

ORDINANCE # 148

AN ORDINANCE TO PROVIDE FOR THE CONSTRUCTION, INSTALLATION, FURNISHING AND EQUIPPING OF IMPROVEMENTS TO THE VILLAGE OF CONCORD WATER SUPPLY 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 THE COSTS OF OPERATION AND MAINTENANCE OF THE SYSTEM AND TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS; TO PROVIDE FOR THE SEGREGATION AND DISTRIBUTION OF THE REVENUES; TO PROVIDE FOR THE RIGHTS OF THE HOLDERS OF THE BONDS IN ENFORCEMENT THEREOF; AND TO PROVIDE FOR OTHER MATTERS RELATING TO THE BONDS AND THE SYSTEM.

THE VILLAGE OF CONCORD 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) "Additional Bonds" means additional bonds of the issuer of equal or prior standing with the Series 1987 Bonds.

(c) "Adjusted Net Revenues" means for any operating year the 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 increase 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 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.

(d) "Bonds" mean the Series 1987 Bonds, together with any additional Bonds of equal standing hereafter issued.

(e) "Issuer" means the Village of Concord, County of Jackson, State of Michigan.

(f) "Project" means the additions, extensions and improvements to the System together with appurtenances and attachments thereto.

(g) "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.

(h) "Series 1987 Bonds" means the Water Supply System Revenue Bonds of the issuer in the principal amount of \$200,000 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 Issuer's Water Supply System, including such facilities thereof as are now existing, are acquired and constructed as the Project, and all enlargements, extensions, repairs and improvements thereto hereafter made.

Section 2. Necessity; Approval of Plans and Specifications: It is hereby determined to be a necessary public purpose of the Issuer to (i) acquire and construct the Project in accordance with the plans and specifications prepared by the Issuer's Department of Public Works, which plans and specifications are hereby approved.

Section 3. Costs; Useful Life: The total cost of the Project is estimated to be THREE HUNDRED THIRTEEN thousand dollars (\$313,000) including the payment of incidental expenses as specified in Section 4 of this Ordinance, which estimate of cost is hereby approved and confirmed, and the period of usefulness of the Project is estimated to be not less than forty (40) years.

Section 4. Payment of Cost; Bonds Authorized: To pay part of the cost of acquiring and constructing the Project, including legal, engineering, financial and other expenses incident thereto and incident to the issuance and sale of the Series 1987 Bonds, the Issuer shall borrow the sum of Two Hundred Thousand Dollars (\$200,000) and shall issue the Series 1987 Bonds therefor pursuant to the provisions of Act 94. The remaining cost of the Project shall be defrayed from the Issuer funds on hand and legally available for such use.

The purpose of this Ordinance is to authorize the issuance of revenue bonds to finance the cost of the Project.

Section 5. Bond Details, Sale, Issuance in Series, Registration and Execution: The Series 1987 Bonds hereby authorized shall be designated WATER SUPPLY SYSTEM REVENUE BONDS, shall be payable out of the Net Revenues, as set forth more fully in Section 7 hereof, shall consist of bonds of the denomination of \$5,000, or integral multiples of \$5,000 not exceeding in any one year the amount maturing in that year, dated as of the date on which the Series 1987 Bonds are delivered to the initial purchaser, numbered in order of registration, and shall mature on November 1 in each of the years 1988 to 2018 or such years and months, annually or semiannually as shall be determined at the time of sale. The Series 1987 Bonds shall bear interest at a rate or rates to be determined on sale thereof, but in any event not exceeding the lesser of a net interest cost of 10% per annum or the maximum rate permitted by law, payable on May 1, and November 1 of each year, commencing May 1, 1988, by check or draft mailed by the transfer agent selected by the Issuer 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 of the Issuer 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. Comerica Bank-Detroit, Detroit, Michigan is hereby appointed as registrar and transfer agent for this issue, if the Michigan Municipal Bond Authority (the "Authority") is not the owner of the Series 1987 Bonds. The Issuer may select another bank or trust company located in the State of Michigan to serve as transfer agent upon notice to the registered owners of the Series 1987 Bonds not less than sixty (60) days prior to an interest payment date. Notwithstanding any other provision of this Ordinance, so long as the Authority is the owner of the Bonds, (a) the Bonds are payable as to principal, premium, if any, and

interest at the principal corporate trust office of Comerica Bank-Detroit, Detroit, Michigan 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 the 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; and (c) written notice of any redemption of the Bonds 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. The Series 1987 Bonds shall be sold at not less than 91% of their par value.

The Issuer hereby authorizes the Bonds to be sold to the Authority after approval from the Michigan Department of Treasury in the amounts and pursuant to the terms and provisions described herein, and at a net interest rate less than or equal to the rate described above.

The form of the Purchase Contract between the Issuer and the Authority relating to the sale of the Bonds on file with the Issuer's Clerk is hereby approved.

The President and Clerk are hereby authorized to execute and deliver the Purchase Contract in the forms approved, with such changes and insertions in such document as may be necessary or desirable, permitted by law, and not materially adverse to the Issuer.

The Series 1987 Bonds shall be sold at a negotiated sale by the Issuer to the Authority under the Purchase Contract at a purchase price as set forth in the Purchase Contract which shall be not less than the price described above and approved by the President and Clerk. Upon compliance with the terms and conditions of the Purchase Contract, the President and the Clerk shall execute the Series 1987 Bonds and cause the Series 1987 Bonds to be sealed and deliver the Series 1987 Bonds upon receipt of the proceeds therefor to the credit of the appropriate funds, in accordance with the provision of this Ordinance.

The President and the Clerk of the Issuer, are hereby authorized and directed to accept at negotiated sale on behalf of the Issuer interest rates for the Series 1987 Bonds which produce a net interest cost that is equal to or less than the maximum interest rate described above and to approve maturities for the Series 1987 Bonds within the years described above.

The Series 1987 Bonds or portions thereof maturing on or after November 1, 1997, may be subject to optional redemption prior to maturity at the times and prices and in the manner and with notice as set forth in the form of the Series 1987 Bonds in Section 18 of this Ordinance.

In case less than the full amount of an outstanding Bond is called for redemption, the transfer agent upon presentation 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 in the manner specified in the form of the Series 1987 Bonds contained in Section 18 of this Ordinance.

The Bonds shall be executed in the name of the Issuer with the manual or facsimile signatures of the President and the Village Clerk and shall have the Issuer's seal or facsimile thereof printed or impressed on them. No Bond shall be valid until authenticated by an authorized signer of the transfer agent except that, in the event the Series 1987 Bonds are purchased by the Authority, the authentication of the Series 1987 Bonds by the transfer agent shall not be required while the Authority is the owner of the Series 1987 Bonds and the Series 1987 Bonds shall be valid upon execution by the manual or facsimile signature of the President and manual signature of the Clerk. The Bonds shall be delivered to the transfer agent for authentication, if re-

quired, and be delivered to the purchaser in accordance with instructions from the Treasurer of the Issuer upon payment of the purchase price for the Series 1987 Bonds in accordance with the bid therefor when accepted. 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, 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 1987 bonds contained in Section 18 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 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. During such time as the Series 1987 Bonds may be owned by the Authority, written notice of such redemption must be given to the Authority's Depository at the times described in the Series 1987 Bonds.

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 Series 1987 Bonds are held by the Authority, (a) the Issuer's Clerk shall perform the notification, bond registration and transfer functions of the transfer agent, and (b) provisions relating to the transfer of the Bonds may be deleted from the form of Series 1987 Bonds.

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: The Series 1987 Bonds and

the interest hereon shall be payable primarily from the Net Revenues and to secure such payment, there is hereby created a statutory lien upon the whole of the New Revenues which shall be a first 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 with respect to which this Ordinance is to be defeased to their maturity or, if called for redemption, to the date fixed for redemption together with the amount of the redemption premium, if any. If the Series 1987 Bonds are owned by the Authority at the time of such deposit with respect to the Series 1987 Bonds, the sufficiency of such deposit shall be verified by a nationally recognized firm of certified public accountants. Upon such deposit the statutory lien and security herein created 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.

In addition, the Series 1987 Bonds being authorized to be sold to the Authority, the Issuer hereby pledges the limited tax full faith and credit of the Issuer for the payment of the principal of and interest on the Series 1987 Bonds. In the event the Net Revenues are for any reason insufficient to pay the principal of and interest on the Series 1987 Bonds as the same become due, the Issuer shall advance the funds necessary to make up any insufficiency from its general funds as a first budget obligation, subject to applicable constitutional, statutory and charter tax rate limitations. The Issuer shall be reimbursed for any such advance from the Net Revenues subsequently received which are not otherwise pledged or encumbered by the Ordinance.

Section 8. Bondholder's 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 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 9. 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 Village Council. The Village Council may employ such person or persons in such capacity or capacities as it deems advisable to carry on the efficient management and operation of the System. The Village Council 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 and interest on the Bonds as the same become due and payable, and the maintenance of the reserve therefor and to provide for all other obligations, expenditures and funds for the System required by law and this Ordinance. In addition, it is agreed that the rates shall be set from time to time so that there shall be produced each fiscal year, Net Revenues in an amount equal to 115% of the principal of and interest on the Bonds coming due in each fiscal year. 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: All funds belonging to the System shall remain in such funds and be used as indicated in the Ordinance. All Revenues of the System shall continue to be set aside as collected and credited to the Water Supply System RECEIVING FUND (the "Receiving Fund"). 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 quarterly 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"), quarterly a sum sufficient to provide for the payment of the next quarter'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 Village Council 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 premium (if any) and interest on the Bonds. The moneys in the Redemption Fund 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 quarter commencing on the first day of January, 1988, 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 interest earned on funds in the Redemption Fund. Commencing January 1, 1988, the amount set aside each quarter for interest on the Bonds shall be one half (1/2) of the total amount of interest

on the Bonds next coming due, provided, however, such quarterly amount shall be reduced by (1) the amount of any interest earned on the Redemption Fund during the preceeding month in accordance with Section 16 of the Ordinance. The amount set aside each quarter for principal payment commencing January 1, 1988, shall be 1/4 of the amount of the principal next coming due by maturity provided however, such quarterly amount shall be reduced by the amount of any interest earned on the Redemption Fund during the preceding quarter in accordance with Section 16 of this Ordinance which exceeds the amount which would otherwise be required to be transferred from the Receiving Fund for interest on the Bonds. If there is any deficiency in the amount previously set aside, that deficiency shall be added to the next succeeding quarterly requirements.

C. REPLACEMENT FUND: There shall be maintained a fund in a 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 quarter 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 Village Council may deem advisable. If at any time it shall be necessary to use moneys in the Replacement Funds 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 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 quarterly 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: Hereafter, 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

Section 14. 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, 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 15. 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 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 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. 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. Interest earned on the Bond and Interest Redemption Fund shall be used to pay debt service on the Bonds and the next required transfer from the Receiving Fund shall be reduced accordingly.

Section 17. Bond Proceeds: From the proceeds of the sale of the Series 1987 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 Series 1987 Bonds. The balance of the proceeds of the sale of the Series 1987 Bonds shall be deposited in a bank or banks, designated by the Village Council, 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 manager of the department of public works in charge of such work shall file with the Village Council a signed statement to the effect that the work has been completed in accordance with the plans and specifications therefor; that it was done pursuant to and in accordance with the contract therefor (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 and payments of the foregoing 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 Series 1987 Bonds shall be in substantially the following form; provided however, that if the Authority ceases to own the Series 1987 Bonds, those sections of the Series 1987 Bonds pertaining to the Authority shall be deleted, and so long as the Authority owns the Series 1987 Bonds, the sections of the Series 1987 Bonds pertaining to the transfer agent shall be amended or deleted accordingly as may be deemed necessary or appropriate by the Village Clerk:

UNITED STATES OF AMERICA
STATE OF MICHIGAN
COUNTY OF JACKSON
VILLAGE OF CONCORD

WATER SUPPLY SYSTEM REVENUE BOND

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
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REGISTERED OWNER:

PRINCIPAL AMOUNT: DOLLARS

The Village of Concord, County of Jackson, State of Michigan (the "Issuer"), for value received, hereby promises to pay out of the hereinafter described Net Revenues of the Issuer's Water Supply System, including all appurtenances, additions, extensions and improvements thereto (the "System") and, under certain circumstances, from the Issuer's general funds, the Principal Amount shown above in lawful money of the United States of America to the Registered Owner shown above, or registered assigns, on the Maturity Date shown above, unless prepaid prior thereto as hereinafter provided, with interest thereon from the Date of Original Issue shown above or such later date to which interest has been paid, until paid, at the Interest Rate per annum shown above, first payable on May 1, 1986, and semiannually thereafter. Principal of this bond is payable upon surrender of this bond at the principal corporate trust office of Comerica Bank-Detroit, in Detroit, Michigan or such other transfer agent as the Issuer may hereafter designate by notice mailed to the registered owner not less than 60 days prior to any interest payment date, for at such other place as shall be designated in writing to the Issuer by the Michigan Municipal Bond Authority (the "Authority"), if this bond is owned by the Authority.] Interest on this bond is payable by check or draft mailed by the transfer agent for the Authority's Depository (as hereinafter described) to the person or entity who is, as the 15th day of the month preceding the interest payment date, the registered owner of record, at the registered address as shown on the registration books of the Issuer kept by the transfer agent or the Issuer. [Notwithstanding any other provision of this bond, so long as the Michigan Municipal Bond Authority (the "Authority") is the owner of this bond, (a) this bond is payable as to principal, premium, if any, and interest at the principal corporate trust office of Comerica Bank-Detroit, Detroit, Michigan, 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.] For prompt payment of principal and interest on this bond, the Issuer has irrevocably pledged the revenues of the System after provision has been made for reasonable and necessary expenses of operation, maintenance and administration (the "Net Revenues"), and a statutory first lien thereon is hereby recognized and created.

This bond is one of a series of bonds of even date of original issue aggregating the principal sum of \$200,000, issued pursuant to Ordinance No. 148, duly adopted by the Village Council of the Issuer, and under and in full com-

pliance 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 costs of acquiring and constructing certain extensions to the System and part of the costs of issuing the bonds of the Issuer.

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.

Bonds maturing in the years 1988 to 1996, inclusive, shall not be subject to prepayment prior to their due date.

Bonds or portions of bonds maturing in the years 1997 to 2018, inclusive shall be subject to redemption in whole or in part in such order as the Issuer shall determine prior to maturity, at the option of the Issuer, in integral multiples of \$5,000 on any date on or after May 1, 1997 at the following redemption prices (expressed as percentages of the principal amount to be redeemed), plus accrued interest to the redemption date.

102% of the principal amount of each redeemed on or after May 1, 1997 to April 30, 1998, inclusive;

101 1/2% of the principal amount of each bond redeemed on or after May 1, 1998 to April 30, 1999, inclusive;

101% of the principal amount of each bond redeemed on or after May 1, 1999 to April 30, 2000, inclusive;

100 1/2% of the principal amount of each bond redeemed on or after May 1, 2000 to April 30, 2001, inclusive.

No premium shall be paid on bonds or portions thereof redeemed on or after May 1, 2001.

In case less than the full amount of an outstanding bond is called for redemption, the transfer agent upon presentation 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.

[Written notice of such redemption must be given to the Authority's Depository by the Issuer at least 40 days prior to the date on which such redemption is to be made.]

Notice of redemption of any bond or portion thereof shall be given to the registered owner 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. Bonds shall be called for redemption in multiples of \$5,000 and any bond of a denomination of more than \$5,000 shall be treated as representing the number of bonds obtained by dividing the denomination of the bond by \$5,000 and such bond may be redeemed in part. Bonds or portions thereof so called for redemption shall not bear interest after the date fixed for redemption, whether presented for redemption or not provided funds are on hand to redeem the same.

This bond is primarily a self-liquidating bond and is payable, both as to principal and interest, primarily 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, the Issuer has pledged its limited tax full faith and credit in payment of the principal of and interest on all bonds of this issue. In the event the funds primarily pledged for payment of the principal of and interest on the bonds of this issue are insufficient, the Issuer is obligated to make up any insufficiency from its general funds as a first budget obligation, including the levy of ad valorem

taxes on all taxable property within the Issuer, subject, however, to applicable constitutional and statutory tax rate limitations.

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 due and payable, and to create and maintain a bond redemption fund (including a bond reserve account) therefor, to provide for the payment of expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the same in good repair and working order, and to provide for such other expenditures and funds for the System as are required by the Ordinance.

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 the 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 therefor as provided in the Ordinance authorizing the bonds, and upon the payment of the charges, if any, therein prescribed. The Issuer shall not be required (i) to issue, register the transfer of or exchange this 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 and ending at the close of business on the day of that giving 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.

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 Village of Concord, County of Jackson, State of Michigan, by its Village Council, has caused this bond to be executed with the [facsimile] [manual] signatures of its President and its Clerk and [a facsimile of] its corporate seal to be printed [impressed] on this bond, all as of the Date of Original Issue.

VILLAGE OF CONCORD
COUNTY OF JACKSON
STATE OF MICHIGAN

BY President

(Seal)

Countersigned: Village Clerk

Certificate of Authentication

[TO BE USED IF THE AUTHORITY IS NOT THE OWNER OF THIS BOND]

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

, Michigan:

Transfer Agent

By
Authorized

Date of Registration:

Section 13. 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 reference to the System required by the Constitution and laws of the State of Michigan, 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 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 four (4) 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 all kinds and in the amounts normally carried by municipalities engaged in the operation of water supply systems. 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 therefor.

(g) As long as the Authority is the owner of the Series 1987 Bonds, the Issuer will, prior to the beginning of each fiscal year, prepare and submit to AMBAC Indemnity Corporation, an annual budget of the System for the ensuing fiscal year showing compliance with the rate covenants of Section 12 of the Ordinance and a

verification of such coverage by historical net revenues and submit to AMBAC Indemnity Corporation the audits described in Section 19(b) of this Ordinance.

Section 20. Additional Bonds: Except as hereinafter provided, the Issuer shall not issue additional Bonds of equal or prior standing with the Series 1987 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 therefor. 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 therefor 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 amounts 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 a bond reserve account. Bonds for such purposes shall not be issued pursuant to this subparagraph (b) unless the average 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 fifteen percent (115%) of the maximum amount of the 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 average 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 use as the last preceding operating year any twelve consecutive months in the most recent eighteen months from 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.

Section 21. Sale of Bonds: The Issuer's Clerk and President shall receive bids for the Series 1987 Bonds from the Authority, award sale of the Series 1987 Bonds in accordance with Act 94 and this Ordinance, and take all further necessary steps to issue and deliver the Series 1987 Bonds.

Section 22. Application to Michigan Municipal Bond Authority: The Issuer's Clerk is hereby authorized to make application to the Authority for placement of the Series 1987 Bonds with the Authority. In the event of a sale of the Series 1987 Bonds to the Authority, the Issuer's Clerk is hereby authorized to make such further changes to the form

of Series 1987 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 in the principal, maturity and interest payment dates and references to additional security required by Act 227.

Section 23. Covenants regarding Tax Exempt Status of the Bonds: Except as required by law, the Issuer will at no time take any action or omit to take any action which, by commission or omission, would cause the Bonds to be "arbitrage bonds" as defined in Section 148 of the Internal Revenue Code of 1986, as may be amended from time to time, and the regulations from time to time promulgated or proposed thereunder (the "Code") including failing to rebate arbitrage earnings to the federal government if such rebate is required by the Code.

The Issuer will not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of any Bonds of the Issuer from the treatment afforded by Section 123(a) of the Code, as from time to time amended, including, but not limited to, by reason of the classification of such bonds or Bonds as "private activity bonds" within the meaning of Section 141 of the Code, as "private loan bonds" within the meaning of Section 141(c) of the Code, or as obligations guaranteed by the United States of America, as provided in Section 149(b) of the Code; or cause interest on the Bonds to be taxable for federal income tax purposes, or cause the interest on the Bonds to be includable in any alternative minimum tax other than an alternative minimum tax which applies to all tax exempt bonds or Bonds generally; or which would cause the proceeds to be used directly or indirectly by an organization qualifying under Section 501(c)(3) of the Code.

Section 24. Application to Governmental Agencies: The President, Clerk, Treasurer, members, staff, counsel, and Bond Counsel for the Issuer, or any of them, are authorized on behalf of the Issuer to apply for such rulings, order and approvals and file or submit such elections or other documents to any governmental agency in order that the Bonds may be validly issued and the interest thereon be exempt from federal income taxation and are further hereby authorized to execute, date and deliver such other certificates, documents, instruments, and opinions and other papers as may be required by the Purchase Contract or as may be necessary or convenient to effectuate the sale and delivery of the Bonds in accordance with the terms of the Purchase Contract.

Section 25. Repeal, Savings Clause: All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of the Ordinance are, to the extent of such conflict, repealed.

Section 26. 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 the Ordinance are furnished for convenience of reference only and shall not be considered to be part of this Ordinance.

Section 27. Publication and Recordation: This Ordinance shall be published in full in the JACKSON CITIZEN PATRIOT, a newspaper of general circulation in the Village of Concord 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 President and Clerk.

Section 28. Effective Date: This Ordinance shall be effective upon its adoption.

Adopted and signed this 8th day of September, 1987.

Signed: *Halley D. Persa* Village President.

Signed: *Sheryl A. Durban* Village Clerk.

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the Village Council of the Village of Concord, County of Jackson, Michigan, at a regular Meeting held on the 8th day of September, 1987, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

I further certify that the following Members were present at said meeting: Leland Whiting, Larry Murdock, Tom Cecil, Joyce Hakes, Glenn Miller, Mike Lovitt and Halsey Jenks; and that the following Members were absent: None.

I further certify that Member Tom Cecil moved adoption of said Ordinance, and that said motion was supported by Member Larry Murdock.

I further certify that the following Members voted for adoption of said Ordinance: Whiting, Murdock, Cecil, Jenks, Lovitt, Miller and Hakes; and that the following Members voted against adoption of said Ordinance: None.

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

Sheryl A. Deshaer Clerk.

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SOLID WASTE MANAGEMENT ORDINANCE
PROVIDING FOR THE COLLECTION OF GARBAGE
AND RUBBISH IN THE VILLAGE OF CONCORD

1. DEFINITIONS: "Garbage" means rejected food wastes, including waste accumulation of animal, fruit or vegetable material used or intended for food or that attend the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetable, and all discarded material that has come in direct contact with the foregoing resulting from the handling, processing, storage, preparation, serving and consumption of food. "Rubbish" shall include trash, debris, ashes and other household waste materials, including discarded appliances and large items and other household materials generally, including articles ordinarily and customarily disposed at sanitary landfills.

2. GARBAGE COLLECTION - LICENSE: It shall be unlawful for any person to engage in the business of collecting garbage in the Village of Concord without first obtaining a license therefor as hereinafter provided.

Whenever any contingency shall, in the judgment of the Village make such action necessary or advisable, the Council may, either by advertising for bids, or otherwise, enter into a contract or contracts with the mutual consent of the licensee, or extend the term thereof, with, and grant a license or licenses to, such person as the Concord Village Council may deem best able to collect garbage in the Village of Concord in accordance with the best interests of the Village and its citizens. Such contract shall be for such term as the Council of the Village shall fix, and it shall contain an agreement by the grantee to collect garbage and rubbish from all residents of the Village, in accordance with the provisions of this Chapter. Any such contract authorized by the Village Council of Concord may be, but need not be exclusive, and the Village Council of Concord may authorize the making on the part of the Village of one or more