

## CHAPTER 44

### SANITARY SEWER SYSTEM REVENUE BONDS

**AN ORDINANCE TO PROVIDE FOR THE ISSUANCE AND SALE OF SANITARY SEWER SYSTEM REVENUE BONDS OF THE CITY OF LAPEER FOR THE PURPOSE OF CONSTRUCTING IMPROVEMENTS, REPAIRS, AND REPLACEMENTS TO THE CITY'S SANITARY SEWER SYSTEM; TO PRESCRIBE THE FORM OF BONDS; TO PROVIDE FOR THE COLLECTION OF REVENUES FROM SAID SYSTEM SUFFICIENT FOR THE PURPOSE OF PAY THE COSTS OF OPERATION AND MAINTENANCE OF SAID SYSTEM AND TO PAY THE PRINCIPAL OF AND INTEREST ON SAID BONDS; TO PROVIDE AN ADEQUATE RESERVE FUND FOR SAID BONDS; TO PROVIDE FOR THE SEGREGATION AND DISTRIBUTION OF SAID REVENUES; TO PROVIDE FOR THE RIGHTS OF THE HOLDERS OF SAID BONDS IN ENFORCEMENT THEREOF; TO PROVIDE FOR OTHER MATTERS RELATING TO SAID BONDS AND SAID SYSTEM.**

**THE CITY OF LAPEER 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) "Authority" means the Michigan Municipal Bond Authority created pursuant to Act 227 of 1985.
- (c) "Authority's Depository" and "Transfer Agent" means Comerica Bank-Detroit, Detroit, Michigan or any successor thereto.
- (d) "Bonds" mean the Series 1987 Bonds, together with any additional bonds of equal standing hereafter issued.
- (e) "City" means the City of Lapeer, County of Lapeer, State of Michigan.
- (f) "Commission" means the City Commission of the City.
- (g) "Project" means the repairs, replacements, additions, extensions and improvements to the System.

- (h) **?Revenues?** and **?Net Revenues?** mean the revenues and net revenues of the City 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.
- (i) **?Series 1987 Bonds?** means the Sanitary Sewer Revenue Bonds (Series 1987) of the City in the Principal amount of \$520,000 authorized by this Ordinance.
- (j) **?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.
- (k) **?System?** means the City's sanitary sewer 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 City to acquire the Project in accordance with the plans and specifications prepared by the City's consulting engineers (the **?Engineers?**) which plans and specifications are hereby approved.

**SECTION 3.                   COSTS; USEFUL LIFE**

The total cost of the Project is estimated to be Five Hundred Twenty Thousand Dollars (\$520,000) 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 the cost of acquiring and constructing the Project, including payment of legal, engineering, financial, and other expenses incident thereto and incident to the issuance and sale of the Series 1987 Bonds, the City shall borrow the sum of Five Hundred Twenty Thousand Dollars (\$520,000) and issue the Series 1987 Bonds therefor pursuant to the provisions of Act 94. The remaining cost of the Project, if any, shall be defrayed from City funds on hand and legally available for such use and from other funds available to the City.

The purpose of the Ordinance is to authorize the issuance of revenue bonds to finance the cost of acquiring additions, extensions and improvements to the Project.

**SECTION 5. BOND DETAILS, ISSUANCE IN SERIES, REGISTRATION AND EXECUTION**

The Series 1987 Bonds hereby authorized shall be designated SANITARY SEWER REVENUE BOND (SERIES 1987), shall be payable out of the Net Revenues, as set forth more fully in Section 6 hereof, shall consist of bonds of the denomination of \$5,000, or multiples of \$5,000 not exceeding the amount of a single maturity, dated as of August 6, 1987, numbered in order of registration from 1 upwards, and shall mature on May 1st in the years and amounts as follows:

YEAR	AMOUNT	YEAR	AMOUNT
1988	\$ 5,000	2000	\$15,000
1989	5,000	2001	20,000
1990	5,000	2002	20,000
1991	5,000	2003	20,000
1992	10,000	2004	25,000
1993	10,000	2005	25,000
1994	10,000	2006	30,000
1995	10,000	2007	30,000
1996	10,000	2008	35,000
1997	15,000	2009	40,000
1998	15,000	2010	45,000
1999	15,000	2011	50,000
		2012	50,000

The Series 1987 Bonds shall bear interest at a rate or rates to be determined on sale thereof, but in any event not exceeding 10% per annum, payable on May 1st and November 1st of each year, commencing May 1, 1988. The Bonds shall be sold at a price not less than 97% of the par value of the Bonds.

Interest shall be paid by check or draft drawn on the Transfer Agent or the Authority's Depository, as applicable, mailed to the registered owner of the Bonds at the registered address, as shown on the registration books of the City maintained by the Transfer Agent or the City. Interest shall be payable to the registered owner of record as of the fifteenth day of the month prior to the payment date for each interest payment. The date of determination of the registered owner for purposes of payment of interest as provided in this paragraph may be changed by the City to conform to market practice in the future. The principal of the Bonds shall be payable at the principal corporate trust office of Comerica Bank-Detroit, Detroit, Michigan as registrar and transfer agent for the Bonds (the "Transfer Agent") if the Authority is not the owner of the Bonds. The City may select another bank or trust company located in the State of Michigan to serve as transfer agent upon notice to the registered owner of the Bonds not less than sixty (60) days prior to an interest payment date. Notwithstanding any other provision of this resolution, 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 City by the Authority (the "Authority's Depository")
- (b) the City 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, prepayment or otherwise
- (c) written notice of any redemption of the Bonds shall be given by the City 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 subject to 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 signed by the manual or facsimile signatures of the Mayor and the Clerk of the City and shall have the corporate seal of the City or a facsimile thereof impressed or imprinted thereon. No Bond of this series shall be valid until authenticated by an authorized representative of the Transfer Agent except that, in the event the Bonds are purchased by the Authority, the authentication of the Bonds by the Transfer Agent shall not be required while the Authority is the owner thereof and the Bonds shall be valid upon

execution by the manual or facsimile signature of the Mayor and manual signature of the Clerk. The Bonds shall be delivered to the Transfer Agent for authentication, if required, and be delivered to the purchaser in accordance with instructions from the City Treasurer upon payment of the purchase price for the 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.

Any Bond may be transferred upon the books required to be kept pursuant to this section by the person whose name it is registered, in person or by his duly authorized attorney, upon surrender of the Bond for cancellation, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the Transfer Agent. Whenever any Bond or Bonds shall be surrendered for transfer, the City 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 City 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
- (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 City shall give the Transfer Agent notice of a call for redemption at least 45 days prior to the date such notice of redemption is to be given.

The Transfer Agent shall keep or cause to be kept, at its principal office, sufficient books for the registration and transfer of the Bonds, which shall at all times be open to inspection by the City; and, upon presentation for such purpose, the Transfer Agent shall, under such reasonable regulations as it may prescribe, transfer or cause to be transferred, on said books, Bonds as hereinbefore provided.

If any Bond shall become mutilated, the City, 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, 1872, as amended ("Act 354"), being sections 129.131 to 129.135, inclusive, of the Michigan Compiled Laws have been met, the City, 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 laws hereafter enacted, in lieu of and insubstitution 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.

If and so long as the Bonds be held by the Authority:

- (a) the City Clerk shall perform the notification, bond registration and transfer functions of the transfer agent
- (b) provisions relating to transfer of the Bonds may be deleted from the form of Bonds

**SECTION 6. PAYMENT OF BONDS**

The Series 1987 Bonds and the interest thereon shall be payable solely from the Net Revenues, and to secure such payment, there is hereby created a statutory lien upon the whole of the Net Revenues, or, until sufficient cash or Sufficient Government Obligations have been deposited in trust for payment in full of all Bonds of a series then outstanding, principal and interest on such Bonds to maturity, or, if called for redemption, to the date fixed for redemption together with the amount of the redemption premium, if any. Upon deposit of cash of Sufficient Government obligations, as provided in the previous sentence, the statutory lien shall be terminated with respect to that series of Bonds, the holders of that series shall have no further rights under this Ordinance except for payment from the deposited funds, and the Bonds of that series shall no longer be considered to be outstanding under this Ordinance.

**SECTION 7. BONDHOLDERS? RIGHTS; RECEIVER**

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

If there is a default in the payment of the principal of or interest upon the Bonds, any court having jurisdiction in any proper action may appoint a receiver to administer and operate the System on behalf of the City and under the direction of the court, and by and with the approval of the court to perform all of the duties of the officers of the City 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 8                   MANAGEMENT; FISCAL YEAR**

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

**SECTION 9.                   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 10. 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.

**SECTION 11. FIXING AND REVISING RATES; RATE COVENANT**

Rates and charges presently in effect for the System are estimated to be sufficient to provide for the payment of the expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the System in good repair and working order, to provide for the payment of the principal of and interest on all of the Bonds as the same become due and payable, and the creation and 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 order to accomplish the foregoing such rates shall be in amounts which will provide annual Net Revenues equal to or greater than 115% of the annual debt service requirements of the Bonds and 100% of the debt service requirements of any other bond issue to be paid from the revenues of the System. 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 and maintain rates for services furnished by the System at all times sufficient to provide for the foregoing.

Effective July 1, 1988 the System's rates and charges presently in effect shall be increased by 30%, provided, however, in the event the City obtains a report of its Engineer that a different rate of increase shall be necessary to meet the requirements of this section in which case the System rates and charges shall be increased by the rate set forth in such reports.

**SECTION 12. OPERATING YEAR**

The System shall be operated on the basis of an operating year which shall coincide with the City's fiscal

year.

### **SECTION 13. FUNDS AND ACCOUNTS; FLOW OF FUNDS**

Commencing on August 1, 1987, all Revenues of the System shall be set aside as collected and credited to a fund to be designated SANITARY SEWER REVENUE (SERIES 1987) RECEIVING FUND (the "Receiving Fund"). In addition, on August 1, 1987 all Revenues in any accounts of the System shall be transferred to the Receiving Fund and credited to the funds and accounts as provided in this Section 13. The Revenues credited to the Receiving Fund are pledged for the purpose of the following funds and shall be transferred or debited from the Receiving Fund periodically in the manner and at the times and in the order of priority hereinafter specified:

**A. OPERATION AND MAINTENANCE FUND:**

Out of the Revenues credited to the Receiving Fund there shall be first set aside in, or credited to, a fund designated OPERATION AND MAINTENANCE FUND (the "Operation and Maintenance Fund"), monthly a sum sufficient to provide for the payment of the next month's expenses of administration and operation of the System and such current expenses for the maintenance thereof as may be necessary to preserve the same in good repair and working order.

The City, prior to the commencement of each operating year beginning with the operating year next commencing after the effective date of this Ordinance, shall adopt a budget covering the foregoing expenses for each year. No payments shall be made to the City from moneys credited to the Operation and Maintenance Fund except for services directly rendered to the System by the City or its personnel.

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

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

Out of the Revenues remaining in the Receiving Fund, after provision for the Operation and Maintenance Fund, there shall be set aside monthly 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. Commencing November 1, 1987, the amount set aside each month for interest on the Bonds shall be 1/3 of the total amount of interest on the Bonds next coming due. The amount set aside each month for principal, commencing November 1, 1987, shall be 1/3 of the amount of principal next coming due by maturity. Commencing May 1, 1988 the amount set aside each month for principal, shall be 1/12 of the amount of principal next coming due by maturity. If there is any deficiency in the amount previously set aside, that deficiency shall be added to the next succeeding month's requirements.

There is established a separate account in the Redemption Fund to be known as the BOND RESERVE ACCOUNT (the "Bond Reserve Account"). On or before the date of delivery of the bonds there shall be deposited into the Bond Reserve Account the lesser of 10 percent of the outstanding principal amount of the Bond or the maximum annual debt service requirements of the Bonds (the "Reserve Amount") and thereafter the Reserve Amount shall be approximately reduced to reflect any reduction in the outstanding principal amount and the maximum annual debt service requirements of the Bonds.

Except as otherwise provided in this Section, the moneys credited to the Bond Reserve Account shall be used solely for the payment of the principal of, redemption premiums (if any) and interest on the Bonds as to which there would otherwise be a default. If at any time it shall be necessary to use moneys credited to the Bond Reserve Account for such payment, then the moneys so used shall be replaced from the Net Revenues first received thereafter which are not required for current principal and interest requirements until the amount on deposit equals the Reserve Amount. If additional Bonds are issued, each Ordinance authorizing the additional Bonds shall provide for additional deposits to the Bond Reserve Account being equal to the maximum annual principal and interest requirements on the Bonds outstanding after issuance of the additional Bonds. If, at the end of any fiscal year the amount in the Bond Reserve Account exceeds the Reserve Amount, then the excess shall be transferred to the Improvement Fund or such other fund as the Commission may designate. Excess amounts attributable to investment earnings shall be transferred to the Receiving Fund.

**C. REPLACEMENT FUND:**

There shall next be established and maintained a separate depository fund 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. On or before the date of delivery of the bonds there shall be deposited into the Replacement Fund the sum of \$50,000. Out of the Revenues and moneys of the System remaining in the Receiving Fund after provision has been made for the deposit of moneys into the Operation and Maintenance Fund and the Redemption Fund (including the Bond Reserve

Account) there may be deposited in the Replacement Fund such additional funds as the City Commission may deem advisable. If at any time it shall be necessary to use moneys in the Replacement Fund for the purpose for which the Replacement Fund was established, the moneys so used shall be replace from any moneys in the Receiving Fund which are not required by this Ordinance to be used for the Operation and Maintenance Fund or the Redemption Fund (including the Bond Reserve Account).

**D. IMPROVEMENT FUND:**

On or before the date of delivery of the bonds there shall be deposited into a fund to be designated IMPROVEMENT FUND (the ?Improvement Fund?) the sum of \$25,000. Out of the remaining Revenues in the Receiving Fund, after meeting the requirements of the Operation and Maintenance fund and the Redemption Fund (including the Bond Reserve account), there may be next set aside in or credited to the Improvement Fund such sums monthly as the City Commission may deem advisable to be used for improvements, enlargements or extensions to the System.

**E. SURPLUS MONEYS:**

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

1. Transferred to the Replacement Fund, the Improvement Fund or both.
2. Transferred to the Redemption Fund and used for the purchase of Bonds on the open market at not more than the fair market value thereof or used to redeem Bonds prior to maturity pursuant to Section 5 of this Ordinance.
3. Transferred to the general fund of the City and used for any lawful purpose.

**SECTION 14. DEPOSITARY 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 account at a bank or banks designated by resolution of the City Commission, and if kept in one bank account the moneys shall be allocated on the books and records of the City 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 of 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, to the extent of any deficit therein.

#### **SECTION 16. INVESTMENTS**

Moneys in the funds and account established herein and moneys derived from the proceeds of sale of the Bonds, may be invested by the City 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. Investment of moneys in the Bond Reserve Account shall be limited to obligations bearing maturity dates or subject to redemption, at the option of the holder thereof, not later than five years from the date of the investment. In the event investments are made, any securities representing the same shall be kept on deposit with the bank or trust company having on deposit the fund or funds or account from which the purchase was made. Profit realized or interest income earned on investment of funds in the Receiving Fund, Operation and Maintenance Fund, Redemption Fund (including the Bond Reserve Account), and Improvement Fund shall be deposited in or credited to the Receiving Fund at the end of each fiscal year.

#### **SECTION 17. BOND PROCEEDS**

From the proceeds of the sale of the Bonds there shall be immediately deposited in the Redemption fund an amount equal to the accrued interest and premium, if any, received on the delivery of the Bonds. The balance of the proceeds of the sale of the Bonds shall be deposited in a bank or banks, designated by the City Treasurer, qualified to act as depository of the proceeds of sale under the provisions of Section 15 of Act 94, in an account designated CONSTRUCTION FUND (the ?Construction Fund?). Moneys in the Construction Fund shall be applied solely in payment of the cost of the Project, including any engineering, legal and other expenses incident thereto and to the financing thereof. Payments for construction, either on account or otherwise, shall not be made unless the registered engineer in charge of such work shall file with the City Commission a signed settlement 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 may, in the discretion of the City Commission, be used for further improvements, enlargements and extension to the System, if

- (i) at the time of such expenditures, such use is approved by the Department of Treasury, if such permission is then required by law and
- (ii) redemption of the Bond is not required under Section 23 of this Ordinance. Any remaining balance after such expenditure shall be paid to the Redemption Fund and may be used for the purpose of purchasing Bonds on the open market at not more than the fair market value thereof, but not more than the price at which the Bonds may next be called for redemption, or used for the purpose of paying principal of the Bonds upon maturity or calling Bonds for redemption.

#### **SECTION 18. BOND FORM**

The Bonds shall be in substantially the following form; provided, however, that so long as the Authority owns the bonds, the sections of the Bonds pertaining to the Transfer Agent shall be amended or deleted accordingly as may be deemed necessary or appropriate by the City Clerk, and if the Authority ceases to own the Bonds, those provisions of the Bonds pertaining to the Authority shall be deleted and the provisions relating to registration and transfer of the Bonds shall be inserted.

UNITED STATES OF AMERICA

STATE OF MICHIGAN

COUNTY OF LAPEER

CITY OF LAPEER

SANITARY SYSTEM REVENUE BOND (SERIES 1987)

INTEREST RATE	MATURITY DATE	DATE OF ORIGINAL ISSUE	CUSIP
		August 6, 1987	

REGISTERED OWNER:

PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS

The CITY OF LAPEER, County of Lapeer, State of Michigan (the "City"), for value received, hereby promises to pay the Principal Amount shown above in lawful money of the United States of America to the registered owner specified above on the Maturity Date specified above, unless prepaid prior thereto as hereinafter provided, with interest thereon from the Date of Original Issue or such later date to which interest has been paid, until paid at the Interest Rate per annum specified above, payable on May 1, 1988, and semiannually thereafter. (Principal of this bond is payable at the principal corporate trust office of Comerica Bank-Detroit, Detroit, Michigan, or such other transfer agent as the city may hereafter designate by notice mailed to the registered owner hereof not less than sixty (60) days prior to any interest payment date (the "Transfer Agent"). Interest on this bond is payable by check or draft mailed by the Transfer Agent to the person or entity who is as of the 15th day of the month prior to each interest payment date, the registered owner, at the registered address as shown on the registration books of the City maintained by the Transfer Agent) (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 City by the Authority (the "Authority's Depository"); (b) the City 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 "written notice of any redemption of this bond shall be given by the City and received by the Authority's Depository, at least 40 days prior to the date on which such redemption is to be made) and for the prompt payment thereof, the revenues of the Sanitary Sewer System of the City (collectively the "System"), including all appurtenances, extensions and improvements thereto, after provision has been made for reasonable and necessary expenses of operation, maintenance and administration (the "Net Revenues"), are irrevocably pledged and a statutory first lien thereon is hereby recognized and created.

This bond is one of a series of bonds of even original issue date aggregating the principal sum of \$520,000 issued pursuant to Ordinance No. \_\_\_\_, duly adopted by the City Commission of the City, and under and in full compliance with the Constitution and statutes of the State of Michigan, including specifically Act 94, Public Acts of Michigan, 1933, as amended, for the purpose of paying part of the cost of acquiring and constructing repairs, replacements, additions, extensions and improvements to the System.

For a complete statement of the revenues from which and the conditions under which this bond is payable, a statement of the conditions under which additional bonds of equal standing may hereafter be issued and the general covenants and provisions pursuant to which this bond is issued, reference is made to the above-described Ordinance.

Bonds maturing in the years 1988 to 1997, inclusive, shall not be subject to redemption prior to their due date.

Bonds or portions of bonds maturing in the years 1998 to 2002, inclusive, are subject to optional redemption in whole or in part in such order as the City shall determine, in integral multiples of \$5,000 on any date on or after May 1, 1997 at the following redemption prices (expressed as percentages of their principal amounts), plus accrued interest to the redemption date.

<u>Period During Which Redeemed</u>	<u>Redemption Price</u>
May 1, 1997 to April 30, 1998, inclusive	102%
May 1, 1998 to April 30, 1999, inclusive	101? %
May 1, 1999 to April 30, 2000, inclusive	101%
May 1, 2000 to April 30, 2001, inclusive	100? %
May 1, 2001 and thereafter	100%

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

(Written notice of such redemption must be given to the Authority? s Depository by the City 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 at least thirty (30) days prior to the date fixed for redemption by mail to the registered owner at the registered address shown on the registration books of the City kept as provided in the above described resolution. Bonds shall be called for redemption in multiples of \$5,000 and any bond of a denomination of more than \$5,000 and 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. The notice of redemption for a bond redeemed in part shall state the upon surrender of the bond to be redeemed a new bond or bonds in aggregate principal amount equal to the

unredeemed portion of the bond surrendered shall be issued to the registered owner thereof. No further interest on the bonds or portions of bonds called for redemption shall accrue after the date fixed for redemption, whether presented for redemption or not, provided funds are on hand to redeem the same.)

(Any bond may be transferred by the person in whose name it is registered, in person or by his duly authorized attorney or legal representative, upon surrender of the bond to the Transfer Agent for cancellation, together with a duly executed written instrument of transfer in a form approved by the Transfer Agent. Whenever any bond is surrendered for transfer, the Transfer Agent shall authenticate and deliver a new bond or bonds, in like aggregate principal amount, interest rate and maturity. The Transfer Agent shall require the bondholder requesting the transfer to pay any tax or other governmental charge required to be paid with respect to the transfer. The Transfer Agent will not

(i) 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 mailing of a notice of redemption of bonds selected for redemption and ending at the close of business on the day of that mailing, or (ii) register the transfer of or exchange any bond selected for redemption in whole or in part, except the unredeemed portion of bonds being redeemed in part.)

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

The City has covenanted and agreed, and does hereby covenant and agree to fix and maintain at all time while any bonds payable from the Net Revenues of the System shall be outstanding, such rates for service furnished by the System as shall be sufficient to provide for payment of the interest upon and the principal of the bonds of this issue and any additional bonds of equal standing as and when the same shall become due and payable, and to maintain a bond redemption fund (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.

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

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

IN WITNESS WHEREOF, the City of Lapeer, County of Lapeer, State of Michigan, by its City

Commission, has caused this bond to be executed with the (manual) (fascimile) signatures of its Mayor and its Clerk and its corporate seal to be (impressed) (printed) on this bond, all as of the Date of Original Issue.

CITY OF LAPEER

By \_\_\_\_\_  
Mayor

(Seal)

Countersigned:

\_\_\_\_\_  
Clerk

(FORM OF TRANSFER AGENT'S CERTIFICATE  
OF AUTHENTICATION TO BE USED IF THE  
MICHIGAN MUNICIPAL BOND AUTHORITY IS  
NOT THE OWNER OF THE BONDS)

Certificate of Authentication

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

\_\_\_\_\_  
Transfer Agent

By \_\_\_\_\_  
Authorized Signatory

Date of Registration:

**SECTION 19. COVENANTS**

The City 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 City 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 City will keep proper books of record and account separate from all other records and accounts of the City, in which shall be made full and correct entries of all transactions relating to the System. The City 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 City is complying with the requirements of the ordinance with respect to setting aside and investing moneys and meeting the requirements for acquiring and maintaining insurance. The audit shall be completed and so made available not later than four (4) months after the close of each operating year.
- (c) The City will maintain and carry, for the benefit of the holders of the Bonds, insurance on all physical properties of the System and liability insurance, of the kinds and in the amounts normally carried by municipalities engaged in the operation of sanitary sewer 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 City 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 City 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 City 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 City

- will not operate a system that will compete with the System.
- (f) The City will cause the Project to be acquired and constructed promptly and in accordance with the plans and specification therefor.
  - (g) Except as required by law, the City 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.
  - (h) The City will not permit at any time or times any of the proceeds of the Bonds or any other funds of the City to be used directly or indirectly in a manner which would result in the exclusion of any Bonds of the City from the treatment afforded by Section 103 (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 a **?private activity bonds?** within the meaning of Section 141 of the Code, as **?private loan bonds?** within the meaning of Section 141 **?** of the Code, or a 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 **?** (3) of the Code.

## **SECTION 20. ADDITIONAL BONDS**

Except as hereinafter provided, the City 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 City Clerk, it shall be the duty of the

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

- (b) For subsequent repairs, extensions, enlargements and improvements to the System or for the purpose of refunding part of any Bond then outstanding and paying costs of issuing such additional Bonds including deposits which may be required to be made to the Bond Reserve Account. Bonds for such purposes shall not be issued pursuant to this subparagraph (a) unless the average actual or augmented Net Revenues of the System for the then last two (2) preceding twelve month operating years or the actual or augmented 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 twenty-five percent (125%) 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 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 City may elect to use as the last preceding operating year any operating year ending not more than sixteen months from the date of delivery of the additional Bonds. 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 each of the two preceding operating years shall be augmented by an amount reflecting the effect of the increase had the System's billings during such operating years been at the increased rates. In addition, the actual Net Revenues for each of the two preceding operating years 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 the System to be paid for in whole or in part from the proceeds of the additional Bonds to be issued. Determination by the City Commission 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 City shall then be in default in making its required payments to the Operation and Maintenance Fund or the Redemption Fund.

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

**SECTION 21. DIRECTION TO OFFICERS**

The Mayor, Clerk, Treasurer, members, staff, council, and Bond council for the City, or any of the, are authorized on behalf of the City 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. The officers, agents and employees of the City are authorized to take all other actions necessary and convenient to facilitate sale of the Bonds.

**SECTION 22. SALE OF BONDS TO AUTHORITY**

The City hereby authorizes the Bonds to be sold to the Authority, upon receipt of approval or exception from prior approval of the Michigan Department of Treasury, in an amount equal to the amount described above and at a net interest rate or cost not more than the rate described above, all as shall be approved by the Mayor and City Clerk at the time of sale and pursuant to the terms and provisions further described in this Ordinance.

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

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

**SECTION 23. REPEAL, SAVINGS CLAUSE**

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

**SECTION 24. SEVERABILITY; PARAGRAPH HEADINGS; AND CONFLICT**

If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance. The paragraph headings in this Ordinance are furnished for convenience of reference only and shall not be considered to be part of this Ordinance.

**SECTION 25. PUBLICATION AND RECORDATION**

This Ordinance shall be published in full in The Flint Journal, a newspaper of general circulation in the City qualified under State law to publish legal notices, promptly after its adoption, and shall be recorded in the Ordinance book of the City and such recording authenticated by the signatures of the Mayor and City Clerk.

**SECTION 26. EFFECTIVE DATE**

This Ordinance shall be effective on adoption. (July 15, 1987)