

2527.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO, AND THE NEW YORK CENTRAL RAILROAD COMPANY FOR THE RECONSTRUCTION OF OVERHEAD BRIDGE NEAR BRYAN, WILLIAMS COUNTY, OHIO.

COLUMBUS, OHIO, September 1, 1928.

HON. HARRY J. KIRK, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio as first party and the New York Central Railroad Company as second party.

This contract pertains to the reconstructing of an overhead bridge over the tracks of the New York Central Railroad Company on State (I. C. H.) Highway No. 309, at a point about three miles west of Bryan, in Williams County, Ohio.

I have carefully examined said contract, and finding it in proper legal form I hereby approve, and return the same to you.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2528.

APPROVAL, FINAL RESOLUTIONS ON ROAD IMPROVEMENTS IN HENRY COUNTY.

COLUMBUS, OHIO, September 1, 1928.

HON. HARRY J. KIRK, *Director of Highways, Columbus, Ohio.*

2529.

ENTRY—PERMIT TO CINCINNATI STREET RAILWAY COMPANY TO USE AND OCCUPY STATE HIGHWAY FOR PURPOSE OF OPERATING A DOUBLE TRACK RAILROAD IN SAID HIGHWAY.

COLUMBUS, OHIO, September 1, 1928.

HON. HARRY J. KIRK, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—Receipt is acknowledged of your communication of recent date requesting that I prepare an entry for your journal granting a permit to the Cincinnati Street Railway Company to use and occupy State Highway No. 38 for the purpose of constructing, operating and maintaining a double track railroad extension in said highway. Your communication reads as follows:

"The above company has made application for a permit as noted above, under date of July 9th. Refer to the attached copy of communication under date of July 18th, signed by the writer and addressed to Honorable S. Z., Attorney at Law, Cincinnati, Ohio, representing the Cincinnati Street Railway Company, in accordance with certain informal advice by your Mr. G. E. M. I might say further that this matter has been discussed on this date with your Mr. L. which does not seem to entirely agree with Mr. M's opinion.

I desire to grant a permit to the Cincinnati Street Railway Company under conditions as mentioned below and I would like to have you prepare the proper entry for my Journal granting this permit and also any comment you may have as to the validity of the conditions enclosed.

As I understand it the Director of Highways is authorized to grant such permits under Section 1198 of the General Code and I deem it advisable to enumerate the mandatory provisions of this Section in the Journal entry granting the permit.

I desire to grant the permit as applied for under the following conditions :

(1) Permit is to cover the occupancy of the following described piece of road.

Beginning at the terminus of the present Warsaw Road No. 35 as described in the Cincinnati franchise of the Cincinnati Street Railway Company at the intersection of S. H. (ICH) No. 38, Cincinnati-Louisville Road and Cleves-Warsaw Road at or near the north corporation line of the city of Cincinnati and extending northwesterly by double track on S. H. (ICH) No. 38, Cincinnati-Louisville Road to the intersection of said highway with the proposed extension of Ferguson Road, thence by double and single track on private right-of-way on the triangular piece of road consisting of parts of three lots, the property of Hamilton County ; thence to State Highway No. 38, Cincinnati-Louisville Road, thence by single track on S. H. (ICH) No. 38, Cincinnati-Louisville Road in a southeasterly direction to a point opposite the intersection of S. H. (ICH) No. 38, Cincinnati-Louisville Road and the proposed extension of Ferguson Road as shown on the attached blueprint No. 1029.

(2) Such location shall be changed from time to time as may be directed by the director, or such other officer as may hereafter be by law given charge of such road or highway, when the director or such other officer, deems such change of location necessary for the convenience of the traveling public, or in connection with, or in contemplation of the construction, reconstruction, improvement, relocation, maintenance or repair of such road or highway.

(3) The placing of such objects or things shall be placed at a grade and in accordance with such plans or specifications, or both, as shall be first approved by the director.

(4) The road or highway in all respects shall be fully restored to its former condition of usefulness and at the expense of such individual, firm or corporation.

(5) Such individual, firm or corporation shall maintain all such objects and things in a proper manner, and promptly repair all damages resulting from time to time, to such road or highway on account thereof ; and in event of failure to so promptly repair such road or highway to promptly pay to the state all costs and expenses which may be expended by the director in repairing any damage resulting to such road or highway on account of such objects and things.

(6) It is understood that the Cincinnati Street Railway Company shall lay and pay all of the cost of track work including rails, ties and foundation as indicated on drawing No. 1029 heretofore referred to.

(7) It is understood that the payment surfacing is to be constructed and paid for by the Board of County Commissioners of Hamilton County or by them in cooperation with the State.

(8) This permit is further granted under the mandatory conditions as laid down in Section 7479 of the General Code.

(9) This permit is further conditioned as follows: In contemplation of pavement work which it is planned will be done this fall involving the paving between the rails and on either side of the double track on the location above described, the Cincinnati Street Railway Company agrees to operate on one track while the road contractor is laying the pavement on the other track in order to protect the newly laid concrete from injury and to co-operate with the contractor as far as is feasible. The Cincinnati Street Railway Company, in the course of other operations, agrees to dispose of excavated waste materials off the right-of-way and to complete their part of the track laying in a manner so as not to unreasonably delay or hamper the use of the road by the traveling public.

(10) This permit may be revoked by the Director at any time for non-compliance of the conditions imposed; they may also be revoked in accordance with future legislation.

Indicate another condition with reference to the date this permit takes effect.

I am asking that you draw up the proper entry for my Journal indicating the conditions as above outlined. We are arranging in this office to indicate proper approval on Drawing No. 1029 as above referred to."

I am enclosing herewith an entry which I have prepared in conformity with the conditions laid down in Section 1198 of the General Code, which likewise contains certain additional conditions which you have set forth in your foregoing communication. This entry should be set forth in full upon your journal in order that all of the various terms and conditions of said permit may be a part of the permanent records of your department.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2530.

APPROVAL, AS TO FORM, AGREEMENT BETWEEN THE STATE OF OHIO AND THE NEW YORK, CHICAGO AND ST. LOUIS RAILROAD COMPANY, FOR GRADE SEPARATION PROJECT AT AVERY, ERIE COUNTY, OHIO.

COLUMBUS, OHIO, September 4, 1928.

HON. HARRY J. KIRK, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—In accordance with the provisions of Section 1229-10, General Code, you have submitted to me for my approval as to form three copies of an agreement