

SPECIAL MEETING.

COUNCIL CHAMBER, CITY OF INDIANAPOLIS, IND.

THURSDAY, March 16, 1905.

The Common Council of the City of Indianapolis, met in the Council Chamber, Thursday evening, March 16, 1905, at 7:30 o'clock in special session, pursuant to the following call:

INDIANAPOLIS, IND., March 16, 1905.

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

Gentlemen: I hereby call a special session of your honorable body to meet at the council chambers in the City of Indianapolis, Thursday evening, March 16, 1905, at 7:30 p. m., for the purpose of receiving committee reports upon, considering and passing Appropriation Ordinance No. 2, 1905; Appropriation Ordinance No. 4, 1905; Appropriation Ordinance No. 5, 1905; and also for the introduction of an ordinance ratifying and confirming a certain contract and franchise grant entered into between the City of Indianapolis, by and through its Board of Public Works, and the Indianapolis, Newcastle & Toledo Electric Railway Company on March 15, 1905; and for receiving communications from the Board of Public Works and other Executive Departments concerning the above matters.

Respectfully,
JOHN W. HOLTZMAN,
Mayor.

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

President Billingsley and Vice-President Rhodes being absent the Council was called to order by Clerk Fogarty.

Mr. Cooper moved that Mr. Moriarity be chosen chairman pro tem of the meeting, which motion carried unanimously.

The Clerk called the roll:

Present, 15, viz.: Messrs. Cooper, Cottey, Davis, Eppert, Fishback, Gasper, Hofmann, Moriarity, Murray, Shea, Sullivan, Uhl, Wahl, Wolsiffer and Wright.

Absent, 6, viz.: Messrs. Crall, Krause, Linus, Rhodes, Storm and President Billingsley.

The Finance Committee submitted the following report:

INDIANAPOLIS, IND., March 16, 1905.

To the President and Members of the Common Council:

Gentlemen: Your Finance Committee, to whom was referred Appropriation Ordinance No. 5, 1905, have had same under consideration and would respectfully recommend that the same do pass.

Respectfully submitted,

J. L. GASPER.
LEW W. COOPER.
W. A. RHODES.
FRANK S. FISHBACK.
M. J. SHEA.

Which was read.

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

From the Finance Committee:

INDIANAPOLIS, IND., March 16, 1905.

To the President and Members of the Common Council:

Gentlemen: Your Finance Committee, to whom was referred Appropriation Ordinance No. 2, 1905, have had same under consideration and respectfully recommend that the same do pass.

Respectfully submitted,

J. L. GASPER,
LEW W. COOPER.
W. A. RHODES.
FRANK S. FISHBACK,
M. J. SHEA,

Which was read.

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

From the Finance Committee:

INDIANAPOLIS, IND., March 16, 1905.

To the President and Members of the Common Council:

Gentlemen: Your Finance Committee, to whom was referred Appropriation Ordinance No. 4, 1905, have had same under consideration and respectfully recommend that the same do pass.

Respectfully submitted,

J. L. GASPER.
LEW W. COOPER.
W. A. RHODES.
FRANK S. FISHBACK.
M. J. SHEA.

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

REPORTS FROM OFFICIAL BOARDS.

From the Board of Public Works:

INDIANAPOLIS, IND., March 15, 1905.

To the President and Members of the Common Council:

Gentlemen: We herewith transmit to you for consideration and action a contract and agreement made and entered into on the 15th day of March, 1905, between the City of Indianapolis, by and through its Board of Public Works, and the Indianapolis, Newcastle & Toledo Electric Railway Company, whereby said company is authorized to run and operate its interurban cars into said city, and to carry passengers, mail, express matter, baggage and freight on such cars, in and upon the streets of the City of Indianapolis; and granting it permission to cross certain streets and alleys in said city; and fixing a time when the same shall take effect.

Respectfully,

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

Which was read.

INTRODUCTION OF GENERAL AND SPECIAL ORDINANCES.

General Ordinance No. 17—1905: An ordinance ratifying, confirming and approving a certain contract and agreement made and entered into on the 15th day of March, 1905, between the City of Indianapolis, by and through its Board of Public Works, and the Indianapolis, Newcastle & Toledo Electric Railway Company, whereby said company is authorized to run and operate its interurban cars into said city, and to carry passengers, mail, express matter, baggage and freight on such cars, in and upon the streets of the City of Indianapolis; and granting it permission to cross certain streets and alleys in said city; and fixing a time when the same shall take effect.

Whereas, heretofore, to-wit: on the 15th day of March, 1905, the City of Indianapolis, by and through its Board of Public Works, entered into the following contract and agreement with the Indianapolis, Newcastle & Toledo Electric Railway Company, namely:

This agreement, made and entered into by and between the City of Indianapolis, Marion county, Indiana, hereinafter called the "City," by and through its Board of Public Works, party of the first part, and the Indianapolis, Newcastle & Toledo Electric Railway Company, hereinafter called the "Newcastle Company," a corporation duly organized and incorporated under and by virtue of the laws of Indiana, party of the second part, *witnesseth*:

Whereas, The said Indianapolis, Newcastle and Toledo Electric Railway Company has presented its written petition to the Board of Public Works of said City of Indianapolis, asking permission to be allowed to run and operate its interurban cars into said city along certain streets therein and hereinafter named, over the tracks of the Indianapolis Street Railway Company and the Indianapolis Traction and Terminal Company and to carry passengers, mail, express matter, baggage and freight through and into such city on such cars; and also to

lay two lines of railway track over and across certain streets and alleys in said city; and

Whereas, By the provisions of an act of the General Assembly of the State of Indiana, entitled, "An act concerning street railroad companies in cities the population of which exceeds one hundred thousand; repealing all laws in conflict with the act, and declaring an emergency," which became a law without the Governor's signature, on the 3d day of March, 1899, the use of the said tracks of the Indianapolis Street Railway Company and the Indianapolis Traction and Terminal Company shall be upon such conditions and under such regulations as the Board of Public Works and the Common Council of such City shall prescribe.

Now, therefore, The said Board of Public Works of the said City of Indianapolis, in consideration of the several agreements of the said Newcastle Company, hereinafter stipulated and set forth, does hereby grant, authorize, empower and permit, subject to the ratification and approval of the Common Council of said City of Indianapolis, the Newcastle Company, subject to the conditions hereinafter prescribed and expressed, to operate and run its cars upon and over the tracks of the Indianapolis Street Railway Company and the Indianapolis Traction and Terminal Company, on the following streets and avenues of said city, to-wit:

Commencing at the intersection of the east corporation line and Twenty-first street; thence west on Twenty-first street to a point in Massachusetts avenue; thence southwestwardly on Massachusetts avenue to Ohio street; thence west on Ohio street to Capitol avenue; thence south on Capitol avenue to Market street; thence east on Market street to the entrance of the passenger terminal station of the Indianapolis Traction and Terminal Company; thence north through the sheds of said station to Ohio street.

Provided, however, That at the end of five years and at intervals of every five years thereafter, the said Indianapolis Street Railway Company and the Indianapolis Traction and Terminal Company, with the consent and approval of said Board of Public Works, may change said route, but in such way that such route will connect with the line of said Newcastle Company at the east corporation limits and Twenty-first street, and thence by the most direct route to the passenger and freight terminal of the said Traction and Terminal Company in the square bounded by Illinois, Ohio, Capitol avenue and Market streets.

The above grant is made upon the following express conditions, numbered from one (1) to seventeen (17) inclusive:

1. That after entering the City of Indianapolis, all regular passenger cars of said Newcastle Company, party of the second part, shall stop at all intersecting streets on signal from waiting passengers, or passengers on such cars desiring to leave the same, and shall take on and carry all passengers desiring to take passage on any such cars for the purpose of being transported between different points on the line over which said cars are operated in said city: *Provided*, That such cars shall not be stopped at any such street for a longer time than is necessary to take on and discharge such passengers, and that no baggage other than hand baggage, nor express or freight matter shall be unloaded or taken on any such car at any such crossing.

2. The said Newcastle Company, party of the second part, shall charge five cents for a single fare between any two points in said city on its said line, and any passenger who shall pay a single fare of five cents shall be entitled to ride in the car upon which he took passage to any point on the said line of such company, within such city, as follows: If on an incoming car, to the terminal point, and, if on an outgoing car, to the corporate limits of said city: *Provided, however*,

That said Newcastle Company shall not discriminate, either in fares or freight rates, in any manner whatsoever, against passenger or freight traffic to or from the City of Indianapolis in favor of any other point on the line of railroad operated by said company.

3. The said Newcastle Company, party of the second part, shall run and operate its cars in said city with reference to the time schedule of the cars being operated on said line by the Indianapolis Street Railway Company and the Indianapolis Traction and Terminal Company, which cars shall have the right-of-way, and so as not to delay or interfere in any wise with the running and operation of the cars of either of said companies or to interfere with any schedule for the running of the said cars of either of said companies which may hereafter be fixed by the Board of Public Works, and the said cars of said Newcastle Company, party of the second part, shall be so operated as not to interfere with public travel at street or alley crossings, nor in any way to violate any obligation of either of said companies under the law or any ordinance of the City of Indianapolis, or any other municipality, now in force or which may hereafter be in force, or of the contract between said Indianapolis Street Railway Company and said City dated April 7, 1899, or of the contract between said Indianapolis Traction and Terminal Company and said City, or other existing grant or contract of either of them or some other person or corporation, to the rights and obligations of which either of said companies has succeeded.

The right is expressly reserved to the said Board of Public Works to fix time schedules for the running of all the cars of said Newcastle Company, party of the second part, passing on and over the streets of said city, to the end that there shall be uniformity and regularity in the running of all the cars of the several companies in said city, and also prompt and efficient service; *Provided*, That said Newcastle Company shall, between the hours of 6 o'clock A. M. and 11 o'clock P. M., run, at least, one car every two hours.

4. The cars of said Newcastle Company, party of the second part, shall not be stopped, either for the receiving or discharge of passengers, or for any purpose other than to avoid collisions or casualties, at any point in such city, except at street crossings, as hereinafter provided, and at its designated central point and terminals. In stopping its cars at street crossings, said Newcastle Company, party of the second part, shall at all times be governed by the rules, regulations, ordinances or contract which are in force governing the stopping of the cars of the Indianapolis Street Railway Company and Indianapolis Traction and Terminal Company at such crossings, or other places in said city.

5. The said Newcastle Company, party of the second part, may at all times carry in its passenger cars, or in suitable compartments thereof, provided for such purpose, or in mail, express or freight cars, of a style and pattern to be approved by the Board of Public Works, such baggage belonging to its passengers, being transported in such passenger cars, as is usually allowed to be carried by passengers in steam railroad companies' cars, and also the United States mail, and such express matter and merchandise as may be inclosed in boxes, crates, and parcels, so as to be easily handled and so as not to be unsightly in appearance or offensive to sight or smell, and also such packages and parcels as are usually carried and delivered by messenger service; *Provided*, That no live animals, (excepting hunting dogs) shall be carried in any such cars or in any such compartment at any time; and, *Provided, further*, That all baggage (other than hand baggage), express matter, parcels and articles of merchandise carried, as aforesaid, shall be delivered at the station and terminals herein referred to, for distribution, and that in no case shall any such baggage, (other than hand baggage), or any express matter, parcels or merchandise be loaded or unloaded in or upon any of the streets, alleys, avenues or public

grounds of said city, except at said station or terminals. *Provided, also,* That fowls, properly secured in boxes or coops, may be carried in said cars between the hours of 12:30 A. M. and 4:30 A. M.

6. The said Newcastle Company, party of the second part, shall not be permitted under any circumstances to transport in its cars through or over the streets, alleys or avenues of such city, live animals of any kind, other than hunting dogs. Said Newcastle Company, subject to the conditions hereinafter prescribed, shall be permitted to haul and handle freight other than that designated in section five, when a station or terminal for the receipt and delivery of freight shall have been provided. After such terminal or station shall have been provided, the said Newcastle Company may deliver freight, other than live animals, not of a character offensive to sight or smell, into such station or terminal, where the same may be held for delivery to any part of said city or for transfer to steam railroad lines, or to the lines of other suburban or interurban companies which may be able to transport the same under any ordinance regulating such transportation. Until such station or terminal for the receipt and delivery of freight shall have been provided, said Newcastle Company, for the purpose of loading and unloading its cars, shall have the right, by first securing the consent of the Indianapolis Street Railway Company, and Indianapolis Traction and Terminal Company, to stand said cars upon some line of "dead track" of said Indianapolis Street Railway Company, or said Indianapolis Traction and Terminal Company: *Provided,* That the selection of such "dead track" shall be first approved by said Board of Public Works, and, *Provided, further,* That such cars shall not be allowed to stand more than fifteen (15) minutes at any one time in loading or unloading.

The right is hereby expressly reserved by the Board of Public Works and Common Council of said City, to regulate by order or ordinance the carrying of the freight, merchandise or property of any kind described in sections 5 and 6 of this contract, through the streets, alleys and avenues of said City, and at any time during the term of this contract, to change the route of said cars of said Newcastle Company, used exclusively for carrying mail, express or freight over the lines and tracks of the Indianapolis Street Railway Company and Indianapolis Traction and Terminal Company, but only in such way that such route will connect with the other part of the line on which said Newcastle Company enters the city and at the same time connect with the station or terminal for the receipt and delivery of freight herein referred to.

7. The rates charged and collected by such Newcastle Company for the carriage of freight matter between Indianapolis and points on its lines shall not exceed those charged and collected for the carriage of like freight matter between the same points by other common carriers of freight; and the rates charged and collected by such Newcastle Company for the carriage of like express matter between the same points by other common carriers of express matter.

Provided, however, That such Newcastle Company shall never be compelled to charge or collect less than eighty (80) per centum of the published rates now charged for the carriage between the same points of freight or express matter, as the case may be, by other common carriers of freight or express matter, between such points.

Provided, further, That the maximum rates which such Newcastle Company may charge hereunder shall not apply to freight of other classes than classes 1, 2, 3 and 4, as such classes are defined by the classification in use on January 1, 1902, by the railroad companies operating between Indianapolis and such other points, such classification being that known as "Official Classification No. 22," copyrighted in 1902 by C. E. Gill, chairman.

8. The cars to be run and operated by said Newcastle Company,

party of the second part, shall be propelled by electric power only: *Provided*, That if the Board of Public Works and Common Council of said City, under the power reserved to them under the contracts entered into between said City and the Indianapolis Street Railway Company and said Indianapolis Traction and Terminal Company shall by order or ordinance require said Indianapolis companies to introduce any other improved method of propulsion, then, and in such case, the said Newcastle Company, party of the second part, shall adopt and use such improved methods in the propulsion of its cars running within such city, if so ordered by said Board of Public Works.

The cars to be used by said Newcastle Company, party of the second part, together with all machinery, appliances and appurtenances thereof, shall be suitable and adapted to be operated upon the tracks of the Indianapolis Street Railway Company and the Indianapolis Traction and Terminal Company, without injury to said tracks or any of the appurtenances thereof, or the pavements required to be kept in repair by said Company, provided such pavement shall not be laid or maintained above the level of the head of the rail, and shall at all times be so operated as not to injure the same, or any of the cars or other property of either of said companies.

9. The said Newcastle Company, party of the second part, shall during the entire period for which this franchise is granted so operate its cars in said city as to render the public at all times first-class and efficient service; that the motive power furnished by said Newcastle Company shall at all times be ample, and its cars of the most approved pattern, style and finish; at all times kept clean, well ventilated, provided with comfortable seats for passengers and heated whenever the weather is such that the comfort of passengers requires the same, and lighted at night with electricity, or, subject to the approval of the Board of Public Works, with other equally efficient light; that all such cars shall be kept in good repair, and shall at all times be painted on the outside and decorated on the inside as to present an attractive appearance, and shall be repainted and redecorated from time to time as may be necessary to maintain such appearance; that each of such cars shall be provided with the most approved life guards, and all other modern appliances for the safety of its passengers and employees, including a headlight, which, if an electric arc light, shall be so screened or shaded while said cars are within the city limits as not to interfere with the vision of approaching persons or animals; that each of such cars shall have thereon the name of said Newcastle Company, or the point of its destination, in letters of such size that the same may be readily discerned and read by persons of ordinary eyesight and that at night such name shall be so illumined or displayed that the same may be readily and easily seen and read by persons desiring to take passage in such cars.

10. It is further agreed and understood that the right to use the tracks of the Indianapolis Street Railway Company and the Indianapolis Traction and Terminal Company hereby granted, is subject to the payment by said Newcastle Company, party of the second part, to said railway companies, respectively, of compensation for such use as fixed by agreement or judgment of the proper court, as and when such compensation shall become due and payable, and that in default of such payment, and so long as such default shall continue, said railway companies, or either of them, shall have the right to exclude said Newcastle Company from such use.

11. And it is also agreed and understood that the said Newcastle Company, party of the second part, shall not permit to be used or operated on its said line within said city any car or cars by any other person or corporation without the consent of the Board of Public Works entered upon the records of such Board and until after terms for com-

compensation for such use have been agreed upon with said Indianapolis Street Railway Company and the Indianapolis Traction and Terminal Company, or fixed as provided by law.

12. In case the said Newcastle Company, party of the second part, shall fail to comply with any of the foregoing agreements or stipulations contained in this clause, concerning motive power, the kind of cars to be used, or the equipment, painting, decoration, heating, lighting or designating the same, or concerning life guards and appliances for the safety of passengers and employees, rails, road-bed, or other stipulations herein contained, concerning the operation, maintenance or construction of its line of street railway and cars, or in case said Newcastle Company shall fail to comply with any of the stipulations or provisions of this contract, and the Board of Public Works, shall, by written notice, served on any officer of said Newcastle Company, require compliance with any such stipulation within a reasonable time, therein fixed, and said Newcastle Company shall continue to fail and refuse, after any such period so fixed, to comply with any such provision or stipulation, or notice or order of the Board of Public Works, pertaining thereto, then said Newcastle Company shall forfeit to said City the sum of fifty (\$50) dollars for each day that it shall continue to violate any such provision or stipulation, which sum may be collected without relief from valuation or appraisement laws, either by suit on any bond which may be given by said Newcastle Company for the performance of the conditions of this contract, or otherwise, or by instituting any proper proceedings to recover said forfeiture, as the said Board of Public Works may elect; *Provided*, That nothing herein contained shall be construed as an attempt to abridge or in any wise restrict the power of the Common Council of said City to enact reasonable ordinances providing for the safety, comfort or convenience of the public traveling on the cars of said Newcastle Company, within said city, and also providing reasonable penalties for the violation thereof.

13. And the said Newcastle Company further agrees that as part consideration of this grant it will pay to said city the sum of five thousand (\$5,000.00) dollars for the use of the City in paying its proportionate cost of separating the grade of the steam railroads and the street at Massachusetts avenue and East Tenth street, the payment of said sum to be made upon the completion of said improvement and a separate special bond of said Newcastle Company being now filed with said Board of Public Works to secure the prompt payment thereof.

In further consideration of the grant herein and hereby made said Newcastle Company, party of the second part, agrees and binds itself to pay to said City on the first day of January, 1906, and annually thereafter, during the term of this franchise, the sum of one cent (1c) per round trip for each and every round trip made by any car of said Newcastle Company over the tracks of the Indianapolis Street Railway Company or Indianapolis Traction and Terminal Company, during the year preceding said date and in consideration of such agreement of said Newcastle Company, to make such payments, and of said payments, said City undertakes and agrees that it will not at any time impose on or exact from said Newcastle Company, its successors or assigns, or its or their property, or require to be paid by it, or them, any other sum or sums as or for a franchise, or car tax, or charge, or any other special tax or charge, than those above provided to be paid, but nothing in this contract contained shall affect the liability of said Newcastle Company, its successors or assigns, to general taxation.

14. Neither this contract nor any of the rights or privileges named therein shall ever be assigned or transferred by said Newcastle Company to any person, firm or corporation without the written consent of said Board of Public Works, duly entered upon the records of said Board, and in the event of any such transfer or assignment without the

written consent of said Board of Public Works, then all rights and privileges of said Newcastle Company under this contract shall absolutely cease and become void and said Newcastle Company shall be held and deemed a trespasser if it shall thereafter undertake to run or operate any car over any street or alley of said city.

15. The said Newcastle Company further agrees that this grant is made upon the condition that its line of railway from the City of Indianapolis out as far as the Town of Maxwell, Indiana, shall be constructed and such portion of such railway shall be in operation within eighteen months from the date of the ratification of this contract, by ordinance of the Common Council of the City of Indianapolis, and as far as the Town of Newcastle, Indiana, not later than January 1, 1908. If the same be not so constructed and in operation, all rights herein granted to use the tracks of the Indianapolis Street Railway Company and the Indianapolis Traction and Terminal Company shall thereby be terminated.

16. The said Newcastle Company, party of the second part, before exercising any of the rights hereby granted shall execute to the City of Indianapolis a good and sufficient bond in the sum of ten thousand (\$10,000.00) dollars with good and sufficient sureties to the approval of the said Board of Public Works, conditioned that the party of the second part shall faithfully carry out and perform each and every agreement herein contained and shall well and truly pay to said city all penalties, forfeitures and other sums of money, for which, under the terms of this contract, it may become liable to said city; and said bond shall be renewed from time to time during said period on the demand of the Board of Public Works of said city, whenever by reason of the insufficiency of the surety thereon or the impairment of the amount thereof by reason of the accumulation of unpaid penalties, forfeitures, judgments or other claims against said Newcastle Company in favor of said City, the said Board deems such renewal necessary.

And in case the said Newcastle Company, party of the second part, shall on the reasonable demand of the said Board of Public Works fail or refuse to renew such bond or furnish additional surety thereon as may be required, then its rights under this contract shall cease, and the franchise herein granted be forfeited, which forfeitures may be enforced in any court of competent jurisdiction.

17. This contract shall take effect and be in force from and after the date of its approval and ratification by an ordinance of the Common Council until the 7th day of April, 1933.

Any right which might be claimed by said Newcastle Company, party of the second part, to run or operate any car in or on any street of such city, after the expiration of said period, to-wit, on April 7, 1933, either under the provisions of the statute under which it was incorporated, or any other statute or ordinance now existing, is hereby expressly waived.

The limitations of time is one of the essential and governing conditions of this contract, and at the expiration of said period, the rights of said Newcastle Company, party of the second part, to run or operate its cars within such city shall absolutely cease, and all rights under this contract shall terminate and it shall be deemed and held a trespasser if it shall undertake to run or operate any car over any such street after that time.

Said City of Indianapolis, the party of the first part, by and through its Board of Public Works, aforesaid, does further, subject to the conditions hereinafter expressed, and marked "A", "B", "C", "D", "E" and "F" hereof, authorize and empower the Indianapolis, Newcastle and Toledo Electric Railway Company, party of the second part, its successors and assigns, and by the terms of this contract, consent, permission and authority by said city are given and granted unto said company, party of the second part, from and after the approval and

ratification of this contract by an ordinance of the Common Council of said City, and subject to the conditions hereinafter prescribed and expressed, to lay and maintain a single or double track interurban freight railway line, to be operated by electricity or other improved motive power other than steam, with the necessary feeder lines and poles which may be necessary to the successful operation of the cars of said party of the second part across the following streets in said city between Twenty-first street and a point one hundred and fifty (150) feet south of Twenty-first street:

Sherman Drive, Laycock avenue, Gale street, Olney street, Adams street, Houston street, La Salle street, Dearborn street, and across the following streets and alleys between the southeast line of Twenty-first street and the southeast line of Massachusetts avenue and a point one hundred and fifty (150) feet southeast of the southeast line of Twenty-first street and Massachusetts avenue:

First alley west of Dearborn street, Parker avenue, first alley west of Parker avenue, second alley west of Parker avenue, Oxford street, Rural street, first alley west of rural street, Hazel street or Valley avenue, Jupiter street, Samoa street, first alley southwest of Samoa street; Ottawa street, first alley southwest of Ottawa street, Steele street, first alley southwest of Steele street, Commerce avenue or Hillside avenue, Newman street and the first, second, third, fourth, fifth and sixth alleys southwest of newman street and to maintain and operate said tracks across said streets and alleys.

In addition to the right to lay and maintain said line of railway aforesaid, said company, party of the second part, shall also have the right to lay and maintain necessary side-tracks, switches and turnouts but such side-tracks, switches and turnouts shall be elevated at all street crossings in like manner as hereinafter provided for said main tracks at certain streets.

"A" The said Company, party of the second part, shall in the construction of its tracks, elevate the same over and across Newman street, Hillside or Commerce avenue, Hazel street or Valley avenue and Rural street, so as to have at least twelve (12) feet headroom or clearance between the established grade of the street and the bottom of the girders supporting the tracks at each of the above named streets, except Rural street where the headroom or clearance shall be at least fourteen (14) feet. In making such elevation no center posts will be permitted in the roadway by the party of the first part. Posts will be permitted at the curb line and masonry abutments and retaining walls shall be built at the property line of said streets. The covering of such structures shall be water tight and the plans for such elevated crossings shall meet any other reasonable requirements of the Board of Public Works and the City Civil Engineer, and the plans therefor shall be approved by the Board of Public Works and the City Civil Engineer, before work shall be begun on such elevated crossings.

Whenever in the judgment of the Board of Public Works, the safety and convenience of the public shall demand that the tracks be elevated at some street crossed by said railway between Hillside avenue or Commerce avenue, and Valley avenue or Hazel street, and between Rural street and Sherman Drive in said city, then the party of the second part shall upon reasonable notice being given, elevate said tracks at said crossings and without any expense to said city.

"B" The said Company shall construct and maintain its said grade and tracks where the same crosses other streets and alleys at grade, so as to conform to the grade of all of said streets and alleys as they are now or may hereafter be established and shall not impede travel or interfere with the free use of the streets at such crossings and shall keep all such crossings improved and repaired as may be required by the City Civil Engineer of said City under the written direction of the Board of Public Works of said City.

The party of the second part agrees to pave, according to plans to be furnished by the Board of Public Works, the space between its rails and eighteen inches outside the outer rails of its tracks on all street and alley crossings where said tracks of said company cross at grade, when ordered so to do by said Board of Public Works.

If, hereafter, any of the tracks not on a private right-of-way of said party of the second part, be brought within the limits of said city, by the extension of its boundaries or annexation of territory, such tracks shall at all times be kept in repair, provided with the most modern and improved rails of sufficient size and weight and in such condition that passengers riding in cars over the same shall suffer no discomfort or inconvenience by reason of such tracks or any part thereof being irregular, uneven or in any wise insufficient, and the right is reserved to the Board of Public Works of such City to order needed repairs to said tracks or road-bed, or cars or appliances and the said Company, party of the second part, agrees to comply with all such orders.

And the said Company, or its assigns, shall, when ordered to so do, by the Board of Public Works, pave the space between all rails, including the space between its said tracks, where there are double tracks, switches or side-tracks, and for a distance of eighteen inches on the outside of the outside rails of its tracks, and shall at all times make all necessary repairs in such space, under such specifications, both as to material and manner, as may be provided by said Board of Public Works, and under the supervision of the City Civil Engineer of said City. It is also agreed that said Company, party of the second part, or its assigns, shall in the construction and maintenance of any such track, construct and maintain the same in all respects in the same manner as the Indianapolis Street Railway Company is required by contract and ordinance to construct and maintain its tracks within such city, and the obligations of said Company, party of the second part, or its assigns, to pave improve and repair the space between its tracks and for eighteen inches on the outside of the outside rails thereof shall be the same as the obligation of the said Indianapolis Street Railway Company, to pave, improve and repair the space between its tracks under the provisions of its contract with said City and the ordinance ratifying the same, which ordinance was passed by the Common Council of said City on the 7th day of April, 1899.

"C" In the construction and maintenance of the electrical appliances for the propulsion of its cars, the same shall be so constructed by providing for an independent return circuit for the electricity used, or by such approved scientific method as will prevent any injury by any such current of electricity to water pipes, gas pipes or any other property in, under or upon any of the streets, alleys or avenues, aforesaid, or elsewhere, within said city, and the said Company, party of the second part, shall hold the City free and harmless from all damages of every nature whatsoever resulting to any person or property on account of injury caused by the electrical currents of said Company, or by the construction or operation of the road or cars of said Company.

"D" The said Company, party of the second part, further agrees that this grant is made upon the condition that its line of railway from the City of Indianapolis out as far as the Town of Maxwell, Indiana, shall be constructed within eighteen months from the date of the ratification of this contract, by ordinance of the Common Council of the City of Indianapolis; upon the completion of such portion of such railway, the said second party shall be allowed to commence work on the construction of its said tracks and structures for elevating the same across the streets of said city, as aforesaid, which work shall be completed within twelve months after said work is commenced, and if the same be not so commenced and completed within said time, then and in that event the right to cross said streets and alleys, aforesaid, and the grant herein and hereby made shall be and thereby become for-

feited; and this grant is made upon the further condition that said Company shall construct and have in operation its railway from the City of Indianapolis as far as the Town of Newcastle, Indiana, not later than January 1, 1908.

"E" Before the said Company, party of the second part, shall commence the construction of its tracks and appurtenances within the City of Indianapolis it shall execute to the said City a good and sufficient bond in the sum of twenty-five thousand (\$25,000.00) dollars with good and sufficient sureties thereon, to the approval of the said Board of Public Works, which bond shall be known as a "Construction Bond" and conditioned that the said Company, party of the second part, shall construct its tracks and appurtenances across the said streets and alleys, in said city, in accordance with this grant, and shall also pay all damages sustained by any person by reason of the construction, maintenance or operation of its railway and appurtenances, in said city, and shall hold the said City of Indianapolis free and harmless from any liability on account thereof, which bond shall be and remain in force and effect so long as the said Company shall be engaged in the actual construction of its tracks and appurtenances and structures for the elevation of its tracks as in this grant provided, which time of expiration of liability under said bond, and cancellation thereof, shall be determined by said Board of Public Works. *Provided, however,* That nothing herein shall be construed as limiting any liability under said bond arising prior to the time of its limitation and cancellation by said Board of Public Works, aforesaid.

"F" Neither this grant nor any of the rights or privileges named herein shall ever be assigned or transferred by said second party to any person, firm or corporation, without the written consent of said Board of Public Works duly entered upon the records of said Board. Nor shall said second party allow or permit the use of its tracks by any person, firm or corporation, whereby such person, firm or corporation, under such use, may escape or avoid the terms, conditions and obligations resting upon such person, firm or corporation, by reason of any franchise contract existing between it and said City, but the said City reserves the right by and through its Board of Public Works, to prohibit such use of the tracks of the second party by any person, firm or corporation, which would serve to avoid or defeat such franchise duties and obligations, as aforesaid, resting upon such person, firm or corporation, and upon written notice of such prohibition, the second party shall refuse to permit such use of its tracks.

In Witness Whereof the said City of Indianapolis has caused its corporate name to be hereunto affixed by its Board of Public Works and Mayor, and said Indianapolis, Newcastle and Toledo Electric Railway Company, pursuant to a Resolution of its Board of Directors, has caused its corporate name and seal to be hereunto affixed by its proper officers, this 15th day of March, A. D., 1905.

CITY OF INDIANAPOLIS,

By M. A. DOWNING,

JACOB WOESSNER,

DAVID WALLACE,

Board of Public Works,

JOHN W. HOLTZMAN, Mayor.

Party of the first part.

INDIANAPOLIS, NEWCASTLE AND TOLEDO
ELECTRIC RAILWAY COMPANY,

By Charles S. Hernly, Vice-President.

Party of the second part.

Attest:

W. E. STEVENSON, Secretary.

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

Section 1. Be it ordained by the Common Council of the City of Indianapolis, Indiana, That the foregoing contract and agreement made and entered into on the day of, 1905, by the City of Indianapolis, by and through its Board of Public Works, and the Indianapolis, Newcastle & Toledo Electric Railway Company, be and the same is hereby in all things ratified, confirmed and approved and the said Indianapolis, Newcastle & Toledo Electric Railway Company is hereby granted all rights, privileges and franchise as in said contract, agreement and grant set forth, subject to and in accordance with the terms, conditions and limitations thereof.

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

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

Mr. Gasper called for Appropriation Ordinance No. 2, 1905, for second reading. It was read a second time.

Mr. Gasper moved that Appropriation Ordinance No. 2, 1905, be ordered engrossed, read a third time and placed upon its passage. Carried.

Appropriation Ordinance No. 2, 1905, was read a third time and passed by the following vote:

Ayes, 15, viz.: Messrs. Cooper, Cottey, Davis, Eppert, Fishback, Gasper, Hofmann, Moriarity, Murray, Shea, Sullivan, Uhl, Wahl, Wolf-siffer and Wright.
Noes, none.

Mr. Gasper called for Appropriation Ordinance No. 4, 1905, for second reading. It was read a second time.

Mr. Gasper moved that Appropriation Ordinance No. 4, 1905, be ordered engrossed, read a third time and placed upon its passage. Carried.

Appropriation Ordinance No. 4, 1905, was read a third time and passed by the following vote:

Ayes, 15, viz.: Messrs. Cooper, Cottey, Davis, Eppert, Fishback, Gasper, Hofmann, Moriarity, Murray, Shea, Sullivan, Uhl, Wahl, Wolf-siffer and Wright.
Noes, none.

Mr. Gasper called for Appropriation Ordinance No. 5, 1905 for second reading. It was read a second time.

Mr. Gasper moved that Appropriation Ordinance No. 5, 1905, be ordered engrossed, read a third time and placed upon its passage. Carried.

Appropriation Ordinance No. 5, 1905, was read a third time and passed by the following vote:

Ayes, 15, viz.: Messrs. Cooper, Cottey, Davis, Eppert, Fishback, Gasper, Hofmann, Moriarity, Murray, Shea, Sullivan, Uhl, Wahl, Wolf-siffer and Wright.

Noes, none.

On motion of Mr. Gasper the Common Council, at 8:00 o'clock, P. M., adjourned

James D. Moriarity

 President pro tem.

ATTES

W. M. Fogarty

City Clerk.