

VILLAGE OF ELBERTA
ORDINANCE NO. 40

AN ORDINANCE TO PROVIDE FOR THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF IMPROVEMENTS TO THE WATER SUPPLY SYSTEM SERVING THE VILLAGE OF ELBERTA; TO PROVIDE FOR THE ISSUANCE AND SALE OF REVENUE BONDS TO PAY THE COST THEREOF; TO PRESCRIBE THE FORM OF THE BONDS; TO PROVIDE FOR THE COLLECTION OF REVENUES FROM THE SYSTEM SUFFICIENT FOR THE PURPOSE OF PAYING THE COSTS OF OPERATION AND MAINTENANCE OF THE SYSTEM AND TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS AND OUTSTANDING BONDS OF THE SYSTEM; 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 VILLAGE OF ELBERTA ORDAINS:

Section 1. Definitions. In addition to the words and terms defined elsewhere in this Ordinance, the following words and terms as used in this Ordinance shall have the meanings assigned in this Section, unless the context or use clearly indicates another or different meaning or intent.

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

“Act 94” means Act 94, Public Acts of Michigan, 1933, as amended.

“Additional Bonds” shall mean additional bonds issued pursuant to Section 17 of this Ordinance.

“Bond” or “Bonds” shall mean the Bonds issued under 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 Reserve Requirement” shall mean with respect to the Bonds the lesser of the amount required by Section 12 of this Ordinance, the amount required by the Government, or the sum total of the entire amount of principal and interest which will be payable for all the principal installments of the Bonds then remaining outstanding.

“Depository Bank” shall mean a financial institution which is qualified to serve as depository bank and designated by resolution of the Issuer for deposit of all funds belonging to or associated with the System.

“Engineer” shall mean Fleis & Vandenbrink, Traverse City, Michigan.

“Fiscal Year” shall mean the fiscal year of the Issuer and the operating year of the System, commencing March 1 and ending on the last day of February 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” or “Village” shall mean the Village of Elberta, County of Benzie, State of Michigan.

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

“Outstanding Bonds” shall mean the Village’s outstanding Water Supply System Revenue Bond, Series 2018A (Taxable) and Water Supply System Revenue Bond, Series 2018B (Taxable), dated as of August 15, 2018.

“Prior Ordinance” shall mean Ordinance No. 35 pursuant to which the Outstanding Bonds were issued.

“Project” shall mean the acquisition and construction of improvements and repairs to the Village’s Water Supply System including, but not limited to, replacement of aged water mains and service lines, meter hookup, flushing and testing, installation of a new well and well house, and abandonment of an existing well, together with associated appurtenances and attachments and payment of legal, engineering, financial and other incident expenses.

“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 2022A Bonds” shall mean the Issuer’s Water Supply System Revenue Bonds, Series 2022A (Taxable), in the principal amount of not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000) authorized to be issued pursuant to Sections 4 and 5 of 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 6 of this Ordinance and who or which shall carry out the duties and responsibilities as set forth in Section 6 of this Ordinance.

Section 2. Necessity; Approval of Plans and Specifications. It is hereby determined to be necessary for the public health and welfare of the Village 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.

Section 3. Costs; Useful Life. The total cost of the Project is estimated to be not less than One Million Five Hundred Thousand Dollars (\$1,500,000) including the payment of incidental expenses as specified in Section 4 of this Ordinance, which estimate of cost is hereby approved and confirmed, and the period of usefulness of the Project is estimated to be not less than forty (40) years.

Section 4. Payment of Cost; Bonds Authorized. To pay part of the cost of acquiring and constructing the Project, including legal, engineering, financial and other expenses incident to the issuance and sale of the Bonds, it is hereby determined that the Issuer borrow the sum of not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000) and that revenue bonds be issued therefor pursuant to the provisions of Act 94. The remaining cost of the Project shall be defrayed from Issuer funds on hand legally available for such use.

Section 5. Bond Details. The Series 2022A Bonds shall be designated as the "WATER SUPPLY SYSTEM REVENUE BONDS, SERIES 2022A (TAXABLE)" (or such other designation as may be approved by the President of the Issuer as evidenced by execution of the Series 2022A Bonds), 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 \$1,500,000 and shall be payable in principal installments serially on April 1 of each year, as shown on Exhibit A.

The President is authorized to decrease the aggregate principal amount of the Series 2022A Bonds and/or to change the payment dates and/or the amounts of any of the installments shown on Exhibit A if it is in the best interest of the Issuer, provided that the final principal payment of the Series 2022A Bonds shall be due and payable within forty (40) years of the date of issuance. The President shall establish the principal amount of the Series 2022A Bonds, the principal installment amounts of the Series 2022A Bonds, and the dates of payment of the principal of and interest on the Series 2022A Bonds by execution of the Series 2022A Bonds.

The Series 2022A 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 Series 2022A Bond. The delivery installments shall be deemed to correspond to the serial principal installments of the Series 2022A Bonds in direct chronological order of said serial principal installments. The Series 2022A Bonds shall be issued in fully-registered form and shall not be convertible or exchangeable into more than one fully-registered bond.

The serial principal installments of the Series 2022A 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 Series 2022A Bonds. The serial principal installments of the Series 2022A Bonds will bear interest at the rate per annum of not to exceed the interest rate approved upon sale of the Series 2022A Bonds as provided in this Ordinance.

Interest on the Series 2022A Bonds will be payable on the first October 1 or April 1 (or such other date as may be approved by the President as evidenced by execution of the Series 2022A Bonds) following the date of delivery of said delivery installment, and semiannually thereafter until maturity or earlier prepayment of said installment.

Acceptance of the interest rate on the Series 2022A Bonds shall be made by execution of the Series 2022A Bonds which so designates the rate specified by the Government and accepted by the Issuer.

The Series 2022A Bonds or installments thereof will be subject to prepayment prior to maturity in whole or in part at any time on or after the payment date of the first installment of principal of the Series 2022A Bonds in the manner provided in the form of the Series 2022A 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 any Bond presented for transfer, as hereinafter provided and subject to such reasonable regulations as it may prescribe.

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

Section 7. Payment of the 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 any Bond, then the principal of and interest on the Bond shall be payable to the registered owner of record as of the fifteenth day of the month preceding the payment date by check or draft mailed to the registered owner at the registered address. Such date of determination of the registered owner for purposes of payment of principal or interest may be changed by the Issuer to conform to future market practice. The Issuer's Treasurer is hereby authorized to execute an agreement with any successor Transfer Agent.

The Transfer Agent shall record on the registration books the payment by the Issuer of each installment of principal or interest or both on the 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 the Bonds, the registered owners thereof shall deliver the Bonds to the Issuer for cancellation.

Section 8. Execution and Delivery of the Bonds. The Bonds shall be manually signed by the President and countersigned by the Village 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.

The Issuer's Treasurer is hereby authorized to deliver the Series 2022A Bonds in accordance with the delivery instructions of the Government.

Section 9. Bond Form. The form and tenor of the Bonds shall be substantially as follows, with such completions or other changes as are necessary to conform the Bonds to the terms established at the time of sale of the Bonds to the Government, as determined by the President of the Issuer:

REGISTERED

UNITED STATES OF AMERICA
STATE OF MICHIGAN
COUNTY OF BENZIE

VILLAGE OF ELBERTA
WATER SUPPLY SYSTEM REVENUE BOND
SERIES 2022A (TAXABLE)

No. R-1

\$1,500,000

The Village of Elberta, County of Benzie, State of Michigan (the “Village”), acknowledges itself to owe and for value received hereby promises to pay to the registered owner hereof, but only out of the hereinafter described Net Revenues of the Village’s Water Supply System including all appurtenances, additions, extensions and improvements thereto (the “System”), the sum of not to exceed

One Million Five Hundred Thousand Dollars

on the dates and in the principal installment amounts set forth in Exhibit A attached hereto and made a part hereof with interest on said installments from the date each installment is delivered to the Village and as set forth on the registration grid hereon until paid at the rate of [amount] percent ([amount]%) per annum, first payable on [date], 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 \$1,500,000. Both principal of and interest on this bond are payable in lawful money of the United States of America to the registered owner at the address shown on the Village’s registration books by check or draft mailed to the registered owner at the address shown on the registration books of the Village, and for the prompt payment of principal and interest on this bond, 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 of equal standing and priority of lien as to the Net Revenues with the Village’s outstanding Water Supply System Revenue Bond, Series 2018A (Taxable) and Water Supply System Revenue Bond, Series 2018B (Taxable), dated as of August 15, 2018.

This bond is a single, fully-registered, non-convertible bond constituting an issue in the total aggregate principal sum of not to exceed \$1,500,000, issued pursuant to Ordinance [No.] adopted on [date] by the Village Council (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 paying part of the cost of the acquisition and construction of improvements and repairs to the Village’s Water Supply System. 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 to the Net

Revenues may hereafter be issued, and the general covenants and provisions pursuant to which this bond is issued, reference is made to the Ordinance.

The Village has reserved the right to issue additional bonds of equal standing with this bond on conditions stated in the Ordinance.

This bond is a self-liquidating bond and is not a general obligation of the Village and does not constitute an indebtedness of the Village within any constitutional or statutory 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 this bond are secured by the statutory lien hereinbefore mentioned.

The Village 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 on and the principal of this bond, and any additional bonds of equal standing payable from the Net Revenues of the System as and when the same become due and payable, and to create a bond and interest redemption account (including a bond reserve account) therefor, to provide for the payment of expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the same in good repair and working order, and to provide for such other expenditures and funds for the System as are required by the Ordinance.

Principal installments of this bond are subject to prepayment prior to maturity, in inverse chronological order, at the Village's option, on any date on or after [date], 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 Village kept by the Village'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 Village kept for that purpose by the Transfer Agent.

Capitalized terms used herein and not defined have the meaning set forth in 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 Village of Elberta, County of Benzie, 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 Village Clerk, and its corporate seal to be hereunto affixed, all as of [date], 2022.

VILLAGE OF ELBERTA

By _____
Its President

(Seal)

Countersigned:

By _____
Its Village 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		

EXHIBIT A

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
_____	_____	_____	_____
_____	_____	_____	_____

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 first lien upon the whole of the Net Revenues of the System, which shall be of equal standing and priority of lien as to the Net Revenues with the Outstanding Bonds, to continue until the payment in full of the principal of and interest on the Bonds, and said Net Revenues shall be set aside for the purpose and identified as the Bond and Interest Redemption Account, as hereinafter specified.

Section 11. Management and Operation of the System; Fiscal Year; Budget. The operation, repair and management of the System shall continue to be under the supervision and control of the Village Council. The Village Council may make such rules and regulations as it deems advisable and necessary to assure the efficient management and operation of the System. The Village Council may employ such person or persons in such capacity or capacities as it deems advisable to carry on the efficient management and operation of the System.

The fiscal year for operating the System shall be the Fiscal Year.

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 the Bonds), and upon written request to any other registered owners of the Bonds.

Section 12. Custodian of Funds; Flow of 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 is hereby directed to continue or create and maintain as the Issuer's enterprise fund for the System the following 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 accounts shall be established and maintained, except as otherwise provided, so long as the Bonds hereby authorized remain unpaid.

(A) CONSTRUCTION ACCOUNT. The proceeds of the Bonds hereby authorized shall be deposited in the 2022A WATER SUPPLY SYSTEM CONSTRUCTION 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. Funds of the Issuer intended to be used to pay part of the cost of the Project shall also be deposited in the Construction Account. 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 Bond and

Interest Redemption Account and used as soon as is practical for the prepayment of installments of 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 ACCOUNT. There is hereby continued and maintained the separate account in the enterprise fund for the System established under the Prior Ordinance and designated as the WATER SUPPLY SYSTEM RECEIVING ACCOUNT (the "Receiving Account"). The Revenues of the System shall continue to be set aside into 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 continued and maintained the separate account established under the Prior Ordinance and designated as 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 Bond-Bond and Interest Redemption Account. There is hereby continued and maintained the separate account established under the Prior Ordinance and designated as the WATER SUPPLY SYSTEM REVENUE BOND - BOND AND INTEREST REDEMPTION ACCOUNT (the "Bond and Interest Redemption Account"), the moneys on deposit therein from time to time to be used solely for the purpose of paying the principal of and interest on the Bonds. In addition to the transfers to the Bond and Interest Redemption Fund required by the Prior Ordinance, after the transfer required in (1) above, Revenues shall be transferred each quarter of the Fiscal Year 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, in the amounts and at the times specified below.

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 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 also shall be set aside each Fiscal Year quarter on or after the delivery of the first principal installment an amount not less than 1/2 of the amount of interest due on the next interest payment date on all outstanding installments of the Bonds not delivered during the then current interest payment period.

Commencing the first day of the first month following the delivery by the Government to the Issuer of the first delivery installment of the Bonds, 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 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 the first day of the Fiscal Year quarter after payment of the first principal installment of the Bonds, 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 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 9 hereof, or if such use is impracticable, shall be deposited in or credited to the Receiving Account.

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

There is hereby continued and maintained within the Bond and Interest Redemption Account the separate account established under the Prior Ordinance and designated as the BOND RESERVE ACCOUNT (the "Bond Reserve Account"). The Issuer shall continue to withdraw Net Revenues from the Receiving Fund at the beginning of each Fiscal Year quarter and set aside in and transfer to the Bond Reserve Account in the amounts required by the Prior Ordinance. In addition, commencing the first day of the first quarter following the delivery by the Government to the Issuer of the first delivery installment of the Bonds, 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 Bond and Interest Redemption Account, the sum of at least \$1,175 per quarter (\$4,700 annually) until there is accumulated in such account the lesser of the sum of \$47,000 or the Bond Reserve Requirement with respect to the Bonds. 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 lesser of the sum of \$61,400 (\$14,400 for the Series 2018 Bonds and \$47,000 for the Series 2022A Bond) or the Bond Reserve Requirement 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 Bond Reserve Requirement, the moneys in excess of the Bond Reserve Requirement 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 Bond and Interest Redemption Account after enough of the principal installments of the Bonds and the Outstanding 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 such investment shall be used or transferred as provided in Section 13 of this Ordinance.

(3) Repair, Replacement and Improvement Account. There is hereby continued and maintained the separate account established under the Prior Ordinance and designated as the REPAIR, REPLACEMENT AND IMPROVEMENT ACCOUNT (the "RRI Account") established by the Prior Ordinance. The Issuer is currently obligated pursuant to the Prior Ordinance to deposit quarterly into the RRI Account an amount not less than \$2,553 (\$10,210 annually) in connection with the Outstanding Bonds. After the transfers required in (1) and (2) above, and so long as any principal installments of the Bonds or the Outstanding Bonds remain outstanding, commencing the first day of the first quarter following the delivery by the Government to the Issuer of the first delivery installment of the Bonds, the required deposits to the RRI Account shall be increased by \$8,770 annually and revenues shall be transferred each Fiscal Year quarter from the Receiving Account and deposited in the RRI Account in an amount not less than \$4,745 (\$18,980 annually). 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 amounts in the Bond and Interest Redemption Account and the Bond Reserve Account are 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.

(4) General Obligation Debt Account. After the transfers required in (1), (2) and (3) above, Revenues may be transferred from the Receiving Account to a General Obligation Debt Account continued and maintained by the Issuer (the "G.O. Account") and utilized by the Issuer to pay debt service on presently existing or future general obligation bond issues of the Issuer or general obligations or contractual obligations of the Issuer incurred or to be incurred for System purposes.

(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) or the RRI Account, any moneys and/or securities in the accounts 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, 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 (including the Bond Reserve Account) and the RRI Account may be transferred to the 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 G.O. Account or the RRI Account and used for the purpose for which such accounts were established; provided, however, that if there should be a deficit in the Operation and Maintenance Account, the Bond and Interest Redemption Account (including 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 legislative body of the Issuer on behalf of the Issuer in the obligations and instruments permitted for investment by Section 24 of Act 94, as the same may be amended from time to time; provided, however, that as long as the Bonds are held by the 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 direct obligations of the United States of America or obligations the timely payment of which are fully guaranteed by the United States of America 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 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 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 Bonds and the Outstanding Bonds and to meet the requirements for repair, replacement, reconstruction and improvement and all other requirements provided herein, and otherwise comply with the covenants provided in the Ordinance and the Prior Ordinance. 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 remains unpaid, as follows:

(a) It will comply with applicable State laws and regulations and continually operate and maintain the System in good condition.

(b) (i) It will maintain complete books and records relating to the operation and financial affairs of the System. If the Government is the holder of 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 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. Such audit shall be completed and so made available not later than the last day of the sixth month after the close of each Fiscal Year.

(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 the 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 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 the Bonds or any additional bonds of equal standing with the Bonds if:

(i) The augmented net revenues (hereinafter defined) of the System for the Fiscal Year preceding the year in which such additional bond is to be issued were 100 percent of the average annual debt service requirements on the Bonds and any bonds of equal standing then outstanding and those proposed to be issued net of any bonds to be refunded by the new issue; or

(ii) The holders of at least 75 percent of the principal amount of the Bonds then outstanding consent to such issue in writing.

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

The funds herein established shall be applied to all additional bonds issued pursuant to this Section as if said 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 the Bonds herein authorized is outstanding, no additional bonds or other obligations pledging any portion of the Revenues of the System shall be incurred or issued by the Issuer unless the same shall be junior and subordinate in all respects to the Bonds herein authorized.

Section 18. Ordinance Shall Constitute Contract. The provisions of this Ordinance shall constitute a contract between the Issuer and the bondholders and after the issuance of the 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 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 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 operator 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. Ordinance Subject to Michigan Law and Government Regulations. The provisions of this Ordinance are subject to the laws of the State of Michigan and to the present and future regulations of the Government not inconsistent with the express provisions hereof and Michigan law.

Section 22. 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 23. 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 24. Approval by the Michigan Department of Treasury. The President or Village Clerk are each authorized and directed to take all other actions necessary or advisable, and to make such other filings with the Michigan Department of Treasury or other parties, to seek long-form application for prior approval and necessary waivers to enable the sale and delivery of the Bonds as contemplated herein. Baker Tilly Municipal Advisors, LLC, or Miller Canfield, or the President, Clerk and Treasurer are each hereby severally designated responsibility on behalf of the Village to make such filings with the Michigan Department of Treasury or other parties, to seek long-form application for prior approval and necessary waivers to enable the sale and delivery of the Bonds as contemplated herein.

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

Section 26. Paragraph Headings. The paragraph headings in this Ordinance are furnished for convenience of reference only and shall not be considered to be a part of this Ordinance.

Section 27. Publication and Recordation. This Ordinance shall be published in full in the *Benzie County Record Patriot*, 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 President and the Village Clerk.

Section 28. Negotiated Sale to the Government. The Issuer determines to sell the Bonds to the Government at a negotiated sale in order to obtain terms not generally available from conventional municipal bond market sources and for the opportunities provided by a negotiated sale to the Government to select and adjust the terms of the Bonds, including the prepayment of the principal of the Bonds at any time without premium.

Section 29. Certain Determinations. The President, Village Clerk, and Village Treasurer are each hereby authorized to adjust the final bond details set forth herein to the extent necessary or convenient to complete the transactions 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, *provided* that the aggregate principal amount of Series 2022A Bonds issued hereunder shall not exceed \$1,500,000, the interest rate on the Series 2022A Bonds shall not exceed 1.50% per annum, and the Series 2022A Bonds shall mature in annual installments not to exceed forty (40) in number. The President and Village Clerk are authorized to confirm the terms of the sale of the Series 2022A Bonds and final bond specifications with respect to such Series 2022A Bonds by the execution of the Series 2022A Bonds.

Section 30. 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.

Passed and adopted by the Village of Elberta, County of Benzie, State of Michigan, on
JUNE 16, 2022.

Jennifer S. Watkins
President

(Seal)

Attest:

[Signature]
Village Clerk



I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the Village Council of the Village of Elberta, County of Benzie, State of Michigan, at a regular meeting held on JUNE 16, 2022, 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 Open Meetings Act.

I further certify that the following Members were present at said meeting: JENNIFER WILKINS; KEN HOLMES; BILL SOPER;
RYAN FIEBING; EMILY VOTRUBA and that the following Members were absent: NONE

I further certify that Member JENNIFER WILKINS moved adoption of said Ordinance, and that said motion was supported by Member KEN HOLMES.

I further certify that the following Members voted for adoption of said Ordinance: JENNIFER WILKINS; KEN HOLMES; BILL SOPER;
RYAN FIEBING
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 President and the Village Clerk.


Village Clerk

EXHIBIT A

The Series 2022A Bonds shall be payable in principal installments serially on April 1 of each year, as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2023	\$26,000	2037	\$34,000	2051	\$42,000
2024	27,000	2038	34,000	2052	43,000
2025	28,000	2039	35,000	2053	43,000
2026	29,000	2040	36,000	2054	44,000
2027	29,000	2041	36,000	2055	45,000
2028	30,000	2042	37,000	2056	45,000
2029	30,000	2043	37,000	2057	46,000
2030	31,000	2044	38,000	2058	47,000
2031	31,000	2045	38,000	2059	47,000
2032	32,000	2046	39,000	2060	48,000
2033	32,000	2047	40,000	2061	49,000
2034	33,000	2048	40,000	2062	50,000
2035	33,000	2049	41,000		
2036	34,000	2050	41,000		

The President is authorized to decrease the aggregate principal amount of the Series 2022A Bonds and/or to change the payment dates and/or 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 2022A Bonds shall be due and payable within forty (40) years of the date of issuance.