

ORDINANCE NO. 40

AN ORDINANCE SUPPLEMENTING ORDINANCE NO. 33 ADOPTED BY THE VILLAGE COUNCIL OF THE VILLAGE OF DRYDEN, LAPEER COUNTY, MICHIGAN, ON MARCH 1, 1982, TO AUTHORIZE THE ISSUANCE OF WATER SUPPLY SYSTEM REVENUE REFUNDING BONDS BY SUCH VILLAGE FOR THE PURPOSE OF REFUNDING OUTSTANDING BONDS ISSUED TO PAY COSTS OF CONSTRUCTING ADDITIONS AND IMPROVEMENTS TO THE WATER SUPPLY SYSTEM FOR SUCH VILLAGE; TO PRESCRIBE THE FORM OF THE REFUNDING BONDS; TO ESTABLISH AN ESCROW AGREEMENT TO PROVIDE FOR SUCH REFUNDING; TO PROVIDE FOR PAYMENT OF THE REFUNDING BONDS; AND TO APPROVE OTHER MATTERS PERTAINING THERETO.

PREAMBLE

WHEREAS, pursuant to the provisions of Act No. 94, Public Acts of Michigan, 1933, as amended ("Act 94"), the Village of Dryden (the "Issuer") has issued its Water Supply System Revenue Bonds dated July 1, 1982 (the "Prior Bonds") in the original principal amount of \$330,000 to defray the cost of constructing additions and improvements to the water supply system as described in Ordinance No. 33 adopted by the Village Council of the Issuer on March 1, 1982 (the "Original Ordinance");

WHEREAS, the Prior Bonds remain outstanding in the aggregate principal amount of \$326,000, mature in various principal amounts on July 1 in the years 1987 through 2021 and bear interest at the rate of 11.375% per annum;

WHEREAS, both the Act and the Original Ordinance authorize the Village to issue additional bonds of equal standing with the Prior Bonds for the purpose of refunding the Prior Bonds;

WHEREAS, the Issuer has received a proposal from First of Michigan Corporation (the "Underwriter") to refund all of the outstanding Prior Bonds; and

WHEREAS, the Issuer has now determined that it is desirable and in its best interests that the Issuer refund the outstanding Prior Bonds for the

purpose of reducing its interest costs and its annual debt service requirements.

NOW, THEREFORE, THE VILLAGE OF DRYDEN ORDAINS:

SECTION 101. Definitions. All terms defined in the Original Ordinance are used with the same meaning herein unless expressly given a different meaning herein or unless the context clearly requires otherwise.

In addition to the terms elsewhere defined herein, including those defined above, the following terms shall have the following meanings:

"Bonds to Be Refunded" means the Prior Bonds which mature on and after July 1, 1987, in the aggregate principal amount of \$326,000 outstanding on the date of adoption of this Supplemental Ordinance.

"Ordinance" means the Original Ordinance, as supplemented and amended by this Supplemental Ordinance.

"Refunding Bonds" means the Village of Dryden Water Supply System Revenue Refunding Bonds authorized to be issued under Section 201 of this Supplemental Ordinance.

"Supplemental Ordinance" means this Ordinance No. 40, adopted by the Village Council of the Issuer on December 1, 1986.

SECTION 201. Authorization of Refunding Bonds; Designation; Purpose; Security. Subject and pursuant to the provisions of the Original Ordinance, there is hereby created and authorized an issue of bonds of the Issuer designated "Water Supply System Revenue Refunding Bonds" in the aggregate principal amount of not to exceed \$325,000, to be issued under and pursuant to the Act, which Refunding Bonds are in addition to the Prior Bonds and, except as to differences in maturity dates, interest rates and provisions for redemption, shall be on a parity for all purposes with all other outstanding

Bonds. The Refunding Bonds shall be issued and sold, and the proceeds of the Bonds together with other available funds of the Issuer shall be used, for the purpose of refunding all of the Bonds to Be Refunded on January 2, 1987 and paying the cost of the Underwriter's discount on the Refunding Bonds.

SECTION 301. Bond Details. The Refunding Bonds shall be dated December 1, 1986 or such later date as shall be approved by the Issuer at the time of sale; shall be numbered from 1 upwards; shall be fully registered; shall be in the denomination of \$5,000 each or any integral multiple thereof not exceeding the aggregate principal amount for each maturity at the option of the purchaser thereof; shall bear interest at a rate or rates not exceeding 9% per annum to be determined upon the sale thereof payable on such dates as shall be determined by the Issuer at the time of sale; and shall mature on such dates and in such years as shall be determined by the Issuer at the time of sale.

SECTION 401. Payment of Principal and Interest. The principal of and interest on the Refunding Bonds shall be payable in lawful money of the United States of America. Principal shall be payable upon presentation and surrender of the Refunding Bonds to the bond registrar and paying agent, as they severally mature. Interest shall be paid to the registered owner of each Refunding Bond as shown on the registration books at the close of business on the fifteenth day of the calendar month preceding the month in which the interest payment is due. Interest shall be paid when due by check or draft mailed by the bond registrar and paying agent to the registered owner at the registered address.

SECTION 501. Prior Redemption. The Refunding Bonds shall be subject to redemption prior to maturity upon such terms and conditions as shall be determined by the Issuer at the time of sale.

SECTION 601. Bond Registrar and Paying Agent. The Issuer shall designate, and may enter into an agreement with, a bond registrar and paying agent for the Refunding Bonds, which shall be a bank or trust company located in the State of Michigan which is qualified to act in such capacity under the laws of the United States of America or the State of Michigan. Thereafter, from time to time as required, the Issuer may designate a similarly qualified successor bond registrar and paying agent.

SECTION 701. Execution and Delivery of Refunding Bonds. The Refunding Bonds shall be executed in the name of the Issuer with the facsimile signatures of the Village President and the Village Clerk, and shall have the Issuer's seal or a facsimile thereof printed or affixed thereon.

No Refunding Bond shall be valid until authenticated by an authorized officer of the bond registrar and paying agent. The Refunding Bonds shall be delivered to the bond registrar and paying agent for authentication and be delivered by it to the Underwriter in accordance with instructions from the Village Treasurer upon payment of the purchase price for the Refunding Bonds in accordance with the bond purchase agreement to be entered into between the Underwriter and the Issuer. Executed blank Refunding Bonds for registration and issuance to transferees shall simultaneously, and from time to time thereafter as necessary, be delivered to the bond registrar and paying agent for safekeeping.

SECTION 801. Exchange and Transfer of Refunding Bonds. Any Refunding Bond, upon surrender thereof to the bond registrar and paying agent with a written instrument of transfer satisfactory to the bond registrar and paying agent duly executed by the registered owner or his duly authorized attorney, may, at the option of the registered owner thereof, be

exchanged for Refunding Bonds of any other authorized denominations of the same aggregate principal amount and maturity and bearing the same rate of interest as the surrendered Refunding Bond.

Each Refunding Bond shall be transferable only upon the registration books of the Issuer, which shall be kept for that purpose by the bond registrar and paying agent, upon surrender of such Refunding Bond together with a written instrument of transfer satisfactory to the bond registrar and paying agent duly executed by the registered owner or his duly authorized attorney.

Upon the exchange or transfer of any Refunding Bond, the bond registrar and paying agent on behalf of the Issuer shall cancel the surrendered Refunding Bond and shall authenticate and deliver to the transferee a new executed Refunding Bond or Bonds of any authorized denomination of the same aggregate principal amount and maturity date and bearing the same rate of interest as the surrendered Refunding Bond. If, at the time the bond registrar and paying agent authenticates and delivers a new executed Refunding Bond pursuant to this section, payment of interest on the Refunding Bonds is in default, the bond registrar and paying agent shall endorse upon the new Refunding Bond the following: "Payment of interest on this bond is in default. The last date to which interest has been paid is _____."

The Issuer and the bond registrar and paying agent may deem and treat the person in whose name any Refunding Bond shall be registered upon the registration books of the Issuer as the absolute owner of such Refunding Bond, whether such Refunding Bond shall be overdue or not, for the purpose of receiving payment of the principal of and interest on such Refunding Bond

and for all other purposes, and all payments made to any such registered owner, or upon his order, in accordance with Section 401 of this Supplemental Ordinance shall be valid and effectual to satisfy and discharge the liability upon such Refunding Bond to the extent of the sum or sums so paid, and neither the Issuer nor the bond registrar and paying agent shall be affected by any notice to the contrary. The Issuer agrees to indemnify and save the bond registrar and paying agent harmless from and against any loss, cost, expense, judgment or liability incurred by it, acting in good faith and without negligence hereunder, in so treating such registered owner.

For every exchange or transfer of Refunding Bonds, the Issuer or the bond registrar and paying agent may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer.

The bond registrar and paying agent shall not be required to transfer or exchange Refunding Bonds or portions thereof which have been selected for redemption.

SECTION 901. Form of Refunding Bonds. The Refunding Bonds shall be in substantially the following form, with necessary and appropriate variations, omissions and insertions as permitted or required by the Act and the Ordinance:

UNITED STATES OF AMERICA
STATE OF MICHIGAN
COUNTY OF LAPEER
VILLAGE OF DRYDEN

WATER SUPPLY SYSTEM REVENUE REFUNDING BOND

REGISTERED
No. _____

REGISTERED
\$ _____

Interest Rate
Per Annum

Maturity Date

Original
Issuance Date

%

July 1, ____

December 1, 1986

Registered Owner:

Principal Amount: _____ Dollars

The Village of Dryden, Lapeer County, Michigan (the "Issuer"), for value received, promises to pay the Principal Amount stated above to the Registered Owner named above or registered assigns on the Maturity Date stated above, but only out of the hereinafter described net revenues of the Issuer's Water Supply System, including all appurtenances, additions, extensions and improvements thereto (the "System"), upon presentation and surrender hereof at the office of the Village Treasurer of the Issuer in Dryden, Michigan, the bond registrar and paying agent, or at such successor bond registrar and paying agent as may be designated pursuant to the Ordinance (as hereinafter defined), and to pay from the same source, to the registered owner of this Bond as shown on the registration books of the Issuer maintained by the bond registrar and paying agent as of the close of business on the fifteenth day of the calendar month preceding the month in

which an interest payment is due, by check or draft mailed to such registered owner at the registered address shown on such registration books, interest on the Principal Amount from the Original Issuance Date stated above, or the most recent date to which interest has been paid, at the Interest Rate Per Annum stated above, payable on July 1, 1987 and semiannually on each January 1 and July 1 thereafter until the Issuer's obligation with respect to the payment of the Principal Amount is discharged, and for the prompt payment thereof, the net revenues of the System, after provision has been made for reasonable and necessary expenses of operation, administration and maintenance, are hereby irrevocably pledged and a statutory first lien thereon is hereby created.

This Bond is one of a series of bonds of the Issuer in the aggregate principal amount of \$_____, issued pursuant to Ordinance No. 33 duly adopted by the Issuer on March 1, 1982, as supplemented by Ordinance No. _____ duly adopted by the Issuer on December 1, 1986 (as supplemented, the "Ordinance"), and under and in substantial compliance with the Constitution and statutes of the State of Michigan, including specifically Act No. 94, Public Acts of Michigan, 1933, as amended, for the purpose of refunding all of the outstanding Village of Dryden Water Supply System Revenue Bonds, dated July 1, 1982. 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 Ordinance.

This Bond and all other Bonds of the series of which this Bond is one will be subject to redemption prior to maturity, in inverse numerical order, at

the Issuer's option on any interest payment date on or after January 1, 19__, at a redemption price equal to __% of the principal amount thereof plus accrued interest to the date fixed for redemption.

The bond registrar and paying agent shall give notice of the call of the Bonds for redemption, by mail not less than __ days prior to the redemption date, to the registered owners of the Bonds at their addresses as they appear on the registration books of the Issuer as of the close of business on the business day immediately preceding the date on which such notice is mailed. Failure to receive any such notice shall not affect the validity of the proceedings for redemption. All Bonds called for redemption will cease to bear interest after the specified redemption date and will not be deemed to be outstanding, and the Issuer will be under no further liability in respect thereof, provided funds for their payment are on deposit at the place of payment at that time.

This Bond is transferable by the registered owner hereof in person, or by his attorney duly authorized in writing, only upon the books of the Issuer kept for that purpose at the office of the bond registrar and paying agent upon the surrender of this Bond together with a duly executed written instrument of transfer satisfactory to the bond registrar and paying agent, and thereupon a new registered Bond or Bonds in authorized denominations for the same aggregate principal amount and maturity and bearing interest at the same rate will be authenticated and delivered to the transferee in exchange therefor as provided in the Ordinance and upon the payment of the charges, if any, therein prescribed.

This Bond is a self-liquidating bond, and is not a general obligation of the Issuer and does not constitute an indebtedness of the Issuer within any

constitutional or statutory limitation, but is payable, both as to principal and interest, solely from the above-described net revenues of the System.

The Issuer hereby covenants and agrees to fix and maintain at all times while any of the series of Bonds of which this is one 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 all such Bonds payable from the net revenues of the System as and when the same become due and payable, and to create a bond and interest redemption fund (including a bond reserve account) therefor, to provide for the payment of expenses of administration and operation and such expenses for maintenance of 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.

IN WITNESS WHEREOF, the Village of Dryden, Lapeer County, Michigan, by its legislative body, has caused this Bond to be signed in its

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name with the facsimile signature of its Village President and its Village Clerk, and a facsimile of its seal to be printed hereon.

VILLAGE OF DRYDEN
COUNTY OF LAPEER
STATE OF MICHIGAN

By: _____
Village President

(SEAL)

Countersigned:

By _____
Village Clerk

[FORM OF CERTIFICATE OF AUTHENTICATION]

Date:

Certificate of Authentication

This Bond is one of the Bonds described in and issued under the within-mentioned Ordinance.

Bond Registrar and Paying Agent

By: _____
Authorized Signature

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ the within bond and all

rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer such bond on the books kept for registration thereof, with full power of substitution in the premises.

Please insert Social Security Number or other identifying number of Assignee: _____

Please print or type name and address of transferee

Dated _____

In the presence of _____

Note: The signature to the Assignment must correspond with the name as written on the face of this bond in every particular.

Signature(s) Guaranteed
Bank, Trust Company or Firm

By _____

SECTION 1001. Deposit of Refunding Bond Proceeds; Escrow Fund. Upon delivery of the Refunding Bonds to the original purchaser and receipt of the proceeds thereof, the Village Treasurer shall deposit to the credit of the Bond and Interest Redemption Fund the amount received as accrued interest on the Refunding Bonds. Thereupon, the remaining proceeds shall be used, along with any available cash payment made by the Issuer or any available moneys held in the Bond and Interest Redemption Fund (excluding amounts therein to be used to pay interest due on the outstanding Prior Bonds on January 2, 1987, which shall be so used on such date) or the Receiving Fund, to establish an escrow fund (the "Escrow Fund") consisting of cash only (there being no permissible investment obligations practically obtainable for the brief period anticipated between the establishment of the Escrow Fund and its use on January 2, 1987). The Escrow Fund shall be held in trust by the Village Treasurer, as trustee and escrow agent, who hereby is

irrevocably directed to take all necessary steps to call all of the Bonds to Be Refunded for redemption on January 2, 1987 and to pay the redemption price thereof from the Escrow Fund and from available moneys in the Bond and Interest Redemption Fund.

This Section 1001 shall constitute an escrow agreement between the Issuer and the Village Treasurer, who shall evidence her acceptance of the trusts hereby created by a written acceptance to be delivered to the Issuer prior to the delivery of the Refunding Bonds to the original purchaser thereof.

The Issuer hereby ratifies and approves the mailing, prior to the adoption of this Supplemental Ordinance, by the Village Treasurer to the registered owner of all of the Bonds to Be Refunded of notice of the call for redemption on January 2, 1987 of the Bonds to Be Refunded.

SECTION 1101. Requirements of Original Ordinance. The Issuer determines that the requirements of Section 13(b)(i) of the Original Ordinance for the issuance of the Refunding Bonds as additional bonds under the Ordinance have been satisfied. In particular, the Issuer determines that the augmented net revenues of the System for the fiscal year ended February 28, 1986 were not less than 120% of the average annual debt service requirements on the proposed Refunding Bonds.

SECTION 1201. Amendments to Original Ordinance with Respect to FmHA. At all times when the United States of America Farmers Home Administration is not a registered owner of any bonds issued and outstanding under the Ordinance, the following provisions in the Original Ordinance shall be amended as set forth below:

(A) Section 8: delete the second sentence;

(B) Section 8.B.(1): in the first sentence, delete "without request to the FmHA as long as the Government is holder of any of said bonds prior to adoption for review and";

(C) Section 12: in the introductory portion, delete "and as long as the Government is the holder of any of the Bonds,";

(D) Section 12(b)(i): in the first sentence, delete "and will furnish FmHA, without request, a copy of each audit report" and, five words later, delete "other";

(E) Section 12(b)(i): delete the final sentence;

(F) Section 12(b)(ii): delete "and the FmHA";

(G) Section 12(b)(iii): delete "to the FmHA or";

(H) Section 12(c): delete the final sentence;

(I) Section 12(d): change "FmHA" to "registered owners of not less than a majority in aggregate principal amount of the Bonds then outstanding";

(J) Section 12(e): insert a period after "principles" and delete the balance of the sentence;

(K) Delete Section 15;

(L) Section 17 heading: delete "and FmHA Regulations";

(M) Section 17: insert a period after "Michigan" and delete the balance of the sentence; and

(N) Delete Sections 19 and 20.

SECTION 1301. Additional Amendments to Original Ordinance.

(A) All references in the Original Ordinance to the Municipal Finance Commission shall be changed to the "Michigan Department of Treasury".

(B) In Section 16 of the Original Ordinance, "registered owners of not less than twenty percent in aggregate principal amount of the Bonds" shall be substituted in place of both "twenty percent of the holders of the Bonds" (in the first sentence) and "holders of twenty percent of the bonds" (in the final sentence).

(C) Notwithstanding anything to the contrary in Section 8.B.(2) of the Original Ordinance, effective immediately when the Bonds to Be Refunded cease to be outstanding on January 2, 1987 and as long as no additional bonds shall have been subsequently issued under the Ordinance, the maximum amount on deposit in the Bond Reserve Account created by such Section 8.B.(2) shall at no time exceed ten percent of the original aggregate face amount of the Refunding Bonds.

SECTION 1401. Qualified Tax-Exempt Obligations. The Issuer hereby designates this issue of Refunding Bonds as "qualified tax-exempt obligations" for purposes of paragraph (3) of Section 265(b) of the Internal Revenue Code of 1986.

Section 1501. Publication and Recording. This Supplemental Ordinance shall be published in full in the Tri-City Times, a newspaper of general circulation in the Village, qualified under State law to publish legal notices, promptly after its adoption, and the same shall be recorded in the Ordinance Book of the Village and such recording authenticated by the signatures of the Village President and Village Clerk.

Section 1601. Effective Date. This Supplemental Ordinance is hereby determined by the Village Council to be immediately necessary for the preservation of the peace, health and safety of the Village and shall be in full force and effect from and after its passage and publication as required by law.

Passed and adopted by the Village of Dryden, Lapeer County, Michigan, on December 1, 1986, and approved by me on December 1, 1986.

(SEAL)

~~James J. [unclear]~~
Village President
Village of Dryden

Attest:

~~[unclear]~~
Village Clerk

YEAS 6

NAYS 0

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Village Council of the Village of Dryden, Lapeer County, Michigan, at a regular meeting held on December 1, 1986, that the public notice of such meeting was given and such meeting was conducted pursuant to and in full compliance with the Open Meetings Act, Act No. 267, Public Acts of Michigan, 1976, as amended, and that minutes of the meeting were kept and will be or have been made available as required by such Act.

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

~~James J. [unclear]~~
Village Clerk

JK43c