

Ordinance 1995-1
An Ordinance to amend Ordinance 1974-1,
as amended by Ordinance 1975-2, entitled:

An Ordinance authorizing the issuance of Water Supply System Revenue Bonds by the Township of Ely, County of Marquette, Michigan, for the purpose of acquiring and constructing improvements to the Water Supply System for said Township; 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.

To authorize the issuance of sale of self-liquidating Water Supply System Junior Lien Revenue Bonds by said Township; prescribing the form of Junior Lien Bonds; providing for payment of the Junior Lien Bonds; providing for the rights of the holders of said Junior Lien Bonds; and providing for other matters relating to said Junior Lien Bonds.

The Township of Ely 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 and Ordinance 1974-1.

“Bonds” shall mean the Junior Lien Bond and any Additional Bonds.

“Department of Treasury” shall mean the Department of Treasury of the State of Michigan.

“Depository Bank” shall mean Peninsula Bank, 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 Issuer.

“Engineer” shall mean ECI, Inc. of Ishpeming, Michigan.

“Fiscal Year” shall mean the fiscal year of the Issuer and the operating year of the System, commencing July 1 and ending June 30 of the succeeding 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. Provisions herein referencing the Government shall be inapplicable in the event the Junior Lien Bond is not sold to the Government and in the event the Government shall no longer be a holder of any of the Bonds.

“Issuer” shall mean the Township of Ely, County of Marquette, State of Michigan.

“Junior Lien Bond” shall mean the \$341,000 of the Issuer’s 1995 Water Supply System Junior Lien Revenue Bond authorized to be issued under Sections 4 and 5 of this Ordinance.

“Net Revenues” shall have the meaning with respect to the System as is set forth I 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.

“Ordinance No. 1974-1” shall mean Ordinance No. 1974-1 of the Issuer adopted on June 21, 1974, as amended by Ordinance No. 1975-2 adopted on August 29, 1975.

“Outstanding Bonds” shall mean the \$140,000 Water Supply System Revenue Bonds, dated as of November 18, 1975, authorized by Ordinance No. 1974-1 and any additional bonds which may hereinafter be issued on a parity therewith pursuant to the terms of Ordinance No. 1974-1.

“Project” shall mean the construction of improvements to the Issuer’s water supply system including the generally installation of distribution mains, hydrants and rehabilitation of a well and relate appurtenances and attachments thereto and sites therefor.

“Public Improvements” shall be understood to meant 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.

“Reserve Amount” shall mean the lesser of (1) the maximum annual debt service due on the Bonds in the current or any future year. (2) 125% of the average annual debt service on the Bonds, or (3) 10% of the principal amount of the Bonds on the date of issuance of the Bonds or on the date of issuance of any additional Bonds.

“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).

“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” means 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.

Section 2. Necessity, Description of Project.

It is 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 not less than Six Hundred Eighty-Two Thousand Four Hundred Dollars (\$682,400), 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 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 Junior Lien Bond, it is hereby determined that the Issuer borrow the sum of not to exceed Three Hundred Forty-One Thousand Dollars (\$341,000) and that revenue bonds be issued therefor pursuant to the provisions of Act 94. The balance of the cost of the Project will be paid from other funds of, or available to, the Issuer legally available therefor.

Section 5. Series 1995 Bond Data.

The Junior Lien Bond shall be designated 1996 WATER SUPPLY JUNIOR LIEN 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 \$341,000 and shall be payable in principal installments serially on September 1 of each year, as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>
1996	\$2,000	2016	\$7,000
1997	2,000	2017	8,000
1998	2,000	2018	8,000
1999	2,000	2019	9,000
2000	3,000	2020	9,000
2001	3,000	2021	10,000
2002	3,000	2022	10,000
2003	3,000	2023	11,000
2004	3,000	2024	11,000
2005	5,000	2025	12,000
2006	5,000	2026	12,000
2007	5,000	2027	13,000
2008	5,000	2028	14,000
2009	5,000	2029	15,000
2010	5,000	2030	16,000
2011	6,000	2031	16,000
2012	6,000	2032	17,000
2013	7,000	2033	18,000
2014	7,000	2034	19,000
2015	7,000	2035	20,000

The Junior Lien 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 Junior Lien Bond. The delivery installments shall be deemed to correspond to the serial principal installments of the Junior Lien Bond in direct chronological order of said serial principal installments.

The serial principal installments of the Junior Lien Bond will bear interest from the date of delivery of the corresponding delivery installment payable to the registered holder thereof as shown on the registration grid set forth on the Junior Lien Bond at (5.25%) per annum as specified and accepted as provided hereinafter, payable on the first March 1 or September 1 following the date of the delivery of said delivery installment, and semiannually thereafter on March 1 and September 1 of each year until maturity or earlier prepayment of said installment. The interest rate on the Junior Lien Bond as hereinafter provided. The Junior Lien Bond shall be issued in full-registered form and shall not be convertible or exchangeable into more than one fully-registered bond.

Section 6. Payment and Sale of Junior Lien Bond.

The Junior Lien 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 Junior Lien Bond set forth in Section 9 of this Ordinance.

Principal of and interest on the Junior Lien 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 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 the Junior Lien 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 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 Junior Lien Bond. If the Government shall no longer be 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 an interest on the Junior Lien Bond, the registered owner thereof shall deliver it to the Issuer for cancellation.

The Issuer's Supervisor and Clerk each is authorized and directed to make application to the Department of Treasury for authority to issue and sell the Junior Lien Bond, and after receipt of said approval, to negotiate privately the sale of the Junior Lien Bond to the Government at an interest rate not to exceed five and one-quarter percent (5.25%) per annum.

The same of the Junior Lien Bond to the Government at an interest rate of not to exceed five and one-quarter (5.25%) per annum and at the par value thereof is hereby approved. The Issuer's Treasurer is hereby authorized to deliver the Junior Lien 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 the time required, or receipt of an order of 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 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 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 Bonds presented for transfer, as hereinafter provided and subject to such reasonable regulation 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 not 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 (1) 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 Junior Lien Bond or installments thereof selected for the redemption under Section 9 of this Ordinance and ending at the close of business on the day of that mailing, or (2) 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 Junior Lien Bond.

The Junior Lien Bond shall be manually signed by the Supervisor and countersigned by the Clerk and shall have the corporate seal of the Issuer impressed thereon. After execution, the Junior Lien 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.

Section 9. Bond Form.

The form and tenor of the Junior Lien Bond shall be substantially as follows, subject to appropriate variation upon issuance of Additional Bonds:

REGISTERED

UNITED STATES OF AMERICA
STATE OF MICHIGAN
COUNTY OF MARQUETTE

TOWNSHIP OF ELY

1995 WATER SUPPLY SYSTEM
JUNIOR LIEN REVENUE BOND

No. R-1

\$341,000

KNOW ALL PERSONS BY THESE PRESENTS that the Township of Ely, 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

Three Hundred Forty-One Thousand Dollars

on the dates and in the principal installment amount 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 Issuer and as set forth on the registration grid hereon until paid at the rate of _____ percent (___ %) per annum, first payable on April 1, 1996, 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 \$341,000. 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 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 created subject in priority only to the statutory lien created by Ordinance No. 1974-1, as amended by Ordinance No. 1975-2 (the "Prior Ordinance") with respect to the Issuer's Water Supply System Revenue Bonds, dated November 18, 1975 (the "Outstanding Bonds") and any bonds issued of equal standing and priority of lien with the Outstanding Bonds.

The bond is a single, fully-registered, non-convertible bond constituting a series in the total aggregate principal sum of \$341,000, issued pursuant to the Ordinance No. ___, duly adopted by the Issuer on _____, 1995, and under and in full compliance with the

Constitution and the statutes of the State of Michigan, including specifically Act 94, Public Acts of Michigan, 1933, as amended, for the purpose of constructing improvements to the Issuer's Water Supply System including generally installation of transmission mains, hydrants and rehabilitation of a well and related appurtenances and attachments thereto and sites therefor to serve the Township of Ely. 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 prior 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 above-described Ordinances.

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 September 1, 1996, 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 no 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 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 of 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.

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 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 the Outstanding Bonds, installments of this bond and any additional bonds for equal or prior standing payable from the Net Revenues of the System as and when the same become due and payable, to create bond and interest redemption funds (including bond reserve accounts) 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 finds for the System as are required by the above-described Ordinances.

This bond is a self-liquidating bond and is payable, both as to principal and interest, solely from the Net Revenues of the System, is not a general obligation of the Issuer, and does not constitute an indebtedness of the Issuer within any constitutional or statutory debt limitation. The principal of an interest on this bond are secured by the statutory lien hereinbefore mentioned.

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 have been done and performed in regular and due time and form as required by law.

IN WITNESS WHEREOF, the Township of Ely, 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 Clerk, and its corporate seal to be hereunto affixed, all as of _____, 1995.

TOWNSHIP OF ELY
COUNTY OF MARQUETTE
STATE OF MICHIGAN

By _____
Supervisor

(SEAL)

Countersigned:

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
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EXHIBIT A

Due Sept. 1	Principal Installment	Due Sept. 1	Principal Installment
1996	\$ 2,000	2016	\$ 7,000
1997	2,000	2017	8,000
1998	2,000	2018	8,000
1999	2,000	2019	9,000
2000	3,000	2020	9,000
2001	3,000	2021	10,000
2002	3,000	2022	10,000
2003	3,000	2023	11,000
2004	3,000	2024	11,000
2005	5,000	2025	12,000
2006	5,000	2026	12,000
2007	5,000	2027	13,000
2008	5,000	2028	14,000
2009	5,000	2029	15,000
2010	5,000	2030	16,000
2011	6,000	2031	16,000
2012	6,000	2032	17,000
2013	7,000	2033	18,000
2014	7,000	2034	19,000
2015	7,000	2035	20,000

Section 10. Security for Bonds.

Neither the Junior Lien Bond nor the interest thereon shall be a general obligation of the Issuer but each shall be payable solely from the Net Revenues after provision has been made for the Outstanding Bonds. To pay the principal of and interest on the Junior Lien 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 subject in priority only to the statutory lien existing with respect to the Outstanding Bonds and any bonds issued of equal standing and payment in full of the principal and interest on the Junior Lien Bond and the Net Revenue shall be set aside for the purpose in and identified as the Junior Lien Bond Redemption Fund, as hereinafter specified.

Section 11. Budget.

In accordance with the requirements of Ordinance No. 1974-1, 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 Junior Lien Bond), 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. 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 from the Junior Lien Bond. The Issuer's Treasurer is hereby directed to create and maintain the following funds and accounts into which the proceeds of the Junior Lien Bond and the Revenues shall be deposited in the manner and at the times provided in this Ordinance, which accounts shall be established and maintained so long as any of the Junior Lien Bond remain unpaid, except as otherwise provided in this Ordinance.

(A) CONSTRUCTION FUND. The proceeds of the Junior Lien Bond shall be deposited in the TOWNSHIP OF ELY 1995 WATER SUPPLY SYSTEM JUNIOR LIEN BOND CONSTRUCTION FUND (the "Construction Fund") in the Depository Bank. Said moneys shall be used solely for the purposes for which the Junior Lien Bond are issued.

Any unexpended balance of the proceeds of the sale of the Junior Lien Bond remaining after completion of the Project herein authorized may be used for further improvements, enlargements and extensions of the System in the discretion of the Issuer, provided that at the time of such expenditure such use be approved by the Michigan Department of Treasury (if such approval is then required by law). Any remaining balance after such expenditure shall be paid into the Junior Lien Bond Redemption Fund (as hereinafter provided) and shall be used for the prepayment of installments of the junior Lien Bond.

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

(B) RECEIVING FUND. Pursuant to Section 8 (B) of Ordinance No. 1974-1, the Revenues of the System shall continue to be deposited in the Receiving Fund established by Ordinance No. 1974-1 (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 shall first be withdrawn from the Receiving Fund quarterly and set aside in and transferred to the Operation and Maintenance Fund established by Section 8(B) (1) of Ordinance No. 1974-1 and amount sufficient to meet the requirements of Section 8 (B)(1) of Ordinance No. 1974-1 relative to the Operation and Maintenance Fund, which amount shall be sufficient to pay the reasonable and necessary current

expenses for the ensuing quarter of administering, operating and maintaining the System, including the short-lived depreciation account required by the Government.

(2) Outstanding Bonds Requirements. After the transfer required in (1) above, there shall next be withdrawn from the Receiving Fund quarterly and set aside and transferred to the Bond and Interest Redemption Fund established by Section 8 (B)(2) of the Ordinance No.1974-1. Revenues sufficient to meet all of the requirements for the Bond and Interest Redemption Fund (including the Bond Reserve Account) for the Outstanding Bonds as established in Section 8(B)(2) of Ordinance No. 1974-1 and the Revenues so deposited shall be used as required by Section 8(B)(2) of Ordinance 1974-1.

(3) Junior Lien Bond and Interest Redemption Fund. There is hereby established a separate account known as the JUNIOR LIEN REVENUE BOND – BOND AND INTEREST REDEMPTION FUND (the “Junior Lien Bond Redemption Fund”). After transfers required in (1) and (2) above, and after meeting all of the requirements for Outstanding Bonds as specified in Section 12 of Ordinance No. 1974-1, Revenues shall be withdrawn quarterly (except as otherwise provided in this paragraph) from the Receiving Fund, before any other expenditures or transfers therefrom, and set aside and transferred to the Junior Lien Bond Redemption Fund for payment of principal of and interest on the Junior Lien Bond and to fund the Junior Lien Bond Reserve Account. Upon any delivery of an installment of the Junior Lien 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 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 set aside each 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, 1996 an amount not less than $\frac{1}{2}$ of the amount of interest due on the next interest payment date on all outstanding installments of the Junior Lien Bond not delivered during the then current interest payment period. Upon any delivery of an installment of the Junior Lien 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 of the Junior Lien Bond 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, 1996 an amount not less than $\frac{1}{4}$ of the amount of the principal due on the next principal payment date on all outstanding installments of the Junior Lien Bond not delivered during the then current principal payment period. Except as hereinafter provided, no further deposits shall be made into the Junior Lien Bond Redemption Fund (excluding the Junior Lien Bond Reserve Account) once the aforesaid sums have been deposited therein. Any amount on deposit in the Junior Lien Bond Redemption Fund (excluding the Junior Lien Bond Reserve Account) in excess of (a.) the amount needed for payment of principal payment period, plus (b.) interest on the Junior Lien Bond for the then current interest payment period, shall be used by the Issuer for redemption of principal installments of the Junior

Lien 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 Junior Lien 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 for the Outstanding Bonds, which amount shall be in addition to the regular quarterly deposit required during such succeeding quarter or quarters.

There is hereby established in the Junior Lien Bond Redemption Fund a separate account to be designated the JUNIOR LIEN BOND RESERVE ACCOUNT (the "Junior Lien Bond Reserve Account"). Commencing January 1, 1996, there shall be withdrawn from the Receiving Fund at the beginning of each Fiscal Year quarter and set aside in and transferred to the Junior Lien Bond Reserve Account, after provision has been made for the Operation and Maintenance Fund and the current requirements of the Bond and Interest Redemption Fund for the Outstanding Bonds and the Junior Lien Bond Redemption Fund, the sum of at least \$525 per quarter until there is accumulated in such fund the sum of \$21,000. Except as hereinafter provided, no further deposits shall be made into the Lien Bond Reserve Account once the aforesaid sums have been deposited therein. The moneys in the Junior Lien Bond as to which there would otherwise be default; provided, however, that in the event the amount on deposit in the Junior Lien Bond Reserve Account exceeds the Reserve Amount, the moneys in excess of the Reserve Amount shall be used to pay the principal installment of an interest on the Junior Lien Bond on the next payment date.

If at any time it shall be necessary to use moneys in the Junior Lien 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 Outstanding Bonds and the Junior Lien Bond.

No further payments need be made into the Junior Lien Bond Redemption Fund after enough of the principal installments of the Junior Lien Bond have been retired so that the amount then held in the Junior Lien Bond Redemption Fund (including the Junior Lien 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 Junior Lien Bond then remaining outstanding.

The moneys in the Junior Lien Bond Redemption Fund and the Junior Lien 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.

(4) General Purpose Account. After the transfers required in (1), (2) and (3) above. there shall next be transferred and deposited Revenues into the General-Purpose Account (if established) as provided in Section 8(B)(3) of the Ordinance No. 1974-1. The moneys on deposit therein from time to time to be used solely and only for the purposes provided in Section 8(B)(3) of Ordinance No. 1974-1 and, when necessary, for the purpose of making payments of the principal of and interest on the Outstanding Bonds and the Junior Lien Bond. If, at any time, it

shall be necessary to use money in said funds for such purpose, the moneys so used to use moneys in said funds for such purpose, the moneys so used shall be replaced by Ordinance No. 1974-1 or this Ordinance to be used for the Operation and Maintenance Fund, the Bond and Interest Redemption Fund for the Outstanding Bonds or the Junior Lien Bond Redemption Fund. The moneys in the General-Purpose Account may be invested in accordance with Section 13 of this Ordinance.

(5) 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 Account) for the Outstanding Bonds, the Junior Lien Bond Redemption Fund (including the Junior Lien Bond Reserve Account) or the General-Purpose Account and any moneys and/or securities in the funds of the System described by this Ordinance shall be transferred, first, to the Operation and Maintenance Fund, second, to the Bond and Interest Redemption Fund for the Outstanding Bonds, third, to the Junior Lien Bond Redemption Fund and fourth 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 for the Outstanding Bonds and used to call Outstanding Bonds or portions thereof for redemption, to the Junior Lien Bond Redemption Fund and used to call Junior Lien Bond or portions thereof for redemption, or at the option of the Issuer, transferred to the General Purpose Account and used for the purposes for which the funds were established; provided, however, that if there should be a deficit in the Operation and Maintenance Fund, the Bond and Interest Redemption Fund and the Bond Reserve Account for the Outstanding Bonds, the Junior Lien Bond Redemption Fund, the Junior Lien Bond Reserve Fund 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 Junior Lien Bond may be invested by the Board of the Issuer on behalf of the Issuer in the obligations and instruments permitted for investment by Section 8 of Ordinance No 1974-1 and by Section 24 of Act 94, as the same may be amended from time to time; provided, however, that as long as the Junior Lien 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 Junior Lien Bond Redemption Fund being accumulated for payment on the next maturing principal or interest payment on the Junior Lien Bond shall be limited to obligations and instruments bearing maturity dates prior to the date of the next maturing principal or interest payment on the Junior Lien Bond, Investment of moneys in the Junior Lien Bond Reserve Account shall be limited to Government obligations and instruments bearing maturity dates or subject to redemption, at the option of the 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 Fund, the Bond and Interest Redemption Fund (including the Bond Reserve Account) for the Outstanding Bonds, the Junior Lien Bond Redemption Fund (including the Junior Lien Bond Reserve Account) 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 1974-2, as amended, in an amount sufficient to pay the costs of operating, maintaining and administering the System, to pay the principal of and interest on the Outstanding Bonds and the Junior Lien Bond and to meet the requirements for repair, replacement, reconstruction and improvement and all other requirements provided herein, and otherwise comply with the covenants and agrees to fix and maintain at all times while the Junior Lien 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 fund (including a bond reserve account) for such Junior Lien 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 the Outstanding Bonds and the Junior Lien 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 and Section 8 of Ordinance No. 1974-1.

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 as long as any of the Bonds hereby authorized remain unpaid, as follows:

- (a) It will comply with applicable State laws and regulation and continually operate and maintain the System in good condition.
- (b) It will comply with provisions and covenants of Ordinance No 1974-1 and this Ordinance.
- (c)(1) 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 Government shall have the right to inspect the System and the records, accounts, and data relating thereto at all reasonable times.

(2) It will file with the Department of Treasury and the Government 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 Departments of Treasury, made in accordance with the accounting method of the Issuer, completely setting forth the financial operation of the Fiscal Year.

(3) 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 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 uses 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.

(d) 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 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 Government.

(e) 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.

(f) It will not voluntarily dispose of or transfer its title to the System of any part thereof, including lands and interest in land, sale, mortgage, lease or other encumbrances, without obtaining the prior written consent of the Government.

(g) 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.

(h) To the extent permitted by law, it shall take all action within its control necessary to maintain the exclusion of the interest on the Bonds 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 related to the rebate of arbitrage earnings, if applicable, and the expenditure and investment of proceeds of the Junior Lien Bond and moneys deemed to be the proceeds of the Junior Lien Bond.

Section 17. Additional Bonds.

The Issuer may issue Additional Bonds of equal standing with the Junior Lien Bond 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 of refunding any Outstanding Bonds, Additional Bonds of equal standing may be issued if:

(1) 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

(2) The holder 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, 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)(1) 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 Junior Lien 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 Bonds or Interest thereon remains unpaid.

Section 19. Refunding of Bonds.

If at any time it shall appear to the Government that the Issuer is able to refund, upon call for redemption of with consent of the Government 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 Junior Lien Bond Redemption Fund, provisions of this Ordinance or in the payment of principal of or interest on any of the Junior Lien Bond, upon the filing of a suit by 20 percent of the holders of the Junior Lien 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 Junior Lien Bond and for the payment of operation, maintenance and administrative expenses and to apply Revenues in accordance with this Ordinance, Ordinance No. 4 and the laws of the State of Michigan.

The Issuer hereby agrees to transfer to any bona fide receiver or tother 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 by 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 the Operating 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 Junior Lien Bond, the Issuer shall be subject to the loan agreement or loan agreements (Form FmHA 442-47) with the Government 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, or in summary form if permitted by law, in The Mining Journal, 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 Clerk.

Section 27. 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.

Passes and adopted by the Township of Ely, County of Marquette, State of Michigan, on August 17, 1995, and approved by me on August 17, 1995.

Kenneth A. Tuominen
Supervisor

Attest:

David J. Bleau
Clerk

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Board of the Township of Ely, County of Marquette, at a board meeting held on August 17, 1995, 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 the following members were present at said meeting: Kenneth A. Tuominen – Supervisor, Robert C. Laakso – Trustee, Ted A. Pepin – Trustee, Beverly H. Magnuson and David J. Bleau – Clerk; and the following members were absent: None.

I further certify that Member David J. Bleau moved for adoption of said Ordinance, and that said motion was supported by Member Beverly H. Magnuson.

I further certify that the following members voted for the adoption of said Ordinance: Kenneth A. Tuominen, Beverly H. Magnuson, Ted A. Pepin, Robert C. Laakso, and David J. Bleau; and that the following members voted against adoption of said Ordinance: None.

I further certify that said Ordinance has been recorded in the Ordinance Book of the Township of Ely and such recording has been authenticated by the signatures of the Supervisor and Clerk.

David J. Bleau
Township Clerk