

VILLAGE OF MATTAWAN
WATER BOND ORDINANCE
Ordinance 34

SECTION 1. NECESSITY; DESCRIPTION OF PROJECT

It is hereby determined to be necessary for the public health and welfare of the Village of Mattawan (herein sometimes called Mattawan) to proceed to acquire and construct, in accordance with detailed maps, plans and specifications therefor prepared by R. W. Petrie and Associates, Inc., Consulting Engineers of Benton Harbor, Michigan, a water supply system consisting of wells, elevated storage tank, and distribution system together with all necessary appurtenances and attachments thereto (hereinafter referred to as "Project").

SECTION 2. COST; USEFUL LIFE

The cost of said public improvements has been estimated by said engineer to be One Million Two Hundred Thousand (\$1,200,00.00) Dollars including the payment of incidental expenses as specified in Section 3 of this Ordinance which estimate of cost is hereby approved and confirmed, and the period of usefulness of said public improvements is estimated to be not less than forty (40) years.

SECTION 3. PAYMENT OF COST, USEFUL LIFE

To pay part of the cost of acquiring and constructing the project including the payment of legal, engineering and financial expenses, capitalized intent and other expenses incident thereto and incident to the issuance and sale of the bonds, it is hereby determined that the Village borrow the sum of Seven Hundred, Forty-three Thousand (\$743,000.00) Dollars and that revenue bonds be issued therefor pursuant to the provisions of Act 94, Public Acts of Michigan, 1933, as amended, which bonds are referred to in this Ordinance as "the bonds." The balance of the cost of the Project will be paid from grant funds.

SECTION 4. DEFINITIONS

Whenever the words "the System" are referred to in this Ordinance, they shall be understood to mean the Village of Mattawan Water Supply System and all extensions and improvements thereto hereafter made.

Whenever the words "public improvements" are used in this Ordinance, they shall be understood to mean the improvements authorized to be acquired and constructed under the provisions of this Ordinance.

Whenever the words "revenues" and " net revenues" are used in this Ordinance, they shall be understood to have the meanings as defined in Section 3, Act 94, Public Acts of Michigan, 1933, as amended.

Whenever the work "acquired" is used in this Ordinance it shall be construed to include acquisition by purchase, construction or by any other method.

Whenever the words "Village" and "Village Council" are used in this Ordinance they shall be understood to mean the Village of Mattawan, Michigan and the Village Council of said Village.

Whenever the word "government" is used in this Ordinance it shall be understood to mean the Government of the United States of America.

SECTION 5. BOND DATA

Said bonds shall be designated WATER SUPPLY SYSTEM REVENUE BONDS, shall be dated as of the date of delivery, shall be in the denomination of three bonds \$1,000.00 each and one hundred forty-eight bonds of the denomination of \$5,000.00 each and shall be numbered from 1 upwards. The bonds will bear interest not exceeding five per cent (5%) per annum, all interest to be payable on January 1, 1977, and semiannually thereafter on July 1 and

on the first day of January, A.D.,____, with interest thereon from the date hereof until paid at the rate of _____per cent (%) per annum, payable on January 1, 1977, and semiannually thereafter on the first day of July and January of each year. Both principal of and interest on this bond are payable in lawful money of the United States of America to the registered holder at the address shown on the registration books of the Village and for the prompt payment thereof, the gross revenues of the Water Supply System of the Village, including all appurtenances, additions, extensions and improvements thereto, after provision has been made for reasonable and necessary expenses of operation, administration and maintenance are hereby irrevocably pledged and a statutory first lien thereon is hereby created.

This bond is one of series of one hundred fifty-one (151) bonds of even date and like tenor, except as to denomination and date of maturity, aggregating the principal sum of \$743,000.00 numbered consecutively in direct order of maturity from one upwards, issued pursuant to Ordinance No. 34, duly adopted by the Village on August 9, 1976, and under and in substantial 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 defraying part of the cost of acquiring and constructing a Water Supply System for the Village consisting of an elevated storage tank, wells and a distribution system, together with all necessary appurtenances, attachments and equipment related thereto. 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 the 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 1979 to 1986, inclusive, will not be subject to redemption prior to maturity,

Bonds maturing in the years 1987 to 2016, inclusive, will be subject to redemption prior to maturity, in inverse numerical order, at the option of the Village on any interest payment date on or after January 1, 1986, at par and accrued interest to the date fixed for redemption.

Thirty days' notice of the call of any bonds for redemption shall be given by publication in a paper circulated in the State of Michigan which carries, as part of its regular service, notices of sale of municipal bonds, and in case of registered bonds, and in case of registered bonds, thirty days' notice shall be given by mail to the registered holder at the registered address. Bonds so called for redemption shall not bear interest after the date fixed for redemption, provided funds are on hand with the paying agent to redeem said bonds.

Said bonds shall be registered as to principal and interest on the books kept by the Treasurer of the Village as registrar in the name of the holder after which it shall be transferable only upon presentation to such registrar with a written transfer by the registered holder or his attorney in fact. Such transfer shall be noted upon the books of the Village kept for that purpose. Said bonds once registered are exchangeable at the request of the registered owner hereof and at his sole expense for a negotiable coupon bond payable to bearer, upon surrender of this bond to the borrower at the office of the Treasurer of the Village.

This bond is a self-liquidating bond, and is not a general obligation of the Village and does not constitute an indebtedness of said Village within any constitutional or statutory limitation, but is payable, both as to principal and interest, solely from the revenues of the Water Supply System of the Village. The principal of and interest on this bond are secured by the statutory lien hereinbefore mentioned.

The Village hereby covenants and agrees to fix and maintain at all times while any of such bonds shall be outstanding, such rates for service furnished by said Water Supply System as shall be sufficient to provide for payment of the interest upon and the principal of all such bonds as and when the same become due and payable, and to create a bond and interest 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 said Water Supply System as are necessary to preserve the same in good repair and working order, and to provide for such other expenditures and funds for said System as are required by said Ordinance.

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

IN WITNESS WHEREOF, the Village of Mattawan, County of Van Buren, State of Michigan, by its Village Council has caused this bond to be signed in the name of said Village by its Vice President and to be countersigned by its Village

Clerk, and its corporate seal to be hereunto affixed and has caused the annexed interest coupons to be executed with the facsimile signatures of said Village President and Village Clerk, all as of August 9, 1976.

REGISTRATION
NOTHING TO BE WRITTEN HEREON EXCEPT
BY THE VILLAGE TREASURER AS REGISTRAR

Date of Registration	Name of Registered Owner	Registrar
_____:	_____:	_____
_____:	_____:	_____
_____:	_____:	_____
_____:	_____:	_____

(Form of Coupon if requested)

No. _____ \$ _____

On the first day of _____, AD, 19____, the Village of Mattawan, County of Van Buren, State of Michigan, will pay to the bearer hereof the sum of _____ Dollars, in the manner and out of the revenues described in said bond at _____ being the semiannual interest due that date on its Water Supply System Revenue Bonds, dated _____, No. _____.

This coupon is not a general obligation of the Village, but is payable out of certain revenues as set forth in the bond to which it pertains.

President

Village Clerk

SECTION 7. SECURITY FOR BONDS.

The bonds hereby authorized, together with interest thereon, shall not be a general obligation of the Village but shall be payable solely from the net income and revenues to be derived from the operation of the System. To pay such principal and interest as and when the same shall become due, there is hereby created a statutory first lien upon the whole of the net revenues of said System to continue until the payment in full of the principal and interest on said bonds and said revenues and shall be set aside for the purpose and identified as the "Water Supply System Revenue Bond - Bond and Interest Redemption Fund Account," as hereinafter specified.

SECTION 8. CUSTODIAN OF FUNDS; SUPERVISED BANK ACCOUNTS; FUNDS.

The Treasurer of said Village shall be custodian of all funds belonging to and or associated with the Village's System and such funds shall be deposited in the Kalamazoo County State Bank of Schoolcraft, Mattawan Branch, Mattawan, Michigan (herein called "depository bank"), which bank is a member of the Federal Deposit Insurance Corporation. In the event that the government is a holder of any of the bonds herein authorized, all monies in excess of \$15,000 in the

supervised bank account shall be secured by the depository bank in advance in accordance with United States Treasury Department Circular No. 176 and the Village Treasurer shall execute a fidelity bond in an amount not less than \$30,000.00 with a surety company approved by the government, and the United States and the Village shall be named as co-obligees in such bond and the amount thereof shall not be reduced without the prior written consent of the government. The Village Treasurer is hereby directed to create the following funds and accounts into which the bond proceeds and the revenues and income from the System shall be deposited, which account shall be established and maintained except as otherwise provided, so long as any of the bonds hereby authorized remain unpaid.

- A. CONSTRUCTION ACCOUNT. The Proceeds of the bonds hereby authorized less a sum equal to fifteen months capitalized interest shall be deposited in the construction Account in the depository bank. In the event the government is a holder of any of the bonds herein authorized, then said account shall be established as a supervised bank account and such proceeds shall be withdrawn on the orders of the Village of Mattawan only on checks signed by the Treasurer of the Village and countersigned by the County Supervisor of the Farmers Home Administration. Said monies shall be used solely for the purposes for which the bonds were issued.

Any unexpended balance of the proceeds of sale remaining after completion of the Project herein authorized may in the discretion of the Village Council, to the extent of fifteen per cent (15%) of the amount of the bonds authorized by this Ordinance, be used for further improvements, enlargements and extensions to the System, provided that at the time of such expenditure such use be approved by the Municipal Finance Commission. Any remaining balance after such expenditure shall be paid into the Bond and Interest Redemption Fund and shall be used for such purposes as allowed by law.

In the event that the government is a holder of any or all of the bonds any unexpended balance of the proceeds of the sale remaining after completion of the Project herein authorized shall be paid immediately into the bond and interest redemption fund as hereinafter specified and shall be used only for the redemption, or purchase at not more than the fair market value, of outstanding bonds issued pursuant to the provisions of this Ordinance.

After completion of the Project and disposition of remaining bond proceeds, if any, pursuant to the provisions of this Section, the Construction Account shall be closed.

- B. WATER SUPPLY SYSTEM RECEIVING FUND ACCOUNT. Upon the effective date of this Ordinance, the gross income and revenue shall be set aside into a separate account to be designated the Water Supply System Receiving Fund Account, and monies so deposited therein shall be expended and used only in the manner and order as follows:

1. Operation and Maintenance Account. Prior to the beginning of each fiscal year the Village will prepare an annual budget of said system for the ensuing fiscal year itemized on the basis of monthly requirements, a copy of such budget shall be mailed without request to the Farmers Home Administration as long as the government is holder of any of said bonds prior to adoption for review and upon written request to any other bond holders. Upon the effective date of this Ordinance, there shall be set aside and deposited each quarter pursuant to the budget a sufficient portion of the income and revenue in the Operation and Maintenance Account to pay the reasonable and necessary current expenses of administration, operating and maintaining said system for the ensuing quarter.

2. Water Supply System Revenue Bond - Bond and Interest Redemption Fund. After the transfer required in (1) above, there shall be transferred each quarter from the Water Supply System Receiving Fund Account, before any other expenditures or transfer therefrom, and deposited in the Water Supply System Revenue Bond - Bond and Interest Redemption Fund Account for payment of principal and interest on the bonds a sum equal to at least 1/2 of the amount equal to the interest due on the next ensuing interest due date not capitalized and not less than 1/4 of the principal maturing on January 1, 1979 and January 1st of each year thereafter. If for any reason there is a failure to make such quarterly deposit then an amount equal to the deficiency shall be set aside and deposited in the Redemption Fund Account of the net revenues in the ensuing quarter or quarters, which amount shall be in addition to the regular quarterly deposit required during such

succeeding quarter or quarters. Bond proceeds in an amount equal to fifteen months interest shall also be deposited in said fund and used for such purposes.

There is hereby established in the Bond and Interest Redemption Fund a separate account to be known as the Bond Reserve Account, into which there shall be paid in equal quarterly installments from the revenues of the System after provision has been made for the Operation and Maintenance Fund and the current requirements of the Bond and Interest Redemption Fund, the sum of at least \$500.00 per quarter until there is accumulated in such fund the sum of \$46,750.00. Except as hereinafter provided, no further deposits need be made into the Bond and Interest Redemption Fund for the purposes of the Bond Reserve Account once the sum of \$46,750.00 has been deposited therein. The monies in the said Bond Reserve Account shall be used solely for the payment of the principal and interest on said bonds as to which there would otherwise be default.

If at any time it shall be necessary to use monies in the Bond Reserve Account for such payment, then the moneys so used shall be replaced from the net revenues first received thereafter which are not required by this Ordinance to be used for operation and maintenance or for current principal and interest requirements.

No further payments need be made into the Bond and Interest Redemption Fund after enough of the bonds have been retired so that the amount then held in said Fund (including the Bond Reserve Account), is equal to the entire amount of principal and interest which will be payable at the time of maturity of all the bonds then remaining outstanding.

3. General Purpose Account. The balance of income and revenue after the transfers required in (1) and (2) above have been made, shall be deposited to a General Purpose Account which Account shall be used and disbursed only for the purpose of paying the cost of repairing or replacing any damage to the system which may be caused by any unforeseen catastrophe, for making extensions or improvements to the system, and when necessary for the purpose of making payments of principal and interest on the bonds hereby authorized if the amount in the Redemption Fund Account and Bond Reserve Account is not sufficient to meet such payments, then these funds shall be transferred to the Redemption Fund. The total of such deposits to the General Purpose Account and balance of said account need not exceed the sum of \$20,000.00. The funds in the General Purpose Account may be invested in obligations of the United States. Any such investment will be part of the General Purpose Account.
4. Surplus Monies. Whenever there shall accumulate in the Redemption Fund Account amounts in excess of the requirements during the next eighteen months for paying the principal of bonds falling due and interest on outstanding bonds, and in excess of the requirements of the Operation and Maintenance Account and the Reserve Account hereinafter established, such excess may be used by the Village for redemption of bonds in the manner set out below.

All monies remaining in the Receiving Fund at the end of any operating year after satisfying the above requirements shall be transferred to the Bond and Interest Redemption Fund and used to call bonds for redemption, or at the option of the Village transferred to the General Purpose Account and used for the purpose for which said Account was established: Provided, however, that if there should be a deficit in the Operation and Maintenance Fund, Bond and Interest Redemption Fund or the General Purpose Account, on account of defaults in setting aside therein the amounts hereinbefore required, then transfers shall be made from such funds remaining in the Receiving Fund to such funds in the priority and order named, to the extent of such deficits. Surplus monies may be used to retire junior bond issues.

SECTION 9 RATES AND CHARGES

Prior to the issuance of the bonds, rates and charges for the services of said utility will be fixed in an amount sufficient to pay the costs of operation and maintaining the said System and to leave an amount of revenues adequate for the principal and interest, debt services, reserve, replacements and improvements requirements and all other requirements provided herein, and otherwise comply with the covenants herein provided. The rates and charges for all services and facilities rendered by the System shall be reasonable and just, taking into consideration the costs and value of said

System and the cost of maintaining, repairing, and operating the same and the amounts necessary for the retirement of all bonds and accruing interest on all bonds, and there shall be charged such rates and charges as shall be adequate to meet the requirements of this and the preceding section. The charges for water service which are, under the provisions of Section 21, Act 94, Public Acts of Michigan, 1933, as amended, made a lien on all premises served thereby, unless notice is given that a tenant is responsible, are hereby recognized to constitute such lien and whenever any such charges against any piece of property shall be delinquent for six (6) months, the Village official or officials in charge of the collection thereof shall certify annually, on March 1st of each year to the Village tax assessing officer the fact of such delinquency, whereupon such delinquent charge shall be entered upon the next tax roll as a charge against such premises and the lien thereof enforced in the same manner as general Village taxes against such premises are collected and the lien thereof enforced: Provided, However, where notice is given that a tenant is responsible for such charges and service as provided by said Section 21, no further service shall be rendered such premises until a cash deposit of not less than one full year's serve shall have been made as security for payment of such charges and service.

SECTION 10 NO FREE SERVICE

No free service shall be furnished by said System to any individual, firm or corporation, public or private or to any public Agency or instrumentally.

SECTION 11 COVENANTS

The Village covenants and agrees that so long as any of the bonds hereby authorized remain unpaid as follows:

- A. It will comply with applicable State laws and regulations and continually operate and maintain the system in good condition.
- B.
 - 1. It will maintain complete books and records relating to the operation of the System and its financial affairs and will cause such books and records to be audited annually at the end of each fiscal year and an audit report prepared, and as long as the government is the holder of any of the bonds, will furnish Farmers Home Administration, without request, a copy of each audit report and will furnish any other holder of any bonds a copy of such report upon written request. As long as the government is the holder of any of the bonds herein authorized the Farmers Home Administration shall have the right to inspect the System and the records, accounts, and data relating thereto at all reasonable times.
 - 2. It will file with the Municipal Finance Commission each year, as soon as is possible, not later than ninety days after the close of the fiscal year, a report, on forms prepared by the commission, made in accordance with the accounting method of the municipality, completely setting forth the financial operation of such fiscal year for its own purposes. A copy of such report shall be concurrently furnished the Farmers Home Administration as long as the government is a holder of any of the bonds herein authorized.
 - 3. The Village Council will also cause an annual audit of such books of record and account for the preceding operating year to be made each year by a recognized independent certified public accountant, and will cause such accountant to mail a copy of such audit to the Farmers Home Administration if the government is the holder of the bonds or to the manager of the syndicate or account purchasing the bonds. Such audit shall be completed and so made available not later than three (3) months after the close of each operating year, and said audit may, at the option of the Village Council be used in lieu of the statement on forms prepared by the Municipal Finance Commission and all purposes for which said forms are required to be used by this Ordinance.
- C. The Village will maintain and carry, for the benefit of the holders of the bonds, insurance on all physical properties of the System, of the kinds and in the amounts normally carried by municipalities engaged in the operation of water supply systems. All monies received for losses under any such insurance policies shall be applied solely to the replacement and restoration of the property damaged or destroyed, and to the extent not so used, shall be used for the purpose of calling bonds. As long as the government is a holder of any of the bonds herein authorized, said insurance will be in an amount not less than such amounts as may be

specified by LETTER OF INTENT TO MEET CONDITIONS, Form FHA 442.46 and said insurance shall be approved by the Farmers Home Administration.

- D. It will not borrow any money from any source or enter into any contract or agreement to incur any other liabilities that may in any way be alien upon the revenues or otherwise encumber the System so as to impair revenues therefrom, without obtaining the prior written consent of the Government if the government is a holder of any of the bonds authorized herein, nor shall it transfer or use any portion of the revenues derived in the operation of the system for any purpose not herein specifically authorized.
- E. It will not voluntarily dispose of or transfer its title to the System or any part thereof, including lands and interest in lands, by sale, mortgage, lease or other encumbrances, without obtaining the prior written consent of the government if the government is a holder of any of the bonds herein authorized.
- F. Any extensions or improvements of the System shall be made according to sound engineering principals and specifications shall be submitted to the Government for prior review, only so long as it is holder of any of the bonds.

SECTION 12 ADDITIONAL BONDS

The Village may issue additional bonds of equal standing for the following purposes and on the following conditions:

- A. To complete construction of the Project according to the plans set forth in Section 1, bonds in the amount necessary may be issued.
- B. For the purpose of making reasonable repair, replacement or extension of the System additional bonds of equal standing may be issued if:
 - 1. The net revenues of the System for the fiscal year preceding the year in which such additional bonds are to be issued were 120 percent of the average annual debt service requirements on all bonds then outstanding and those proposed to be issued; or,
 - 2. The holders of at least 75 percent of the then outstanding indebtedness consent to such issue in writing.

The funds herein established shall be applied to all additional bonds issued pursuant to this section as if said bonds were part of the original bond issue and all revenue from any such extension or replacement constructed by the proceeds of an additional bond issue shall be paid to the Water Supply Receiving Fund Account mentioned in this ordinance.

Except as otherwise specifically proved so long as any of such bonds herein authorized are outstanding, no additional bonds or other obligations pledging any portion of the revenues of said System shall be incurred or issued by the Village unless the same shall be junior and subordinate in all respects to the bonds herein authorized.

SECTION 13 ORDINANCE SHALL CONSTITUTE CONTRACT

The provisions of the ordinance shall constitute a contract between the Village and the bond holders and after the issuance of such bonds this ordinance shall not be repealed or amended in any respect which will adversely affect the rights and interests of the holders nor shall the Village adopt any law, ordinance, or resolution in any way adversely affecting the rights of the holders so long as said bonds or interest thereon remains unpaid.

SECTION 14 REFUNDING OF BONDS

If at any time it shall appear to the Government that the Village is able to refund, upon call for redemption or with consent of the Government the then outstanding bonds by obtaining a loan for such purposes for responsible cooperative or private credit sources, at reasonable rates and terms for loans for similar purposes and period of time, the Village will, upon request of the Government, apply for and accept such loan in sufficient amount to repay the Government, and will take all such actions as may be required in connection with such loans.

SECTION 15 DEFAULT OF VILLAGE

If there shall be default in the Redemption Fund, provisions of this ordinance or in the payment of principal or interest of any of the bonds, upon the filing of a suit by twenty percent of the holders of the bonds any court having jurisdiction of the action may appoint a receiver to administer said System on behalf of the Village with power to charge and collect rates sufficient to provide for the payment of the bonds and for the payment of operation expenses and to apply income and revenues in accordance with this ordinance and the laws of Michigan

The Village hereby agrees to transfer to any bona fide receiver or other subsequent operator of the System, pursuant to any valid court order in a proceeding brought to enforce collection or payment of Village obligations, all contracts and other rights of the Village conditionally, for such time only as such receiver or operation shall operate by authority of the court.

The holders of twenty percent of the bonds in the event of default may require by mandatory injunction the raising of rates in a reasonable amount.

SECTION 16 ORDINANCE SUBJECT TO MICHIGAN LAW AND FARMERS HOME ADMINISTRATION REGULATIONS

The provisions of this ordinance are subject to the laws of the State of Michigan and to the present and future regulations of the Farmers Home Administration not inconsistent with the express provisions hereof and Michigan Law.

SECTION 17 FISCAL YEAR OF SYSTEM

The fiscal year for operating the System shall be from July 1st to June 30th of each year.

SECTION 18 VILLAGE SUBJECT TO LOAN AGREEMENT

So long as the government is holder of any of the bonds, the Village shall be subject to the loan agreement, form FHA 442-47, with the Farmers Home Administration and shall comply with all provisions thereof.

SECTION 19 MUNICIPAL FINANCE COMMISSION APPROVAL

The Village Clerk is authorized and directed to make application to the Municipal Finance Commission for authority to issue and sell said bonds and for approval of the form of notice of sale of said bonds in accordance with the provision of Act 94, Public Acts of Michigan, 1933, as amended.

SECTION 20 CONFLICT AND SEVERABILITY

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

SECTION 21 PARAGRAPH HEADINGS

The paragraph headings in this Ordinance are furnished for convenience of reference only and shall not be considered to be apart of this Ordinance.

SECTION 22 PUBLICATION AND RECORDATION

This Ordinance shall be published in full in the Courier Leader, a newspaper of general circulation in the Village of Mattawan qualified under State law to publish legal notices, promptly after its adoption, and the same shall be recorded in the Ordinance Book of the Village and such recording authenticated by the signatures of the President and Village Clerk.

SECTION 23 EFFECTIVE DATE

This Ordinance is hereby determined by the Village Council to be immediately necessary for the preservation of the peace, health and safety of the Village and shall be in full force and effect from and after its passage and publication as required by law.

Passed and adopted by the Village of Mattawan, Michigan, on August 9, 1976.