid, said Railway Company shall, and agrees to, when it shall have completed said construction on said street, at its own expense, improve the then unimproved portion of said street underneath said elevated structure with brick, or with like material then in use on the improved part of that part of said Market street, between the curbs (to be twenty (20) feet from the property line on the north side and ten (10) feet from the property line on the south side of said street) from the west line of Senate avenue westerly

to the east line of West street; with the necessary inlets and catch basins; said improvement of said street to be made when, and as required, by the Board of Public Works of said City, and to conform to the reasonable requirements of said Board.

On the said line running in a westerly and southerly direction from the east side of Blackford street to the south line of Maryland street all tracks shall be elevated on steel bridges at street and alley crossings as follows:

Blackford street will be crossed by an overhead steel bridge, with supporting columns at the curb lines, having a clear span between the curbs, with a clearance of about twenty-two (22) feet beneath the bridge.

Geisendorf street will be crossed by an overhead steel bridge, with a clear span across the street, and a clearance of about twenty-six (26) feet or more beneath the bridge.

A north and south alley between Geisendorf street and Douglas street will be crossed by an overhead steel bridge, having a clear span across the alley, with a clearance of about twenty-five (25) feet or more beneath the bridge.

Douglas street will be crossed by an overhead steel bridge, with a clear span across the street, and a clearance of about twenty-four (24) feet or more beneath the bridge.

A north and south alley between Douglas street and Blake street will be crossed by an overhead steel bridge having a clear span across the alley, with a clearance of not less than twenty (20) feet beneath the bridge.

Blake street will be crossed by an overhead steel bridge, with supporting columns at curb lines, having a clear span between the curbs, with a clearance of not less than about eighteen (18) feet beneath the bridge.

Washington street will be crossed by an overhead steel bridge, having supporting columns at the curb lines, with a clear span between the curbs, and a clearance of not less than fifteen (15) feet underneath the bridge.

Plum street will be crossed by an overhead steel bridge, having a clear span across the street, with a clearance of not less than fifteen (15) feet beneath the bridge.

An east and west alley between Washington street and Maryland street will be crossed by an overhead steel bridge having a clear span across the alley, with a clearance of not less than fifteen (15) feet beneath the bridge.

Maryland street will be crossed by an overhead steel bridge, with a clear span across the street, at a clearance of not less than fifteen (15) feet beneath the bridge.

It is expressly agreed that all overhead iron bridges at crossings of streets between the property lines on either side, and the full width of the bridges; and also the said overhead structure on Market street covering the space extending ten (10) feet from the south line of said street, shall be fully covered by good and sufficient flooring to the approval of the City Engineer of said City and there shall also be likewise covered with such flooring if, and when and as, required by written order of said Board of Public Works the remainder of said structure in Market street.

Said two (2) freight tracks crossing Wabash and Blake streets at the grade of Blake street and continuing in an easterly direction will be a grade crossing over the first alley east of Blake street at an elevation requiring the present grade to be raised to an elevation of 706 city datum; and will cross Douglas street with an elevated steel structure with a clear span crossing the street, and a clearance underneath the structure of about eight and three-tenths (8.3) feet; and will cross the first north and south alley east of Douglas street on an elevated steel structure, with a clear span across the alley, having a clearance of about eight and a half (8½) feet beneath the structure; and will cross Geisendorf street on an elevated steel structure, with a clear span across the street, having a clearance of about nine and two-tenths (9.2) feet underneath the structure; and will cross Blackford street at grade crossing requiring the present grade of the street to be raised to an elevation of 706 city datum; and said freight tracks

Freight
tracks.

thence continuing to the west side of Missouri street with one of them running from the southwest corner of California and Market streets along and on the south side of Market street, within ten (10) feet from said south line, to the west side of Missouri street; *Provided*, That so long as any street cars shall run over or along West street between Court street and Market street no locomotive or trains shall be run by said Railway Company over or across West street at grade excepting between the hours of 8:00 o'clock and 10.00 o'clock in the forenoon and between 12:00 o'clock midnight and 6:00 o'clock in the forenoon.

2. All crossings of tracks of said Railway Company over or across streets and alleys from the western corporation line of said City to Walnut street (they to be elevated in the future as hereinafter provided) shall be grade crossings, the present grade, where required, to be so changed as to make the elevations, city datum, as hereinafter shown:

The first north and south alley east of the corporation line of said City from the point of beginning of said route to be a grade crossing requiring the present grade to be raised to an elevation of 713.8.

Tremont street requiring present grade to be raised to an elevation of 712.95; the north and south alley between Tremont and Bismark avenue requiring present grade to be raised to an elevation of 710.7; Bismark avenue at grade at present elevation of 711.10; Clark street requiring the lowering of the present grade to an elevation of 710.15 at the intersection of the railway with the center of the street; Sheffield avenue requiring the lowering of the present grade to an elevation of 709.15; the north and south alley between Sheffield avenue and Belmont avenue requiring the raising of the present grade to an elevation of 708.5; Belmont avenue requiring the raising of the present grade to an elevation of 707.15; a north and south alley between Belmont and Reynolds avenues (to be vacated as hereinafter provided) requiring the raising of the present grade to an elevation of 706.4; Reynolds avenue requiring the raising of the present grade to an elevation of about 704.9; a north and south alley between Reynolds avenue and Eleventh street (to be vacated as hereinafter provided) requiring the raising of the present grade to an elevation of 704.2; Eleventh street requiring the raising of the present street grade to an elevation of 703.65; an east and west alley between Eleventh street and Elder avenue (to be vacated as hereinafter provided) requiring the present grade to be raised to an elevation of 703.2; Elder avenue requiring the raising of the present grade to an elevation of 702.9; the north and south alley between Elder avenue and Miley avenue requiring the raising of the present grade to an elevation of 702.0; Miley avenue requiring the lowering of the present grade to an elevation of 700.65; a north and south alley and an east and west alley between Miley avenue and Cable street, requiring the lowering of the alleys to an elevation of 699.6; Cable street requiring the lowering of the present street grade to an elevation of 698.65; Tenth street at an elevation of 698.0; and crossing the Belt Railroad at grade; Sherman Drive (Boulevard) at its present elevation of 695.4. All approaches are to be built on each side of the Railway with gradients not to exceed five (5) feet in one hundred (100) feet. All crossings of streets and alleys by the said north connecting track, and south connecting track, with said track, or tracks, (commonly known as the Belt Railroad) of The Indianapolis Union Railway Company shall be at grade. From the west line of Walnut street to the north line of Michigan street all streets and alleys are to be crossed overhead, with supporting columns at the curbs of streets, except at North street where there will be supporting columns at the curbs and center of the street, giving a clearance beneath the bridges, at each crossing, of not less than fourteen (14) feet, except at Walnut street which shall have a clearance of not less than twelve and six-tenths (12.6) feet.

3. It is expressly understood and agreed, as one of the conditions to the granting of this franchise, that whenever the City of Indianapolis, through any order of said Board of Public Works, or by contract or by ordinance duly passed by the Common Council, or otherwise, in the carrying out of

Grade crossings.

Future elevation at expense of Railway.

any general system of railway track elevation in said City, by which plan the track or tracks (commonly known as the Belt Railroad) now used by the Indianapolis Union Railway Company, and any other railroads connecting therewith, shall be changed from present grade, the Railway Company, party hereto of the second part, shall be required to elevate any of the tracks of said Railway Company upon or along the said route of said railway from the corporate limits of said City on the west in an easterly direction to Michigan street, that said Railway Company will promptly observe, perform and execute the work of elevation so required in strict conformity with such requirements as to method and manner of construction, and limit of time, and otherwise in all respects according to the terms and provisions of such requirements; and all at the expense of said Railway Company, and without any charge, cost, or expense to said City. Should said Railway Company fail, refuse or neglect to comply with any such requirements for the elevation of any of its said tracks, the said City shall have the right to advertise and contract for such elevation of said tracks and the cost of such work shall be recovered in a proper action brought by said City in any Court of competent jurisdiction.

4. The following streets and alleys shall be vacated:

The first north and south alley east of the corporation line of said City from the north line of Clark street to the first street next north thereof shall be vacated.

The north and south alley between Belmont and Reynolds avenues shall be vacated from Eleventh street to the north end of said alley.

The north and south alley between Reynolds and Elder avenues shall be vacated from the north line of Eleventh street to Clark street.

The first east and west alley south of Eleventh street between Reynolds and Elder avenues shall be vacated.

Holborn street shall be vacated from a point one hundred eighty-five (185) feet east of the east line of Hanson avenue to a point three hundred and fifteen (315) feet east of the east line of Hanson avenue.

The east and west alley between Vermont and New York streets shall be vacated from the Mill Race property in a westerly direction to the east line of the first north and south alley.

Sanborn street from the south line of New York street to the north line of the east and west alley between New York street and Owosso avenue shall be vacated.

The east and west alley between New York street and Owosso avenue shall be vacated from Sanborn street east to the eastern end of said alley.

The north and south alley between Blackford and California streets shall be vacated from the north line of Court to the south line of Market streets.

California street shall be vacated from the north line of Court street to the south line of Market street.

The north and south alley between California and West streets shall be vacated from the north line of Court street to the south line of Market street.

The north and south alley between West and Missouri streets shall be vacated from the north line of Court street to the south line of Market street.

The north and south alley between Missouri street and Senate avenue shall be vacated from the north line of Court street to the south line of Market street.

The vacation of said streets and alleys to be subject to the right of said City to maintain any sewers located therein, and subject also to any right of any corporation or corporations to maintain any gas or water mains now located and existing therein. All costs and expenses incident to the vacation of such streets and alleys incurred by said City shall be borne and paid by said Railway Company.

5. Said Railway Company shall permit the use of its track, or tracks, by any duly incorporated railroad using the same motive power as then being

Street and
alley vaca-
tions.

Use of tracks
by other roads

used by the said Railway Company, and engaged as a common carrier for hire, from or near the corporate limits, or from any connecting point within the corporate limits of said City; *Provided*, That the trains of said Railway Company, party hereto of the second part, shall have precedence over trains of the same grade of other railroads, and that the compensation to the said Railway Company, party hereto of the second part, by any such newly entering railroad company shall be upon such terms as may be agreed upon between the companies, but in case such companies cannot agree as to such compensation within thirty (30) days after application has been made therefor to said Railway Company, party hereto of the second part, by said newly entering railroad company, then such compensation shall be fixed and determined in an action instituted by either of such companies in any court of competent jurisdiction, and pending the determination of such suit, such newly entering railroad company shall have the right to use said track or tracks, upon executing a bond in such amount and with such security as shall be approved by the court, conditioned for the payment to said Railway Company, party hereto of the second part, of the compensation which may accrue up to the time of the final decision in said action; *Provided, further*, That the provisions hereof shall not operate to compel the said Railway Company, party hereto of the second part, to grant the right to any other company to use the side-tracks, spur tracks, yards or stations of the said Railway Company, party hereto of the second part, in the City of Indianapolis, but shall operate only to require the said Railway Company, party hereto of the second part, to permit to other companies the use of its main tracks and passing tracks necessary to the use of its main tracks. The Railway Company, party hereto of the second part, shall at all times be entitled to sufficient use of its main and passing tracks to accommodate its own traffic, and to this extent the use of its tracks by other companies shall at all times be subject to such sufficient use of its own tracks by said Railway Company, party hereto of the second part, The Railway Company, party hereto of the second part, shall be under no obligation to increase the number of its main or passing tracks in order to provide accommodations for the traffic of other companies. The compensation to be received by the Railway Company, party hereto of the second part, for the use of its main or passing tracks by other companies shall be such as is usual and customary under similar circumstances between railroad companies, and shall in no event be less than the Railway Company, party hereto of the second part, would be entitled to receive if such use of the said tracks were acquired by condemnation proceedings on behalf of the other companies acquiring such use of such main or passing tracks. *Provided, further, however*, That said Railway Company, party hereto of the second part, shall have the right, upon the terms and compensation to be agreed on between the companies, to permit the use, at any time, and from time to time, to any other railroad company, or companies, of any of its facilities, including side-tracks, spur tracks, yards or stations, as well as of its main tracks and passing tracks to the use of its main tracks.

6. Said Railway Company is further authorized, empowered and permitted to enter upon any of the streets and alleys aforesaid with its engineers, surveyors, superintendents, track men, train men or other employes for the purpose of surveying or constructing its structures, grade and railway track or tracks, as aforesaid. Said Railway Company in the construction of its structures, grade and tracks as aforesaid, shall so construct the same as to conform to the reasonable requirements of the Board of Public Works of said City, and when its railway is constructed as aforesaid shall restore all such streets, alleys and public grounds to as good condition as the same were in at the time said construction was commenced; and said Railway Company shall make all proper crossings as required by said Board of Public Works of said City, so that travel shall not be seriously inconvenienced by the construction of said railway, and shall improve and repair on and along its right-of-way, in conformity with their im-

Construction,
restoration
streets, cross-
ings, guards
and warnings,
as required by
City.

provements, all said streets and alleys at all times as required by the said Board of Public Works, and during the period of construction of said railway shall keep and maintain at all places where said track is crossed by a public thoroughfare proper and sufficient guards and warnings, to the approval of the said Board of Public Works, for the protection of pedestrians and other traffic desiring to cross said tracks during said period of construction.

Bond to protect City against liability.

7. The granting of said right, as aforesaid, shall in no wise be construed as granting a right-of-way over private property, and said Railway Company shall be and become liable for all damages for which said Railway Company or City may be legally liable which may be sustained by any person on account of the construction or operation of said railway, as aforesaid, either to property, by reason of the depreciation of value thereof along said right-of-way, or by reason of the carelessness, negligence or misconduct of any of its agents, servants or employes in the construction or use of said railway as aforesaid; and said Railway Company hereby agrees, when duly notified in writing and permitted to defend and appeal, to indemnify and hold harmless said City from any liability as aforesaid, and agrees to pay any final judgment, or judgments with all costs, rendered against said City on account thereof, and to defend, upon written notice from and in the name of said City, any action against it on account thereof; and the record of judgment against said City shall be final and conclusive evidence in the cause to entitle said City to recover in any court of competent jurisdiction against said Railway Company; and upon entering upon any of the city streets or alleys for the purpose of constructing its said structures, grade and track, or tracks, said Railway Company shall immediately file with the Board of Public Works of said City a surety company bond to the approval of said Board of Public Works in the sum of twenty-five thousand dollars (\$25,000), so conditioned as to secure the performance of its part of the conditions contained in this section, provided, that if said bond be for a limited time only the same shall be renewed, or extended, from time to time, or a new bond filed with said Board, all to the approval of said Board, until the work of construction of said railway shall be complete.

City Engineer to approve plans.

8. At least ten (10) days prior to the commencement of the work of construction over any public street the plans and specifications therefor shall be submitted to the City Engineer of the City for his examination, and if he find the same in accordance with the provisions hereof, he shall approve the same and work done in accordance therewith shall be deemed to be in conformity with this agreement.

Grade conform, not impede travel, crossings, improved, etc.

9. Said Railway Company shall, except where said tracks are elevated as provided herein, and grades changed as provided herein, (no substantial variation therefrom to be made) construct and maintain its said grade and tracks so as to conform, as nearly as practicable, to the grade of all streets and alleys as now established, or as hereafter may be established, and shall not impede travel or interfere with the free use of the street at the crossings thereof; and shall keep all said crossings so improved and repaired as may be required by the City Engineer of said City under the written direction of the Board of Public Works; said Railway Company shall also construct and keep in repair any bridges which may be necessary for it to use along its right-of-way, and shall construct and keep in repair any approaches to the approval of the City Engineer, under the written directions of said Board of Public Works, wherever the grade of its said tracks does not conform to the grade of any street or alley crossing said track, or tracks: And said Railway Company shall pay all expenses of or incident to, the change of grade of any street and alley crossing, as herein provided, and damages, if any, to property occasioned thereby.

Crossing of right of way.

10. Said Railway Company shall at all times in accordance with any requirements of the said Board of Public Works permit the crossing of its right-of-way, through, under, or over, by any viaduct; or the passage, through, or under its right-of-way, of any sewer, tunnel, or subway, that

may be authorized to be constructed by the Board of Public Works, and as shall not interfere with traffic of said Railway Company; *Provided*, That said Railway Company, upon not less than ten (10) days previous, written notice from said Board of Public Works, shall provide and construct all supports or other structures necessary to maintain and protect its said tracks during the progress of such work and failing so to do shall bear and pay all additional expense necessarily incurred by said City in providing the support, protection or maintenance of the tracks made necessary by the work so ordered by said Board of Public Works.

11. Said Railway Company shall construct and continually keep in good repair through and along its grade and tracks as aforesaid at such points as may be deemed necessary by the City Engineer under written orders by the Board of Public Works, sufficient culverts, ditches, drains and sewers to permit the free discharge of water under its said grade and track, or tracks, and along and over the streets and alleys aforesaid.

Culverts, drains and sewers.

12. All acts and things required to be done by said Railway Company with reference to said streets and alleys and public places, or the crossings thereof, and the approaches thereto, or the construction and maintenance of culverts and drains, shall be done promptly after the construction of said grade and tracks along, across or over said streets, alleys and public places as aforesaid; and in case said Company shall fail to perform said acts and things required to be done, and to keep the same properly improved and repaired to the approval of the City Engineer, or said Board of Public Works, said City may perform such work and collect the cost thereof with twenty per cent. (20%) damages in addition thereto by suit against said Company in any court of competent jurisdiction and the bond heretofore required of said Railway Company shall also be conditioned to cause said surety to become liable for the payment of any judgment rendered in such proceeding. In the event said Board of Public Works shall by proper resolution, decree the improvement of any street, alley or public ground crossed by said railway at grades, said Railway Company shall pay its proportionate share of the cost thereof as may be adjudged by said Board.

Bonds secures requirement as to streets, alleys, culverts, etc., with damages.

13. After the construction of that part of said railway which shall be elevated above the streets or alleys, in accordance with this contract, the Railway Company shall be under no obligations to construct, improve or repair the streets or alleys which its tracks shall not at grade occupy, traverse, or cross, nor shall the Railway Company be required to construct or repair culverts, ditches, drains or sewers in, or under, streets or alleys the drainage of which shall not be affected by the construction, maintenance or operation of the tracks of the railway in or upon same; *Provided*, That nothing in this section shall be construed to release said Railway Company from the payment of any benefits that may be assessed against it as an abutting property owner.

Where elevated tracks no requirement to maintain improvement after construction.

14. Permission and authority are hereby given to said Railway Company, whenever the same shall be necessary in the prosecution of the work it is herein authorized or required to perform, to obstruct temporarily any public street, avenue or alley to such extent, and for such length of time, as may be approved by the said Board of Public Works, and it is also hereby authorized, whenever the same shall become necessary, to erect and maintain temporary structures and false work in any of said streets and alleys during the construction of its said elevated railway, subject to like approval of the said Board.

Temporary obstruction during construction.

15. Said Railway Company shall provide and maintain flagmen, or erect and maintain safety gates, or such other approved protections, at such alley and street grade crossings as may be ordered or directed by said Board of Public Works in writing at any time, or from time to time.

Flagmen, safety-gates, etc.

16. Said Railway Company shall not permit any car or locomotives to stand at the crossings of any street or alley crossing said right-of-way so as to obstruct the free passage of teams, vehicles or persons over said right of-way, or to cause danger, or inconvenience, and said Railway Company shall in all cases cause the engine bell to ring as its locomotives and trains

are moving along said tracks, and said Railway Company shall not run any locomotives or cars along its said tracks at a faster rate than allowed by the general ordinance of said City under the penalties therein prescribed.

Speed, etc., ordinances not applicable to elevated tracks.

17. When said Railway shall have been constructed in accordance with the provisions of this agreement from time to time, as soon as the same shall be ready for use, then, and thereupon, all ordinances of said City relating to the speed of railway trains, length of trains, and number of cars to constitute a train, and maintenance of gates, flagmen, watchmen, signals and signal towers, and the ringing of bells, and construction of crossings, shall not be applicable to that part of said railway which shall be elevated above the streets or alleys in accordance with this agreement; *Provided, however,* This agreement is not to be construed as a waiver or surrender by the City of any of its police powers, or of the right at any time hereafter to pass necessary and reasonable police ordinances in relation to any of the matters contained in this contract.

Forfeiture of franchise if railway not in operation in six years.

18. In case said Railway Company shall fail within six (6) years to sufficiently construct said road as to have trains regularly running and in operation from either the City of Bloomington in Monroe County, Indiana, or the City of Logansport in Cass County, Indiana, over the line aforesaid and the line of the Chicago, Indianapolis and Evansville Railroad Company to within said City, all rights and privileges hereby granted said Railway Company may be forfeited, and said City shall have the right to enter the streets, alleys and public grounds (the right to cross, run upon, and use which is granted herein) and remove therefrom the tracks and other property of said Railway Company upon proper written resolution of said Board of Public Works.

Franchise Assignable only by consent of City.

19. This agreement, and all rights, privileges, powers, and authority hereby given or granted to said Railway Company shall be assignable and transferable by and with the consent and approval of said Board of Public Works first had and obtained and not otherwise.

20. This contract shall take effect, and be in full force, from and after the date of its approval and ratification by ordinance of the Common Council of said City.

In Witness Whereof, The said parties have hereunto set their hands this 9th day of March, 1906.

CITY OF INDIANAPOLIS,
By JOSEPH T. ELLIOTT,
PRESTON C. TRUSLER,
FREDERICK J. MACK,
Board of Public Works.

Approved:

CHARLES A. BOOKWALTER, *Mayor.*

CHICAGO, INDIANAPOLIS AND EVANSVILLE RAILWAY COMPANY,
By John B. Carter, *President.*

[SEAL.]

Attest:

CHARLES A. DENNEEN, *Secretary.*

And, WHEREAS, Said contract and agreement has been submitted by the said Board of Public Works of the City of Indianapolis to the Common council of said City 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 . . . day of March, 1906, by the City of Indianapolis, by and through its Board of Public Works, with the Chicago, Indianapolis and Evansville Railway Company be, and the same is hereby, in all things ratified, confirmed and approved, and said Chicago, Indianapolis and Evansville Railway Company is granted all rights, privileges and franchises as is in said contract and agreement set forth, in accordance with the terms, conditions and provisions thereof.

Referred to Committee on Contracts and Frachises.

General Ordinance No. 9—1906: An ordinance approving a certain contract granting The Talge Mahogany Company the right to lay and maintain a side-track or switch from across Lewis street, according to blue print attached, in the City of Indianapolis, Indiana.

Whereas, heretofore, to-wit: On the 19th day of December, 1905, 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, The Talge Mahogany Company, a corporation under the laws of the State of Indiana, and a citizen and an owner of real estate in the City of Indianapolis, respectfully petition this Honorable Board for the passage of a resolution granting it the privilege of laying a switch crossing Lewis street, beginning 50 feet north of the street line of Thirteenth street and the right-of-way of the L. E. & W. R. R., crossing Lewis street at an angle and approaching our Lewis street property line at 131 feet from Thirteenth street, extending 268 feet in a direct line south on Lewis street, immediate to and parallel with our property line, ending at a point 399 feet from the Thirteenth street property line. The same to be as indicated by the plat and drawing submitted herewith and attached hereto. This switch is desired for the purpose of facilitating transportation and business of your petitioner at its works.

Respectfully submitted,
THE TALGE MAHOGANY COMPANY,
John H. Talge, *President*.

Now, therefore, This agreement, made and entered into this 19th day of December, 1905, by and between 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 50 feet north of the street line of Thirteenth street and the right-of-way of the L. E. & W. R. R., crossing Lewis street at an angle and approaching our Lewis street property line at 131 feet from Thirteenth street, extending 268 feet in a direct line south on Lewis street immediate to and parallel with our property line, ending at a point 399 feet from the Thirteenth street property line, in the City of Indianapolis, which is more specifically described as follows:

Beginning 50 feet north of the street line of Thirteenth street and the right-of-way of the L. E. & W. R. R., crossing Lewis street at an angle and approaching our Lewis street property line at 131 feet from Thirteenth street, extending 268 feet in a direct line south on Lewis street immediate to and parallel with our property line, ending at a point 399 feet from the Thirteenth street property line, 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 grades 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 Coun-

cil 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 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 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 tracks 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 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 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 7th day of March, 1906.

THE TALGE MAHOGANY COMPANY,
John H. Talge, *President.*
Party of the first part.

Witness:
P. H. YORK.

CITY OF INDIANAPOLIS,
By JOSEPH T. ELLIOTT,
P. C. TRUSLER,
F. J. MACK,
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.

Referred to Committee on Railroads.

General Ordinance No. 10—1906: An ordinance regulating the weighing and sale of coal and coke in the City of Indianapolis.

SECTION 1. Be it ordained by the Common Council of the City of Indianapolis, That it shall be unlawful for any person, firm or corporation, to engage in the business of selling coal or coke, in less quantities than a car load, in the City of Indianapolis, without first having obtained a license as a coal and coke dealer, as in this ordinance prescribed.

SEC. 2. The City Controller upon the application of any person, firm or corporation desiring to engage in the business of selling and delivering coal or coke in less quantities than a car load, shall issue to such person, firm or corporation a license: *Provided*, That, before such license shall be issued, the applicant shall pay into the city treasury the sum of two dollars for one yard, including one office, and the sum of one dollar for each additional yard or office. Such license shall be issued in accordance with the general ordinances now in force prescribing the mode of issuing license, and shall run for the period of one year, unless revoked or annulled as hereinafter provided. Every such license shall state the name of the person, firm or corporation to whom it is issued; that it is not transferable or assignable; and the date when the same expires.

SEC. 3. Every person, firm or corporation engaged in the selling and delivering of coal or coke shall cause the name of such person, firm or corporation to be plainly painted on each cart, wagon or other vehicle used in hauling and delivering coal or coke. Any person or the members of any firm, or the officers and agents of any corporation, which shall fail to comply with any of the provisions of this section, or of either of the preceding sections, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum, not exceeding fifty dollars. And each day's selling, or use of a vehicle, in violation of the provisions of these sections shall constitute a distinct offense.

SEC. 4. It is hereby further ordained and provided that any person or persons, firm or corporation engaged in the sale or delivering of coal or coke within the City of Indianapolis, shall sell such coal or coke by weight only. Any person or persons, firm or corporation selling coal or coke in said city shall send, with each and every load, a certificate showing, separately, the weight of the cart, vehicle or receptacle in which delivered and the weight of the coal or coke; which certificate shall show the date, name and place of business of the person or persons, firm or corporation selling the coal or coke and which shall be delivered with the load to the purchaser thereof. Any person or the members of any firm, or the officers and agents of any corporation, violating any of the provisions of this section, upon conviction, shall be fined in any sum not exceeding fifty dollars.

SEC. 5. It is further provided that any person purchasing coal or coke of any dealer may require such dealer to have such coal or coke weighed. Such purchaser may demand of the owner, or his agent, driver or any other person in charge of the same, a certificate of weight, as provided for in Section 4; and said owner, agent, driver or other person, thereupon, shall surrender said certificate to said purchaser, who may, require said owner, agent, driver or other person to re-weigh any such load of coal or coke on

any convenient scales in the city, which have been duly inspected, sealed and stamped by the "Inspector of Scales, Weights and Measures:" *Provided*, The purchaser shall pay the keeper of said scales for weighing the same. If the owner, agent, driver or other person, as aforesaid, shall fail or refuse to comply with the demands and requirements of this section, he or they shall be fined in any sum not exceeding fifty dollars.

SEC. 6. Any person or the members of any firm or the officers of any corporation, convicted of having sold, or offered to sell, any load of coal or coke, the certificate of which represented the same to be of greater weight than it in fact was, upon conviction thereof, shall be fined in any sum not less than ten nor more than one hundred dollars.

SEC. 7. It is hereby made the duty of the Superintendent of Police and members of the Police Force, or any Special Officer authorized by the Board of Public Safety, to see that the provisions of this ordinance are strictly enforced, and to prosecute any violations of its provisions. Said superintendent and members of the Police Force, of any Special Officer authorized by the Board of Public Safety, shall be empowered to require any driver or person in charge of any load of coal or coke, to show to any such officer the certificate of the weight of any such load, and to require such driver or person in charge of any load of coal or coke, to drive the same to any convenient scales, which have been duly inspected, sealed and stamped by the "Inspector of Scales, Weights and Measures," and there weigh the same; and after the load shall be delivered, to return and weigh the vehicle. Any driver or person in charge of any load of coal or coke, who shall fail or refuse to exhibit to any such police officer the certificate showing weight of any such load, shall be deemed to have offered to sell the same without a certificate of weight and upon conviction thereof, shall be fined in any sum not exceeding fifty dollars. Any driver or person in charge of any load of coal or coke, who shall fail or refuse to weigh the same and to return and weigh the vehicle, when required by any such police officer so to do; or who shall fail or refuse to allow any such officer to compare the same with the certificate, shall be fined in any sum not exceeding fifty dollars.

SEC. 8. Any person or firm whose members, or corporation whose officers or agents shall have been convicted twice within twelve months, of a violation of any of the provisions of this ordinance, shall forfeit the license herein provided, and a new license shall not be issued again to any such person, firm or corporation for the period of one year.

SEC. 9. All ordinances or parts of ordinances now in force in relation to the weighing and selling of coal and coke are hereby repealed.

SEC. 10. This ordinance shall take effect and be in force from and after its passage and publication for one day each week for two consecutive weeks in the Indianapolis Daily Sun, a newspaper of general circulation, printed and published in the City of Indianapolis, Indiana.

Referred to Committee on Public Property and Improvements.

MISCELLANEOUS BUSINESS.

Be It Resolved by the Common Council, That a special committee of seven members, of which the President shall be chairman, be appointed by the President of the Council to confer with and act in conjunction with the Mayor and Board of Public Works in the matter of the proposed new city hall.

Mr. Royse moved the adoption of the Resolution, which carried by the following vote:

Ayes, 17, viz.: Messrs. Brown, Hamlet, Wood, Davis, Neukom, Smither, Rhodes, Bangs, Uhl, Stickelman, Portteus, Royse, Sullivan, Hofmann, Hilkene, Henry and President Frederick W. Eppert.

Noes, none.

President Eppert appointed the following committee: Chairman, Frederick W. Eppert, Brown, Royse, Cottey, Davis, Hofmann, Donavan.

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

Frederick W. Eppert
.....
President.

ATTEST:

James M. Nulty
.....
City Clerk.

