

A regular meeting of the City Commission was held in the Commission Room of the City-County building, 325 Court Street, Sault Ste. Marie, Michigan on Monday, November 2, 2009 at 7:00 p.m.

The meeting was called to order by Mayor Bosbous

Present: Mayor Bosbous, Commissioner Bauer, Burton, Gerrie, Lynn, Munsell and Stefanski

Absent:

Also Present: City Manager Nebel, City Attorney Cannello, City Clerk Robin R. Troyer, and various department heads

Moment of silence was held in honor of Spec. Brandon K. Steffey

Mayor Bosbous announced the Soo Eagles hockey game scheduled for Saturday, November 7<sup>th</sup> at the Pullar Arena in honor of the National Guard.

### **CONSENT AGENDA:**

Moved by Commissioner Stefanski, supported by Commissioner Burton

That the following consent agenda items be approved:

#### **Minute Approval:**

That the minutes of the regular City Commission meeting held on Monday, October 19, 2009 be approved as written and circulated and the minutes of the following boards and commissions received and placed on file:

- a. Downtown Development Authority – October 14, 2009
- b. Bayliss Public Library – Sept. 14<sup>th</sup> and 24<sup>th</sup>, 2009
- c. SSM Housing Commission – Sept. 3<sup>rd</sup> and 25<sup>th</sup>, 2009

#### **Special Orders of Business:**

That the City Commission schedule a public hearing on SL-02-09 for Single Lot Special Assessments for Monday, November 16<sup>th</sup> at 7:00 p.m.

Carried: Yeas: Mayor Bosbous, Commissioner Bauer, Burton, Gerrie, Lynn, Munsell, and Stefanski  
Nays: None

### **SPECIAL ORDERS OF BUSINESS:**

#### **PUBLIC HEARING ON VACATION OF PART OF WEST 26<sup>TH</sup> AVENUE**

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BETWEEN I-75 BUSINESS SPUR AND 6<sup>TH</sup> STREET:

At the October 5th City Commission meeting, the Commission scheduled a public hearing on the vacation of part of W. 16th Avenue between the I-75 Business Spur and 6th Street with retention of utility easements as requested by Central Savings Bank as recommended by the Planning and Development Commission. This action was subject to an agreement being made with the Great Wall restaurant for a shared driveway at this location.

The proposed vacation is for W. 26th Avenue between the I-75 Business Spur and W. 6th Street, excluding the right-of-way adjoining Lot 16, Block 3 and Lot 15, Block 6, Stowell's Addition, which will allow the existing turnaround to remain at that location, with retention of utility easements over the vacated portion of roadway.

The street vacation will facilitate the redevelopment of the former Robin's Nest Restaurant location.

The Mayor conducted a hearing on the vacation of W. 26th Avenue between the I-75 Business Spur and W. 6th Street excluding the right-of-way adjoining Lot 16, Block 3 and Lot 15, Block 6, Stowell's Addition (which will allow the existing turnaround to remain), with retention of utility easements and subject to documented agreements between the Great Wall restaurant and Central Savings Bank regarding the joint use of the existing Great Wall driveway for both properties. There were no comments from the public therefore the following action was taken:

Moved by Commissioner Bauer, supported by Commissioner Stefanski

**STREET VACATION**

**PART OF W. 26<sup>TH</sup> AVENUE BETWEEN THE I-75 BUSINESS SPUR AND 6TH ST.**

WHEREAS, this is the time and place of the meeting of the City Commission of the City of Sault Ste. Marie, Michigan, set for considering and taking action upon the street vacation petitioned for by Central Savings Bank to vacate West 26<sup>th</sup> Avenue between the I-75 Business Spur and West 6<sup>th</sup> Street; and

WHEREAS, the Planning and Development Commission at their meeting held September 24, 2009 considered the petition in reference to the vacation and it is their recommendation that the subject street be vacated with the following conditions:

1. That utility easements be retained.
2. That documented agreements be made to address the common use of the Great Wall driveway which extends on both sides of the subject ROW centerline.
3. That the area to be vacated extend as far west as possible but still exclude the

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area of the 26<sup>th</sup> Avenue turnaround at 6<sup>th</sup> Street as defined by the City Engineer, and the City Engineer has since recommended that the vacation not include the area adjoining Lot 16, Block 3, and Lot 15, Block 6, Stowell's Addition near the corner of 6<sup>th</sup> Street.

WHEREAS, the City Commission has heard said petition and Planning and Development Commission recommendation in reference to the vacation of said street;

THEREFORE BE IT RESOLVED, that the following described street be vacated with retention of utility easements upon receipt of an agreement, as approved by the City Attorney, between Central Savings Bank and the Great Wall restaurant for joint use of a driveway over West 26<sup>th</sup> Avenue from I-75 Business Spur:

West 26<sup>th</sup> Avenue between I-75 Business Spur and West 6<sup>th</sup> Street, excluding the right-of-way adjoining Lot 16, Block 3 and Lot 15, Block 6, Stowell's Addition. (See attached Exhibit A.)

BE IF FURTHER RESOLVED, that a certified copy of this resolution be recorded in the Register of Deeds Office for the County of Chippewa, State of Michigan.

BE IT FURTHER RESOLVED, that a certified copy of this resolution be recorded by the City Clerk to the State of Michigan, showing recordation of said resolution along with a sketch of the area affected.

Carried: Yeas: Commissioner Bauer, Burton, Gerrie, Lynn, Munsell,  
Stefanski, and Mayor Bosbous  
Nays: None

## **COMMUNICATIONS:**

### **FROM COMMISSIONER LYNN – UPDATE ON EPA REGULATIONS IMPACTING GREAT LAKES VESSELS:**

Since the last meeting, letters were sent to the U.S. EPA Director, U.S. Senator Debbie Stabenow, U.S. Senator Carl Levin, and U.S. Representative Bart Stupak. Commissioner Lynn also made a call to Senator Stabenow's Office. Commissioner Lynn received a return phone call directly from U.S. Senator Debbie Stabenow on this matter. Senator Stabenow also called City Manager Nebel to indicate that Congress was addressing the issue relating to the Great Lakes steamers that were not able to meet the standards by excluding these vessels from the new regulations.

Administration also had a call from Senator Carl Levin's Office indicating they were working on the issue as well.

While there were a number of players involved with this issue, it does show that

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advocacy by the Mayor and City Commission for state and federal policies is listened to. Furthermore, Commissioner Lynn's personal call to Senator Stabenow helped emphasize the importance of some of these types of issues.

Moved by Commissioner Lynn, supported by Commissioner Stefanski

That the City Commission send a letter of thanks to U.S. Senator Debbie Stebenow and U.S. Senator Carl Levin for their efforts relating to the Great Lakes steamers.

Motion carried unanimously.

FROM THE COMMUNITY SERVICES BOARD:

ESTABLISHMENT OF AN ACCOUNT FOR IMPROVEMENTS TO THE SHUNK ROAD PARK:

At the October 27th Community Services Board meeting, the Community Services Board recommended that the City Commission establish an account to accept donations and grant money on behalf of the Bill Dowd Memorial Playground Committee for improvements to the Shunk Road Park.

This project has evolved somewhat since the initial presentation to the Community Services Board and to the Commission in that the organization is not requesting that the park be renamed. Instead, they would like some recognition within the park for the contributions from the Bill Dowd Memorial Playground Committee. City Manager Nebel believes this is a good way to extend limited resources by accepting donations and assistance from citizen groups such as the Bill Dowd Memorial Playground Committee. This is an excellent way to memorialize an individual's contribution to their community.

Moved by Commissioner Burton, supported by Commissioner Bauer

That the City Commission authorize the establishment of an account to accept donations and grant money for improvements to the Shunk Road Park on behalf of the Bill Dowd Memorial Playground Committee.

Carried:        Yeas: Commissioner Burton, Gerrie, Lynn, Munsell, Stefanski,  
                     Mayor Bosbous, and Commissioner Bauer  
                     Nays: None

BID (B-30-09) PULLAR COMMUNITY BUILDING PRO SHOP:

At their October 27th meeting, the Community Services Board recommended that Mr. Larry Peterman's proposal be accepted for the operation of a Pullar Community

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Building skate sharpening service for a period of one year without payment to the City. Mr. Peterman will provide the services that were formerly offered by RC's Hockey Shop, who indicated earlier this fall that they would not resume providing pro-shop services at the Pullar Building. Following this notification, proposals were requested but no proposals were received for providing this service. By accepting Mr. Peterman's proposal, the Pullar will be providing skate sharpening services at the Pullar Building. This is an important operational component for this facility, and it seems reasonable that the services be provided even if it does not result in a direct return of any rent or payments to the Pullar Building for having the right to operate this service.

Moved by Commissioner Stefanski, supported by Commissioner Lynn

That the City Commission accept the proposal by Mr. Larry Peterman to provide skate sharpening services at the Pullar Community Building for a period of one year without any payments to the City.

Carried: Yeas: Commissioner Gerrie, Lynn, Munsell, Stefanski, Mayor Bosbous, Commissioner Bauer, and Burton  
Nays: None

FROM THE MICHIGAN MUNICIPAL LEAGUE – ANNOUCEMENT OF SAULT STE MARIE AS 21C3 PILOT PROJECT COMMUNITY:

The Michigan Municipal League is establishing a Center for 21st Century Communities (21c3) where the League will retain some of the top experts and resources related to the issue of creating and sustaining vibrant communities. The League has identified eight assets that are critical for the sustainability of 21st century communities, which include physical design and walkability, green initiatives, cultural economic development, entrepreneurship, diversity/multiculturalism, messaging and technology, transit, and education (K-16).

The League has obtained a grant from the Michigan State Housing Development Authority to refine the concepts and develop actual strategies that communities can implement to compete for jobs and people in the 21st century. As part of this pilot project, the Michigan Municipal League will work directly with the City of Sault Ste. Marie on a project (or projects) that will identify specific strategies for implementing components of some of the eight strategies of 21st century communities.

If the City Commission accepts this invitation, the City will work directly with the Michigan Municipal League and consultants retained by the Michigan Municipal League to identify and develop a plan to implement one or more of the eight assets of 21st century communities in Sault Ste. Marie. As part of this effort, the Michigan Municipal League is requesting an in-kind match through staff time to facilitate the development of a plan for Sault Ste. Marie, and upon completion of the plan, to be willing to serve as an example for other Michigan cities in the form of making presentations at meetings or

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conferences to share the "Sault Ste. Marie's story", testify in lobbying in Lansing and/or Washington for adequate tools to move Michigan's cities and villages to become vibrant, attractive 21st century communities, and serving as spokespersons for the program.

Staff has initiated some discussions as to possible demonstration programs that we might want to do under this program. Staff will work with the Michigan Municipal League to refine these ideas and will present alternatives with a recommendation (or recommendations) on how to proceed with this opportunity.

The focus of this effort will be more of a planning and programming initiative as opposed to "bricks and mortar-type projects". City Manager Nebel believes, however, if certain initiatives are identified from this process, the City's participation in this pilot project will place the City in a stronger position to obtain future funding for implementation of some of these recommendations that may come out of this program.

Heather Van Poucker and Caroline Kennedy from the Michigan Municipal League were present and presented a power point presentation on the 21c3 pilot program.

Moved by Commissioner Bauer, supported by Commissioner Stefanski

That the City Commission accept the Michigan Municipal League's invitation to be one of five Michigan communities to participate in the Michigan Municipal League's Center for 21st Century Communities pilot program, which will develop strategies to develop, attract, and retain knowledge-based workers to succeed in the 21st century economy.

That the City Commission agree to the in-kind match of staff time for the development of the pilot projects and, upon completion, that the City will promote the program's success and participate in teaching the lessons revealed through the pilot program.

Carried: Yeas: Commissioner Lynn, Munsell, Stefanski, Mayor Bosbous, Commissioner Bauer, Burton and Gerrie  
Nays: None

### **CITY MANAGER'S REPORT:**

#### **PROPOSED ORDINANCE AUTHORIZING THE \$7.5 MILLION SRF BOND ISSUE FOR CSO C:**

Administration has been sorting through a number of issues related to the financing of the CSO Project and the City Hall building. This ordinance will accomplish several things, including authorizing an amount not to exceed \$7.5 million in revenue

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bonds for the SRF Program.

The ordinance will officially combine the water supply and sewer disposal systems as one enterprise operation. This has always been the way it has been treated in bonds, but, City Manager Nebel believes with the increased scrutiny of all financial actions, this is something that Miller Canfield is recommending that the Commission formally do.

The third item is addressing a matter that arose this summer. Again, City Manager Nebel believes that there is a different level of scrutiny towards these types of bonding activities that hasn't been in place before. It was discovered that the DWRF bonds were being considered as part of the City's overall debt limits.

Miller Canfield, Baird & Associates, and the Finance Department have been working with the Michigan Department of Treasury on this matter. It is there understanding that the full faith and credit pledge on the DWRF bonds will be removed by the Treasury Department as requested by the City. The City has demonstrated that it levies sufficient water and sewer rates to meet these obligations as is required by revenue bonds. This gives the City additional latitude on its debt limitations.

This issue came as a surprise, since both the City's bond advisor and Miller Canfield had always excluded the DWRF bonds from the City's debt limit. Earlier this year, Miller Canfield had indicated that the DWRF bonds were incorrectly excluded from the City's debt limit. This would put the City very near its debt limit with this CSO Project and the City Hall Project. It was determined that the DWRF bonds should be treated as revenue bonds, since the City was charging sufficient fees to pay these bonds back. Approval of this ordinance will free up a significant amount of the City's debt limit for other projects.

Miller Canfield advises that this ordinance can be introduced and approved at the same meeting.

John Boger, City Finance Director answered questions from the Commission.

Moved by Commissioner Gerrie, supported by Commissioner Stefanski

#### **ORDINANCE NO. 512-09**

**AN ORDINANCE TO PROVIDE FOR THE CONSTRUCTION, INSTALLATION, FURNISHING AND EQUIPPING OF IMPROVEMENT TO THE CITY'S WATER SUPPLY AND SANITARY SEWAGE DISPOSAL SYSTEM; 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**

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THE COSTS OF OPERATION AND MAINTENANCE OF THE SYSTEM AND TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS AND OUTSTANDING BONDS; TO PROVIDE AN ADEQUATE RESERVE FUND 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; TO PROVIDE FOR THE COMBINATION OF THE CITY'S WATER SUPPLY AND SANITARY SEWAGE DISPOSAL SYSTEMS; TO PROVIDE FOR THE AMENDMENT OF ORDINANCE NUMBERS 435-98, 449-01 AND 458-02 TO GIVE EFFECT TO THE COMBINATION OF SYSTEMS AND TO SUBSTITUTE SECURITY FOR OUTSTANDING REVENUE BONDS AUTHORIZED BY ORDINANCES NO. 435-98, 449-01 AND 458-02 AND TO PROVIDE FOR OTHER MATTERS RELATING TO THE BONDS AND THE SYSTEM.

## PREAMBLE

The City of Sault Ste. Marie, Michigan (the "City") has previously issued its Water Supply System Revenue Bonds, Series 1998, 2001 and 2003 (the "Prior Bonds"). Each series of the Prior Bonds was purchased by the Michigan Municipal Bond authority as part of the State of Michigan Drinking Water Revolving Funds ("DWRP") which requires that certain credit criterion be met prior to the purchase of bonds. In order to meet the required credit criterion the City has pledged its limited tax full faith and credit as secondary security for the payment of the Prior Bonds. It is the intent of the City to combine its Water Supply and Sewage Disposal Systems, the net revenues of which will now be sufficient to meet the required credit criterion in order for the City to participate in the DWRP, and to delete its limited tax full faith and credit pledge.

THE CITY OF SAULT STE. MARIE THEREFORE 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 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

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from rates and charges to be paid by new customers of the System.

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

(c) "Authority" means the Michigan Municipal Bond Authority.

(d) "Authorized Officers" means the Mayor, City Manager, Finance Director and Clerk.

(e) "Bonds" mean the Series 2010 Bonds, together with any additional Bonds of equal standing hereafter issued.

(f) "City" or "Issuer" means the City of Sault Ste. Marie, County of Chippewa, State of Michigan.

(g) "MDEQ" Means the Michigan Department of Environmental Quality.

(h) "Outstanding Bonds" means the City's Water Supply System Revenue Bonds, Series 1998 authorized by Ordinance No. 435-98; Water Supply System Revenue Bonds, Series 2001 authorized by Ordinance No. 449-01; and Water Supply System Revenue Bonds, Series 2003 authorized by Ordinance No. 458-02.

(i) "Prior Ordinances" means Ordinance No. 435-98 adopted September 29, 1998; Ordinance No. 449-01 adopted August 20, 2001 and Ordinance No. 458-02 adopted April 20, 2003.

(j) "Project" means the additions, extensions and improvements to the System consisting of sanitary sewer improvements together with appurtenances and attachments thereto.

(k) "Revenues" and "Net Revenues" mean 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.

(l) "Series 2010 Bonds" means the Water Supply and Sewage Disposal Revenue Bonds, Series 2010, of the Issuer in the principal amount of not to exceed \$7,500,000 authorized by this Ordinance.

(m) "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.

(n) "System" means the City of Sault Ste. Marie Water Supply and Sewage Disposal 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.

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Section 2. Necessity; Approval of Plans and Specifications; Combination of Systems. It is hereby determined to be a necessary public purpose of the Issuer to acquire and construct the Project in accordance with the plans and specifications prepared by the City's consulting engineers, which plans and specifications are hereby approved. The Project qualifies for the State of Michigan Revolving Loan Fund financing program being administered by the MDEQ and the Authority, whereby bonds of the Issuer are sold to the Authority and bear interest at a fixed rate of not to exceed three percent (3%) per annum. The City's Water Supply System and its Sewage Disposal System be and are hereby combined as the City's Water Supply and Sewage Disposal System.

Section 3. Costs; Useful Life. The total cost of the Project is presently estimated to be Seven Million Five Hundred Thousand Dollars (\$7,500,000) 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 all or part of the cost of acquiring and constructing the Project, including payment of legal, engineering, financial and other expenses incident thereto and incident to the issuance and sale of the Series 2010 Bonds, the Issuer shall borrow the sum of not to exceed Seven Million Five Hundred Thousand Dollars (\$7, 500,000) (the "Principal Amount") and issue the Series 2010 Bonds therefore pursuant to the provisions of Act 94. The remaining cost of the Project, if any, shall be defrayed from Issuer funds on hand and legally available for such use.

Section 5. Bond Details, Issuance in Series, Registration and Execution. The Series 2010 Bonds hereby authorized shall be designated WATER SUPPLY AND SEWAGE DISPOSAL REVENUE BONDS, SERIES 2010, shall be payable out of the Net Revenues, as set forth more fully in Section 7 hereof, shall consist of a fully single fully registered bond, non convertible bond of the full Principal Amount thereof, dated as of the date of its delivery, payable in principal installments serially as finally determined by the order of the MDEQ at the time of sale of the Series 2010 Bonds and approved by the Authority and an Authorized Officer.

Final Determination of the Principal Amount and the payment dates and amounts of principal installments of the Series 2010 Bonds shall be evidenced by execution of a Purchase Contract (the "Purchase Contract") between the Issuer and the Authority providing for the sale of the Series 2010 Bonds, and any of the Authorized Officers are authorized and directed to execute and deliver the Purchase Contract when it is in final form and to make the determinations set forth above.

The Series 2010 Bonds or principal installments thereof will be subject to prepayment prior to maturity in the manner and at the times set forth in the form of the Series 2010 Bonds contained in this Ordinance or as may be approved by any of the Authorized Officers at the time of sale of the Series 2010 Bonds or by the Authority at the time of prepayment. The Series 2010 Bonds shall be executed in the name of the Issuer with the facsimile signatures of the Mayor and the City Clerk and shall have the Issuer's seal printed on them.

The Series 2010 Bonds shall bear interest at a rate of not to exceed three

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percent (3%) 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, and any of the Authorized Officers shall deliver the Series 2010 Bond in accordance with the delivery instructions of the Authority.

The Series 2010 Bond principal amount is expected to be drawn down by the Issuer periodically, and interest on principal amount shall accrue from the date such principal amount is drawn down by the Issuer.

The Series 2010 Bond shall not be convertible or exchangeable into more than one fully-registered bond. Principal of and interest on the Series 2010 Bond shall be payable as provided in the Series 2010 Bond from this Ordinance.

The City Clerk shall record on the registration books payment by the Issuer 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 City Clerk.

Upon payment by the Issuer of all outstanding principal of and interest on the Series 2010 Bonds, the Authority shall deliver the Series 2010 Bonds to the Issuer for cancellation.

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. A bank or financial institution shall be designated as the transfer agent. 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 transfer agent 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 2010 Bonds contained in 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 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 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

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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. The Series 2010 Bonds and the Outstanding Bonds and the interest thereon shall be payable solely from the Net Revenues, and to secure such payment, there is hereby created a statutory lien upon the whole of the Net Revenues, which lien is subject to the provisions of Section 20 (d) hereof and the issuance of additional bonds superior standing, which shall be a lien to 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 Bonds of a series then outstanding, principal and interest on such Bonds 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 that series of Bonds, the holders of that series shall have no further rights under this Ordinance except for payment from the deposited funds, and the Bonds of that series shall no longer be considered to be outstanding under this Ordinance.

Section 8. Bondholders' Rights; Receiver. The holder or holders of the Bonds representing in the aggregate not less than twenty percent (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 on 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 therefore.

Section 9. Management; Fiscal Year. The operation, repair and management of the System and the acquiring of the Project shall continue to be under the supervision

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and control of the City Commission. The City Commission 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 City Commission may make such rules and regulations as it deems advisable and necessary to assure the efficient management and operation of the System.

Section 10. Rates and Charges. The rates and charges for service furnished by and the use of 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.

Section 11. No Free Service or Use. 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 12. Fixing and Revising Rates; Rate Covenant. The rates now in effect are estimated to be sufficient to provide for the payment of the expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the System in good repair and working order, to provide for the payment of the principal of and interest on the Bonds as the same become due and payable, and the maintenance of the reserve therefore and to provide for all other obligations, expenditures and funds for the System required by law and this Ordinance.

The rates shall be fixed and revised from time to time as may be necessary to produce these amounts, and it is hereby covenanted and agreed to fix and maintain rates for services furnished by the System at all times sufficient to provide for the foregoing.

Section 13. Funds and Accounts; Flow of Funds. Commencing on the date of adoption of this Ordinance, all funds belonging to the System as combined herein shall be transferred as herein indicated and all Revenues of the System shall be set aside as collected and credited to a fund to be designated WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM RECEIVING FUND (the "Receiving Fund"). In addition, on the date of adoption of this Ordinance all Revenues in any accounts of the System shall be transferred to the Receiving Fund and credited to the funds and accounts as provided in this section. The Revenues credited to the Receiving Fund are pledged for the purpose of the following funds and shall be transferred or debited from the Receiving Fund periodically in the manner and at the times and in the order of priority hereinafter specified:

A. OPERATION AND MAINTENANCE FUND:

Out of the Revenues credited to the Receiving Fund there shall be first set aside in, or credited to, a fund designated OPERATION AND MAINTENANCE FUND (the "Operation and Maintenance Fund"), monthly a sum sufficient to provide for the payment of the next month's 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.

A budget, showing in detail the estimated costs of administration, operation and maintenance of the System for the next ensuing operating year, shall be prepared by the City Commission at least 30 days prior to the commencement of each ensuing operating year. No payments shall be made to

the Issuer from moneys credited to the Operation and Maintenance Fund except for services directly rendered to the System by the Issuer or its personnel.

**B. BOND AND INTEREST REDEMPTION FUND:**

There shall be established and maintained a separate depository fund designated BOND AND INTEREST REDEMPTION FUND (the "Redemption Fund"), the moneys on deposit therein from time to time to be used solely for the purpose of paying the principal of, redemption premiums (if any) and interest on the Bonds. The moneys in the Redemption Fund (including the Bond Reserve Account) shall be kept on deposit with the bank or trust company where the principal of and interest on the Bonds, or any series thereof, are payable.

Out of the Revenues remaining in the Receiving Fund, after provision for the Operation and Maintenance Fund, there shall be set aside each month commencing upon the adoption of this Ordinance in the Redemption Fund a sum proportionately sufficient to provide for the payment when due of the current principal of and interest on the Bonds, less any amount in the Redemption Fund representing accrued interest on the Bonds or investment income on amounts on deposit in the Redemption Fund, (including investment income on amounts held as part of the Bond Reserve Account). Commencing first day of the month following the adoption of this Ordinance, the amount set aside each month for interest on the Bonds shall be an amount sufficient to pay the interest on the Bonds next coming due. Commencing April 1, 2010, the amount set aside each month for interest on the Bonds shall be 1/6 of the total amount of interest on the Bonds next coming due. The amount set aside each month for principal upon the adoption of this Ordinance shall be an amount sufficient to pay the principal installment due on the next installment date and, commencing April 1, 2010, shall be 1/12 of the amount of principal installment next coming due by maturity. If there is any deficiency in the amount previously set aside, that deficiency shall be added to the next succeeding monthly requirements. The amount to be set aside for the payment of principal and interest on any date shall not exceed the amount which, when added to the money on deposit in the Redemption Fund, including investment income thereon and on the Bond Reserve Account, is necessary to pay principal and interest due on the Bonds on the next succeeding principal installment payment date.

There is established a separate account in the Redemption Fund to be known as the BOND RESERVE ACCOUNT (the "Bond Reserve Account"). There may be periodically deposited in the Bond Reserve Account in such amount, if any, as the City Commission shall annually determine sums sufficient to fund the "Reserve Amount" which shall not exceed the lesser of (1) the maximum annual debt service due in the current or any future year, (2) 125% of the average annual debt service or (3) 10% of the principal amount of the bonds. Interest on the Bond Reserve Account shall be transferred into the Redemption Fund once the Reserve Amount has been reached.

Except as otherwise provided in this Section, the moneys credited to the Bond Reserve Account shall be used solely for the payment of the principal of, redemption premiums (if any) and interest on the Bonds as to which there would

otherwise be a default. If at any time it shall be necessary to use moneys credited to 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 for current principal and interest requirements until the amount on deposit equals the Reserve Amount. If bonds of superior status are issued additional Bond Reserve Accounts shall be established for such series of bonds prior to the issuance of same. If on any principal payment date the amount in the Bond Reserve Account exceeds the Reserve Amount, the excess shall be transferred to the Redemption Fund for payment of principal and interest on the Bonds due on that date.

C. REPLACEMENT FUND:

There shall next be established and maintained a fund, separate depository account, designated REPLACEMENT FUND (the "Replacement Fund"), the money credited thereto to be used solely for the purpose of making repairs and replacements to the System. Out of the Revenues and moneys of the System remaining in the Receiving Fund each month after provision has been made for the deposit of moneys in the Operation and Maintenance Fund and the Redemption Fund (including the Bond Reserve Account), there may be deposited in the Replacement Fund such additional funds as the City Commission may deem advisable. If at any time it shall be necessary to use moneys in the Replacement Fund for the purpose for which the Replacement Fund was established, the moneys so used shall be replaced from any moneys in the Receiving Fund which are not required by this Ordinance to be used for the Operation and Maintenance Fund or the Redemption Fund (including the Bond Reserve Account).

D. IMPROVEMENT FUND:

Out of the remaining Revenues in the Receiving Fund, after meeting the requirements of the Operation and Maintenance Fund, the Redemption Fund (including the Bond Reserve Account) and the Replacement Fund, there may be next set aside in or credited to a fund to be designated IMPROVEMENT FUND (the "Improvement Fund"), which Improvement Fund may have several sub accounts therein, such sums monthly as the Issuer may deem advisable to be used for additions, improvements, enlargements or extensions to the System, including the planning thereof.

E. SURPLUS MONEYS:

Thereafter, any Revenues in the Receiving Fund after satisfying all the foregoing requirements of this Section may, at the discretion of the Issuer, be used for any of the following purposes:

1. Transferred to the Replacement Fund, the Improvement Fund or both.
2. Transferred to the Redemption Fund and used for the purchase of Bonds on the open market at not more than the fair market value thereof or used to redeem Bonds prior to maturity pursuant to Section 5 of this Ordinance.
3. Any other use permitted by law.

Section 14. Priority of Funds. In the event the moneys in the Receiving Fund are insufficient to provide for the current requirements of the Operation and Maintenance Fund or the Redemption Fund, any moneys or securities in other funds of the System, except the proceeds of sale of the Bonds, shall be credited or transferred, first, to the Operation and Maintenance Fund, and second to the Redemption Fund.

Section 15. Depository and Funds on Hand. Moneys in the several funds and the accounts established pursuant to this Ordinance, except moneys in the Redemption Fund (including the Bond Reserve Account) and moneys derived from the proceeds of sale of the Bonds, may be kept in one or more bank accounts at a bank or banks designated by resolution of the Issuer, and if kept in one bank account the moneys shall be allocated on the books and records of the Issuer in the manner and at the times provided in this Ordinance.

Section 16. Investments. Moneys in the funds and accounts established herein and moneys derived from the proceeds of sale of the Bonds, may be invested by the Issuer in United States of America obligations or in obligations the principal of and interest on which is fully guaranteed by the United States of America and any investments hereafter permitted by law, and moneys derived from the proceeds of sale of the Bonds may also be invested in certificates of deposit of any bank whose deposits are insured by the Federal Deposit Insurance Corporation. Investment of moneys in the Redemption Fund being accumulated for payment of the next maturing principal or interest payment of the Bonds shall be limited to obligations 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 obligations bearing maturity dates or subject to redemption, at the option of the holder thereof, not later than five 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 bank or trust company having on deposit the fund or funds or account from which the purchase was made. Profit realized or interest income earned on investment of funds in the Receiving Fund, Operation and Maintenance Fund and Improvement Fund shall be deposited in or credited to the Receiving Fund at the end of each fiscal year. Profit realized on interest income earned on investment of moneys in the Redemption Fund (including income derived from the Bond Reserve Account) shall be credited as received to the Redemption Fund.

Section 17. Bond Proceeds. From the proceeds of the sale of the Bonds there shall be immediately deposited in the Redemption Fund an amount equal to the accrued interest and premium, if any, received on the delivery of the Bonds. The balance of the proceeds of the sale of the Bonds shall be deposited in a bank or banks, designated by the City Commission, qualified to act as depository of the proceeds of sale under the provisions of Section 15 of Act 94, in an account designated CONSTRUCTION FUND (the "Construction Fund"). Moneys in the Construction Fund shall be applied solely in payment of the cost of the Project, including any engineering, legal and other expenses incident thereto and to the financing thereof. Payments for construction, either on account or otherwise, shall not be made unless the registered engineer in charge of such work shall file with the City Commission a signed statement to the effect that the work has been completed in accordance with the plans and specifications therefore;

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that it was done pursuant to and in accordance with the contract therefore (including properly authorized change orders), that such work is satisfactory and that such work has not been previously paid for.

Any unexpended balance of the proceeds of sale of the Bonds remaining after completion of the Project in the Construction Fund may, at the discretion of the Issuer, be used for further improvements, enlargements and extension to the System, if, at the time of such expenditures, such use is approved by the Michigan Department of Treasury, if such permission is then required by law. Any remaining balance after such expenditure shall be paid to the Redemption Fund and may be used for the purpose of purchasing Bonds on the open market at not more than the fair market value thereof, but not more than the price at which the Bonds may next be called for redemption, or used for the purpose of paying principal of the Bonds upon maturity or calling Bonds for redemption.

Section 18. Bond Form. The Bonds shall be in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF MICHIGAN  
COUNTY OF CHIPPEWA  
CITY OF SAULT STE. MARIE  
WATER SUPPLY AND SEWAGE DISPOSAL SYSTEM REVENUE BOND  
SERIES 2010

Interest    Maturity                    Date of Original  
Rate        Date                                    Issue        CUSIP

REGISTERED OWNER: Michigan Municipal Bond Authority

PRINCIPAL AMOUNT: DOLLARS

The CITY OF SAULT STE. MARIE, County of Chippewa, State of Michigan (the "Issuer"), for value received, hereby promises to pay, but only out of the hereinafter described Net Revenue of the Issuer's Water Supply and Sewage Disposal System (hereinafter defined) in lawful money of the United States of America to the Registered Owner shown above, or registered assigns, the Principal Amount shown above, or such portion thereof as shall have been advanced to the Issuer pursuant to a Purchase Contract between the Michigan Municipal Bond Authority (the "Authority"), and a Supplemental Agreement by and among the Issuer, the Authority and the State of Michigan acting through the Department of Environmental Quality on the Maturity Date shown above, unless prepaid prior thereto as hereinafter provided.

During the time the Principal Amount is being drawn down by the Issuer under this bond, the Authority will periodically provide to the Issuer 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

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that no failure on the part of the Authority to provide such a statement or to reflect a disbursement or the correct amount of a disbursement shall relieve the Issuer of its obligation to repay the outstanding Principal Amount actually advanced (subject to any principal forgiveness as provided in Schedule A), 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 on the dates and in the annual principal installment amounts set forth on the Schedule attached to the Purchase Contract, as such Schedule may be adjusted if less than \$\_\_\_\_\_,000 is disbursed to the Issuer or if a portion of the Principal Amount is prepaid as provided below, with interest on said principal installments from the date each said installment is delivered to the holder hereof until paid at the rate of \_\_\_\_ and \_\_\_\_\_ percent (\_\_\_\_%) per annum. Interest is first payable on \_\_\_\_\_, 200\_, and semiannually thereafter on the first day of October and April of each year, as set forth in the Purchase Contract.

The Bonds may be subject to redemption prior to maturity by the Issuer only with the prior written consent of the Authority and on such terms as may be required by the Authority.

Notwithstanding any other provision of this bond, as long as the Authority is the owner of this bond, (a) this bond is payable as to principal, premium, if any, and interest at the designated office of \_\_\_\_\_, . or at such other place as shall be designated in writing to the Issuer by the Authority (the "Authority's Depository"); (b) the Issuer agrees that it will deposit with the Authority'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 Issuer and received by the Authority'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 Authority's cost 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

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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.

For prompt payment of principal and interest on this bond, the Issuer has irrevocably pledged the revenues of the Water Supply and Sewage Disposal System of the Issuer, including all appurtenances, extensions and improvements thereto (the "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 a single, fully-registered, non-convertible bond in the principal sum indicated above issued pursuant to Ordinance No. 512-09 duly adopted by the City Commission of the City, 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 additions, extensions and improvements to the System.

Principal installments of this bond are subject to prepayment by the City prior to maturity only with the prior written consent of the Authority and on such terms as may be required by the Authority.

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 superior and 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.

This bond is a self-liquidating bond and is not a general obligation of the Issuer and does not constitute an indebtedness of the Issuer within any constitutional, charter or statutory 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. This bond is of equal standing and priority of lien with the Issuer's outstanding Water Supply System Revenue Bonds, Series 1998, dated September 29, 1998; Water Supply System Revenue Bonds, Series 2001, dated September 28, 2001 and its Water Supply System Revenue Bonds, Series 2003, dated March 27, 2003.

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 on and the principal of the bonds of this issue and any additional bonds of equal standing as and when the same shall become

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due and payable, and to create and maintain a bond redemption fund (including a bond reserve account) therefore, 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.

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 hereof in person, or by 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 transfer agent duly executed by the registered owner or the registered owner's attorney duly authorized in writing, and thereupon a new registered bond or bonds in the same aggregate principal amount and of the same maturity shall be issued to the transferee in exchange therefore as provided in the Ordinance authorizing the bonds, and upon the 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.

This bond is not valid or obligatory for any purpose until the transfer agent's Certificate of Authentication on this bond has been executed by the Transfer Agent.

IN WITNESS WHEREOF, the City of Sault Ste. Marie, County of Chippewa, State of Michigan, by its City Commission, has caused this bond to be executed with the facsimile signatures of its Mayor and its City Clerk and its corporate seal to be printed on this bond, all as of the Date of Original Issue.

CITY OF SAULT STE. MARIE

By \_\_\_\_\_  
Anthony G. Bosbous, Mayor

(Seal)

Countersigned:

\_\_\_\_\_  
Robin R. Troyer, City Clerk

Section 19. Covenants. The Issuer covenants and agrees with the holders of the Bonds that so long as any of the Bonds remain outstanding and unpaid as to either principal or interest -

(a) The Issuer will maintain the System in good repair and working order and will operate the same efficiently and will faithfully and punctually perform all duties with

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reference to the System required by the Constitution and laws of the State of Michigan, the Issuer's Charter and this Ordinance.

(b) The Issuer will keep proper books of record and account separate from all other records and accounts of the Issuer, in which shall be made full and correct entries of all transactions relating to the System. The Issuer shall have an annual audit of the books of record and account of the System for the preceding operating year made each year by an independent certified public accountant, and a copy of the audit shall be mailed to the manager of each syndicate or account originally purchasing any issue of the Bonds. The auditor shall comment on the manner in which the Issuer is complying with the requirements of the Ordinance with respect to setting aside and investing moneys and meeting the requirements for acquiring and maintaining insurance. The audit shall be completed and so made available not later than six (6) months after the close of each operating year.

(c) The Issuer will maintain and carry, for the benefit of the holders of the Bonds, insurance on all physical properties of the System and liability insurance, of the kinds and in the amounts normally carried by municipalities engaged in the operation of sewage disposal systems, including self-insurance. 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 redeeming or purchasing Bonds.

(d) The Issuer will not sell, lease or dispose of the System, or any substantial part, until all of the Bonds have been paid in full, both as to principal and interest or provision made thereof as herein provided. The Issuer will operate the System as economically as possible, will make all repairs and replacements necessary to keep the System in good repair and working order, and will not do or suffer to be done any act which would affect the System in such a way as to have a material adverse effect on the security for the Bonds.

(e) The Issuer will not grant any franchise or other rights to any person, firm or corporation to operate a System that will compete with the System and the Issuer will not operate a system that will compete with the System.

(f) The Issuer will cause the Project to be acquired and constructed promptly and in accordance with the plans and specification therefore.

Section 20. Additional Bonds. Except as hereinafter provided, the Issuer shall not issue additional Bonds of equal or prior standing with the Series 2010 Bonds.

The right is reserved in accordance with the provisions of Act 94, to issue additional Bonds payable from the Revenues of the System which shall be of equal standing and priority of lien on the Net Revenues of the System with the Bonds but only for the following purposes and under the following terms and conditions:

(a) To complete the Project in accordance with the plans and specifications therefore. Such bonds shall not be authorized unless the engineers in charge of construction shall execute a certificate evidencing the fact that additional funds are needed to complete the Project in accordance with the plans and specifications therefore and stating the amount that will be required to complete the Project. If such certificate shall be so executed and filed with the Issuer, it shall be the duty of the Issuer to provide for and issue additional revenue bonds in the amount stated in said certificate

to be necessary to complete the Project in accordance with the plans and specifications plus an amount necessary to issue such bonds or to provide for part or all of such amount from other sources.

(b) For subsequent repairs, extensions, enlargements and improvements to the System or for the purpose of refunding part of any Bonds then outstanding and paying costs of issuing such additional Bonds including deposits which may be required to be made to the Bond Reserve Account. Bonds for such purposes shall not be issued pursuant to this subparagraph (b) unless the Adjusted Net Revenues of the System for the then last two (2) preceding twelve-month operating years or the Adjusted Net Revenues for the last preceding twelve-month operating year, if the same shall be lower than the average, shall be equal to at least one hundred percent (100%) of the maximum amount of principal and interest thereafter maturing in any operating year on the then outstanding Bonds and on the additional Bonds then being issued. If the additional Bonds are to be issued in whole or in part for refunding outstanding Bonds, the annual principal and interest requirements shall be determined by deducting from the principal and interest requirements for each operating year the annual principal and interest requirements of any Bonds to be refunded from the proceeds of the additional Bonds. For purposes of this subparagraph (b) the Issuer may elect to use as the last preceding operating year any operating year ending not more than sixteen months prior to the date of delivery of the additional Bonds and as the next to the last preceding operating year, any operating year ending not more than twenty-eight months prior to the date of delivery of the additional Bonds. Determination by the Issuer as to existence of conditions permitting the issuance of additional Bonds shall be conclusive. No additional Bonds of equal standing as to the Net Revenues of the System shall be issued pursuant to the authorization contained in this subparagraph if the Issuer shall then be in default in making its required payments to the Operation and Maintenance Fund or the Redemption Fund.

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

(d) For the issuance of additional Bonds of prior and superior standing with the Bonds upon either (i) the written consent of the holder(s) of the Series 2010 Bonds and any bonds of equal standing with the Series 2010 Bonds, or (ii) upon a determination that the Adjusted Net Revenues of the System for the then last two (2) preceding twelve month overeating years or the Adjusted Net Revenues for the last preceding twelve month operating year, if the same shall be lower that the average shall be equal to at least one hundred twenty percent (120%) of the maximum amount of principal and interest thereafter maturing in any operating year on the Bonds and on the additional bonds then being issued. Determination by the Issuer as to existence of conditions permitting the issuance of additional bonds of superior standing and priority of liens to the Bonds shall be conclusive. No additional bonds shall be issued pursuant to authorization contained in this subparagraph if the Issuer shall then be in default in

making its required payment to the Operation and Maintenance Fund or the Redemption Fund.

Section 21. Amendment and Effect of Outstanding Ordinances; Substitution of Security.

Upon the written consent of the Authority as holder of the Outstanding Bonds and in order to fully secure the Series 2010 Bonds and the Outstanding Bonds the revenues of the System are as provided herein pledged for the payment of principal and interest on said Bonds in substitution for and in place of the Issuer's pledge of its limited tax full faith and credit. The definition of "System" and Section 7 of each of the Outstanding Ordinances shall and are hereby amended by said definition and Section 7 set forth herein.

Section 22. Application to MDEQ and Authority. The Authorized Officers are each hereby authorized to make application to the Authority and to the MDEQ for placement of the Series 2010 Bonds with the Authority. The Authorized Officers are each further authorized to execute and deliver such contracts, documents and certificates including a revenue sharing pledge agreement, purchase contract, and supplemental agreement as are necessary or advisable to qualify the Series 2010 Bonds for the State Revolving Fund. In the event of a sale of the Series 2010 Bonds to the Authority, an Authorized Officer is hereby authorized to make such changes to the form of Series 2010 Bond contained in Section 18 of this Ordinance as may be necessary to conform to the requirements of 1985 PA 227 ("Act 227"), including, but not limited to changes to the title of the Bonds, in the principal maturity and interest payment dates and references to additional security required by Act 227. In the event the Series 2010 Bonds are sold to the Authority, the taxes collected by the State of Michigan and returned to the Issuer may be pledged for payment of the Series 2010 Bonds, and an Authorized Officer is further authorized to negotiate, execute and deliver an agreement with the Authority for payment of such taxes to the Authority or to a trustee as provided in Section 23 of Act 227.

Section 23. 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 exclusion of the interest on the Bonds from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended, (the "Code") 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, and to prevent the Bonds from being or becoming "private activity bonds" as that term is used in Section 141 of the Code. "

Section 24. Repeal, Savings Clause. All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, repealed.

Section 25. 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 26. Publication and Recordation. This Ordinance shall be published in

full in The Evening News; a newspaper of general circulation in the City 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 Clerk.

Section 27. Effective Date. In conformity with Act 94 of the Public Acts of Michigan of 1933, as amended this Ordinance shall be effective upon its adoption and publication.

Adopted and signed this 2nd day of November, 2010.

Carried: Yeas: Commissioner Lynn, Munsell, Stefanski, Mayor Bosbous,  
Commissioner Bauer, Burton and Gerrie  
Nays: None

RESOLUTION REQUESTING THE COUNTY OF CHIPPEWA TO ISSUE DPW BONDS FOR WATER AND SEWER IMPROVEMENTS:

Miller Canfield and Baird & Associates is advising that the City utilize DPW bonds sold through Chippewa County for the SRF ineligible portion of the bonds for the CSO C-1 and C-2. In order to initiate this process, Miller Canfield has prepared a Resolution of Request to Chippewa County to sell up to \$8.5 million in bonds for these projects. The City of Sault Ste. Marie has used this bonding mechanism for CSO A, CSO B, and the Little Italy Projects. All of the administration and payment of these bonds remains with the City of Sault Ste. Marie.

Moved by Commissioner Munsell, supported by Commissioner Lynn

City of Sault Ste. Marie  
County of Chippewa  
State of Michigan

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WHEREAS, this Local Unit has determined that it is necessary for the public health, safety and welfare of the Local Unit to construct water supply and sewage disposal improvements to service the Local Unit (the "Project"); and

WHEREAS, after extensive study it has been determined that it is not desirable for the Local Unit to finance the Project alone; and

WHEREAS, the County of Chippewa has established a Department of Public Works (the "DPW") under the terms of Act 185, Public Acts of Michigan, 1957, as amended (the "Act"), with authority to acquire and finance improvements such as the Project for public corporations within the County;

NOW, THEREFORE, BE IT RESOLVED THAT:

1. It is hereby determined that it impractical and financially undesirable for the Local Unit to undertake the Project alone.
2. The Local Unit hereby requests the assistance of the DPW in the acquisition and financing of the Project under the terms of the Act, the Project to be

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operated, administered and maintained by said Local Unit after construction.

3. The Local Unit hereby recommends that the DPW employ the following consultants already working with the Local Unit in connection with the Project:

As bond counsel: Miller, Canfield, Paddock and Stone, P.L.C.  
Detroit, Michigan

As engineers: C2AE  
Gaylord, Michigan

As underwriter: Robert W. Baird & Co., Inc.  
Traverse City, Michigan

As pricing advisor: Bendzinski & Co.  
Detroit, Michigan

4. The Local Unit and all agents and all employees shall cooperate with the DPW to the end that there may be issued as promptly as possible County of Chippewa bonds in the approximate amount of not to exceed \$8,500,000, which amount will be sufficient to pay the presently estimated total cost of the Project. Said bonds shall be retired out of payments made by the Local Unit to the County of Chippewa through the DPW in amounts fully sufficient to meet all principal and interest requirements thereon. County full faith and credit as secondary security for the bonds is also requested.

5. The Local Unit hereby agrees to reimburse the County and the DPW for all expenses incurred in connection with the Project, should the financing and construction of the Project not be completed for any reason whatsoever.

6. The Local Unit hereby authorizes its Finance Director to request an order providing an exception from prior approval by the Michigan Department of Treasury and to pay the fee relating thereto.

7. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.

RESOLUTION DECLARED ADOPTED.

Carried: Yeas: Commissioner Munsell, Stefanski, Mayor Bosbous,  
Commissioner Bauer, Burton, Gerrie, and Lynn  
Nays: None

FIRST READING OF AN ORDINANCE AMENDING THE PARK PLACE CITY  
CENTER DEVELOPMENT SERVICE CHARGE IN LIEU OF TAXES:

At the November 5, 2007 City Commission meeting, the Commission adopted an ordinance for the Park Place City Center Development, which provided for a service charge in lieu of taxes for a multi-family dwelling project for persons of low income to be financed or assisted pursuant to the provisions of the State Housing Development Act of

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1966. This ordinance was amended by the City Commission at the July 6th Commission meeting giving the development a period of four years to commence construction from the date of the ordinance in July, 2009.

Administration has been contacted by attorney Thomas Lapka on behalf of G.A. Haan Development regarding an additional amendment needed to the payment in lieu of taxes ordinance for this project. The amendment will add a definition for "Authority Mortgage Loan". City Attorney Steve Cannello has reviewed this amendment and has no objections.

Moved by Commissioner Stefanski, supported by Commissioner Bauer

That the City Commission introduce an Ordinance Amending Section 18.5-20(3) of the Sault Ste. Marie Code of Ordinances by adding the definition of "Authority Mortgage Loan" in Section 18.5-20(3)H and schedule a second reading for the November 16th City Commission meeting.

Carried: Yeas: Commissioner Stefanski, Mayor Bosbous, Commissioner Bauer, Gerrie, Lynn, and Munsell  
Nays: Commissioner Burton

#### SCHEDULING THE ORGANIZATIONAL MEETING:

Section 6.1 of the City Charter provides that:

"The Commission shall provide by resolution the time and place of its regular meetings and shall hold at least two regular meetings each month. A regular meeting shall be held at 8:00 p.m. at the then prevailing local time on the Monday next following each regular City election."

This meeting has been utilized as the organizational meeting for the City Commission. In practice, the Commission has scheduled the meeting at times earlier than the 8:00 p.m. time that is expressed in this ordinance based on the City Attorney's concurrence with mutually agreeing to an alternative time.

The first Monday following the November 3rd election is November 9th. At this meeting, the City Commission will take care of a number of organizational issues, including the election of the Mayor Pro-Tem, scheduling of the regular City Commission meetings over the next two year period, and appoint City Commission liaisons to various boards and commissions.

In addition, an orientation will be provided to any newly elected members of the Commission at a time other than the organizational meeting.

Details of the organizational meeting are as follows:

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## ORGANIZATIONAL MEETING

The existing members of the City Commission will be seated, roll call will be done by the City Clerk, and the Commission will consider approving the minutes from the November 2, 2009 City Commission meeting. This will be followed by a motion to adjourn the meeting. At this point, any existing members of the City Commission present at the meeting who will not be serving on the new City Commission will vacate their chairs.

## OATH OF OFFICE AND SEATING ARRANGEMENT ON THE DAIS

The City Commission's protocol on seating is that any existing members of the Commission can elect to move to a vacant seat that is provided for the six City Commission members. This would be done in order of seniority of the existing members. Once the existing members have made their decisions as to seat location, then the City Clerk will proceed to first provide the oath of office to the Mayor, any re-elected members of the City Commission by seniority, and then the newly elected members of the City Commission in order of popular vote from the November 3rd election. After the new Commission member is called forward by the City Clerk, they will take the oath of office at the podium and then select one of the vacant City Commission seats. The selection of seats by the newly elected members of the City Commission is done in order of popular vote.

The City Clerk will take roll call of the newly seated City Commission.

## ELECTION OF THE MAYOR PRO-TEM

The Commission will elect one of its members to serve as Mayor Pro-Tem in accordance with Section 4.4 of the City Charter, which states, "The Commission shall at its first meeting following each regular city election, after the newly elected members have taken office, elect one of its members to serve as Mayor Pro-Tem for a term expiring at the first Commission meeting following the next regular city election. Such elections shall be by written ballot and by majority vote of the members of the Commission in office at the time."

The Mayor will ask each member for a nomination of Commission members to serve as Mayor Pro-Tem. The Mayor is allowed to nominate a member to serve in this capacity as well. Once nominations are closed, the City Clerk will distribute ballots and the Commission members will write a name of a nominated Commission member and sign their own name on the written ballot. The City Clerk will count the ballots and if a member of the Commission has received a majority of votes, declare that member as the new Mayor Pro-Tem. The City Clerk will include the individual votes of each Commissioner for Mayor Pro-Tem in the minutes for the organization meeting in accordance with the Open Meetings Act. If a Commissioner does not receive a majority

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of votes cast on the first ballot, then the Commissioners would repeat the voting until one candidate receives a majority of votes.

#### ESTABLISHING A MEETING SCHEDULE

The City Commission will establish the dates and times for regular City Commission meetings until the next organizational meeting, which will follow the 2007 regular City election. Traditionally, the Commission meetings have been held on the first and third Mondays of each month at 7:00 p.m.

#### DESIGNATION OF COMMISSION LIAISON ON VARIOUS COMMITTEES

The City Commission will designate which members will serve as liaisons to various committees.

#### ORIENTATION

An orientation packet and meetings will be set-up for any newly elected officials. This orientation will be scheduled at the convenience of any newly elected Commissioner.

Moved by Commissioner Burton, supported by Commissioner Stefanski

That the City Commission schedule the organizational meeting for 5:30 p.m. on Monday, November 9th in the City Commission chambers.

Carried: Yeas: Mayor Bosbous, Commissioner Bauer, Burton, Gerrie, Lynn, Munsell, and Stefanski  
Nays: None

#### REPORT ON APPOINTMENT OF FIRE CHIEF:

At the last City Commission meeting, Commissioner Munsell had asked when it was anticipated that a new Fire Chief would be appointed to the City, subject to the confirmation of the City Commission. City Manager Nebel expected that this could be completed with a report and recommendation on the confirmation of this appointment for the November 2nd Commission meeting.

Unfortunately, City Manager Nebel was unable to forward an appointment for the City Commission's consideration.

#### CLOSED SESSION TO DISCUSS NEGOTIATIONS WITH POLICE RECORDS UNIT:

Steve Cannello, Valerie Povey, and City Manager Nebel are involved with

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negotiations with the Police Records Unit. This contract expired on July 1, 2009. We have met twice with the bargaining unit, and would like to meet with the City Commission to discuss these negotiations.

Each of the City's seven bargaining units have reopener clauses for discussing health care issues. The City Attorney and City Manager Nebel would like to discuss this issue with the Commission during this same closed session.

Moved by Commissioner Bauer, supported by Commissioner Burton

That the City Commission schedule a closed meeting immediately following the regular meeting to discuss Police Records negotiations and a possible reopener for health care provisions in the other City contracts.

Carried: Yeas: Commissioner Bauer, Burton, Gerrie, Lynn, Munsell, Stefanski, and Mayor Bosbous  
Nays: None

#### Status Reports:

##### November 3, 2009 Election:

City Manager Nebel and City Clerk Troyer gave a status report on the November 3<sup>rd</sup>, 2009 City General Election.

##### Community Gardens Report:

Attached is a report from Dan Wyers on the implementation of community gardens during this past summer. Sixty 15 feet x 15 feet lots were constructed in the garden area with fifty-five of those lots being rented at a cost of \$15 for residents and \$22 for non-residents. Fifty-two City residents purchased garden lots and three non-residents purchased garden plots.

Overall, the individuals participating in the community gardens appreciated having the opportunity to do so. Unfortunately, the 2009 summer was one of the coldest on record, which impacted a number of the gardens. However, even with the weather challenges, a fair amount of produce came out of the gardens.

Through the course of the growing season, there were only two incidences reported to the Parks Department regarding problems at the gardens. In both cases, it related to individuals helping themselves to vegetables from other people's gardens. In both cases, the police followed-up with the situation. Part of the confusion was that the Extension Service and perhaps the garden clubs planted demonstration gardens and allowed anyone to harvest produce from those gardens. Some people understood they could take vegetables from any of the plots. This will be an issue that will be clearly

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identified and signed for next year's community gardens to avoid this from reoccurring due to confusion.

Much of this effort was put together by LSSU student intern Eric Buttil. Furthermore, we appreciate the cooperation of Edison Sault Electric Company who agreed to allow the City to utilize their property for the community gardens. Furthermore, Andy Ditmeyer of Little Man Services provided a significant amount of time to grade and distribute the topsoil evenly in the sixty beds. The Sault Area Garden Club, Michigan State Cooperative Extension Service, Gregory Gardens, and the City Beautification Committee also contributed to this project with donated materials and labor. Finally, Commissioner Jeff Stefanski not only promoted the community garden as a City Commissioner but contributed many hours in the development of the concept, design, and construction of the gardens.

Overall, this was a great community effort, and City Manager Nebel appreciates both the Parks & Recreation Department and Water & Sewer Department, who extended water to the gardening sites, for their efforts in providing an opportunity for our residents to grow their own food in the community garden plots.

#### **MATTERS PRESENTED BY THE PUBLIC:**

Jay Gage announced that he was a candidate running for City Commission and congratulated the City Commission on the 21c3 pilot project.

#### **MATTERS PRESENTED BY THE CITY COMMISSION:**

Commissioner Burton thanked Patty Kannisto for the Brandon Steffey button's that she made for the City Commission to wear at tonight's meeting. Commissioner Burton also expressed disgust for an individual who drove through the Brandon Steffey's procession.

Commissioner Bauer encouraged voters to get out and vote.

Moved by Commissioner Lynn, supported by Commissioner Stefanski

That the meeting adjourn at 8:09 p.m.

Motion carried unanimously.

**ANTHONY G. BOSBOUS, MAYOR**

**ROBIN R. TROYER, CITY CLERK**

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