

CITY OF MUNISING  
WATER SUPPLY SYSTEM REVENUE BONDS ORDINANCE  
ORDINANCE NO. 1992-3

AN ORDINANCE AUTHORIZING THE ISSUANCE OF WATER SUPPLY SYSTEM REVENUE BONDS BY THE CITY OF MUNISING, COUNTY OF ALGER, STATE OF MICHIGAN, FOR THE PURPOSE OF CONSTRUCTING IMPROVEMENTS TO THE WATER SUPPLY SYSTEM FOR SAID CITY; PRESCRIBING THE FORM OF BONDS; PROVIDING FOR THE COLLECTION OF REVENUE FROM SAID SYSTEM SUFFICIENT FOR THE PURPOSE OF PAYING THE COSTS OF OPERATION AND MAINTENANCE THEREOF; PROVIDING FOR THE PAYMENT OF SAID BONDS; PROVIDING AN ADEQUATE RESERVE FUND THEREFOR; PROVIDING FOR THE SEGREGATION AND DISTRIBUTION OF SAID REVENUES; PROVIDING FOR THE RIGHTS OF THE HOLDERS OF SAID BONDS IN ENFORCEMENT THEREOF; AND PROVIDING FOR OTHER MATTERS RELATIVE TO SAID BONDS AND SAID SYSTEM.

THE CITY OF MUNISING 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.

"Additional Bonds" shall mean Bonds issued pursuant to Section 17, and subject to the terms, of this Ordinance.

"Bonds" shall mean the 1992 Series Bond and any Additional Bonds.

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

"Depository Bank" shall mean First Northern National, in Munising, Michigan, a member of the Federal Deposit Insurance Corporation, or any other financial institution qualified to serve as depository bank and designated by resolution of the City Commission of the City.

"Engineer" shall mean Traverse Engineering Services, P.C., consulting engineers of Hancock, Michigan.

"First Series Bond" shall mean the \$1,000,000 principal amount 1992 Water Supply System Revenue Bond authorized to be issued under Section 4 of this Ordinance.

"Fiscal Year" shall mean the fiscal year of the Issuer and the operating year of the System, commencing July 1 and ending June 30, as such year may be changed from time to time.

"FmHA" shall mean the Farmers Home Administration, an agency of the United States Department of Agriculture. Provisions herein referencing the FmHA shall be inapplicable in the event the First Series Bond is not sold to the FmHA and in the event the Government shall no longer be a holder of any of the Bonds.

"Government" shall mean the government of the United States of America.

"Issuer" or "City" or "City of Munising" shall mean the City of Munising, County of Alger, State of Michigan.

"Net Revenues" shall have the meaning with respect to the System as is set forth in Section 3 of Act 94.

"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 improvements to the water supply system consisting generally of the construction of a new pumphouse, well, storage reservoirs, pumps and transmission lines, and upgrades of pumps and equipment, together with the necessary appurtenances and attachments thereto.

The words "public improvements," as used in this Ordinance, shall be understood to mean the public improvements, as defined in Section 3 of Act 94, which are authorized to be acquired and constructed under the provisions of this Ordinance.

"Revenues" shall have the meaning with respect to the System as is set forth in Section 3 of Act 94, and shall include the earnings on the investment of funds of the System (including the Project).

"Second Series Bond" shall mean the \$105,000 principal amount 1992 Water Supply System Revenue Bond, Series II, of the Issuer authorized to be issued under Section 4 of this Ordinance.

"System" means 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.

"Transfer Agent" shall mean the transfer agent and bond registrar for each series of Bonds 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.

"1992 Series Bonds" shall mean the First Series Bond and the Second Series Bond.

Section 2. Necessity: Description of Project. It is hereby determined to be necessary for the public health and welfare of the Issuer to proceed to acquire and construct the Project in accordance with detailed maps, plans and specifications therefor prepared by the Engineer.

Section 3. Cost;Useful Life. The cost of the Project has been estimated by the Engineer to be One Million Six Hundred and Five Thousand Dollars (\$1,605,000), 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 not less than forty (40) years.

Section 4. Payment of Cost. To pay part of the cost of acquiring and constructing the Project, including the payment of legal, engineering and financial expenses, and other expenses incident thereto and incident to the issuance and sale of the 1992 Series Bonds, it is hereby determined that the Issuer borrow the sum of One Million One Hundred Five Thousand Dollars (\$1,105,000) and that two series of revenue bonds be issued therefor pursuant to the provisions of Act 94 as provided in Section 5. The balance of the cost of the Project will be paid from grant funds or other moneys available to the Issuer.

Section 5. 1992 Series Bond Data. The First Series Bond shall be designated 1992 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 \$1,000,000 and shall be payable in principal installments serially on August 1 of each year, as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>
1993	\$ 3,000	2007	\$14,000	2021	\$35,000
1994	3,000	2008	15,000	2022	37,000

1995	3,000	2009	16,000	2023	40,000
1996	3,000	2010	17,000	2024	42,000
1997	3,000	2011	18,000	2025	45,000
1998	3,000	2012	19,000	2026	48,000
1999	3,000	2013	20,000	2027	51,000
2000	3,000	2014	22,000	2028	55,000
2001	4,000	2015	24,000	2029	59,000
2002	4,000	2016	25,000	2030	63,000
2003	9,000	2017	27,000	2031	66,000
2004	12,000	2018	29,000	2032	71,000
2005	12,000	2019	31,000		
2006	13,000	2020	33,000		

The Second Series Bond shall be designated 1992 WATER SUPPLY SYSTEM REVENUE BOND, SERIES II, 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 \$105,000 and shall be payable in principal installments serially on August 1 of each year, as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>
1993	\$ 100	2007	\$1,700	2021	\$3,600
1994	100	2008	1,700	2022	3,900
1995	200	2009	1,800	2023	4,100
1996	300	2010	1,900	2024	4,300
1997	300	2011	2,100	2025	4,600
1998	400	2012	2,300	2026	4,900
1999	400	2013	2,400	2027	5,200
2000	400	2014	2,500	2028	5,500
2001	400	2015	2,600	2029	6,100
2002	400	2016	2,700	2030	6,500
2003	1,200	2017	2,800	2031	6,600
2004	1,400	2018	2,900	2032	6,700
2005	1,500	2019	3,400		
2006	1,600	2020	3,500		

The 1992 Series Bonds are expected to be delivered to the FmHA, as initial purchaser thereof, in installments (the "delivery installments") and each delivery installment shall be noted on the registration grid set forth on the applicable 1992 Series Bond. The delivery installments shall be deemed to correspond to the serial principal installments of the applicable 1992 Series Bonds in direct chronological order of said serial principal installments.

The serial principal installments of the 1992 Series Bonds will each 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 applicable 1992 Series Bond at the rate of not to exceed

six and five-eighths percent (6.625%) per annum for the First Series Bond and not to exceed six and three-eighths percent (6.375%) per annum for the Second Series Bond to be determined at the time of delivery of the first principal installment of each series of the 1992 Series Bonds, payable on the first day of February or August 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 rates on the First Series Bond and on the Second Series Bond shall be made by execution of the First Series Bond and the Second Series Bond, in the case may be, which so designates the rate specified by FmHA and accepted in writing by the Issuer. The 1992 Series Bonds shall be issued in fully-registered form and shall not be convertible or exchangeable into more than one fully-registered bond for each series.

Section 6. Payment and Sale of 1992 Series Bonds. The 1992 Series Bonds 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 1992 Series Bond set forth in Section 9 of this Ordinance.

Principal of and interest on the 1992 Series 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. The Issuer's Treasurer is hereby appointed to act as Transfer Agent. If and at such time as a series of the 1992 Series Bonds are transferred to or held by any registered owner other than the FmHA, the Issuer by resolution may appoint a bank or trust company qualified under Michigan law to act as transfer agent and bond registrar with respect to that Series, and the Issuer may thereafter appoint a successor Transfer Agent upon sixty (60) days notice to the registered owner of the applicable series of the 1992 Series Bonds. If the FmHA shall no longer be the registered owner of a series of the 1992 Series Bonds, then the principal of and interest on the applicable series of the 1992 Series Bonds 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 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 First Series Bond or the Second Series Bond, the registered owner thereof shall deliver it to the Issuer for cancellation.

The Issuer's Mayor, Clerk or Manager is authorized and directed to make application to the Department of Treasury for authority to issue and sell the First Series Bond and the Second Series Bond, and after receipt of said approval, to negotiate privately the sale of the First Series Bond to the FmHA at an interest rate not to exceed six and five eighths percent (6.625) per annum and the Second Series Bond to the FmHA at an interest rate not to exceed six and three-eighths percent (6.375) per annum. The sale of the First Series Bond to the FmHA at an interest rate of not to exceed six and five eighths percent (6.625°) per annum and the Second Series Bond to the FmHA at an interest rate not to exceed six and three-eighths percent (6.375) per annum and at the par value thereof is hereby approved. The Issuer's Treasurer is hereby authorized to deliver the 1992 Series Bonds in accordance with the delivery instructions of the FmHA, after approval of the issuance and sale thereof by the Department of Treasury, if such approval is at that time required, or receipt of orders of exception of the Department of Treasury or expiration of the notice period without receipt of orders of denial of the Department of Treasury.

Section 7. 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 Bonds, 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 Bonds 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 or Bonds 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 Bonds or installments thereof selected for redemption under Section 9 of this Ordinance 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.

Section 8. Execution and Delivery of the 1992 Series Bonds. The 1992 Series Bonds shall be signed by the Mayor and countersigned by the City Clerk and shall have the corporate seal of the Issuer impressed thereon. After execution, the 1992 Series Bonds shall be held by the Issuer's Treasurer for delivery to the FmHA. No 1992 Series 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 FmHA and thereafter, by an authorized representative of the Transfer Agent.

Section 9. Bond Form. The form and tenor of the 1992 Series Bonds shall be substantially as follows, subject to appropriate variation upon issuance of Additional Bonds:

[REGISTERED]

UNITED STATES OF AMERICA  
STATE OF MICHIGAN  
COUNTY OF ALGER

CITY OF MUNISING

1992 WATER SUPPLY SYSTEM REVENUE BOND [,SERIES II]

No. R\_\_\_\_\_ -1

\$\_\_\_\_\_

KNOW ALL PERSONS BY THESE PRESENTS that the City of Munising, County of Alger, 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

\_\_\_\_\_ 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 said installment is delivered to the registered owner hereof and as set forth on the registration grid hereon until paid at the rate of \_\_\_\_\_ percent (\_\_\_\_) per annum, payable on \_\_\_\_\_ 1, 199\_, and semiannually thereafter, provided that the principal repayments required herein to the registered holder 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 \$\_\_\_\_\_. Both principal of and interest on this bond are 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 gross 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 first lien thereon is hereby created that is of equal standing and priority with the statutory lien created with respect to the Issuer's Water Supply System Revenue Bonds [,Series \_\_\_\_], dated as of even date with this bond (the "\_\_\_\_ Series Bond").

This bond is a single, fully-registered, non-convertible bond in the principal sum of \$\_\_\_\_\_, issued pursuant to Ordinance No. \_\_\_\_\_ (the "Ordinance"), duly adopted by the Issuer on \_\_\_\_\_, 1992, 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 defraying part of the cost of acquiring and constructing the System, including generally a new pumphouse with three wells, a new ground storage reservoir and a new transmission line and attachments and appurtenances necessary thereto. 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.

Principal installments of this bond are subject to prepayment prior to maturity, in inverse chronological order, at the Issuer's option, on any interest payment date on or

after August 1, 1993, 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 as 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 his attorney in fact. Such transfer shall be noted hereon and upon the books of the Issuer kept for that purpose by the Transfer Agent.

This bond is a self-liquidating bond and is not a general obligation of the Issuer and does not constitute an indebtedness of the Issuer within any constitutional or statutory limitation, but is payable, both as to principal and interest, solely from the Net Revenues of the System.

The Issuer hereby covenants and agrees to fix and maintain at all times while any installments of this bond 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 all such installments of this bond and the \_\_\_\_\_ Series Bond 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 fund (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 precedent to and in the issuance of this bond have been done and performed in regular and due time and form as required by law.

IN WITNESS WHEREOF, the City of Munising, County of Alger, State of Michigan, by its City Commission, has caused this bond to be signed in its name by its Mayor and to be countersigned by its City Clerk, and its corporate seal to be hereunto affixed, all as of \_\_\_\_\_, 1992.

CITY OF MUNISING  
COUNTY OF ALGER  
STATE OF MICHIGAN

By   
Mayor

(SEAL)

Countersigned:

  
City Clerk

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

Date of Registration of Delivery :	Name of Registered Owner:	Principal Installment Delivered	Signature of Registrar:
	: United States of	:	
	: America, Farmers	:	
	: Home Administration	:	

EXHIBIT A

<u>Principal Installment Due on August 1</u>	<u>Amount of Principal Installment</u>
1993	\$ 3,000
1994	3,000
1995	3,000
1996	3,000
1997	3,000
1998	3,000
1999	3,000
2000	3,000
2001	4,000
2002	4,000
2003	9,000
2004	12,000
2005	12,000
2006	13,000
2007	14,000
2008	15,000
2009	16,000
2010	17,000
2011	18,000
2012	19,000

2013	20,000
2014	22,000
2015	24,000
2016	25,000
2017	27,000
2018	29,000
2019	31,000
2020	33,000
2021	35,000
2022	37,000
2023	40,000
2024	42,000
2025	45,000
2026	48,000
2027	51,000
2028	55,000
2029	59,000
2030	63,000
2031	66,000
2032	71,000

[EXHIBIT A FOR THE SECOND SERIES BOND]

<u>Principal Installment</u> <u>Due on August 1</u>	<u>Amount of</u> <u>Principal Installment</u>
1993	\$ 100
1994	100
1995	200
1996	300
1997	300
1998	400
1999	400
2000	400
2001	400
2002	400
2003	1,200
2004	1,400
2005	1,500
2006	1,600
2007	1,700
2008	1,700
2009	1,800
2010	1,900
2011	2,100
2012	2,300
2013	2,400
2014	2,500
2015	2,600
2016	2,700
2017	2,800
2018	2,900

2019	3,400
2020	3,500
2021	3,600
2022	3,900
2023	4,100
2024	4,300
2025	4,600
2026	4,900
2027	5,200
2028	5,500
2029	6,100
2030	6,600
2031	6,600
2032	6,700

Section 10. Security for Bonds. Neither the 1992 Series Bonds nor the interest thereon shall be a general obligation of the Issuer but each shall be payable solely from the Net Revenues. To pay such principal and interest as and when the same shall become due, there is hereby created a statutory first lien upon the whole of the Net Revenues of the System to continue until the payment in full of the principal and interest on the 1992 Series Bonds and said Net Revenues shall be set aside for the purpose and identified as the Bond and Interest Redemption Fund, as hereinafter specified. The First Series Bond and the Second Series Bond shall be of equal standing and priority of lien, one with the other.

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 FmHA without request from the FmHA for review prior to adoption (as long as the Government is the registered owner of any of the Bonds), and upon written request to any other registered owners of the Bonds.

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 in an amount at least equal to the maximum amount of money the Issuer will have on hand at any one time with a surety company approved by the FmHA, and the FmHA and the Issuer shall be named as co-obligees in such bond and the amount thereof shall not be reduced without the prior written consent of the FmHA. The Issuer's Treasurer is hereby directed to create and maintain the following funds and accounts into which the proceeds of the Bonds 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 any of the Bonds hereby authorized remain unpaid.

(A) CONSTRUCTION ACCOUNT. The proceeds of the 1992 Series Bonds hereby authorized shall be deposited in the CITY OF MUNISING WATER SUPPLY SYSTEM CONSTRUCTION FUND ACCOUNT (the "Construction Account"), in the Depository Bank. In the event that the Government is a holder of the 1992 Series Bonds, then, if required by the FmHA, the Construction Account shall be established as a supervised bank account and such proceeds shall be withdrawn on the orders of the Issuer only on checks signed by its Treasurer and the District Director of the FmHA. Moneys in the Construction Account shall be used solely for the purposes for which the 1992 Series Bonds are issued.

Any unexpended balance of the proceeds of sale of any series of the 1992 Series Bonds 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 Fund and used as soon as is practical for the prepayment of installments of the applicable series of the 1992 Series Bonds or for the purchase of installments to the applicable series of the 1992 Series Bonds at not more than the fair market value thereof. Following completion of the Project, any unexpended balance of the 1992 Series Bonds shall be invested at a yield not to exceed the yield on the applicable Series of the 1992 First Series Bonds.

After completion of the Project and disposition of remaining proceeds, if any, of the 1992 Series 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 CITY OF MUNISING 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 Fund. There is hereby established a separate fund to be designated the OPERATION AND MAINTENANCE FUND (the "Operation and Maintenance Fund"). Revenues shall be transferred at the beginning of each quarter of the Fiscal Year, commencing on the date of

delivery of the First Series Bond, from the Receiving Fund to the Operation and Maintenance Fund 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 Fund. There is hereby established a separate fund to be designated as the CITY OF MUNISING WATER SUPPLY SYSTEM REVENUE BOND - BOND AND INTEREST REDEMPTION FUND (the "Bond and Interest Redemption Fund"). After the transfer required in (1) above, Revenues shall be transferred each quarter of the Fiscal Year, commencing October 1, 1992, from the Receiving Fund, before any other expenditures or transfer therefrom, and deposited in the Bond and Interest Redemption Fund for payment of principal of and interest on the 1992 Series Bonds and to fund the Bond Reserve Accounts. Upon any delivery of an installment of the First Series Bond or the Second Series Bond 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 interest payment date an amount equal to that fraction of the amount of interest due on the next interest 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 interest payment date. There shall also be set aside each Fiscal Year quarter on or after April 1, 1993, an amount not less than 1/2 of the amount of interest due on the next interest payment date on all outstanding installments of the First Series Bond and the Second Series Bond not delivered during the then current interest payment period. Upon any delivery of an installment of the First Series Bond or the Second Series Bond there shall also be set aside at the time of such delivery and on the first day of each Fiscal Year quarter thereafter to the next principal payment date an amount equal to that fraction 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 each Fiscal Year quarter on or after October 1, 1993 an amount not less than 1/4 of the amount of principal due on the next principal payment date on all outstanding installments of the First Series Bond and the Second Series Bond not delivered during the then current principal payment period. Except as hereinafter provided, no further deposits shall be made into the Bond and Interest Redemption Fund (excluding the Bond Reserve Accounts) once the aforesaid sums have been deposited therein. Any amount on deposit in the Bond and Interest Redemption Fund (excluding the Bond Reserve Accounts) in excess of (a.) the amount needed for payment of principal installments of the First Series Bond and the Second Series Bond for the then current principal payment period, plus (b.)

interest on the First Series Bond and the Second Series Bond for the then current interest payment period, shall be used by the Issuer for redemption of principal installments of the First Series Bond and the Second Series Bond in the manner set forth in Section 9 hereof, 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 Redemption Fund out of the Revenues first received thereafter which are not required by this Ordinance to be deposited in the Operation and Maintenance Fund or in the Bond and Interest Redemption Fund, 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 Fund separate accounts to be designated the FIRST SERIES BOND RESERVE ACCOUNT (the "First Series Bond Reserve Account") and the SECOND SERIES BOND RESERVE ACCOUNT (the "Second Series Bond Reserve Account") the First Series Bond Reserve Account and the Second Series Bond Reserve Accounts are referred to collectively as the "Bond Reserve Accounts"). Commencing October 1, 1992, 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 Accounts, after provision has been made for the Operation and Maintenance Fund and the current requirements of the Bond and Interest Redemption Fund, in the First Series Bond Reserve Account the sum of at least \$1,800 per quarter until there is accumulated in such fund the sum of \$72,000 and in the Second Series Bond Reserve Account the sum of at least \$183 per quarter until there is accumulated the sum of \$7,320. Except as hereinafter provided, no further deposits shall be made into the Bond and Interest Redemption Fund for the purposes of the Bond Reserve Accounts once the sum of \$72,000 has been deposited in the First Series Bond Reserve Account and the sum of \$7,320 has been deposited in the Second Series Bond Reserve Account. Except as hereinafter provided, no further deposits shall be made into the Bond and Interest Redemption Fund for the purposes of the Bond Reserve Accounts once the aforesaid sums have been deposited therein. The moneys in the Bond Reserve Accounts shall be used solely for the payment of the principal installments of and interest on the 1992 Series Bonds as to which there would otherwise be default.

If at any time it shall be necessary to use moneys in the Bond Reserve Accounts 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 1992 Series Bonds.

No further payments need be made into the Bond and Interest Redemption Fund after enough of the principal installments of the 1992 Series Bond have been retired so that the amount then held in the Bond and Interest Redemption Fund (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 1992 Series Bonds then remaining outstanding.

The moneys in the Bond and Interest Redemption Fund and the Bond Reserve Accounts 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) General Purpose Account. The City Commission by resolution may establish a separate fund to be designated the GENERAL PURPOSE ACCOUNT. If the General Purpose Account is established, then after the transfers required in (1) and (2) above, Revenues shall be transferred each quarter of the Fiscal Year, from the Receiving Fund and deposited in the General Purpose Account in such amount as determined by resolution of the City Commission. Moneys in the General Purpose Account shall be used and disbursed only for the purpose of paying the cost of repairing or replacing any damage to the System, of repairing or replacing obsolete, deteriorating, deteriorated or worn out portions of the System, or making improvements to the System, and when necessary, for the purpose of making payments of principal of and interest on the Bonds. If the amount in the Bond and Interest Redemption Fund and the Bond Reserve Account is not sufficient to pay the principal of and interest on the Bonds when due, then the moneys in the General Purpose Account shall be transferred to the Bond and Interest Redemption Fund and used for that purpose. The moneys in the General Purpose Account may be invested in accordance with Section 13 of this Ordinance.

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

All moneys remaining in the Receiving Fund at the end of any Fiscal Year after satisfying the above requirements shall be transferred to the Bond and Interest Redemption Fund and

used to call Bonds or portions thereof for redemption, or at the option of the Issuer, transferred to the General Purpose Account and used for the purpose for which it was established; provided, however, that if there should be a deficit in the Operation and Maintenance Fund, the Bond and Interest Redemption Fund, the Bond Reserve Accounts, or the General Purpose 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 Bonds 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 Bonds are held by the U.S. Government, then the investment may be limited to the obligations and instruments authorized by the FmHA. Investment of moneys in the Bond and Interest Redemption Fund being accumulated for payment on the next maturing principal or interest payment on the Bonds shall be limited to obligations bearing maturity dated prior to the date of the next maturing principal or interest payment on the Bonds. Investment of moneys in the Bond Reserve Accounts shall be limited to Government obligations bearing maturity dates or subject to redemption, at the option of the holder thereof, not later than 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 Fund, the Bond and Interest Redemption fund, the Bond Reserve Accounts, and the General purpose Account, shall be deposited in or credited to the Receiving Fund.

Section 14. Rates and Charges. Rates and charges for the services of the System have been fixed pursuant to Ordinance No. \_\_\_\_\_ in an amount sufficient to pay the costs of operating, maintaining and administering the system, to pay the principal of and interest on the Bonds 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 Bonds shall be outstanding such rates for services 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 fund (including a Bond Reserve Account) for all such Bonds. 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 Bonds and accruing interest on all Bonds, and there shall be charged such rates and charges as shall be adequate to meet the requirements of the 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 Bonds hereby authorized remain 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 Bonds, the FmHA 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 the FmHA each year, as soon as is possible, 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 FmHA, without request of the FmHA, or to the manager of the syndicate or account purchasing any series of the Bonds. Such audit shall be completed and so made available not later than ninety (90) days after the close of each 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 Bonds, 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. 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 Bonds. Said insurance will be in an amount not less than such amount as may be specified by LETTER OF INTENT TO MEET CONDITIONS, Form FmHA 442.46, and said insurance shall be approved by the FmHA.

(d) 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 FmHA, 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) 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 FmHA.

(f) Any extensions to or improvements of the System shall be made according to sound engineering principles and specifications shall be submitted to the FmHA 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 First Series 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 First Series Bond and moneys deemed to be proceeds of the First Series Bond.

Section 17. Additional Bonds. The Issuer may issue Additional Bonds of equal standing with the Bonds for the following purposes and on the following conditions:

(a) To complete construction of the Project according to the plans referred to in Section 1, Additional Bonds may be issued in the amount necessary therefor.

(b) For the purpose of making reasonable repair, replacement or extension of the System or refunding any outstanding Bonds, Additional Bonds of equal standing may be issued if:

(i) The augmented net revenues of the System for the Fiscal Year preceding the year in which such Additional Bonds are to be issued were 120 percent of the average annual debt service requirements on all Bonds then outstanding and those proposed to be issued net of any Bonds 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 Bonds are authorized, to be placed in effect before principal of and interest on the new Bonds become 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 Bonds. The adjustments and augmentations provided for in the preceding sentence shall be established by certificate of an independent consulting engineer filed with the Clerk of the Issuer. If new Bonds are 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 Bonds.

The funds herein established shall be applied to all Additional Bonds issued pursuant to this Section as if said 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 of such Bonds 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 Bonds 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 First Series 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 of resolution in any way adversely affecting the rights or the holders so long as the Bonds or interest thereon remains unpaid.

Section 19. Refunding of Bonds. If at any time it shall appear to the FmHA that the Issuer is able to refund, upon call for redemption or with consent of the FmHA the then outstanding Bonds 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 Fund, provisions of this Ordinance or in the payment of principal of or interest on any of the Bonds, upon the filing of a suit by 20 percent of the holders of the Bonds, 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 Bonds and for the payment of operation, maintenance and administrative expenses and to apply Revenues in accordance with this Ordinance and the laws 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 Bonds 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 FmHA 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 FmHA 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 consistent with that of the Issuer.

Section 23. Issuer Subject to Loan Agreement. So long as the Government is holder of any of the Bonds, the Issuer shall be subject to the loan agreement (form FmHA 442-47) with the FmHA and shall comply with all provisions thereof.

Section 24. 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 25. 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 26. Publication and Recordation. This Ordinance shall be published in full in The Munising News, 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 Mayor and City Clerk.

Section 27. Effective Date. This Ordinance is hereby determined by the City Commission 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 City of Munising, County of Alger, State of Michigan, on September 21, 1992, and approved by me on September 21, 1992.

  
\_\_\_\_\_  
Mayor  
Glenn E. Champagne

(SEAL)  
Attest:

  
\_\_\_\_\_  
City Clerk

YEAS 4

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

NAYS 1

ABSENT None

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the City Commission of the City of Munising, County of Alger, State of Michigan, at a regular meeting held on September 21, 1992, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

I further certify that said Ordinance has been recorded in the Ordinance Book of the City of Munising and such recording has been authenticated by the signatures of the Mayor and City Clerk.

*Eliabeth Ann Williams*  
City Clerk