

VILLAGE OF OTISVILLE
1998A Water Bond Ordinance (\$95,000.00)
Ordinance No. 160

Village of Otisville

At a regular meeting of the Village Council of the Village of Otisville, Genesee County, Michigan, held in the Village on September 8, 1998 at 7:30 p.m., Eastern Daylight Savings Time, there were

PRESENT: Gulash, Hudson, Kimes, Lutze, and Price

ABSENT: Bess and Hemingway

The following Ordinance was offered by Kimes and supported by Lutze.

1998A BOND ORDINANCE
1998A Water Revenue Bonds
AN ORDINANCE TO PROVIDE FOR THE ISSUANCE OF REVENUE BONDS

WHEREAS, the Village of Otisville (the "Village") has determined that it is in the best interest of the Village that the Village's Water System be expanded as described in Appendix A attached hereto (the "Project"); and

WHEREAS, the Village has been furnished with an estimate of the cost and period of usefulness of the Project prepared by The Spicer Group registered professional engineers of Saginaw, Michigan, which indicates an estimated total cost of \$465,000 and a period of usefulness thereof of not less than 30 years; and

WHEREAS, in order to finance part of the estimated project costs, the Village has determined it to be necessary and advisable to borrow money and issue revenue bonds of the Village pursuant to the authorization provided in Act No. 94, Public Acts of Michigan, 1993, as amended (the "Act"); and

NOW, THEREFORE BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF OTISVILLE, GENESEE COUNTY, MICHIGAN, as follows:

**ARTICLE I
PROJECT**

SECTION 101: Construction of the Project:

The Council of the Village of Otisville (the "Village") hereby determines to undertake the Project and particularly Project as more fully described on Appendix A hereto. The Project shall be constructed in accordance with plans and specifications to be approved by the Council

SECTION 102: Approval of Estimates:

The Village approved the estimated costs for the Project, in the amount of \$465,000; and the estimated useful life for the Project of not less than 40 years.

**ARTICLE II
BOND DETAILS**

SECTION 201: Authorization and Maturity:

There are hereby authorized to be issued and sold pursuant to the provisions of Ninety-Five Thousand Dollars (\$95,000) for the purpose of defraying a portion of the costs of the Project. The Bonds shall be known as "Village of Otisville 1998A Water Revenue Bonds" and shall be dated October 1, 1998, or the first day of any succeeding month up to October 1, 1999 as designated in the Official Notice of Sale. At the option of the Village President or Village Clerk the Bonds may be designated without reference to any year. The Bonds shall be fully registered Bonds, both as to principal and interest, in any denomination which is \$5,000 or any multiple of \$5,000, numbered from 1 upward. The Bonds shall mature on the first day of October in each year as follows:

| YEAR | AMOUNT | YEAR | AMOUNT | YEAR | AMOUNT |
|-------------|---------------|-------------|---------------|-------------|---------------|
| 1999 | \$5,000 | 2006 | \$5,000 | 2012 | \$5,000 |
| 2000 | \$5,000 | 2007 | \$5,000 | 2013 | \$5,000 |
| 2001 | \$5,000 | 2008 | \$5,000 | 2014 | \$5,000 |
| 2002 | \$5,000 | 2009 | \$5,000 | 2015 | \$5,000 |
| 2003 | \$5,000 | 2010 | \$5,000 | 2016 | \$5,000 |
| 2004 | \$5,000 | 2011 | \$5,000 | 2017 | \$5,000 |
| 2005 | \$5,000 | | | | |

Bonds may be sold at a discount of up to 2% of the face amount of the Bonds shall be as set forth in the Official Notice of Sale provided for in Section 208 below. The Bonds shall be in substantially the form attached to the Ordinance as Appendix B.

SECTION 202: Interest Payment and Date of Record:

The Bonds shall bear interest payable April 1, 1999, and each October 1 and April 1 thereafter, until maturity, which interest shall not exceed 8% per annum. Interest shall be paid by check mailed by first class mail to the registered owner of each Bond as of the applicable date of record. The date of record shall be March 15 with respect to payments to be made on the next succeeding April 1 and September 1 with respect to payments to be made on the next succeeding October 1.

SECTION 203: Prior Redemption:

Bonds maturing prior to October 1, 2007 shall not be subject to redemption prior to maturity. Bonds maturing on or after October 1, 2007 shall be subject to redemption prior to maturity at the option of the Village, in any order, in whole or in part on any interest payment date on or after October 1, 2006. Bonds called for redemption shall be redeemed at par, plus accrued interest to the date fixed for redemption.

With respect to partial redemptions, any portion of a bond outstanding in a denomination larger than the minimum authorized denomination may be redeemed provided such portion and the amount not being redeemed each constitutes an authorized denomination. In the event that less than the entire principal amount of a bond is called for redemption, upon surrender of the Bond to the bond registrar, the bond registrar shall authenticate and deliver to the registered owner of the Bond a new bond or bonds in the principal amount of the principal portion not redeemed.

Notice of redemption shall be sent to the registered holder of each bond being redeemed by first class mail at least thirty (30) days prior to the date fixed for redemption, which notice shall fix the date of record with respect to the redemption if different than otherwise provided in the Ordinance. Any defect in such notice shall not affect the validity of the redemption proceedings. Bonds so called for redemption shall not bear interest after the date fixed for redemption provided funds are on hand with the bond registrar to redeem the same.

SECTION 204: Bond Registrar and Paying Agent:

The Bonds shall be registered upon the books of a bond registrar and paying agent (the "Bond Registrar") to be named by the Treasurer, the Village President, or the Village Clerk which may also be designated as paying agent, transfer agent and authenticating commercial bank or trust company offering the necessary services pertaining to the payment, authentication, registration and transfer of the Bonds.

SECTION 205: Transfer or Exchange of Bonds:

Any Bond shall be transferable on the bond register maintained by the Bond Registrar with respect to the Bonds at any time prior to the date of record preceding an interest payment date upon the surrender of the Bond together with an assignment executed by the registered owner of his or her duly authorized attorney in form satisfactory to the Bond Registrar. Upon receipt of a properly assigned Bond the Bond Registrar shall authenticate and deliver a new Bond or Bonds in equal aggregate principal amount and like interest rate and maturity to the designated transferee or transferees.

Bonds may likewise be exchanged at any time prior to the date of record preceding an interest payment date for one or more other Bonds with the same interest rate and maturity in authorized denominations aggregating the same principal amount as the Bond or Bonds being exchanged. Such exchange shall be affected by surrender of the Bond to be exchanged to the Bond Registrar with written instructions signed by the registered owner of the Bond or his or her attorney in form satisfactory to the Bond Registrar. Upon receipt of a Bond with proper written instruction the Bond Registrar shall authenticate and deliver a new Bond or Bonds to the registered owner of the Bond or his or her properly designated transferee or transferees or attorney.

The Bond Registrar is not required to honor any transfer or exchange of Bonds on or after the date of record preceding an interest payment date. Any service charge made by the Bond Registrar for any such registration, transfer or exchange shall be paid for by the Village. The Bond Registrar may, however, require payment by a bondholder of a sum sufficient to cover any tax or other governmental charge payable in connection with any such registration, transfer or exchange.

SECTION 206: Execution and Delivery:

The Village President and the Clerk of the Village are authorized and directed to execute the Bonds for and on behalf of the Village by manually executing the same or by causing their facsimile signatures to be affixed. If facsimile signatures are used, the Bonds shall thereafter be authenticated by the Bond Registrar, as authenticating agent. The Bonds shall be sealed with the Village's seal or a facsimile thereof shall be imprinted thereon. When so executed and (if facsimile signatures are used) authenticated, the Bonds shall be delivered to the Village Treasurer or his or her agent, who shall then deliver such Bonds to the purchaser upon receipt of the purchase price for the Bonds.

SECTION 207: Mutilated, Lost, Stolen, or Destroyed Bonds:

In the event any bond is mutilated, lost, stolen or destroyed, the Village President and the Clerk of the Village may, on behalf of the Village, execute and deliver, or order the

Bond Registrar to authenticate and deliver, a new bond having a number not then outstanding, or like date, maturity, interest rate and denomination as the mutilated, lost, stolen or destroyed.

In the case of a mutilated bond, a replacement bond shall not be delivered unless and until such mutilated bond is surrendered to the Bond Registrar. In the case of a lost, stolen, or destroyed bond, a replacement bond shall not be delivered unless and until the Village and the Bond Registrar shall have received such proof of ownership and loss and indemnity as they determine to be sufficient, which shall consist at least of (i) a lost instrument bond for principal and interest remaining unpaid on the lost, stolen or destroyed bond; (ii) an affidavit of the registered owner (or his or her attorney) setting forth ownership of the Bond lost, stolen or destroyed and the circumstances under which it was lost, stolen or destroyed; (iii) the agreement of the owner of the Bond (or his or her attorney) to full indemnify the Village and the Bond Registrar against loss due to the lost, stolen or destroyed Bond and shall issuance of any replacement bond in connection therewith; and (iv) the agreement of the owner of the Bond (or his or her attorney) to pay all expenses of the Village and the Bond Registrar in connection with the replacement, including the transfer and exchange costs which otherwise would be paid by the Village.

SECTION 208: State Approval:

After approval of the Bonds by the Department of Treasury or the issuance by it of an order providing for an exception from the approval required by Act No. 202, Michigan Public Acts of 1943, as amended, the Village Manager shall negotiate a private sale of the Bonds and shall recommend to the Village Council a purchaser of the Bonds.

SECTION 209: Private Sale:

The Village shall conduct a private sale of the Bonds.

SECTION 210: Capitalized Interest:

As the Village Treasurer so orders at or prior to the time of delivery of the Bonds, up to one year of interest payable on the Bonds is to be capitalized; and excess amounts of proceeds over actual Project costs shall be transferred to the Bond and Interest Redemption Fund established hereafter.

SECTION 211: Reduction in Aggregate Amount of Bonds:

In the event bids received for construction or equipping of the Project shall be less than the estimate, the Village Council shall reduce the principal amount of the Bonds in denominations of \$5,000 or any multiple thereof, one such denomination for each

maturity or maturities reduced in any order, to the extent required to avoid the issuance of more bonds than will be required in light of the bids received, and the Notice of Sale shall be correspondingly altered.

SECTION 212: Rates and Charges:

The rates and charges for service furnished by the Water Revenue System shall be those as are already in effect.

**ARTICLE III
FUNDS AND SECURITY**

SECTION 301: Security:

The Principal of, premium, if any, and interest on the Bonds shall be payable from the net revenues derived from the Village's Water Revenue System, including net revenues derived from future improvements. To secure the payment of the principal of, premium, if any, and interest on the Bonds issued under this Ordinance and on any additional bonds of equal standing issued as provided below, there is hereby created in favor of the holders of the Bonds a lien (made a statutory lien by the Act) upon said revenues which lien shall be equal to and on a parity with the lien securing any additional bonds which may be hereafter issued in accordance with the restrictions contained in this Ordinance. The revenues so pledged shall be and remain subject to the lien until the payment in full of the principal of and premium, if any, and interest on the Bonds or until provision for such payment has been made by the deposit with the paying agent of either (i) cash in an amount which shall be sufficient, or (ii) non-callable direct obligations of the United States of America or obligations fully guaranteed by the United States of America, the principal of which and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the paying agent for such purpose, shall be sufficient to pay when due the principal of and premium, if any, and interest due and to become due on the Bonds to and at maturity or any earlier specified redemption date or dates.

SECTION 302: Definition of System:

The Village will not provide any free service in any of the facilities which comprise the Water Revenue System.

The Water Revenue System:

The “Water Revenue System” shall mean and shall be entitled to receive all of the revenues from the operation of the Village Water System including, but not limited to:

- (i) All fees and charges of whatever nature charged to any customer of the Village’s Water System.
- (ii) All fees and charges collected by the Village for connection to the Village’s Water System.
- (iii) The investment earnings on (i) and (ii).

SECTION 303: Creation of Funds:

The Village of Otisville Water System Receiving Fund, the Water Operation and Maintenance Fund, the Bond and Interest Redemption Fund (including the Bond Reserve Account established therein), the Surplus Fund, and the Construction Fund for the Project are hereby established. The revenues of the sewer and water system shall be set aside into the various funds as follows:

(a) Village of Otisville Water System Receiving Fund:

The revenues of the Water Revenue System are hereby ordered to be set aside, as collected, and deposited with a Depository designated by the Council of the Village (the “Depository”) in an account to be designated “Village of Otisville Water Revenue Fund” (the “Water Receiving Fund”). The revenues so deposited in the Water Receiving Fund shall be as set forth below transferred from the Water Receiving Fund periodically in the manner and at the time specified below.

(b) Water Operation and Maintenance Fund:

Out of the revenues in the Water Receiving Fund the Village shall first cause to be set aside into the fund designated “Water Operation and Maintenance Fund”, an itemized sum designated and certified by the Village President sufficient to provide for the payment of all current expenses of administration and operation of the Water Revenue System and such current expenses for the maintenance as may be necessary to preserve the Water Revenue System in good repair which are estimated to be incurred prior to the next due payment of principal of and premium, if any, and interest on Bonds. Money on deposit in the Water Operation and Maintenance Fund shall be used by

the Village for the payment of the above-described expenses.

(c) Bond and Interest Redemption Fund:

There shall be established and maintained with a bank designated by the Treasurer (the "Depository") a separate depository fund designated the Redemption Fund (the "Redemption Fund"), the moneys on deposit therein from time to time and 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 where the principal of and interest on the Bonds, or any series thereof, are payable.

Out of the revenues remaining in the Water Receiving Fund after provision for the respective Operation and Maintenance Funds, there shall be set aside each month commencing July 15, 1998 in the Redemption Fund shall be 1/12 of the total amount of interest on the Bonds next coming due less any accrued interest or capitalized interest deposited in the Bond and Interest Redemption Fund. Commencing July 15, 2000, the pro-rata amount set aside each month for the principal on the Bonds shall be 1/12 of the total amount of principal on the Bonds coming due on the Following July 1st. If there are 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, if any, is necessary to pay principal and interest due on the Bonds on the next succeeding principal payment date.

There is established a separate account in the Redemption Fund to be known as the BOND RESERVE ACCOUNT (the "Bond Reserve Account"). At the time the Bonds are delivered there shall be deposited in the Bond Reserve Account either from proceeds of the Bonds or from cash on hand the following amounts: (a) Before the Bonds are delivered, the Village shall cause an amount to equal the maximum annual debt service due on the Bonds to be deposited from its funds into the Bond Reserve Account; and (b) Before additional bonds of equal standing are delivered, the Village shall cause an amount when added to the amount being borrowed for such purpose to equal the maximum annual debt service due on all outstanding Bonds of equal standing to be deposited in the Bond Reserve Account. The Bond Reserve Account is sometimes referred to as the "Reserve Account". In no event may the amount of borrowed funds in the Reserve Account exceed the lesser of (1) the maximum annual debt service due on the Bonds in the

current or any further year, (2) 125% of the average annual debt service on the Bonds, or (3) 10% of the principal amount of the Bonds. Interest on the Bond Reserve Account must be transferred into the Redemption Fund once the maximum amount in the Reserve Account has been reached and may be used to pay principal and interest on the Bonds and interest yields on the Reserve Fund shall be limited as required by Section 504 of the Ordinance.

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 the deposit equals the Reserve Amount. If additional bonds are issued, each ordinance authorizing the additional bonds shall provide for additional deposits to the Bond Reserve Account to be made from the proceeds of the additional bonds or issuer funds on hand and legally available for such use in an amount that will result in the Bond Reserve Account being equal to the maximum annual principal and interest requirements on the Bonds outstanding after issuance of the additional bonds, or such lesser amount as may be necessary to maintain the tax-exempt status of the Bonds. 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.

(d) Sewer and Water Surplus Fund:

Revenues remaining in the Water Receiving Fund at the end of each operating year after all periodic transfers have been made therefrom as above required shall be deemed to be surplus and at the option of the Village may be left in the Water Receiving Fund or may be transferred to a fund to be designated "Water Surplus Fund". Monies in the Water Surplus Fund from time to time may be used for any water purpose approved by the Council and may be disbursed by the Village for such purposes. Monies in the Water Surplus Fund may also be used to redeem bonds for Water purposes. If, however, at any time there shall exist any default in making any periodic transfer to any of the funds described, then such default shall be rectified so far as possible by the transfer of monies from the Water Surplus Fund before any other use is made of such monies. If any such default shall exist as to more than one fund at any one time, then such transfers shall be made in the

order in which such funds are listed above.

(e) Construction Fund-Capitalized Interest:

The balance of the proceeds of the sale of the Bonds authorized to be issued shall be deposited in a construction under (the "Construction Fund"), which is hereby established, to be maintained by the Village. Monies in the Construction Fund shall be deposited with the Depository in a separate account and may be deposited with the Depository in a separate account and may be invested as provided below. From the monies in the Construction Fund, there shall first be transferred to the Bond and Interest Redemption Fund any premium and accrued interest paid to the Village by the purchaser of the Bonds. There shall next be withdrawn by the Village a sum representing the amount already advanced or disbursed by the Village for Project costs as certified by the Village President. The balance of monies in the Construction Fund proceeds shall be used solely to pay costs of the Project. Payments for construction shall not be authorized by the Village until there shall have been first filed with the Village by its consulting engineer a written statement certified to the effect that the sum so paid is full or partial payment of a contract obligation in connection with the Project. The certification of the engineer shall also show the amount of construction estimates which have been previously approved by him for payment and the amount of the balance which will be required for completion of the Project. The Village may rely upon such written statements without duty of further inquiry. Capitalized interest shall be deposited in the Bond and Interest Redemption Fund.

SECTION 304: Custody of Funds:

All of the funds established pursuant to section 303 shall be maintained by the Village, but moneys in such funds shall be deposited, when not invested, with the Depository. Such moneys may be kept in one account, and earnings on such moneys, shall be separately allocated on the books and records maintained by the Village with respect to all such funds. As required by Section 24 of the Act, an account for moneys deposited in the Bond and Interest Redemption Fund shall be maintained with the Bond Registrar.

SECTION 305: Investment of Funds:

Moneys from time to time on hand in any funds, or any account of any fund, may be invested by the Village in accordance with Section 24 of the Act. Any gain or loss resulting from any investment and any interest received on any such investment shall accrue to the fund or account from which such investment was made. To the

extent moneys are invested in certificates of deposit, the amount of money invested in certificates of deposit in any one bank shall not exceed 10% of the unimpaired capital and surplus of such institution.

ARTICLE IV EVENTS OF DEFAULT AND REMEDIES

SECTION 401: EVENTS OF DEFAULT:

Any of the following events occurring shall constitute an “Event of Default”:

- (a) Default in the due and punctual payment of principal of, premium, if any, or interest on the Bonds whether at maturity or upon redemption.
- (b) Default in the performance or observance of any other duty, obligation or condition on the part of the Village provided in this Ordinance, or the Act, or any other provision of law or in the Bonds, and the continuance of such default for a period and after the notice specified below in this section.

No default specified in (b) above shall constitute an Event of Default unless notice thereof shall have been given by the holders of not less than 20% of the principal amount of outstanding Bonds to the Village, and the Village shall have failed to correct the default or cause the default to be corrected within the 30-day period beginning on the date of receipt by the Village of such notice of default.

SECTION 402: Remedies:

Upon the occurrence and continuance of an Event of Default, the holders of not less than 20% of the principal. Amount of outstanding Bonds may enforce their rights by any one or more of the following remedies.

- (a) By bringing an action at law or suit in equity upon the Bonds or under this Ordinance.
- (b) By pursuing any other available remedy to enforce payment of the Bonds or performance by the Village of its duties and obligations under this Ordinance and the Act or to prevent violations of those duties and obligations.

No remedy conferred upon or reserved to the Bondholders is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given or available to the Bondholders or existing by law.

The holders of not less than 20% of the principal amount of outstanding Bonds may (i) give written notice of a default to the Village, (ii) exercise any remedies under this Ordinance or any provision of law, (iii) direct the method and place of conducting all proceedings to be taken in connection with the exercise of any remedy; provided, however, that there shall be no such waiver, rescission or termination unless all arrears of principal of and interest on the Bonds, together with interest thereon (to the extent permitted by law) at the applicable rate of interest borne by the Bonds shall have been paid or provided for, and (iv) intervene in any judicial proceeding to which, the Village is a party which may have substantial bearing on the interest of the Bondholders, subject to the approval of a court exercising jurisdiction.

Bondholder shall have the right to bring individual action only to enforce payment of the principal of and interest on the Bonds of the respective holders thereof at the respective due dates thereof.

ARTICLE V COVENANTS

SECTION 501: Miscellaneous Covenants:

The Village hereby covenants and agrees with the holders of the Bonds, from time to time, that (a) it will punctually perform all duties with reference to the Project and the Bonds required by the Constitution and laws of the State of Michigan and by this Ordinance; (b) it will cause the Project to be constructed in substantial accordance with the plans and specifications for it; (c) it will cause the Project to be maintained in good condition and operated in an efficient manner and at a reasonable cost, so long as any of the Bonds are outstanding; and (d) it will cause records, statements and accounts to be prepared, maintained and filed as may be required by the Act, particularly Section 30 of the Act. Any such audit shall be in such reasonable detail as will present the full financial condition of the Project to the holders of the Bonds and shall include auditor's consents on the manner in which the Village has complied with the provisions of this Ordinance in respect to the several funds of the Project.

SECTION 502: Limitation on Indebtedness:

The Village covenants and agrees that it will not incur any indebtedness or liabilities of any kind payable from any of the revenues pledged as primary security under Section 301 except for the following:

- (a) The Bonds;
- (b) Bonds not having an equal standing to the Bonds; or

- (c) Liabilities (other than for borrowed money and other than rents payable under leases) incurred in the regular operation of the Project; or
- (d) Additional bonds issued pursuant to this Ordinance.

SECTION 503: Additional Bonds:

While any of the Bonds are outstanding, no additional bonds payable from or in any manner secured by the revenues under the Ordinance may be issued which shall have a prior or equal standing with the Bonds, except as provided herein. Additional bonds may be issued by the Village only for one or more of the following purposes:

- (a) Refunding and retiring any outstanding Bonds, if such Bonds may then be refunded or retired;
- (b) Advance refunding any outstanding Bonds, regardless of whether such Bonds may then be refunded or retired; or
- (c) Financing the costs of completing additional parts of the Project which shall not exceed \$25,000.
- (d) Financing subsequent repairs, extensions, enlargements and improvements to the system including deposits which may be required to be made to the Bond and Interest Redemption fund. Bonds for such purposes shall not be issued pursuant to this subparagraph (d) unless the average actual or augmented net revenues of the system for a period of any twelve consecutive months during the immediately preceding eighteen months of the actual or augmented net revenues for the last preceding twelve month operating year, if aid period has been audited, shall be equal to at least one hundred twenty percent (120%) of the average 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 system rates, fees or charges shall be increased at or prior to the time of authorizing the additional bonds, the net revenues for a period of any twelve consecutive months during the immediately preceding eighteen months shall be augmented by an amount reflecting the effect of the increase had the system's billing during such operating years been at the increased rates. In addition, the actual net revenues for a period of any twelve consecutive months during the immediately preceding eighteen months may be augmented by an amount reflecting the effect of the increased rates. In addition, the actual net revenues for a period of any twelve consecutive months during the immediately preceding eighteen months may be augmented by the estimated increase in net revenues to accrue as a result of the acquisition of the repairs,

extensions, enlargements and improvements to said system to be paid for in whole or in part from the proceeds of the additional bonds to be issued and resulting from those customers of the system serviced by said repairs, extensions, enlargements and improvements constructed to the system. In addition, the actual net revenues may be augmented by an amount equal to the investment income representing interest on investments estimated to be received each operating year from the addition to the Bond received each operating year from the addition to the Bond and Interest Redemption Fund to be funded from the proceeds of the additional bonds being issued or by any additional security given pursuant to Act 94, provided said Bond and Interest Redemption Fund shall be then funded at its maximum amount. Determination by the Council as to the 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 Village shall then be in default in making its required Bond and Interest Redemption Fund.

- (e) 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 amount from other sources.

SECTION 504: Arbitrage and Tax Covenant:

Notwithstanding any other provision of this Ordinance, the Village covenants that it will not at any time or times:

- (a) Permit any proceeds of the Bonds or any other funds of the Village or under its control to be used directly or indirectly (i) to acquire any securities or obligations, the acquisition of which would cause any Bond to be an “arbitrage bond” as defined in Section 148 of the Internal Revenue Code of 1986, as amended (the “Code”), or (ii) in a manner which would result in the exclusion of any Bond from the treatment afforded by Section 103 (a) of the Code by reason of the classification of any Bond as a “private activity bond” within the meaning of Section 141 (a) of the Code, as a “private loan bond” within the meaning of Section 131 (a) of the Code or as an obligation guaranteed by the

United States of America within the meaning of Section 149 (b) of the Code;
or

- (b) Take any action, or fail to take any action (including failure to file any required information or other returns with the United States Internal Revenue Service or to rebate amounts to the United States, if required, at or before the time or times required), within its control which action or failure to act would (i) cause the interest on the Bonds to be includible in gross income for federal income tax purposes, cause the interest on the Bond to be includible in computing any alternative minimum tax (other than the alternative minimum tax applicable to interest on all tax-exempt obligations generally) or cause the proceeds of the Bonds to be used directly or indirectly by an organization described in Section 501 (c) (3) of the Code, or (ii) adversely affect the exemption of the Bonds and the interest thereon from the State of Michigan income taxation.

SECTION 505: 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 Water Revenue System as are necessary to preserve the Water Revenue 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 therefor and to provide for all other obligations, expenditures and funds for the Water Revenue 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 120% 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 covenant and agreed to fix and maintain rates for services furnished by the Water Revenue System at all times sufficient to provide for the foregoing.

SECTION 506: Qualified Tax-Exempt Obligations:

The Bonds are hereby designated as “qualified tax-exempt obligations” for purposes of deduction of interest expenses by financial institutions under the provision of Section 265 of the Code, provided that such designation shall have no effect if, at the time the Notice of Sale is published, the Bonds have been determined to be ineligible to be so designated on the basis of the Village’s reasonable expectations at the time of such publication. In such event, the Notice of Sale shall be changed appropriately.

**ARTICLE VI
MISCELLANEOUS**

SECTION 601. Amendments:

The Council may make an amendment, change or modification to this Ordinance for the purpose of (i) curing any ambiguity or formal defect or omission nor revising the description of the Project, (ii) issuing any additional bonds, or (iii) making any other change to this Ordinance, which is not to the prejudice of the Bondholders.

SECTION 602: Remaining Proceeds:

Any unexpected balance of the proceeds of the sale of the Bonds remaining after the completion of the Project may be used for the improvement, enlargement and/or extension of the Project, provided that all such proceeds shall either be expended for the costs of the Project within three years from the date of issuance of the Bonds or shall be paid into the Bond Fund and applied in accordance with the provisions of Section 16 of the Act.

SECTION 603: Operating Year:

The Operating Year of the Project is hereby determined to be the same as the fiscal year of the Village, beginning on July 1 and ending on June 30.

SECTION 604: Filing with Municipal Finance Division:

The Village President, the Village Manager, The Village Clerk, or Bond Counsel, and each of them individually, are authorized and directed to:

- (a) Apply to the Municipal Finance Division of the Michigan Department of Treasury for either (i) prior approval of the sale of the Bonds; or (ii) an exception from the requirement that such prior approval be obtained;
- (b) File with such application all required supporting material; and
- (c) Pay fees required in connection therewith.

SECTION 605: Publication of Ordinance – Effective Date:

This Ordinance shall be recorded in the minutes of the meetings of the Council at which it was adopted, as soon as practicable after its passage, which record shall be authenticated by the signatures of the Village President and the Clerk of the Village, and shall be published once in a newspaper of general circulation within the County of

Genesee and the Village of Otisville as required by Section 6 of the Act. This Ordinance shall take immediate effect.

SECTION 606: Severability:

If any section, paragraph, sentence, clause or phrase of this Ordinance shall be held invalid, the same shall not affect any other part of this Ordinance.

SECTION 607: Separate Ordinance from 1998 Bond Ordinance:

This Ordinance is separate from and not intended to amend in any way the Village's 1998 Bond Ordinance adopted on August 17, 1998.

SECTION 608: Conflicts:

All Resolutions and Ordinances or parts thereof, insofar as the same may be in conflict with this Ordinance, are hereby repealed.

A vote upon the foregoing Ordinance was taken, and the results were as follows:

YES: 5

NO: 0

ABSTAIN: 0

AUTHENTICATION

The undersigned hereby certify that this Ordinance was duly adopted by the Village Council of the Village of Otisville at a regular meeting on September 8, 1998 and that the foregoing is a true and complete copy thereof.

Tom Bess, Jr., Village President

Andrea M. Barden, Deputy Village Clerk

Dated: 09-08-99

Las.rl-otis5

VILLAGE CLERK'S CERTIFICATION

The undersigned, being the duly qualified and acting Clerk of the Village of Otisville, Michigan, hereby certifies that (1) the foregoing is a true and complete copy of an Ordinance duly adopted by the Village Council meeting held on September 8, 1998, at which meeting a quorum was present and remained throughout, (2) the original thereof is on file in the records of the proceedings of the Village Council in my office, (3) the meeting was conducted, and public notice thereof was given, pursuant to and in full compliance with the Open Meetings Act (Act No. 26, Public Acts of Michigan, 1976, as amended), and (4) minutes of such meeting were kept and will be or have been made available as required thereby.

Andrea M. Barden, Deputy Village Clerk

{SEAL}

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**APPENDIX A
TO
BOND ORDINANCE**

DESCRIPTOIN OF PROJECT:

See Appendix A, page 2

PERIOD OF USFULNESS OF PROJECT:

The period of usefulness of the project will be not less than thirty (30) years.

ESTIMATED COST OF PROJECT:

| | |
|---|------------------|
| Construction, Engineering, Contingency, Financing Cots And Bond Reserve | <u>\$ 95,000</u> |
|---|------------------|

APPENIX A, PAGE 2

DESCRIPTION OF PROJECT

The Project will consist of the following:

1. Construct 2,600 feet of 12" water main.
2. The purchase of a 9/97-acre parcel of land for the main site.
3. The purchase of a 2.0-acre parcel of land for a future well site.
4. The construction of a well house complete with piping, electrical, chemical feeders and pumping equipment.
5. The construction of an access road to the site.
6. Instruments and controls.
7. Site grading and clean up.
8. Running utilities to the site.

This Bond is one of a self-liquidating series of revenue bonds of like date and tenor except as to denomination, date of maturity, and interest rate, numbered from 1 upwards, aggregating the principal sum of _____ dollars (\$ ____), issued pursuant to and in full conformity with the Constitution and statutes of the State of Michigan and especially Act No. 94, Michigan Public Acts of 1933, as amended (the "Act"), and pursuant to an ordinance of the Village Council of the Village (the "Bond Ordinance") adopted for the purpose of constructing extensions to the Village's Water System.

This Bond and the series of bonds of which this is one and the interest hereon are payable from the net revenues derived from the operation of the Village's Water Systems. Such revenues have been irrevocably pledged by the Village for the payment of principal of, premium, if any, and interest on the bonds and other bonds as provided in the Ordinance and such lien has been made a statutory lien by the Act. Such moneys shall be used by the Village to pay principal of, premium, if any, and interest on the bonds and such other bonds as provided in the Ordinance. In the event net revenues pledged for the payment of the bonds and such other bonds as provided in the Ordinance are for any reason insufficient to pay the principal of, premium, if any, and interest on the bonds when due, the Village is not obligated to advance moneys from its general funds to make up such deficiency.

Bonds maturing prior to _____, shall not be subject to redemption prior to maturity. Bonds maturing on or after _____, shall be subject to redemption prior to maturity at the option of the Village, in any order, in whole or in part on any interest payment date on or after _____. Bonds so called for redemption shall be redeemed at par, plus accrued interest to the date fixed for redemption.

With respect to partial redemptions, any portion of a bond outstanding in a denomination larger than the minimum authorized denomination may be redeemed provided such portion as well as the amount not being redeemed each constitutes an authorized denomination. In the event that less than the entire principal amount of a bond is called for redemption, upon surrender of the bond to the Bond Registrar, the Bond Registrar shall authenticate and deliver to the Registered Owner of the bond a new bond or bonds in the principal amount of the principal portion not redeemed.

Notice of redemption shall be sent to the registered holder of each bond being redeemed by first class mail at least thirty (30) days prior to the date fixed for redemption, which notice shall fix the date of record with respect to the redemption, if different than otherwise provided in the Ordinance authorizing the issuance of the bonds. Any defect in such notice shall not affect the validity of the redemption proceedings. Bonds so called for redemption provided funds are on hand with the Bond Registrar to redeem the same.

This Bond shall be transferable on the books of the Village maintained by the Bond Registrar upon surrender of this Bond to the Bond Registrar together with an assignment executed by the Registered Owner or his or her duly authorized attorney in form satisfactory to the Bond Registrar. Upon receipt of a properly assigned bond, the Bond Registrar shall authenticate and deliver a new bond or bonds in authorized denominations in equal aggregate principal amount and like interest rate and maturity to the designated transferee or transferees.

Bonds may likewise be exchanged for one or more other bonds with the same interest rate and maturity in authorized denominations aggregating the same principal amount as the bond or bonds being exchanged. Such exchange shall be affected by surrender of the bond to be exchanged to the Bond Registrar with written instructions signed by the Registered Owner of the bond or his or her attorney in form satisfactory to the Bond Registrar. Upon receipt of a bond with proper written instructions the Bond Registrar shall authenticate and deliver a new bond or bonds to the registered owner of the bond or his or her properly designated transferee or transferees or attorney.

The Bond Registrar is not required to honor any transfer or exchange of bonds during the fifteen (15) days preceding an interest payment date. Any service charge made by the Bond Registrar for any such registration, transfer or exchange shall be paid for by the Village, unless otherwise agreed upon by the Village and the Bond Registrar. The Bond Registrar may, however, require payment by a bondholder of a sum sufficient to cover any tax or other governmental charge payable in connection with any such registration, transfer or exchange.

This Bond and the bonds of this series have been designated as “qualified tax-exempt obligations” for purposes of, paragraph 265 (b) (3) of the Internal Revenue Code of 1986, as amended.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit until the certificate of authentication hereon has been duly executed by the Bond Registrar, an authenticating agent.

It is hereby certified, recited and declared that all acts, conditions, and things required to exist, happen and be performed precedent to and in connection with the issuance of this Bond and other bonds of this series, existed, have happened and have been performed in due time, form and manner as required by the Constitution and statutes of the State of Michigan, and that the total indebtedness of the Village, including this series of bonds, does not exceed any constitutional, statutory or charter limitation.

IN WITNESS WHEREOF, the Village of Otisville, County of Genesee, State of Michigan by its Council, has caused this Bond to be executed in its name with the facsimile signatures of its President and its Clerk, has caused a facsimile of its corporate seal to

be affixed hereto, and has caused this Bond to be authenticated by the Bond Registrar, as the Village's authenticated by the Bond Registrar, as the Village's authenticating agent, all as of the Date of Issuance set forth above.

VILLAGE OF OTISVILLE

By: Tom Bess, Jr. President

By: Andrea M. Barden, Deputy Clerk

[SEAL]

DATE OF REGISTRATION;

BOND REGISTRAR’S CERTIFICATE OF AUTHENTICATION

This Bond is one of the series of bonds designated “Village of Otisville 1998A Water Revenue Bonds”.

_____, Michigan as Bond Registrar and Authenticating Agent

By: _____
Authorized Representative

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____ this Bond and all rights hereunder and hereby irrevocably constitutes and appoints _____ attorney to transfer this Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

Signature: _____

Notice: The signature(s) to this assignment must correspond with the name as it appears upon the face of this Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

Signature(s) must be guaranteed by an eligible guarantor institution participating in a Securities Transfer Association recognized signature guarantee program.

The transfer agent will not affect transfer of this Bond unless the information concerning the transferee requested below is provided:

Name and Address: _____

(Include information for all joint owners if bond is held by joint account)

PLEASE INSERT SOCIAL SECURITY NUMBER OR OTHER IDENTIFYING NUMBER
OF TRANSFEREE

(Insert number for first name transferee if held by joint account)