

TOWNSHIP OF TILDEN
MARQUETTE COUNTY, MICHIGAN
ORDINANCE NO. 12

AN ORDINANCE TO PROVIDE FOR THE ACQUISITION, CONSTRUCTION, AND EQUIPPING OF IMPROVEMENTS TO THE WATER SUPPLY SYSTEM OF THE TOWNSHIP OF TILDEN; TO PROVIDE FOR THE ISSUANCE AND SALE OF REVENUE BONDS TO PAY THE COST THEREOF; TO PRESCRIBE THE FORM OF THE BONDS; TO PROVIDE FOR THE COLLECTION OF REVENUES FROM THE SYSTEM SUFFICIENT FOR THE PURPOSE OF PAYING THE COSTS OF OPERATION AND MAINTENANCE OF THE SYSTEM AND TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS; TO PROVIDE A RESERVE FUND FOR THE BONDS; TO PROVIDE FOR THE SEGREGATION AND DISTRIBUTION OF THE REVENUES; TO PROVIDE FOR THE RIGHTS OF THE HOLDERS OF THE BONDS IN ENFORCEMENT THEREOF; AND TO PROVIDE FOR OTHER MATTERS RELATING TO THE BONDS AND THE SYSTEM.

THE TOWNSHIP OF TILDEN ORDAINS:

SECTION 1. DEFINITIONS. The following words and terms used in this Ordinance shall have the meanings assigned in the preamble to this Ordinance and in this Section, unless the context clearly indicates otherwise.

The word "acquired," as used in this Ordinance, shall be construed to include acquisition by purchase, construction or by any other method.

"Act 94" shall mean Act 94, Public Acts of Michigan, 1933, as amended.

"Bond" shall mean the 2004 Water Supply System Revenue Bond, in the principal amount of \$540,000 authorized to be issued pursuant to Sections 4 and 5 of this Ordinance, together with any additional bond of equal standing hereafter issued.

"Bond Reserve Account" shall mean the subaccount in the Bond and Interest Redemption Account established in accordance with Section 12 of this Ordinance.

"Department of Treasury" shall mean the Department of Treasury of the State of Michigan.

"Depository Bank" shall mean The Peninsula Bank in Ishpeming, Michigan, a member of the Federal Deposit Insurance Corporation, or other financial institution qualified to serve as depository bank and designated by resolution of the Issuer.

"Engineer" shall mean ECI, Ishpeming, Michigan.

"Fiscal Year" shall mean the fiscal year of the Issuer and the operating year of the System, commencing April 1 and ending March 31 of the subsequent year, as such year may be changed from time to time.

"Government" shall mean the government of the United States of America or any agency thereof.

"Issuer" shall mean the Township of Tilden, County of Marquette, State of Michigan.

"Ordinance" shall mean this Ordinance and any ordinance or resolution of the Issuer amendatory or supplemental to this Ordinance, including ordinances or resolutions authorizing issuance of Additional Bonds.

"Project" shall mean the acquisition, construction, furnishing and equipping of improvements to the existing Water Supply System, consisting generally of replacement of water lines, water tower and pumps and construction of a water treatment facility together with related sites, structures, equipment and appurtenances.

"Public improvements" shall mean with respect to the Bond the lesser of (1) the maximum annual debt service due on the Bond in the current or any future year, (2) 125% of the average annual debt service of the Bond, or (3) 10% of the principal amount of the Bond on the date of issuance of the Bond.

"Revenues" and "Net Revenues" shall mean the revenues and net revenues of the Issuer derived from the operation of the System and shall be construed as defined in Section 3 of Act 94, including with respect to "Revenues," the earnings derived from the investment of moneys in the various funds and accounts established by this Ordinance.

"System" shall mean the Issuer's Water Supply System, including such facilities thereof as are now existing, are acquired and constructed as the Project, and all enlargements, extensions, repairs, and improvements thereto hereafter made.

"Township" shall mean the Township of Tilden, County of Marquette, State of Michigan.

"Transfer Agent" shall mean the transfer agent and bond registrar for the Bond as appointed from time to time by the Issuer as provided in Section 6 of this Ordinance and who or which shall carry out the duties and responsibilities as set forth in Sections 6 and 7 of this Ordinance.

SECTION 2. NECESSITY; APPROVAL OF PLANS AND SPECIFICATIONS. It is hereby determined to be a necessary public purpose of the Issuer to acquire and construct the Project in accordance with detailed maps, plans and specifications therefor prepared by the Engineer, which maps, plans and specifications are hereby approved.

SECTION 3. COSTS; USEFUL LIFE. The total cost of the Project is estimated to be Two Million One Hundred Fifty-Seven Thousand Dollars (\$2,157,000) including the payment of incidental expenses as specified in Section 4 of this Ordinance, which estimate of cost is hereby approved and confirmed, and the period of usefulness of the Project is estimated to be forty (40) years.

SECTION 4. PAYMENT OF COST; BOND AUTHORIZED. To pay part of the cost of constructing the Project and legal, engineering, financial expenses incident to said construction and incident to the issuance and sale of the Bond, it is hereby determined that the Issuer borrow the sum of not to exceed Five Hundred Forty Thousand Dollars (\$540,000) and that revenue bonds be issued therefor pursuant to the provisions of Act 94. The remaining cost of the Project will be paid from grant funds.

SECTION 5. BOND DETAILS, REGISTRATION AND EXECUTION. The Bond shall be designated 2004 WATER SUPPLY SYSTEM REVENUE BOND, shall be dated as of the date of delivery of the first installment, shall consist of one (1) single fully registered nonconvertible bond of the denomination of \$540,000 and shall be payable in principal installments serially on August 1 of each year, as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2005	\$ 5,000	2025	\$12,000
2006	6,000	2026	13,000
2007	6,000	2027	13,000
2008	6,000	2028	14,000
2009	6,000	2029	14,000
2010	7,000	2030	15,000
2011	7,000	2031	16,000
2012	7,000	2032	16,000
2013	7,000	2033	17,000
2014	8,000	2034	18,000
2015	8,000	2035	19,000
2016	8,000	2036	19,000
2017	9,000	2037	20,000
2018	9,000	2038	21,000
2019	10,000	2039	22,000
2020	10,000	2040	23,000
2021	10,000	2041	24,000
2022	11,000	2042	25,000
2023	11,000	2043	26,000
2024	12,000	2044	30,000

The Bond is expected to be delivered to the Government as initial purchaser thereof in installments (the "delivery installments"), and each delivery installment shall be noted on the registration grid set forth on the Bond. The delivery installments shall be deemed to correspond to the serial principal installments of the Bond in direct chronological order of said serial principal installments.

The serial principal installments of the Bond will bear interest from the date of delivery of the corresponding delivery installment to the registered holder thereof as shown on the registration grid set forth on the Bond at the rate of not to exceed four and one-quarter percent (4.25%) per annum, payable on the first February 1 or August 1 following the date of delivery of said delivery installment, and semiannually thereafter on February 1 and August 1 of each year until maturity or earlier prepayment of

said installment. Acceptance of the interest rate on the Bond shall be made by execution of the Bond which so designates the rate specified by the Government and accepted in writing by the Issuer. The Bond shall be issued in fully registered form and shall not be convertible or exchangeable into more than one fully registered bond.

The Bond or installments thereof will be subject to prepayment prior to maturity in the manner and at the times as provided in the form of the Bond set forth in Section 9 of this Ordinance.

SECTION 6. BOND REGISTRATION AND TRANSFER. The Transfer Agent shall keep or cause to be kept at its principal office sufficient books for the registration and transfer of the Bond, which shall at all times be open to inspection by the Issuer. The Transfer Agent shall transfer or cause to be transferred on said books Bond presented for transfer, as hereinafter provided and subject to such reasonable regulations as it may prescribe.

Any Bond may be transferred upon the books required to be kept by the Transfer Agent pursuant to this Section, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Bond for transfer, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the Transfer Agent. Whenever any Bond shall be surrendered for transfer, the Transfer Agent shall record such transfer on the registration books and shall register such transfer on the registration grid attached to the Bond. At the time of such transfer, the Transfer Agent shall note on the Bond the outstanding principal amount thereof at the time of such transfer. The Transfer Agent shall require the payment by the bondholder requesting the transfer of any tax or other governmental charge required to be paid with respect to the transfer. The Issuer shall not be required (i) to issue, register the transfer of, or exchange any Bond during a period beginning at the opening of business fifteen days before the day of the mailing of a notice of prepayment of Bond or installments thereof selected for redemption and ending at the close of business on the day of that mailing, or (ii) to register the transfer of or exchange any Bond or portion thereof so selected for prepayment. In the event any Bond is called for prepayment in part, the Transfer Agent, upon surrender of the Bond, shall note on the Bond the principal amount prepaid and shall return the Bond to the registered owner thereof, together with the prepayment amount on the prepayment date.

The Issuer's Treasurer is hereby appointed to act as Transfer Agent with respect to the Bond. If and at such time as the Bond is transferred to or held by any registered owner other than the Government, the Issuer by resolution may appoint a bank or trust company qualified under Michigan law to act as paying agent, transfer agent and bond registrar, and the Issuer may thereafter appoint a successor Transfer Agent upon sixty (60) days' notice to the registered owner of the Bond.

SECTION 7. PAYMENT OF THE BOND. Principal of and interest on the Bond shall be payable in lawful money of the United States of America by check or draft mailed by the Transfer Agent to the registered owner at the address of the registered owner as shown on the registration books of the Issuer kept by the Transfer Agent. If the Government shall no longer be the registered owner of the Bond, then the principal of and interest on the Bond shall be payable to the registered owner of record as of the fifteenth day of the month preceding the payment date by check or draft mailed to the registered owner at the registered address. Such date of determination of the registered owner for purposes of payment of principal or interest may be changed by the Issuer to conform to future market practice. The Issuer's Treasurer is hereby authorized to execute an agreement with any successor Transfer Agent.

The Transfer Agent shall record on the registration books the payment by the Issuer of each installment of principal or interest or both on the Bond when made and the canceled checks or drafts representing such payments shall be returned to and retained by the Issuer's treasurer, which canceled checks or drafts shall be conclusive evidence of such payments and the obligation of the Issuer with respect to such payments shall be discharged to the extent of such payments.

Upon payment by the Issuer of all outstanding principal of and interest on the Bond, the registered owner thereof shall deliver the Bond to the Issuer for cancellation.

SECTION 8. EXECUTION, SALE AND DELIVERY OF THE BOND. The Bond shall be manually signed by the Supervisor and countersigned by the Township Clerk and shall have the corporate seal of the Issuer impressed thereon. After execution, the Bond shall be held by the Issuer's Treasurer for delivery to the Government. No Bond or any installment thereof shall be valid until registered by the Issuer's Treasurer or by another person designated in writing by the Issuer's Treasurer to act as Bond Registrar, or upon transfer by the Government and thereafter, by an authorized representative of the Transfer Agent.

The Issuer has been authorized and has made application to the Department of Treasury for authority to issue and sell the Bond. Upon receipt of said approval, the Issuer's Supervisor or Township Clerk is hereby authorized and directed to negotiate privately the sale of the Bond to the Government at an interest rate not to exceed four and one-quarter percent (4.25%) per annum.

The sale of the Bond to the Government at an interest rate of not to exceed four and one-quarter percent (4.25%) per annum and at the par value thereof is hereby approved. The Issuer's Treasurer is hereby authorized to deliver the Bond in accordance with the delivery instructions of the Government, after approval of the issuance and sale thereof by the Department of Treasury, if such approval is at that time required, or receipt of an order providing exception of the Department of Treasury or expiration of the notice period without receipt of an order of denial of the Department of Treasury.

SECTION 9. BOND FORM. The form and tenor of the Bond shall be substantially as follows:

REGISTERED

UNITED STATES OF AMERICA
STATE OF MICHIGAN
COUNTY OF MARQUETTE

TOWNSHIP OF TILDEN
2004 WATER SUPPLY SYSTEM REVENUE BOND

No. R-1

\$540,000

The Township of Tilden, County of Marquette, State of Michigan (the "Issuer"), for value received, hereby promises to pay to the registered owner hereof, but only out of the hereinafter described Net Revenues of the Issuer's Water Supply System including all appurtenances, additions, extensions and improvements thereto (the "System"), the sum of:

Five Hundred Forty Thousand Dollars

on the dates and in the principal installment amounts set forth in Exhibit A attached hereto and made a part hereof with interest on said installments from the date each installment is delivered to the Issuer and as set forth on the registration grid hereon until paid at the rate of ____ and ____ percent (____%) per annum, first payable on _____, 1, 2005, and semiannually thereafter; provided that the principal repayments required herein to the registered owner shall not exceed the total of the principal installments set forth on the registration grid hereon from time to time hereafter to acknowledge receipt of payment of the purchase price of this bond up to a total of \$540,000. Both principal of and interest on this Bond is payable in lawful money of the United States of America to the registered owner at the address shown on the Issuer's registration books by check or draft mailed to the registered holder at the address shown on the registration books of the Issuer, and for the prompt payment thereof, the revenues of the System, after provision has been made for reasonable and necessary expenses of operation, administration and maintenance thereof (the "Net Revenues"), are hereby irrevocably pledged and a statutory lien thereon is hereby recognized and created.

This bond is a single, fully registered, non-convertible bond constituting a series that is part of an issue in the total aggregate principal sum of \$540,000, issued pursuant to Ordinance No. 19 (the "Ordinance") duly adopted by the Issuer on July 20, 2004 and under and in full compliance with the Constitution and statutes of the State of Michigan, including specifically Act 94, Public Acts of Michigan, 1933, as amended, for the purpose of the acquisition, construction, furnishing and equipping of improvements to the existing Water Supply System, consisting generally of replacement of water lines, water tower and pumps and a water treatment facility, together with related sites, structures, equipment and appurtenances. For a complete statement of the revenues from which, and the conditions under which, this bond is payable, a statement of the conditions under which the additional bonds of equal standing may hereafter be issued, and the general covenants and provisions pursuant to which this bond is issued, reference is made to the Ordinance.

This bond is a self-liquidating bond payable as to principal and interest, from the Net Revenues of the System. The principal of and interest on this Bond is secured by the statutory lien hereinbefore mentioned.

Principal installments of this Bond is subject to prepayment prior to maturity, in inverse chronological order, at the Issuer's option, on any payment date on or after August 1, 2005, at par and accrued interest to the date fixed for prepayment.

Thirty days' notice of the call of any principal installments for prepayment shall be given by mail to the registered owner at the registered address. The principal installments so called for prepayment shall not bear interest after the date fixed for prepayment, provided funds are on hand to prepay said installments.

This bond shall be registered as to principal and interest on the books of the Issuer kept by the Issuer's Treasurer or successor or written designee as bond registrar and transfer agent (the "Transfer Agent") and noted hereon, after which it shall be transferable only upon presentation to the Transfer Agent with a written transfer by the registered owner or other registered owner's attorney in fact. Such transfer shall be noted hereon and upon the books of the Issuer kept for that purpose by the Transfer Agent.

The Issuer has covenanted and agreed and does hereby covenant and agree to fix and maintain at all times while any bonds including any installments of this bond payable from the Net Revenues of the System shall be outstanding, such rates for service furnished by the System as shall be sufficient to provide for payment of the interest upon and the principal of this bond and any additional bonds of equal standing payable from the Net Revenues of the System as and when the same become due and payable, and to create a Bond and Interest Redemption Account (including a bond reserve account) therefor, to provide for the payment of expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the same in good repair and working order, and to provide for such other expenditures and funds for the System as are required by the Ordinance.

It is hereby certified and recited that all acts, conditions and things required by law to be done precedent to and in the issuance of this bond and the series of which it is one have been done and performed in regular and due time and form as required by law.

IN WITNESS WHEREOF, the Township of Tilden, County of Marquette, State of Michigan, by its Township Board, has caused this Bond to be signed in its name by its Supervisor and to be countersigned by its Township Clerk, and its corporate seal to be hereunto affixed, all as of July 20, 2004.

REGISTRATION
NOTHING TO BE WRITTEN HEREON EXCEPT
BY THE REGISTRAR/TRANSFER AGENT

[illegible]

EXHIBIT A

August 1		August 1	
<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2005	\$ 5,000	2025	\$12,000
2006	6,000	2026	13,000
2007	6,000	2027	13,000
2008	6,000	2028	14,000
2009	6,000	2029	14,000
2010	7,000	2030	15,000
2011	7,000	2031	16,000
2012	7,000	2032	16,000
2013	7,000	2033	17,000
2014	8,000	2034	18,000
2015	8,000	2035	19,000
2016	8,000	2036	19,000
2017	9,000	2037	20,000
2018	9,000	2038	21,000
2019	10,000	2039	22,000
2020	10,000	2040	23,000
2021	10,000	2041	24,000
2022	11,000	2042	25,000
2023	11,000	2043	26,000
2024	12,000	2044	30,000

SECTION 10. SECURITY FOR BOND. To pay the principal of and interest on the Bond as and when the same shall become due, there is hereby created a statutory lien upon the whole of the Net Revenues of the System to continue until the payment in full of the principal of and interest on the Bond and said Net Revenues shall be set aside for the purpose and identified as the Bond and Interest Redemption Account, as hereinafter specified.

SECTION 11. BUDGET. Immediately upon the effective date of this Ordinance for the remainder of the current Fiscal Year, and thereafter prior to the beginning of each Fiscal Year, the Issuer shall prepare an annual budget for the System for the ensuing Fiscal Year itemized on the basis of monthly requirements. A copy of such budget shall be mailed to the Government without request from the Government for review prior to adoption (as long as the Government is the registered owner of any of the Bond), and upon written request to any other registered owners of the Bond.

SECTION 12. CUSTODIAN OF FUNDS; FUNDS. The Issuer's Treasurer shall be custodian of all funds belonging to or associated with the System and such funds shall be deposited in the Depository Bank. The Issuer's Treasurer shall execute a fidelity bond with a surety company in an amount at least equal to the maximum annual debt service for the Bond.

The Issuer's Treasurer is hereby directed to create and maintain the following funds and accounts into which the proceeds of the Bond and the Revenues from the System shall be deposited in the manner and at the times provided in this Ordinance, which funds and accounts shall be established and maintained, except as otherwise provided, so long as the Bond hereby authorized remains unpaid.

(A) **CONSTRUCTION ACCOUNT.** There shall be created the WATER SUPPLY SYSTEM PROJECT CONSTRUCTION ACCOUNT (the "Construction Account"), in the Depository Bank. The proceeds of the Bond shall be deposited in the Construction Account. Moneys in the Construction Account shall be used solely for the purposes for which the Bond is issued. If grant funds or monies other than proceeds of the Bond are deposited into the Construction Account, then the monies constituting proceeds of the Bond shall be accounted separately from such other funds or monies.

Any unexpended balance of the proceeds of sale of the Bond remaining after completion of the Project herein authorized may in the discretion of the Issuer be used for further improvements, enlargements and extensions to the System, provided that at the time of such expenditure such use be approved by the Department of Treasury (if such approval is then required by law). Any remaining balance after such expenditure shall be paid into the Bond and Interest Redemption Account and used as soon as is practical for the prepayment of installments of the Bond or for the purchase of installments to the Bond at not more than the fair market value thereof. Following completion of the Project, any unexpended balance of the Bond shall be invested at a yield not to exceed the yield on the Bond.

After completion of the Project and disposition of remaining proceeds, if any, of the Bond pursuant to the provisions of this Section, the Construction Account shall be closed.

(B) **WATER SUPPLY SYSTEM RECEIVING FUND.** Upon and after the effective date of this Ordinance, the Revenues of the System shall be set aside into a separate fund to be designated the WATER SUPPLY SYSTEM RECEIVING FUND (the "Receiving Fund"), and moneys so deposited therein shall be transferred, expended and used only in the manner and order as follows:

(1) **Operation and Maintenance Account.** There is hereby established a separate account to be designated the OPERATION AND MAINTENANCE ACCOUNT (the "Operation and Maintenance Account"). Revenues shall be transferred on the first business day of each quarter of the Fiscal Year, commencing on the date of delivery of the first installment of the Bond, from the Receiving Fund to the Operation and Maintenance Account to pay the reasonable and necessary current expenses of administration and operating and maintaining the System for the ensuing quarter.

(2) **Water Supply System Revenue Bond – Bond and Interest Redemption Account.** There is hereby established a separate account to be designated as the 2004 WATER SUPPLY SYSTEM REVENUE BOND – BOND AND INTEREST REDEMPTION ACCOUNT (the "Bond and Interest Redemption Account"). After the transfer required in (1) above, Revenues shall be transferred on the date of delivery of the first installment of the Bond and on the first business day of each quarter of the Fiscal Year thereafter from the Receiving Fund, before any other expenditures or transfer therefrom, and deposited in

the Bond and Interest Redemption Account for payment of principal of and interest on the Bond and to fund the Bond Reserve Account.

Upon any delivery of an installment of the Bond on or after August 1, 2004, there shall be set aside at the time of such delivery and on the first day of each quarter of the Fiscal Year thereafter to the next principal payment date an amount equal to that fraction of the amount of principal due on the next principal payment date on said installment so delivered, the numerator of which is 1 and the denominator of which is the number of full and partial Fiscal Year quarters from the date of said delivery to the next principal payment date. There shall also be set aside on the first business day of each Fiscal Year quarter on or after October 1, 2005, an amount not less than $\frac{1}{4}$ of the amount of principal due on the next principal payment date. Except as hereinafter provided, no further deposits shall be made into the Bond and Interest Redemption Account (excluding the Bond Reserve Account) once the aforesaid sums have been deposited therein. Any amount on deposit in the Bond and Interest Redemption Account (excluding the Bond Reserve Account) in excess of (a) the amount needed for payment of principal installments of the Bond for the then current principal payment period, plus (b) interest on the Bond for the then current interest payment period, shall be used by the Issuer for redemption of principal installments of the Bond in the manner set forth in Section 10 hereof, or if such use is impracticable, shall be deposited in or credited to the Receiving Fund.

If for any reason there is a failure to make such quarterly deposit in the amounts required, then the entire amount of the deficiency shall be set aside and deposited in the Bond and Interest Redemption Account out of the Revenues first received thereafter which are not required by this Ordinance to be deposited in the Operation and Maintenance Account or in the Bond and Interest Redemption Account, which amount shall be in addition to the regular quarterly deposit required during such succeeding quarter or quarters.

There is hereby established in the Bond and Interest Redemption Account a separate account to be designated the 2004 WATER SUPPLY SYSTEM REVENUE BOND RESERVE ACCOUNT (the "Bond Reserve Account"). Commencing October 1, 2004, there shall be withdrawn from the Receiving Fund at the beginning of each Fiscal Year quarter and set aside in and transferred to the Bond Reserve Account, after provision has been made for the Operation and Maintenance Account and the current requirements of the Bond and Interest Redemption Account, the sum of at least \$725.00 per quarter (\$2,900 annually), until there is accumulated in such fund the sum of the lesser of \$29,000 or the Reserve Amount. Except as hereinafter provided, no further deposits shall be made into the Bond and Interest Redemption Account for the purposes of the Bond Reserve Account once the sum of the lesser of \$29,000 or the Reserve Amount has been deposited therein. The moneys in the Bond Reserve Account shall be used solely for the payment of the principal installments of and interest on the Bond as to which there would otherwise be default; provided, however, that in the even the amount on deposit in the Bond Reserve Account exceeds the Reserve Amount, the moneys in excess of the Reserve Amount shall be used to pay principal installment of and interest on the Bond on the next payment date.

If at any time it shall be necessary to use moneys in the Bond Reserve Account for such payment, then the moneys so used shall be replaced from the Net Revenues first received thereafter which are not required by this Ordinance to be used for operation and maintenance or for current principal and interest requirements for the Bond.

No further payments need be made into the Bond and Interest Redemption Account after enough of the principal installments of the Bond have been retired so that the amount then held in the Bond and Interest Redemption Account (including the Bond Reserve Account), is equal to the entire amount of principal and interest which will be payable at the time of maturity of all the principal installments of the Bond then remaining outstanding.

The moneys in the Bond and Interest Redemption Account and the Bond Reserve Account shall be invested in accordance with Section 13 of this Ordinance, and profit realized or income earned on such investment shall be used or transferred as provided in Section 13 of this Ordinance.

(3) Repair, Replacement and Improvement Account. There is hereby established a separate fund designated REPAIR, REPLACEMENT AND IMPROVEMENT ACCOUNT (the "RRI Account"). After the transfers required in (1) and (2) above, commencing October 1, 2004, revenues shall be transferred each quarter of the Fiscal Year from the Receiving Fund and deposited in the RRI Account in an amount not less than \$3,100, less the amount, if any, deposited in the Bond Reserve Account at the beginning of the same Fiscal Year quarter that is specified for the Bond. Moneys in the RRI Account shall be used and disbursed only for the purpose of paying the cost of (a) repairing any damage to and emergency maintenance of the System, (b) repairing or replacing obsolete, deteriorating, deteriorated or worn out portions of the System, (c) acquiring and constructing extensions and improvement to the System, and (3) when necessary, for the purpose of making payments of principal and interest on the Bond. If the amount in the Bond and Interest Redemption Account and the Bond Reserve Account is not sufficient to pay the principal of and interest on the Bond when due, the moneys in the RRI Account shall be transferred to the Bond and Interest Redemption Account and used for that purpose. Moneys in the RRI Account may be invested in accordance with Section 13 of this Ordinance.

(4) Reverse Flow of Funds; Surplus Money. In the event the moneys in the Receiving Fund are insufficient to provide for the current requirements of the Operation and Maintenance Account, the Bond and Interest Redemption Account (including the Bond Reserve Account), the RRI Account, any moneys and/or securities in the funds of the System described by this Ordinance shall be transferred, first, to the Operation and Maintenance Account, second, the Bond and Interest Redemption Account, third, to the RRI Account.

(5) All moneys remaining in the Receiving Fund at the end of any Fiscal Year after satisfying the above requirements for the deposit of moneys into the Operation and Maintenance Account, the Bond and Interest Redemption Account and the RRI Account may be transferred to the Bond and Interest Redemption Account and used to call the Bond or portions thereof for redemption, or at the option of the Issuer, transferred to the RRI Account and used for the purpose for which the funds were established; provided, however, that if there should be a deficit in the Operation and Maintenance Account, the Bond and Interest Redemption Account, the Bond Reserve Account or the RRI Account, on account of defaults in setting aside therein the amounts hereinbefore required, then transfers shall be made from such moneys remaining in the Receiving Fund to such funds in the priority and order named in this Section, to the extent of such deficits.

SECTION 13. INVESTMENTS. Moneys in the funds and accounts established herein and moneys derived from the proceeds of sale of the Bond may be invested by the legislative body of the Issuer on behalf of the Issuer in the obligations and instruments permitted for investment by Section 24 of Act 94, as the same may be amended from time to time; provided, however, that as long as the Bond is held by the Government, then the investment may be limited to the obligations and instruments authorized by the Government. Investment of moneys in the Bond and Interest Redemption Account being accumulated for payment on the next maturing principal or interest payment on the Bond shall be limited to libations and instruments bearing maturity dates prior to the date of the next maturing principal or interest payment on the Bond. Investment of moneys in the Bond Reserve Account shall be limited to Government obligations and instruments bearing maturity dates or subject to redemption, at the option of the holder thereof, not later than five (5) years from the date of the investment. In the event investments are made, any securities representing the same shall be kept on deposit with the Depository Bank. Interest income earned on investment of funds in the Receiving Fund, the Operation and Maintenance Account, the Bond and Interest Redemption Account (including the Bond Reserve Account) and the RRI Account shall be deposited in or credited to the Receiving Fund. Interest income earned on the investment of funds in the Bond Reserve Account shall be deposited in the Bond and Interest Redemption Account.

SECTION 14. RATES AND CHARGES. Rates and charges for the services of the System have been fixed pursuant to ordinance in an amount sufficient to pay the costs of operating, maintaining and administering the System, to pay the principal of and interest on the Bond and to meet the requirements for repair, replacement, reconstruction and improvement and all other requirements provided herein, and otherwise comply with the covenants herein provided. The Issuer hereby covenants and agrees to fix and maintain at all times while any of the Bond shall be outstanding such rates for service furnished by the System as shall be sufficient to provide for the foregoing expenses, requirements and covenants, and to create a Bond and Interest Redemption Account (including a bond reserve account) for all such Bond. The rates and charges for all services and facilities rendered by the System shall be reasonable and just,

taking into consideration the cost and value of the System and the cost of maintaining, repairing, and operating the same and the amounts necessary for the retirement of all of the Bond and accruing interest on all of the Bond, and there shall be charged such rates and charges as shall be adequate to meet the requirements of this Section and Section 12 of this Ordinance.

SECTION 15. NO FREE SERVICE. No free service shall be furnished by the System to any individual, firm or corporation, public or private or to any public agency or instrumentality.

SECTION 16. COVENANTS. The Issuer covenants and agrees, so long as any of the Bond hereby authorized remains unpaid, as follows:

- a. It will comply with applicable state laws and regulations and continually operate and maintain the System in good condition.
- b.
 - (i) It will maintain complete books and records relating to the operation and financial affairs of the System. If the Government is the holder of any of the Bond, the Government shall have the right to inspect the System and the records, accounts, and data relating thereto at all reasonable times.
 - (ii) It will file with the Department of Treasury and Government each year, as soon as is possible, but not later than ninety (90) days after the close of the Fiscal Year, a report, on forms prepared by the Department of Treasury, made in accordance with the accounting method of the Issuer, completely setting forth the financial operation of such Fiscal Year.
 - (iii) It will cause an annual audit of such books of record and account for the preceding Fiscal Year to be made each year by a recognized independent certified public accountant, and will cause such accountant to mail a copy of such audit to the Government, without request of the Government, or to the manager of the syndicate or account purchasing any series of the Bond. Such audit shall be completed and so made available not later than ninety (90) days after the close of the Fiscal Year, and said audit may, at the option of the Issuer, be used in lieu of the statement on forms prepared by the Department of Treasury and all purposes for which said forms are required to be used by this Ordinance.
- c. It will maintain and carry, for the benefit of the holders of the Bond, insurance on all physical properties of the System, of the kinds and in the amounts normally carried by municipalities engaged in the operation of similar systems. So long as the Government is holder of any of the Bond, the amount of said insurance shall be approved by the Government. All moneys received for losses under any such insurance policies shall be applied solely to the replacement and restoration of the property damaged or destroyed, and to the extent not so used, shall be used for the purpose of calling Bond.
- d. So long as the Government is the holder of any of the Bond, it will not borrow any money from any source or enter into any contract or agreement to incur any other liabilities that may in any way be a lien upon the Revenues or otherwise encumber the System so as to impair Revenues therefrom, without obtaining the prior written consent of the Government, nor shall it transfer or use any portion of the Revenues derived in the operation of the System for any purpose not herein specifically authorized.
- e. So long as the Government is the holder of any of the Bond, it will not voluntarily dispose of or transfer its title to the System or any part thereof, including lands and interest in land, sale, mortgage, lease or other encumbrances, without obtaining the prior written consent of the Government.
- f. So long as the Government is the holder of any of the Bond, any extensions to or improvements of the System shall be made according to sound engineering principles, and specifications shall be submitted to the Government for prior review.
- g. To the extent permitted by law, it shall take all actions within its control necessary to maintain the exclusion of the interest on the Bond from adjusted gross income for general federal income tax purposes under the Internal Revenue Code of 1986, as amended, including but not limited to actions relating to the rebate of arbitrage earnings, if applicable, and the expenditure and investment of proceeds of the Bond and moneys deemed to be proceeds of the Bond.

SECTION 17. ADDITIONAL BONDS. The Issuer may issue additional bonds of equal standing with the Bond for the following purposes and on the following conditions:

- a. To complete the construction of the Project according to the plans referred to in Sec. 1.
- b. For the purpose of making reasonable replacement or extension of the System or refunding all or part of the Bond if:
 - (i) The augmented net revenues of the System for the Fiscal Year preceding the year in which such additional bond is to be issued were 100 percent of the average annual debt service requirements on all Bond then outstanding and those proposed to be issued net of any bond to be refunded by the new issue; or
 - (ii) The holders of at least 75 percent of the then outstanding bonds consent to such issue in writing.

For purposes of this Section, the term "augmented net revenues" shall mean the Net Revenues of the System for a year, adjusted to reflect the effect of any rate increase placed in effect during that year (but not in effect for the whole year), placed in effect subsequent to the year or scheduled, at the time the new bond is authorized, to be placed in effect before principal of and interest on the new bond becomes payable from Revenues of the System, and augmented by any increase in Revenues or decrease in expenses estimated to accrue from the improvements to be acquired from the new bond. The adjustments and augmentations provided for in the preceding sentence shall be established by certificate of an independent consulting engineer filed with the Township Clerk of the Issuer. If a new bond is issued within 4 months of the end of a Fiscal Year, the determination made in subsection(b)(i) of this Section may be based upon the results of a Fiscal Year ending within 16 months of the date of issuance of the new bond.

The funds herein established shall be applied to all additional bonds issued pursuant to this Section as if said additional bonds were part of the original bond issue, and all Revenue from any such extension or replacement constructed by the proceeds of an additional bond issue shall be paid to the Receiving Fund mentioned in this Ordinance.

Except as otherwise specifically provided, so long as any such Bond herein authorized are outstanding, no additional bonds or other obligations pledging any portion of the Revenues of the System shall be incurred or issued by the Issuer unless the same shall be junior and subordinate in all respects to the Bond herein authorized.

SECTION 18. ORDINANCE SHALL CONSTITUTE CONTRACT. The provisions of this Ordinance shall constitute a contract between the Issuer and the bondholders and after the issuance of the Bond, this Ordinance shall not be repealed or amended in any respect which will adversely affect the rights and interests of the holders, nor shall the Issuer adopt any law, ordinance or resolution in any way adversely affecting the rights or the holders so long as the Bond or interest thereon remains unpaid.

SECTION 19. REFUNDING OF BOND. If at any time it shall appear to the Government that the Issuer is able to refund upon call for redemption or with consent of the Government the then outstanding Bond by obtaining a loan for such purposes from responsible cooperative or private credit sources at reasonable rates and terms for loans for similar purposes and periods of time, the Issuer will, upon request of the Government, apply for and accept such loan in sufficient amount to repay the Government, and will take all such actions as may be required in connection with such loans.

SECTION 20. DEFAULT OF ISSUER. If there shall be default in the Bond and Interest Redemption Account provisions of this Ordinance or in the payment of principal of or interest on any of the Bond, upon the filing of a suit by 20 percent or the holders of the Bond, any court having jurisdiction of the action may appoint a receiver to administer the System on behalf of the Issuer with power to charge and collect rates sufficient to provide for the payment of the Bond and for the payment of operation, maintenance and administrative expenses and to apply Revenues in accordance with this Ordinance and the laws of the State of Michigan.

The Issuer hereby agrees to transfer to any bona fide receiver or other subsequent operator of the System, pursuant to any valid court order in a proceeding brought to enforce collection or payment of the Issuer's obligations, all contracts and other rights of the Issuer, conditionally, for such time only as such receiver or operation shall operate by authority of the court.

The holders of 20 percent of the Bond in the event of default may require by mandatory injunction the raising of rates in a reasonable amount.

SECTION 21. ORDINANCE SUBJECT TO MICHIGAN LAW AND GOVERNMENT REGULATIONS. The provisions of this Ordinance are subject to the laws of the State of Michigan and to the present and future regulations of the Government not inconsistent with the express provisions hereof and Michigan law.

SECTION 22. FISCAL YEAR OF SYSTEM. The fiscal year for operating the System shall be the Fiscal Year.

SECTION 23. ISSUER SUBJECT TO LOAN RESOLUTION. So long as the Government is the holder of any of the Bond, the Issuer shall be subject to the loan resolution (RUS Bulletin 1780-27) and shall comply with all provisions thereof.

SECTION 24. COVENANT NOT TO DEFEASE. So long as the Government is the holder of any of the Bond, the Issuer covenants that it will not defease any of the Bond held by the Government.

SECTION 25. CONFLICT AND SEVERABILITY. All ordinances, resolutions and orders or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed, and each section of this Ordinance and each subdivision of any section hereof is hereby declared to be independent, and the finding or holding of any section or subdivision thereof to be invalid or void shall not be deemed or held to affect the validity of any other section or subdivision of this Ordinance.

SECTION 26. PARAGRAPH HEADINGS. The paragraph headings in this Ordinance are furnished for convenience of reference only and shall not be considered to be a part of this Ordinance.

SECTION 27. PUBLICATION AND RECORDATION. This Ordinance shall be published in full in *The Mining Journal*, Marquette, Michigan, a newspaper of general circulation in the Issuer, qualified under state law to publish legal notices, promptly after its adoption, and the same shall be recorded in the Ordinance Book of the Issuer and such recording authenticated by the signatures of the Supervisor and the Township Clerk.

SECTION 28. EFFECTIVE DATE. This Ordinance is hereby determined by the Township Board to be immediately necessary for the preservation of the peace, health and safety of the Issuer and shall be in full force and effect from and after its passage and publication as required by law.

Passed and adopted by the Township of Tilden, County of Marquette, State of Michigan, on July 20, 2004 and approved on July 20, 2004.