

CITY OF GRANT

ORDINANCE NO. 36

AN ORDINANCE TO AUTHORIZE AND PROVIDE FOR THE ISSUANCE OF WATER REVENUE BONDS TO FUND A PORTION OF THE COST OF THE GRANT WATER SYSTEM; TO PROVIDE FOR THE SECURITY OF THE BONDS HEREIN AUTHORIZED; AND TO PROVIDE FOR OTHER MATTERS RELATIVE TO SAID IMPROVEMENTS AND BONDS.

THE CITY OF GRANT 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 of 1933, as amended.

(b) "Additional Bonds" means any additional bonds of equal standing with the 1994 Bonds issued pursuant to Section 17 of this Ordinance.

(c) "Aggregate Debt Service" for any period means, as of any date of calculation by the Commission, the sum of the amounts of the debt service for such period with respect to all Outstanding Bonds.

(d) "Aggregate Debt Service Requirement" means for any period, and as of any date of calculation, Aggregate Debt Service for such period, less any capitalized interest to be paid from the proceeds of the Bonds.

(e) "City" means the City of Grant, Newaygo County, Michigan.

(f) "Commission" or "City Commission" means the City Commission of the City.

(g) "Bond Reserve Requirement" means an amount equal to the lesser of (a) 10% of the principal amount of the Bonds, (b) an amount equal to the highest annual principal and interest requirements on the Bonds or (c) with respect to the 1994 Bonds, \$38,000.

(h) "1994 Bonds" means the City's Water Revenue Bonds, Series 1994 in the amount of \$586,000 as authorized by this Ordinance.

(i) "Bonds" means the 1994 Bonds and, when issued and delivered, any Additional Bonds authorized and issued in accordance with Section 17 of this Ordinance.

(j) "Consulting Engineers" means the engineer or engineering firm or firms appointed from time to time, and having a favorable reputation for skill and experience in the design and operation of municipal water systems, at the time retained by the Commission to perform the acts and carry out the duties provided for such Consulting Engineers in the Ordinance.

(k) "Depository" shall mean Grant State Bank, Grant, Michigan, or such other bank as shall be qualified under Section 15 of Act 94 and designated to act as depository pursuant to this Ordinance by resolution of the Commission.

(l) "Government" shall mean the United States of America acting by the Farmers Home Administration - United States Department of Agriculture.

(m) "Government Obligations" means direct obligations of (including obligations issued or held in book entry form on the books of) the United States of America.

(n) "Investment Obligations" means (to the extent now or hereafter permitted by law) the investments permitted by Section 24 of Act 94.

(o) "Net Revenues" means the Revenues remaining after deducting the reasonable expenses of administration, operation, and maintenance of the System.

(p) "Ordinance" means this Ordinance and any other ordinance amendatory to or supplemental to this Ordinance and shall include any ordinance authorizing the sale of a series of Bonds.

(q) "Outstanding Bonds" means Bonds theretofore or thereupon being authenticated and delivered under this Ordinance except:

(i) Bonds cancelled by the Transfer Agent at or prior to such date;

(ii) Bonds (or portions of Bonds) for the payment or redemption of which moneys or Government Obligations, equal to the principal amount or redemption price thereof, as the case may be, with interest to the date of maturity or redemption date, shall be held in trust under this Ordinance and set aside for such payment or redemption (whether at or prior to the maturity or redemption date), provided that if such Bonds (or portions of Bonds) are to be redeemed, notice of such redemption shall have been given as provided in this Ordinance or provision satisfactory to the Transfer Agent shall have been made for the giving of such notice; and

(iii) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and delivered hereunder.

(r) "Registered Owner" means the owner of a Bond as shown by the registration records kept by the Transfer Agent.

(s) "Revenues" means the income derived from the rates charged for the services, facilities, and commodities furnished by the System, including income derived by reason of future improvements, enlargements, extensions or repairs to the System. Revenues shall include earnings on investment of funds and accounts of the System required to be deposited in the Receiving Fund pursuant to this Ordinance and other revenues derived from or pledged to operation of the System.

(t) "System" means the complete public water supply system of the City intended to serve the City of Grant, including the well field, transmission and distribution mains, storage facilities, hydrants and meters together with all plants, works, instrumentalities and properties, used or useful in connection with obtaining a water supply, the treatment of water or the distribution of water and all additions, extensions and improvements existing or hereafter acquired.

(u) "Transfer Agent" means City Treasurer, or such successor as shall be named by the City.

Section 2. Necessity; Approval of Plans and Specifications; Estimated Cost; Period of Usefulness. It is hereby determined to be necessary for the public health, safety and welfare of the City to acquire and construct the System, in accordance with the detailed plans and specifications therefor prepared by McNamee, Porter & Seeley, Inc., consulting engineers of Ann Arbor, Michigan, which plans and specifications are hereby approved. The cost of the System has been estimated by said engineers to be Three Million Three Hundred Twenty-nine Thousand Five Hundred Thirty-four Dollars (\$3,329,534) including the payment of incidental expenses as are hereafter specified in Section 3 of this Ordinance, which estimate of cost is hereby approved and confirmed, and the period of usefulness of the public improvements is estimated to be greater than forty (40) years.

Section 3. Issuance of Bonds. To defray a portion of the cost of acquiring and constructing the System, including the payment of legal, engineering, financial, capitalized interest during the period of construction (estimated at 12 months) and other expenses incident thereto and incident to the issuance and sale of the Bonds, it is hereby determined that, in accordance with the approving vote of City electors, the City borrow the sum of Five Hundred Eighty-six Thousand Dollars (\$586,000) and issue the 1994 Bonds therefor pursuant to the provisions of Act 94. The remaining cost of the System is expected to be paid by government grants, an installment purchase agreement (if necessary) and funds on hand of the City.

Section 4. 1994 Bond Details, Registration and Execution. The 1994 Bonds shall be issued in the aggregate amount of \$586,000 and shall be designated WATER REVENUE BONDS, SERIES 1994, substantially in the form attached to this Ordinance as Exhibit A. The 1994 Bonds shall be payable solely out of the Net Revenues and other monies pledged under this Ordinance and shall not be a general obligation of the City. The 1994 Bonds shall be issued in fully-registered form in a single manuscript bond or in the denomination of \$1,000 or integral multiples thereof not exceeding the amount of the 1994 Bonds maturing on the same date and shall be numbered in consecutive order of authentication from R-1 upwards. The 1994 Bonds shall be dated as of the date of delivery, shall bear interest in the manner set forth in the Bond form attached hereto as Exhibit A at the rate of five percent (5.000%) per annum payable on December 1, 1994, and semiannually thereafter on June 1 and December 1 of each year, and shall mature on June 1 in the

years 1996 to 2034, as follows:

<u>Maturity Date</u>	<u>Principal</u>
June 1, 1996	\$ 2,000
June 1, 1997	5,000
June 1, 1998	5,000
June 1, 1999	6,000
June 1, 2000	6,000
June 1, 2001	6,000
June 1, 2002	7,000
June 1, 2003	7,000
June 1, 2004	8,000
June 1, 2005	8,000
June 1, 2006	8,000
June 1, 2007	9,000
June 1, 2008	9,000
June 1, 2009	10,000
June 1, 2010	10,000
June 1, 2011	11,000
June 1, 2012	12,000
June 1, 2013	12,000
June 1, 2014	13,000
June 1, 2015	14,000
June 1, 2016	15,000
June 1, 2017	15,000
June 1, 2018	16,000
June 1, 2019	17,000
June 1, 2020	18,000
June 1, 2021	19,000
June 1, 2022	20,000
June 1, 2023	21,000
June 1, 2024	22,000
June 1, 2025	23,000
June 1, 2026	24,000
June 1, 2027	25,000
June 1, 2028	25,000
June 1, 2029	25,000
June 1, 2030	26,000
June 1, 2031	26,000
June 1, 2032	27,000
June 1, 2033	27,000
June 1, 2034	27,000

Interest shall be payable by check drawn on the Depository and mailed to each Registered Owner at the registered address, as shown on the registration books of the City maintained by the Transfer

Agent. 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 principal of the Bonds shall be payable by the Transfer Agent at the principal office of the Depository upon presentation and surrender thereof. Principal of and interest on the Bonds shall be payable in lawful money of the United States.

The 1994 Bonds shall be subject to redemption prior to maturity in whole or in part in increments of \$1,000 or multiples thereof in inverse order of maturity on any interest payment date at par without premium plus accrued interest to the date of redemption upon thirty (30) days written notice to be given by the Transfer Agent.

The Bonds shall be signed by the original or facsimile signature of the Mayor and countersigned by the original or facsimile signature of the City Clerk. The Bonds shall have the corporate seal of the City affixed thereto or printed thereon in facsimile form. No Bond shall be valid until authenticated by the Transfer Agent. The 1994 Bonds shall be delivered to the Transfer Agent for authentication and shall be delivered by the Transfer Agent to the purchaser in accordance with instructions from the City upon payment of the purchase price for the 1994 Bonds. Executed blank 1994 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, upon surrender of the Bond to the Transfer Agent by the Registered Owner thereof, accompanied by delivery of a duly executed written instrument of transfer satisfactory to the Transfer Agent, may be exchanged for Bonds of any other authorized denominations of the same aggregate principal amount, maturity date and interest rate as the surrendered Bond.

Any Bond may be transferred upon the books of the City maintained by the Transfer Agent by the Registered Owner thereof, 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 Transfer Agent shall authenticate and deliver a new Bond or Bonds, for like aggregate principal amount, maturity, and interest rate. The Transfer Agent shall require the payment by the Registered Owner 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 15 business days before the date of the mailing of a notice of redemption of Bonds selected for redemption under this Ordinance and ending at the close of business on the day of that mailing, or (ii) to register the transfer of or exchange any Bond so selected for redemption in whole or in part, except the unredeemed portion of Bonds being redeemed in part.

Section 5. Payment of Bonds; Creation of Lien. The Bonds and the interest thereon shall be payable solely from the Net Revenues (except to the extent payable from the proceeds of Bonds), and to secure such payment, there is hereby created a first priority statutory lien upon the whole of the Net Revenues. Pursuant to provisions of Act 94, the City hereby pledges to the repayment of the principal of, redemption premium, if any, and interest on the Bonds, the funds and accounts established by this Ordinance, and a first priority statutory lien is hereby created on such funds and accounts. The lien and pledge provided by this Ordinance shall continue until payment in full of the principal of and interest on all Bonds payable from Net Revenues.

Section 6. Management. The operation, repair and management of the System shall be under the supervision and control of the City Commission. The City may employ such person or persons in such capacity or capacities as it deems advisable to carry on the efficient administration of the System. The City may make such rules and regulations as it deems advisable and necessary to assure the efficient management and operation of the System.

Section 7. Charges. The rates to be charged for service furnished by the System and the methods of collection and enforcement of the collection of the rates shall be those permitted by law and established by the Commission on or before the date of adoption of this Ordinance and thereafter as established by the Commission.

Section 8. No Free Service. No free service shall be furnished by the System to any person, firm or corporation, public or private, or to any public agency or instrumentality.

Section 9. Rate Covenant. The rates charged in accordance with Section 7 of this Ordinance 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,

and when taken together with Net Revenues, to provide for (i) an amount equal to the annual principal and interest requirements on all of the Bonds as the same become due and payable, (ii) the creation and maintenance of the Bond Reserve Account, and (iii) to provide for all other obligations, expenditures and funds for the System required by law and this Ordinance. The rates shall be fixed and revised from time to time as may be necessary to produce these amounts, and the City hereby covenants and agrees to fix and maintain rates in accordance with Act 94 for services furnished by the System at all times sufficient to provide for the foregoing.

Section 10. Operating Year. The System shall be operated on the basis of an operating year which corresponds to the fiscal year of the City which currently commences on July 1 and ends on the last day of the following June.

Section 11. Funds and Accounts, Flow of Funds. All Revenues of the System shall be set aside as collected and credited to a fund established with the Depository to be designated WATER SYSTEM RECEIVING FUND (the "Receiving Fund"). The Revenues so credited are pledged for the purpose of the following funds and shall be transferred within or from the Receiving Fund periodically in the manner and at the times hereinafter specified:

A. OPERATION AND MAINTENANCE FUND: Quarterly, out of the Revenues credited to the Receiving Fund there shall be first set aside in, or credited to, a fund hereby ordered to be established and maintained with the Depository and designated OPERATION AND MAINTENANCE FUND, a sum sufficient to provide for the payment of the ensuing quarter's expenses of administration and operation of the System including such current expenses for the maintenance thereof as may be necessary to preserve the same in good repair and working order.

The City Commission, prior to the commencement of each operating year, shall adopt a budget covering the foregoing expenses for such year. During the course of the operating year, the total of such expenses shall not exceed the total amount specified in the budget, except by a majority vote of the members-elect of the City Commission.

B. BOND AND INTEREST REDEMPTION FUND. There shall be established and maintained a separate depository fund designated BOND AND INTEREST REDEMPTION FUND (the "Redemption Fund"), the moneys on deposit therein from time to time to be used solely for the purpose of paying the principal of, redemption premium, if any,



and interest on the 1994 Bonds. The moneys in the Redemption Fund, shall be kept on deposit with the Depository for the Bonds.

Out of the Net Revenues remaining in the Receiving Fund, after provision for the credit or deposit to the Operation and Maintenance Fund, there shall next be set aside, quarterly, and transferred to the Transfer Agent for deposit in the Redemption Fund a sum sufficient to provide for the payment of the principal of, redemption requirements, if any, and interest on the 1994 Bonds as and when the same become due and payable, subject to any credit therefor as provided in this Section. If there shall be any deficiency in the amount previously required to be set aside, then the amount of such deficiency shall be added to the next succeeding quarterly requirement.

There is hereby established in the Redemption Fund a separate account to be known as the BOND RESERVE ACCOUNT. The Bond Reserve Account shall be funded by the City commencing June 1, 1997 by the deposit of Net Revenues remaining, if any, after the set aside into the Redemption Fund of a sufficient sum for current principal and interest payments on the 1994 Bonds as provided in the preceding paragraph. The Bond Reserve Account shall be funded, to the extent of available monies, in the amount of ~~\$3,800~~ annually <sup>3590<sup>00</sup></sup> until an amount equal to the Bond Reserve Requirement has been accumulated. All investment earnings in the Bond Reserve Account shall be transferred to the Redemption Fund and set aside for payment of current principal and interest on the 1994 Bonds. If at any time it shall be necessary to use moneys credited to the Bond Reserve Account for the payment of principal and interest on the 1994 Bonds, then the moneys so used shall be replaced over a period of not more than 5 years from the Net Revenues first received thereafter which are not required for current principal and interest requirements. If at any time there is any excess in the Bond Reserve Account over the Bond Reserve Requirement, such excess may be transferred to such fund or account as the Commission shall direct.

No further payments need be made into the Redemption Fund after enough of the Bonds have been retired so that the amount then held in the Redemption Fund is equal to the entire amount of principal and interest which will be payable at the time of maturity of all Outstanding Bonds and the monies so held shall be used solely to pay the principal of and interest on the Bonds, including redemption premium, if any, as the Bonds become due either by maturity or by redemption prior to maturity.

C. REPLACEMENT AND IMPROVEMENT FUND: There shall be established and maintained with the Depository a fund designated REPLACEMENT AND IMPROVEMENT FUND (the "Replacement Fund"). Except as hereinafter provided, the money credited thereto shall be used solely for the purpose of making major repairs, replacements, improvements and extensions to the System. There shall next be set aside in or credited to the Replacement Fund, after provision is made for the requirements of the foregoing funds and accounts, such amount as established by the City. If at any time it shall be necessary to use moneys in the Replacement Fund the moneys so used shall be replaced from any moneys in the Receiving Fund which are not required by this Ordinance to be used for the Operation and Maintenance Fund and the Redemption Fund, including the Bond Reserve Account.

D. SURPLUS MONEYS: Any Revenues in the Receiving Fund at the end of any quarter of any operating year after satisfying all requirements of the Operation and Maintenance Fund, the Redemption Fund, including the Bond Reserve Account and the Replacement Fund, shall be deemed to be surplus moneys, and may, at the option of the Commission be used for any of the following purposes:

1. Transferred to the Replacement Fund;
2. Transferred to the Redemption Fund and used for the redemption, payment, or purchase of Bonds; or
3. Used for such purpose or purposes as the City Commission may determine to be for the best interests of the City, subject to the prior consent of the Government so long as the Government is a Registered Owner.

If there should be any deficit in the Operation and Maintenance Fund, Redemption Fund, including the Bond Reserve Account, or the Replacement Fund on account of defaults in setting aside required amounts therein, then transfers shall be made from the moneys remaining in the Receiving Fund at the end of any operating year to those funds in the priority and order specified herein, to the extent of any deficit, before any other disposition is made of the monies in the Receiving Fund at the end of any operating year.

Section 12. Depository; Fidelity Bond. Moneys in the several funds and 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 and deposited to the Construction Fund in accordance with Section 14, below, may be kept in one bank account with the Depository, in which event the moneys in the bank account shall be allocated on the books and records of the City and deposited to the fund and accounts herein established, in the manner and at the times provided in this Ordinance. So long as the Government is a Registered Owner of 1994 Bonds, the City Treasurer and all other persons responsible for the handling of Revenues and proceeds of the 1994 Bonds shall execute a fidelity bond in the amount required by the Government with a surety company approved by the Government, which names the City and the Government as co-obligees and the amount thereof shall not be reduced without the prior written consent of the Government.

Section 13. Priority of Funds. In the event the moneys in the Receiving Fund are insufficient to provide for the current requirements of the Operation and Maintenance Fund or the Redemption Fund any moneys or securities in other funds of the System, except the proceeds of sale of the 1994 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 14. 1994 Bond Proceeds. From the proceeds of sale of the 1994 Bonds there shall be immediately deposited in the Redemption Fund, an amount equal to the capitalized interest received on the 1994 Bonds. No accrued interest or premium will be received on delivery of the 1994 Bonds. The balance of the proceeds of the sale of the 1994 Bonds shall be deposited in a separate depository fund designated GRANT WATER SYSTEM CONSTRUCTION FUND (the "Construction Fund"). The monies in the Construction Fund shall be kept on deposit with the Depository. Monies in the Construction Fund shall be applied solely in payment of the costs of the Project and 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 a signed statement to the effect that the work has been completed in accordance with the plans and specifications therefor; that it was done pursuant to and in accordance with the contract therefor; that such work is satisfactory; and that such

work has not been previously paid for. No proceeds of the 1994 Bonds shall be used to fund the Bond Reserve Account.

Any unexpected balance of the proceeds of sale of the 1994 Bonds remaining after completion of the System in the Construction Fund may in the discretion of the City and to the extent of fifteen percent (15%) of the principal amount of the 1994 Bonds be used for further improvements, enlargements and extensions to the System if, at the time of such expenditure, such use is approved by the Municipal Finance Division of the Michigan Department of Treasury or any successor agency, if such permission is then required by law; provided that in the event the Government is a Registered Owner of the 1994 Bonds, the use of any unexpended balance in the Construction Fund must be authorized in writing by the Government. Any remaining balance after such expenditure shall be paid into the Redemption Fund and may be used for the purpose of redeeming Bonds or purchasing Bonds on the open market at not more than the fair market value thereof.

Section 15. Investments. Moneys in the funds and accounts established herein, and moneys derived from the proceeds of sale of the Bonds may be invested by the City Treasurer on behalf of the City in Investment Obligations. Investment of moneys in the Redemption Fund being accumulated for payment of the next maturing principal or interest payment on the Bonds shall be limited to Government Obligations bearing maturity dates prior to the date of the next maturing principal or interest payment respectively on the Bonds. Investments of moneys in any other funds or accounts, including moneys derived from the proceeds of sale of the Bonds, shall be limited to obligations bearing maturity dates or subject to redemption, at the option of the holder thereof, not later than the time estimated by the City when the moneys from such investments will be required. Any securities representing investments shall be kept on deposit with the bank or trust company having on deposit the fund or funds or account from which such purchase was made. Earnings or profits on any investment of funds in any fund or account established in this Ordinance shall be deposited in or credited to the fund or account to which the investment belongs unless otherwise provided in this Ordinance.

Section 16. Covenants. The City covenants and agrees with the Registered Owners of the Bonds that so long as any of the Bonds remain as Outstanding Bonds 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 maintain and keep proper books of record and account separate from all other records and accounts of the City in accordance with applicable law. Not later than six (6) months after the close of each operating year of the System, the City will cause an annual audit of the books of record and account of the System for the preceding operating year by an independent certified public accountant. The audit shall be completed and made available in accordance with applicable law. So long as the Government is the Registered Owner, the audit shall be performed in accordance with current Government requirements and a copy of the audit shall be filed with the Government. The audit may, at the option of the City, be used in lieu of the statement to be prepared for the Michigan Department of Treasury and for all purposes which the statement is required to be used by this Ordinance.

(c) The City shall maintain and carry, for the benefit of the Registered Owners 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 public water 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 placed in the Redemption Fund and used for the purpose of redeeming or purchasing Bonds.

(d) The Commission will not sell, lease, mortgage or otherwise dispose of any part of the System, except for sales or exchanges of property or facilities which will not impair the ability of the City to comply with the rate covenant set forth in Section 9 of this Ordinance.

(e) So long as the Government is the Registered Owner, and notwithstanding anything provided to the contrary in this Ordinance, the City shall comply with all terms and provisions of Loan Resolution, Form FMHA 1942-47, as adopted by the City prior to the issuance of the Bonds.

(f) So long as the Government is the Registered Owner of the 1994 Bonds, it shall have the right to inspect the System and the records, accounts and data relating thereto at all reasonable times.

Section 17. Additional Bonds. The right is reserved, in accordance with the provisions of Act 94, to issue Additional Bonds payable from the Net Revenues of the System which shall be of equal standing and priority of lien on the Net Revenues of the System with the 1994 Bonds, but only for the following purposes and under the following terms and conditions:

(a) For repairs, extensions, enlargements and improvements to the System or for the purpose of refunding a part of any Outstanding Bonds (unless such partial refunding is done in compliance with (b) below) 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 fiscal year of the System preceding the year in which the Additional Bonds are to be issued shall be equal to at least one hundred twenty (120%) percent of the average annual debt service requirements on all Outstanding Bonds and on the Additional Bonds then being issued; provided, that this limitation may be waived or modified by the written consent of the Registered Owners of not less than 75 percent in principal amount of the Bonds then outstanding. If the Additional Bonds are to be issued in whole or in part for refunding Outstanding Bonds the maximum Aggregate Debt Service shall be determined by deducting from the principal and interest requirements for each operating year the annual Aggregate Debt Service Requirements of any Bonds to be refunded from the proceeds of the Additional Bonds.

Net Revenues may be augmented as follows for the purposes of this subsection (a).

(1) If the System rates, fees or charges shall be increased at or prior to the time of authorizing the Additional Bonds, the Net Revenues may be augmented by an amount which in the opinion of the Consulting Engineers will reflect the effect on the increase had the System's billings during such time been at the increased rates.

(2) The actual Net Revenues may be augmented by the estimated increase in Net Revenues which in the opinion of the Consulting Engineers will accrue as a result of new customers which have not been serviced during the preceding 12 months or as a result of the acquisition of the repairs, extensions, enlargements and improvements to said System which have been made during the preceding twelve months or which will be acquired in whole or in part from the proceeds of the Additional Bonds to be issued.

(3) If the Bond Reserve Account is to be fully funded to an amount equal to the Bond Reserve Requirement from the proceeds of Additional Bonds, then 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 Reserve Account to be funded from the proceeds of the Additional Bonds being issued.

No Additional Bonds of equal standing as to the Net Revenues of the System shall be issued pursuant to the authorization contained in subparagraphs (a) or (c) if the City shall then be in default in making its required payments to the Operating and Maintenance Fund or the Redemption Fund.

(b) For refunding all or 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, if after giving effect to the refunding the maximum amount of Aggregate Debt Service in each future fiscal year shall be less than the Aggregate Debt Service in each future fiscal year prior to giving effect to the refunding.

(c) Additional Bonds may be issued without meeting any of the conditions and tests set forth in subsection (a) above for any one or more of the following purposes (i) to complete the acquisition and construction of the System in the event the proceeds of the 1994 Bonds are insufficient therefore, (ii) to pay the cost of acquisition and construction of any repairs, replacements, betterments, improvements, major renewals or corrections of any damage or loss to the System necessary, in the opinion of the Consulting Engineer, to keep the System in good operating condition or to prevent a loss of Revenues therefrom to the extent that the cost thereof cannot

reasonably be paid from the Replacement Fund or from insurance proceeds, or (iii) to pay the cost of decommissioning, disposal or termination of the System.

(d) A determination by the Commission as to existence of conditions permitting the issuance of Additional Bonds shall be conclusive.

(e) Notwithstanding the above, the issuance of Additional Bonds shall require the prior written consent of the Government, so long as the Government is the Registered Owner of the 1994 Bonds.

Section 18. Appointment of Receiver and Statutory Rights. In the event of a default in the punctual payment of principal of and interest on the Bonds when due, any Court, having jurisdiction in any proper action may appoint a receiver of the System in accordance with the provisions of Act 94. The Registered Owners of Bonds representing in the aggregate principal amount not less than twenty percent (20%) of all Outstanding Bonds, may protect and enforce the statutory lien and pledge of the funds and accounts and Net Revenues created by Act 94, and enforce and compel the performance of all duties of the officials of the City and the Commission, including the fixing of sufficient rates, the collection of Revenues, the proper segregation of Revenues, and the proper application of Revenues. In addition to the rights conferred to Registered Owners by the Ordinance, the Registered Owners shall have all the rights conferred by Act 94. The statutory lien upon the Net Revenues, however, shall not be construed to compel the sale of the System or any part thereof.

Section 19. Remedies Not Exclusive. No remedy by the terms of the Ordinance conferred upon or reserved to the Registered Owners is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under the Ordinance or existing at law or in equity or by statute on or after the date of the Ordinance.

Section 20. Effect of Waiver and Other Circumstances. No delay or omission of any Registered Owner to exercise any right or power arising upon the happening or an event of default shall impair any right or power or shall be construed to be a waiver of any such event of default or be an acquiescence therein and every power and remedy given by this Ordinance to the Registered Owners may be exercised from time to time and as often as may be deemed expedient by the Registered Owners.



Section 21. Sale of 1994 Bonds. The 1994 Bonds shall be sold on a negotiated sale basis at par to the Government pursuant to Section 12(4) of Act 94 on the terms set forth in this Ordinance. The Mayor, Clerk, Treasurer and City Administrator are hereby authorized to do all other acts and undertake all necessary procedures required to effectuate the sale, issuance and delivery of the 1994 Bonds.

Section 22. Covenant Regarding Tax Exempt Status of the Bonds. The 1994 Bonds and the interest on the 1994 Bonds shall be exempt from taxation by the State of Michigan or by any taxing authority within the State of Michigan. The City hereby covenants it shall take all actions necessary to maintain the exemption of the interest on the Bonds from general federal income taxation (as opposed to alternative minimum or other indirect taxation) under Internal Revenue Code of 1986, as amended (the "Code"), including but not limited to, actions relating to the rebate of arbitrage earnings and the expenditure and investment of Bond proceeds and moneys deemed to be Bond proceeds. Additionally, the Commission hereby designates the 1994 Bonds as "qualified tax exempt obligations" for purposes of deduction of interest expense by financial institutions under the provisions of Section 265(b) (3) of the Code, it being reasonably anticipated that the aggregate amount of qualified tax exempt obligations which will be issued by the City and all subordinate entities to the City shall not exceed \$10,000,000 during calendar year 1994.

Section 23. Ordinance to Constitute Contract. In consideration of the purchase and acceptance of any and all of the Bonds authorized to be issued hereunder by those who shall hold the same from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the City and the Registered Owners from time to time of the Bonds and the lien and pledge made in this Ordinance and the covenants and agreements herein set forth to be performed on behalf of the City shall be for the equal benefit, protection and security of the Registered Owners of any and all of the bonds, all of which, regardless of the time or times of their authentication and delivery or maturity, shall be of equal rank without preference, priority or distinction of any of the Bonds over any other thereof except as expressly provided in or permitted by this Ordinance. So long as the Government is the Registered Owner of the 1994 Bonds, this Ordinance shall be subject to the Loan Resolution, Form FMHA 1942-47, as adopted by the City prior to the issuance of the Bonds.

Section 24. Graduation of Bonds. If at any time that the Government is a Registered Owner of 1994 Bonds it shall appear to the Government that the City is able to refund, upon call for redemption or with consent of the Government, the then outstanding Bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and period of time the City will, upon request of the Government, apply for and accept such loan, in sufficient amount to repay the Government.

Section 25. Execution of Bonds. The Mayor and City Clerk are authorized and directed to execute the Bonds on behalf of the City in substantially the form approved with such necessary variations, omissions, corrections and insertions as they deem appropriate and are required for and on behalf of the City, manually or by facsimile signature for and on behalf of the City, and to place thereon the City Seal or a facsimile thereof; provided that the Bonds shall be executed by the facsimile signatures of the said Mayor and City Clerk only if the Bonds are thereafter manually authenticated by the Transfer Agent. Upon execution of the Bonds, the City Treasurer is hereby authorized and directed to deliver or cause to be delivered the Bonds to the purchaser or purchasers thereof, upon receipt of the purchase price therefor. It is understood that the Government may take delivery of and/or pay for the Bonds in one or more installments. The proceeds of the Bonds shall be deposited into the Receiving Fund and the Construction Fund, as provided in Sections 11 and 14, above.

Section 26. Execution of Closing Documents. The Mayor, Clerk, Treasurer and City Administrator are authorized and directed to execute and deliver on behalf of the City such other certificates, affidavits, investment agreements or other documents or instruments as may be required by the purchaser of the Bonds or bond counsel or convenient to effectuate the execution and delivery of the Bonds.

Section 27. Delivery of Bonds. The City shall furnish the Bonds ready for execution without expense to the purchaser. The City shall also furnish without expense to the purchaser at the time of delivery of the Bonds, the approving opinion of Mika, Meyers, Beckett & Jones, Attorneys, Grand Rapids, Michigan, approving the legality of the Bonds. The Bonds will be delivered at the expense of the City in such City as agreed upon with the purchaser thereof.

Section 28. Conflicting Ordinances. All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this Ordinance are repealed.

Section 29. Severability and Paragraph Headings. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provisions 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 a part of this Ordinance.

Section 30. Publication and Recordation. This Ordinance shall be published in full in *The Fremont Times Indicator*, 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 the City Clerk.

Section 31. Effective Date. This Ordinance is hereby determined by the City Commission to be an emergency ordinance immediately necessary for the preservation of the public peace, property, health, and safety of the City and shall become effective immediately upon its adoption.

Passed and adopted by the City Commission of the City of Grant, County of Newaygo, Michigan, on June 13, 1994, and approved by me on June 13, 1994.

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Alexander J. McKinley, II, Mayor  
City of Grant

ATTEST:

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Mary Lou Jozsa  
City Clerk

REGISTERED

REGISTERED

EXHIBIT A

(FORM OF REGISTERED BOND)

UNITED STATES OF AMERICA

STATE OF MICHIGAN

COUNTY OF NEWAYGO

CITY OF GRANT

WATER REVENUE BOND  
SERIES 1994

No. R-\_\_\_\_

REGISTERED OWNER:

PRINCIPAL AMOUNT:

INTEREST RATE: Five percent (5.000%) per annum

DATE OF ORIGINAL ISSUE AND REGISTRATION: The date each installment portion of the Principal Amount was delivered to the Registered Owner as set forth on the Certificate of Registration and Authentication.

The City of Grant, County of Newaygo, State of Michigan (the "City"), for value received, hereby promises to pay the Principal Amount shown above to the Registered Owner specified above on the Maturity Dates and in the amounts set forth in Schedule I, attached hereto and made a part hereof, with interest thereon from the Date of Original Issue and Registration specified above until paid at the Interest Rate per annum specified above, payable on December 1, 1994, and semi-annually on each June 1 and December 1 thereafter from the June 1 or December 1 next preceding, unless interest on this bond has not been paid in full or duly provided for, in which case from the date to which interest has been paid in full, or if no interest has been paid on this bond, from the Date of Original Issue and Registration specified above, until payment of the Principal Amount has been made or duly provided for. Principal of this bond is payable at the principal office of Grant State Bank, Grant, Michigan, or such other location as the City may hereinafter

designate by notice mailed to the registered owner not less than 60 days prior to any interest payment date by the City Treasurer, as transfer agent or any succeeding transfer agent as shall be named by the City (the "Transfer Agent"). Interest on the unpaid outstanding principal balance of this bond is payable to the registered owner of this bond as the 15th day of the month next preceding the payment date as shown on the registration books of the City kept by the Transfer Agent by check or draft mailed to the registered owner at the registered address, and for the prompt payment thereof, the revenues of the Grant Water System (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 lien thereon has been created. The principal of and interest on this Bond shall be payable in lawful money of the United States.

This bond is one of a series of bonds of like tenor, except as to denomination and date of maturity, aggregating the principal sum of \$586,000, issued pursuant to Ordinance No. \_\_\_\_\_ (the "Ordinance"), 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 acquisition and construction of the Grant Water 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, the rights and limitations on the owners of the bonds and the general covenants and provisions pursuant to which this bond is issued, reference is made to the Ordinance.

Bonds of this series maturing on June 1, 1996, and thereafter are subject to redemption prior to maturity at the option of the City, at any interest payment date on and after December 1, 1994, in whole or in part, in increments of \$1,000 or multiples thereof in the amount selected by the City, in inverse order of maturity at par without premium, plus accrued interest to the date of redemption.

Notice of call of bonds for redemption shall be given by the Transfer Agent to the registered owner by registered mail, mailed not less than 30 days prior to the date fixed for redemption to the registered address, provided that the failure to receive such notice shall not affect the validity of the redemption. Bonds so

called for redemption shall not bear interest after the date fixed for redemption, provided funds are on hand with the Transfer Agent to redeem the bonds called for redemption.

This bond is a self-liquidating bond and is not a general obligation of the City and does not constitute an indebtedness of the City within any constitutional, statutory or charter 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 a first priority statutory lien on the Net Revenues of the System.

The City has covenanted and agreed, and does hereby covenant and agree to fix and maintain at all times while any bonds payable from the Net Revenues of the System shall be outstanding, such rates for service furnished by the System as shall be sufficient to provide for payment of the principal of and interest on the bonds of this issue and any other bonds payable from the Net Revenues as and when the same shall become due and payable, and to maintain a bond reserve fund therefor, to provide for the payment of expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the same in good repair and working order, and to provide for such other expenditures and funds for the System as are required by the Ordinance.

This bond is transferable only upon the registration books of the City kept by the Transfer Agent by the registered owner hereof in person, or by his attorney duly authorized in writing, upon the surrender of this bond together with a written instrument of transfer satisfactory to the Transfer Agent duly executed by the registered owner or its attorney duly authorized in writing, and thereupon a new registered bond or bonds in the same aggregate principal amount and of the same maturity shall be issued to the transferee in exchange therefor as provided in the Ordinance, and upon the payment of the charges, if any, therein prescribed.

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

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

IN WITNESS WHEREOF, the City of Grant, County of Newaygo, State of Michigan, by its City Commission, has caused this bond to be executed by its Mayor and its City Clerk and its corporate seal to be affixed on this bond all as of \_\_\_\_\_, 1994.

CITY OF GRANT

By \_\_\_\_\_  
Alexander J. McKinley, II  
Its Mayor

[SEAL]

By \_\_\_\_\_  
Mary Lou Jozsa  
Its City Clerk

CITY OF GRANT  
COUNTY OF NEWAYGO, MICHIGAN

At a regular meeting of the City Commission of the City of Grant, County of Newaygo, Michigan, held in the City Hall in said City, on Monday, June 13, 1994, at 6:30 p.m. Local Time.

PRESENT: Members: \_\_\_\_\_  
\_\_\_\_\_

ABSENT: Members: \_\_\_\_\_

It was moved by Member DeWitt and seconded by Member Wardie that the following Ordinance be adopted.

ORDINANCE NO. 36

AN ORDINANCE TO AUTHORIZE AND PROVIDE FOR THE ISSUANCE OF WATER REVENUE BONDS TO FUND A PORTION OF THE COST OF THE GRANT WATER SYSTEM; TO PROVIDE FOR THE SECURITY OF THE BONDS HEREIN AUTHORIZED; AND TO PROVIDE FOR OTHER MATTERS RELATIVE TO SAID IMPROVEMENTS AND BONDS.

Upon roll call vote, the vote upon the motion adopting said Ordinance was as follows:

YEAS: Members: \_\_\_\_\_

NAYS: Members: \_\_\_\_\_

The City Clerk declared the Ordinance adopted.

The following is Ordinance No. 36 as adopted: