

**ORDINANCE NO. 25**

**An Ordinance Authorizing the Construction and Operation of a Water Distribution and Supply System in the Village of Grand Beach; Authorizing and Providing for the Issuance of Self-Liquidating Revenue Bonds of the Village of Grand Beach for the purpose of Defraying Part of the Cost of the Same, Under the Provisions of Act 94 of the Public Acts of Michigan of 1933, as Amended; and Prescribing All of the Details of Said Bonds and Providing for the Fixing, Collection, Segregation and Disposition of the Revenues. of the Water Supply System of Said Village of Grand Beach, Michigan, for the Purpose of Paying the Cost of and Operation and Maintenance Thereof, Providing an Adequate Depreciation Fund Therefor, and Paying the Principal and Interest of Said Revenue Bonds; and Providing for a Statutory Lien in Favor of: the Holder or Holders of Such Bonds Upon the Whole of Such Revenues.**

The Village of GRAND BEACH Ordains:

**SECTION 1.** It is hereby determined and declared to be a necessary public improvement and conducive to the public health, safety and welfare of the Village of Grand Beach to construct and operate a complete water distribution and supply system in the Village of Grand Beach, including east iron mains, valves, hydrants, service connections to property line, pumping station, and reservoir in accordance with maps, plans, anti specifications prepared by Hubbell, Roth and Clark, Inc., consulting engineers of Detroit, Michigan, under the direction of the Village Council of the Village of Grand Beach.

**SECTION 2.** That the Village Council has caused an estimate of the cost of constructing the foregoing to be made by Hubbell, Roth and Clark, Inc., under the direction of the Village Council, and does hereby determine that the total estimated cost of constructing said water supply system is the sum of \$63,000.00, of which sum it is contemplated that the Public Works Administration of the United States Government will pay the sum of \$28,850.00 as a grant in aid, leaving the sum of \$34,650.00 to be provided by the Village of Grand Beach.

**SECTION 3.** For the purpose of providing the necessary funds with which to pay the village portion of the estimated cost of constructing such improvement, it is hereby determined and declared that the Village of Grand Beach shall borrow the sum of \$35,000.00, and there is hereby authorized to be issued and sold, pursuant to the provisions of Act 94, Public Acts of Michigan of 1933, as amended, revenue bonds in the aggregate principal sum of \$35,000.00, being 25 bonds of \$1000.00 each, and 20 bonds of \$500.00 each, numbered one (1) to forty-five (45) inclusive, dated as of November 1, 1938, and payable serially as follows:

|                        |           |
|------------------------|-----------|
| November 1, 1940 ..... | \$1000.00 |
| November 1, 1941 ..... | \$1000.00 |
| November 1, 1942 ..... | \$1000.00 |
| November 1, 1943 ..... | \$1000.00 |
| November 1, 1944 ..... | \$1000.00 |
| November 1, 1945 ..... | \$2000.00 |
| November 1, 1946 ..... | \$2000.00 |
| November 1, 1947 ..... | \$2000.00 |
| November 1, 1948 ..... | \$2000.00 |

|                        |           |
|------------------------|-----------|
| November 1, 1949 ..... | \$2000.00 |
| November 1, 1950 ..... | \$2000.00 |
| November 1, 1951 ..... | \$2000.00 |
| November 1, 1952 ..... | \$2000.00 |
| November 1, 1953 ..... | \$2000.00 |
| November 1, 1954 ..... | \$2000.00 |
| November 1, 1955 ..... | \$2500.00 |
| November 1, 1956 ..... | \$2500.00 |
| November 1, 1957 ..... | \$2500.00 |
| November 1, 1958 ..... | \$2500.00 |

with interest at such per cent per annum, not exceeding 6%, as purchaser may bid, payable semi-annually on May 1st and November 1st in each year; both principal and interest to be payable in the lawful money of the United States at the office of the Village Treasurer of the Village of Grand Beach, said bonds shall be signed by the President and countersigned by the Clerk and the corporate seal of the Village affixed thereto and the interest coupons attached to said bonds shall be signed by the facsimile signatures of said President and said Clerk and said officials by the execution of said bonds shall adopt as and for their own proper signatures their respective facsimile signatures on said coupons.

**SECTION 4.** Said bonds shall be self-liquidating revenue bonds and shall not be a general obligation nor indebtedness of the Village of Grand Beach but shall be payable solely from the revenue derived from the operation of said water supply system including all appurtenances, improvements and extensions thereto and to secure such payments there is hereby created a first lien upon the whole of the revenue of the water supply system of said Village of Grand Beach including all appurtenances, improvements and extensions thereto to continue until the payment in full of the principal and interest of such bonds.

**SECTION 5.** The holder or holders of said bonds or coupons representing in the aggregate not less than twenty per cent (20%) of the entire issue then outstanding may either at law or in equity, by suit, action, mandamus, or other, proceedings protect and enforce the statutory lien upon the revenue of said water supply system, including appurtenances, improvements and extensions thereto, and may by suit, action, mandamus or other proceedings enforce and compel performance of all duties of the officers of the Village of Grand Beach, including the fixing of sufficient rates, the collection of revenues, the proper segregation of the revenues of the water system, including appurtenances, improvements and extensions thereto, and the proper application thereof; provided, however, that said statutory lien upon said revenue shall not be construed to give such holder or holders of any bond or coupon authority to compel the sale of such system or any part thereof.

If there be any default in the payment of the principal of or interest upon any of said bonds any court having jurisdiction in any proper action may appoint a receiver to administer and operate said system including appurtenances, improvements and extensions thereto in behalf of the Village of Grand Beach and under the direction of said court and by and with the approval of said court to perform all of the duties of the officials of the Village of Grand Beach, more particularly set forth herein and in Act 94, Public Acts of Michigan of 1933, as amended.

The holder or holders of any such bonds or any coupons therefrom have all the rights and remedies and are

subject to all conditions given in Act 94, Public Acts of Michigan of 1933, as now or hereafter amended, for the collection and enforcement of said bonds and the securities therefor.

**SECTION 6.** The construction and operation of said water supply system shall be under the immediate supervision and control of the Village Council of the Village of Grand Beach.

**SECTION 7.** The schedule of rates for the use of water within the Village of Grand Beach shall be as hereinafter set forth. The Village of Grand Beach may classify the users of water according to the quantity of water used and charge such rates to users in each class as it may deem reasonable. Such classes and the rates are hereby fixed as follows.

A flat rate of \$25.00 per year for each building served plus \$1.50 per year for each cold water outlet over four in each such building.

The payment of the charges for water may be enforced by shutting off the users water supply or by any action of assumpsit instituted in the name of the Village of Grand Beach against such user, or both. Whenever the water rates or charges against any property seized by said system shall have been delinquent for more than 90 days, the Village Clerk or such other officer as may be in charge of the collection of such rates, shall have power to certify the amount of such delinquency to the Village Council. The Council shall then have power to order such delinquent charges to be spread on the next village tax roll, as a charge against the several properties so delinquent, to be collected as part of the next village tax thereon.

The several remedies and methods in Section 7 hereof providing for enforcing payment and collection of said water rentals are hereby declared to be separate and cumulative and the use of one shall not constitute a bar to the use of the others.

Such rates shall be fixed and revised from time to time as may be necessary to produce the required amounts and the Village of Grand Beach and its Village Council hereby covenant and agree to fix and maintain such rates for water furnished by said water supply system as shall be sufficient to provide therefor.

The Village of Grand Beach shall pay out of the appropriate general funds of the Village of Grand Beach the reasonable cost and value of the water furnished to the Village of Grand Beach on the basis of the forgoing schedule of rates and amounts of water used by the several departments of the Village of Grand Beach.

**SECTION 8.** The rates hereby fixed are estimated to be sufficient to provide for the payment of the interest upon and the principal of all such bonds as and when the same become due and payable, to create a bond and interest redemption fund therefor, to provide for the payment of the expenses of administration and operation and such expenses for maintenance of said water supply system as are necessary to preserve the same in good repair and working order, to build up a reasonable reserve for depreciation thereof, and to build up a reserve for reasonable and proper improvements, betterment's and extensions thereto other than those necessary to maintain the same in good repair and working order. Such 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 at all times to fix and maintain such rates for water furnished by said water supply system as shall be sufficient to provide for the foregoing.

**SECTION 9.** The Council of the Village of Grand Beach may make such rules and regulations governing the operation of said water supply system and the collection of the service rates as it shall deem necessary.

**SECTION 10.** The said water supply system shall be operated on the basis of a fiscal year commencing on July 1st of each year and ending on June 30th of the following year.

**SECTION 11.** The gross revenues of said water supply system, including all appurtenances thereto, are hereby pledged and ordered to be set aside and distributed quarterly, or more often into separate funds as follows.

(a) OPERATION AND MAINTENANCE FUND: There shall be first set aside out of the gross revenues and paid into an Operation and Maintenance Fund amounts sufficient for the payment of the current reasonable and necessary expenses for operation, maintenance and administration of the water supply system, including insurance.

(b) BOND AND INTEREST REDEMPTION FUND: There shall be next established and maintained a Bond and Interest Redemption Fund (hereafter called the "Bond Fund") which shall be used solely and only for the purpose of paying the principal of and interest upon the bonds. On the last business day of each quarter there shall be paid into the Bond Fund an equal and proportionate quarterly portion of the interest becoming due on the next succeeding interest payment date and principal becoming due on the next succeeding bond maturity date, and also, until there shall have been accumulated and unless there shall be held undiminished in the Bond Fund an amount equal to the aggregate interest and principal requirements on the bond for the next ensuing 24 months, an equal and proportionate quarterly portion of a sum equal to thirty per cent (30%) of said interest becoming due on the next succeeding interest payment date and said principal becoming due on the next succeeding bond maturity date, a reserve for deficiencies to be accumulated and used if necessary for the payment of any portion of interest on or principal of the bonds in the payment of which there would otherwise be default; provided, however, that no further payment need be made into the Bond Fund at any time when the amount held therein shall be equal to the aggregate principal amount of all bonds then remaining outstanding together with interest thereon to maturity, if in any quarter the Village of Grand Beach shall fail to pay into the Bond Fund the full amount herein above stipulated, then the amount of any deficiency shall be added to the amounts required to be paid into the Bond Fund in the next ensuing quarter.

(c) DEPRECIATION FUND: Out of the remaining gross revenues there shall be set aside and paid into a Depreciation Fund sums sufficient to build up a reasonable reserve for the depreciation of the existing system.

(d) CONTINGENT FUND: Out of the remaining gross revenues there shall be set aside and paid into a Contingent Fund sums sufficient to build up a reserve for reasonable and proper improvements, betterment's and extensions to the existing system.

(e) SURPLUS: Any surplus accumulated in the Operation and Maintenance Fund which may be in excess of the cost of operating and maintaining the system during the remainder of the then present and next ensuing fiscal year shall be transferred to the Bond Fund; any monies in the Depreciation Fund in excess of the amount necessary for probable replacement to be needed during the then present and next ensuing fiscal year, as determined by the Village Council, shall be transferred to the Bond Fund; and any monies in the Contingent Fund in excess of the amount necessary for reasonable and proper betterment's to the system during the then present and next ensuing fiscal year, shall be transferred to the Bond Fund or used to purchase outstanding bonds, and if used to purchase in the open market outstanding bonds not yet due, such bonds shall be purchased. at not more than the fair market value thereof and shall thereupon be cancelled; provided,, however, that any such transfers from the Operation and Maintenance Fund and / or Depreciation Fund and / or Contingent Fund to the Bond Fund shall not operate as an abatement of the Bond Fund requirements hereinbefore set forth.

**SECTION 12.** The gross revenues derived from the operation of the system shall be deposited in a bank or trust company duly qualified and doing business within the State of Michigan in the separate and special funds hereinabove described and each of said designated funds held therein shall be impressed with a trust for the benefit of those entitled thereto.

**SECTION 13.** Such bonds shall be sold and the proceeds applied in accordance with the provisions of said Act 94, Public Acts of Michigan of 1933, as now or hereafter amended.

**SECTION 14.** Prior to the sale of such bonds the Village Council shall designate a bank or trust company qualified and doing business within the State of Michigan as depository of the sale of such bonds and of the revenues of said water supply system and on the written acceptance of such trust and the giving of security therefor in accordance with present or future statutory requirements and to the satisfaction of the Council, all such monies shall be deposited in such bank to the credit of the appropriate funds.

**SECTION 15.** The bonds hereby authorized shall be in substantially the following form:

UNITED STATES OF AMERICA

STATE OF MICHIGAN

COUNTY OF BERRIEN

VILLAGE OF GRAND BEACH

WATER SUPPLY SYSTEM REVENUE BOND

No \_\_\_\_\_ \$ \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, that the Village of Grand Beach, Michigan, for value received, hereby promises to pay to the bearer, or, if registered to the registered holder thereof, but only out of the revenues of said Water Supply System, including all appurtenances, improvements and extensions thereto, the sum of \$ \_\_\_\_\_ on the 1st day of November, 19 \_\_\_\_\_, with interest thereon from the date hereof until maturity at the rate of \_\_\_\_\_% per annum, payable semi-annually on the 1st day of May and on the 1st day of November of each year, or, presentation and surrender of the annexed interest coupons as they severally become due. Both principal of and interest on this bond are payable in lawful money of the United States of America at the office of the Village Treasurer of the Village of Grand Beach and for the prompt payment thereof the gross revenues of said Water Supply System, including all appurtenances, improvements and extensions thereto, after provision has been made for reasonable and necessary expenses for operation, administration and maintenance, is hereby, irrevocably pledged, and a statutory first lien thereon is hereby created.

This bond is one of a series of 45 of like date and tenor, except as to amount and date of maturity aggregating the sum of \$35,000.00 issued pursuant to the authority of Act 94, Public Acts of Michigan of 1933, as amended, and of an Ordinance entitled: "An Ordinance authorizing the construction and operation of a water distribution and supply system in the Village of Grand Beach; authorizing and providing for the issuance of self-liquidating bonds of the Village of Grand Beach for the purpose of defraying part of the cost of the same, under the provisions of Act 94 of the Public Acts of Michigan of 1933, as amended; and prescribing all of the details of said bonds and providing for the fixing, collection, segregation and disposition of the revenues of the water supply system of said Village of Grand Beach, Michigan, and for the purpose of paying the cost of and operation and maintenance thereof, providing an adequate depreciation fund therefor, and paying the principal and interest of said revenue bonds; and providing for a statutory lien in favor of the holder or holders of such bonds upon the whole of such revenues," duly adopted in pursuance thereof by the Village Council of the Village of Grand Beach at a regular meeting thereof held September 3, 1938, for the purpose of constructing and operating a water distribution and supply system for the Village of Grand Beach, and is payable solely out of the revenues of said water supply system including all appurtenances, improvements and extensions thereto. The Village of Grand Beach hereby covenants and agrees to fix and maintain at all times while any of such bonds shall be outstanding, such rates for service furnished by said water supply system as shall be sufficient to provide for the payment of the interest upon and principal of all such bonds as and when they become due and payable, to create a bond and interest redemption fund therefor, to provide for the payment of the expense of administration and operation and such expenses for maintenance of said water supply system necessary to preserve the same in good repair and working order, to build up a reserve for improvements, betterments and extensions to said water supply system other than those necessary to maintain the same in good repair and working order.

This bond is a self-liquidating revenue bond and the principal of and interest on this bond are exempted from any and all state, county, city, incorporated village, municipal and other taxation whatsoever under the laws of the State of Michigan and is secured by the statutory lien created by Act 94, Public Acts of Michigan of 1933, as amended, and is payable solely from the revenues of said water supply system, including all appurtenances, improvements and extensions thereto, and is not a general obligation of the Village of Grand Beach and does not constitute an indebtedness of said Village of Grand Beach within any state constitutional provision or statutory

limitation.

All of said bonds maturing after ten years from the date hereof may, at the option of the Village Council, be redeemed from the holder or holders thereof and paid on any interest payment date at the office of the Treasurer of the Village of Grand Beach; provided, the Village shall have on hand in its Bond and Interest Redemption Fund sufficient monies not otherwise appropriated or pledged in excess of the interest and principal requirements within the next two fiscal years; provided, notice of such redemption, including the numbers of the bonds to be redeemed shall have been published by the Village Council in a newspaper of general circulation in Berrien County. Any such published notice shall be sufficiently given after it shall have been published once in such newspaper at least thirty days prior to the date fixed for such redemption. Copies of such notice of redemption shall be mailed by the Village Treasurer to the holder of each registered bond so called for redemption at the last post office address of such owner as shown on the registry books of the Village of Grand Beach. The bonds to be redeemed, if less than all the outstanding bonds, shall in all cases be determined by the Village Council by lot. Interest on any and all bonds so called for redemption shall cease at the date specified for such redemption.

This bond may be registered as to principal only on the books of the Treasurer of the Village of Grand Beach in the name of holder, and such registration noted on the back hereof by the Village Treasurer after which no transfer shall be valid unless made on the books and noted on the back hereof in like manner, but transferability by delivery may be restored by registration to bearer. Such registration shall not affect the negotiability of the interest coupons.

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

IN WITNESS WHEREOF the Village Council of the Village of Grated Beach, Michigan, has caused this bond to be signed, in the name of the Village of Grand Beach by its President and countersigned by its Clerk and the corporate seal of the Village of Grand Beach affixed hereto, and the coupons hereto attached to be signed by the facsimile signatures of said President and said Clerk which officials by the execution of this bond do adopt as and for their own proper signatures their respective facsimile signatures appearing on said coupons, and this bond to be dated as of the 1st day of November, 1938.

(SEAL)

Coupon No . \_\_\_\_\_

VILLAGE OF GRAND BEACH, MICHIGAN

By HARRY M. SMITH, President

JOHN R. ROHDE, Village Clerk.

**(COUPON)**

Coupon No. \_\_\_\_\_

The Village of Grand Beach, Michigan, will pay to the bearer hereof but only out of the revenues of the Water Supply System, including all appurtenances, improvements and extensions thereto, of the Village of Grand Beach, the sum of \$ \_\_\_\_\_ in lawful money of the United States of America on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, at the office of the Treasurer of the Village of Grand Beach, Michigan, being interest then due on its Water Supply System Revenue Bond, dated as of November 1, 1938, which is self-liquidating revenue bond issued pursuant to the provisions of Act 94 of the Public Acts of Michigan of 1933, as amended, and does not constitute an indebtedness of the Village of Grand Beach within any State Constitutional provision or statutory limitation and is not a general obligation of the said Village.

Bond No \_\_\_\_\_

\_\_\_\_\_

President.

\_\_\_\_\_

Clerk.

**Registry**

Nothing shall be written on this bond except by the Village Treasurer.

DATE OF REGISTRY

\_\_\_\_\_  
\_\_\_\_\_

IN WHOSE NAME REGISTERED

\_\_\_\_\_

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ADDRESS

REGISTRAR

\_\_\_\_\_ ;

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\_\_\_\_\_ ;

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\_\_\_\_\_ ;

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**SECTION 16.** The Village of Grand Beach hereby covenants and agrees with the holder or holders of the bonds herein proposed to be issued or any of them that it will punctually perform all duties with reference to said Water Supply System required by the Constitution and Laws of the State of Michigan, including the making and collecting of sufficient rates and segregation of the revenues of said water supply system and the application of the respective funds created by this Ordinance and it hereby covenants and agrees not to sell, lease, mortgage or in any manner dispose of said Water Supply System, including appurtenances, improvements and extensions thereto, until all of the said bonds herein authorized to be issued shall have been paid in full, both principal and interest, or unless and until provisions shall have been made for the payment of all bonds and interest thereon in full; and the Village of Grand Beach further covenants and agrees with the holders of said bonds to maintain the system in good condition and operate the same in an efficient manner and at a reasonable cost and so long as any of the bonds are outstanding to maintain insurance for the benefit of the bondholders on said system of a kind and in an amount which usually would be carried by private companies engaged in a similar type of business; and to keep proper books or records and accounts (separate from all other records and accounts) in which correct entries shall be made of all transactions relating to the system; and to furnish upon written request, to any holder of any of the bonds, not more than 30 days after the close of each six months fiscal period an income and surplus account of the system in reasonable details covering such six months period, and not more than 60 days after the close of each fiscal year, balance sheet and an income and surplus account of said system covering such fiscal year and certified by the Village Council; and the Village of Grand Beach covenants and agrees that any purchaser of twenty-five per centum in aggregate principal amounts of bonds at the time then outstanding or any holder or holders of said amount of outstanding bonds shall have the right at all reasonable times to inspect said system and all records, accounts and data of the Village of Grand Beach relating thereto.

**SECTION 17.** [f 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.

**SECTION 18.** Any accrued interest received from the sale of such bonds shall be deposited in the Bond Fund and applied toward the payment of interest next maturing after delivery of said bonds.



**SECTION 19.** All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

**SECTION 20.** This ordinance shall be published in the St. Joseph Herald Press, a newspaper of general circulation in the Village of Grand Beach and in the County of Berrien, and shall be posted in five public places within the Village of Grand Beach.

**SECTION 21.** This ordinance shall become effective ten (10) days after final passage and approval. Adopted and approved at regular meeting of the Village Council of the Village of Grand Beach, Michigan, held in the Council Room in said Village on the 3rd day of September, 1938.

(SEAL)

HARRY M. SMITH, President.

JOHN R. ROHDE, Clerk.