

CHAPTER 458

DOCKS; QUAYS; LEVEES; WHARVES; LANDING AND LOADING PLACES; WATER FREIGHT AND PASSENGER STATIONS; AND TERMINALS

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458.01 ACQUIRING OF LAND FOR DOCK AND WAREHOUSE PURPOSES BY VILLAGES AUTHORIZED. Any village in this state now or hereafter located upon any international navigable body of water is hereby authorized to acquire by purchase or condemnation such land bordering on any international body of navigable water, as the council of such village shall determine to be necessary for the use of the village for a public dock and warehouse or either of the same; and to construct and maintain on such tract of land a public dock or warehouse or either of the same under such rules and regulations for the use of said dock or warehouse as the village council of the village shall by ordinance provide.

[1917 c. 36] (1263)

458.02 FREIGHT AND PASSENGER TRANSPORTATION TERMINALS IN CERTAIN CITIES. Any city in this state now or hereafter having a population of not less than 4,000, and not more than 50,000, or any such city now or hereafter governed by a charter adopted pursuant to the Constitution of the State of Minnesota, Article 4, Section 36, shall have the power to acquire and hold in fee simple, by purchase or condemnation, land for the establishment of docks, quays, levees, wharves, landing places, railroad and other land transportation loading and unloading places, land and water freight and passenger stations, terminals and terminal buildings for any and all kinds of carriers and necessary equipment and appurtenances on any navigable stream within the limits of such city and may set aside such portions of the land when acquired, as the public needs may require, for use for public travel and shall devote the remainder thereof to the uses herein provided, or if required by the United States government.

[1927 c. 152 s. 1] (1372-1)

458.03 CONSTRUCTION OF DOCKS; CHARGES. Such cities shall have the power to construct, erect, and maintain on any such land so acquired, docks, quays, levees, wharves, landing places, railroad, and other transportation loading and unloading places, and water freight and passenger stations, terminals and terminal buildings for any and all kinds of carriers and necessary equipment and appurtenances; and such city shall have the power and is hereby authorized to charge a reasonable price for the use of such docks, quays, levees, wharves, and landing

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places, railroad and other land transportation loading and unloading places, land and water freight and passenger stations, terminals and terminal buildings for any and all kinds of carriers and necessary equipment and appurtenances, such reasonable price to be determined and fixed by the council or governing body of such city, and the making of such charge shall in no way be held to impair, affect or invalidate such bonds.

[1927 c. 152 s. 2] (1372-2)

458.04-458.08 [Expired]

458.09 PORT AUTHORITY COMMISSION ESTABLISHED. A commission to be known as "Port Authority of" is hereby established in and for every city of this state which has, or shall have over 50,000 inhabitants and which is or shall be situated upon, or adjacent to, or which embraces or shall embrace within its boundaries, in whole or in part, a port or harbor located on a navigable lake or stream. Sections 458.09 to 458.19 are expressly declared to be applicable to all such cities, whether now or hereafter existing under a charter framed and adopted under the Constitution of the State of Minnesota, Article 4, Section 36, or not. Where two or more port districts in cities of the first class are adjacent, they shall constitute a metropolitan port district, and there is hereby established therein a joint commission to be known as ".....Port Commission," the further designation in the name to be supplied and adopted by the commission. Such joint commission shall consist, ex officio, of all the commissioners of port authority in each district embraced in the metropolitan port district, and shall perform such functions and have such powers as may be delegated or extended to it by concurrent resolutions adopted from time to time by the port authorities in the constituent port districts. When so authorized such joint commission may exercise any or all the powers conferred by sections 458.09 to 458.19 upon port authorities. Any such port authority may subsequently withdraw or rescind its action or concurrence in any such resolution, and, upon proper notice thereof, the powers or functions of the joint commission shall to that extent be withdrawn.

[1929 c. 61 s. 1; 1931 c. 132] (1372-7½)

458.10 MEMBERS, TERMS, VACANCIES. Such port authority for any city shall consist of three commissioners who shall serve without compensation for their services, or any remuneration, save for expenses incurred in the performance of their duty. They shall be appointed by the council of each city in and for which such port authority is hereby created. The first commissioners of any such port authority shall be appointed for terms as follows: one for two years; one for four years; and one for six years. Thereafter as the term of any commissioner expires a successor shall be appointed to serve for a term of six years. Vacancies in the office of any commissioner shall be filled by the council for the balance of the term in which such vacancy occurs.

[1929 c. 61 s. 2] (1372-7½a)

458.11 BY-LAWS AND RULES; DUTIES. The commissioners constituting such port authority may adopt by-laws and rules of procedure governing their action, not inconsistent with this or other laws, and shall adopt an official seal. They shall elect from among their number a president, a vice-president and a treasurer, and shall also elect a secretary who may or may not be a member of such commission; any of said officers except those of president and vice-president may be held by one commissioner. The officers shall have the duties and powers usually attendant upon such offices, and such other duties and powers not inconsistent herewith, as may be provided by the port authority. The treasurer shall receive and be responsible for all moneys of the port authority from whatever source derived, and the same shall be deemed public funds. He shall disburse the same only on order signed by the secretary and countersigned by the president or vice-president, or other vouchers authorized by law, and each order shall state the name of the payee, and the nature of the claim for which the same is issued. He shall keep an account of all moneys coming into his hands, showing the source of all receipts, and the nature, purpose and authority of all disbursements, and at least once each year, at times to be determined by the port authority, shall file with the secretary a detailed financial statement of the port authority showing all receipts and disbursements, the nature of the same, the moneys on hand, and the purposes for which the same are applicable, the credits and assets of the port authority and its outstanding

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liabilities, which report together with the treasurer's vouchers, shall be examined by the port authority, and if found correct approved by resolution entered on the records. The treasurer of every port authority shall give bond to the state in a sum equal to twice the amount of money which will probably be in his hands at any time during any one year of his term, that amount to be determined at least annually by the port authority, such bond to be conditioned for the faithful discharge of his official duties, and to be approved as to both form and sureties by the port authority and filed with its secretary.

[1929 c. 61 s. 3] (1372-7½b)

458.12 DEPOSITORIES DESIGNATED. The port authority shall biennially designate a national or state bank or banks as depositories of its money. Such depositories shall be designated only within the state and upon condition that bonds approved as to form and surety by the port authority and at least equal in amount to the maximum sum expected to be on deposit at any one time, shall be first given by such depositories to the port authority, such bonds to be conditioned for the safe-keeping and prompt repayment of such deposits. When any of the funds of the port authority shall be deposited by the treasurer in any such depository, the treasurer and the sureties on his official bond shall, to such extent, be exempt from liability for the loss of any such deposited funds by reason of the failure, bankruptcy, or any other act or default of such depository; provided, that any such port authority may accept assignments of collateral by any depository of its funds to secure such deposits to the same extent and conditioned in the same manner as assignments of collateral are permitted by law to secure deposits of the funds of any such city.

[1929 c. 61 s. 4; Ex. 1937 c. 28 s. 1] (1372-7½c)

458.13 TERRITORIAL JURISDICTION. The territorial jurisdiction and authority of the port authority shall cover and include all portions of any city in and for which the same is created and established, and all portions of such port or harbor within the city. The city and those portions of such port or harbor, are hereinafter referred to as the port district.

[1929 c. 61 s. 5] (1372-7½d)

458.14 NOT TO LEVY TAXES; CITY TO PROVIDE FUNDS. The port authority shall have no right or authority to levy any tax or special assessment, nor to pledge the credit of the state, or any other subdivision or municipal corporation thereof; nor to incur any obligation enforceable upon any property, either within or without the port district, other than property owned by the port authority. Annually, at such time as may be fixed by charter, resolution, or ordinance of the city in and for which any such port authority is created, the port authority shall transmit to the council of such city a detailed estimate, in writing, of the amount of money which in its opinion will be required for the business and proper conduct of its affairs during the next ensuing fiscal year, in excess of any expected receipts from the conduct of its business, or other sources, and any such city, in addition to all other powers now possessed thereby, and in addition to, and in excess of any limitation upon the amount it is otherwise permitted by law to levy as taxes, is hereby granted the power and authority, in its discretion, to levy taxes for the benefit of, and for expenditure by, such port authority, not exceeding in any one year an amount equal to a tax of 15 one-hundredths of one mill upon the dollar of the assessed valuation thereof, upon all the taxable property in such city, excluding money and credits, and any amount so levied for such purposes shall be paid over by the city treasurer to the treasurer of the port authority, for expenditure by it, as above provided. The fiscal year of such port authority shall be identical with the fiscal year of such city. The board of county commissioners of any county in which any such city is located, is also hereby authorized to appropriate for the use of such port authority, and to include therefor in its levy for general revenue purposes, such amount as it may deem proper; provided, that the total amount permitted by law to be levied by any county for general revenue purposes shall not be deemed increased by this provision. Any amounts so appropriated by the county shall be paid over by the county treasurer to the port authority for expenditure by it as herein provided, at such times and in such manner as the county board may provide.

[1929 c. 61 s. 6] (1372-7½e)

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458.15 CITY TO TRANSFER PROPERTY. The council of any such city may, in its discretion, by majority vote, and with or without consideration, transfer or cause to be transferred to such port authority or may place in its possession and control, by lease, or other contract or agreement, either for a limited period or in fee, any dock, waterfront, or riparian property now or hereafter owned or controlled by such city, within the port district, but nothing in sections 458.09 to 458.19 contained shall be construed to impair or in any manner restrict any power of such city or any municipality to itself own, develop, use and improve port or terminal facilities. Any such city may issue its bonds for, and appropriate the proceeds thereof, to the purchase, construction, extension, improvement, and maintenance of docks, warehouses, or other port or terminal facilities owned or to be owned or operated by such port authority under the same conditions, to the same extent and in the same manner as if such properties were public utility plants, needful public buildings and public conveniences from which revenue may be derived, and were owned or to be owned or operated solely by the city. Such city may also in its discretion and with or without compensation therefor furnish to such port authority offices, warehouses, or other structures and space with or without heat, light and other service, and such stenographic, clerical, engineering or other assistance as its council may determine. The city attorney or similar law officer of any such city shall be the attorney and legal adviser of the port authority, but this provision shall not impair the power of the port authority to employ additional counsel when in the judgment of its members such action is for any reason advisable.

[1929 c. 61 s. 7] (1372-7½f)

458.16 POWERS AND DUTIES. It shall be the general duty of any such port authority to promote the general welfare of the port district, and of the port as a whole; to endeavor to increase the volume of the commerce thereof; to promote the efficient, safe and economical handling of such commerce, and to provide or promote adequate docks, railroad and terminal facilities open to all upon reasonable and equal terms for the handling, storage, care and shipment of freight and passengers to, from and through the port. It shall further be the special duty of such port authority:

(1) To confer with any similar body created under laws of any state embracing within its boundaries any part of any port or harbor of which the port district forms a part, and in so far as agreement shall be possible to adopt in conjunction with said similar body a comprehensive plan for the regulation and future development and improvement of the entire harbor and port;

(2) To consider and adopt detailed and comprehensive plans for the regulation, future development and improvement of the port district, which plans shall, so far as may be, be consistent with the general plan above referred to;

(3) To confer from time to time with any such similar body and, so far as may be, to agree therewith upon legislation and regulations needed for the regulation and control of the port as a whole, and to recommend the adoption of such legislation and regulations to the appropriate councils, legislatures or other legislative and regulatory bodies;

(4) To determine upon legislation and regulations needed for the regulation and improvement of the conduct of navigation and commerce within the port district and to similarly recommend the same;

(5) Either jointly with a similar body, or separately, to recommend to the proper departments of the government of the United States, or any state or subdivision of either, or to any other body, the carrying out of any public improvement for the benefit of the port or port district;

(6) To investigate the practices, rates and conduct of privately owned or operated dock, terminal and port facilities within the port district, and to institute such proceedings and take such steps to remedy any abuses as may seem in the public interest; in connection with any such investigation, the port authority shall have power, by subpoena issued out of the district court of the county where the port authority is situated, to require the attendance of witnesses and the production of books and documents, and to examine witnesses under oath; and

(7) Annually in January of each year to make written report to the council of such city, giving a detailed account of its activities and of its receipts and expenditures during the preceding calendar year, together with such further matters and

recommendations as it shall deem advisable for the advancement of the commerce and welfare of the port district.

[1929 c. 61 s. 8] (1372-7½g)

458.17 MAY HOLD PROPERTY. The port authority, in its own name, shall have full power and authority to acquire, purchase, construct, lease, or operate any terminal or transportation facility within the district; to make rules, regulations, and charges for the use thereof and for any service rendered; for such purposes to own, hold, lease, or operate real and personal property, to borrow money and to secure the same by bonds or mortgages upon any property held or to be held by it; to sell and exchange any real or personal property owned or held by it in such manner and on such terms as it may see fit, save that no real property owned by the authority shall be so sold, exchanged, or the title thereto transferred without the unanimous vote of all the members of the port authority. The port authority is hereby empowered to acquire by condemnation any property, corporeal or incorporeal, within the port district which may be needed by it for public use; and the fact that the property so needed has been acquired by the owner under power of eminent domain or is already devoted to a public use shall not prevent its acquisition by the port authority by the exercise of the right of eminent domain hereby conferred. No property now or hereafter vested in or held by the State of Minnesota, or any city, county, village, school district, town, or other municipality, shall be so taken or acquired by the port authority without the consent of the state, municipality, or public body. The necessity of the taking of any property by the port authority shall be determined by resolution duly adopted by the commissioners, which shall describe the property as nearly as may be and state the use and purpose to which it is to be devoted. The acquisition of such property shall be thereafter accomplished by proceedings by law, as in taking land for public use by right of eminent domain under the laws of the state.

In addition to the power and authority heretofore conferred upon the port authority, the port authority, in its own name, shall have full power and authority to acquire and thereafter operate and maintain any existing vehicular toll bridge across any waters which form a common boundary between any city of the first class in the state and any other city either within or without the state and to reconstruct, improve, and repair such existing bridge; and to construct, maintain, and operate an additional vehicular toll bridge and approaches across these waters at a point suitable to the interests of navigation, and to reconstruct, repair, and improve the same; and to construct, maintain, and operate a tunnel under these waters and to reconstruct, repair, and improve the same; and to issue and sell the negotiable revenue bonds of the port authority for such purposes. Such bonds shall be authorized by resolutions as the port authority may determine from time to time, such resolutions to contain such provisions with respect to the form thereof and maturity, interest rate, sinking fund, redemption, and refunding as are customary and usual; and such bonds shall be issued under a trust indenture from the port authority to a corporate trustee, which indenture shall contain the usual and customary provisions with respect to the issuance of bonds, the application of the revenues of such bridge or tunnel for the creation of a sinking fund to provide for the payment of such bonds and interest thereon, and for the holding of the proceeds of the bonds in a special trust for the purpose of acquiring or constructing such bridge or tunnel, and for the pledge and assignment by the port authority to the trustee under such trust indenture of the revenues of such bridge or tunnel over and above the cost of operation and maintenance thereof as security for the payment of the principal of and interest on such bonds. The port authority shall establish, maintain, and collect tolls for transit over such bridge or through such tunnel acquired or constructed hereunder sufficient at all times to pay the cost of the operation and maintenance thereof and to pay the principal of and interest on the bonds issued hereunder; and such bonds and the coupons evidencing interest thereon shall constitute an irrevocable contract between the holders thereof and the port authority that such tolls shall always be sufficient therefor. No bonds issued hereunder shall bear interest at a rate exceeding five per cent per annum and all such bonds so issued hereunder shall be sold for not less than par and accrued interest to the date of delivery and payment and may be sold at private sale without prior publication of notice thereof. All such bonds issued hereunder shall never constitute an indebtedness of any such city of the first class chargeable to its debt

limit or payable from ad valorem taxes, but such bonds shall be payable solely and only from the toll revenues earned by such bridge or tunnel pledged to the payment thereof.

When the port authority determines to acquire any of these existing bridges, or to construct the additional bridge or tunnel the port authority shall have all rights and powers to enter, upon lands and to acquire, condemn, occupy, possess, and use such real estate and other property as may be needed for the location, construction, operation, and maintenance of such bridge or tunnel and approaches thereto as are possessed by railroad corporations for railroad purposes, or by bridge corporations for bridge purposes in the state in which such real estate or other property is situated, upon making just compensation therefor to be ascertained and paid according to the laws of the state in which such property may be located and the proceedings therefor shall be the same as in condemnation or expropriation of property for public purposes in such state.

[1929 c. 61 s. 9; 1941 c. 52 s. 1] (1372-7½h)

458.18 MAY EMPLOY ENGINEERS. The port authority shall have power and authority, in its own behalf, to employ such engineering, legal, technical, clerical, stenographic, accounting, and other assistance as it may deem advisable; to enter into contracts for the erection, repair, maintenance, or operation of docks, warehouses, terminals, elevators, or other structures upon or in connection with property owned or controlled by it; to contract for the purchase and sale of real and personal property; provided that no such obligation or expense shall be incurred save upon such terms and at times when existing appropriations, together with the reasonable expected revenue of the port authority from other sources, shall be sufficient to enable the same to be discharged when due; and neither the state nor any municipal subdivision thereof shall be liable on any such obligation.

[1929 c. 61 s. 10] (1372-7½i)

458.19 APPLICATION. Until and unless otherwise provided by law, all laws now or hereafter vesting jurisdiction or control in the railroad and warehouse commission of the State of Minnesota, the interstate commerce commission or war department of the United States, or similar regulatory bodies shall apply to any transportation, terminal, or other facility owned, operated, leased, or controlled by the port authority with the same force and effect as if the transportation, terminal, or other facility was so owned, operated, leased, or controlled by a private corporation. The port authority shall have authority either alone or jointly with any similar body having jurisdiction of any part of such port to petition any interstate commerce commission, railroad and warehouse commission, public service commission, public utilities commission, or any like body or any other federal, municipal, state, or local authority, administrative, executive, judicial, or legislative, having jurisdiction in the premises, for any relief, rates, change, regulation, or action which in the opinion of the port authority may be designed to improve or better the handling of commerce in and through the port or improve terminal and transportation facilities therein, and may intervene before any such body in any proceeding affecting the commerce of the port and in any such matters shall be considered along with other interested persons one of the official representatives of the port district.

[1929 c. 61 s. 11] (1372-7½j)

458.20 CONDEMNATION OF LAND COVERED BY WATER FOR SLIPS. Each city in this state having at any time a population of over 50,000 according to the census then last taken is hereby empowered to acquire by proceedings in condemnation under the right of eminent domain any land covered with water or an easement therein, connecting with or adjacent to public navigable waters other than rivers within or adjacent to such city, wheresoever situated within the limits of such city, which shall be declared by the council by resolution necessary to be taken, damaged, injured, or destroyed for the purpose of laying out, opening, making, deepening, widening, or otherwise improving a slip or other waterway into or connecting with such public navigable waters.

[1905 c. 213 s. 1] (1500)

458.21 TO BE HELD FOR PUBLIC WATER HIGHWAY. When any land covered with water or an easement therein shall be acquired by any city pursuant to the provisions of sections 458.20 to 458.23 such land shall thereafter be held as and for a public water highway for travel by, and the accommodations and passage of boats, steamships, vessels, and water craft of all kinds.

[1905 c. 213 s. 2] (1501)

458.22 PROCEEDINGS. The land covered with water or an easement therein specified in section 458.20 may be acquired by proceedings to be conducted by the council in the manner provided by sections 463.01 to 463.07 enabling municipalities to establish and acquire a building line easement along streets, highways, parks, and parkways, and the council in any such city shall, under sections 458.20 to 458.23, exercise all the powers and perform all the duties imposed in sections 463.01 to 463.07 on the governing body mentioned therein.

[1905 c. 213 s. 3] (1502)

458.23 LAND OR EASEMENT TO VEST IN CITY. Upon the conclusion of the proceedings and the payment of the awards the several tracts of land shall be deemed to be taken and appropriated for the purposes of sections 458.20 to 458.23 and such land or the easement therein for these purposes shall vest absolutely in the city in which the land is situate.

[1905 c. 213 s. 4] (1503)

458.24 CONDEMNATION OF LAND FOR HARBORS AND WHARVES. Any city of the first class in this state shall have the right, power, and authority to condemn lands under the right of eminent domain for harbors, wharves, boat-landings, and such canals and approaches thereto as may be required and the right, power, and authority to levy taxes for the purpose of raising moneys required for the payment of damages and other expenses arising in or out of such condemnation proceedings; such power and authority to condemn land shall be exercised under and pursuant to the terms and provisions of chapter 117. Any such city shall have the right, upon the filing of the award of the commissioners provided for in chapter 117 and upon giving the notice therein required of the filing of such award to enter upon and appropriate the land so condemned without the giving of any bond, but in case of such entry and appropriation, such city shall be bound absolutely to pay all damages awarded either by the commissioners or by the court upon appeal therefrom, together with all costs and expenses adjudged against it therein, within the time specified in chapter 117. In case any such city shall appeal from the award of the commissioners appointed pursuant to such condemnation proceedings such city shall not be required to give or file any appeal bond therein.

[1909 c. 327 s. 1] (1504)

458.25 PUBLIC LANDINGS, WHARVES, DOCKS; ACQUISITION, CONSTRUCTION, AND MAINTENANCE; RATES AND CHARGES. Any city of the first class in this state is hereby authorized to establish, construct, maintain, and operate public landings, public wharves and docks, and transfer railroad tracks, and loading, unloading, transfer and storage facilities, either within or without such city; to acquire by condemnation or otherwise, all lands, riparian or otherwise and other rights and easements necessary for such purposes and to construct, maintain, and operate all necessary buildings and warehouses for such purpose, to lay and collect reasonable duties or wharfage fees on vessels coming to or using the landings, wharves or docks; to regulate the manner of using other wharves and docks within the city and rates of wharfage to be paid by vessels using the same; to dredge or deepen the harbor or river or any branch or portion thereof; to prescribe and enforce reasonable rules and regulations for the protection and use of its properties whether within or without the city and to impose and enforce adequate penalties for the violation of such rules and regulations. Proceedings in eminent domain for the purposes of sections 458.25 to 458.31 shall be conducted under and pursuant to the provisions of chapter 117, and acts supplemental thereto.

[1921 c. 363 s. 1] (1504-1)

458.26 BOND ISSUE. The council of any city is hereby authorized and empowered for the purposes herein designated to issue from time to time as needed the negotiable bonds of such city to an amount in the aggregate not exceeding \$150,000, to be made in such denomination and payable at such places and at such times not exceeding 30 years from the date thereof as may be deemed best and to bear interest at a rate not to exceed six per cent per annum payable semiannually, with interest coupons attached, payable at such place or places as shall be designated therein, and such governing body is further authorized to negotiate and sell such bonds from time to time to the highest bidder therefor and upon the best terms that can be obtained for the bonds.

No such bonds shall be sold for a less amount than the par value thereof and accrued interest thereon.

[1921 c. 363 s. 2] (1504-2)

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458.27 BOND ISSUE; LIMITATION ON INDEBTEDNESS NOT APPLICABLE.

The bonds authorized by section 458.26, or any portion thereof, may be issued and sold by any such city notwithstanding any limitation contained in the charter of such city or in any law of this state prescribing or fixing any limit upon the bonded indebtedness of such city, but the full faith and credit of any such city shall at all times be pledged for the payment of any bonds issued under sections 458.25 to 458.31 and for the payment of the current interest thereon, and the governing body of any such city shall each year include in the tax levy a sufficient amount for the payment of such interest as it accrues, and for the accumulation of a sinking fund for the redemption of such bonds at their maturity.

[1921 c. 363 s. 3] (1504-3)

458.28 BOND ISSUE, FORM OF BONDS. All bonds issued under the authority of sections 458.25 to 458.31 shall be sealed with the seal of the city issuing the same and signed by the mayor and attested by the city clerk and countersigned by the comptroller or auditor of such city except that the signature to the coupons attached to such bonds, if any, may be lithographed thereon. The sale of such bonds shall be made in such manner and in such proportion of the whole amount authorized by sections 458.25 to 458.31 and at such times as may be determined by the governing body of such city.

[1921 c. 363 s. 4] (1504-4)

458.29 BOND ISSUE PROCEEDS TO CONSTITUTE SPECIAL FUND. The proceeds of any and all bonds issued and sold under the authority of sections 458.25 to 458.31 shall be placed in the treasury of the city issuing the same and constitute a special fund and kept distinct from all other funds of the city and used only for the purposes of carrying out the provisions provided for in section 458.25. The proceeds of these bonds, or any thereof, shall not be used for any other purpose than those therein specified.

[1921 c. 363 s. 5] (1504-5)

458.30 CITIES AUTHORIZED. Sections 458.25 to 458.31 shall only apply to such cities as are or may be governed by a charter adopted pursuant to the Constitution of the State of Minnesota, Article 4, Section 36.

[1921 c. 363 s. 6] (1504-6)

458.31 POWERS GRANTED ARE ADDITIONAL. The powers granted in sections 458.25 to 458.31 are in addition to all existing powers of such cities.

[1921 c. 363 s. 7] (1504-7)

458.32 LEVEES ON NAVIGABLE STREAM WHEN CHANNEL CHANGED.

Any city of the first class in this state shall have the power to acquire and hold in fee simple, by purchase or condemnation, levees not exceeding 200 feet in width on either side of any navigable stream within the limits of such city when the channel thereof is altered or changed by or under the authority of the United States government and may set aside such portions of these levees when acquired as the public needs may require for use for public travel and devote the remainder thereof to such uses as the council of the city shall deem for the best interests of the city, or as required by the United States government.

[1911 c. 114 s. 1] (1505)

458.33 ISSUANCE OF BONDS. Any such city may by ordinance adopted by a two-thirds vote of all members elect of its council issue and sell the bonds of such city of the par value of not exceeding \$500,000 to aid in defraying the expense of acquiring and improving the levees mentioned in section 458.32.

[1911 c. 114 s. 2] (1506)

458.34 LIMIT OF DEBT; TAX LEVY. The bonds authorized by sections 458.32 to 458.35, or any portion thereof, may be issued and sold by any such city notwithstanding any limitation contained in the charter of such city or in any law of this state prescribing or fixing any limit upon the bonded indebtedness of such city, and the full faith and credit of any such city shall at all times be pledged for the payment of any bonds issued under sections 458.32 to 458.35, and for the payment of the current interest thereon, and the council of such city shall each year include in the tax levy a sufficient amount to provide for the payment of such interest as it accrues and for the accumulation of a sinking fund for the redemption of such bonds at their maturity.

[1911 c. 114 s. 3] (1507)

458.35 TERM OF BONDS; SALE. No such bonds shall be issued by any such city for the purposes mentioned in sections 458.32 to 458.34, to run for a longer term than 30 years or bearing a higher rate of interest than four per cent per annum, payable semiannually, but the place of payment of the principal and interest thereof and the denominations in which the same are issued shall be such as may be determined by the council and may be in the form of coupon bonds or registered certificates, so-called. All of these bonds shall be signed by the mayor, be attested by the city clerk and countersigned by the city comptroller of the city issuing the same, and shall be sealed with the seal of such city; but the signatures to the coupons attached to such bonds, if any, may be lithographed thereon. None of the bonds shall be sold at less than their par value and accrued interest, and then only to the highest responsible bidder therefor.

[1911 c. 114 s. 4] (1508)

458.36 STONE QUARRIES AND DOCKS; BOND ISSUE FOR; REFERENDUM. The governing body of any city of the first class in this state, is hereby authorized and empowered, for the purposes herein designated, to issue from time to time as needed the negotiable bonds of the city to an amount in the aggregate not exceeding \$500,000, the bonds to be made in such denominations and payable at such places and at such times, not exceeding ten years from the date thereof, as may be deemed best. These bonds to be serial in form, one-tenth to be retired each year after issue and to bear interest at a rate not to exceed six per cent per annum payable semiannually, with interest coupons attached, payable at such place or places as shall be designated therein, and such governing body is further authorized to negotiate and sell such bonds from time to time to the highest bidder or bidders therefor and upon the best terms that can be obtained for said bonds.

No such bonds shall be sold for a less amount than the par value thereof and accrued interest thereon.

Sections 458.36 to 458.41 shall not supersede the provisions of the charter of any city providing for the referendum of ordinances passed by the governing body to a vote of the electors of the city, nor with the provisions of the charter of any city making the action of the council subject to approval of a board of estimate and taxation, nor with the provisions of any such charter prescribing a particular method of authorization of such bonds.

[1925 c. 64 s. 1] (1600-1)

458.37 TAX LEVY FOR PAYMENT OF BONDS. The full faith and credit of any such city shall at all times be pledged for the payment of any bonds issued under sections 458.36 to 458.41, and for the payment of the current interest thereon, and the governing body of such city shall each year include in the tax levy a sufficient amount for the payment of such interest as it accrues.

No tax levy shall be made if sufficient funds exist in the special fund, called "quarry and dock fund," herein created and described.

[1925 c. 64 s. 2] (1600-2)

458.38 ISSUE AND SALE OF BONDS. All bonds issued under authority of sections 458.36 to 458.41 shall be sealed with the seal of the city issuing the same, signed by the mayor, attested by the city clerk, and countersigned by the comptroller or auditor of such city, except that the signatures to the coupons attached to such bonds, if any, may be lithographed thereon. The sale of such bonds shall be made in such manner and in such proportions of the whole amount authorized by sections 458.36 to 458.41 and at such times as may be determined by the governing body of such city.

[1925 c. 64 s. 3] (1600-3)

458.39 USE OF PROCEEDS OF SALE OF BONDS; QUARRY AND DOCK FUND. The proceeds of any and all bonds issued and sold under authority of sections 458.36 to 458.41 shall be used for the following purposes, and none other: For acquiring by gift, purchase, or condemnation, a site or sites containing rock and to remove and use the same for any municipal purpose; and especially for the construction of public grounds, public docks, harbor terminals, and a breakwater for their protection; and to procure and pay for the necessary equipment of machinery, tracks and labor required in the making of such public improvements and to clear public highways adjacent to such sites from rock obstruction.

Accurate account shall be kept by the department of such city having in charge the operation of the removal and disposal of rock, of the exact quantity of such

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rock or crushed rock manufactured therefrom, removed and used either by the city upon its highways, or sold to contractors for such use, or for use in making any other improvements, under city authority or franchise.

If the city uses this rock, or crushed rock manufactured therefrom, upon its highways, then that department of the city charged with maintenance of streets shall pay into a special fund of such city to be known as quarry and dock fund, an amount of money equivalent to what it would fairly expend for such material if elsewhere obtained in the city.

If such rock is sold to contractors engaged in construction of public improvements in the city, or under franchise from it, then the moneys so derived shall likewise go into the quarry and dock fund. The moneys in the fund shall be used for payment of interest on the bonds and for the retirement and payment of the principal thereof and for no other purpose. Recourse to a tax levy shall in no case be had unless there is a deficiency in the special fund to pay such interest or principal.

If any tax levy shall be necessary to provide for any deficit in this fund, the amount so levied shall be restored to the general fund of the city out of proceeds of such fund as soon as it is sufficient for such purpose.

[1925 c. 64 s. 4] (1600-4)

458.40 CHARTER PROVISIONS NOT AFFECTED. Nothing contained in sections 458.36 to 458.41 shall be construed to repeal or modify the provisions of any charter adopted pursuant to the Constitution of the State of Minnesota, Article 4, Section 36, requiring the question of the issuance of bonds to be submitted to a vote of the electors.

[1925 c. 64 s. 5] (1600-5)

458.41 POWERS ADDITIONAL. The powers granted in sections 458.36 to 458.41 are in addition to all existing powers of such cities.

[1925 c. 64 s. 6] (1600-6)

458.42 WATER TERMINALS; ACQUISITION OF LAND. Any city of the second class in this state located upon navigable boundary waters shall have the power to acquire and hold in fee simple by purchase or condemnation land for the establishment of docks, quays, levees, wharves, landing places, railroad or other land transportation loading and unloading places, land and water freight and passenger stations, terminals and terminal buildings for any and all kinds of carriers and necessary equipment and appurtenances on any navigable stream within the limits of such city and may set aside such portion of the land when acquired as the public may require for use for public travel and shall devote the remainder thereof to uses herein provided or if required by the United States government.

[Ex. 1936 c. 8 s. 1] (1664-81)

458.43 CONSTRUCTION OF WORKS; TOLLS AND CHARGES. All such cities shall have the power to construct, erect, and maintain on any such land so acquired, docks, quays, levees, wharves, landing places, railroad and other transportation loading and unloading places, land and water freight and passenger stations, terminals and terminal buildings for any and all kinds of carriers and necessary equipment and appurtenances; and such cities shall have the power and are hereby authorized to charge a reasonable price for the use of such docks, quays, levees, wharves, and landing places, railroad and other land transportation loading and unloading places, land and water freight and passenger stations, terminals and terminal buildings for any and all kinds of carriers and necessary equipment and appurtenances, such reasonable price to be determined and fixed by the common council or governing body of such city, and the making of such charge shall in no way be held to impair, affect or invalidate any bonds issued by such city to cover the payment of the construction thereof.

[Ex. 1936 c. 8 s. 2] (1664-82)

458.44 BONDS OR CERTIFICATES; SELF LIQUIDATING; MORTGAGE; FORECLOSURE; REGULATION. Any such city may, by written resolution or ordinance adopted by a two-thirds vote of all members of its council or other governing body, issue and dispose of interest-bearing bonds or certificates to be known as river terminal bonds or certificates which shall under no circumstances be and become an obligation or liability of the city or payable out of the general funds of the city, but shall be payable solely out of the specified portion of the revenues or income to be derived from such river terminal docks, quays, levees,

wharves, landing places, railroad and other transportation loading and unloading places, land and water freight and passenger stations for the acquisition of which the bonds or certificates were issued. Such certificates shall not be issued and secured on any such river terminal property in an amount in excess of the cost to the city of such river terminal as hereinbefore provided and ten per cent of said cost in addition thereto. In order to secure the payment of such public utility certificates and the interest thereon the city may convey by way of mortgage or deed of trust any or all of the property thus acquired or to be acquired through the issue thereof; which mortgage or deed of trust shall be executed in a manner directed by the common council or other governing body of such city and acknowledged and recorded in the manner provided by law for the acknowledgment and recording of mortgages of real estate and may contain such conditions and provisions not in conflict with the provisions of sections 458.42 to 458.45 as may be deemed necessary to fully secure the payment of the certificates described therein. Any such mortgage or deed of trust may carry the grant of a privilege or right to maintain and operate the property covered thereby, for a period not exceeding 20 years from and after the date such property may come in the possession of any person or corporation as a result of foreclosure proceedings; which privilege or right may fix the rates which the person or corporation securing the same as a result of the foreclosure proceedings shall be entitled to charge in the operation of said property, for a period of not exceeding 20 years. When and as often as default shall be made in the payment of such certificate issued or secured by mortgage or deed of trust, as aforesaid, or in the payment of the interest thereon when due, and any such default shall have continued for the space of 12 months after notice thereof has been given to the mayor and financial officer of the city issuing such certificates, it shall be lawful for any such mortgagee or trustee, upon the request of the holder or holders of a majority in amount of the certificates issued and outstanding under such mortgage or deed of trust, to declare the whole of the principal of all such certificates as may be outstanding, to be at once due and payable, and to proceed to foreclose such mortgage or deed of trust in any court of competent jurisdiction. At a foreclosure sale, the mortgagee or the holders of such certificates may become the purchaser or purchasers and the rights and privileges sold, if he or they be the highest bidders. Any public utility acquired under any such foreclosure shall be subject to regulation by the corporate authorities of the city to the same extent as if the right to construct, maintain, and operate such property had been acquired through a direct grant without the intervention of foreclosure proceedings.

[*Ex. 1936 c. 8 s. 3*] (1664-83)

458.45 ACCOUNTS; PUBLICATION OF FINANCIAL REPORTS. Every such city owning, or owning and operating, any such public utility shall keep the books of account for such public utility distinct from other city accounts and in such manner as to show the true and complete financial results of such city ownership, or ownership and operation, as the case may be. Such accounts shall be so kept as to show the actual cost to such city of such public utilities owned; all cost of maintenance, extension, and improvement; all operating expenses of every description in case of such city operation; the amount set aside for sinking fund purposes. The council shall cause to be printed annually for public distribution a report showing the financial results of such city ownership, or ownership and operation.

[*Ex. 1936 c. 8 s. 4*] (1664-84)

458.46 CITIES MAY ACQUIRE LAND FOR DOCKS. The council of any city in this state is hereby authorized and empowered by a two-thirds vote of all the members elect of the council to acquire lands, lands covered with water or buildings, for sites for public docks for passenger purposes by purchase; provided the same can be done upon terms satisfactory to the council.

[1897 c. 181 s. 1]

458.47 CONDEMNATION OF LANDS. The council of any city in this state is hereby authorized and empowered to condemn lands, lands covered with water or buildings for sites for public docks for passenger purposes in the manner provided in sections 458.48 and 458.49. No site for a public dock shall ever be acquired by any city by purchase or condemnation unless a necessity therefor exists, which necessity shall be determined by a two-thirds vote of all the members elect of the council.

[1897 c. 181 s. 2]

458.48 COMMISSIONERS OR VIEWERS; TO ASSESS DAMAGES; TO SURVEY PROPERTY AND GIVE HEARING. The council, upon determining by a two-thirds vote of all its members elect that the necessity for acquiring this property exists, shall appoint three commissioners, no two of whom shall be residents of the same ward of the city, and all of whom shall be disinterested freeholders and qualified voters of the city, to view the premises and assess the damages which may be occasioned by the taking of private property for the purpose of a public dock for passenger purposes. The commissioners shall be notified, as soon as practicable, by the clerk of the city to attend at his office, at a time to be fixed by him, for the purpose of qualifying and entering upon their duties, and the commissioners in attendance shall be authorized to appoint another commissioner or commissioners in place of any absentees or in lieu of any person appointed as commissioner but not qualified by reason of residence or other cause to act as such, selected from some ward of the city not represented in the board of commissioners and possessing the required qualifications. In all cases of vacancy the council shall fill the vacancy.

The commissioners shall be sworn by the city clerk to discharge their duties as commissioners in the matter with impartiality and fidelity and to make due return of their actions and doings to the council.

The commissioners shall with all reasonable speed, with the assistance of the city engineer of the city, cause a survey and plat of the property proposed to be acquired or injuriously affected, to be made and filed with the city clerk, exhibiting as far as practicable the land or parcels of property required to be taken, or which may be damaged thereby, and thereupon give notice by publication in the official newspaper of the city for at least ten days and to the owner personally, if within the state and his residence is known, to the effect that such plat has been filed, and that the commissioners will meet at a place and time designated by them, and thence proceed to view the premises and assess the damages for property to be taken, or which may be injuriously affected.

At the time and place according to the notice, the commissioners shall view the premises, and may hear any evidence or proof offered by the parties interested, and adjourn from day to day, if necessary, for the purpose. When their view and hearing shall be concluded they shall determine and assess the amount of damages to be paid to the owner of each parcel of property proposed to be taken or which may be injuriously affected and in so doing shall take into consideration the value of the property proposed to be taken, with such other damage as may be incident thereto, and the advantage which will accrue to the property or any part thereof by reason of the taking of the property or easement sought to be acquired by the city.

If there should be any building standing in whole or in part upon the land to be taken, the commissioners shall in each case determine and assess the amount of damages which should be paid to the owner thereof in case the building, or so much thereof as may be necessary, should be taken and determine and assess the amount of damages to be paid to such owner in case he should elect to remove the building; and the damages in relation to these buildings shall be assessed separately from the damages in relation to the land upon which they are erected.

If the land and buildings belonging to different persons, or if the land be subject to a lease, mortgage, or judgment, or if there be any estate in it less than an estate in fee, the injury or damage done to such person or interests, respectively, may be awarded to them by the commissioners, less the benefit resulting to them, but in no case shall the aggregate damages assessed to the owners, lessee, mortgagee, or other persons having an interest therein, exceed the value of the parcel of property sought to be taken.

The commission, having ascertained and assessed the damages, shall make and file with the city clerk a written report to the council of their action in the premises, embracing a schedule or assessment of the damages in each case, with a description of the land and name of the owners, if known to them, and a statement of the costs of the proceeding.

Upon such report being filed in the office of the city clerk, he shall give at least ten days' notice by publication in the official newspaper of the city to the effect that such assessment has been returned and that the same will be confirmed by the council at a meeting thereof, to be named in the notice, unless objections are made in writing by persons interested in any land required to be taken. Any persons interested in buildings standing in whole or in part upon any land required to be

taken shall, on or before the time specified in the notice, notify the council in writing of their election to remove such buildings according to the award of the commissioners. The council, upon the day fixed for the consideration of such report, or at such subsequent meeting to which the same may stand or be referred, shall have power in their discretion to confirm, revise, or annul the assessment, giving due consideration to any objections interposed by parties interested.

The damages assessed shall be paid out of the general fund of the city and paid or tendered or deposited or set apart in the treasury of the city, to and for the use of the parties entitled thereto, within six months from the confirmation of such assessment and report, and the land or property required to be taken for such purpose shall not be appropriated until the damages awarded therefor to the owner thereof shall be paid or tendered to the owner, or his agent, or deposited or set apart for his use. In case the commissioners shall be unable to determine who is the owner of any particular parcel of land taken or injuriously affected, the name of the owner of this parcel may be entered upon their schedule as unknown and the money awarded may be set aside and deposited in the city treasury for the unknown owner of the land taken or injuriously affected. In cases of disputed ownership the name of all the owners or claimants of any parcel may be entered upon the schedule, and the money may be set aside and deposited in their name in the treasury, but need not be paid to them until they shall determine by proper action in court their rights to this money.

In case any owner of any of these buildings shall elect to move his buildings, he shall so remove them within 30 days from the confirmation of the report or within such further time as the council may allow for the purpose, and shall thereupon be entitled to payment from the city of the amount of damages awarded in such case, in case of removal. When such person shall not have elected to remove such buildings, or shall have neglected (after having elected to remove) to remove the same within the time prescribed, such buildings, or so much thereof as may be necessary, upon payment or depositing the damages awarded for such taking, may be taken and appropriated, sold, or disposed of as the council shall direct, and the same, or the proceeds thereof, shall belong to the city.

When any known owner of lands or tenements affected by any proceeding under sections 458.46 to 458.49 shall be an infant, or labor under legal disability, the judge of the district court of the county, or in his absence the judge of any court of record, may, upon application of the commissioners, or of the city, or such party, or his next friend, appoint a suitable guardian for such party, and all notices required by sections 458.46 to 458.49 shall be served upon such guardian, and all notices required to be served upon the city by an owner may be served by the guardian.

Any person feeling himself aggrieved by such assessment may, by notice in writing served on the mayor of the city, a copy whereof with proof of service shall be filed in the office of the clerk of the district court of the county within 20 days from the time of confirmation of the report or assessment, appeal from such assessment to the district court of the county, when such appeal shall be tried by the court and jury as in ordinary cases; but no pleadings shall be required, and the party appealing shall specify, in the notice of appeal, the grounds of objection to such assessment, and shall not be entitled to have any other objections than those specified considered, and a transcript of such report, certified by the city clerk, or the original thereof, shall be prima facie evidence of the facts therein stated, and that such assessment was regular and just, and made in conformity to law; the judgment of such court therein shall be final. Such appeal shall be entered and brought on for trial and be governed by the same rules in all other respects as appeals from justices of the peace in civil suits.

[1897 c. 181 s. 3]

458.49 COUNCIL MAY MAKE IMPROVEMENTS. The council of any city in this state which shall have acquired sites for public docks for passenger purposes under the provisions of sections 458.46 to 458.49, may improve the same by the erection and maintenance thereon of suitable buildings and by the construction and maintenance thereon of suitable piers, and that such council may by ordinance provide for the regulation, control, and operation of such docks, buildings, and piers, and fix the charges for the use thereof.

[1897 c. 181 s. 4]