

REGULAR MEETING.

COUNCIL CHAMBER, CITY OF INDIANAPOLIS, IND.

MONDAY, July 6, 1908.

The Common Council of the City of Indianapolis met in the Council Chamber, Monday evening, July 6, 1908, at 7:30 o'clock, in regular session, President William J. Neukom in the chair.

Present: The Hon. William J. Neukom, President of the Common Council, and 15 members, viz.: Messrs. Cottey, Hamlet, Wood, Davis, Eppert, Smither, Rhodes, Bangs, Uhl, Stickelman, Hartmann, Portteus, Donavon, Hofmann and Wright.

Absent, 5, viz.: Messrs. Brown, Royse, Sullivan, Hilkene and Henry.

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

COMMUNICATIONS FROM THE MAYOR.

EXECUTIVE DEPARTMENT,  
CITY OF INDIANAPOLIS.  
INDIANAPOLIS, June 22, 1908.

*To the President and Members of the Common Council:*

GENTLEMEN: I return herewith with my approval General Ordinance No. 47, 1908, being "An ordinance authorizing and empowering the Board of Works of the City of Indianapolis, Indiana, to improve Catterson street (first alley east of Illinois street) from the north property line of Six-

teenth street to the south property line of Twenty-first street, with brick roadway."

General Ordinance No. 48, 1908, being "An ordinance authorizing and empowering the Board of Public Works of the City of Indianapolis, Indiana, to improve Sixteenth street from the C., C., C. & St. L. Ry. to the east property line of Northwestern avenue, with brick roadway and curb."

Appropriation Ordinance No. 19, being "An ordinance providing for the appropriation of the sum of \$17,500.00 to and for the use of the Department of Public Health and Charities, and fixing a time when the same shall take effect."

Appropriation Ordinance No. 22, being "An ordinance providing for the appropriation of \$10,000.00 to and for the use of the Department of Public Works, and fixing a time when the same shall take effect."

Appropriation Ordinance No. 23, being "An ordinance remitting certain city taxes for the year 1907, and directing the repayment of a portion thereof collected under a disputed assessment, and making an appropriation of one thousand dollars therefor."

I have the honor to remain,

Yours very truly,

C. A. BOOKWALTER,  
*Mayor.*

EXECUTIVE DEPARTMENT,  
CITY OF INDIANAPOLIS.  
INDIANAPOLIS, June 24, 1908.

*To the President and Members of the Common Council:*

GENTLEMEN: I return herewith with my approval General Ordinance No. 52, 1908, the same being "An ordinance prohibiting the manufacture and storage of certain explosives and inflammable products within the corporate limits of the City of Indianapolis, Indiana."

I have the honor to remain,

Yours very truly,

C. A. BOOKWALTER,  
*Mayor.*

#### REPORTS FROM CITY OFFICERS.

**From City Controller:**

DEPARTMENT OF FINANCE,  
OFFICE OF CITY CONTROLLER.  
INDIANAPOLIS, July 6, 1908.

*To the President and Members of the Common Council:*

GENTLEMEN: I herewith submit an ordinance providing for an appropriation of \$1,000.00 to the Finance Department to be used in defraying a proportionate amount of the expense incurred in the employment of experts to make a thorough examination and investigation of the physical

condition of the plant, and the financial affairs of the New Telephone Co., and its assign, the Indianapolis Telephone Co.

I am advised that the Indianapolis Board of Trade, the Commercial Club and the Merchants' Association have each paid a proportionate amount of such expense, and as such investigation and examination was made on demand of the press and our citizens generally, I think it but fair and proper that the general public should bear a part of this expense and, therefore, recommend that the ordinance be passed.

Respectfully submitted,

GEO. T. BREUNIG,  
*City Controller.*

From Board of Public Works:

DEPARTMENT OF PUBLIC WORKS,  
OFFICE OF THE BOARD.  
INDIANAPOLIS July 6, 1908.

*To the President and Members of the Common Council:*

GENTLEMEN: I am directed by the Board of Public Works to forward to your honorable body, for your consideration and action thereon, the attached ordinance being "An ordinance ratifying, confirming and approving the certain contract or agreement made and entered into on the sixth day of July, 1908, between the City of Indianapolis, by and through its Board of Public Works, and the New Telephone Company and the Indianapolis Telephone Company, whereby said companies are authorized to construct in and over the streets, alleys, avenues and public places of the City of Indianapolis, a telephone plant and system, and to operate the same for a fixed period, subject to the limitations and conditions therein contained, and providing for the taking effect of the same.

Very respectfully,

BOARD OF PUBLIC WORKS.  
Per M. JOHNSON,  
*Assistant Clerk.*

From Board of Public Works:

DEPARTMENT OF PUBLIC WORKS,  
OFFICE OF THE BOARD.  
INDIANAPOLIS, July 6, 1908.

*To the President and Members of the Common Council:*

GENTLEMEN: I am directed by the Board of Public Works to forward to your honorable body, for your consideration and action thereon, the attached ordinance authorizing and empowering the Board of Public Works to proceed with the improvement of Thirtieth street from the west property line of Northwestern avenue to the canal, with bitulithic roadway, as provided for by Improvement Resolution No. 5605.

Very respectfully,

BOARD OF PUBLIC WORKS.  
Per M. JOHNSON,  
*Assistant Clerk.*

## From Board of Public Works:

DEPARTMENT OF PUBLIC WORKS,  
OFFICE OF THE BOARD.  
INDIANAPOLIS, July 6, 1908.

*To the President and Members of the Common Council:*

GENTLEMEN: I am directed by the Board of Public Works to forward to you, for your consideration and action thereon, the enclosed ordinance authorizing and empowering the Board of Public Works to proceed with the following described improvements:

Improvement Resolution No. 5609 for the improvement of Walcott street from Washington to Michigan streets, with asphalt roadway.

Improvement Resolution No. 5607 for the improvement of Boston street, from Pennsylvania street to Talbott avenue, with asphalt roadway and brick gutters.

Very respectfully,

BOARD OF PUBLIC WORKS.

Per M. JOHNSON,  
Assistant Clerk.

## REPORTS FROM STANDING COMMITTEES.

## From the Committee on Judiciary:

INDIANAPOLIS, IND., July 6, 1908.

*To the President and Members of the Common Council:*

GENTLEMEN: Your Committee on Judiciary, to whom was referred General Ordinance No. 42, 1908, entitled "An ordinance to amend an ordinance regulating the location, erection and maintenance or establishment and maintenance of livery and feed stables hereafter erected or established in the City of Indianapolis," have had same under consideration and would recommend that the remainder of Section 1 of said ordinance commencing at the word "Beginning" in line nine be amended to read as follows:

Beginning at the point of intersection of the center lines of East and Ohio streets in said city, thence west on Ohio street to the center line of West street, thence south on West street to the center line of South street, thence east on South street to the center line of East street, thence north on East street to the place of beginning.

And when so amended would recommend that same do pass.

Respectfully submitted,

ALBERT E. COTTEY.  
FRED W. EPPERT.

Mr. Cottey moved that the report of the committee be concurred in.

## From the Committee on Ordinances:

INDIANAPOLIS, July 6, 1908.

*To the President and Members of the Common Council:*

GENTLEMEN: Your Committee on Ordinances, to whom was referred Special Ordinance No. 7, being "An ordinance changing the names of certain streets in the City of Indianapolis, Indiana," have had the same under consideration and would recommend that the same do pass.

Respectfully submitted,

E. J. STICKELMAN,  
OTTO HOFMANN,

Mr. Stickelman moved that the report of the committee be concurred in. Carried.

## From the Committee on Railroads:

INDIANAPOLIS, IND., July 6, 1908.

*To the President and Members of the Common Council:*

GENTLEMEN: Your committee, to whom was referred General Ordinance No. 53, 1908, being "An ordinance authorizing and empowering the Board of Public Works of the City of Indianapolis, Indiana, to improve Twenty-fourth street from the east property line of Capitol avenue to the west property line of Illinois street, with asphalt roadway," beg leave to report that they have had same under consideration and would recommend that said ordinance do pass.

Respectfully submitted,

JOHN F. WOOD.  
W. O. BANGS.  
FRED W. EPPERT.

Mr. Wood moved that the report of the committee be concurred in. Carried.

## From the Committee on Railroads:

INDIANAPOLIS, July 6, 1908.

*To the President and Members of the Common Council:*

GENTLEMEN: Your committee, to whom was referred General Ordinance No. 50, 1908, being "An ordinance to improve Sanborn street from the south property line of New York street to the north property line of Owosso avenue, with brick roadway," beg leave to report that they have had same under consideration and recommend that said ordinance do not pass.

Respectfully submitted,

JOHN F. WOOD.  
W. O. BANGS.  
FRED W. EPPERT.

Mr. Wood moved that the report of the committee be concurred in. Carried.



## REPORTS FROM SELECT COMMITTEES.

## From Special Committee on Dogs:

INDIANAPOLIS, July 6, 1908.

*To the President and Members of the Common Council:*

GENTLEMEN: Your Special Committee, appointed by the president to prepare a Dog Pound Ordinance, beg to report that we have given the matter careful consideration, and after consulting with a committee from the Humane Society and corresponding with other cities, have arrived at a conclusion which we think will be of great benefit to the City of Indianapolis, and, therefore, respectfully submit General Ordinance No. 64, 1908.

Respectfully submitted,

WM. J. NEUKOM.  
 J. H. HAMLET.  
 W. A. RHODES.  
 THEO. PORTEUS.  
 H. C. SMITHER.  
 JAS. F. SULLIVAN.

## INTRODUCTION OF APPROPRIATION ORDINANCES.

## By City Controller:

Appropriation Ordinance No. 26—1908: An ordinance providing for the appropriation of the sum of \$1,000.00 to and for the use of the Department of Finance, and fixing a time when the same shall take effect.

SECTION 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That the sum of one thousand (\$1,000.00) dollars be, and the same is hereby appropriated to and for the use of the Department of Finance, to be used (or so much thereof as may be necessary) in paying the city's proportion of the expense incurred in making an expert examination and investigation of the plant and financial affairs of the New Telephone Company, and its assignee, the Indianapolis Telephone Company.

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

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

## INTRODUCTION OF GENERAL AND SPECIAL ORDINANCES.

## By Board of Public Works:

General Ordinance No. 57—1908: An ordinance ratifying, confirming and approving the certain contract or agreement made and entered into on the 6th day of July, 1908, between the City of Indianapolis, by and through its Board of Public Works, and the New Telephone Company and the Indianapolis Telephone Company, whereby said companies are authorized to construct in and over the streets, alleys, avenues and public places of the City of Indianapolis, a telephone plant and system, and to operate the same for a fixed period, subject to the limitations and conditions therein contained, and providing for the taking effect of the same.

WHEREAS, heretofore, to-wit: On the 6th day of July, 1908, the City of Indianapolis, by and through its Board of Public Works, entered into the following contract and agreement with the New Telephone Company and the Indianapolis Telephone Company, namely:

*This Agreement*, made and entered into this 6th day of July, 1908, by and between the City of Indianapolis, Marion County, in the State of Indiana, hereinafter called the city, by and through its Board of Public Works, party of the first part, and the New Telephone Company and the Indianapolis Telephone Company, corporations organized and incorporated under and by virtue of the laws of the State of Indiana, hereinafter called the companies, party of the second part.

*Witnesseth*, That the city, by and through its Board of Public Works, under and by virtue of the power conferred upon it by an act of the General Assembly of the State of Indiana, entitled "An act concerning municipal corporations," approved March 6, 1905, does hereby authorize and empower the said companies, party of the second part, and the successors and assigns of them and each of them, and by the terms of this contract consent, permission and authority are granted unto and vested in the said companies, party of the second part, subject to any laws and ordinances now in force, or hereafter enacted or put in force as police regulations, the right to construct, lay and operate in said city conduits, ducts, manholes and appurtenances thereto underground, and to string and erect wires, cables, poles and proper fixtures, overhead, in, through and along the streets, avenues, alleys and public places of said city, and to operate telephone exchanges and a telephone system therein and furnish telephone service to its patrons and subscribers, upon the following conditions, terms and limitations, to-wit:

1. *Limit of Franchise.* All rights, privileges and concessions herein granted to the said companies are expressly limited to a period of thirty (30) years from July 1, 1908, which limitation of time is hereby declared to be one of the chief considerations for the grants herein contained. And each of the said companies, party of the second part, recognizing and conceding that such limitation of time as herein expressed is one of the essential and governing conditions of this contract, does hereby bind itself, its successors and assigns, that at the expiration of said period of time it will yield possession of the streets, alleys, avenues and public grounds of said city, and cease the operation of said telephone plant and system, and from thence forward will make no claim of any kind to ex-

ercise any right under the grant herein made, whether such claim be founded upon any charter or corporate rights claimed or otherwise, and any rights which might be claimed by said companies to hold beyond said period of time, under the statute under which they were incorporated, are herein and hereby expressly waived.

To the end that at the expiration of the said period for which said grant is made there may no doubt exist as to the respective rights of the parties hereto, it is agreed:

A. *City May Purchase Plant.* If at any time not less than three months nor more than six months before the expiration of said term a new franchise and right to occupy the streets, alleys, avenues and public places of said city and to operate a telephone plant and system therein, shall not have been granted to said companies or either of them, their successors or assigns, by the proper officers of said city, then the city shall have the option to become the purchaser and owner of all the tangible property constituting the telephone plant and system of said companies and each of them, by the payment to the said corporations then owning the same the fair market value of such tangible property, and in case the said city, through its proper officers, and the said company or companies are unable to agree as to the fair market value of such property, the same shall be determined by three freeholders and voters of the State of Indiana, one of whom shall be chosen by the Mayor of said city, one by the New Telephone Company, and the third by the person who shall then be the Judge of the Circuit Court of Marion County, Indiana, and the finding of the majority of such committee as to such value shall be binding on both said city and such companies, and the said city shall be bound to pay and the said companies shall be bound to receive the said amount as the purchase price of said property; *Provided*, That nothing herein contained shall be so construed as that the said city shall be compelled to purchase said tangible property, or any part thereof, unless by its officers it shall elect to have the market value thereof appraised as hereinbefore provided.

B. *New Company Purchasing Plant.* If within three months of the expiration of said period of thirty (30) years this contract and the franchise hereby granted shall not have been renewed or extended by a new contract ratified by ordinance, and if said city shall not have exercised its optional right to purchase the tangible property constituting said telephone plant, the said city shall have the right, through its proper officers, to enter into a contract with and grant a franchise to another company or corporation to operate said telephone plant and system, upon such terms as may be fixed by such contract, for a period commencing on the date of the expiration of the franchise herein granted, and such company or corporation to which such new franchise may be granted may become the owner of the said tangible property and have the right to operate the same upon the payment by it to the company or companies then owning said plant and system, or to whomsoever may then be the owner of such property, the fair market value thereof, and if the said company to which said new franchise is granted and the company or companies owning such telephone property shall be unable to agree as to the fair market value of said property, then the same shall be determined by three (3) freeholders and voters of the State of Indiana, one of whom shall be chosen by the said company to which such new franchise is granted, one by the New Telephone Company, and the third by the person then holding the office of Judge of the Circuit Court of Marion County, Indiana, the decision of said committee, or a majority thereof, to be final and binding on all such parties.

C. *City May Grant New Franchise to New Company.* If at the expiration of said term of thirty (30) years the City of Indianapolis shall not have become the owner of the said plant and system, and if the tangible property constituting said plant and system shall not have been



sold and delivered to any other company or corporation having a franchise and the right by contract with the city to operate the same, and if this contract or franchise shall not have been renewed or extended as hereinabove provided, then the said city shall, through its proper officers, proceed to offer by public advertisement a new franchise for the operation of said plant and system for a term of years not exceeding thirty, and such franchise shall be awarded to the bidder who or which, being solvent and responsible, offers the most favorable terms for the city and its citizens, and who or which will bind himself or itself to take the tangible property constituting said plant and system and to pay to the corporation then owning the same the fair cash value thereof at that time, to be determined by three (3) freeholders and voters of said state, one to be selected by the New Telephone Company, one by such successful bidder, and the third by the person who shall then hold the office of Judge of the Circuit Court aforesaid, the decision of a majority of which committee shall be final and binding on all parties concerned. In case there is no satisfactory bid for such franchise, then said city, through its officers, shall have the right, without any process of law, to take possession of all streets, alleys, avenues or other grounds occupied by the said plant and system, and the said corporation owner shall have three months' time from said date of expiration to remove its tangible property situate above ground, from said streets, alleys and other grounds, and in case of failure to so remove said property within such time the same shall become the absolute property of said city.

D. *Removal of Underground Wires.* It is hereby expressly agreed that that part of said telephone plant and system which shall be laid and constructed underground, other than the wires and cables, shall under no circumstances be removed, but that the same shall, after the expiration of said period, be the property of said city, it being the purpose of this stipulation to prevent the digging into the pavements, streets, sidewalks and other public grounds which would be necessary to effect the removal of that part of said plant, other than such wires and cables, which by the terms hereof are required to be placed underground.

2. *Improvements Guaranteed.* The said Indianapolis Telephone Company, its successors or assigns, hereby consents, agrees and binds itself to expend not less than \$500,000.00 within three (3) years from the final approval of this agreement by the said Board of Public Works and Common Council of said city, for the purchase and installation of a new switchboard and other necessary improvements and additions, at least one-half of which amount shall be expended within eighteen (18) months from said final approval of this agreement, and as a guaranty of good faith hereby agrees, within thirty (30) days after this agreement becomes effective, to deposit with the City Controller of said city \$25,000.00 par value of the bonds of the New Long Distance Telephone Company, upon the express condition that should said grantees, their successors or assigns, fail to make the improvements hereinabove indicated, in the amounts and within the times specified, then and in such case said bonds shall be forfeited to and become the property of said City of Indianapolis; and further agrees, within thirty (30) days after this agreement becomes effective, to execute and file with said Board of Public Works a bond with good and sufficient surties to the satisfaction of said Board in the sum of \$25,000.00 conditioned upon the faithful performance by said company of each and every stipulation and agreement contained in this section; *Provided*, that if said grantee shall be delayed by reason of strikes, act of Providence, or any other good cause in the judgment of the Board of Public Works, said Board shall grant such reasonable extension of time as in its judgment shall be deemed equitable. It is further understood and agreed that the Board of Public Works shall at all times have access to the books and physical property

of said companies for the purpose of ascertaining whether such expenditures have been made as provided for in this section.

3. *Wires to be Underground, Where.* Each of said companies, party of the second part, agrees and binds itself to place underground all its wires, cables, conduits, ducts and appurtenances that may be used in the construction of its said plant and system in all that territory bounded on the north by North street, on the south by South street, on the east by East street, and on the west by West street, and also its wires, cables, conduits, ducts and appurtenances used on and along either and all the streets named, along and forming said boundary lines, except such aerial poles, cables and wires as the Board of Public Works shall give its express permission to be allowed in such territory for local distribution; and all poles shall be in alleys, unless otherwise ordered by the said Board.

All such overhead poles, cables and wires within said territory or within said city shall be constructed and placed in a manner satisfactory to said Board.

4. *Police Powers not Waived.* It is agreed by the parties hereto that by fixing herein the present area within which its conduits, ducts and wires of said plant shall be placed underground, the right of the Common Council to hereafter extend the limits of such underground district or exercise any of the police powers of said city shall not be in anywise restricted or abridged.

5. *City Entitled to One Duct and Cross-arm Free.* The said companies, party of the second part, shall provide one duct in each and all conduits laid underground as aforesaid for the sole use of the City of Indianapolis for its fire alarm or police patrol system, and shall give to said city the right to the exclusive use of the top cross-arm on every pole erected in any part of said city for said wires.

6. *Poles.* It is agreed that the kind and height of all poles, the kind, size and manner of attaching cross-arms thereto, and the manner of attaching cables and wires to every pole and system of poles to be erected in the construction or repair of said plant at any time shall be subject to the approval of the Board of Public Works, and the right is hereby reserved to said Board to modify the approval above provided for at any time and to order modifications, general and particular, of any of the above mentioned details, and also, at any time, upon reasonable notice, to order and require the removal of any pole, and upon the failure of the said companies to comply with such order and requirement, the said Board shall have the right to cause any such pole to be removed and collect the cost of such removal from said companies.

All poles used in the construction of said plant outside the territory bounded by North, South, East and West streets shall, so far as possible, be located in alleys, and all poles wherever erected in the construction of said plant shall be so placed as to interfere as little as possible with other public uses of the streets, alleys or other grounds, or with public or private interests or conveniences.

7. *Underground Ducts.* It is also agreed that all the underground conduits and ducts used in the construction of said plant shall be not less than three feet underground, and shall be so located and constructed as not to interfere with or disturb existing surface or underground structures, conduits, pipes or other property belonging to other corporations, companies or persons, or sewers or sewer connections; nothing contained herein shall preclude the said city from prosecuting or authorizing any future public work of any character, but in the prosecution of any public work or improvement hereafter the said Board shall have the right, if it deems the same necessary, to require the temporary removal of any conduit, duct or appliance authorized by this contract to be laid, and the same shall be removed or necessary changes made therein by the said companies, on the order and requirement of the said Board, and in case of a failure on the part of the said companies to comply with any

such order or requirement relative to such removal or change for the purposes aforesaid, then the said Board may make such removal or change, and the necessary cost thereof shall be paid by the said companies to the City Controller upon proper demand being made therefor.

8. *Supervision of Work by City Inspectors.* It is also agreed that all the work of the construction or repair of said telephone plant shall be under and subject to the supervision of inspectors to be appointed by the said Board of Public Works, and all the necessary expense for the employment of all such inspectors shall be paid by the said companies to the City Controller on demand. The Board of Public Works of said city shall at all times have the right to inspect, superintend and control the construction of the conduits, manholes and other appurtenances which may be constructed as a part of said plant, and the right is hereby reserved to said Board to order any change made from time to time for city purposes, all such changes to be made by the said companies without expense to said city. In case the said companies shall neglect or refuse to obey any instructions of said Board with respect to any alteration to be made, the said Board is authorized to make the same and collect the cost thereof from the said companies.

9. *Opening and Closing Streets—Repairs—Indemnity.* Each of the said companies, party of the second part, agrees and binds itself that in the construction or repair of said plant it will not at any time open or encumber more of any street, alley or public place than may be necessary to enable it to perform the work of laying its wires, cables, conduits, conductors and other appurtenances with proper economy and efficiency, and that no opening of or encumbrance to any of such streets, alleys or public places shall be permitted to remain or continue for a longer period than may be necessary within the judgment of the Board of Public Works; and that it will properly and effectually guard all such openings and encumbrances with such barriers and lights as will prevent the happening of accidents or injuries by reason thereof. Each of said companies, party of the second part, also agrees and binds itself to hold the City of Indianapolis harmless as against any and all damages done by it to the streets, alleys, avenues and public places within such city in the building and construction of its said plant underground or aerial; that it will restore all streets, alleys, avenues, and public places to the same condition after the completion of the work as they were before being cut into or used by it, the said company, all such streets, alleys and public places to be repaved with the same material with which they were paved before being disturbed by it, or with such material and in such manner as shall be satisfactory to said Board of Public Works; that it will at all times make any and all repairs which may be necessary to any of the streets, alleys, avenues or public places by reason of the same having been dugged into or disturbed in the construction or repair of said plant; that it will not, in such construction and repairs, cut into or remove material from the surface or underneath the surface of any such street, alley, avenue or public place without first obtaining the consent of the said Board; that it will pay all damages for personal or other injuries that may result from or grow out of any work that may be done by it or for it in such construction or repair; that it will indemnify and save said city harmless from any and all liability or expense growing out of or resulting from the construction or repair of any part of its plant; that it will upon the demand of the City Controller of said city, pay any damages which may have accrued to said city, and any and all judgments which may have been obtained and rendered against said city on account of and by reason of the construction or repair of said plant or the occupancy by it of any of the streets, alleys, avenues or public places in said city; that if the said city shall become involved in any action or suit on account of any act or omission of the said company in the construction or operation of its said plant, it will, upon notice from said city or its proper



officers, appear and defend such action or suit without expense to said city; and that it will also protect and save said city of Indianapolis harmless as against any and all suits which may be brought by any person or corporation for the infringement of any patent which may be alleged against such corporation, either in the course of the construction or operation of the said telephone plant or system.

10. *Lines Connected with Outside Companies' Lines.* The said companies, party of the second part, also agree and bind themselves to connect the lines of second party's telephone system in said city with the line or lines operated by any and all other telephone companies doing business outside the City of Indianapolis, in the State of Indiana, desiring such connections, making application therefor, and constructing its or their said line or lines or connecting lines to the corporate limits of said city; which said connection shall be made on reasonable terms and without discrimination; *Provided*, that the owners of such outside lines desiring and applying for such connection as aforesaid, shall agree, as a consideration of such connection, to receive and transmit to destination on like terms all messages in which the said companies, party of the second part, may be interested.

It is understood between the parties hereto that this agreement to connect with such outside telephone lines in the State of Indiana is one of the essential conditions upon which this franchise is granted. In case there shall be any such disagreement between said companies, party of the second part, and the owner or owners of any such outside telephone line or lines as to the terms and conditions upon which any such connections shall be made as to hinder or delay the same, then such difference and disagreement shall be promptly submitted to an arbitration committee, to be composed of three freeholders and voters of the State of Indiana, one of whom shall be named by the said companies, party of the second part, one by the owner or owners of said outside line or lines desiring connection, and the third by the Mayor of said city, and the decision of a majority of said committee as to the terms and conditions upon which such connection ought to be made shall be final and conclusive upon all such parties.

11. *Consideration for Franchise—Competition in Rates—Forfeiture.* It is distinctly understood by both parties hereto that the principal consideration for the granting of the franchise and privileges conferred herein is and will be the securing of the continuance of competitive telephone rates to the citizens of said city, and the fixing of such rates as hereinafter provided, and the maintenance of such competitive rates during the period of time covered by this contract. It is, therefore, agreed that in case the said companies, party of the second part, should at any time consolidate with or be absorbed by any competing telephone company, or if any such competing telephone company shall become the owner of the majority of its capital stock, or should control, directly or indirectly, such part of its capital stock, or in case there should be any combination, collusion or co-operation between said companies, party of the second part, and any competing company, or between stockholders or officers of such two companies whereby the price of telephone service as fixed herein shall be in anywise increased, or any of the terms and provisions of this contract be modified, changed, evaded or nullified, then all rights hereby or herein granted to said companies, party of the second part, shall be forfeited and the franchise hereby granted shall be null and void, and the Board of Public Works of said city shall be authorized to declare the same forfeited and proceed to grant a new franchise for the operation of said plant and system; and in the event of any such consolidation, absorption, collusion, combination or co-operation resulting in the increase of rates fixed herein, or in anywise impairing the force and effect of this contract, the said city shall have the right to declare forfeited to the City of Indianapolis and take possession of all the tangible property consti-

tuting the telephone plant and system of said companies, party of the second part, and own and operate or lease the same as the absolute property of said city; it being distinctly agreed that such tangible property so to be forfeited and taken would be the true amount of liquidated damages which would be sustained by said city by reason of such violation of the terms of this contract, and the measure of such damages has been thus definitely agreed upon and determined by the parties hereto, as aforesaid.

It is, however, agreed by and between the parties hereto that the said companies, party of the second part, shall have the right to consolidate with any competing telephone company, with permission of the Board of Public Works, but only in case the said competing company shall agree and bind itself, to the satisfaction of said Board, that it will reduce the telephone rates to be charged by it to its patrons, and to all the inhabitants of said city who may become its patrons, to the prices and rates herein fixed and also that it will maintain and operate all the lines established by said companies, party of the second part, and render and furnish good telephone service at such rates to all the patrons which said companies may have at the time of such consolidation and to all other persons in said city residing on or near the lines of its system, and that it will adopt and carry out the provisions of this contract as fully and faithfully as though it were a party hereto, and also that it will connect its system with the lines of any and all other telephone companies doing business outside the City of Indianapolis with which the system of the said companies, party of the second part, shall have been connected at the time of such consolidation, and shall also agree and bind itself to carry out all arrangements and contracts of said companies, party of the second part, with all such other telephone companies.

12. *Rates.* In consideration of the grant of privileges herein contained, each of the said companies, party of the second part, agrees and binds itself, its successors and assigns, to furnish to the inhabitants of the said City of Indianapolis first-class telephone service, of the best and most modern character, at and for the following rates and prices, during the entire period covered by this contract, to-wit:

A. The rates specified in this clause are for unlimited exchange service until such time as the companies shall have fifteen thousand (15,000) line telephones to which these rates apply.

*Residence Service.* On all residence service a discount of fifty (50) cents per quarter will be allowed from the following rates, when the rental for the quarter is paid at the office of the company on or before the tenth day of the first month of the quarter.

1. Twenty (\$20.00) dollars per annum for each subscriber on a divided circuit of not more than four (4) telephone instruments.

2. Twenty-four (\$24.00) dollars per annum for each subscriber on a divided circuit of not more than two (2) telephone instruments.

3. Thirty (\$30.00) dollars per annum for each subscriber on an individual circuit of not more than one (1) telephone instrument.

*Business Service.* 1. Thirty-six (\$36.00) dollars per annum for each subscriber on a divided circuit of not more than two (2) telephone instruments.

2. Fifty-four (\$54.00) dollars per annum for each subscriber on an individual circuit of not more than one (1) telephone instrument.

B. When the said companies, party of the second part, shall have fifteen thousand (15,000) line telephones to which these rates apply connected with their exchange or exchanges in the City of Indianapolis, they shall have the right to make an additional charge for each business telephone of two (\$2.00) dollars and for each residence telephone of one (\$1.00) dollar per annum, and thereafter, at their option, to increase the rate for telephone services two (\$2.00) dollars per annum for business telephones and one (\$1.00) dollar per annum for residence tele-



phones for each additional one thousand (1,000) line telephones more than fifteen thousand (15,000) to their exchange or exchanges within the City of Indianapolis, said increase to cease when twenty-five thousand (25,000) line telephones have been obtained.

13. *Re-adjustment of Rates.* The rates for telephone service herein provided for shall continue for the period of five (5) years from the taking effect of this contract and until new rates shall have been fixed as hereinafter provided. In order that telephone subscribers may have the benefit of inventions and improvements in telephony that may tend to reduce the cost of such service, the Board of Public Works, at or after the expiration of said five year period, whenever the net profits from the rates then in force shall exceed seven and one-half (7½) per cent. annually on the actual valuation of the properties, shall require and make a revision and re-adjustment of rates. In order that the Board of Public Works may be fully advised of the gross and net earnings of the companies for each year of operation, said Board shall have the right by its agents or employees to annually examine all the physical property and the books of the companies, or either of them.

To obtain said re-adjustment of rates at the end of said period the Board of Public Works shall give fifteen days written notice to each of the grantees, and thereupon the actual value of the property of said companies used in the business of supplying telephone service to the inhabitants of the City of Indianapolis and vicinity, including necessary supplies and necessary working capital, shall be appraised, such business being treated as a going concern, but the value of franchise grants from the City of Indianapolis shall not be taken into account. The appraisers shall be competent and disinterested, one being selected by the grantees, one by the Board of Public Works of the City of Indianapolis, such selection to be made within fifteen days after such notice, and the third by the two thus selected; and if they fail to make a selection within fifteen days after their own selection, such third appraiser shall be selected by the Judges of the Superior Court of Marion County, Indiana, or a majority of them.

The appraisement so made by the appraisers thus selected, or a majority of them, plus a sum fairly representing organization expense also to be determined by said appraisers, or a majority of them, and plus any unexpended balance of the replacement fund hereinafter provided for in Section 23, shall be binding upon the grantees and the city, and shall be taken as the total property valuation basis upon which the rates for telephone service for the ensuing period of five years shall be fixed; and the average number of line telephones in use in the City of Indianapolis for the year immediately preceding the period for which new rates are to be established shall be deemed and taken as the average number of line telephones that will be in use in each year of the ensuing period of five years, and the average annual operating expenses of the companies for the two years immediately preceding shall be deemed and taken as the average operating expenses for each year of the ensuing period of five years.

As soon as the appraisers shall have completed their work as required herein, they shall make a full written report to the Board of Public Works, and said Board shall proceed at once to make said re-adjustment of rates; *Provided, however*, that the rates so fixed in and by said re-adjustment shall be such that the net profits to said companies shall not exceed seven and one-half per cent. annually on the actual valuation of the property so ascertained as above described, nor shall they in any event exceed the rates herein above provided for in Section 12; *And, provided further*, that the rates prescribed by Section 12 hereof shall not be reduced unless the net profits of the companies on such actual valuation of their property, after deducting from the average annual gross earnings at

the rates prescribed in said section for the two years immediately preceding the re-adjustment period the average annual operating expenses for such years ascertained as above provided, exceeds seven and one-half per centum of such valuation, and in that event the reduction shall be only such as is necessary to reduce the annual net profits for such ensuing period to seven and one-half per centum. The Board shall immediately give the grantees written notice of the new rates so fixed in and by said re-adjustment, and such rates shall become effective at the beginning of the next succeeding quarter. Successive re-adjustments of rates may be had at or after the expiration of any period of five years in the manner and under the conditions hereinabove provided.

14. *Amounts to be Paid City.* And in further consideration of the grant of privileges herein contained, each of said companies, party of the second part, agrees and binds itself, its successors and assigns, jointly, to pay to the City of Indianapolis the sum of six thousand (\$6,000.00) dollars per annum, one-half of which sum, to-wit, three thousand (\$3,000.00) dollars, shall be paid on the first days of January and July in each year, the first of such payments of three thousand (\$3,000.00) dollars to be made on the first day of January, 1909, which is to be an advance payment for the following six months, and there shall be paid the said sum of three thousand (\$3,000.00) dollars semi-annually as aforesaid, thereafter until the expiration of the full period covered by this contract. All such sums are payable without relief from valuation or appraisalment laws, and to be a first lien on all the property, moneys, demands and choses in action of said companies, which lien may be enforced by said city in any court of competent jurisdiction. In case the said companies shall fail to pay any such sum of money within thirty days after the same shall become due as above provided, it is agreed that a penalty of fifty per centum on the whole amount due shall be added to such amount as liquidated damages for breach of this contract, which additional amount shall also be payable without relief from valuation or appraisalment laws.

If, in default of such payment as aforesaid, the said city shall bring suit to recover any such sum and enforce its said lien, it shall be entitled to recover, in addition to the said principal sum and fifty per centum penalty thereon as liquidated damages, reasonable attorney's fees for the institution and prosecution of such suit, all of which said party of the second part agrees to pay. And it is also agreed that the said companies, party of the second part, shall on the first days of January and July of each year, commencing with the first day of January, 1909, make a report to the Controller of said city, which report shall be in writing and sworn to by its president, and shall set forth therein the number of its patrons and the number of telephone instruments it has in use at the date of such report.

15. *Petition of Citizens for Telephone Service.* It is also agreed by and between the parties hereto that whenever any number of citizens of said city desiring telephone service shall, by written petition, show to the Board of Public Works, that the said companies, party of the second part, have failed and refused upon their request to furnish them such service, the said Board shall cause written notice to be given to said companies to appear before it at a certain time to be named in such notice, not less than three days from the date thereof, and show cause why such telephone service should not be furnished to such petitioners; and at the time so fixed the said Board shall proceed to hear the claims of said petitioners, and shall also hear the claims of said companies and their representatives in opposition thereto; and, if, after such hearing, the Board shall be of the opinion that the prayer of such petitioners should be granted, it shall, in writing, order and direct such companies to furnish such telephone service at the rates fixed herein to any such persons so petitioning, which order shall be final and shall be acquiesced in and obeyed by the said companies and such service furnished to such petitioners within a reason-

able time, to be fixed by said Board; and in case of a failure to furnish such service within such time so fixed, the said companies shall pay to the said city as liquidated damages for the breach of this contract the sum of ten (\$10.00) dollars for each day that the furnishing of such service is delayed after the day so fixed aforesaid.

16. *No Cessation in Service.* It is also agreed by and between the parties hereto that if there shall be a cessation or interruption of telephone service to the patrons of said company for a period of ten days, except by consent of said Board, or in case of an injunction, or strike, or other cause over which said company could have no control, the said Board shall have the right to declare all the rights of said company under this contract and franchise forfeited to said city, and shall have the right to take possession of and operate or lease the said plant, or take such other steps as it may deem necessary to secure efficient and continuous telephone service to all persons having contracts with said company or connections with its said system.

17. *Assignment of Franchise.* It is also agreed that the franchise and privileges herein granted by the said city of Indianapolis are so granted upon the distinct condition that neither such franchise nor any rights granted by this contract shall be hereafter assigned nor in any manner transferred by said companies, party of the second part, either directly or indirectly, without the consent of the Board of Public Works of said city and ratified by the Common Council of the City of Indianapolis expressed in a resolution regularly adopted by said Board.

18. *Bond for Performance and Indemnity.* And as further security for the performance of the conditions of this contract, the said companies, party of the second part, within thirty days after this agreement becomes effective, shall execute and file with said Board of Public Works, their joint bond, with good and sufficient sureties, to the satisfaction of said Board, in the sum of twenty-five thousand (\$25,000.00) dollars, which bond shall be conditioned for the faithful performance by said companies of each and every stipulation and agreement contained in this contract; and for the carrying out of all the terms and conditions thereof during the entire period and term covered thereby, and said Board of Public Works shall have the right, at any time during said period, whenever the surety on said bonds shall not be deemed ample and satisfactory, to require such additional surety thereon as it may deem necessary, and if the said companies shall, on the reasonable demand of such Board refuse and fail to furnish such additional surety, then their rights under this contract shall cease, and the franchise hereby granted be forfeited, such forfeiture to be enforced in any court of competent jurisdiction; *Provided*, that the said bonds shall be renewed at the expiration of each period of five years during said term of years with security to the satisfaction of said Board, each bond that is to be so renewed to be in full force until the said renewal is approved by said Board of Public Works of the City of Indianapolis, and that no reduction of said bond shall be made without the consent of said Board of Public Works of said city.

19. *Additional Bond.* And as an additional and further security for the performance of the conditions and stipulations herein contained, the said companies, party of the second part, at the time of executing and filing the said bond in the sum of twenty-five thousand (\$25,000.00) dollars mentioned in the last preceding paragraph, shall also execute and file with said Board of Public Works another joint bond, payable to said city, in the sum of ten thousand (\$10,000.00) dollars, especially conditioned for the indemnification of said city against all loss by reason of damage sustained by any person, firm or corporation by reason or growing out of the construction or operation of the said telephone plant and system, or any of the work done by said companies in such construction or in any of the streets, alleys or other parts of said city, and also conditioned that the said city shall be saved harmless from the payment of



any sum to any person, firm or corporation on account of any act or omission of said companies, their agents, officers or employees, either in the construction of said plant or in the operation thereof, or the payment of any judgment which may be rendered against said city in an action based on any such act or omission, and also that they, the said companies, shall comply with all the terms of this contract concerning the indemnification of said city against loss. The said bond shall be renewed at the expiration of said period of five years during said term of years, with security to the satisfaction of said Board, each bond to be in full force until the bond in renewal thereof is approved by the Board; and the said Board may require said bond to be renewed any other time when it deems the security thereon inadequate, or when such bond becomes impaired in amount by reason of judgments, claims or otherwise.

20. *Right of Action.* In case the parties of the second part, their successors or assigns, shall violate any of the terms or obligations herein contained, then and in that event a right of action for breach of contract shall immediately accrue upon either of the bonds aforesaid as may be appropriate for any injury or damage arising out of such breach of contract.

21. *Reservation by City of Rights and Powers.* The City of Indianapolis, party of the first part, reserves to itself all rights and powers which are now or may hereafter be vested in its Common Council or other officers concerning the regulation of the use of its streets, alleys, avenues and public places, to prevent the encumbering of the same, to regulate and protect sewers, to prohibit the digging into such streets, alleys, avenues and public places and other injury to the same, and it also reserves the fullest right to exercise any and all of its police powers at any time, and nothing herein contained shall be so construed as to in anywise abridge any of such powers.

22. *Connection with a Competing Company.* In further consideration of the grant of privileges herein contained, the said companies, party of the second part, upon request of the Mayor and Board of Public Works, herein agree to connect their exchange or exchanges in the City of Indianapolis with the exchange or exchanges of any competing telephone company now operating, or with any competing company having seventy-five hundred (7,500) telephones which may hereafter operate in said city, and to charge a sum not greater than five (5) cents for each call or conversation originating on its system and delivered by connecting trunk lines to said other competing telephone exchange; *Provided*, said competing company shall agree to pay one-half of the expense of establishing and maintaining the connecting trunk lines between its exchange or exchanges in the City of Indianapolis, and the exchange or exchanges of said second party hereto and shall further agree to receive from said second party hereto and deliver to the party called on its system any and all calls sent to it by and on behalf of said second party hereto or said second party's patrons over said connecting trunk lines.

In event said second party hereto and said competing company cannot agree as to the basis of division of compensation each shall have in the handling of all calls passing jointly over the lines or through the exchange or exchanges of said parties, nor agree to the manner of establishing and maintaining said connecting trunk lines, then such difference and disagreement shall be promptly submitted to an arbitration committee to be composed of three (3) freeholders and voters of the State of Indiana, one of whom shall be named by the said companies, party of the second part, one by the owner of said competing exchange or exchanges, and the third by the Mayor of said city, and the decision of a majority of said committee as to the terms and conditions upon which such connection ought to be made shall be final and conclusive upon all such parties.

23. *Replacement Fund.* It is further understood and agreed that said grantees shall set aside annually during the life of this franchise the sum of \$6.50 per line telephone, commencing immediately from the time this contract becomes effective, said fund to be used exclusively for the improvement and replacement of equipment and other physical property, and it shall be the duty of said grantees to use this fund to keep up the efficiency of the plant and service at all times. Out of said fund \$12,500.00 shall be set aside annually for the purpose of replacement of switch-board equipment and shall be used for no other purpose whatever, and the remainder of said fund shall be expended for the purpose of maintaining said plant and service at the highest practicable standard of efficiency.

For the purpose of determining whether the plant and equipment of said grantees is being maintained at the highest practicable standard of efficiency, the Board of Public Works may, once in each year, at the expense of said companies, employ and appoint a telephone expert of recognized standing, who shall thoroughly investigate and report upon the expenditures for replacement by said grantees and upon the condition of the plant, equipment and service of said companies, and shall also report specifically what replacements or improvements, if any, are, in his judgment, necessary to bring the plant and service up to the highest practicable standard of efficiency and the amounts necessary to be expended to accomplish the same. Upon receiving such reports the Board of Public Works shall have power in its discretion to order such expenditures from said accumulated fund as it may see fit, not exceeding the amount so recommended by said expert. Should such grantees fail or refuse to comply with any such order of the Board of Public Works, the City of Indianapolis shall be and is hereby authorized to enforce specific performance thereof by any appropriate legal or equitable remedy.

24. *Single System Only.* It is the intent of this agreement that said New Telephone Company and said Indianapolis Telephone Company, being now jointly interested in a telephone system in said city, shall together have the right to operate only a single system so long as they shall continue to be jointly interested in said telephone system; but in event there shall be an entire separation of said companies' joint interest in said telephone system then either of said telephone companies shall have and enjoy all the rights and privileges herein granted, subject to the terms, conditions, requirements and limitations hereof, with the same effect as though the City of Indianapolis had made an agreement of the same purport as this agreement with said New Telephone Company and said Indianapolis Telephone Company separately, to the end that the one of said two telephone companies, which after such entire separation shall have the right of possession of the tangible property of the complete telephone system so being operated before such separation, shall under this franchise continue the operation of said complete telephone system constituted of all the franchise rights hereunder and the tangible property in poles, wires, conduits, exchange and all other mechanisms, material and property; and it is distinctly understood and agreed that never at any time shall there be more than one telephone plant and system maintained and operated under or by virtue of this agreement, and that in event of such separation of the interests of the New Telephone Company and the Indianapolis Telephone Company, then the one of such companies that shall retain and have the ownership, possession and right of operation of said existing telephone plant and system, shall alone have and exercise the rights and privileges herein granted, and all rights whatsoever of the other of said companies in, to and under this agreement, shall thereupon immediately cease, terminate and become null, void and of no force or effect whatsoever.

25. *Former Franchise Superseded.* Inasmuch as this agreement is intended to take the place of the agreement of May 18, 1898, between the City of Indianapolis and said New Telephone Company, which was ratified,



confirmed and approved by an ordinance of the Common Council approved May 20, 1898, it is agreed that immediately upon this agreement going into force, the said agreement of May 18, 1898, shall be deemed as canceled and superseded by this agreement.

IN WITNESS WHEREOF, We have hereunto set our hands and seals this 6th day of July, 1908.

CITY OF INDIANAPOLIS,

By JOSEPH T. ELLIOTT,  
P. C. TRUSLER,  
F. J. MACK,  
*Board of Public Works.*  
Party of the first part.

Approved:

C. A. BOOKWALTER,  
*Mayor.*

NEW TELEPHONE COMPANY,

By WILLIAM FORTUNE,  
*President.*  
FERD L. HOLLWEG,  
*Secretary.*

[Seal.]

INDIANAPOLIS TELEPHONE COMPANY,

By JAMES S. BAILEY, JR.,  
*President.*

[Seal.]

CHAS. S. NORTON,  
*Secretary.*

Parties of the second part.

AND WHEREAS, Said contract and agreement has been submitted by the 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, Indiana, That the above and foregoing contract made and entered into on the 6th day of July, 1908, by the City of Indianapolis, Indiana, by and through its Board of Public Works, and the New Telephone Company and the Indianapolis Telephone Company, be and the same is hereby in all things ratified, confirmed and approved, and the said New Telephone Company and the Indianapolis Telephone Company are hereby granted the rights and privileges for the time therein mentioned, as in said contract and agreement set forth, in accordance with and subject to the terms, provisions and conditions and limitations thereof.

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

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

By Board of Public Works:

General Ordinance No. 58—1908: An ordinance authorizing and empowering the Board of Public Works of the City of Indianapolis, Indiana, to improve Thirtieth street from west property line Northwestern avenue to the Canal, with bitulithic roadway.

WHEREAS, The Board of Public Works of the City of Indianapolis, Indiana, did on the first day of June, 1908, adopt Improvement Resolution No. 5605, 1908, for the improvement of Thirtieth street from the west property line of Northwestern avenue to the Canal, with bitulithic roadway, and

WHEREAS, The said Board of Public Works did at the same time fix the 17th day of June, 1908, 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 2d day of June, 1908, and the 9th day of June, 1908, in the Indianapolis Sun, 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, Said day of hearing was continued to June 24, 1908; and

WHEREAS, On the 24th day of June, 1908, the Board having met in regular session, took final action on said Improvement Resolution without modification; and

WHEREAS, On the 2d day of July, 1908, a written remonstrance was filed with the Board against the said improvement of Thirtieth street, and the same was referred to the City Civil Engineer for investigation and report; and

WHEREAS, On the 6th day of July, 1908, the City Civil Engineer filed his written report, stating that a majority of the resident property owners had signed said remonstrance; and

WHEREAS, On the 6th day of July, 1908, 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 make said improvement 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 Thirtieth street from the west property line of Northwestern avenue to the Canal, with bitulithic roadway, in accordance with Improvement Resolution No. 5605, 1908, adopted by the Board of Public Works on the 1st day of June, 1908.

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

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

**By Board of Public Works:**

General Ordinance No. 59—1908: An ordinance authorizing and empowering the Board of Public Works of the City of Indianapolis, Indiana, to improve Walcott street from north property line Washington street to south property line Michigan street, with asphalt roadway.

WHEREAS, The Board of Public Works of the City of Indianapolis, Indiana, did on the 3d day of June, 1908, adopt Improvement Resolution No. 5609, 1908, for the improvement of Walcott street from the north property line of Washington street to the south property line of Michigan street, with asphalt roadway, and

WHEREAS, The said Board of Public Works did at the same time fix

the 19th day of June, 1908, 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 4th day of June, 1908, and the 11th day of June, 1908, in the Indianapolis Sun, 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 19th day of June, 1908, the Board having met in regular session, took final action on said Improvement Resolution without modification; and

WHEREAS, On the 19th day of June, 1908, a written remonstrance was filed with the Board against the said improvement of Walcott street, and the same was referred to the City Civil Engineer for investigation and report; and

WHEREAS, On the 29th day of June, 1908, the City Civil Engineer filed his written report, stating that a majority of the resident property owners had signed said remonstrance; and

WHEREAS, On the 29th day of June, 1908, 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 make said improvement 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 Walcott street from the north property line of Washington street to the south property line of Michigan street, with asphalt roadway, in accordance with Improvement Resolution No. 5609, 1908, adopted by the Board of Public Works on the 3d day of June, 1908.

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

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

#### By Board of Public Works:

General Ordinance No. 60—1908: An ordinance authorizing and empowering the Board of Public Works of the City of Indianapolis, Indiana, to improve Boston street from east curb line Pennsylvania street to west property line Talbott avenue, with asphalt roadway and brick gutters.

WHEREAS, The Board of Public Works of the City of Indianapolis, Indiana, did on the 3d day of June, 1908, adopt Improvement Resolution No. 5607, 1908, for the improvement of Boston street from the east curb line of Pennsylvania street to the west property line of Talbott avenue, with wooden block roadway, and

WHEREAS, The said Board of Public Works did at the same time fix the 19th day of June, 1908, 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 4th day of June, 1908, and the 11th

day of June, 1908, in the Indianapolis Sun, 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 19th day of June, 1908, the Board having met in regular session, took final action on said Improvement Resolution modifying same so as to provide for asphalt roadway and brick gutters, as petitioned for by a majority of the resident property owners; and

WHEREAS, On the 27th day of June, 1908, a written remonstrance was filed with the Board against the said improvement of Boston street, and the same was referred to the City Civil Engineer for investigation and report; and

WHEREAS, On the 29th day of June, 1908, the City Civil Engineer filed his written report, stating that a majority of the resident property owners had signed said remonstrance; and

WHEREAS, On the 29th day of June, 1908, 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 make said improvement 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 Boston street from the east curb line of Pennsylvania street to the west property line of Talbot avenue, with asphalt roadway and brick gutters, in accordance with Improvement Resolution No. 5607, 1908, adopted by the Board of Public Works on the 3d day of June, 1908.

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

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

By Mr. Bangs:

General Ordinance No. 61—1908: An ordinance requiring property owners to connect with sewers and regulating the construction of privy vaults, providing a penalty for the violation thereof and fixing a time when the same shall take effect.

SECTION 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That the owners of all lots on which there are houses or other buildings and which are upon the line of a public sewer shall, within three months after the taking effect of this ordinance, make connections with such sewer.

SEC. 2. No privies, privy vaults or cesspools shall be erected or allowed to remain on lots upon the line of a public sewer. Each day a privy or privy vault is maintained upon such lots shall be and constitute a distinct and separate offense.

SEC. 3. Upon such lots as are not upon the line of a public sewer all privies or privy vaults shall be constructed of concrete or of some other impervious material so that the sides and bottom shall be water-tight. Each day this section is violated shall be and constitute a separate and distinct offense.

SEC. 4. In the case of non-resident owners the duties imposed by this



ordinance shall be discharged by the agent in control of the property of such non-residents and such agent shall be subject to all the penalties imposed herein for any violation of this ordinance.

SEC. 5. Any person violating any of the provisions of this ordinance shall, upon conviction, be fined in any sum not exceeding twenty-five (\$25.00) dollars, to which may be added imprisonment of not to exceed five (5) days.

SEC. 6. This ordinance shall be in full force and effect from and after its passage and publication once each week for two consecutive weeks in the Indianapolis Sun, a daily newspaper of general circulation, printed and published in the City of Indianapolis, Indiana.

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

By Mr. Donavon:

General Ordinance No. 62—1908: An ordinance prohibiting theatres, five and ten cent shows, and other similar places of amusement, from operating phonographs, piano-players, or other similar instruments, upon or near the streets of the city; declaring such operation a nuisance; fixing a penalty for the violation thereof, and fixing a time when the same shall take effect.

SECTION 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That it shall hereafter be unlawful for any person, firm or corporation, employed by or owning, managing or controlling any theatre, five or ten cent show or theatre, moving picture show or theatre, or other similar places of amusement, to operate, in connection with the same, upon any street or alley of the City of Indianapolis, or within thirty feet of any street or alley without being wholly separated therefrom by the walls of a building, any phonograph, piano-player, or other similar instrument.

SEC. 2. The operation of phonographs, piano-players or other similar instruments upon or near the streets of the City of Indianapolis, in violation of the provisions of Section 1 of this ordinance, is hereby declared to be a nuisance.

SEC. 3. Any person, firm or corporation violating any of the provisions of this ordinance shall be subject to a fine of not to exceed \$25.00, and each day's violation shall constitute a separate offense.

SEC. 4. This ordinance shall be in full force and effect from and after its passage and publication once each week for two consecutive weeks in the Indianapolis Sun, a daily newspaper of general circulation, printed and published in the City of Indianapolis, Indiana.

Which was read a first time and referred to the Committee on Public Property and Improvement.



By Mr. Hilkené:

General Ordinance No. 63—1908: An ordinance to amend the provision relating to Humane Officers in clause f, Section 6 of an ordinance entitled, "An ordinance concerning the compensation of all officers, heads of departments, clerks, assistants and employes of the City of Indianapolis, Indiana, and repealing all ordinances in conflict herewith," approved May 16, 1907.

SECTION 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That the provision relating to Humane Officers in clause f, Section 6 of General Ordinance No. 32, 1907, entitled, "An ordinance concerning the compensation of all officers, heads of departments, clerks, assistants and employes of the City of Indianapolis, Indiana, and repealing all ordinances in conflict herewith," approved May 16, 1907, be and the same is hereby amended to read as follows:

The Humane Officers shall each receive a salary at the rate of twelve hundred (\$1,200.00) dollars per annum.

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

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

By Special Committee on Dogs:

General Ordinance No. 64—1908: An ordinance regulating the keeping of dogs in the City of Indianapolis, requiring the licensing, checking and registering of the same, providing for a public pound, the impounding of dogs therein, their redemption and disposal, creating the office of pound-keeper and deputy pound-keepers, providing for their salaries.

SECTION 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That any person who shall suffer or permit any animal of the dog kind to frequent or to remain on or within his or her house, building, enclosure or premises, and who shall there keep, lodge, or otherwise retain such dog, shall be considered as harboring the same.

SEC. 2. It shall be unlawful for any person to own, keep, or harbor any animal of the dog kind within the limits of this city, without first obtaining a license therefor as hereinafter required.

SEC. 3. Every person owning, keeping or harboring any animal of the dog kind shall, on the first day of June in each year, have such dog registered in the office of the City Controller, and shall pay to such officer the sum of two dollars for each dog by him owned, kept or harbored.

SEC. 4. Upon payment of the sum required by the preceding section, the City Controller shall issue to the person so owning, keeping or harboring such dogs, a written license authorizing the keeping of said dogs within the city limits; shall deliver to the aforesaid person a check of brass, copper or other metal marked and numbered to correspond with the license; and shall duly register the license in a book prepared for that

purpose. The entries in the license and in the license register shall set forth the number of the license issued; the name of the owner, keeper or person harboring such dog; a brief description of such dog by sex, color and breed; the date when such license was issued and when it will expire; and the amount which has been paid as a license tax in such behalf.

SEC. 5. All dog licenses shall expire on the last day of May in each year, and shall not be transferable.

SEC. 6. It shall be unlawful for the owner, keeper or person harboring a licensed dog, to suffer or permit such animal to run at large without a substantial collar of leather, iron, copper, brass, or other durable material, to which shall be attached the numbered check referred to in Section 4 of this ordinance.

SEC. 7. It shall be unlawful for any person to suffer or permit any animal of the dog kind to wear any other licensed check than the identical one issued by the City Controller for that particular dog. In the event of the loss of a license check, the City Controller is authorized to issue one of a duplicate number on the payment of the sum of twenty-five cents therefor.

SEC. 8. It shall be unlawful for any person to remove either the collar or license check from any licensed dog, except with the consent or upon the order of the party to whom the license was issued.

SEC. 9. It shall be unlawful for any person to whom a dog license shall be issued, under the provisions of this ordinance, to refuse upon request, to exhibit his said license to any officer of the Police Department of said city, or to any other person having legal authority to inquire into the matter.

SEC. 10. It shall be the duty of the Mayor, whenever in his opinion the danger to the public safety from rabid dogs is great and imminent, to publish a proclamation ordering and requiring all persons owning, keeping or harboring any animal of the dog kind, to muzzle the same or to confine the same for a specified time named in said proclamation, by good and sufficient means to the premises of the person or persons owning or harboring such dog, and upon the issuing of such proclamation by the Mayor it shall be the duty of all persons owning, keeping or harboring any animal of the dog kind, to confine the same by good and sufficient means within and upon such premises, or have the same properly and securely muzzled during the time specified in such proclamation. Reasonable publication of such proclamation shall be made in a daily newspaper of general circulation, published in the City of Indianapolis, Indiana. Any person failing to comply with the provisions of this section shall be subject to a fine of not less than five dollars (\$5.00), nor more than one hundred dollars (\$100.00), and imprisonment for a period not exceeding thirty days.

SEC. 11. The office of pound-keeper of the City of Indianapolis, Indiana, is hereby created. Said pound-keeper shall be appointed by the Board of Public Safety of such city, and shall execute bond with surety thereon to the approval of the Mayor of such city, in the sum of \$1,000.00 for the faithful performance of his duties. Said pound-keeper shall receive a salary at the rate of \$1,000.00 per annum. Said Board of Public Safety shall also appoint a sufficient number of deputies to said pound-keeper to carry out the provisions of this ordinance, each of whom shall receive a salary at the rate of \$60.00 per month. The pound-keeper and his deputies shall, while engaged in the performance of their duties, wear a plain metallic badge on the left side of the front of the outer garment, on which shall be inscribed the words "Pound-Keeper, Indianapolis" for the pound-keeper, and the words "Deputy Pound-Keeper, Indianapolis" for each deputy.

SEC. 12. It is hereby made the duty of the Board of Public Works of such city to provide a proper corral and building to be known as the Public Pound, in which to impound all animals of the dog kind. The Board of Public Safety of such city shall maintain such pound in a suitable and sanitary condition and shall provide all apparatus necessary to the enforcement of this ordinance, and proper sustenance for such impounded animals. A notice of the location of the pound herein provided for shall be given by posting a notice thereof conspicuously displayed in the office of the City Controller.

SEC. 13. It shall be the duty of the pound-keeper to capture and impound in the public pound all dogs found within the corporate limits of such city, not wearing the collar and tag herein provided for. Such pound-keeper shall immediately, upon receiving any dog at the pound, make a complete registry of the same, recording the breed, color, sex, and whether licensed or not, and if licensed, he shall, if known, enter the name and address of the owner or keeper of such dog, and the number of the licensed dog, which record shall be made in a book to be provided for such purpose, and which shall be kept open to public inspection. Impounded licensed dogs shall be kept separate from unlicensed dogs. A list of all licensed dogs so impounded, shall be forthwith sent to the City Controller who shall keep a record of the same and who shall also forthwith give notice in writing, by mail, to the owner or keeper of such licensed dog. The pound-keeper, immediately upon the impounding of any dog, shall post in a conspicuous place, to the public at such pound, and within twelve hours thereafter, if the City Controller's office shall then be open to the public, or if not so open as soon after the expiration of said twelve hours as said office shall be so open, shall post in a conspicuous place to the public at such office the description of such dog required by this ordinance to be taken, and such pound-keeper shall keep such dog confined in such pound for five days after the time of such impounding unless such dog be sooner redeemed as hereinafter provided for, and if not so redeemed he shall then have the right to kill such dog by asphyxiation by administering gas or in some other humane manner. Provided, that after the expiration of five days from the date of such posting, at the office of the City Controller, the pound-keeper may dispose of any impounded dog by gift or sale to any person (the owner or keeper preferred) who shall pay the pound fee provided for in Section 15 of this ordinance, if a licensed dog, and if an unlicensed dog, to any one (the owner or keeper preferred), who shall pay such fee and the license fee for the current year. The pound-keeper shall execute a bill of sale to the person to whom such dog shall be delivered under the provisions of this section, and such bill of sale shall transfer to such person the title of the original owner in and to such dog. If such dog shall not have been redeemed or otherwise disposed of as in this section provided for, within ten days from the time of its impounding, the same shall be destroyed in the manner provided for in this section. The carcasses of all dogs killed as herein provided for shall be sold to the highest bidder therefor, or, if not sold, shall be disposed of to the satisfaction and approval of the Department of Public Health and Charities of such city.

SEC. 14. All moneys received under the provisions of this ordinance shall be paid to the City Controller on the first day of the week succeeding the one during which such moneys were received. The City Controller shall, weekly, make due settlement for such fund with the City Treasurer.

SEC. 15. The owner or person entitled to the custody of any impounded dog may redeem the same at any time before it has been disposed of as in this ordinance provided for, by paying to the City Controller the license fee for the current year, if an unlicensed dog, and by paying to



the pound-keeper an impounding fee of \$2.00 and a maintenance fee of 25 cents for each day (including the first day) or six hours of a fractional day, during which said dog may have been impounded; or if a licensed dog, by the payment of such impounding and maintenance fee.

SEC. 16. It shall be unlawful to entice any licensed dog away from the premises of the person owning, keeping or harboring the same; or to entice any such licensed dog from any street, alley or public place of this city, with the intention of depriving the owner, keeper or person harboring the same, of the possession thereof.

SEC. 17. It shall be unlawful for any person to own, keep, or harbor any dog which, by frequent or habitual howling, yelping, barking or otherwise, shall cause serious annoyance or disturbance to persons or horses upon a public highway or to the neighborhood. And it is hereby made the duty of the pound-keeper and his deputies to forthwith impound such dogs in the public pound, to be redeemed only on the payment of the pound fee, as prescribed in Section 15.

SEC. 18. It shall be unlawful for any person who may own or harbor a vicious, fierce or dangerous dog to suffer or permit the same to go unconfined or to run at large, and it is hereby made the duty of every police officer, pound-keeper and his deputy to forthwith destroy any dog found unconfined or running at large in violation of this section.

SEC. 19. It shall be unlawful for anyone to harbor dogs affected with hydrophobia, or to suffer it to run at large within the corporate limits of such city. And it is hereby made the duty of every police officer, pound-keeper and his deputy, to forthwith destroy any dog found to be so affected.

SEC. 20. It shall be the duty of every officer of the police force of such city and of the pound-keeper and his deputies to capture and impound in the public pound any female dog found to be running at large within the corporate limits of such city during any period of rutting or when in heat, whether such dog be licensed or not, there to be redeemed or disposed of as in this ordinance provided for.

SEC. 21. It shall be unlawful for any person to open or keep dog pens or dog pits, for the purpose of causing or permitting dogs to fight.

SEC. 22. It shall be unlawful for any person to incite or set dogs to fighting in any street, alley, public place, commons, or private enclosure of this city, or to permit or cause the same to be done.

SEC. 23. It shall be unlawful to throw or deposit poisoned meat or any poison substance in any street, alley, market place, or public place of this city for the purpose of destroying any animal of the dog kind.

SEC. 24. It shall be unlawful for any person to invade the private premises of another to capture, entice, or take any licensed dog out of the enclosure of the person harboring the same, or to molest or seize any such dog while the same is accompanied by his owner, keeper or custodian, or to bring within the corporate limits of the city, any dog for the purpose of impounding the same or collecting any fee or reward for the return thereof, except as provided in this ordinance.

SEC. 25. The provisions of this ordinance shall not apply to dogs owned by non-resident parties passing through the city.

SEC. 26. The word "dog" as used in this ordinance, shall include a female as well as a male dog.

SEC. 27. It is hereby made the duty of the Police Department to assist in the enforcement of all ordinances in relation to dogs, and it shall be the duty of all policemen to at once report all violations of such ordinances to police headquarters.

SEC. 28. Any person who shall violate any of the regulations, requirements or provisions of this ordinance, where no penalty is specially provided, shall be fined in any sum not less than five dollars (\$5.00), nor more than one hundred dollars (\$100.00).

SEC. 29. All ordinances and parts of ordinances in conflict with any of the provisions hereof, are hereby repealed.

SEC. 30. This ordinance shall be in force from and after its passage and publication, once each week for two consecutive weeks in the Indianapolis Sun, printed and published in the City of Indianapolis, Indiana.

Which was read a first time and referred to the Committee on Public Safety and Comfort.

By Mr. Stickelman:

Special Ordinance No. 8—1908: An ordinance annexing certain territory to the City of Indianapolis, and fixing the time when the same shall take effect.

SECTION 1. Be it ordained by the Common Council of the City of Indianapolis, That the boundary lines of the City of Indianapolis be, and the same are hereby extended so as to include the following described contiguous territory, all of which is hereby annexed to, and made a part of the territory constituting and forming the City of Indianapolis, in Marion County, State of Indiana, to-wit:

Beginning at the center line of College avenue and the present city limits, thence north on the center line of College avenue, as now projected, to the center line of Fiftieth street, as projected; thence west on the center line of said Fiftieth street, as projected, to the center line of Illinois street; thence south on the center line of Illinois street to the present city limits.

SEC. 2. This ordinance shall be in full force and effect from and after its passage and publication for two consecutive weeks in the Indianapolis Sun, a daily newspaper of general circulation printed and published in the City of Indianapolis.

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

#### ORDINANCES ON SECOND READING.

Mr. Cottey called for General Ordinance No 42, 1908, for second reading. It was read a second time.

Mr. Cottey moved that General Ordinance No 4', 1908, be amended as recommended by the committee. Carried.



Mr. Cottey moved that General Ordinance No. 42, 1908, be ordered engrossed as amended, read a third time and placed upon its passage. Carried.

General Ordinance No. 42, 1908, was read a third time and passed by the following vote:

Ayes, 14, viz.: Messrs. Cottey, Hamlet, Wood, Davis, Eppert, Bangs, Uhl, Stickelman, Hartmann, Portteus, Donavon, Hofmann, Wright and President William J. Neukom.

Noes, 2, viz.: Messrs. Smither and Rhodes.

Mr. Stickelman called for Special Ordinance No. 7, 1908, for second reading. It was read a second time.

Mr. Stickelman moved that Special Ordinance No. 7, 1908, be ordered engrossed, read a third time and placed upon its passage. Carried.

Special Ordinance No. 7, 1908, was read a third time and passed by the following vote:

Ayes, 16, viz.: Messrs. Cottey, Hamlet, Wood, Davis, Eppert, Smither, Rhodes, Bangs, Uhl, Stickelman, Hartmann, Portteus, Donavon, Hofmann, Wright and President William J. Neukom.

Noes, none.

Mr. Wood called for General Ordinance No. 53, 1908, for second reading. It was read a second time.

Mr. Wood moved that General Ordinance No. 53, 1908, be ordered engrossed, read a third time and placed upon its passage. Carried.

General Ordinance No. 53, 1908, was read a third time and passed by the following vote:

Ayes, 15, viz.: Messrs. Cottey, Hamlet, Wood, Davis, Eppert, Smither, Rhodes, Bangs, Uhl, Stickelman, Hartmann, Portteus, Hofmann, Wright and President William J. Neukom.

Noes, 1, viz.: Mr. Donavon.

Mr. Wood called for General Ordinance No. 50, 1908, for second reading. It was read a second time.

Mr. Wood moved that General Ordinance No. 50, 1908, be stricken from the files.

Mr. Uhl called for the "ayes" and "noes."

The roll was called and General Ordinance No. 50, 1908, was stricken from the files by the following vote:

Ayes, 12, viz.: Messrs. Hamlet, Wood, Davis, Smither, Rhodes, Bangs, Stickelman, Hartmann, Portteus, Donavon, Wright and President William J. Neukom.

Noes, 4, viz.: Messrs. Cottey, Eppert, Uhl and Hofmann.

On motion of Mr. Wood, the Common Council at 8:45 o'clock P. M., adjourned.

*W. J. Neukom*

President.

ATTEST:

*James M. Kullty*

City Clerk.

