advantageous to the city. Such contract or contracts shall be let to the lowest responsible bidder for either the whole of said improvement or such part thereof as will not materially conflict with the completion of the remainder thereof, but said council shall have the right to reject any or all proposals received. It shall be the duty of the council to fix the time within which every such improvement shall be completed, and it may extend such time should the circumstances warrant. The council shall have power and authority to make written contracts, to receive and approve all bonds authorized by this section, to provide for the proper inspection and supervision of all work done under the provision of this section, and to do any other act to secure the faithful carrying out of all contracts, and the making of improvements in a strict compliance with the ordinances and specifications therefor.

Section 103. Whenever any street improvement is completed in whole or in part to the satisfaction of the city surveyor, he shall file a certificate of the completion and his approval of such work completed with the recorder, who shall thereafter post notices in two places along the street and adjacent to the work to be accepted, stating therein when the acceptance will be considered by the council, and at that time or at any time prior thereto any owner of any interest in, or agent of any property within the assessment district of said improvement, may appear and file objections to the acceptance of said improvement and such objections shall be considered and the merits thereof determined by said board, and if it appear that said work or improvement has been completed in accordance with the specifications and contract, the board shall require the same to be completed before accepting it. Said notice to be posted shall be posted for at least five days before the acceptance of the work shall be considered by the council. Whenever any work or improvement is accepted the recorder shall endorse its approval on the certificate of the city surveyor, and after the assessment therefor is made and docketed the mayor and recorder shall draw warrants on the fund created for said improvement and in favor of the parties entitled thereto.

Section 104. Whenever the grade of any street has been established, the council may authorize the owner or owners of any property thereon to cut down or fill up such street in front of such property according to such grade, under the direction of the city surveyor, at the expense of such owner or owners, but the authority mentioned in this section cannot be granted after notice has been given by the council of intention to improve the street in front of such property. In giving such authority the council may impose such terms and conditions thereon as may be necessary to secure the deposit of earth or other matter excavated from the street upon any part thereof which may need to be filled, and to charge fees for said permit to cover any expense incurred by the city in the survey and inspection of the work to be done.

Section 105. Whenever any improvement enumerated in section 95, any part of the cost of which is to be assessed upon the property benefited thereby, is completed in whole, or in such part that the cost of the whole can be determined, the city surveyor shall certify to the recorder the accuracy of the original estimate of the work to be done, or if in the progress of the work it has been found necessary to make any alteration in said estimated work for any cause whatsoever, the city surveyor shall file a corrected estimate in detail of such work, and the recorder shall apportion the cost thereof (except the share to be paid in case of street improvements by railroads or street railway companies, by reason of their use of the streets as provided by their franchise) upon the lots, parts of lots, and parcels of land benefited thereby and within the assessment district. The contract price based upon the estimate of the city surveyor, the costs of rights of way and the expenses of condemning land and a sum not to exceed five per cent of the contract price as the cost of advertising, engineering and superintendence shall be deemed to be the cost of every such improvement. When the recorder has ascertained what he may deem a just apportionment of said cost, in accordance with the special and peculiar benefits derived by each lot or part thereof and parcel of land, the same shall be a proposed assessment. The engineering and advertising expenses to be included in the surveyor's estimate and paid for the same as the assessment. It shall also be the duty of the recorder forthwith to send by mail, postpaid, a notice of the share so apportioned and proposed to be assessed to each lot or part thereof or parcel of land, stating that on a certain day at a certain time and place not less than — days subsequent to the mailing of said notice and the publication thereof, as herein provided, the council will consider said proposed assessment and apportionment and will at that time hear any and all objections that may be made to the same and will then proceed to ascertain and finally determine the amount of special and peculiar benefits accruing to each lot or part thereof or parcel of land and to assess the same thereon at said time and place, and which notice shall be mailed to the owner, if known, of each lot or part thereof, or parcel of land, or to the agent of such owner, directed to the post office address of such owner or agent when such post office address is known to him, and if such post office address be unknown to him, then such notice shall be directed to such owner or agent at Jacksonville, Oregon. And in addition to the mailing of the said notice as above prescribed the recorder is hereby required to publish the same once a week for two successive weeks in the official newspaper of said city or by posting the same in three public and conspicuous places of said city for a like period of time.

Section 106. At the time and place so specified in said notice the council shall meet and consider said proposed assessment and hear and determine all objection that may be made to the same, and shall have the power, at its discretion and without further notice, to consider, ascertain and determine the amount of the special and peculiar benefits accruing to each lot or part thereof or parcel of land so assessed, by reason of said improvement, and if the amount apportioned by the recorder as aforesaid to any lot or part thereof, or parcel of land, shall not be in just proportion to such benefits, the proposed assessment against said lot or part thereof or parcel of land, shall be so reduced or increased by the council that it shall be in just proportion to such benefits, but in no case shall any such assessment exceed such benefits. Should all the property embraced in the assessment district as determined not be peculiarly or specially benefited by said improvement to the full extent of the total cost of the same, then and in that case the amount of said total cost over and above the total special benefits accruing to all of said property within said assessment district shall be paid by the city.

Section 107. The council shall thereupon declare such assessment by ordinance and direct the recorder to enter in the docket of city liens a statement thereof, containing the following matter in relation to special benefit assessments for local improvements: The date of the entry, a description of the lot or lots or part of lot or parcel of land, the sum assessed on each lot or part thereof, or tract of land, and the name of the owner, or reputed owner or that the owner is unknown; provided, that failure to enter the name of the owner or mistake in the name of the true owner, or the entry of a name other than that of the true owner in such lien docket, shall not render void any assessment, nor in any way affect the lien of the city of Jacksonville.

Section 108. Each lot or part thereof or parcel of land, shall be deemed to be benefited by the improvement, whatever it may be, to the full amount of the assessment levied thereon, and such assessment shall in such respect be final and conclusive except in case of actual fraud.

Section 109. No such assessment shall be held invalid by reason of failure to enter the name of the owner of any lot or part of a lot or parcel of land so assessed, or by a mistake in the name of the owner, in said assessment, or in any acts or proceedings connected therewith, and no delays, mistakes, errors or irregularities in any act or proceeding in the of any of such improvements shall prejudice or invalidate any final assessment, but the same may be remedied by subsequent and amended acts or proceedings.

Section 110. If upon the completion of any improvement it is found that the sum assessed therefor is insufficient to defray the cost thereof, and the amount charged to any lot or part thereof, or tract of land, is less than the benefits accruing thereto, the council must ascertain the deficit, and by ordinance re-assess the land benefited in excess of the original assessment. When the assessment for said deficit is so levied the recorder must enter the same in the docket of city liens in a column reserved for that purpose, in the original entry with the date thereof, and such deficit shall thereafter be a lien upon such lot, or part thereof, or parcel of land in like manner and with like effect as in case of the sum originally assessed, and shall also be payable and may be collected in like manner and with like effect as the original assessment.

Section 111. Upon the completion of any improvement enumerated in Section 95, it is found that the sum assessed upon any lot or part thereof, the council must ascertain and declare the surplus in like manner as in case of a deficit in the docket of city liens. Thereafter the person who paid the surplus, or his legal representatives, heirs or assigns entitled to repayment of the same by warrant on the city treasury, payable out of the fund raised for such improvement.

Section 112. Whenever the assessment for any local improvement which has been or may hereafter be made by the city, has been or may hereafter be set aside, annulled, declared, or rendered void, or its enforcement refused by any court of this State or any Federal court having jurisdiction therein, whether directly or by virtue of any decision of such court, or when the council shall be in doubt as to the validity of such assessment, or any part thereof, the council may, by ordinance, make a new assessment or re-assessment upon the lots, blocks, or parcels of land which have been benefited by such improvement to the extent of their respective and proportionate shares of the full value thereof. Such re-assessment shall be based upon the special and peculiar benefits of such improvements to the respective parcels of land assessed, at the time of its original making, but shall not exceed the amount of such original assessment. Interest thereon from the date of delinquency of the original assessment may be added at the discretion of the council. Such re-assessment shall be made in an equitable manner, as nearly as may be in accordance with the law in force at the time it is made, but the council may adopt a different plan of apportionment of benefits when in its judgment essential to procure an equitable assessment. The proceedings required by this charter to be had prior to the making of the original assessment shall not be required to be taken or had within the intent of this section. Such re-assessment shall be made and shall become a charge upon the property upon which the same is laid, notwithstanding the omission, failure or neglect of any officer, body or person to comply with the provisions of this chapter or on account of any irregularity or defect, whether the same be jurisdictional or not. No re-assessment shall be made in case of an improvement which has been defeated by unanimous vote of the council. The council shall, by resolution, declare the district that will be benefited by the improvement for which the re-assessment is made and shall direct the recorder to prepare a preliminary re-assessment upon the property included therein within a time to be fixed by said resolution. Upon the passage of such resolution the recorder shall, as soon thereafter as such re-assessment is prepared, forthwith mail to the owner of each lot or part thereof, or tract of land, affected by such assessment, or to his agent, a notice of such assessment, stating therein the time when the council will hear and consider objections to said assessment by parties aggrieved thereby, and warning such persons not to depart until such re-assessment has been completed, if the post office address of either such owner or his agent be known to the recorder, and if such post office address be unknown, then such notice shall be directed to such owners or agents at Jacksonville, Oregon. And in addition to this notice the recorder shall also publish or post such notice as provided in Section 113 upon the original assessment. The owner or owners of any property which is assessed on such assessment, or any person having an interest therein, may within ten days from the date of the notice herein provided, file with the recorder their objections in writing to such assessment. At the time and place appointed in such notice the council shall hear and determine all objections that have been filed by the party in interest or that may be made at said time. The council shall have power to adjourn such hearing from time to time and shall have the power in its discretion to revise and correct, or to set aside and order the re-making of such assessment, and shall pass an ordinance approving and confirming such re-assessment as corrected, and re-made by it, and such decision shall be a final determination of the regularity, validity and correctness of the re-assessment, except as herein otherwise provided. When said re-assessment is completed and confirmed, it shall be entered in the docket of city liens and shall be enforced and collected in the same manner that other assessments for local improvements are enforced and collected under this charter and the laws governing the city. All sums paid upon the former assessment shall be credited to the property on account of which the same were paid, as of the date of such payment; and when it has been attempted to sell property for any assessment and such sale is found or declared void, upon the making of the re-assessment, the property shall be re-sold, and the proceeds of such sale shall be paid to the purchaser of the former void sale, or his assigns; but no proceedings shall be instituted for such re-assessment unless within ten years of the passage of the resolution of intention for making the original improvement.

Section 113-14 The docket of city liens is a public writing, and the original or certified copies of the matter authorized to be entered therein are entitled to the force and effect thereof; and from the date of the entry therein of an assessment on a lot, part thereof or parcel of land, the sum so entered is to be deemed a tax levied and a lien thereon, which lien shall have priority over all other liens or incumbrances thereon whatsoever. A sum of money assessed any local improvement hereunder cannot be collected until by order of the council two weeks notice thereof is given by the recorder in the same manner and for the same period of time as is prescribed in Section 98 in regard to notice of a proposed assessment.

Section 115. If within twenty days from the first publication of the said notice prescribed in Section 114, the sum assessed upon any lot or part thereof, or parcel of land is not wholly paid to the treasurer and a duplicated receipt therefor filed with the recorder, or the same is not bonded as provided by law, the council shall thereafter order a warrant for the collection of the same to be issued by the recorder, directed to the marshal.

Section 116. Such warrant must require the person to whom it is directed to forthwith levy upon the lot or part thereof, or parcel of land, upon which the assessment is unpaid and so delinquent and sell the same in the manner provided by law and to return the proceeds of such sale to the treasurer and the warrant, with his doings endorsed thereon, together with the receipt of the treasurer for the proceeds of such sale paid to him.

Section 117. Such warrant shall, for the purpose of making sale of said real property on which assessments are delinquent and unpaid, be deemed and held to have the force and effect of an execution against said real property for the amount of said assessments, interest, penalties and costs, and shall be executed in like manner, except as in this chapter otherwise provided.

Section 118. The marshal shall within 60 days from the receipt of said warrant sell the real property therein described and make due return of the same within said time. Such sales shall be at public auction, to the highest bidder for cash in hand, and shall take place at the front door of the building in which the council holds its sessions. The marshal shall give notice of such sales by publishing a notice thereof once a week for four consecutive weeks in a newspaper published in Jacksonville and by posting like notice in three public and conspicuous places in said city; such notice shall contain a description of the parcel or parcels of land to be sold, and upon which such assessments are delinquent, with the amount of the assessment, interest and cost to date of sale, including cost of advertising due upon each tract of land, together with the name of the owner or reputed owner thereof, or the words, "owner unknown," as the same may appear in said docket of city liens, and shall also specify the time and place of the sale, and that the parcel or parcels of land therein described will be sold to satisfy the assessment, interest and costs due upon each.

Section 119. All of said sales shall be made between the hours of nine o'clock a. m. and four o'clock p. m., and each tract of land shall be sold separately. If there be no bidder for any tract or parcel described in said warrant at a sum sufficient to pay the assessments thereon, with interests and costs, the marshal, if so directed by council, shall strike the same off to the City of Jacksonville for the wholt amount of said assessment, with interests and costs to the date of the sale.

Section 120. The marshal shall immediately after having sold any real property, by virtue of such warrant, make a certificate of sale of such property so sold, setting forth therein the object for which the sale was made, a description of the property sold, a statement of the amount it sold for, of the improvement for which the assessment was made, the year in which said assessment was levied and the amount of the same, the name of the purchaser and that the sale is made subject to redemption within three years from the date of the certificate, and then deliver such certificate to the purchaser. The owner or his successor in interest, or any person having a lien by judgment, decree, or mortgage on any property so sold, may redeem the same upon the conditions provided in the next section.

Section 121. Redemption of any real property sold for a delinquent or unpaid assessment under the provisions of this charter may be made by paying to the recorder at any time within three years from the date of the certificate of sale the purchase price and ten per cent thereof as penalty, and interest on the purchase price at the rate of 10 per cent per annum from the date of such certificate; provided, however, that if the redemption be made within three months from the date of sale, the penalty to be paid shall be five months. Such redemption shall discharge the property so sold from the effect of such sale; and, if made by a lien creditor, the amount paid for the redemption shall be thereafter deemed a part of his judgment, decree or mortgage, as the case may be, and shall bear like interest, and may be enforced and collected as a part thereof.

Section 122. After the expiration of three years from the date of such certificate, if no redemption shall have been made, the marshal shall execute to the purchaser, or his heirs or assigns, a deed of conveyance containing a description of the property sold, a statement of the amount bid, of the improvement for which the assessment was made, of the year in which the assessment was levied, that the assessment was unpaid at the time of the sale, and that no redemption has been made; and the effect of such deed shall be to convey to the grantee therein named the legal and equitable title in fee simple to the real property in such deed described; and such deed shall be prima facie evidence of the title in such grantee, and that all proceedings and acts necessary to make such deed in all respects good and valid have been had and done, and such prima facie evidence shall not be disputed, overcome or rebutted, or the effect thereof avoided except by satisfactory proof of either:

1. Fraud in making the assessment or in the collection of the same.
2. Payment of the assessment before sale, or redemption after sale.
3. That payment or redemption was prevented by fraud of the purchaser; or
4. That the property was sold for an assessment for which neither said property or the owner thereof at the time of sale was liable, and that no part of the assessment was assessed or levied upon the property sold.

Section 123. Every action, suit or proceeding which may be commenced for the recovery of land which shall have been sold by the marshal of the City of Jacksonville, for any assessment, except in cases where the assessments for which the land was sold have been paid before the sale, or the land redeemed as provided by law, shall be commenced within three years from the time of the recording the deed executed by the marshal.

Section 124. Whenever the owner or a majority of the owners of the property fronting on any portion of any street in the City of Jacksonville shall petition the council in writing to cause the said street to be sprinkled at the expense of the owners of the property fronting on said portion of said street, the council may, in its discretion, cause said street to be sprinkled either by acquiring the necessary equipment and causing its servants and employes to sprinkle said portion of said street or by entering into a contract with any other person or persons therefor, and may cause the cost thereof, including the reasonable value of the use of any equipment furnished by the city and the value of all water furnished by the city, to be assessed against the property fronting on said portion of said street in proportion to the respective frontage of said property on said portion of said street. The council may provide by ordinance for the manner of levying and collecting of such assessments.

Section 125. The council may provide by ordinance for the payment of any assessment or assessments levied or made in accordance with this chapter in installments and for the issuance of bonds for the unpaid assessments as provided in Chapter V of title XXVII of Bellinger and Cotton's Codes and Statutes of Oregon and all subsequent acts amendatory thereof as far as the same may be practicable; provided, however, that the council may determine what amount an owner of property must be assessed before he can take advantage of the payment of the assessment in installments.

CHAPTER XV.

Sidewalks.

Section 126. It is hereby made the duty of all owners of land adjoining any street, avenue, alley or other thoroughfare in the City of Jacksonville, to construct, re-construct and maintain in good repair a sidewalk or sidewalks in front of said lands.

Section 127. The city council shall have power and is hereby authorized, whenever it shall deem it proper, necessary, expedient or convenient for public welfare, to order the building, removing, laying, repairing, re-construction, cleaning or otherwise improving any and all sidewalks within the city, and to require the owners, agents and occupants of abutting property, upon the notice herein provided, to build, re-build, remove, lay, re-lay, repair, re-construct, clean or otherwise improve the same.

Section 128. Whenever any sidewalk shall have been ordered to be constructed, or any order made concerning the same, as in section 127 provided, the council shall prescribe in said order the material of which the sidewalk is to be constructed, the grade at which it is to be laid, its width and everything in particular requisite and necessary for an intelligent apprehension of the sidewalk required.

Section 129. Said order shall require that said sidewalk be so constructed within 30 days from the date of the date of the service of notice of said order as herein required. In computing said time where the service is by mailing or publication as herein provided the time shall begin to run from the date of mailing or the last publication of said notice.

Section 130. Notice of any order requiring any sidewalk to be constructed, or any order made concerning the same, as in section —— provided, shall be served upon the owner, agent or occupant of said property by delivering to such owner, agent or occupant a copy of said order certified to by the city recorder to be a full, true and correct copy of such order and which service shall be made by the city marshal and proof of such service shall be made by said marshal by filing with the recorder his certificate as such officer fully setting forth the acts of such service and which certificate shall be endorsed on or attached to a true copy of such notice served.

Section 131. If in any such case any such owner or agent, after due diligence cannot be found or is unknown, or such owner is a non-resident and has no known agent within the city, or the property or any parcel thereof is unoccupied, such owner may be notified by the publication of such notice in not less than two successive issues of a newspaper of general circulation within said city and therein published. And if the address of the owner of said property or his agent be known the city marshal shall also, if personal service be not had, deposit in the postoffice, directed to said owner or his agent, or both, at his or their place of residence, a copy of said notice certified to by the city recorder to be a true copy of said original. Proof of the publication of said notice shall be made in the same manner and by the same persons or officers that proof of like service of summons is made in the circuit court of the State of Oregon, provided, however, that the proof of the mailing of said notice shall be made by the city marshal endorsing upon or attaching to a true copy of said notice his certificate fully setting forth his acts in making such service. All proofs of service of the notice provided for in this chapter shall be filed with the recorder within ten days from the date of such service.

Section 132. If the owner, occupant or agent of any such land or part thereof shall fail, neglect or refuse to fully comply with said order within the time designated, the council shall immediately proceed to make or cause to be made, under the supervision of the city surveyor and street commissioner, all the repairs and construct all the sidewalks and every other matter or thing required in said order which the owner, agent or occupant of said property has failed, refused or neglected to do.

Section 133. The officers under whose supervision said sidewalks are constructed or repaired or otherwise improved shall keep an accurate account of the cost of labor and materials in making the repairs or constructing the sidewalk or otherwise improving the same in front of each lot, parcel of land or part thereof and upon the completion of such repair, construction or improvement such officer or officers shall file an itemized statement of the cost of labor and material required in constructing, repairing or otherwise improving the sidewalk in front of each lot, part thereof or parcel of land, together with the name of the owner, agent or occupant. Such report shall be duly verified by such officer or officers, filed with the recorder and by such officer submitted to the council. Upon the approval of this report by the council, either as submitted or as corrected or amended, the same shall become and be a lien upon such abutting property, and shall be entered by the recorder in the docket of city liens, and shall be collected in the same manner as are liens for improvements.

Section 134. In case any sidewalk for any reason becomes impassable or dangerous, or shall become so obstructed by snow, ice, mud or other substance, or in any other manner so as to be deemed unsafe or inconvenient for use, the council, street committee, or street commissioner may immediately remove any such obstruction, make any such repair or improve the same in any way it or they may deem necessary at the expense of the