

[No. 99, A.]

[Published April 28, 1889.]

## CHAPTER 388.

AN ACT to amend the charter of the city of Milwaukee.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

Amendment to  
sub-chapter 5,  
chapter 184,  
laws of 1874.

Public work to  
be done by con-  
tract.

**SECTION 1.** Section 9, of sub-chapter 5, of chapter 184, of the laws of 1874, as amended, is hereby further amended so as to read as follows, to-wit: Section 9. Whenever any public work or improvement shall be ordered by the common council, the said board shall advertise for proposals for doing the same; a plan or profile of the work to be done, accompanied with specifications for doing the same, or other appropriate and sufficient description of the work required to be done, and of the kinds and quality of material to be furnished, being first placed on file in the office of said board for the information of bidders and others. Such advertisement shall be published at least six days in the official city papers, and shall state the work to be done and the time for doing the same, which shall in all cases be such reasonable time as may be necessary to enable a contractor with proper diligence to perform and complete such work. All proposals shall be sealed and directed to said board, and shall be accompanied with a bond to the city of Milwaukee in such penal sum, not less than thirty per cent. of the amount of the engineer's estimate of the cost of such work, as the board in such advertisement may direct; which bond shall be signed by the bidder and by two or more responsible sureties who shall each make affidavit that he is the owner of real estate in the county of Milwaukee, over and above all incumbrances and subject to execution, of a cash value equal to the penalty of said bond, that he is worth the penal sum of such bond over and above all his debts and liabilities, in property in said county, subject to execution; such bond and sureties to be approved by the board previous to the opening of the accompanying bids or proposals, and shall be conditioned

that such bidder will execute and perform the work for the price mentioned in his proposals and according to the plans and specifications on file, in case the contract shall be awarded to him, and in case of default on his part to execute a contract with satisfactory sureties and to perform the work specified, said bond shall be prosecuted in the name of said city, and judgment recovered thereon for the full amount of the penalty thereof, as liquidated damages, in any court having jurisdiction of the action, unless the common council shall, by resolution, direct that no action shall be commenced; provided, that no bond shall be required of any bidder who, at the time he offers his bid or proposal as aforesaid, shall deposit with the board of public works a sum of money equal to fifty per cent. of the penalty required for such bond, under an agreement that the same shall be returned to such bidder in case the contract for the work bid for is not awarded to such bidder, or in case he makes no default in the execution of the contract, with satisfactory sureties, in case it is awarded to such bidder, and that in case the contract is so awarded, and he shall fail to execute a contract with satisfactory sureties, to perform the work specified, for the price named in his bid, within a reasonable time after such contract is prepared and ready for execution, then said sum of money shall become the property of said city, as fixed and liquidated damages for such default, and shall be paid by the said board to the city treasurer.

SECTION 2. Section 10, of sub-chapter 5, of chapter 184, of the laws of 1874, as amended, is hereby further amended so as to read as follows, to wit; Section 10. All contracts shall be awarded to the lowest bidder, who shall have complied with the foregoing requisitions; provided, that no contract shall be entered into by the board of public works, unless the same shall be executed by two or more sureties for the contractor guaranteeing to the satisfaction of said board the performance of such contract by the contractor, under the superintendence, and to the satisfaction of said board, each of which sureties shall make an affidavit indorsed on or attached to such contract, that he is the owner of real estate in the county of Milwaukee, over and above all in-

Amendment to  
sub-chapter 5,  
chapter 184,  
laws of 1874.

Contractor to  
furnish sure-  
ties.

cumbrances and subject to execution of a cash value equal to the penal sum of such bond, and that he is worth the estimated amount of money to be paid on such contract, over and above all his debts and liabilities, in property in said county subject to execution; and provided further, that whenever the lowest bid for any work to be let by said board, shall appear to said board to be unreasonably high, the said board is authorized to reject all bids therefor, and to re-let the work anew; and whenever any bidder shall be, in the judgment of said board, incompetent or otherwise unreliable for the performance of the work for which he bids, the said board shall report to the common council of the said city a schedule of all the bids for such work with a recommendation to accept the bid of the lowest competent and reliable bidder for such work, with its reasons for such recommendations, and thereupon it shall be lawful for the said common council to direct the said board either to let the work to such lowest competent and reliable bidder, or to re let the same anew; and provided further, that the said board may reject the bid of any person who shall previously have wilfully or negligently failed to complete any work or contract entered into by him with the city or any officer or department thereof, or who shall have wilfully or negligently failed to enter into a contract with satisfactory sureties, for any work or improvement that shall have been previously awarded to him by said board, and the failure to let such contract to the lowest bidder, in compliance with any provision of this section, shall not invalidate such contract, or any special assessment thereunder, or for the work done in virtue thereof.

Amendment to  
sub-chapter 5,  
chapter 184,  
laws of 1874.

SECTION 3. Section 20, of sub-chapter 5, of chapter 184, of the laws of 1874, as amended, is hereby further amended so as to read as follows, to-wit: Section 20. The said board shall reserve in every contract the right to determine finally all performance of such contract, or doing of the work specified therein; and the right, in case of the improper or imperfect performance thereof, to suspend such work at any time, or to order the entire reconstruction of the same, if improperly done, or to re-let the same to some other compe-

tent party; and also the right, in case such work shall not be prosecuted with such diligence, and with such number of men as to insure its completion within the time limited by the contract, to suspend such work and re-let the same to some other competent party or employ men and secure material for the completion of the same, and charge the cost thereof to the contractor. And power is hereby given to the said board to adjust and determine all questions as to the amount earned under any contract by the contractor or contractors according to the true intent and meaning of the contract; and such adjustment and determination by said board shall be final between the parties and binding upon them. If the amount of damages to be paid to the city shall exceed the amount due from the city to such contractor or contractors, according to such determination and adjustment, then the difference or balance in favor of the city, according to such determination and adjustment, shall be recoverable at law in an action in the name of the city against such contractor or contractors and their sureties, in any court having jurisdiction. Every contract with the city shall be made expressly subject to the powers given to said board by this section, and shall also contain a covenant or agreement on the part of the contractor and his sureties, that in case such contractor shall fail to fully and completely perform his contract within the time therein limited for the performance thereof, such contractor shall pay to the city of Milwaukee as liquidated damages for such default, a certain fixed sum to be named in the contract, which shall not in any case be less than ten per cent. nor more than twenty-five per cent. of the aggregate cost of the work embraced in such contract, or shall in lieu of such covenant or agreement contain a covenant or agreement on the part of the contractor and his sureties, that in case such contractor shall fail to fully and completely perform his contract within the time therein limited for the performance thereof, such contractor shall pay to the city of Milwaukee as liquidated damages for such default, a certain and definite sum for each day's delay in completing the contract after the time therein limited for its completion, which daily sum shall be determined and fixed by the

board of public works before the contract for the work shall be let, and shall be stated in the advertisement for proposals for the work, and shall be inserted in the contract, and shall in no case be less than one-half of one per cent. of the aggregate cost of the work embraced in such contract.

Sub-chapter 5,  
further  
amended.

SECTION 4. Section 21, of sub chapter 5, of chapter 184, of the laws of 1874, is hereby amended so as to read as follows, to-wit: Section 21. In all cases wherein the contractor or contractors shall proceed properly and with diligence to perform and complete his or their contract, the said board may, in its discretion, from time to time, as the work progresses, grant to him or them an estimate of the amount already earned, reserving fifteen per cent. thereon, which shall entitle the holder to the amount due thereon when the amount applicable to the payment of such work shall have been collected, and the condition, if any, annexed to such estimate, shall have been complied with; provided, that the said board shall have no authority to grant any such estimate to any contractor when in default, and that no estimate shall be granted by the said board to any contractor for any material which has not actually been put in the work embraced in his contract. And power is hereby given to the said board to extend or enlarge the time limited by the terms of the contract for the performance thereof. Any person entering into any contract with the city, and who agrees to be paid from special assessments, shall have no claim upon the city in any event, except from the collection of special assessments made for the work contracted for; and no work proper to be paid for by special assessment shall be let, except to a contractor who shall so agree.

Amendment to  
chapter 7,  
chapter 184,  
laws 1874.

Repairing of  
streets and  
sidewalks.

SECTION 5. Section 2, of chapter 7, of chapter 184, of the laws of 1874, as amended, is hereby further amended so as to read as follows, to wit: Section 2. The grading, graveling and planking, macadamizing or paving to the center of any street or alley, and the grading, graveling, macadamizing, planking, paving, sodding and curbing of any sidewalk, and the paving of any gutter, shall be chargeable to and payable by the lots fronting or abutting upon such street, alley or gutter, or fronting, abutting, or adjacent to such

sidewalk, to the amount which such grading, graveling, macadamizing, planking, paving, sodding and curbing shall be adjudged by said board to benefit such lots. The expense of all such improvements or work across streets at their intersection with streets and alleys, excepting sidewalks, and the expense of all such improvements or work across public grounds, and to the middle of streets and alleys adjacent to public grounds, and the construction of all crosswalks, shall be paid out of the fund of the ward in which such improvements are made or such works are done. After a street, alley or gutter has been constructed to the grade established by the common council and graveled, planked, paved or macadamized in compliance with the order of the proper city authorities, the expense of maintaining, renewing, repaving, keeping in repair and cleaning such street, alley or gutter, and the pavement or other surface thereof, and of any other subsequent improvement of such street, alley or gutter, shall be paid out of the fund of the ward in which such work is done or such improvement is made; provided, however, that when a street or alley, which has been graveled, planked or macadamized is ordered to be paved, the expense of such paving shall be chargeable to and payable by the lots fronting or abutting upon such street or alley to the amount which such paving shall be adjudged by said board to benefit such lots as hereinbefore provided for the improvement of a street or alley; and further provided, that when a change in the grade of any street or alley shall be ordered, the expense of cutting or filling incurred by such change of grade shall be chargeable to and paid by the lots fronting or abutting on the street or alley of which the grade shall be so changed; and provided further, that the provisions of this section in relation to the maintaining, renewing, repaving, keeping in repair and cleaning of streets, alleys and gutters shall not apply to the laying, relaying, cleaning, sodding, curbing, repairing or grading of sidewalks.

SECTION 6. Section 9, of chapter 7, of chapter 184, of the laws of 1874, as amended, is hereby amended so as to read as follows, to-wit: Section 9. As soon as any assessment of benefits or damages, or both, shall be made, as in the preceding sections of this chapter, provided, the said

Amendment to  
chapter 7,  
chapter 184,  
laws of 1874.  
Review of tax  
roll.

board shall give notice to all parties interested, by advertisement for not less than four days in the official papers of the said city, that such assessment has been made and is ready for inspection in its office, and that the same will be open for review and correction by the said board, at its office, for not less than four days after the first publication of such notice, during certain hours, not less than two hours of each lay day, and that all persons interested will be heard by said board in objection to such assessment, and generally, in the matter of such review and correction. It shall be sufficient to state in such notice, in brief, what such assessment has been made for, and in what locality, and no further notice or publication of such assessment shall be necessary. During the time mentioned in such notice, the said board shall hear objections and evidence, and they shall have power to review, modify and correct such assessment, in such manner as they shall deem just, at any time during such review, and for three days thereafter; and thereupon said board shall endorse such corrected and completed assessment upon or annex the same to the estimate of the cost of such improvement, made and filed in its office, as provided in section 6, of this chapter, and shall file a duplicate of such estimate and assessment in the office of the city clerk, who shall lay the same before the common council at its next meeting; and thereupon the common council may confirm or correct said assessments, or any of them, or may refer the same back to the board of public works for revision and correction; and the said common council, and the said board of public works shall respectively have the like powers, and perform the like duties, in relation to such assessment, and any subsequent assessment made pursuant to such reference by the common council, as are prescribed and conferred in relation to the first assessment.

Amendment to  
sub-chapter 7,  
chapter 184,  
laws of 1874.

Repair of  
streets and  
sidewalks.

SECTION 7. Section 16, of sub-chapter 7, of chapter 184, of the laws of 1874, as amended, is hereby further amended so as to read as follows, to-wit: Section 16. It is hereby made the duty of the board of public works with the consent of the aldermen of the proper ward, unless otherwise provided by ordinance of the common council, to

cause the streets, alleys and sidewalks in the city to be kept in proper repair, and in a cleanly and wholesome condition at all times, and for this purpose they are empowered with the consent of the aldermen of the ward in which such street, alley or sidewalk is located, to employ the necessary labor, or to contract pursuant to law, for such cleaning and repairing as they may deem necessary for the safety and health of the people, the expense of such cleaning and repairing, except of sidewalks, shall be chargeable to and paid out of the fund of the ward in which such work is done; and the said board is also hereby empowered to cause sidewalks to be repaired, or to be taken up and relaid with new materials or with part new and part old materials, and to be restored to grade and to assess the expense thereof against the lot or piece of land in front of which such work may be done, in the manner provided by section 19, of said sub-chapter 7, of said chapter 184, of the laws of 1874.

SECTION 8. This act shall be in force from and after its passage and publication.

Approved April 15, 1889.

[No. 918, A.]

[Published April 20, 1889.]

## CHAPTER 401.

AN ACT to amend chapter 252, of the laws of Wisconsin, for 1887, entitled, "an act to incorporate the city of Durand."

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. Chapter 252, laws of Wisconsin for 1887, is hereby amended by adding a new section, to be known as section 20, to chapter XI, as follows: Section 20. In addition to the powers conferred by section 942, chapter 41, revised statutes of Wisconsin, said city of Durand is hereby authorized and empowered to issue its negotiable corporate bonds for the purpose of giving the

Amendment to  
chapter 252,  
laws of 1887.  
May issue  
bonds.