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THE CHARTER

OF THE

CITY OF ALPENA

AND

ORDINANCES,

WITH

CHARTER OF THE UNION SCHOOL DISTRICT

OF ALPENA, AND

RULES AND REGULATIONS,

TOGETHER WITH

Special Act of the Legislature Relating to Water Works, Water Board and City Contract with Alpena City Water Company.

COMPILED BY I. S. CANFIELD,
CITY ATTORNEY.

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CONTRACT

BETWEEN

The City of Alpena

AND

The Alpena City Water Co.

This agreement, made and entered into this 14th day of October, in the year one thousand eight hundred and seventy-eight, between the city of Alpena, a municipal corporation, in the county of Alpena, state of Michigan, party of the first part, and the Alpena City Water Company, of the second part.

Witnesseth, that, whereas, the Common Council of the party of the first part hath, by resolution, declared that it is expedient to have constructed, in said city, water works for the purpose of supplying said city and the inhabitants thereof with water, but that it is inexpedient for said city, under the power granted in its charter, to build such works; therefore,

SECTION 1. The said party of the first part, in order to encourage and promote the introduction of water into said city for domestic purposes, from a point in Thunder Bay, easterly from the extremity of Trowbridge Point, a distance sufficient to get as good water as Thunder Bay, Lake Huron affords; and

also, to promote the introduction of water into said city, for fire and all purposes other than domestic, from Thunder Bay River, at a point on said river known as Richardson's dam, hath granted and agreed, and by these presents do grant and agree, to and with the said party of the second part, that said second party shall have the right and privilege, at said second party's proper costs and expenses of laying down and maintaining water mains and water pipes in the streets, alleys and public places of said city, and also the right and privilege of laying down and maintaining a main pipe from Trowbridge Point to Richardson's dam, (excepting over and through the lands of Charles W. Richardson,) for the introduction of water into said city, from the points, and for the purposes aforesaid, for and during the term of thirty years from and after the date of this agreement. Such grant and privilege, however, to be held and enjoyed subject to the faithful performance by said second party, of the covenants, conditions, terms and limitations in this contract contained.

SEC. 2. Said party of the first part further agrees, that during the term of thirty years, from and after the completion of the water works, in the manner hereinafter provided, and the introduction of water as aforesaid, it will take and use at such time as it may see fit, water from at least eighty double hydrants; said hydrants to be located at such points or places in said city as the Common Council thereof may designate and determine by resolution or ordinance, and to pay for the same the sum of six thousand five hundred dollars per annum, payable semi-annually, at National Park Bank, New York City, in the manner and at the times following: Three thousand two hundred and fifty dollars March 1, and three thousand two hundred and fifty dollars September 1, the year to commence from and after the completion and acceptance of said water works, as herein-

after provided; the payment of this sum, however, to be dependent upon the said second party supplying during all the time aforesaid, to-wit: thirty years, water from said point in Thunder Bay, sufficient to supply all the inhabitants of said city with water for domestic purposes, as hereinafter provided; and, further, that notwithstanding anything in this section set forth, no liability shall attach to said party of the first part, under this section, or any other section of this contract, until said water works are fully completed in substantial compliance with the terms, requirements and conditions of this contract, and said works are accepted by the Common Council of said city.

SEC. 3. The said party of the second part hereby covenants and agrees forthwith to undertake the construction of said water works for carrying out the enterprise aforesaid, and to commence work on said water works immediately, and to have laid at least half a mile of the main pipe within three months from date hereof, and that within one year from the date hereof, said second party shall have completed the entire work, by having laid down a main pipe from said point in Thunder Bay, to said point on Thunder Bay River, thence to the city, and mains through the city, and suitable and sufficient pipes through and along the streets, alleys and public places of said city, with at least eighty double hydrants, located at such points as may be determined by the Common Council of said city, and with at least nine miles and a half of piping, as shown by the plat hereto annexed and made a part of this contract; said nine and one-half miles to be exclusive of the main pipe from Trowbridge Point to Richardson's dam; said water works to be considered completed when capable of all required by this contract. Such pipes, hydrants and works to be at all times kept in good order and repair by said second party, at its own expense.

SEC. 4. Said second party covenants and agrees, that, at all

times during the period of thirty years aforesaid, said second party will maintain and furnish an ample and constant supply of water from said point in Thunder Bay, sufficient to supply all the inhabitants of said city who may desire the same, with water for domestic purposes, and that said second party shall furnish and supply the same at a fair and reasonable rental, to be fixed and approved by the Common Council of said city, and not to exceed the average water rates of other cities of this state.

SEC. 5. Said second party covenants and agrees, that, at all times during the period of thirty years, as aforesaid, said second party shall keep an ample and constant supply of water for the use of eighty double hydrants, as above mentioned, and such supply to have sufficient force and power to comply substantially with the requirements of section six (6) of this contract, and for such additional number of double hydrants as the Common Council of said city may from time to time require and order—said first party to pay the actual expense of putting down such additional double hydrants, and also the cost of such hydrants, and no more. *Provided, however*, If the additional hydrants, ordered as aforesaid, necessitates the laying of more pipe, by said second party, than is provided for in this contract, then said second party is to be paid forty dollars per annum for each such additional double hydrant, by said first party, but said first party shall not be chargeable with the cost of such hydrant or the expenses of putting down the same; and, *provided, further*, That the average distance between each such additional double hydrants shall not exceed six hundred feet—the measurement to commence at the last hydrant erected on line of pipes laid under this contract. Said second party also agrees to change the location of any or all of the hydrants, when required or ordered by the Common Council of said city so to do—said first party paying the actual expenses of making such changes; also to change the

location of any or all of the pipes, when required by said Common Council so to do, and upon similar terms, and that, in case of the refusal or neglect of said second party to change the location of any hydrant or pipe for ten days after being requested so to do, in writing, under the seal of the city of Alpena, then, in such case, said first party is hereby authorized to effect such change at the expense of said party of the second part—the amount of such expense to be deducted by said first party from the first payment thereafter to be made to the said second party under this contract.

SEC. 6. Said second party covenants and agrees that said water works, when completed, shall have sufficient capacity and power, at all times, to throw eight streams of water to a perpendicular height of eighty feet, all the streams running at one and the same time, at different points, or from any one main pipe of eight inches in diameter, and each stream through a one-inch nozzle; that said second party will, during all the time aforesaid, keep said water works up to said capacity and power, and that, upon the completion of said works, and before any liability attach to said city, under this contract, said works must undergo and fulfill said requirement in capacity and power, and that fact must be fully demonstrated by submitting said works to such a test, or number of tests, as the Common Council of said first party shall prescribe: *Provided, however*, That the time occupied in applying such tests shall not exceed ten days. If said works, when completed and tested, shall not comply substantially with the requirements of this section, in letter and spirit, the party of the first part is at once forever released from this contract, and from any liability under it.

SEC. 7. Said second party covenants and agrees that, when in the extinguishing of fires, it becomes necessary to pump water from Thunder Bay River, to furnish a sufficient supply

for such fire purposes, that immediately upon such necessity ceasing, pumping from said river will also cease.

SEC. 8. It is agreed by said first party, that the Common Council of said city will, as soon as practical, provide by ordinance for the proper protection of the property of the said second party from injury or molestation by wrong-doers, and for the enforcement of such rules and regulations concerning the use of water hydrants and pipes, and the payment and collection of water rates as may reasonably be required.

SEC. 9. Said second party further agrees to furnish, free of charge, during all the term aforesaid, water to and for the use of all public buildings owned, used or occupied by said city; all public school buildings and yards, all city offices, parks; for as many public fountains and watering troughs as the Common Council of said city may require, and for city jail. In consideration, however, said first party shall save and keep harmless the water works aforesaid from any city or school tax during said period, and, further provided, that said city shall be held responsible for all damage done to the hydrants of said company, through the carelessness or ill usage of firemen or employees of the city.

SEC. 10. It is further mutually agreed and understood, that all the mains, pipes and hydrants, laid and placed in said city, by the said party of the second part, shall be and remain the property of said party of the second part, unless the said party of the first part shall elect, after the expiration of sixteen years from the date of this agreement, to purchase said water works, with all its rights and privileges, mains, pipes, hydrants, and appurtenances, and said first party shall have the right and option to purchase the same, and to terminate this agreement, by paying for said works such a price as may be mutually agreed upon by the parties thereto, and in case of a disagreement

between said parties, in reference to price, then the price to be fixed, ascertained and determined by five disinterested persons, not residents of said city, chosen in the manner provided in section 3,370, Compiled Laws of 1871, State of Michigan. Said first party is also authorized, if it sees fit, to purchase said water works when the same are completed, tested and accepted, as hereinbefore provided, upon paying to said second party the actual cost of putting in the works, and interest at ten per cent. per annum, on money actually paid out by said second party in the construction of said works, together with two thousand dollars in addition thereto. Said sum of two thousand dollars to be in lieu of all charges for the services of superintendent in constructing said works. The city to have the works free and clear of all incumbrances—any outstanding incumbrances less than the actual cost of the works to be assumed by said city and considered as part of the consideration to be paid to said second party.

SEC. 11. It is further agreed by and between the said parties, that on the failure of the said party of the second part to undertake and complete the said works within the time above limited and specified, or the failure of said second party to keep and perform any of the covenants on its part, in this agreement contained and required to be performed and kept, then all rights, privileges and covenants herein granted and agreed to by said first party, shall cease, and this agreement shall be void and of no force or effect whatever.

In witness whereof, the Mayor and Recorder of said party of the first part, by order of the Common Council thereof, have hereunto set their hands and caused the corporate seal of said city to be hereto affixed, and the President and Secretary of said party of the second part, hath hereunto set their hands and caused the seal of said second party to be hereto affixed.

Executed in duplicate the day and date first above written.

[L. S.] GEORGE A. BUTTERFIELD, Mayor.

[L. S.] A. R. McDONALD, Recorder.

[L. S.] WILLIAM H. POTTER, President.

[L. S.] WILLIAM H. JOHNSON, Secretary.

ENABLING ACT RELATIVE TO WATER WORKS.

An Act to authorize the city of Alpena to construct or purchase, own and maintain a system of Water Works, and to provide means for constructing or purchasing, maintaining and managing the same.

Authority to borrow money

SECTION 1. *The People of the State of Michigan Enact*, That for the purpose of constructing or purchasing, owning and maintaining, a system of water works for the use of the city of Alpena and the inhabitants thereof, the Common Council of said city is hereby authorized to submit to the electors of said city, at a special election to be called for that purpose, a proposition to raise a sum of money not exceeding one hundred and fifty thousand dollars by loan, at a rate of interest not to exceed five per cent. per annum to be voted upon by ballot. Said special election shall be called, conducted, managed and votes canvassed and returns made in accordance with the provisions of the charter of the said city of Alpena, in relation to bonding the city for other purposes, except as herein modified or changed: *Provided*, That at said special election the voting shall take place at the various voting precincts of the city of Alpena in the usual manner, and the Recorder of the city of Alpena shall prepare a proper official ballot to be voted at said special election, and deliver the same to the various Election Boards in time for use; and at said special election the Election Boards of the various wards of said city shall constitute the Election

Proposition to be submitted at a special election

Special election to be conducted in accordance with provisions of city charter

Boards for this special election, and each of said Election Boards shall immediately after the closing of the polls canvass the votes cast, and make and execute a certificate showing the result, and file such certificate with the Recorder of the city of Alpena; and upon the next day after such special election, the Mayor, City Treasurer and Recorder, or any two of them, shall meet at the Recorder's office at two p. m. o'clock, and shall constitute a City Canvassing Board, and shall then canvass the returns of said special election as shown by said certificates with said records, and shall make and execute two certificates showing the result of said special election in said city and of the votes given for and against the issue of said bonds or for and against said loan, and one of which certificates shall be filed with the Recorder of said city and the other with the County Clerk of Alpena county; And, *provided, further*, That upon the Saturday next preceding said special election the various Boards of Registration of said city of Alpena shall be in session for the purpose of allowing all qualified electors of said city the privilege of registering.

Council may construct if proposition be approved by majority vote of electors

SEC. 2. If such proposition be approved by a majority vote of said electors present and voting, the Common Council of said city may, at any time thereafter, construct or purchase and own said system of water works so acquired, and make such loan or so much thereof as may be necessary to pay for said water works so constructed or purchased and issue the bonds of said city for payment thereof with the interest thereon; said bonds to mature within such time as fixed by said Common Council, not exceeding thirty years from the date thereof.

Management and control vested in a Water Board

SEC. 3. The management and control of said system of water works, when so constructed or purchased and owned by said city of Alpena, shall be vested in a Water Board, which shall consist of the Mayor, Comptroller and City Treasurer and four Commissioners to be electors of said city, and shall be appointed by

Who to be members

the Mayor and confirmed by the Common Council; said board to serve without compensation. One of said Commissioners to hold office for one year, one for two years, one for three years, and one for four years from the first day of May, eighteen hundred and ninety-five, and thereafter each year between the annual election and the first day of May, the Mayor shall appoint and Common Council confirm a Commissioner of said Board, who shall hold his said office for four years; and in case of a vacancy in the office of said Commissioners, the same shall be filled by appointment of the Mayor and confirmed by said Common Council. Said Water Board shall hold such meetings and adopt such rules for their own procedure and management as they shall deem wise and necessary; and shall have such powers concerning the management and maintenance of such system of water works as may be from time to time conferred upon said Water Board by said Common Council; and each year before the annual election shall make to the Common Council a full report of their doings; which said report, among other things, shall show the estimated amount necessary to be raised by taxation for all the expenses of said Board, including payment of said bonds and interest thereon; which said sum so recommended by said Board shall be raised by taxation by said Common Council of the city of Alpena.

Vacancy, how filled

Powers of Water Board

This act is ordered to take immediate effect.

Approved May 24, 1895.