

ORDINANCE NO. 280

AN ORDINANCE TO PROVIDE FOR THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF IMPROVEMENTS TO THE WATER SUPPLY SYSTEM TO SERVE THE CITY OF HANCOCK AND TO FINANCE PART OF THE COST OF REFUNDING CERTAIN OUTSTANDING OBLIGATIONS OF THE CITY; TO PROVIDE FOR THE ISSUANCE AND SALE OF JUNIOR LIEN REVENUE BONDS IN TWO SERIES TO PAY THE COSTS THEREOF; TO PRESCRIBE THE FORM OF THE BONDS; TO PROVIDE FOR THE COLLECTION OF REVENUES FROM THE SYSTEM SUFFICIENT FOR THE PURPOSE OF PAYING THE COSTS OF OPERATION AND MAINTENANCE OF THE SYSTEM AND TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS; TO PROVIDE AN ADEQUATE RESERVE ACCOUNT FOR THE BONDS; TO PROVIDE FOR THE SEGREGATION AND DISTRIBUTION OF THE REVENUES; TO PROVIDE FOR THE RIGHTS OF THE HOLDERS OF THE BONDS IN ENFORCEMENT THEREOF; AND TO PROVIDE FOR OTHER MATTERS RELATING TO THE BONDS AND THE SYSTEM.

THE CITY OF HANCOCK ORDAINS:

Section 1. Definitions. The following words and terms used in this Ordinance shall have the meanings assigned 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 the bonds issued pursuant to Section 17 of this Ordinance.

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

“Bond” or “Bonds” shall mean, collectively, the Issuer's Series 2011A Bond and Series 2011B Bond.

“Bonds to be Refunded” shall mean the Series 1997 Bond and the Series 1998 Bond of the Issuer.

“Depository Bank” shall mean Superior National Bank, in Hancock, Michigan, a member of the Federal Deposit Insurance Corporation, or other financial institution qualified to serve as depository bank and designated by resolution of the Issuer.

“Engineer” shall mean OHM, Hancock, 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 subsequent year, as such year may be changed from time to time.

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

“Issuer” shall mean the City of Hancock, County of Houghton, State of Michigan.

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

“Ordinance 135” means Ordinance No. 135, adopted by the Issuer on October 3, 1979.

“Ordinance 230” means Ordinance No. 230, adopted by the Issuer on November 5, 1997, authorizing the issuance of the Series 1997 Bonds.

“Ordinance 233” means Ordinance No. 233, adopted by the Issuer on October 7, 1998, authorizing the issuance of the Series 1998 Bonds.

“Ordinance 269” means Ordinance No. 269, adopted by the Issuer on May 14, 2008, authorizing the issuance of the Series 2008 Bonds.

“Outstanding Bonds” means the Series 2008 Bond of the Issuer.

“Outstanding Ordinances” shall mean the ordinances duly adopted by the City Council of the Issuer authorizing the issuance of the Outstanding Bonds.

“Project” shall mean additions, extensions and improvements to the System, consisting generally of water transmission mains, pressure reducing stations, and water distribution looping, together with interests in land and all related sites, structures, equipment, appurtenances and attachments thereto.

“Public Improvements,” 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.

“Reserve Amount” shall mean with respect to the Bonds 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 outstanding principal amount of the Bonds on the date of issuance of the Bonds.

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

“Series 1997 Bond” means the 1997 Water Supply System Revenue Bond, dated April 9, 1998, of the Issuer authorized by Ordinance 230.

“Series 1998 Bond” means the 1998 Water Supply System Revenue Bond, dated October 20, 1998, of the Issuer authorized by Ordinance 233.

“Series 2008 Bond” means the 2008 Water Supply System Junior Lien Revenue Bond (Limited Tax General Obligation), of the Issuer in the principal amount of not to exceed \$3,720,000, authorized by Ordinance 269.

“Series 2011A Bond” shall mean the Issuer's Water Supply System Junior Lien Revenue and Revenue Refunding Bond, Series 2011A, in the principal amount of not to exceed \$1,225,000 authorized to be issued pursuant to this Ordinance.

“Series 2011B Bond” shall mean the Issuer's Water Supply System Junior Lien Revenue and Revenue Refunding Bond, Series 2011B, in the principal amount of not to exceed \$3,745,000 authorized to be issued pursuant to this Ordinance.

“System” shall mean the Issuer's water supply system including such facilities thereof as are now existing, are acquired and constructed as the Project, and all enlargements, extensions, repairs and improvements thereto hereafter made.

“Transfer Agent” shall mean the transfer agent and bond registrar for the Bonds as appointed from time to time by the Issuer as provided in Section 5 of this Ordinance and who or which shall carry out the duties and responsibilities as set forth in Sections 5 and 6 of this Ordinance.

Section 2. Necessity; Approval of Plans and Specifications; Conditions of Outstanding Bonds Met. It is hereby determined to be a necessary public purpose of the Issuer to acquire and construct the Project in accordance with the plans and specifications prepared by the Issuer's Engineer and on file with the Issuer, which plans and specifications are hereby approved, and to refund the Outstanding Bonds of the Issuer.

Section 3. Costs; Useful Life. The total cost of the Project is estimated to be not less than Eight Million Four Hundred Forty-Five Thousand Dollars (\$8,445,000) including the refunding of the Bonds to be Refunded, and 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. The Issuer also estimates, based on information from the Issuer's Engineer, that the remaining useful life of the improvements financed with the Bonds to be Refunded is estimated to be forty (40) years.

Section 4. Payment of Cost; Bonds Authorized. To refund the Bonds to be Refunded and to pay part of the cost of acquiring and constructing the Project and legal, engineering, financial and other expenses incident to said acquisition and construction and expenses incident to the issuance and sale of the Bonds, it is hereby determined that the Issuer borrow the sum of not to exceed Four Million Nine Hundred Seventy Thousand Dollars (\$4,970,000) and that revenue bonds be issued therefor in two separate series pursuant to the provisions of Act 94. The remaining cost of the Project shall be defrayed from grant funds and Issuer funds on hand and legally available for such use.

Section 5A. Series 2011A Bond Details. The Series 2011A Bond shall be designated WATER SUPPLY SYSTEM JUNIOR LIEN REVENUE AND REVENUE REFUNDING BOND, SERIES 2011A (TAXABLE), shall be dated as of the date of delivery of the first delivery installment (hereinafter defined), shall consist of one fully-registered nonconvertible bond of the denomination of not to exceed \$1,225,000 and shall be payable in principal installments on May 1 of each year, or such other date as determined at the time of closing, as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2012	\$18,000	2032	\$30,000
2013	18,000	2033	30,000
2014	19,000	2034	31,000
2015	19,000	2035	32,000
2016	20,000	2036	33,000
2017	20,000	2037	34,000
2018	21,000	2038	35,000
2019	21,000	2039	36,000
2020	22,000	2040	37,000
2021	22,000	2041	38,000
2022	23,000	2042	39,000
2023	24,000	2043	40,000
2024	24,000	2044	41,000
2025	25,000	2045	42,000
2026	25,000	2046	43,000
2027	26,000	2047	44,000
2028	27,000	2048	45,000
2029	27,000	2049	45,000
2030	28,000	2050	46,000
2031	29,000	2051	46,000

The City Manager is authorized to decrease the aggregate principal amount of the Series 2011A Bond and/or change the payment dates and the amounts of any of the foregoing installments if it is in the best interest of the Issuer, provided that the final principal payment of the Series 2011A Bond shall be due and payable within forty (40) years of the date of issuance of the Series 2011A Bond.

Section 5B. Series 2011B Bond Details. The Series 2011B Bond, being issued to refund the Outstanding Bonds, shall be designated WATER SUPPLY SYSTEM JUNIOR LIEN REVENUE AND REVENUE REFUNDING BOND, SERIES 2011B (TAXABLE), shall be dated as of the date of delivery of the first delivery installment (hereinafter defined), shall consist of one fully-registered nonconvertible bond of the denomination of not to exceed \$3,745,000 and shall be payable in principal installments on May 1 of each year, or such other date as determined at the time of closing, as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2012	\$57,000	2032	\$91,000
2013	58,000	2033	93,000

2014	60,000	2034	96,000
2015	61,000	2035	98,000
2016	63,000	2036	100,000
2017	64,000	2037	103,000
2018	66,000	2038	105,000
2019	67,000	2039	108,000
2020	69,000	2040	110,000
2021	71,000	2041	113,000
2022	72,000	2042	115,000
2023	74,000	2043	118,000
2024	76,000	2044	121,000
2025	77,000	2045	124,000
2026	79,000	2046	127,000
2027	81,000	2047	130,000
2028	83,000	2048	133,000
2029	85,000	2049	136,000
2030	87,000	2050	139,000
2031	89,000	2051	146,000

The City Manager is authorized to decrease the aggregate principal amount of the Series 2011B Bond and/or change the payment dates and the amounts of any of the foregoing installments if it is in the best interest of the Issuer, provided that the final principal payment of the Series 2011B Bond shall be due and payable within forty (40) years of the date of issuance of the Series 2011B Bond.

Section 5C. Interest on Bonds; Redemption Prior to Maturity.

The Bonds are 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 respective Bonds. The delivery installments shall be deemed to correspond to the serial principal installments of the respective Bonds in direct chronological order of said serial principal installments.

The serial principal installments of the 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 Bonds. The interest rate on the Series 2011A Bond shall not exceed two and five-eighths percent (2.625%) and the interest rate on the Series 2011B Bond shall not exceed two and three-eighths percent (2.375%). Interest on the Bonds shall be payable on the first November 1 or May 1 following the date of delivery of said delivery installment, and semiannually thereafter on November 1 and May 1 of each year until maturity or earlier prepayment of said installment. Acceptance of the interest rate on the Bonds shall be made by execution of the Bonds which so designate the rate specified by the Government and accepted by the Issuer. The Bonds shall be issued in fully-registered form and each series of the Bonds shall not be convertible or exchangeable into more than one fully-registered bond.

The Bonds or installments thereof will be subject to prepayment prior to maturity in whole or in part at any time in the manner provided in the form of the Bonds set forth in Section 9 of this Ordinance.

Section 6. Bond Registration and Transfer. The Transfer Agent shall keep or cause to be kept at its principal office sufficient books for the registration and transfer of the 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.

Each series of the Bonds may be transferred upon the books required to be kept by the Transfer Agent pursuant to this Section, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Bond for transfer, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the Transfer Agent. Whenever any Bond shall be surrendered for transfer, the Transfer Agent shall record such transfer on the registration books and shall register such transfer on the registration grid attached to the applicable 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 a Bond or installments thereof selected for redemption and ending at the close of business on the day of that mailing, or (ii) to register the transfer of or exchange any Bond or portion thereof so selected for prepayment. In the event a Bond is called for prepayment in part, the Transfer Agent upon surrender of the Bond shall note on the Bond the principal amount prepaid and shall return the Bond to the registered owner thereof together with the prepayment amount on the prepayment date.

The Issuer's Treasurer is hereby appointed to act as Transfer Agent with respect to the Bonds. If and at such time as a series of the Bonds 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 with respect to such series of the Bonds, and the Issuer may thereafter appoint a successor Transfer Agent upon sixty (60) days notice to the registered owner of such series of the Bonds.

Section 7. Payment of the Bonds. Principal of and interest on the Bonds shall be payable in lawful money of the United States of America by check or draft mailed by the Transfer Agent to the registered owner at the address of the registered owner as shown on the registration books of the Issuer kept by the Transfer Agent. If the Government shall no longer be the registered owner of the Bonds, then the principal of and interest on the 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 on the Bonds 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 a series of the Bonds, the registered owners thereof shall deliver the Bond of such series to the Issuer for cancellation.

The Issuer's Mayor, City Manager and City Clerk are each hereby authorized and directed to negotiate privately the sale of the Bonds to the Government at an interest rate not to exceed two and five-eighths percent (2.625%) per annum for the Series 2011A Bond and two and three-eighths percent (2.375%) per annum for the Series 2011B Bond.

The sale of the Bonds to the Government at rates not to exceed those stated above and at the par value thereof is hereby approved. The Issuer's Treasurer is hereby authorized to deliver the Bonds in accordance with the delivery instructions of the Government.

Section 8. Execution and Delivery of the Bonds. The Bonds shall be manually signed by the Mayor and countersigned by the City Clerk and shall have the corporate seal of the Issuer impressed thereon. After execution, the Bonds 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 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 HOUGHTON

CITY OF HANCOCK

WATER SUPPLY SYSTEM JUNIOR LIEN  
REVENUE AND REVENUE REFUNDING BOND  
SERIES 2011[A][B]  
(TAXABLE)

No. R-1

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

The City of Hancock, County of Houghton, 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 installment is delivered to the Issuer and as set forth on the registration grid hereon until paid at the rate of \_\_\_ and \_\_\_\_\_ percent (\_\_\_\_%) per annum, first payable on \_\_\_\_\_ 1, 20\_\_, 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 attached hereto 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 revenues of the System, after provision has been made for reasonable and necessary expenses of operation, administration and maintenance thereof (the "Net Revenues"), are hereby irrevocably pledged and a statutory lien thereon is hereby recognized and created that is equal in standing and priority of lien to the statutory lien created in Ordinance No. 269 of the Issuer in favor of the Issuer's 2008 Water Supply System Junior Lien Revenue Bond (Limited Tax General Obligation) (the "Outstanding Bonds").

This bond is a single, fully-registered, non-convertible bond constituting one of two series of an issue in the total aggregate principal sum of \$\_\_\_\_\_, issued pursuant to Ordinance No. 269 and Ordinance No. \_\_\_ (together, the "Ordinance"), 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 acquiring and constructing improvements to the System, together with relates sites, structures, equipment and



appurtenances and attachments thereto and refunding certain Bonds to be Refunded (as defined in the Ordinance) of the Issuer. 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 additional bonds of equal standing with this bond and the Outstanding Bonds may hereafter be issued, and the general covenants and provisions pursuant to which this bond is issued, reference is made to the Ordinance.

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

Principal installments of this bond are subject to prepayment prior to maturity, in inverse chronological order, at the Issuer's option, on any date on or after [May 1], 2012, at par and accrued interest to the date fixed for prepayment.

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

This bond shall be registered as to principal and interest on the books of the Issuer kept by the Issuer's Treasurer or successor or written designee as bond registrar and transfer agent (the "Transfer Agent") and noted hereon, after which it shall be transferable only upon presentation to the Transfer Agent with a written transfer by the registered owner or 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 payable from the Net Revenues of the System shall be outstanding, such rates for service furnished by the System as shall be sufficient to provide for payment of the interest upon and the principal of this bond, the Outstanding Bonds and any additional bonds of equal standing with this bond or the Outstanding Bonds payable from the Net Revenues of the System as and when the same become due and payable, and to create a Junior Lien Bond and Interest Redemption Account (including a Bond Reserve Account) therefor, to provide for the payment of expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the same in good repair and working order, and to provide for such other expenditures and funds for the System as are required by the Ordinance.

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

IN WITNESS WHEREOF, the City of Hancock, County of Houghton, State of Michigan, by its City Council, 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 April 21, 2011.

CITY OF HANCOCK  
COUNTY OF HOUGHTON  
STATE OF MICHIGAN

By \_\_\_\_\_  
William Laitila, Its Mayor

(Seal)

Countersigned:

By \_\_\_\_\_  
Karen S. Haischer, CMC Its City Clerk

REGISTRATION  
NOTHING TO BE WRITTEN HEREON EXCEPT

BY THE BOND REGISTRAR/TRANSFER AGENT

Date of Registration of Delivery	Name of Registered Owner	Principal Installment Delivered	Signature of Bond Registrar/ Transfer Agent
	United States of America		
	United States of America		
	United States of America		
	United States of America		
	United States of America		
	United States of America		
	United States of America		
	United States of America		
	United States of America		
	United States of America		
	United States of America		
	United States of America		
	United States of America		
	United States of America		

EXHIBIT A  
(For the Series 2011A Bond)

<u>Due [May] 1</u>	<u>Amount</u>	<u>Due [May] 1</u>	<u>Amount</u>
2012	\$18,000	2032	\$30,000
2013	18,000	2033	30,000
2014	19,000	2034	31,000
2015	19,000	2035	32,000
2016	20,000	2036	33,000
2017	20,000	2037	34,000
2018	21,000	2038	35,000
2019	21,000	2039	36,000
2020	22,000	2040	37,000
2021	22,000	2041	38,000
2022	23,000	2042	39,000
2023	24,000	2043	40,000
2024	24,000	2044	41,000
2025	25,000	2045	42,000
2026	25,000	2046	43,000
2027	26,000	2047	44,000
2028	27,000	2048	45,000
2029	27,000	2049	45,000
2030	28,000	2050	46,000
2031	29,000	2051	46,000

EXHIBIT A  
(For the Series 2011B Bond)

<u>Due [May] 1</u>	<u>Amount</u>	<u>Due [May] 1</u>	<u>Amount</u>
2012	\$57,000	2032	\$91,000
2013	58,000	2033	93,000
2014	60,000	2034	96,000
2015	61,000	2035	98,000
2016	63,000	2036	100,000
2017	64,000	2037	103,000
2018	66,000	2038	105,000
2019	67,000	2039	108,000
2020	69,000	2040	110,000
2021	71,000	2041	113,000
2022	72,000	2042	115,000
2023	74,000	2043	118,000
2024	76,000	2044	121,000
2025	77,000	2045	124,000
2026	79,000	2046	127,000
2027	81,000	2047	130,000
2028	83,000	2048	133,000
2029	85,000	2049	136,000
2030	87,000	2050	139,000
2031	89,000	2051	146,000

Section 10. Security for Bond. To pay the principal of and interest on the Bonds 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 which shall be a lien equal in standing and priority to the statutory lien created in Ordinance No. 269 in favor of the Series 2008 Bond to continue until the payment in full of the principal of and interest on the Bonds and the Series 2008 Bond and said Net Revenues shall be set aside for this purpose and identified as the Bond and Interest Redemption Account, as hereinafter specified.

Section 11. Budget. Immediately upon the effective date of this Ordinance for the remainder of the current Fiscal Year, and thereafter prior to the beginning of each Fiscal Year, the Issuer shall prepare an annual budget for the System for the ensuing Fiscal Year itemized on the basis of monthly requirements. A copy of such budget shall be mailed to the Government without request from the Government for review prior to adoption (as long as the Government is the registered owner of any of the 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 with a surety company in an amount at least equal to the maximum annual debt service for the Bonds.

The Issuer's Treasurer has previously created and is hereby directed to continue and maintain a WATER SUPPLY SYSTEM RECEIVING FUND ACCOUNT, with the following accounts, into which the proceeds of the Bonds and the Revenues from the System shall continue to be deposited in the manner and at the times provided in Ordinance No. 269 and this Ordinance, which accounts shall be established and maintained, except as otherwise provided, so long as the Bonds hereby authorized remain unpaid.

(A) CONSTRUCTION ACCOUNT. The Issuer's Treasurer is hereby authorized to create in the Depository Bank, an account designated 2011 WATER SUPPLY SYSTEM CONSTRUCTION ACCOUNT (the "Construction Account"). The proceeds of the Bonds hereby authorized and no other funds shall be deposited in the Construction Account. Moneys in the Construction Account shall be transferred, expended and used only in the manner and order as follows:

(1) To pay all legal, engineering, and financial expenses, and other expenses incident to the acquisition and construction of the Project, and incident to the refunding of the Bonds to be Refunded, and the issuance, sale and delivery of the Bonds;

(2) Payments in an amount which, together with funds on hand of Issuer from the Bond and Interest Redemption Fund for the Bonds to be Refunded and funds from the Bond Reserve Account for the Bonds to be Refunded, are sufficient to pay the outstanding principal of and interest on the Bonds to be Refunded on the date of issuance of the Bonds; and

(3) Payments necessary to finance the cost of the acquisition, construction, installation, and equipping of the Project, or to reimburse the Issuer for funds expended in

connection with the foregoing.

If monies other than proceeds of the Bonds are deposited into the Construction Account, then the monies constituting proceeds of the Bonds shall be accounted separately from such other funds or monies.

Any unexpended balance of the proceeds of sale of the 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 Junior Lien Bond and Interest Redemption Account (hereinafter defined) and used as soon as is practical for the prepayment of installments of the Bonds or for the purchase of installments to the Bonds at not more than the fair market value thereof. Following completion of the Project, any unexpended balance of the Bonds shall be invested at a yield not to exceed the yield on the Bonds.

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

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

(1) Operation and Maintenance Account. There is hereby established a separate account to be designated the OPERATION AND MAINTENANCE ACCOUNT (the "Operation and Maintenance Account"). Revenues shall be transferred each quarter of the Fiscal Year, commencing upon the effective date of this Ordinance, from the Receiving Account to the Operation and Maintenance Account to pay the reasonable and necessary current expenses of administration and operating and maintaining the System for the ensuing quarter.

(2) Water Supply System Revenue Bonds-Bond and Interest Redemption Account. There is hereby continued and maintained a separate account designated as the WATER SUPPLY SYSTEM REVENUE BONDS - BOND AND INTEREST REDEMPTION ACCOUNT (the "Bond and Interest Redemption Account"). The moneys in the Bond and Interest Redemption Account shall be invested in accordance with Section 13 of this Ordinance, and profit realized or income earned on such investment shall be used or transferred as provided in Section 13 of this Ordinance.

(3) Junior Lien Bond and Interest Redemption Account. There is hereby continued and maintained a separate account in the Bond and Interest Redemption Account to be known as the JUNIOR LIEN BOND - BOND AND INTEREST REDEMPTION ACCOUNT (the "Junior Lien Bond Redemption Account"). After the transfer required in (1) and (2) above, Revenues

shall be transferred each quarter of the Fiscal Year, commencing July 1, 2011 from the Receiving Fund, before any other expenditures or transfer therefrom, and deposited in the Junior Lien Bond and Interest Redemption Fund for payment of principal of and interest on the Bonds and to fund the Bond Reserve Account.

Upon any delivery of an installment of a series of the Bonds there shall be set aside at the time of 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 be set aside each Fiscal Year quarter on or after July 1, 2011, an amount not less than 1/2 of the amount of interest due on the next interest payment date on all outstanding installments of a series of the Bonds not delivered during the then current interest payment period.

Upon any delivery of an installment of a series of the Bonds there shall be set aside at the time of such delivery and on the first day of each quarter of the Fiscal Year thereafter to the next principal payment date an amount equal to that fraction of the amount of principal due on the next principal payment date on said installment so delivered, the numerator of which is 1 and the denominator of which is the number of full and partial Fiscal Year quarters from the date of said delivery to the next principal payment date. There shall also be set aside each Fiscal Year quarter on or after July 1, 2011, an amount not less than 1/4 of the amount of principal due on the next principal payment date. Except as hereinafter provided, no further deposits shall be made into the Junior Lien Bond and Interest Redemption Fund (excluding the Bond Reserve Account) once the aforesaid sums have been deposited therein. Any amount on deposit in the Junior Lien Bond and Interest Redemption Fund (excluding the Bond Reserve Account) in excess of (a.) the amount needed for payment of principal installments of the Bond for the then current principal payment period, plus (b.) interest on the Bond for the then current interest payment period, shall be used by the Issuer for redemption of principal installments of the Bond in the manner set forth in Section 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 and Interest 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 recognized in the Junior Lien Bond and Interest Redemption Account a separate account designated as the BOND RESERVE ACCOUNT (the "Bond Reserve Account"). Commencing July 1, 2011, there shall be withdrawn from the Receiving Account at the beginning of each Fiscal Year quarter and set aside in and transferred to the Bond Reserve Account, after provision has been made for the Operation and Maintenance Account and the current requirements of the Junior Lien Bond and Interest Redemption Account, the sum of at \$4,922.50 per quarter (\$19,690 annually; \$5,050 related to the Series 2011A Bond and \$14,640 related to the Series 2011B Bond) until there is accumulated in such account the lesser of the



sum of \$196,900 or the Reserve Amount. Except as hereinafter provided, no further deposits shall be made into the Junior Lien Bond and Interest Redemption Account for the purposes of the Bond Reserve Account once the lesser of the sum of \$196,900 or the Reserve Amount has been deposited therein. The moneys in the Bond Reserve Account shall be used solely for the payment of the principal installments of and interest on the Bonds as to which there would otherwise be default; provided however, that in the event the amount on deposit in the Bond Reserve Account exceeds the Reserve Amount, the moneys in excess of the Reserve Amount shall be used to pay principal installments of and interest on the Bonds on the next payment date.

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

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

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

(4) Repair, Replacement and Improvement Account. There is hereby continued and maintained a separate account designated REPAIR, REPLACEMENT AND IMPROVEMENT ACCOUNT (the "RRI Account"). After the transfers required in (1), (2) and (3) above, and so long as any principal installments of the Bonds remain outstanding, commencing on July 1, 2011, revenues shall be transferred each Fiscal Year quarter from the Receiving Account and deposited in the RRI Account in an amount not less than \$7,425.50 (\$29,702 annually; \$6,606 related to the Series 2011A Bond and \$23,096 related to the Series 2011B Bond), less the amount, if any, deposited in the Bond Reserve Account at the beginning of the same Fiscal Year quarter. Moneys in the RRI Account shall be used and disbursed only for the purpose of paying the cost of (a) repairing any damage to and emergency maintenance of the System, (b) repairing or replacing obsolete, deteriorating, deteriorated or worn out portions of the System, (c) acquiring and constructing extensions and improvements to the System and (d) when necessary, for the purpose of making payment of principal and interest on the Bonds. If the amount in the Junior Lien Bond and Interest Redemption Account and the Bond Reserve Account is not sufficient to pay the principal of and interest on the Bonds when due, the moneys in the RRI Account shall be transferred to the Junior Lien Bond and Interest Redemption Account and used for that purpose. Moneys in the RRI Account may be invested in accordance with Section 13 of this Ordinance.

(5) Reverse Flow of Funds; Surplus Money. In the event the moneys in the Receiving Account are insufficient to provide for the current requirements of the Operation and Maintenance Account, the Bond and Interest Redemption Account (including the Bond Reserve

Account), the Junior Lien Bond Redemption Account (including the Bond Reserve Account), or the RRI Account, any moneys and/or securities in the funds of the System described by this Ordinance shall be transferred, first, to the Operation and Maintenance Account, second, to the Bond and Interest Redemption Account, third, to the Junior Lien Bond and Interest Redemption Account, and fourth, to the RRI Account.

All moneys remaining in the Receiving Account at the end of any Fiscal Year after satisfying the above requirements for the deposit of moneys into the Operation and Maintenance Account, the Bond and Interest Redemption Account, the Junior Lien Bond and Interest Redemption Fund and the RRI Account may be transferred to the Bond and Interest Redemption Account or the Junior Lien Bond and Interest Redemption Account and used to call the Bonds or portions thereof for redemption, or at the option of the Issuer, transferred to the RRI Account and used for the purpose for which the account was established; provided, however, that if there should be a deficit in the Operation and Maintenance Account, the Bond and Interest Redemption Account, the Junior Lien Bond and Interest Redemption Account, the Bond Reserve Account or the RRI Account, on account of defaults in setting aside therein the amounts hereinbefore required, then transfers shall be made from such moneys remaining in the Receiving Account to such accounts 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 City Council 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 Government, then the investment may be limited to the obligations and instruments authorized by the Government. Investment of moneys in the Junior Lien Bond and Interest Redemption Account being accumulated for payment on the next maturing principal or interest payment on the Bonds shall be limited to obligations and instruments bearing maturity dates prior to the date of the next maturing principal or interest payment on the Bonds. Investment of moneys in the Bond Reserve Account shall be limited to Government obligations and instruments bearing maturity dates or subject to redemption, at the option of the holder thereof, not later than five (5) years from the date of the investment. In the event investments are made, any securities representing the same shall be kept on deposit with the Depository Bank. Interest income earned on investment of funds in the Receiving Account, the Operation and Maintenance Account and the Junior Lien Bond and Interest Redemption Account (except the Bond Reserve Account), shall be deposited in or credited to the Receiving Account. Interest income earned on the investment of funds in the Bond Reserve Account shall be deposited in the Junior Lien Bond and Interest Redemption Account.

Section 14. Rates and Charges. Rates and charges for the services of the System have been fixed by ordinance in an amount sufficient to pay the costs of operating, maintaining and administering the System, to pay the principal of and interest on the Outstanding Bonds and 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 the Bonds shall be outstanding such rates for service furnished by the System as shall be sufficient to

provide for the foregoing expenses, requirements and covenants, and to create a bond and interest redemption account (including a bond reserve account) for 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 of the Bonds, and accruing interest on all of the Bonds, and there shall be charged such rates and charges as shall be adequate to meet the requirements of this Section and Section 12 of this Ordinance.

Section 15. No Free Service. No free service shall be furnished by the System to any individual, firm or corporation, public or private or to any public agency or instrumentality.

Section 16. Covenants. The Issuer covenants and agrees, so long as any of the 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 Government shall have the right to inspect the System and the records, accounts, and data relating thereto at all reasonable times.

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

(iii) It will cause an annual audit of such books of record and account for the preceding Fiscal Year to be made each year by a recognized independent certified public accountant, and will cause such accountant to mail a copy of such audit to the Government, without request of the Government, or to the manager of the syndicate or account purchasing any series of the Bonds. Such audit shall be completed and so made available not later than one hundred fifty (150) 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. The amount of said insurance shall be approved by the Government. All moneys received for losses under any such insurance policies shall be applied solely to the replacement and restoration of the property damaged or destroyed, and to the extent not so used, shall be used for the purpose of calling Bonds.

(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 Government, nor shall it transfer or use any portion of the Revenues derived in the operation of the System for any purpose not herein specifically authorized.

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

(f) 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.

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 the Project in accordance with the plans and specifications therefor. Such bonds shall not be authorized unless the engineers in charge of construction shall execute a certificate evidencing the fact that additional funds are needed to complete the Project in accordance with the plans and specifications therefor and stating the amount that will be required to complete the Project. If such certificate shall be so executed and filed with the Issuer, it shall be the duty of the Issuer to provide for and issue additional revenue bonds in the amount stated in said certificate to be necessary to complete the Project in accordance with the plans and specifications plus an amount necessary to issue such bonds or to provide for part or all of such amount from other sources.

(b) For subsequent repairs, extensions, enlargements and improvements to the System or for the purpose of refunding part of any bonds then outstanding or for both purposes and paying costs of issuing such additional bonds including deposits which may be required to be made to a bond reserve account, if any. Bonds for such purposes shall not be issued pursuant to this subparagraph (b) unless the Adjusted Net Revenues of the System for the preceding twelve-month operating year shall be at least equal to one hundred percent (100%) of the maximum amount of principal and interest thereafter maturing in any operating year on the then outstanding bonds and on the additional bonds then being issued. If the additional bonds are to be issued in whole or in part for refunding outstanding bonds, the annual principal and interest requirements shall be determined by deducting from the principal and interest requirements for each operating year the annual principal and interest requirements of any bonds to be refunded from the proceeds of the additional bonds. For purposes of this subparagraph (b) the Issuer may elect to use as the last preceding operating year any operating year ending not more than sixteen months prior to the date of delivery of the additional bonds. Determination by the Issuer as to existence of conditions permitting the issuance of additional bonds shall be conclusive. No additional bonds of equal standing as to the Net Revenues of the System shall be issued pursuant to the authorization contained in this subparagraph if the Issuer

shall then be in default in making its required payments to the Operation and Maintenance Account or the Junior Lien Bond and Interest Redemption Account.

(c) For refunding all or a part of the outstanding bonds and paying costs of issuing such additional bonds including deposits which may be required to be made to a bond reserve account. No additional bonds shall be issued pursuant to this subsection unless the maximum amount of principal and interest maturing in any operating year after giving effect to the refunding shall be less than the maximum amount of principal and interest maturing in any operating year prior to giving effect to the refunding.

For the purposes of this Section 17 “Adjusted Net Revenues” means for any operating year the excess of revenues over expenses for the System determined in accordance with generally accepted accounting principles, to which shall be added depreciation, amortization, interest expense on Bonds and payments to the Issuer in lieu of taxes, to which may be made the following adjustments.

(i) Revenues may be augmented by the amount of any rate increases adopted prior to the issuance of additional bonds or to be placed into effect before the time principal or interest on the additional bonds becomes payable from Revenues as applied to quantities of service furnished during the operating year or portion thereof that the increased rates were not in effect.

(ii) Revenues may be augmented by amounts which may be derived from rates and charges to be paid by new customers of the System.

The adjustment of revenues and expenses by the factors set forth in (i) and (ii) above shall be reported upon by professional engineers or certified public accountants or other experts not in the regular employment of the Issuer.

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 Bonds 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 remain 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 or 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 Bond and Interest Redemption Account, 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 the State of Michigan.

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

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

Section 21. Repeal of Outstanding Ordinances. Immediately upon the refunding of the Bonds to be Refunded, Ordinance Nos. 135, 230 and 233 of the Issuer shall be repealed and of no further effect.

Section 22. 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 23. Fiscal Year of System. The fiscal year for operating the System shall be the Fiscal Year.

Section 24. Issuer Subject to Loan Resolution. So long as the Government is holder of any of the Bonds, the Issuer shall be subject to the loan resolution (RUS Bulletin 1780-27) and shall comply with all provisions thereof.

Section 25. Covenant Not to Defeas. So long as the Government is the holder of the Bonds the Issuer covenants that it will not defeas the Bonds held by the Government.

Section 26. 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 27. 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 28. Publication and Recordation. This Ordinance shall be published in full in *The Daily Mining Gazette*, 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 29. Effective Date. This Ordinance is hereby determined by the City Council 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 Hancock, County of Houghton, State of Michigan, on April 20, 2011.

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William Laitila Mayor

(Seal)

Attest:

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Karen S. Haischer, CMC City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the City Council of the City of Hancock, County of Houghton, State of Michigan, at a regular meeting held on the 20th day of April, 2011, 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: Councilors Hainault, Slivon, Belej, Laitila, Moore, McKenzie and Haeussler, and that the following Members were absent: None.

I further certify that Councilor Belej moved adoption of said Ordinance, and that said motion was supported by Councilor McKenzie.

I further certify that the following Members voted for adoption of said Ordinance: Councilors Hainault, Slivon, Belej, Laitila, Moore, McKenzie and Haeussler 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 and that such recording has been authenticated by the signatures of the Mayor and the City Clerk.

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Karen S. Haischer, CMC  
City Clerk