

ORDINANCE NO. 11-1900

AN ORDINANCE TO PROVIDE FOR THE ACQUIRING, CONSTRUCTION, INSTALLATION, FURNISHING AND EQUIPPING OF A SOLID WASTE DISPOSAL SYSTEM FOR THE CITY OF ISHPEMING, COUNTY OF MARQUETTE, STATE OF MICHIGAN; TO PROVIDE FOR THE ISSUANCE AND SALE OF REVENUE BONDS TO PAY THE COST THEREOF; TO PROVIDE FOR THE RETIREMENT AND SECURITY OF THE BONDS HEREIN AUTHORIZED; TO ESTABLISH RATES FOR THE SYSTEM; AND TO PROVIDE FOR OTHER MATTERS RELATIVE TO THE SYSTEM AND THE BONDS

THE CITY OF ISHPEMING ORDAINS:

Section 1. Definitions. Whenever used in this Ordinance, except when otherwise indicated by the context, the following terms shall have the following meanings:

- (a) "Act 94" means Act 94, Public Acts of Michigan, 1933, as amended.
- (b) "Adjusted Net Revenues" means for any operating year the excess of revenues over expenses for the System determined in accordance with generally accepted accounting principles, to which shall be added depreciation, amortization, interest expense on Bonds, and any payments to the Issuer in lieu of taxes, to which may be made the following adjustments:
 - (i) Revenues may be augmented by the amount of any rate increases adopted prior to the issuance of additional Bonds or to be placed into effect before the time principal or interest on the additional Bonds becomes payable from Revenues as applied to quantities of service furnished during the operating year or portion thereof that the increased rates were not in effect;
 - (ii) Revenues may be augmented by amounts which may be derived from rates and

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

- (c) "Bonds" means the Series 1990 Bonds, together with any additional bonds of equal standing hereafter issued.
- (d) "Issuer" means City of Ishpeming, County of Marquette, Michigan.
- (e) "MMBA" means the Michigan Municipal Bond Authority.
- (f) "Project" means the purchase and acquisition and construction of an interest in a facility for the disposal of garbage, rubbish and other solid waste derived from or collected in the Issuer and the right to dispose of said garbage, rubbish and other solid waste in said facility to serve the Issuer.
- (g) "Revenues" and "Net Revenues" means the revenues and net revenues 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.
- (h) "Series 1990 Bonds" means the Solid Waste Disposal System Revenue Bonds, in the principal amount of \$310,000 authorized by this Ordinance.
- (i) "Sufficient Government Obligations" means direct obligations of the United States of America or obligations the principal and interest on which is fully guaranteed by the

United States of America, not redeemable at the option of the Issuer, the principal and interest payments upon which without reinvestment of the interest, come due at such times and in such amounts as to be fully sufficient to pay the interest as it comes due on the Bonds and the principal and redemption premium, if any, on the Bonds as it comes due whether on the stated maturity date or upon earlier redemption. Securities representing such obligations shall be placed in trust with a bank or trust company, and if any of the Bonds are to be called for redemption prior to maturity, irrevocable instructions to call the Bonds for redemption shall be given to the paying agent.

(j) "System" means the Solid Waste Disposal System to be purchased and acquired by the Issuer, including such interest and rights as are acquired and constructed as the Project and all enlargements, extensions, repairs and improvements thereto hereafter acquired.

(k) "City Depository Bank" means the Peninsula Bank, of Ishpeming, Michigan, being a bank qualified to act as a depository of the proceeds of the sale of the Bonds under the provisions of Act 94, or such other qualified state or national banking corporation or association as shall be designated by the City Treasurer.

Section 2. Necessity. It is hereby determined to be a necessary public purpose of the Issuer to purchase and acquire the Project.

Section 3. Costs; Useful Life. The cost of the Project is estimated to be Three Hundred Ten Thousand Dollars (\$310,000), 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 fifteen (15) years.

Section 4. Payment of Cost; Bonds Authorized. To pay all or part of the cost of acquiring the Project, including payment of legal, engineering, financial and other expenses incident thereto and incident to the issuance and sale of the Series 1990 Bonds, the Issuer shall borrow the sum of not to exceed Three Hundred Ten Thousand Dollars (\$310,000) and issue the Series 1990 Bonds therefor pursuant to the provisions of Act 94.

Section 5. Bond Details; Issuance in Series; Registration and Execution. The bonds hereby authorized shall be designated SOLID WASTE DISPOSAL SYSTEM REVENUE BONDS (General Obligation Limited Tax), shall be payable out of the Net Revenues, as set forth more fully in Section 7 hereof, shall consist of fully-registered bonds of the denomination of \$5,000 each, or integral multiples thereof not exceeding in any one year the amount maturing in that year, dated as of the date of delivery, numbered in order of registration and shall mature serially on May 1 in the years and amounts as follows:

<u>Year</u>	<u>Amount</u>
1991	\$ 5,000
1992	10,000
1993	15,000
1994	15,000
1995	15,000
<u>Year</u>	<u>Amount</u>
1996	\$15,000
1997	20,000
1998	20,000
1999	20,000
2000	25,000
2001	25,000
2002	25,000

2003	30,000
2004	35,000
2005	35,000

The Series 1990 Bonds shall bear interest at a rate or rates to be determined on the sale thereof, but in any event, except as provided below, not exceeding 8.5% per annum payable on May 1 and November 1 of each year, commencing November 1, 1990.

So long as the Series 1990 Bonds are owned by MMBA, the Series 1990 Bonds shall bear additional interest as follows: In the event of a default in the payment of principal or interest on the Series 1990 Bonds 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 one per cent 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 the Series 1990 Bonds 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 Issuer'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 the Series 1990 Bonds, 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 Issuer shall and hereby agrees to pay on demand only the Issuer's pro rata share (as determined by the MMBA) of such deficiency as additional interest on this Bond.

So long as MMBA is the owner thereof, the Series 1990 Bonds are payable as to principal, premium, if any, and interest at the principal corporate trust office of First of America Bank-Southeast Michigan, N.A., Bloomfield Hills, Michigan, or at such other place as shall be designated in writing to the Issuer by MMBA ("MMBA's Depository"), and the Issuer agrees that it will deposit with MMBA's Depository payments of principal, premium, if any, and interest on the Series 1990 Bonds 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. If the Series 1990 Bonds are transferred by MMBA, interest shall be paid by check or draft mailed by the transfer agent selected by the City Clerk to the person or entity which is, as of the 15th day of the month preceding the interest payment date, the registered owner at the registered address as shown on the registration books maintained by the transfer agent. The date of determination of registered owner for purposes of payment of interest as provided in this paragraph may be changed by the Issuer to conform to market practice in the future. The Series 1990 Bonds shall be sold to the MMBA pursuant to a Purchase Contract substantially in the form of Exhibit A attached hereto at not less than 95% of their par value and at a net interest cost not to exceed 8.5% per annum. If MMBA transfers the Series 1990 Bonds, the principal of the Series 1990 Bonds shall be payable upon presentation and surrender of the Series 1990 Bonds at the bank or trust company designated by the Mayor as registrar and transfer agent for this issue.

The forms of (a) Purchase Contract and (b) Revenue Sharing Pledge Agreement, both between the Issuer and MMBA, attached hereto as Exhibits A and B, respectively, and on file with the City Clerk, are hereby approved.

The Mayor, the City Clerk, the City Manager, or any of them, are hereby authorized to execute and deliver the Purchase Contract and the Revenue Sharing Pledge Agreement in the forms approved, with such changes and insertions in such documents as may be necessary or desirable, permitted by law and not materially adverse to the Issuer. The City Manager is hereby authorized to accept or reject the interest rates and purchase price offered by MMBA, subject to the limitations contained herein.

The Series 1990 Bonds shall be subject to redemption as provided and notice of redemption shall be given in the manner specified in the form of the Series 1990 Bonds contained in Section 11 of this Ordinance.

The Series 1990 Bonds delivered initially to MMBA shall be signed by the manual signature of the Mayor and countersigned by the manual signature of the City Clerk or Deputy City Clerk or Interim City Clerk and shall have the corporate seal of the Issuer impressed thereon. If MMBA transfers the Series 1990 Bonds, the Issuer shall cause replacement bonds to be printed, authenticated and delivered to the transferee thereof in accordance with instructions from the City Manager, and such Bonds shall be executed with the facsimile or manual signatures of the Mayor and the City Clerk and the seal of the Issuer shall be impressed or imprinted thereon. Executed blank bonds for registration and issuance to transferees shall simultaneously, and from time to time thereafter as necessary, be delivered to the transfer agent for safekeeping.

Section 6. Registration and Transfer. Any Bond may be transferred upon the books required to be kept pursuant to this section by the person in whose name it is registered, in person or by the registered owner's duly authorized attorney, upon surrender of the Bond for cancellation, 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 Issuer shall execute and the transfer agent shall authenticate and deliver a new Bond or Bonds for like aggregate principal amount. The transfer agent shall require 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 15 days before the day of the giving of a notice of redemption of Bonds selected for redemption as described in the form of Series 1990 Bonds contained in Section 11 of this Ordinance and ending at the close of business on the day of that giving of notice, or (ii) to register the transfer of or exchange of any Bond so selected for redemption in whole or in part, except the unredeemed portion of Bonds being redeemed in part. The Issuer shall give the transfer agent notice of call for redemption at least 20 days prior to the date notice of redemption is to be given.

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; and, upon presentation for such purpose, the transfer agent shall, under such reasonable regulations as it may prescribe, transfer or cause to be transferred, on said books, Bonds as hereinbefore provided.

If and so long as the Bonds are held by the MMBA, (a) the City Clerk shall perform the notification, bond registration and transfer functions of the transfer agent and (b) provisions relating to transfer of the Bonds may be deleted from the form of Bonds; otherwise, the City Clerk shall perform, or designate a transfer agent to perform, the afore-described functions.

If any Bond shall become mutilated, the Issuer, at the expense of the holder of the Bond, shall execute, and the transfer agent shall authenticate and deliver, a new Bond of like tenor in exchange and substitution for the mutilated Bond, upon surrender to the transfer agent of the mutilated Bond. If any Bond issued under this Ordinance shall be lost, destroyed or stolen, evidence of the loss, destruction or theft may be submitted to the transfer agent and, if this evidence is satisfactory to both and indemnity satisfactory to the transfer agent shall be given, and if all requirements of any applicable law including Act 354, Public Acts of Michigan, 1972, as amended ("Act 354"), being sections 129.131 to 129.135, inclusive, of the Michigan Compiled Laws have been met, the Issuer, at the expense of the owner, shall execute, and the transfer agent shall thereupon authenticate and deliver, a new Bond of like tenor and bearing the statement required by

Act 354, or any applicable law hereafter enacted, in lieu of and in substitution for the Bond so lost, destroyed or stolen. If any such Bond shall have matured or shall be about to mature, instead of issuing a substitute Bond, the transfer agent may pay the same without surrender thereof.

Section 7. Payment of Bonds; Limited Tax General Obligation Pledge. Principal of and interest on the Series 1990 Bonds shall be payable from the Net Revenues. There is hereby recognized the statutory lien upon the whole of the Net Revenues created by this Ordinance with respect to the Series 1990 Bonds, and the statutory lien is to continue until payment in full of the principal of and interest on the Series 1990 Bonds, or until sufficient cash or Sufficient Government Obligations have been deposited in trust for payment in full of principal and interest on all Series 1990 Bonds 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. Upon deposit of cash or Sufficient Government Obligations, as provided in the previous sentence, the statutory lien shall be terminated with respect to the Series 1990 Bonds, the holders of the Series 1990 Bonds shall have no further rights under this Ordinance except for payment from the deposited funds, and the Series 1990 Bonds shall no longer be considered to be outstanding under this Ordinance.

As additional security for the Series 1990 Bonds, the Issuer, pursuant to authorization of Section 7 of Act 94, hereby irrevocably pledges its limited tax full faith and credit for the prompt and timely payment of its obligations pledged for payment of the Series 1990 Bonds as expressed in this Ordinance. Pursuant to such pledge, if Net Revenues are not available, the Issuer shall be required to pay such amounts from any of its general funds as a first budget obligation and shall each year levy an ad valorem tax on all the taxable property in the Issuer in an amount which, taking into consideration estimated delinquencies in tax collections, will be sufficient to pay the Series 1990 Bonds before the time of the following year's tax collections, such annual levy shall be in an amount sufficient to pay the Series 1990 Bonds subject to applicable constitutional and statutory limitations. The pledge shall continue until payment in full for the principal of and interest on all the Series 1990 Bonds, or until sufficient cash or direct obligations of the United States of America or obligations the principal of and interest on which is fully guaranteed by the United States of America, not redeemable at the option of the Issuer, the principal and interest payments on which, without reinvestment of interest, come due at such times and in such amounts as to be fully sufficient to pay, when due, the principal of, redemption premium, if any, and interest on the Bonds on the stated maturity date or earlier redemption, shall have been deposited in trust for payment in full for all Bonds with respect to which this Ordinance is to be defeased to their maturity, or, if called for redemption, to the date fixed for redemption. If the Bonds are owned by the MMBA at the time of such deposit, the sufficiency of such deposit shall be verified by a nationally recognized firm of certified public accountants. Upon such deposit, the pledge and security herein created shall be terminated with respect to the Series 1990 Bonds, the holders of the Bonds shall have no further rights under this Ordinance except for payment from the deposited funds, and the Series 1990 Bonds shall no longer be considered to be outstanding under this Ordinance.

Section 8. Management. The operation, repair and management of the System and the acquiring of the Project shall continue to be under the supervision and control of the City Council.

Section 9. Rates and Charges; No Free Service. The rates and charges for service furnished by the System and the methods of collection and enforcement of the collection of the rates shall be those in effect on the date of adoption of this Ordinance. No free service or use of the System, or service or use of the System at less than cost, shall be furnished by the System to any person, firm, or corporation, public or private, or to any public agency or instrumentality, including the Issuer.

Section 10. Bond Proceeds. Upon delivery of the Series 1990 Bonds there shall be first immediately deposited from the proceeds of the Series 1990 Bonds in a separate account in the Series 1990 Bond Redemption Fund (as hereinafter defined) an amount equal to the capitalized interest, if any, received on delivery of the Series 1990 Bonds. The balance of the proceeds of the sale of the Series 1990 Bonds shall be deposited in the City Depository Bank in the Construction Fund (as hereinafter defined and provided). Moneys in the Construction Fund shall be applied solely as provided in Section 12 (A) of this Ordinance.

Section 11. Bond Form. The Series 1990 Bonds shall be in substantially the following form:

United States of America
State of Michigan
County of Marquette
CITY OF ISHPEMING
SOLID WASTE DISPOSAL SYSTEM REVENUE BOND
SERIES 1990
(General Obligation Limited Tax)

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Original Issue Date</u>
_____ %	_____	_____

REGISTERED OWNER: Michigan Municipal Bond Authority

PRINCIPAL AMOUNT: _____

City of Ishpeming, County of Marquette, State of Michigan (the "Issuer"), for value received, hereby promises to pay, but only out of the hereinafter described Net Revenues of the Issuer's Solid Waste Disposal 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 to the Registered Owner specified above, or registered assigns, on the Maturity Date specified above, unless prepaid prior thereto as hereinafter provided, with interest thereon from the Original Issue Date specified above, or such later date to which interest has been paid, until paid, at the Interest Rate per annum specified above, payable on _____, 19__, and semiannually thereafter. In the event of a default in the payment of principal of or interest on this bond 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 one per cent above the cost to the Michigan Municipal Bond Authority (the "Authority") of providing funds (as determined by the Authority) to make payment on the bonds of the Authority 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 Authority has been fully reimbursed for all costs incurred by the Authority (as determined by the Authority) as a consequence of the Issuer's default. Such additional interest shall be payable on the interest payment date following demand of the Authority. In the event that (for reasons other than the default in the payment of any municipal obligation purchased by the Authority) the investment of amounts in the reserve account established by the Authority for the bonds of the Authority 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 Authority issued to fund such account, the Issuer shall and hereby agrees to pay on demand only the Issuer's pro rata share (as determined by the Authority) of such deficiency as additional interest on this Bond. So long as the Authority is the owner of this bond, principal of, interest and premium, if any, on this bond are payable at the principal corporate trust office of First of America Bank-Southeast

Michigan, N.A., in Bloomfield Hills, Michigan, or at such other place as shall be designated in writing by the Authority to the Issuer (the "Authority's Depository"). The Issuer agrees to deposit with the Authority's Depository payments of the principal of and interest and premium, if any, 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. Written notice of any redemption of this bond shall be given by the Issuer and received by the MMBA's Depository at least 40 days prior to the date on which such redemption is made.

For prompt payment of principal of and interest on this bond, the Issuer has irrevocably pledged the revenues of the System, including all appurtenances, extensions and improvements thereto, after provision has been made for reasonable and necessary expenses of operation, maintenance and administration (the "Net Revenues").

This bond is one of a series of bonds of even date of original issue, aggregating the principal sum of \$310,000 issued pursuant to Ordinance No. 11-1900, duly adopted by the City Council of the Issuer 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 acquiring and constructing improvements to the 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 may hereafter be issued and the general covenants and provisions pursuant to which this bond is issued, reference is made to the above-described Ordinance.

The bonds of this issue are subject to optional redemption in whole or in part in such order as the Issuer shall determine, in integral multiples of \$5,000 on any date on or after May 1, 2000, the following redemption prices (expressed as percentages of their principal amounts), plus accrued interest to the redemption date:

<u>Period During Which Redeemed</u>	<u>Redemption Price</u>
May 1, 2000, to April 30, 2001, inclusive	102%
May 1, 2001, to April 30, 2002, inclusive	101%
May 1, 2002 and thereafter	100%

In case less than the full amount of an outstanding bond is called for redemption the transfer agent upon presentation to the transfer agent of the bond called in part for redemption shall register, authenticate and deliver to the registered owner a new bond in the principal amount of the portion of the original bond not called for redemption.

Notice of redemption shall be given to the registered owners of bonds to be redeemed by mailing of such notice not less than thirty (30) days prior to the date fixed for redemption to the registered owner at the address of the registered owner as shown on the registration books of the Issuer. No further interest on bonds called redemption shall accrue after the date fixed for redemption, whether presented for redemption or not, provided the Issuer has money available for such redemption.

This bond is a primarily self-liquidating bond and is first payable, both as to principal and interest, from the Net Revenues of the System. The principal of and interest on this bond are secured by the statutory lien hereinbefore mentioned. As additional security for the payment of the principal of and interest on this bond and the series of bonds of which this is one, the Issuer has pledged its limited tax full faith and credit for such payment and, if necessary, the Issuer is required to levy taxes on all taxable property in the Issuer for such purpose, subject to applicable constitutional and statutory limitations. The total indebtedness of the Issuer, including the series of bonds of which

this is one does not exceed any charter, constitutional or statutory debt limitation.

The Issuer has covenanted and agreed, and does hereby covenant and agree to fix and maintain at all times while any bonds 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 all outstanding bonds, the bonds of this issue and any additional bonds of equal standing as and when the same shall become due and payable, and to maintain a bond redemption fund 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 said Ordinance.

This bond is transferable only upon the books of the Issuer kept for that purpose at the office of the transfer agent by the registered owner in person or the registered owner's attorney duly authorized in writing, upon the surrender of this bond together with a written instrument of transfer satisfactory to the Issuer, duly executed by the registered owner or the registered owner's attorney duly authorized in writing, 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 authorizing the bonds of this issue, and upon payment of the charges, if any, therein prescribed.

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

IN WITNESS WHEREOF, the City of Ishpeming, County of Marquette, State of Michigan, by its City Council, has caused this bond to be executed with the (manual/facsimile) signatures of its Mayor and its City Clerk and the corporate seal of the Issuer to be (affixed/printed) on this bond, all as of the Date of Original Issue.

CITY OF ISHPERING
COUNTY OF MARQUETTE
STATE OF MICHIGAN

By: _____

(Seal)

Countersigned:

City Clerk

(Certificate of Authentication to be used if
Series 1990 Bonds are transferred by MMBA)

Date of Registration:

Certificate of Authentication

This bond is one of the bonds described in the within-mentioned Ordinances.

Transfer Agent

By: _____
Authorized Signatory

Section 12. Custodian of Funds; Funds. The Issuer's Treasurer shall be custodian of all funds belonging to or associated with the System. Such funds shall be deposited in the City's Depository Bank. 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 shall be deposited in the manner and at the times provided in this Ordinance, which accounts shall be established and maintained so long as any of the Bonds remain unpaid, except as otherwise provided in this Ordinance.

- (A) CONSTRUCTION FUND. The proceeds of the Series 1990 Bonds after capitalized interest and accrued interest, if any, have been deposited as described below, shall be deposited in the SERIES 1990 REVENUE BOND CONSTRUCTION FUND (the "Construction Fund") in the City's Depository Bank. Said moneys shall be used solely for the purposes for which the Series 1990 Bonds are issued.

Any unexpended balance of the proceeds of the sale of the Series 1990 Bonds remaining after completion of the Project herein authorized may be used for further improvements, enlargements and extensions of the System in the discretion of the Issuer, provided that at the time of such expenditure such use be approved by the Michigan Department of Treasury (if such approval is then required by law). Any remaining balance after such expenditure shall be paid into the Series 1990 Bond Redemption Fund (as hereinafter provided) and shall be used for the prepayment of installments of the Series 1990 Bonds.

After completion of the Project and disposition of remaining proceeds, if any, of the Series 1990 Bonds pursuant to the provisions of this Section, the Constru

- (B) RECEIVING FUND. From and after the effective date of this Ordinance, the Revenues of the System shall be set aside, as collected, and deposited in the City Depository Bank, in an account to be created and designated SOLID WASTE DISPOSAL SYSTEM RECEIVING FUND (hereinafter referred to as the "Receiving Fund") and moneys so deposited are pledged for the purposes of the following funds and so shall be transferred, expended and used only in the manner and order as follows:

- (1) Operation and Maintenance Fund. There is hereby established a separate fund to be designated the OPERATION AND MAINTENANCE FUND (the "Operation and Maintenance Fund"). There shall first be withdrawn from the Receiving Fund monthly and set aside in and transferred to the Operation and Maintenance Fund an amount sufficient to provide for the payment of the next month's current expenses of administration and operation of the System and such current expenses for the maintenance thereof as may be necessary to preserve the same in good repair and working order.

- (2) Bond and Interest Redemption Fund. There is hereby established a separate account known as the SERIES 1990 REVENUE BOND - BOND AND INTEREST REDEMPTION FUND (the "Series 1990 Bond Redemption Fund"). After the transfers required in (1) above, Revenues shall be withdrawn monthly (except as otherwise provided in this paragraph) from the Receiving Fund, before any other expenditures or transfers therefrom, and set aside in and transferred to the Series 1990 Bond Redemption Fund for payment of principal of and interest on the Series 1990 Bonds. Commencing July 1, 1990, the amount set aside each month out of the Receiving Fund for interest shall be not less than one-fourth (1/4) of the interest next coming due and payable. Commencing November 1, 1990, the amount set aside each month out of the Receiving Fund for interest shall be not less than one-sixth (1/6) of the interest next becoming due

and payable. Commencing July 1, 1990, the amount set aside each month out of the Receiving Fund for principal shall be not less than one-tenth (1/10) of the principal of the Series 1990 Bonds next coming due and payable, and commencing May 1, 1991, the amount set aside each month out of the Receiving Fund for principal shall be not less than one-twelfth (1/12) of the principal of the Series 1990 Bonds next becoming due and payable. If there be any deficiency in the amount previously required to be set aside, then the amount of such deficiency shall be added to the current requirements.

If for any reason there is a failure to make such monthly deposits in the amounts required, then the entire amount of the deficiency shall be set aside and deposited in the Series 1990 Bond Redemption Fund out of the Revenues first received thereafter which are not required by this Ordinance to be deposited in the Operation and Maintenance Fund or in the Bond and Interest Redemption Fund, which amount shall be in addition to the regular monthly deposit required during such succeeding month or months. Deposits shall be made into the Bond and Interest Redemption Fund once the aforesaid sums have been deposited therein.

No further payments need be made into the Series 1990 Bond Redemption Fund after enough of the Series 1990 Bonds have been retired so that the amount then held in said fund is equal to the entire amount of principal and interest which will be payable at the time of maturity of the Series 1990 Bonds then outstanding.

The moneys in the Series 1990 Bond Redemption Fund shall be invested in

- (3) Replacement and Improvement Fund. The City Council may establish by resolution a separate depository account designated REPLACEMENT AND IMPROVEMENT FUND, the moneys on deposit therein from time to time to be used solely and only for the purpose of making repairs, replacements and improvements to the System when necessary or desirable. There shall be deposited into said account after provision has been made for the current requirements of the Operation and Maintenance Fund and the Series 1990 Bond Redemption Fund, such amounts as the City Council may specify by resolution. If, at any time, it shall be necessary to use moneys in said fund for such purpose, the moneys so used shall be replaced from the revenues in the Receiving Fund which are not required by this Ordinance to be used for the Operation and Maintenance Fund or the Series 1990 Bond Redemption Fund.

Section 13. Reverse Flow of Funds; Surplus Moneys. In the event the moneys in the Receiving Fund are insufficient to provide for the current requirements of the Operation and Maintenance Fund, the Series 1990 Bond Redemption Fund or the Replacement and Improvement Fund, any moneys and/or securities in the funds of the System established by this Ordinance shall be transferred, first, to the Operation and Maintenance Fund, and second, to the Series 1990 Bond Redemption Fund, and third, to the Replacement and Improvement Fund.

Section 14. Investments. Moneys in the funds established herein and moneys derived from the proceeds of sale of the Bonds may be invested by the Issuer's legislative body on behalf of the Issuer in Government obligations or obligations the principal of and interest on which is fully guaranteed by the United States of America, or certificates of deposit of a bank insured by the Federal Deposit Insurance Corporation. Investment of moneys in the Series 1990 Bond Redemption Fund being accumulated for payment of the next maturing principal or interest payment on the Bonds shall be limited to Government obligations bearing maturity dates prior to the date of the next maturing principal or interest payment on the Bonds. Interest income earned on investment of funds in the funds and accounts created in this Section 14 shall be deposited in or credited to the Receiving Fund.

Section 15. Additional Bonds. The Issuer may issue additional Bonds of equal standing

with the Series 1990 Bonds for any of the following purposes:

- (a) To complete construction of the Project according to the plans set forth in Section 2 hereof, in the amount necessary therefor; or
- (b) For the purpose of making repairs, replacements, improvements, enlargements or extensions
- (c) For the purpose of refunding any outstanding Bonds.

Additional Bonds of equal standing may be issued if:

- (i) The Adjusted Net Revenues of the System for the Fiscal Year preceding the year in which such additional Bonds are to be issued were 110 per cent of the average annual debt service requirements on all Bonds then outstanding and those proposed to be issued net of any Bonds to be refunded by the new issue; or
- (ii) The holders of at least 75 per cent of the then outstanding Bonds consent to such issue in writing.

Permission of the Michigan Department of Treasury to issue such additional Bonds shall be conclusive as to the existence of conditions permitting the issuance thereof. In the event permission of the Michigan Department of Treasury is not then required to issue such additional Bonds, then the adoption by the legislative body of the Issuer of an ordinance authorizing the issuance of such additional Bonds shall be conclusive as to the existence of conditions permitting the issuance thereof.

The funds established by this Ordinance shall be applied to all additional Bonds; all Revenues from any such completion, repair, replacement, improvement, enlargement or extension financed from the proceeds of the additional Bonds shall be paid, as received, into the Receiving Fund.

Except as otherwise specifically provided in this Section, so long as any of the 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.

Section 16. Ordinance Shall Constitute Contract. The provisions of the Ordinance shall constitute a contract between the Issuer and the bondholders. After the issuance of the Bonds the Ordinance shall not be repealed or amended in any respect which will adversely affect the rights and interests of the bondholders, nor shall the Issuer adopt any law, ordinance or resolution in any way adversely affecting the rights of the holders of the Bonds so long as the Bonds or interest thereon remains unpaid.

Section 17. Bondholders Rights; Receiver. The holder or holders of the Bonds representing in the aggregate not less than twenty per cent (20%) of the entire principal amount thereof then outstanding, may, by suit, action, mandamus or other proceedings, protect and enforce the statutory lien upon the Net Revenues of the System, and may, by suit, action, mandamus or other proceedings, enforce and compel performance of all duties of the officers of the Issuer, including the fixing of sufficient rates, the collection of Revenues, the proper segregation of the Revenues of the System and the proper application thereof. The statutory lien upon the Net Revenues, however, shall not be construed as to compel the sale of the System or any part thereof.

If there is a default in the payment of the principal of or interest upon the Bonds, any court having jurisdiction in any proper action may appoint a receiver to administer and operate the System on behalf of the Issuer and under the direction of the court, and by and with the approval of the court to perform all of the duties of the officers of the

Issuer more particularly set forth herein and in Act 94.

The holder or holders of the Bonds shall have all other rights and remedies given by Act 94 and law, for the payment and enforcement of the Bonds and the security therefor.

Section 18. Pledge of Revenue Sharing Funds to MMBA. The taxes collected by the State of Michigan and returned to the Issuer are hereby pledged for payment of the Series 1990 Bonds, so long as the Series 1990 Bonds are owned by MMBA, and the Mayor, the Clerk, the City Manager, or any of them, of the Issuer is further authorized to enter into a Revenue Sharing Pledge Agreement with MMBA for payment of such taxes to MMBA or to a trustee as provided in Section 23 of Act 227.

Section 19. Authorization for Application to Insurer for Insured Program. The City Manager of the Issuer is hereby authorized to submit all information and materials required for participation in any insured program of the MMBA.

Section 20. Covenant Regarding Tax Exempt Status of the Bonds. The Issuer shall, to the extent permitted by law, take all actions within its control necessary to maintain the exemption of the interest on the Bonds from general federal income taxation (as opposed to any alternative minimum or other indirect taxation) under the Internal Revenue Code of 1986, as amended, including, but not limited to, actions relating to any required rebate of arbitrage earnings and the expenditure and investment of Bond proceeds and moneys deemed to be Bond proceeds.

Section 21. Repeal, Savings Clause. All ordinances, resolutions or orders, or part thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, repealed.

Section 22. Severability; Paragraph Headings; and Conflict. 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 23. Publication and Recordation. This Ordinance shall be published in full in the Mining Journal, Marquette, Michigan, a newspaper of general circulation in the Issuer qualified under State law to publish legal notices, promptly after its adoption, and shall be recorded in the Ordinance Book of the Issuer and such recording authenticated by the signatures of the Mayor and City Clerk or Interim City Clerk.

Section 24. Effective Date. This Ordinance shall be effective upon its adoption.

Signed Angelo J. Bosio
Mayor

Signed Raymond J. France
City Clerk

Adopted: June 13, 1990