

VILLAGE OF MUIR
County of Ionia, State of Michigan

ORDINANCE NO. 47

AN ORDINANCE SUPPLEMENTING ORDINANCE NO. 46 TO AUTHORIZE AND PROVIDE FOR THE ISSUANCE OF AN ADDITIONAL SERIES OF REVENUE BONDS TO PAY THE COST OF COMPLETING ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS TO THE VILLAGE'S WATER SUPPLY SYSTEM UNDER THE PROVISIONS OF ACT 94, PUBLIC ACTS OF MICHIGAN, 1933, AS AMENDED; TO PRESCRIBE THE FORM OF THE BONDS; AND TO PROVIDE FOR OTHER MATTERS RELATIVE TO THE ADDITIONAL BONDS.

WHEREAS, the Village of Muir, County of Ionia, State of Michigan (the "Village"), has previously enacted Ordinance No. 46 authorizing the issuance of revenue bonds to pay the cost of acquisition and construction of various water system improvements, including new wells, an elevated water tank, and related system improvements (the "Project") to be operated as part of the Village's Water Supply System (the "System") under the provisions of Act 94, Public Acts of Michigan, 1933; and

WHEREAS, on September 28, 2001 the Village issued its \$1,850,000 Water Supply System Revenue Bond (Limited Tax General Obligation) (the "Series 2001 Bond") under Ordinance No. 46 in order to obtain funds for the acquisition and construction of the Project from the State of Michigan Drinking Water Revolving Fund financing program administered by the Michigan Department of Environmental Quality and the Michigan Municipal Bond Authority; and

WHEREAS, the Engineer in charge of acquisition and construction of the Project has certified to the Village that, in addition to the funds which the Village will receive as proceeds of the Series 2001 Bond, the Village needs funds in the amount of \$340,000 to complete the Project in accordance with the plans and specifications therefor; and

WHEREAS, Section 20(a) of Ordinance No. 46 authorizes the issuance of additional bonds of equal standing and priority of lien with the Series 2001 Bonds to complete the Project if the Engineer in charge of construction executes a certificate stating that additional funds are needed to complete the Project in accordance with the plans and specifications therefor, and stating the amount that will be required to complete the Project; and

WHEREAS, the Village has met or will meet all the conditions and requirements of Section 20(a) of Ordinance No. 46 for the issuance of bonds to complete the Project.

THE VILLAGE OF MUIR HEREBY ORDAINS:

Section 1. Definitions. In addition to terms defined in Section 1 of Ordinance No. 46, whenever used in this Ordinance, except when otherwise indicated by the context, the following terms when capitalized shall have the following meanings:

- (a) "Act 94" means Act 94, Public Acts of Michigan, 1933, as amended.
- (b) "Authorized Officers" means, jointly or severally, the President, Clerk, and/or the Treasurer of the Village.
- (c) "Bonds" means the Series 2001 Bonds, the Series B Bonds, and any Additional Bonds of equal standing hereafter issued under Ordinance No. 46.
- (d) "Michigan Department of Environmental Quality" or "MDEQ" shall refer to the Michigan Department of Environmental Quality created under Executive Reorganization Order No. 1995-16, MCL §324.99903.
- (e) "Michigan Municipal Bond Authority" shall refer to the Michigan Municipal Bond Authority created under Act 227, Public Acts of Michigan, 1985, as amended.
- (f) "Ordinance No. 46" means Ordinance No. 46 of the Village enacted on September 4, 2001.
- (g) "Purchase Contract" means the Purchase Contract for the Series B Bonds between the Village and the Michigan Municipal Bond Authority approved in Section 6 of this Ordinance.
- (h) "Redemption Fund" means the Bond and Interest Redemption Fund created under Section 14 of Ordinance No. 46.
- (i) "Series 2001 Bonds" means the Water Supply System Revenue Bonds, Series 2001, authorized by Ordinance No. 46.
- (j) "Series B Bonds" means the Water Supply System Revenue Bonds, Series 2001B (or such alternate designation provided in Section 4 of this Ordinance), authorized by Ordinance No. 46 and this Ordinance.
- (k) "Supplemental Agreement" means the Supplemental Agreement among the Village, MMBA, and MDEQ approved in Section 5 of this Ordinance.

Section 2. Cost of Project. The total cost of the Project is estimated to be Two Million One Hundred Ninety Thousand Dollars (\$2,190,000) including the payment of incidental expenses as specified in Section 3 of this Ordinance, which estimate of cost is hereby approved and confirmed, and the portion of the estimated total cost of completing the Project which must be funded through issuance of the Series B Bonds is approved and confirmed to be Three Hundred Forty Thousand (\$340,000).

Section 3. Payment of Costs of Completing Project; Bonds Authorized; Applicable Law. To pay costs of completing acquisition and construction of the Project, including payment of legal, engineering, financial and other expenses incident thereto and incident to the issuance and sale of the Series B Bonds, the Village shall borrow the sum

of not to exceed Three Hundred Forty Thousand (\$340,000) and shall issue the Series B Bonds therefor pursuant to the provisions of Act 94. Any remaining costs of the Project shall be defrayed from Village funds on hand and legally available for such use.

The Series B Bonds shall be issued and sold and the proceeds applied in accordance with the provisions of Act 94.

Section 4. Series B Bond Details, Registration and Execution. The Series B Bonds shall be designated as the "WATER SUPPLY SYSTEM REVENUE BONDS, SERIES 2001B (LIMITED TAX GENERAL OBLIGATION)." If the Series B Bonds are not delivered in 2001, then one of the Authorized Officers may provide for the word "2001B" in the designated name to be replaced or supplemented to reflect the year in which the Series B Bonds will be delivered. The Series B Bonds shall be payable out of the Net Revenues, or, in the event of insufficiency of Net Revenues, from taxes levied by the Village as set forth more fully in Section 7 hereof. The Series B Bonds hereby authorized shall initially consist of one fully registered bond payable initially to the Michigan Municipal Bond Authority, and shall not be convertible or exchangeable into more than one fully-registered bond. The Series B Bonds shall be issued in the aggregate principal amount of not to exceed Three Hundred Forty Thousand (\$340,000) as finally determined by order of the MDEQ. If determined necessary by the Michigan Municipal Bond Authority or the MDEQ, the Series B Bonds may be issued and delivered in more than one series, and in such event the separate series shall bear a distinguishing designation approved by one of the Authorized Officers. The principal amount of the Series B Bonds is expected to be disbursed to the Village periodically as to be provided by the Supplemental Agreement among the Village, MMBA, and MDEQ, and interest on principal amount shall accrue from the date such principal amount is drawn down by the Village. The Series B Bonds shall be dated as of the date of original delivery thereof; shall bear interest at a rate of two and one-half percent (2.5%) per annum on the par value thereof or such other rate as evidenced by execution of the Purchase Contract, but in any event not to exceed the rate permitted by law, payable semiannually on April 1 and October 1 of each year commencing April 1, 2002 or such other date as shall be determined by one of the Authorized Officers at the time of sale. In addition, if required by the Michigan Municipal Bond Authority, the Series B Bonds will bear additional interest, under the terms required by Michigan Municipal Bond Authority, in the event of a default by the Village in the payment of principal or interest on the Series B Bonds when due. The Series B Bonds shall be payable in the manner, in the amounts and on the dates as shall be determined by one of the Authorized Officers at the time of sale to the Michigan Municipal Bond Authority, provided that principal shall be payable either on April 1 or October 1 in the years currently anticipated to be 2003 through 2022, but in any event not to extend past 2026. The Series B Bonds shall be subject to redemption prior to maturity as shall be permitted by the Michigan Municipal Bond Authority.

At the time of execution of the Purchase Contract with the Michigan Municipal Bond Authority, any one of the Authorized Officers may adjust the principal amount of the Series B Bonds and the amounts and dates of principal maturities, the date of the Series B Bonds and the interest payment dates, optional redemption provisions and other bond details which are to be finally determined by any one of the Authorized Officers and

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evidenced by signature of the Purchase Contract.

The Series B Bonds shall be executed in the name of the Village by the manual or facsimile signature of the President and the Village Clerk provided that at least one signature on the Bond shall be a manual signature. The Series B Bonds shall be delivered to the Michigan Municipal Bond Authority in accordance with instructions from the Village Clerk upon payment of the purchase price for the Series B Bonds in accordance with the bid therefor when accepted.

The Village Clerk or Treasurer shall record on the registration books payment by the Village of each installment of principal or interest or both when made, and the cancelled checks or other records evidencing such payments shall be returned to and retained by the Village Clerk or Treasurer.

Section 5. Application to MDEQ and MMBA. Any one of the Authorized Officers is hereby authorized to apply to the MMBA and to the MDEQ for placement of the Series B Bonds with the MMBA. Any one of the Authorized Officers is further authorized to execute and deliver such contracts, documents and certificates as they may determine to be necessary or advisable to qualify the Series B Bonds for the Drinking Water Revolving Fund, including but not limited to the Supplemental Agreement among the Village, MMBA, and MDEQ providing for disbursement by the MMBA and MDEQ to the Village of the principal amount of the Series B Bonds, and the Issuer's Certificate required by MMBA and MDEQ. Any one of the Authorized Officers is hereby authorized to make such changes to the form of Series B Bond contained in Section 9 of this Ordinance as may be necessary to conform to the requirements of the MMBA, MDEQ, or Act 227, Public Acts of Michigan, 1985, as amended ("Act 227"), including, but not limited to changes in the principal maturity and interest payment dates and references to additional security required by Act 227.

If required by the MMBA, the Village agrees to pledge the payments that the Village is eligible to receive from the State of Michigan under Act 140, Public Acts of Michigan, 1971, as amended ("State Revenue Sharing") to the Michigan Municipal Bond Authority as purchaser and holder of the Series B Bonds for payment of the Series B Bonds, and any one of the Authorized Officers is further authorized to negotiate, execute and deliver a revenue sharing pledge agreement with the MMBA for payment of such taxes to the MMBA, or to a trustee therefor, as provided in Section 23 of Act 227.

Section 6. Sale of Series B Bonds to Michigan Municipal Bond Authority; Purchase Contract. The Village Council hereby approves the sale of the Series B Bonds to the Michigan Municipal Bond Authority. Any one of the Authorized Officers may approve the final principal and interest payment dates, specific interest rates, and final principal amount of the Series B Bonds and the principal payable on each maturity date, within the limitations contained in this authorization Ordinance, and approval of these terms shall be evidenced by execution by any one of the Authorized Officers of the Purchase Contract between the Village and the Michigan Municipal Bond Authority and by execution by the Village President and Clerk of the Series B Bonds.

The Village Council hereby approves and authorizes the execution and delivery of

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the Purchase Contract between the Village and the Michigan Municipal Bond Authority in substantially the form presented to the Village Council with this Ordinance, with such changes as may be necessary or desirable, permitted by law, and not materially adverse to the Village as determined by any one of the Authorized Officers.

Section 7. Payment of Bonds. As provided in Section 9 of Ordinance No. 46, the Series B Bonds, as Additional Bonds under Ordinance No. 46, and the interest thereon shall be payable primarily from the Net Revenues, and to secure such payment, Ordinance No. 46 created a statutory lien upon the whole of the Net Revenues which shall continue until payment in full of the principal of and interest on all Bonds payable from the Net Revenues, or, until sufficient cash or Sufficient Government Obligations have been deposited in trust for payment in full of all principal and interest on Bonds of a series then Outstanding to maturity, or, if called for redemption, to the date fixed for redemption, together with the amount of the redemption premium, if any.

As provided in Section 14 of Ordinance No. 46, the Village shall withdraw Net Revenues from the Receiving Fund to the credit of the Redemption Fund, prior to each date principal or interest on the Bonds is due, in the amount necessary to provide for the payment when due of the principal of and interest on the Bonds.

In addition the Village hereby pledges its limited tax full faith and credit for the payment of the principal of and interest on the Series B Bonds. Should the Net Revenues of the System at any time be insufficient to pay the principal of and interest on the Series B Bonds as the same become due, then the Village shall advance from any funds available therefor, or, if necessary, levy taxes upon all taxable property in the Village, subject to constitutional, statutory and charter limitations, such sums as may be necessary to pay said principal and interest. The Village shall be reimbursed for any such advance from the Net Revenues of the System subsequently received which are not otherwise pledged or encumbered by this Ordinance.

Section 8. Proceeds of Series B Bonds. The proceeds of sale of the Series B Bonds shall be deposited to the Construction Fund established and maintained under the provisions of Section 18 of Ordinance No. 46 and used to pay costs of acquiring and constructing the Project, including costs of issuance of the Series B Bonds and payment of all legal, engineering, financial and other expenses.

Any unexpended balance of the proceeds of the Series B Bonds remaining after completion of the Project may be used for further improvements, enlargements and extensions of the System in the discretion of the Village, provided that at the time of such expenditure such use be approved by the Michigan Department of Treasury if then required by law. Any remaining balance after such expenditure shall be paid into the Bond and Interest Redemption Fund and shall be used to pay principal and interest on the Series B Bonds.

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

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Section 9. Series B Bond Form. The Series B Bonds shall be in substantially the following form with such revisions, additions and deletions as may be advisable or necessary to comply with the final terms of the Series B Bonds established upon sale thereof:

United States of America

State of Michigan

County of Ionia

VILLAGE OF MUIR

WATER SUPPLY SYSTEM REVENUE BOND, SERIES 2001B

(LIMITED TAX GENERAL OBLIGATION)

Date of Original Issue: _____, 200__

THE VILLAGE OF MUIR, County of Ionia, State of Michigan (the "Village"), for value received, hereby promises to pay to the Michigan Municipal Bond Authority (the "MMBA") as the Registered Owner of this bond, or registered assigns (the "Registered Owner"), primarily out of the hereinafter described Net Revenues of the Village's Water Supply System (hereinafter defined), the principal amount of Three Hundred Forty Thousand (\$340,000) or such portion thereof as shall have been advanced to the Village (the "Principal Amount") pursuant to a Purchase Contract between the Village and the MMBA, and a Supplemental Agreement by and among the Village, the MMBA, and the State of Michigan acting through the Department of Environmental Quality (the "MDEQ"), in lawful money of the United States of America, unless prepaid prior thereto as hereinafter provided.

During the time the Principal Amount is being drawn down by the Village under this bond, the MMBA will periodically provide to the Village a statement showing the amount of principal that has been advanced and the date of each advance, which statement shall constitute prima facie evidence of the reported information; provided that no failure on the part of the MMBA to provide such a statement or to reflect a disbursement or the correct amount of a disbursement shall relieve the Village of its obligation to repay the outstanding Principal Amount actually advanced, all accrued interest thereon, and any other amount payable with respect thereto in accordance with the terms of this bond.

The Principal Amount shall be payable to the Registered Owner on the dates and in the annual principal installment amounts set forth on Schedule A attached hereto, as such Schedule A may be adjusted if less than \$340,000 is disbursed to the Village or if a portion of the Principal Amount is prepaid as provided below. The Village shall also pay to the Registered Owner interest at the rate of two and one-half percent (2.5%) per annum

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on the portion of the Principal Amount which has been disbursed to the Village and not yet repaid to the Registered Owner; such interest to accrue from the date each installment of the Principal Amount is drawn by the Village. Interest is first payable on April 1, 2002 and semiannually thereafter on the first day of April and October of each year until repayment by the Village of the entire Principal Amount disbursed to the Village.

This bond is subject to redemption prior to maturity by the Village in whole or in part only with the prior written consent of the MMBA and on such terms as may be required by the MMBA.

Notwithstanding any other provision of this bond, as long as the MMBA is the owner of this bond, (a) this bond is payable as to principal, premium, if any, and interest at the designated office of Bank One Trust Company, National Association, or at such other place as shall be designated in writing to the Village by the MMBA (the "MMBA's Depository"); (b) the Village agrees that it will deposit with the MMBA's Depository payments of the principal of, premium, if any, and interest on this bond in immediately available funds at least five business days prior to the date on which any such payment is due whether by maturity, redemption or otherwise; and (c) written notice of any redemption of this bond shall be given by the Village and received by the MMBA's Depository at least 40 days prior to the date on which such redemption is to be made.

ADDITIONAL INTEREST

In the event of a default in the payment of principal or interest hereon when due, whether at maturity, by redemption or otherwise, the amount of such default shall bear interest (the "additional interest") at a rate equal to the rate of interest which is two percent above the MMBA's cost of providing funds (as determined by the MMBA) to make payment on the bonds of the MMBA issued to provide funds to purchase this bond but in no event in excess of the maximum rate of interest permitted by law. The additional interest shall continue to accrue until the MMBA has been fully reimbursed for all costs incurred by the MMBA (as determined by the MMBA) as a consequence of the Village's default. Such additional interest shall be payable on the interest payment date following demand of the MMBA. In the event that (for reasons other than the default in the payment of any municipal obligation purchased by the MMBA) the investment of amounts in the reserve account established by the MMBA for the bonds of the MMBA issued to provide funds to purchase this bond fails to provide sufficient available funds (together with any other funds which may be made available for such purpose) to pay the interest on outstanding bonds of the MMBA issued to fund such account, the Village shall and hereby agrees to pay on demand only the Village's pro rata share (as determined by the MMBA) of such deficiency as additional interest on this bond.

SOURCE OF PAYMENT; SECURITY

For the prompt payment of principal and interest on this bond, the Village has irrevocably pledged the revenues of the Village's Water Supply System, including all appurtenances, extensions and improvements thereto (the "Water Supply System"), after provision has been made for reasonable and necessary expenses of operation, maintenance and administration (the "Net Revenues"), and a statutory lien thereon is hereby recognized

and created. This bond is of equal standing and priority of lien as the Net Revenues of the System with the Village's outstanding Water Supply System Revenue Bonds, Series 2001, dated September 28, 2001 (the "Series 2001 Bonds"). In addition, in case of insufficiency of said Net Revenues, the principal of and interest on this bond shall be payable from the general funds of the Village or, if necessary, from ad valorem taxes levied upon all taxable property in the Village, subject to applicable statutory and constitutional tax rate limitations.

This bond is a single fully-registered non-convertible bond representing the entire series of bonds in the principal sum of \$340,000 issued pursuant to Ordinance No. 46 (the "Ordinance") duly enacted by the Village Council of the Village, 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 ("Act 94"), for the purpose of completing acquisition and construction of improvements 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 with this bond may hereafter be issued, and the general covenants and provisions pursuant to which this bond is issued, reference is made to the Ordinance. Copies of the Ordinance are on file at the office of the Village Clerk and reference is made to the Ordinance and any and all supplements thereto and modifications and amendments thereof, if any, and to Act 94 for a more complete description of the pledges and covenants securing this bond, the nature, extent and manner of enforcement of such pledges, the rights and remedies of the registered owner of this bond with respect thereto and the terms and conditions upon which this bond is issued and may be issued thereunder. The Village has reserved the right, on the conditions stated in the Ordinance, to issue additional bonds of equal standing and priority of lien with this bond and the Series 2001 Bonds as to the Net Revenues.

The Village hereby covenants and agrees to fix and maintain at all times while any bonds authorized by the Ordinance shall be outstanding, such rates for service furnished by the Water Supply System as shall be sufficient to provide for payment of the interest upon and the principal of all bonds payable from the revenues of the Water Supply System as and when the same become due and payable, and to create and maintain a bond redemption fund therefor, to provide for the payment of expenses of administration and operation and such expenses for maintenance of the Water Supply 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 Water Supply System as are required by the Ordinance.

This bond is transferable only upon the books of the Village kept for that purpose at the office of the Village Treasurer by the registered owner hereof in person, or by his attorney duly authorized in writing, upon the surrender of this bond together with a written instrument of transfer satisfactory to the Village duly authorized in writing and thereupon a new registered bond in the same aggregate principal amount and with the same repayment schedule shall be issued to the transferee in exchange therefor as provided in the Ordinance, and upon the payment of the charges, if any, therein prescribed.

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2006	10,000
2007	10,000
2008	10,000
2009	15,000
2010	15,000
2011	15,000
2012	20,000
2013	20,000
2014	20,000
2015	25,000
2016	25,000
2017	20,000
2018	20,000
2019	25,000
2020	25,000
2021	25,000
2022	25,000

Section 10. Applicability of Ordinance No. 46. Except to the extent supplemented or otherwise provided in this Ordinance, all of the provisions and covenants provided in Ordinance No. 46 shall apply to the Series B Bonds issued pursuant to provisions of this Ordinance, such provisions of said Ordinance being made applicable to the Series B Bonds herein authorized, the same as though said Series B Bonds were originally authorized and issued as a part of the Series 2001 Bonds issued pursuant to Ordinance No. 46.

Section 11. Severability and Paragraph Headings. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance. The paragraph headings in this Ordinance are furnished for convenience of reference only and shall not be considered to be part of this Ordinance.

Section 12. Publication and Recordation. In accordance with the provisions of Section 6 of Act 94, this Ordinance shall be published once in full in the *Sentinel-Standard*, Ionia, Michigan, a newspaper of general circulation in the Village of Muir qualified under State of Michigan law to publish legal notices, promptly after its adoption, and shall be recorded in the Ordinance Book of the Village and such recording authenticated by the signatures of the President and the Village Clerk.

Section 13. Effective Date. This Ordinance is hereby determined by the Village Council to be immediately necessary for the preservation of the public peace, property, health, and safety of the Village. In accordance with the provisions of Section 6 of Act 94, this Ordinance shall become effective immediately upon its adoption.

I hereby certify that the foregoing is a true and complete copy of an Ordinance

enacted by the Village Council of the Village of Muir, County of Ionia, State of Michigan, at a Regular Meeting held on Tuesday, November 6, 2001, at 7:00 p.m. prevailing Eastern Time, and that said meeting was conducted and public notice of said meeting was given pursuant to the Open Meetings Act, being Act No. 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act 267.

I further certify that the following Village Council members were present at said meeting Stowell, Crooke, Waterman, Walkington, Schneider, and Wolverton and that the following Village Council members were absent: Jones.

I further certify that Village Council member Schneider moved adoption of said Ordinance, and that said motion was supported by Village Council member Walkington.

I further certify that the following Village Council members voted for adoption of said Ordinance Stowell, Crooke, Waterman, Walkington, Schneider, and Wolverton and that the none of the Village Council members voted against adoption of said Ordinance.

I further certify that said Ordinance has been recorded in the Ordinance Book and that such recording has been authenticated by the signature of the President and the Village Clerk.

Leo Waterman
Clerk

President

Laura Stewart Village