

VILLAGE OF BANCROFT  
COUNTY OF SHIAWASSEE  
STATE OF MICHIGAN

ORDINANCE NO. 242-07

AN ORDINANCE TO AMEND ORDINANCE NO. 221-00 AND ORDINANCE NO. 238-04 OF THE VILLAGE OF BANCROFT AND TO PROVIDE FOR THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF CERTAIN IMPROVEMENTS TO THE WATER SUPPLY AND DISTRIBUTION SYSTEM OF THE VILLAGE OF BANCROFT; TO PROVIDE FOR THE ISSUANCE AND SALE OF REVENUE BONDS TO PAY THE COST THEREOF; TO PRESCRIBE THE FORM OF THE BONDS; TO PROVIDE FOR THE COLLECTION OF REVENUES FROM THE SYSTEM SUFFICIENT FOR THE PURPOSE OF PAYING THE COST OF THE OPERATION AND MAINTENANCE OF THE SYSTEM AND PAYING 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 SYSTEM'S REVENUES; TO PROVIDE FOR THE RIGHTS OF THE HOLDERS OF THE BONDS AND ENFORCEMENT THEREOF; AND TO PROVIDE FOR OTHER MATTERS RELATING TO THE BONDS AND THE SYSTEM.

THE VILLAGE COUNCIL OF THE VILLAGE OF BANCROFT HEREBY 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.

"Authorized Officer" or "Authorized Officers" shall mean the Issuer's President, Clerk, Treasurer, or a designee thereof. Any Authorized Officer may, individually, take any action authorized for the Authorized Officers by 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 2007 Water Supply and Distribution System Improvement Revenue Bonds, Series A, and 2007 Water Supply and Distribution System Improvement Revenue Bonds, Series B, issued in the total aggregate principal amount of not to exceed Four Hundred Sixteen Thousand Dollars (\$416,000), authorized to be issued pursuant to this Ordinance, together with any additional bonds of equal standing hereafter issued.

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

“Engineer” shall mean Wolverine Engineers & Surveyors, Inc., Mason, Michigan.

“Fiscal Year” shall mean the fiscal year of the Issuer and the operating year of the System, commencing March 1 and ending February 28/29 of the subsequent year, as such fiscal year may be changed by the Issuer from time to time.

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

“Issuer” shall mean the Village of Bancroft, Shiawassee County, 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 the issuance of additional bonds.

“Prior Bonds” shall mean, collectively, the Village's Water Supply and Distribution System Revenue Bonds, Series 2000, dated December 5, 2000, in the original principal amount of \$600,000, and the Village's Water Supply and Distribution System Revenue Bonds, Series 2004, dated October 15, 2004, in the original principal amount of \$500,000.

“Prior Bonds Ordinances” shall mean, collectively, Ordinance No. 221-00, enacted by the Village Council on November 20, 2000, authorizing the Village's Water Supply and Distribution System Revenue Bonds, Series 2000, and Ordinance No. 238-04, enacted by the Village Council on September 29, 2004, authorizing the Village's Water Supply and Distribution System Revenue Bonds, Series 2004.

“Project” shall mean the acquisition and construction certain improvements to the Issuer's water supply and distribution system for water treatment/arsenic removal purposes, including the construction of an arsenic/iron removal plant utilizing pre-chlorination, vertical pressure filters, and adsorption media, and any and all other necessary and related improvements, including land, rights-of-way, engineering, financial and legal costs of the improvements, and related appurtenances.

“Public Improvements” shall mean the Project and any other 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 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.

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

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

**Section 2. Necessity; Approval of Plans and Specifications.** It is hereby determined to be a necessary public purpose of the Issuer to create and establish the System and 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 the System is hereby created and established.

**Section 3. Costs; Useful Life.** The total cost of the Project is estimated to be not less than Four Hundred Sixteen Dollars (\$416,000), including the payment of incidental and/or issuance 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 Costs; Bonds Authorized.** To pay all or a portion of the cost of acquiring and constructing the Project and the legal, engineering, financial and other expenses incidental to the acquisition and construction, and expenses incidental to the issuance and sale of the Bonds, it is hereby determined that the Issuer shall borrow the sum of not to exceed Four Hundred Sixteen Dollars (\$416,000), and that revenue bonds be issued therefor pursuant to the provisions of Act 94.

**Section 5. Bond Details.** The Bonds shall be issued in two (2) series, designated **2007 WATER SUPPLY AND DISTRIBUTION SYSTEM IMPROVEMENT REVENUE BONDS, SERIES A** (the "Series A Bonds"), and **2007 WATER SUPPLY AND DISTRIBUTION SYSTEM IMPROVEMENT REVENUE BONDS, SERIES B** (the "Series B Bonds"), respectively (the Series A Bonds and the Series B Bonds shall be referred to herein collectively as the "Bond" or "Bonds"). The Bonds shall be dated as of the date of delivery of the first installment, or such other date as approved by an Authorized Officer.

The Series A Bonds shall consist of one (1) fully-registered nonconvertible bond of the denomination of not to exceed Three Hundred Ninety Thousand Dollars (\$390,000), and shall be payable in principal installments serially on October 1 (or such other date as shall be approved by an Authorized Officer) of each year, as follows:

| <u>Year</u> | <u>Amount</u> | <u>Year</u> | <u>Amount</u> |
|-------------|---------------|-------------|---------------|
| 2007        | \$ 4,000      | 2027        | \$9,000       |
| 2008        | 4,000         | 2028        | 9,000         |
| 2009        | 4,000         | 2029        | 10,000        |
| 2010        | 4,000         | 2030        | 10,000        |
| 2011        | 5,000         | 2031        | 10,000        |
| 2012        | 5,000         | 2032        | 11,000        |
| 2013        | 5,000         | 2033        | 11,000        |
| 2014        | 5,000         | 2034        | 12,000        |
| 2015        | 5,000         | 2035        | 12,000        |
| 2016        | 6,000         | 2036        | 13,000        |
| 2017        | 6,000         | 2037        | 13,000        |
| 2018        | 6,000         | 2038        | 14,000        |
| 2019        | 6,000         | 2039        | 14,000        |
| 2020        | 7,000         | 2040        | 15,000        |
| 2021        | 7,000         | 2041        | 16,000        |
| 2022        | 7,000         | 2042        | 16,000        |
| 2023        | 8,000         | 2043        | 17,000        |
| 2024        | 8,000         | 2044        | 18,000        |
| 2025        | 8,000         | 2045        | 18,000        |
| 2026        | 9,000         | 2046        | 23,000        |

The Series B Bonds shall consist of one (1) fully-registered nonconvertible bond of the denomination of not to exceed Twenty-Six Thousand Dollars (\$26,000), and shall be payable in principal installments serially on October 1 (or such other date as shall be approved by an Authorized Officer) of each year, as follows:

| <u>Year</u> | <u>Amount</u> | <u>Year</u> | <u>Amount</u> |
|-------------|---------------|-------------|---------------|
| 2007        | \$ 500        | 2027        | \$ 500        |
| 2008        | 500           | 2028        | 500           |
| 2009        | 500           | 2029        | 500           |
| 2010        | 500           | 2030        | 500           |
| 2011        | 500           | 2031        | 500           |
| 2012        | 500           | 2032        | 500           |
| 2013        | 500           | 2033        | 500           |
| 2014        | 500           | 2034        | 500           |
| 2015        | 500           | 2035        | 500           |
| 2016        | 500           | 2036        | 500           |
| 2017        | 500           | 2037        | 500           |
| 2018        | 500           | 2038        | 1,000         |
| 2019        | 500           | 2039        | 1,000         |
| 2020        | 500           | 2040        | 1,000         |
| 2021        | 500           | 2041        | 1,000         |
| 2022        | 500           | 2042        | 1,000         |
| 2023        | 500           | 2043        | 1,000         |
| 2024        | 500           | 2044        | 1,000         |
| 2025        | 500           | 2045        | 1,500         |
| 2026        | 500           | 2046        | 2,000         |

The Bonds are expected to be delivered to the Government as the initial purchaser thereof in installments (the "delivery installments") and each delivery installment shall be noted on the registration grid set forth on the schedule attached to the applicable Bonds. The delivery installments shall be deemed to correspond to the serial principal installments of the applicable Bonds in direct chronological order of the 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 schedule attached to the Bonds at the rate of not to exceed four and one hundred twenty-five thousandths percent (4.125%) per annum, payable on April 1, 2007, and semiannually thereafter on October 1 and April 1 (or such other dates as shall be approved by an Authorized Officer) of each year until maturity or earlier prepayment of the installment. Acceptance of the interest rate on the Bonds shall be made by execution of the Bonds which so designates the rate specified by the Government and accepted in writing 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 Issuer's Authorized Officers, individually or collectively, are hereby authorized to adjust the dated date, the maturity schedules, and the interest payment dates, and/or reduce the principal amount of the Bonds as deemed necessary and reasonable to the Project.

The Bonds or installments thereof will be subject to prepayment prior to maturity in the manner and at the times as provided in the substantial 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 the books Bonds presented for transfer, as hereinafter provided and subject to such reasonable regulations as it may prescribe.

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

The Issuer's Treasurer is hereby appointed to act as Transfer Agent with respect to the 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 paying agent/bond registrar with respect to such series, and the Issuer may thereafter appoint a successor Transfer Agent upon sixty (60) days notice to the registered owner of the applicable series of the 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. The 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 also 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 or Bonds to the Issuer for cancellation.

If necessary, the Issuer's Authorized Officers or a designee thereof is/are hereby authorized to cause an application to be filed with the Local Audit and Finance Division of the Michigan Department of Treasury for approval to issue and sell the Bonds, and the Treasurer is authorized to provide the necessary sum to accompany the application, and to take such other steps as are necessary to sell the Bonds. Once the Issuer has obtained approval from the Michigan Department of Treasury to issue the Bonds, the Issuer's Authorized Officers are hereby authorized and directed to negotiate privately the sale of the Bonds to the Government at an interest rate not to exceed four and one hundred twenty-five thousandths percent (4.125%) per annum.

Further, based upon expense considerations associated with publishing a notice of sale, as specified in Section 309(2) of the Revised Municipal Finance Act (Act 34 of 2001, as amended), as well as the recommendation from its financial advisor regarding the financial advantages reasonably expected to be realized from selling the Bonds to the Government through a negotiated sale versus selling the Bonds on the open market through a competitive sale, the Issuer authorizes the negotiated sale of the Bonds to the Government, without publication of a notice of sale. The Issuer hereby determines that it is in the best interest of the Issuer to accept the offer from the Government to purchase the Bonds at the price of par plus at an interest rate of four and one hundred twenty-five thousandths percent (4.125%) per annum, and the Issuer hereby determines to sell the Bonds to the Government pursuant to the provisions of this Ordinance.

The sale of the Bonds to the Government at an interest rate of not to exceed four and one hundred twenty-five thousandths percent (4.125%) per annum 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, after approval of the issuance and sale thereof by the Department of Treasury, if such approval is at that time required.

**Section 8. Execution and Delivery of the Bonds.** The Bonds shall be manually signed by the President and countersigned by the 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 any additional bonds:



**UNITED STATES OF AMERICA**  
**STATE OF MICHIGAN**  
**COUNTY OF SHIAWASSEE**  
**VILLAGE OF BANCROFT**  
**2007 WATER SUPPLY AND DISTRIBUTION SYSTEM**  
**IMPROVEMENT REVENUE BOND, SERIES \_\_**

|             |                         |  |                               |
|-------------|-------------------------|--|-------------------------------|
| <u>Rate</u> | <u>Principal Amount</u> | <u>Maturity Date</u>                     | <u>Date of Original Issue</u> |
| _____ %     | Per Schedule A          | October 1 of each<br>year per Schedule A | January __, 2007              |

REGISTERED OWNER:     United States of America

VILLAGE OF BANCROFT, COUNTY OF SHIAWASSEE, STATE OF MICHIGAN (the "Issuer"), promises to pay to the Registered Owner specified above, or registered assigns, solely from the net revenues of the Issuer's water supply and distribution system, including all appurtenances, additions, extensions and improvements thereto (the "System"), the Principal Amount specified above, in lawful money of the United States of America on the Maturity Date specified above, with interest thereon from the Date of Original Issue specified above, or subsequent dates of installment deliveries as set forth in Schedule B, attached hereto, until paid at the Rate specified above payable on April 1, 2007, and semiannually thereafter on the first day of October and April of each year (the "Bond" or "Bonds"); provided that the principal repayments required herein to be paid to the Registered Owner shall not exceed the total of the principal installments set forth on the registration grid attached hereto as Schedule B as from time to time hereafter updated by the Treasurer of the Issuer (the "Bond Registrar") to acknowledge receipt of the principal installments of this Bond up to an aggregate amount of \$\_\_\_\_,000. Principal on this Bond is payable at the office of the Bond Registrar pursuant to Schedule A, attached hereto, and upon final principal payment, upon presentation and surrender hereof.

Both principal of and interest on this Bond are payable in lawful money of the United States of America to the Registered Owner by check or draft mailed to the Registered Owner at the registered address shown on the registration books of the Bond Registrar. The Issuer may hereafter designate a successor Bond Registrar upon the conditions specified in Ordinance No. \_\_, enacted by the Issuer's Village Council on January 18, 2007 (the "Ordinance"), authorizing the issuance of this Bond. For the prompt payment thereof, the revenues of the System, after provision has been made for reasonable and necessary expenses of operation, administration and maintenance thereof (the "Net Revenues"), are hereby irrevocably pledged and a statutory \_\_\_\_ lien thereon is hereby recognized and created.

This Bond is a single, fully-registered instrument evidencing multiple annual maturities delivered in installments and registered as of the date of each installment as set forth in Schedule B, aggregating the principal sum of \$\_\_\_\_,000, issued pursuant to the Ordinance, and under and in full compliance with the constitution and statutes of the State of Michigan, including specifically Act 34, Public Acts of Michigan, 2001, as amended, and Act 94, Public Acts of Michigan, 1933, as

amended, for the purpose of defraying all or a portion of the cost of extending and improving the System.

This Bond is a self-liquidating bond and is payable, both as to principal and interest, solely from the Net Revenues of the System. The principal of and interest on this Bond are secured by the statutory \_\_\_\_\_ lien hereinbefore mentioned. This Bond is not a general obligation of the Issuer and does not constitute an indebtedness of the Issuer within any constitutional or statutory limitation. 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 may hereafter be issued, and the general covenants and provisions pursuant to which this Bond is issued, reference is made to the Ordinance.

The Issuer has covenanted and agreed and does hereby covenant and agree to (i) fix and maintain at all times while any bonds, including any principal installments of this Bond, payable from the Net Revenues of the System shall be outstanding, such rates for service furnished by the System as shall be sufficient to provide for payment of the interest upon and the principal of this Bond and any additional bonds of equal standing payable from the Net Revenues of the System as and when the same become due and payable, (ii) create a bond and interest redemption account (including bond reserve account) therefor, (iii) 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 (iv) provide for such other expenditures and funds for the System as are required by the Ordinance.

Principal installments of this Bond are subject to prepayment prior to maturity, in any order and at any time, at par and accrued interest to the date fixed for prepayment. Thirty (30) days' notice of the call of any principal installment for prepayment shall be given by mail to the Registered Owner at the registered address shown on the registration books kept by the Bond Registrar. The principal installments so called for prepayment shall not bear interest after the date fixed for prepayment, provided funds are on hand with the Bond Registrar to prepay the installments.

This Bond is registered as to principal and interest and is transferable, as provided in the Ordinance, only upon the books of the Issuer kept for that purpose by the Bond Registrar, by the Registered Owner hereof in person or by an agent of the Registered Owner duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the Registered Owner or agent thereof and thereupon a new Bond or Bonds in the same aggregate principal amount and of the same maturity shall be issued to the transferee in exchange therefor as provided in the Ordinance and upon payment of the charges, if any, therein provided.

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

This Bond shall not be deemed a valid and binding obligation of the Issuer in the absence of authentication by manual execution hereof by the authorized signatory of the Bond Registrar.

IN WITNESS WHEREOF, Village of Bancroft, County of Shiawassee, State of Michigan, by its Village Council, has caused this Bond to be signed in its name by its President and to be countersigned by its Clerk, and its corporate seal to be hereunto affixed, all as of January \_\_, 2007, and to be manually signed by the authorized signatory of the Bond Registrar as of the date set forth below.

VILLAGE OF BANCROFT  
COUNTY OF SHIAWASSEE  
STATE OF MICHIGAN

(Seal)

By: \_\_\_\_\_  
President

Countersigned:

\_\_\_\_\_  
Clerk

CERTIFICATE OF AUTHENTICATION

Dated:

This Bond is the Bond described  
in the within mentioned Ordinance.

By: \_\_\_\_\_  
Bond Registrar



**Section 10. Security for Bonds.** 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 to continue until the payment in full of the principal of and interest on the Bonds, and the Net Revenues shall be set aside for that purpose and identified as the Bond and Interest Redemption Account, as hereinafter specified. The principal of and interest on the Bonds are payable solely from the Net Revenues of the System. The Bonds are not a general obligation of the Issuer and do not constitute an indebtedness of the Issuer within any constitutional or statutory limitation.

**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 subsequent 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 the 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 and Accounts.** The Issuer's Treasurer shall be custodian of all funds belonging to or associated with the System, and the funds shall be deposited in a bank designated by resolution of the Issuer, which bank shall be 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 (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 is hereby directed to create and maintain the following funds and accounts into which the proceeds of the Bonds and the Revenues from the System shall be deposited in the manner and at the times provided in this Ordinance, which funds and accounts shall be established and maintained, except as otherwise provided, so long as the Bonds and the Prior Bonds remain unpaid.

(A) **CONSTRUCTION ACCOUNT.** The proceeds of the Bonds, and no other funds, shall be deposited in the WATER SUPPLY AND DISTRIBUTION SYSTEM PROJECT CONSTRUCTION FUND ACCOUNT (the "Construction Account"), in the Depository Bank. Moneys in the Construction Account shall be used solely for the purposes for which the Bonds are issued.

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 Bond and Interest Redemption Account 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 the remaining proceeds, if any, of the Bonds pursuant to the provisions of this section, the Construction Account shall be closed.

**(B) WATER SUPPLY AND DISTRIBUTION SYSTEM RECEIVING ACCOUNT.**

Upon and after the effective date of this Ordinance, the Revenues of the System shall be set aside into a separate account to be designated the WATER SUPPLY AND DISTRIBUTION 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, operation and maintenance of the System for the ensuing quarter.

(2) Water Supply and Distribution System Revenue Bonds-Bond and Interest Redemption Account. There is hereby established a separate account to be designated as the WATER SUPPLY AND DISTRIBUTION SYSTEM PROJECT - BOND AND INTEREST REDEMPTION ACCOUNT (the "Bond and Interest Redemption Account"). After the transfer required in (1) above, Revenues shall be transferred each quarter of the Fiscal Year, commencing March 1, 2007, from the Receiving Account, before any other expenditures or transfer therefrom, and deposited in the Bond and Interest Redemption Account for payment of principal of and interest on the Bonds and to fund the Bond Reserve Account.

Upon any delivery of an installment 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 the 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 the delivery to the next interest payment date. There shall be set aside each Fiscal Year quarter on or after March 1, 2007, 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 Bond not delivered during the then-current interest payment period.

Upon any delivery of an installment 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 the 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 the delivery to the next principal payment date. There shall also be set aside each Fiscal Year quarter on or after March 1, 2007, an amount not less than  $\frac{1}{4}$  of the amount of principal due on the next principal payment date. Except as hereinafter provided, no further deposits shall be made into the Bond and Interest

Redemption Account (excluding the Bond Reserve Account) once the aforesaid sums have been deposited therein. Any amount on deposit in the Bond and Interest Redemption Account (excluding the Bond Reserve Account) in excess of (a) the amount needed for payment of principal installments of the Bonds for the then current principal payment period, plus (b) interest on the Bonds for the then-current interest payment period, shall be used by the Issuer for redemption of principal installments of the Bonds in the manner set forth in **Section 19** of this Ordinance, or if such use is impractical, shall be deposited in or credited to the Receiving Account.

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

There is hereby established in the Bond and Interest Redemption Account a separate account to be designated the WATER SUPPLY AND DISTRIBUTION SYSTEM PROJECT BOND RESERVE ACCOUNT (the "Bond Reserve Account"). Commencing March 1, 2007, there shall be made a separate withdrawal from the Receiving Account on the first day of each Fiscal Year and set aside in and transferred to the Bond Reserve Account, after provision has been made for the Operation and Maintenance Account and the current requirements of the Bond and Interest Redemption Account, the sum of not less than \$2,350 per year until there is accumulated in the Account the sum of \$23,500. Except as hereinafter provided, no further deposits shall be made into the Bond and Interest Redemption Account for the purposes of the Bond Reserve Account once the sum of \$23,500 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 installment 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 the 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 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 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 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 the investment shall be used or transferred as provided in **Section 13** of this Ordinance.

(3) Improvement and Extension Account. The Issuer's Village Council may, by resolution, establish a separate account designated IMPROVEMENT AND EXTENSION ACCOUNT (the "Improvement Account"). If the Improvement Account is established, then after the transfers required in (1) and (2) above, revenues shall be transferred each quarter of the Fiscal Year from the Receiving Account and deposited in the Improvement Account in such amount as determined by resolution of the Issuer's Village Council. Moneys in the Improvement Account shall be used and disbursed only for the purpose of paying the cost of repairing any damage to the System or repairing or replacing obsolete, deteriorating, deteriorated or worn out portions of the System, and, when necessary, for the purpose of making payments of principal and interest on the Bonds. If the amount in the Bond and Interest Redemption Account and the Bond Reserve Account is not sufficient to pay the principal of and interest on the Bonds when due, the moneys in the Improvement Account shall be transferred to the Bond and Interest Redemption Account and used for that purpose. Moneys in the Improvement Account may be invested in accordance with **Section 13** of this Ordinance.

(4) Repair, Replacement and Improvement Account. There is hereby established a separate account designated REPAIR, REPLACEMENT AND IMPROVEMENT ACCOUNT (the "RRI Account"). After the transfers required in (1), (2) and (3) above, commencing March 1, 2007, funds in the sum of at least \$7,950 per year shall be transferred on the first day of each Fiscal Year from the Receiving Account and deposited in the RRI Account in an amount to be approved by the Issuer's Treasurer. Further, once the Bond Reserve Account is funded to the amount of \$23,500, as required by **Section 12(B)(2)** of this Ordinance, funds that had been transferred annually to the Bond Reserve Account pursuant to **Section 12(B)(2)** of this Ordinance shall thereafter be transferred to the RRI Account. 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 payments of principal and interest on the Bonds. If the amount in the Bond and Interest Redemption Account and the Bond Reserve Account is not sufficient to pay the principal of and interest on the Bonds when due, the moneys in the RRI Account shall be transferred to the Bond and Interest Redemption Account and used for that purpose. Moneys in the RRI Account may be invested in accordance with **Section 13** of this Ordinance.

(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 Operating and Maintenance Account, the Bond and Interest 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, the Bond and Interest Redemption Account, and third, 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 and the RRI Account may be transferred to the Bond and Interest Redemption Account and used to call 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 funds

were established; provided, however, that if there should be a deficit in the Operation and Maintenance Account, the Bond and Interest Redemption Account, the Bond Reserve Account or the RRI Account, on account of defaults in setting aside therein the amounts hereinbefore required, then transfers shall be made from such moneys remaining in the Receiving Account to such funds in the priority and order named in this Section, to the extent of such deficits.

**Section 13. Investments.** Moneys in the funds and accounts established herein and moneys derived from the proceeds of sale of the Bonds may be invested by the Issuer's Village Council 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 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, the Bond and Interest Redemption Account (except the Bond Reserve Account) and the RRI 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 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 administration, operation and maintenance of the System, to pay the principal of and interest on the Bonds and the Prior Bonds and to meet the requirements for repair, replacement, reconstruction and improvement and all other requirements provided herein, and otherwise comply with the covenants herein provided. The Issuer hereby covenants and agrees to fix and maintain at all times, while any of the Bonds and/or the Prior 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 the Bond Reserve Account) for all such Bonds and Prior 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 the Bonds and the Prior Bonds, the outstanding 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 and/or Prior Bonds 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)(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 or Prior 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 Department of Treasury, made in accordance with the accounting method of the Issuer, completely setting forth the financial operation of such 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 to the Government, without request of the Government, or to the manager of the syndicate or account purchasing any series of the Bonds or Prior Bonds. Such audit shall be completed and so made available not later than one hundred eighty (180) days after the close of each Fiscal Year, and the 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 the forms are required to be used by this Ordinance.

(C) It will maintain and carry, for the benefit of the holders of the Bonds and Prior 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 the 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 and/or Prior 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.

(G) To the extent permitted by law, it shall take all actions within its control necessary to maintain the exclusion of the interest on the Bonds and the Prior 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 relating to the rebate of arbitrage earnings, if applicable, and the expenditure and investment of proceeds of the Bonds and Prior Bonds and moneys deemed to be proceeds of the Bonds and Prior Bonds.

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

(A) To complete construction of the Project according to the plans referred to in **Section 1**, additional bonds may be issued in the amount necessary therefor.

(B) For the purpose of making reasonable replacement or extension of the System or refunding any series of the Bonds and/or the Prior Bonds 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 100% of the average annual debt service requirements on all Bonds and Prior Bonds then outstanding and those proposed to be issued net of any Bonds to be refunded by the new issue; or

(2) The holders of at least 75% of the then-outstanding Bonds and Prior Bonds consent to such issue in writing.

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

The funds and accounts herein established shall be applied to all additional bonds issued pursuant to this Section as if the 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 Account mentioned in this Ordinance.

Except as otherwise specifically provided herein, so long as any of the Bonds and Prior Bonds 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 and Prior Bonds.

**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 of the holders so long as any portion of 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 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 the 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, the 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% 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 the receiver or operation shall operate by authority of the court.

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

**Section 21. Ordinance Subject to Michigan Law and Governmental Regulations.** The provisions of this Ordinance are subject to the laws of the State of Michigan and to the present and future regulations of the Government not inconsistent with the express provisions hereof and Michigan law.

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

**Section 23. Issuer Subject to Loan Resolution.** So long as the Government is 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 24. Covenant Not to Defeas.** So long as the Government is the holder of any of the Bonds, the Issuer covenants that it will not defease any of the Bonds held by the Government.

**Section 25. Approval of Bond Details.** The Issuer's President, Clerk and/or Treasurer are hereby authorized to adjust the final bond details set forth herein to the extent necessary or convenient to complete the transaction authorized herein, and in pursuance of the foregoing each is authorized to exercise the authority and make the determinations authorized pursuant to Section 7a(1)(c) of Act 94, including but not limited to determinations regarding interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights, the place of delivery and payment, and other matters and to so modify the terms of this Ordinance, provided that the principal amount of Bonds issued shall not exceed the principal amount authorized in this Ordinance, the interest rate per annum on the Bonds shall not exceed four and one hundred twenty-five thousandths percent (4.125%), and the Bonds shall mature in not more than forty (40) annual installments.

**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. The provisions of this Ordinance are supplemental to the Prior Bonds Ordinances, and this Ordinance amends, but does not repeal, the Prior Bonds Ordinances, and the Bonds issued pursuant to this Ordinance will be of equal standing to the Prior Bonds.

**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 Argus Press, Owosso, Michigan, a newspaper of general circulation in the Issuer, qualified under State law to publish legal notices, promptly after its enactment, and the same shall be recorded in the Ordinance Book of the Issuer and the recording authenticated by the signatures of the President and Clerk.

**Section 29. Effective Date.** This Ordinance is hereby determined by the Village 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.

**APPROVED AND ENACTED** by the Village Council of the Village of Bancroft, County of Shiawassee, State of Michigan, on January 18, 2007.

  
Tanya S. Buckelew, Village President

(Seal)

Attest:

\_\_\_\_\_  
Shana L. Post, Village Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly enacted by the Village Council of the Village of Bancroft, County of Shiawassee, State of Michigan, at a special meeting held on Thursday, the 18<sup>th</sup> day of January, 2007, and that the meeting was conducted and public notice of the meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, as amended, and that the minutes of the meeting were kept and will be or have been made available as required by the Act.

I further certify that the following Council Members were present at the meeting:

Whitt, Woodbury, Johnston, Simpson, Nichols,  
Buckelew

and that the following Council Members were absent:

BUCKLER

I further certify that Council Member Nichols moved enactment of the Ordinance, and that the motion was supported by Council Member JOHNSTON.

I further certify that the following Council Members voted for enactment of the Ordinance:

Whitt, Woodbury, Johnston, Simpson, Nichols,  
Buckelew

and that the following Members voted against enactment of the Ordinance:

NONE

I further certify that the Ordinance has been recorded in the Ordinance Book and that the recording has been authenticated by the signatures of the President and the Clerk.

\_\_\_\_\_  
Shana L. Post, Village Clerk

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