

EXHIBIT A

The Law Offices of Williams & Cooper Gift 1929

CERTIFICATE.

CLERKS' OFFICE, SELECT AND COMMON COUNCILS.

Philadelphia, January 1, 1891.

WE HEREBY CERTIFY, That we have collated with and corrected by the original Ordinances on file in this Office the proof-sheets of the printed copies of this edition of the Ordinances of the City of Philadelphia, during the year ending December 31, 1890, and that the same are correct copies of the originals.

JOHN ECKSTEIN,

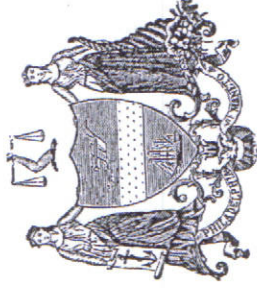
Clerk of Common Council.

JOSEPH H. PAIST,

Clerk of Select Council.

ORDINANCES
OF THE
CITY OF PHILADELPHIA,

From JANUARY 1, to DECEMBER 31, 1890.



AND

OPINIONS OF THE CITY SOLICITOR.

PHILADELPHIA:
DANDY PRINTING AND PUBLISHING CO.,
34 South Third Street.
1890.

Case ID: 090103642

necessary to carry Broad street at Pennsylvania avenue, at the elevation and in accordance with the plans submitted herewith, over the tracks of the Philadelphia and Reading Railroad Company.

SECT. 9. Before any work shall be commenced by the said railroad company it shall enter into a bond, in a form to be approved by the City Solicitor, with the Philadelphia and Reading Railroad Company as surety, in the penal sum of one million (1,000,000) dollars, conditioned for the faithful performance of all the conditions, terms and provisions of this ordinance, and the said company shall pay into the City Treasury the sum of fifty dollars for printing this ordinance.

Before the commencement of any work under this ordinance the said the Philadelphia and Reading Railroad Company shall join with the said Terminal Railroad Company in the execution of a contract with the City of Philadelphia, to do all the things directed by this ordinance to be done by said Terminal Company.

SECT. 10. Within ninety days of the revision of grades provided for in the eighth section of this ordinance, it shall be the duty of the Railroad Company to commence the construction of the structures and approaches stipulated for in said section. This work shall be prosecuted continuously and with all reasonable rapidity, and shall be fully completed within three years of the date of this ordinance. Until the full completion of all of said structures and approaches, the elevated railroad hereby authorized shall not be used in the transportation of freight or passengers, saving to such extent as it shall be necessary to use it, during the course of its construction, in assisting in such construction.

Approved the twenty-sixth day of December, A. D. 1890.

EDWIN H. FITLER,

Mayor of Philadelphia.

AN ORDINANCE

To authorize the Philadelphia Belt Line Railroad Company to construct its railroads and branches upon and across streets, to authorize changes and revisions in the lines and grades of certain streets, the location of a new street, the widening of certain streets and the shifting of the tracks occupied jointly by the River Front and the Philadelphia & Reading Railroad Companies, and the entering of security.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do Ordain*, That the Philadelphia Belt Line Railroad Company be and the same is hereby authorized to build its line of railroad from its point of commencement at or near the Atlantic Refinery, in the Twenty-sixth Ward, thence by a line following the general direction of the Schuylkill and Delaware Rivers to the terminus of the said railroad, at or near Monroe, otherwise known as Princeton street, in the Twenty-third Ward; also to build branches of said railroad from a point marked A on the map accompanying this ordinance, by the route shown thereon, to a point on the City Line marked B, and from points marked C, E, G and I to points marked D, F, H and K respectively on said map, and to enter upon, occupy and cross with its line and branches any and all streets, lanes, and alleys between the points above named, with all the suitable and necessary sidings, turnouts and connections into and upon the warehouses and wharves which are now or may hereafter be located along said line or branches, when such sidings, turnouts, or connections are requested by the owners of said warehouses and wharves, so that the manufacturing and business interests along the said line shall have full benefit of receiving from and delivering property to the said railroad. It is expressly understood that no sidings shall be laid longitudinally upon any other streets or avenues mentioned hereafter without permission of Councils is first by ordinance obtained.

The route of the said Philadelphia Belt Line Railroad and branches thereof shall be shown upon a map to be filed at the Department of Public Works.

The route shall be as follows :

Commencing with a double track on Schuylkill avenue, at Curtin street, in the Twenty-sixth Ward; thence southwardly

in Schuylkill avenue to a point at or near Hoyt street; thence curving southeastwardly to a point at or near the intersection of Avenue Thirty-seven south and Thirty-second street; thence southeastwardly, crossing the tracks of the Girard Point Extension Railroad, to a point at or near the intersection of Avenue Forty-two south and Twenty-seventh street; thence curving southwardly to a point in Twenty-sixth street near Avenue Forty-three south; thence southwardly in Twenty-sixth street to a point north of Avenue Forty-five south; thence curving eastwardly to a point in Avenue Forty-five south, east of Twenty-sixth street; thence eastwardly in Avenue Forty-five south to Government avenue near Twenty-second street; thence northeastwardly in Government avenue to a point where the said avenue is intercepted by Sixteenth street extended; thence eastwardly in Government avenue to a point at or near Fifth street; thence northwardly on Fifth street to a point at or near Johnson street; thence curving eastwardly on Johnson street, crossing the tracks of the Pennsylvania Railroad Company, to a point on Delaware avenue; thence northwardly on Delaware avenue and east of the right of way of the Pennsylvania Railroad Company to a point at or near the intersection of Delaware avenue, Porter street and Commercial avenue; thence northwestwardly along Commercial avenue parallel with and east of the right of way of the Pennsylvania Railroad Company and the Schuylkill River East Side Railroad Company to a point at or near the intersection of Commercial avenue, Moore street and Meadow street; thence northwardly in and along Meadow street east of and parallel with the right of way of the Schuylkill River East Side Railroad Company to a point at or near the intersection of Meadow street and Tasker street; thence curving westwardly and northwardly to a point in Front street, north of Tasker street, crossing the tracks of the Schuylkill River East Side Railroad in Meadow street, and the tracks of the Pennsylvania Railroad in Swanson street; thence northwardly along Front street to a point at or near Queen street; thence curving eastwardly into and along Queen street to a point in Delaware avenue north of Queen street, crossing the Swanson Street Branch of the Philadelphia, Wilmington and Baltimore Railroad and the tracks of the Pennsylvania Railroad; thence northwardly with a single track along Delaware avenue, and property adjacent thereto, nine and one-half feet east of the east rail of the tracks now laid in Delaware avenue to a point at or near Callowhill street; thence with a

double track northeastwardly along Delaware avenue and Beach street to a point at or near the Aramingo Canal; thence curving northwardly in and along the general course of said canal to the Richmond Branch of the Philadelphia and Reading Railroad; thence northeastwardly in and along the said Aramingo Canal or street to a point near Butler street; thence curving eastwardly to a line parallel with and northeast of Butler street; thence southeastwardly along same to a point near Casper street; thence curving eastwardly to a point in Carbon street at or near Wheat Sheaf lane; thence northeastwardly in Carbon street to a point in the line of Carbon street extended, on the river bank at or near Buckius street; thence northwardly by the general courses of the river bank to Bridge street; thence northeastwardly by a line outside of the river bank and crossing the mouth of Frankford Creek to a point on the wharf of the Philadelphia Cordage Company; thence northwardly, crossing the tracks of the Kensington and Tacony Branch of the Pennsylvania Railroad, to a point in Milnor street, at or near Funk street; thence northeastwardly in Milnor street to Monroe, otherwise known as Princeton street.

The route of the branch from point marked A on the main line to point marked B on County Line shall be as follows:—

Commencing at a point in the main line of the Philadelphia Belt Line Railroad in Aramingo Canal or street, south of Butler street, thence northeastwardly in the Aramingo Canal or street to a point south of Wheat Sheaf lane; thence curving westwardly, crossing Wheat Sheaf lane west of the Aramingo Canal or street and passing under the Philadelphia and Trenton Railroad immediately south of Frankford Creek; thence along and south of Frankford Creek, passing under Frankford avenue, and under Kensington avenue at or near "P" street; thence northwestwardly, crossing Juniata avenue at or near "O" street, Cayuga street at or near "N" street, Courtland street at or near "L" street, Fisher's lane at or near "J" street; thence northwardly, following the general course of Tacony Creek, as shown on the map, to the line between the counties of Philadelphia and Montgomery, at or near the intersection of Cheltenham avenue with Cheltenham avenue; the said branch to have Y connection with the railroad tracks of the main line, parallel with, and northeast of Butler street.

The route of the branch from point marked C on the main line to point marked D shall be as follows:—

Commencing at a point in the main line of the Philadelphia Belt Line Railroad in Carbon street north of Butler street, thence southwestwardly in Carbon street to a point in the line of Carbon street extended, on the river bank; thence southwestwardly by the general courses of the river bank to Allegheny avenue. The said branch to have Y connection with the railroad tracks of the main line parallel with and northeast of Butler street.

The route of the branch from point marked E on the main line to point marked F shall be as follows:—

Commencing at a point in the main line of the Philadelphia Belt Line Railroad in Beach street south of the Aramingo Canal, thence northeastwardly in Beach street to Cumberland street.

The route of the branch from point marked G on the main line to point marked H shall be as follows:—

Commencing at a point on the main line of road on Government avenue near and west of Fifth street; thence extending eastwardly along Government avenue and Avenue Forty-three south to the river bank at or near Third street; thence along the river bank to a point at or near Spangler street.

The route of the branch from point marked I on the main line to point marked K shall be as follows:—

Commencing at a point in Schuylkill avenue at or near Hoyt street; thence southwardly in Schuylkill avenue to near Avenue Thirty-six south; thence curving westward to the river bank; thence following the general line of the river bank along the Schuylkill River to a point near the prolongation southward of Thirtieth street; thence curving northward to a connection with the tracks of the Girard Point Extension Railroad at or near Avenue Forty-five south.

There shall be no crossings at grade of existing streets now opened nor of railroad tracks now constructed and in use prior to June 20, 1889, by the portion of the Philadelphia Belt Line Railroad along the Aramingo Canal and Frankford and Tacony Creeks to the county line, excepting Richmond street at its crossing of the Aramingo Canal, and on the portion of the branch line along Butler street between Richmond street and Carbon street. All streets crossing Butler street between the Aramingo Canal and Richmond street, including Richmond street, shall be crossed overhead at an elevation of not less than thirteen feet.

The Department of Public Works, through the Board of Surveys be, and is hereby authorized and directed, from time to

time, upon the demand of the Philadelphia Belt Line Railroad Company, to widen Beach street and Delaware avenue from Cumberland street to the south side of Callowhill street on either or both sides of said streets, to an additional width of not more than thirty feet; also to shift the tracks occupied by the River Front Railroad Company and the Philadelphia & Reading Railroad Company, wherever necessary, between Cumberland street and the south side of Callowhill street, and to make such revision of street and curb lines as may be necessary to enable the tracks of the Philadelphia Belt Line Railroad Company to be constructed and operated upon said widened streets: *Provided*, That the shifting of the aforesaid tracks shall be done by or under the direction of the Department of Public Works, and that all expenses of every kind arising from the widening of said streets, the revision of street and curb lines, and vacation of sidewalks, and the shifting of aforesaid tracks, including all damage to private property shall be borne and paid by the Philadelphia Belt Line Railroad Company.

SECT. 2. That the Philadelphia Belt Line Railroad Company, wherever it shall cross or occupy any now opened public street, shall keep that portion thereof occupied by its tracks in good order and condition at all times, and shall save the City of Philadelphia harmless, so far as the City may be liable therefor, from any responsibility that may grow out of the construction or operation of the said railroad and branches over, upon, or under the streets as aforesaid.

When the City of Philadelphia shall direct the opening and paving or macadamizing of any street now upon the approved plan, or a change of grade of any street now open across the line of said railroad track to avoid grade crossings, in such a way as shall make necessary the construction of bridges and abutments, the railroad company shall construct at its own expense such bridges and abutments thus made necessary, in accordance with plans furnished by the Department of Public Works.

SECT. 3. The said Philadelphia Belt Line Railroad Company shall have the right to occupy with double tracks any portion of the property of the City of Philadelphia across which the route of the said railroad and branches may extend.

SECT. 4. The Philadelphia Belt Line Railroad Company shall enter into an agreement with the City of Philadelphia, that where the line of the said railroad shall be constructed on any portion of Delaware avenue as it now exists, that the said

company will move its tracks to the eastern side of said avenue whenever Delaware avenue shall be widened or opened of a sufficient width to permit this to be done. And thereupon the said Philadelphia Belt Line Railroad Company shall have the right to lay and maintain an additional track, with necessary turnouts and switches upon said portion of Delaware avenue so widened or opened; and if at any time hereafter the said avenue shall be so widened, the railroad company shall indemnify the City of Philadelphia against being put to any expense by reason of the building of bulkheads and of the grading and paving thereof.

SECT. 5. The rights conferred by this ordinance are granted upon the express and precedent condition that before any of the said rights herein conferred shall be exercised by the Philadelphia Belt Line Railroad Company, it shall procure such contracts under bonds, the amount of which is to be hereinafter specified to be executed with the city of Philadelphia, in such form as shall be approved by the City Solicitor, as will make effectual the following conditions:

That the Philadelphia Belt Line Railroad Company shall, in conjunction with all the stockholders of said company, enter into an agreement bearing the approval of the Mayor and the City Solicitor, that the whole of the Philadelphia Belt Line Railroad and its branches shall be completed within five years after the passage of this ordinance and that as fast as the said Philadelphia Belt Line Railroad and branches shall be completed each part thereof as rapidly as it shall be constructed shall be open to the use of all railroad companies which shall execute a satisfactory agreement to comply with all reasonable rules and regulations, which rules and regulations shall apply to all without discrimination.

SECT. 6. That the Philadelphia Belt Line Railroad Company shall be subject to the same limitations and penalties respecting the time of running its trains and the standing of its engines or cars upon any part of its track between Callowhill street and Dock street, as were provided for the River Front Railroad Company, in ordinance approved May 31, 1877, entitled "An ordinance to authorize the River Front Railroad Company and the Philadelphia and Reading Railroad Company to severally and jointly occupy and use certain streets for railroad purposes," as well as the subsequent decree of the Court of Common Pleas confirming the restrictions as provided by ordinance.

SECT. 7. The position of the said railroad tracks upon said streets and avenues now opened shall conform to the established grade thereof; and when the growth of improvement shall require bringing the streets not yet opened along which the said railroad or its branches may be laid to the conformed grades of the City, the said railroad company shall at its own expense raise or depress its tracks to conform to the said grades wherever and whenever it shall be notified to do so by ordinance of Councils ordering the opening and paving or macadamizing of said streets and the construction as to plan and character of rail, shall be approved by the Department of Public Works; and it is hereby stipulated that before any of the streets or avenues herein designated shall be occupied for railroad purposes, the company shall file an obligation with the City Solicitor, protecting the said City from any expenses whatever consequent upon, or growing out of the laying of said railroad tracks hereby authorized so far as the said City shall be liable.

SECT. 8. That no higher charges shall be made by the Philadelphia Belt Line Railroad Company for the transportation of any traffic over the lines of the railroad authorized to be constructed, than are permitted by the provisions of the act of General Assembly of the Commonwealth of Pennsylvania entitled "An act regulating railroad companies," approved the nineteenth day of February, 1849, and all supplements thereto.

SECT. 9. That the dividends on the fully paid stock be limited to six per cent. per annum, all excess of earnings to go to the City of Philadelphia.

SECT. 10. That the privileges herein and hereby given to the Philadelphia Belt Line Railroad Company are conditioned upon their giving to the City of Philadelphia, prior to the commencement of each section, as hereinafter specified, upon the approval of the City Solicitor, the following bonds of indemnification, protecting the City from all loss, damage, claim or demand by reason of the construction of the railroad tracks herein authorized to be constructed by the Philadelphia Belt Line Railroad Company: Upon that portion of the line between Point Breese and Pollock street, fifty thousand (50,000) dollars; upon that portion of the line between Pollock street and Reed street, seventy-five thousand (75,000) dollars; between Reed street and Lehigh avenue, two hundred and fifty thousand (250,000) dollars; between Cumberland street and Tacony, one hundred thousand (100,000) dollars; between Lehigh avenue and County Line, fifty thousand (50,000) dollars. Said

bonds shall bear the guarantee or security of one or more of the Philadelphia trust companies, and shall terminate and become void at the expiration of two years after the completion of the respective sections to which they apply.

SECT. 11. That the Department of Public Works be and is hereby authorized and directed to make modifications in the lines and grades of streets crossed by the Philadelphia Belt Line Railroad, as follows:

Lay out a new street, fifty feet wide, on the west side of the Aramingo Canal, from Richmond street to East Girard avenue. Lower the grade of East Norris street and East Girard avenue, at the crossing of the Aramingo Canal, to + 4.0 City datum; revise the lines and grades of Frankford avenue, the elevation of tracks at said avenue to be + 8.0 City datum, and of the Asylum road, near Crescentville, so that those streets shall be carried over the railroad, on bridges, with a clearance of nineteen feet; revise the grades of Kensington avenue and Old Front street, so that Kensington avenue may be carried over the railroad on a bridge with nineteen feet clearance; revise the grades of Fisher's lane, Olney road, and Old Second street, so that each may be carried, on a bridge, over the railroad, with a clearance of nineteen feet; revise the lines and grades of all streets not now open along the line of Frankford Creek, between the Aramingo Canal and the Montgomery county line, so that said streets, when opened, may pass either under or over the Philadelphia Belt Line Railroad; revise the grade on Queen street, between Delaware avenue and Swanson street, and on the west side of Delaware avenue.

The Department of Public Works is hereby further authorized and directed to make such revision of the grades of any and all streets upon the Plan of the City which shall be affected by the aforesaid revisions, or by the construction of the Philadelphia Belt Line Railroad Company, as may be necessary to enable the said railroad to be constructed, and to make effectual the aforesaid revisions of grades; conditioned that said Philadelphia Belt Line Railroad shall file its bond in the sum of two hundred and fifty (250,000) dollars, to be approved by the City Solicitor, and file in the Law Department, providing that said company shall pay all damages arising out of the changes and modifications of the grades of the streets, avenues and lanes, now opened, mentioned in this section.

SECT. 12. All work herein and hereby authorized shall be done under the supervision and to the satisfaction of the Depart-

ment of Public Works, and nothing herein or hereby granted shall prevent Councils, by ordinance, from establishing proper regulations for running of the cars and locomotives over the streets herein named as may be required for the protection of the citizens and business interests of the city, and before exercising any of the rights or privileges herein and hereby granted, the sum of fifty (50) dollars shall be paid by the Philadelphia Belt Line Railroad Company into the City Treasury for the printing of this ordinance.

SECT. 13. That, before exercising any of the rights or privileges herein or hereby granted, the Philadelphia Belt Line Railroad Company, the officers, directors and all the shareholders thereof, shall execute, to the satisfaction of the Mayor and City Solicitor, an agreement providing for the creation of a voting trust for all the stock of the said railroad company. Also, an agreement providing for a gift of fifty-one (51) per cent. of the present stock of said railroad company and fifty-one (51) per cent. of all the stock which may hereafter be issued by it to such corporations and persons as may be legally competent to act thereunder, to the end that the said railroad may forever be maintained for the common use of all railroads upon equal terms, without discrimination.

Approved the twenty-sixth day of December, A. D. 1890.

EDWIN H. FITLER,
Mayor of Philadelphia.

AN ORDINANCE

To approve the contract and surety of J. B. Reilly for doing all the preparatory work in connection with the construction of a reservoir in the Twenty-first Ward.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That the contract of J. B. Reilly for doing all the preparatory work in connection with the construction of a reservoir in the Twenty-first Ward be, and the same is hereby approved, and that The Equitable Trust Company be, and it is hereby approved as the surety of the said J. B. Reilly for the faithful performance of the said contract.

Approved the twenty-sixth day of December, A. D. 1890.

EDWIN H. FITLER,
Mayor of Philadelphia.

EXHIBIT B

LAW OFFICES
GILFILLAN, GILPIN & BREHMAN
JENKINTOWN PLAZA
SUITE 200
101 GREENWOOD AVENUE
JENKINTOWN, PA 19046

(215) 881-6700
FAX 881-6701

February 1, 2000

JOHN B. TAULANE
JOHN J. BRADLEY
JOHN B. TAULANE, III
OF COUNSEL
AUSTIN M. LEE

GEORGE S. GRAHAM
1870-1931
JOSEPH GILFILLAN
1896-1951
A. BALFOUR BREHMAN
1922-1958
JOHN C. GILPIN
1904-1963
DUNSTAN McNICHOL
1941-1989

Mr. Lawrence M. Moy
City Streets Commissioner
Municipal Services Building
1401 JFK Blvd., Room 730
Philadelphia, PA 19102

Re: Philadelphia Belt Line Railroad Company/Penn Street

Dear Commissioner Moy:

I represent the Philadelphia Belt Line Railroad Company. By an ordinance of the City Council of Philadelphia dated December 26, 1891, the Belt Line was authorized to construct and operate a railroad over streets located within Philadelphia. Specifically, our right to operate on city streets included a right-of-way in Penn Street starting at a point where Penn Street converges with Delaware Avenue and continuing northward to Shackamaxon and points beyond. The railroad also has a right to construct and operate a railroad which basically covers in excess of 16 miles of railroad line, both over property that it acquired and by right-of-way over city streets.

The purpose of this letter is to request that action be taken by the City to redress what we see as a problem. Our preliminary investigation indicates that fences have been constructed across Penn Street just north of its convergence with Delaware Avenue, and another part of the same fencing crosses Penn Street north of that area in the vicinity of Shackamaxon Street. It is our understanding that Penn Street is a publicly opened street which also contains our right-of-way. We have attempted to identify and contact owners of property contiguous to this fenced in portion of Penn Street, but have been unsuccessful in getting anyone to admit that they were responsible for this fence.

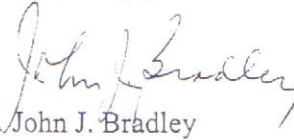
The construction and maintenance of this fence is in direct derogation of the rights of the public as well as our rights as a public utility.

The purpose of this letter is to ask that your department investigate this matter and to take whatever appropriate action that the Streets Department should take in light of the status of Penn Street as an open street. Our interest as a railroad is to have our rights preserved.

Mr. Lawrence M. Moy
City Streets Commissioner
February 1, 2000
Page 2

If you have any questions regarding the contents of this letter or need additional information, please have a representative of the Streets Department contact me and I will gladly provide him or her with whatever information we have at hand. Otherwise, I await a report of the results of your investigation. Thank you in advance for your cooperation.

Very truly yours,


John J. Bradley

JJB/amd

cc: Mr. Charles E. Mather, III
Mr. Robert F. Turner



CITY OF PHILADELPHIA

DEPARTMENT OF STREETS
7th Floor - Municipal Services Building
1401 JFK Boulevard
Philadelphia, Pennsylvania 19102-1676

LAWRENCE M. MOY
Commissioner

February 24, 2000

John J. Bradley
Gilfillan, Gilpin & Brehman
Jenkintown Plaza
Suite 200
101 Greenwood Avenue
Jenkintown, PA 19046

RE: PHILADELPHIA BELT LINE RAILROAD COMPANY/PENN STREET

Dear Mr. Bradley:

Thank you for your recent correspondence inquiring as to the status of Penn Street, the legal right-of-way, and any existing conflicts that may exist.

The Streets Department is researching available records in an effort to identify the party responsible for the existing fence. When this information is obtained, we will inform you of such, and procedures necessary to resolve the issue can commence. We will also, at that time, notify the identified party and inform same of the issues at hand.

If we can be of further assistance, please do not hesitate to contact us.

Sincerely,

A handwritten signature in cursive script that reads "Lawrence M. Moy".

Lawrence M. Moy
Commissioner

LAW OFFICES
GILFILLAN, GILPIN & BREHMAN
BAEDERWOOD OFFICE PLAZA
SUITE 212

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February 2, 2005

JOHN B. TAULANE, JR.

JOHN J. BRADLEY

JOHN B. TAULANE, III

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JOSEPH GILFILLAN
1896-1951

A. BALFOUR BREHMAN
1922-1958

JOHN C. GILPIN
1904-1963

DUNSTAN McNICHOL
1941-1989

LHTW Corporation
C/o 3001 Street Road
P.O. Box 100
Bensalem, PA 19020

Attn: Len Carey

Re: Penn Street Closing

Dear Mr. Carey:

Please be advised that I represent the Philadelphia Belt Line Railroad Company. My client had made inquiries to the City concerning the blocking off of Penn Street. The reason for my client's concern is its belief that it may have a railroad right of way in the bed of Penn Street. I am enclosing a copy of a City Plan showing the right of way.

In response to my client's inquires, we were contacted by Bruce Rader, City Plans Officer. My Rader advised me that LHTW owned the property on either side of Penn Street and that the pursuant to a request of LHTW the City had enacted a ordinance vacating Penn Street from Ellen Street to Shackamaxon Street. In light of that fact, he felt there was nothing further to be done by the City. He indicate that nothing done by the City prejudiced my client's rights and suggested that I get in touch with you about the matter, since you are the contact person for LHTW Corporation.

Accordingly, on behalf of my client, I am giving notice to LHTW of my client's possible right of way in the bed of Penn Street and further, that it is my client's position that neither the vacating of Penn Street nor any other action taken by the City or any other party shall constitute or be deemed to be a waiver or release of any such rights held by my client.

Sincerely yours


John B. Taulane, Jr.

JBT/mbt

Cc: Mr. Charles Mather

EXHIBIT C

AN ORDINANCE

Authorizing the revisions of lines and grades on a portion of City Plan Nos. 271 and 146 in the vicinity of Penn Street and Shackamaxon Street, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Pursuant to Section 11-405 of The Philadelphia Code, the Board of Surveyors of the Department of Streets is authorized to revise the lines and grades on a portion of City Plan Nos. 271 and 146 by:

- (a) Striking from the City Plan and vacating Penn Street from Ellen Street to Shackamaxon Street.
- (b) Reserving and placing on the City Plan a right-of-way for drainage purposes, water main purposes, and gas main purposes within the lines of Penn Street being stricken from the City Plan under authority of this Ordinance.

SECTION 2. This authorization is conditional upon compliance with the following requirements within one (1) year from the date this Ordinance becomes law:

- (a) The party requesting changes to the City Plan hereunder shall file an agreement or agreements, satisfactory to the Law Department, executed by all owners of property affected by this Ordinance, to release the City from all damages and claims for damages that may arise by reason of such City Plan changes. If such requesting party has demonstrated to the satisfaction of the City that it has diligently pursued, but was unsuccessful in obtaining the execution of any such agreements, such party shall file agreements and bond with corporate surety, satisfactory to the Law Department, to release and indemnify the City for all such damages and claims for damages.
- (b) The filing of an agreement, satisfactory to the Law Department, by the party in interest, to release, indemnify and defend the City from all damages or claims for damages, which may arise by reason of the City Plan changes authorized herein.
- (c) If in the best interest of the City, the filing of an agreement by the owner or owners of property affected thereby granting to the City of Philadelphia and the Philadelphia Gas Works the aforesaid right-of-way described in Section 1(b) of this Ordinance. The agreement shall provide that no changes in grades shall be made and that no fences, buildings or other structures, either overhead, underground or upon the surface shall be constructed within the lines of the right-of-way or abutting thereon, unless the plans for such structures shall first be submitted to and approved by the City of Philadelphia and the Philadelphia Gas Works. The agreement shall also grant the right-of-access and occupation at any and all times to the officers, agents, employees and contractors of the City of Philadelphia and the Philadelphia Gas Works, to occupy the right-of-way for the purpose of construction, reconstruction, maintenance, alterations, repairs and inspection of present and future facilities and structures.

- (d) The party requesting changes to the City Plan hereunder shall file a bond, with corporate surety, satisfactory to the Law Department, to cover the cost of work required under Section 2(c).
- (e) The party requesting changes to the City Plan hereunder shall pay to the City the appraised value of the bed of Penn Street being stricken from the City Plan under authority of this Ordinance.
- (f) The party requesting changes to the City Plan hereunder shall pay the cost of advertising the public hearing by the Board of Surveyors on the City Plan changes authorized by this Ordinance.

SECTION 3. This Ordinance shall not become effective unless the sum of two hundred dollars (\$200.00), toward costs thereof, is paid into the City Treasury within one hundred twenty (120) days after this Ordinance becomes law.

EXHIBIT D



