

Grade Separation Bridge over the Michigan Central Railroad.

Respectfully,  
Edward W. Staebler,  
Mayor.

Ordered entered in minutes.  
By Ald. Townley.

Resolved, by the Common Council of the city of Ann Arbor, that the Board of Public Works be authorized and instructed to advertise for bids for the project known as the "Broadway Grade Separation over the Michigan Central Railroad" said bids to be for all work shown by the plans, details, and specifications not included in the contract between the City and the Michigan Central Railroad, entered into by the virtue of the provisions of Act 92, of the Public Acts of 1893, the same being Sections 4750 to 4782 of the Compiled Laws of Michigan for the year 1915.

Adopted by following vote:  
Yeas, Ald. Slauson, Graf, Harris, Bradley, Severance, Townley, Fisher, Pres. Woodbury, 8. Nays, none.

On motion of Ald Graf, Council adjourned.

ISAAC G. REYNOLDS,  
City Clerk.

Council Chamber, Ann Arbor,  
Mich., June 11, 1928, 7:30 p. m.

#### Adjourned Regular Session

Meeting called to order by President Woodbury.

Present: Ald. Slauson, Wuerth, Maulbetsch, Allmendinger, Harris, Draper, Severance, Bursley, Townley, Lutz, Fisher, Pres. Woodbury, 12.

Absent: Ald. Graf, Bradley, Kurth, 3.

#### Communications

From Mayor, inclosing letter from Rev. R. Edward Sayles, minister First Baptist church, in which he stated that one of his children had been knocked down by a fast driven automobile, on the morning of June 10th and requested that some action be taken to make it safe for adults and children who are required to park cars on north side of Huron St.

Mayor Staebler requested that "no-parking" be changed from south side to north side and for police protection, be given careful consideration.

President Woodbury referred matter to Traffic Committee.

From Mayor Staebler inclosing letter from City Attorney Lehman explaining the various statutes as well as the city charter having to do with the Broadway Grade Separation bridge over the Michigan Central and suggested that letter be read and City Clerk authorized to place on file.

Ann Arbor, Mich., June 11, 1928.  
Hon Edward W. Staebler, Mayor,  
Ann Arbor Mich.:

Dear Mayor Staebler—Because of the fact that certain misunderstandings have arisen concerning the proposed viaduct over the Michigan Central Railroad and Broadway I thought it would be fitting to communicate to you the exact legal status of this affair, to the end that it will plainly appear that the city has ample authority to proceed in the manner contemplated, without in any manner affecting the proposed issuance of the necessary bonds to raise the money to pay for the project.

Under the contemplated procedure the city and state will enter into a contract with the railroad to do this work with the exception of a very small portion thereof covering the Division S. Section. The right of the city to enter into this agreement is clearly conferred by the "Grade Separation Act," being Act 92 of the Public Acts of 1893 (C. L. 1915—4750 et seq.) Paragraph "A" of section 1 designates the Common Council as the proper body to make the contract. It provides, after stating the purpose of the act that:

"Where said crossing is within the limits of any city (a contract with the Railroad may be made) by the Common Council of said city."

Section 2 of this same act confers the power to make such a contract upon the Common Council in the following language:

"Such board may enter into an agreement with any railroad company crossing any such street \* \* \* providing for the separation of grades at such crossing by carrying said street or highway either over or under such railroad at the point of intersection, etc."

Section 25 of this same act empowers the city to issue bonds to defray its portion of the expense in the following language:

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"The city may cause the whole or any part of the appropriation required to pay such sums, to be made by the issue of bonds in lieu of raising the same by taxation. Such bonds shall be issued in the name of the city \* \* \* in the same manner as other city bonds and shall be denominated "Grade Separation Bonds."

The statute referred to and quoted from having conferred general authority upon the Common Council to make a contract it goes without saying that it may make any reasonable contract in respect to the purpose of the Act. This authority is independent of any charter procedure or limitations. However, our charter, as regards the right to issue bonds provided in Section 186, as amended in April, 1927, that the City may issue bonds by authority of State Law.

Further authority under the State Law for the procedure being taken by the City is found in Act No 109 of the Public Acts of 1927, which provides as follows:

"Whenever the legislative body of any city within the State of Michigan shall deem it expedient to construct, improve, repair and maintain any bridge or bridges under the control and management of said city, or under joint control of joint maintenance, with others, said legislative body may by resolution authorize and direct the borrowing or raising by loan on the faith and credit of said City, of such sums of money as in the judgment of said legislative body may be needed, subject to the constitutional and statutory limitations upon such city indebtedness, and said legislative body may, in said resolution, authorize and direct the issue and sale of bonds to secure the repayment of the sums borrowed or raised by loan: Provided, the question of borrowing or raising by loan or issuance of bonds for sums for such purposes shall have been submitted to and approved by three-fifths of the elec-

tors of said city voting thereon, at any regular or special election held for that purpose."

From the foregoing it will be easily perceived that the City has ample authority to enter into the proposed contract and equal ample authority to issue the bonds for the purpose covered by the contract. The fact that the work is not to be done by the Board of Public Works cuts no figure. In other words, the State statute gives authority for the procedure in this case and this makes it unnecessary to follow the charter provisions relating to bids being obtained or the contract let through the action of the Board of Public Works. I might add however that the City Engineer and the Board will be given joint supervision by the Contract and that the State will also have supervisory control.

It is of course, entirely proper for the Board of Public Works to advertise for bids covering the work outside of the Grade Separation and the improvements covered by the contract with the Michigan Central. That is work in which the Michigan Central could not enter as a party, and is work which will be done solely under the control and jurisdiction of the City and the State Highway Department, because of its proposed contribution to this enterprise.

I have attempted to set out in detail the legal status of this matter and trust that it will assist you in answering any inquiries or correcting any mistaken ideas that may be advanced.

I remain, very truly yours,

CARL A. LEHMAN,

City Attorney.

Pres. Woodbury ordered same entered in minutes.

Ald. Slauson reported that Finance Committee had met at 10 a. m. and opened bids on the \$100,000.00 Water Works refunding bonds of which the following is tabulation:

Name of Bidder	Place	Rate	Premium
First National Co. of Detroit, Mich.			
Bank of Detroit		\$180,000..4 1-2..	\$2,196.00
Guardian Detroit Co. Detroit Mich.		\$180,000..4 1-2..	1,139.40
Whitlesey, McLean & Co., Detroit, Mich.			
National Bank of Commerce—			
Union Trust Co.		\$180,000..4 1-4..	776.50
Detroit Trust Co.		\$ 81,000 at 4 1-2..	
Security Trust Co.		\$ 81,000 at 4 1-2..	

Watling, Lerchen & Hays .....	\$ 81,000 at 4 1-2..	
Detroit Trust Co. ....a.	\$ 99,000 at 4 1-4..	111.00
Security Trust Co. ....a.	\$ 99,000 at 4 1-4..	111.00
Watling, Lerchen & Hays..a.	\$ 99,000 at 4 1-4..	111.00
Detroit Trust Co. ....b.	\$180,000 at 4 1-2..	2,811.00
Security Trust Co. ....b.	\$180,000 at 4 1-2..	2,811.00
Watling, Lerchen & Hays.b.	\$180,000 at 4 1-2..	2,811.00
State Savings Bank, Ann Arbor.....	\$180,000..4 1-4..	775.00
Griswold First State Co., Detroit.....	\$180,000..4 1-2..	1,336.50
Harris Trust and Savings Bank, Chicago	\$180,000..4 1-2..	2,500.00
Illinois Merchants Trust Co., Chicago ...	\$180,000..4 1-2..	2,160.00
C. W. McNear & Co., Chicago.....	\$180,000..4 1-2..	1,908.00
Braun Bosworth & Co. Toledo.....	\$180,000..4 1-2..	1,872.00

Ald Slauson stated that the difference is so slight that he wished to leave it to the Council without recommendation from Committee.

Moved by Ald. Lutz, that the Mayor and City Clerk be authorized and directed to deliver said bonds when executed to the City Treasurer, who, in turn, is authorized to deliver said bonds to State Savings Bank of Ann Arbor, the purchasers thereof, in accordance with their bid therefor which is hereby accepted.

Adopted by following vote: Yeas, Ald. Wuerth, Maulbetsch, Harris, Draper, Severance, Townley, Lutz, Fisher, Pres. Woodbury, 9. Nays,

Ald. Slauson, Allmendinger, Bursley, 3.

Moved by Ald Lutz that he Finance Committee, Mayor and City Attorney be empowered to procure what land is required for bridge approach and Mayor and City Clerk be empowered to sign all necessary papers.

Adopted by following vote: Yeas, Ald. Slauson, Wuerth, Maulbetsch, Allmendinger, Harris, Draper, Severance, Bursley, Townley, Lutz, Fisher, Pres. Woodbury, 12 Nays, none.

On motion of Ald. Lutz, Council adjourned.

FRED C. PERRY,  
Deputy City Clerk.