

County Board of Commissioners
County of Clinton, Michigan

1995-15

**RESOLUTION AUTHORIZING
CLINTON COUNTY WATER SYSTEM
(DEWITT CHARTER TOWNSHIP) BONDS**

A RESOLUTION PROVIDING FOR THE ISSUANCE OF BONDS TO DEFRAY COSTS OF WATER SUPPLY SYSTEM IMPROVEMENTS; PROVIDING FOR THE PAYMENT AND SECURITY OF SAID BONDS, AND PROVIDING FOR OTHER MATTERS RELATIVE TO SAID BONDS AND THE SECURITY THEREFOR.

WHEREAS, the County of Clinton, Michigan (the "County"), acting by and through its Board of Commissioners and pursuant to the authority conferred upon it by Act 185, Public Acts of Michigan, 1957, as amended ("Act 185") has previously established a Department of Public Works in and for the County for the administration of the powers conferred upon the County by Act 185; and

WHEREAS, pursuant to the authorization of Section 2 of Act 185, a Board of Public Works (the "Board of Public Works") has been appointed and is functioning as the governing body of said Department of Public Works; and

WHEREAS, pursuant to Act 185, the County is authorized to establish water supply systems to serve the townships within the County; and

WHEREAS, the County, by and through the Board of Public Works, and the Charter Township of DeWitt (the "Township") have or will shortly enter into a contract (the "Contract") for the construction, financing and operation of certain water supply system improvements as more particularly described in the Contract, (the "Project"), which Contract is attached hereto and made a part of this resolution; and

WHEREAS, the Contract will be duly approved by resolutions of the Board of Public Works, the County Board of Commissioners, and the Township Board, and will be fully executed by the parties thereto; and

WHEREAS, under the provisions of the Contract, the Township has obligated itself to pay the cost of said Project to be financed by the issuance of bonds of the County by paying the installments, plus interest, as specified in Section 8 of the Contract (the "Contractual Payments"), and has further obligated itself to collect sufficient moneys annually for the purpose of meeting the Contractual Payments, subject to statutory, constitutional, and charter limitations; and

WHEREAS, the County now proposes to issue its bonds, as authorized by Act 185, in anticipation of and secured primarily by the Contractual Payments which the Township has in the Contract obligated itself to provide in such amounts as may be necessary to pay the cost of acquiring and constructing the Project, and all things necessary to the authorization and issuance of said bonds under Act 185 having been done, and the County being now empowered and desirous of authorizing the issuance of said bonds; and

WHEREAS, the Board of Public Works has approved this resolution and recommended its adoption by this Board of Commissioners;

THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY, AS FOLLOWS:

1. There is hereby approved the establishment of a water supply system for the Township, to be designated as the Clinton County Water System (DeWitt Charter Township) (the "System"), for the supply and distribution of water in the Township. There is hereby approved the acquisition and construction of the Project, as more specifically set out in the Contract.

2. The plans, specifications and estimates of cost for the Project as prepared by the consulting engineers are hereby accepted and approved, and it is hereby determined to be advisable and necessary for the public health of the County to acquire, construct and complete the Project as provided in said plans and specifications.

3. The Contract is hereby ratified, confirmed and approved.

4. The total estimated cost of acquiring and constructing the Project, including payment of incidental expenses as specified

in Section 6 of this resolution, in the amount of \$450,000 is hereby approved and confirmed.

5. The estimated period of usefulness of the Project is determined to be not less than fifty (50) years.

6. For the purpose of defraying the cost of the Project, including payment of incidental expenses such as engineering, legal and financial expenses, there be borrowed the sum of Four Hundred Fifty Thousand Dollars (\$450,000), and in evidence thereof there shall be issued the bonds of the County in an equivalent aggregate principal amount, which bonds are sometimes hereinafter referred to in this resolution as the "Bonds." The balance of the cost of the Project, if any, shall be paid by the Township as provided in the Contract.

7. The Bonds shall be designated "Clinton County Water System (DeWitt Charter Township) Bonds", the principal of and interest thereon to be payable primarily out of the Contractual Payments required to be paid by the Township pursuant to the Contract. The title of the Bonds, the dated date of the Bonds, the series designation and the dates of principal maturities may be changed by the Board of Public Works at the time of the sale thereof. Said Bonds shall be registered as to principal and interests of the denomination of \$5,000 or multiples of \$5,000 up to the amount of a single maturity, numbered consecutively in order of authentication or registration from 1 upwards, dated as of July 1, 1995, or such later date as may be approved by the Board of Public Works at the time of sale of the Bonds, callable prior to maturity as hereinafter provided, and shall be payable annually on May 1 as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
1996	\$ 10,000	2006	\$ 20,000
1997	10,000	2007	25,000
1998	10,000	2008	25,000
1999	15,000	2009	25,000
2000	15,000	2010	30,000
2001	15,000	2011	30,000
2002	15,000	2012	35,000
2003	20,000	2013	35,000
2004	20,000	2014	35,000
2005	20,000	2015	40,000

The Bonds shall bear interest at a rate or rates determined on sale thereof, not exceeding ten percent (10%) per annum, payable on November 1, 1995 (or such other date as may be determined by the Board of Public Works at the time of sale of the Bonds), and semiannually thereafter, by check drawn on the transfer agent for the Bonds and mailed to the registered owner at the registered address, as shown on the registration books of the County maintained by the transfer agent. Interest shall be payable to the registered owner of record as of the 15th day of the month prior to the payment date for each interest payment. The date of determination of registered owner for purposes of payment of interest as provided in this Section be changed by the County to conform to market practice in the future. The principal of the Bonds shall be payable at such Michigan bank or trust company as shall be determined as transfer agent for the Bonds by the Board of Public Works, and the Board of Public Works is hereby authorized to enter into all required contractual arrangements with the transfer agent.

The Bonds shall be subject to redemption prior to maturity at the times and prices and in the manner set forth in the bond form shown in Section 13 of this resolution or at such other times and prices as may be determined by the Board of Public Works at the time of sale of the Bonds.

Unless waived by any registered owner of bonds to be redeemed, official notice of redemption shall be given by the transfer agent on behalf of the County. Such notice shall be

dated and shall contain at a minimum the following information: original issue date; maturity dates; interest rates; CUSIP numbers, if any; certificate numbers, and in the case of partial redemption, the called amounts of each certificate; the redemption date; the redemption price or premium; the place where bonds called for redemption are to be surrendered for payment; and that interest on bonds or portions thereof called for redemption shall cease to accrue from and after the redemption date.

In addition, further notice shall be given by the transfer agent in such manner as may be required or suggested by regulations or market practice at the applicable time, but no defect in such further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as prescribed herein.

8. The Chairman of the Board of Commissioners and the County Clerk are hereby authorized and directed to execute said Bonds by means of their manual or facsimile signatures when issued and sold for and on behalf of the County and to cause to be imprinted thereon a facsimile of the seal of the County. No Bond of this series shall be valid until authenticated by an authorized officer of the transfer agent. The Bonds shall be delivered to the transfer agent for authentication and shall then be delivered to the purchaser in accordance with instructions from the Treasurer of the County upon payment of the purchase price for the Bonds in accordance with the bid therefor when accepted. Executed blank Bonds for registration and issuance to transferees shall simultaneously, and from time to time thereafter as necessary, be delivered to the transfer agent for safekeeping.

Any bond may be transferred upon the books required to be kept pursuant to this Section by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of the bond for cancellation, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the transfer agent. Whenever any bond or bonds shall be surrendered for transfer, the transfer agent shall authenticate and deliver a new bond or bonds, for like aggregate principal amount. The transfer agent shall require the payment by the bondholder requesting the transfer of any tax or other governmental charge required to be paid with respect to the transfer.

9. Said Bonds and the interest thereon shall be payable primarily from the Contractual Payments received by the Board of Public Works on behalf of the County, for the payment of which the Township has in the Contract pledged its full faith and credit pursuant to the provisions of Act 185. Pursuant to the provisions of Section 6, Article IX of the Michigan Constitution of 1963, the Township has covenanted and agreed to levy taxes annually to the extent necessary to provide the funds to meet its Contractual Payments when due in anticipation of which the Bonds are issued, which taxes shall be subject to statutory constitutional and charter limitations. All of such Contractual Payments are hereby pledged solely and only for the payment of principal of and interest on the Bonds.

10. Pursuant to the authorization provided in Act 185, the full faith and credit of the County is hereby pledged for the prompt payment of the principal of and interest on the Bonds as the same shall become due. If for any reason there are not sufficient funds on hand from the Contractual Payments to pay the principal of and interest on the Bonds when due, upon written notification by the Board of Public Works to the County Treasurer of the amount of such deficiency, the County Treasurer shall promptly deposit into the Debt Retirement Fund for said Bonds the amount of such deficiency out of general funds of the County. If it becomes necessary for the County to so advance any such moneys, it shall be entitled to reimbursement from any surplus from time to time existing in the fund which said principal and interest are primarily payable, or from any other legally available source. The County recognizes and covenants that its full faith and credit pledge hereunder is a first budget obligation, and, to the extent necessary to provide funds to meet such pledge herein provided, it is obligated to levy ad valorem taxes against the taxable property in the County, which taxes, however, shall be subject to statutory and constitutional limitations.

11. It shall be the duty of the Board of Public Works, after the adoption of this resolution and the sale of the Bonds herein authorized, to open an appropriate depository account with a bank or trust company to be designated by the Board of Public Works to be designated DEBT RETIREMENT FUND - CLINTON COUNTY WATER SYSTEM (DEWITT CHARTER TOWNSHIP) BONDS, sometimes referred to herein as the "Debt Retirement Fund," into which account the Board of Public Works shall deposit any accrued interest received upon delivery of the Bonds and all Contractual Payments as received, and into which account any advances made by the County pursuant to Section 10 of

this resolution shall be deposited. The moneys from time to time on hand in said Debt Retirement Fund shall be used solely and only for the payment of the principal of and interest on the Bonds, or, to the extent of any surplus, to reimburse the County for any advances made pursuant to Section 10 hereof. The County shall have the right to invest moneys in the debt retirement account as provided in the Contract, which investments may be in obligations other than those of the depository bank or trust company only.

12. The operation, maintenance and administration of the System and the acquisition and construction of the Project shall be under the overall jurisdiction and control of the Board of Public Works as agent of the County, and the provisions in the Contract relative to such operation, maintenance and administration are hereby recognized, approved and confirmed.

13. Said Bonds shall be in substantially the following form:

United States of America
State of Michigan
COUNTY OF CLINTON
CLINTON COUNTY WATER SYSTEM
(DEWITT CHARTER TOWNSHIP) BONDS

<u>Interest Rate</u>	<u>Date of Maturity</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
	May 1, 199_	June 1, 1995	

Registered Owner:

Principal Amount: _____ (\$_____)
Dollars

The County of Clinton, State of Michigan (the "County"), for value received, hereby promises to pay to the Registered Owner specified above, or registered assigns, the Principal Amount specified above, in lawful money of the United States of America on the Date of Maturity specified above, unless prepaid prior thereto as hereinafter provided, with interest thereon from the Date of Original Issue specified above or such later date to which interest has been paid, until paid, at the Interest Rate per annum specified above, first payable on November 1, 1995, and semiannually thereafter. Principal of this bond is payable at the _____ office of _____, Michigan, or such other transfer agent as the County may hereafter designate by notice mailed to the registered owner hereof not less than sixty (60) days prior to any interest payment date (the "Transfer Agent"). Interest on this bond is payable to the registered owner of record as of the fifteenth (15th) day of the month preceding the interest payment date as shown on the registration books of the County maintained by the Transfer Agent, by check or draft mailed to the registered owner at the registered address.

The bonds of this issue are payable primarily from the proceeds of contractual payments to be paid by the Charter Township of DeWitt (the "Township"), located in the County of Clinton, Michigan, to the Board of Public Works, acting for and on behalf of the County, pursuant to a certain contract between the County and the Township, whereby said Board of Public Works, on behalf of the County, is to construct water supply system improvements to service said Township, said system being

designated as "Clinton County Water System (DeWitt Charter Township)." By the provisions of said contract and pursuant to the authorization provided by law, the Township has pledged its full faith and credit for the payment of its contractual payments. The County has irrevocably pledged to the payment of the bonds of this issue the total contractual payments, which said total payments are established in the amount required to pay the principal of and interest on the bonds when due. As additional security for the payment of the bonds of this issue, the County, pursuant to the provisions of Act 185, Public Acts of Michigan, 1957, as amended, and a three-fifths (3/5) vote of the members-elect of its Board of Commissioners, has pledged its full faith and credit for the prompt payment of the principal of and interest thereon. The full faith and credit pledges of the Township and of the County are limited tax general obligations of each severally, and each is required to pay its respective debt service commitments on the bonds of this issue as a first budget obligation from its general funds, including the collection of any ad valorem taxes which each is authorized to levy. However, the ability of each to levy such taxes is subject to applicable charter, statutory, and constitutional limitations.

This bond is one of a total authorized issue of bonds of even Date of Original Issue, aggregating the principal sum of \$450,000, issued pursuant to a resolution duly adopted by the Board of Commissioners of the County on _____, 1995, and under and in full compliance with the Constitution and statutes of the State of Michigan, including specifically Act 185, Public Acts of Michigan, 1957, as amended, for the purpose of paying costs of constructing water supply system improvements to service said Township. For a complete statement of the funds from which and the conditions under which the bonds of this issue are payable, and the general covenants and provisions pursuant to which the bonds of this issue are issued, reference is made to the above described resolution.

Bonds of this issue maturing in the years 1996 to 2003, inclusive, shall not be subject to redemption prior to maturity. Bonds or portions of bonds in multiples of \$5,000 of this issue maturing in the years 2004 to 2016, inclusive, shall be subject to redemption prior to maturity, at the option of the County, in such order as the County shall determine, on any interest payment date on or after May 1, 2003, at par and accrued interest to the date fixed for redemption, plus a premium expressed as a percentage of par, as follows:

1 % of the par value of each bond or portion thereof called for redemption on or after May 1, 2003, but prior to May 1, 2005;

½ % of the par value of each bond or portion thereof called for redemption on or after May 1, 2005, but prior to May 1, 2007.

No premium shall be paid on bonds or portions thereof called for redemption on or after May 1, 2007.

In case less than the full amount of an outstanding bond is called for redemption, the Transfer Agent, upon presentation of the bond called for redemption, shall register, authenticate and deliver to the registered owner of record a new bond in the principal amount of the portion of the original bond not called for redemption.

Notice of redemption shall be given to the registered owners of bonds or portions thereof called for redemption by mailing of such notice not less than thirty (30) days prior to the date fixed for redemption to the registered address of the registered owner of record. 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 said bonds.

This bond is transferable only upon the books of the County kept for that purpose at the office of 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 his 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 resolution authorizing the bonds, 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 to be done precedent to and in the issuance of this bond, and the series of which this is one, have been done and performed in regular and due time and form as required by law.

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

IN WITNESS WHEREOF, the County of Clinton, State of Michigan, by its Board of Commissioners, has caused this bond to be signed in the name of said County by the [manual/facsimile] signature of the Chairman of the Board of Commissioners and to be countersigned by the [manual/facsimile] signature of the County Clerk and the corporate seal of said County to be affixed hereto, all as of the Date of Original Issue.

COUNTY OF CLINTON

By [Signature]
Chairman, Board of Commissioners

[SEAL]

 [Signature]
County Clerk

[FORM OF TRANSFER AGENT'S
CERTIFICATE OF AUTHENTICATION]

CERTIFICATE OF AUTHENTICATION

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

_____ Transfer Agent

By _____ Authorized Signature

Date of Registration: _____

[INSERT STANDARD FORM OF ASSIGNMENT]

14. Nothing contained in this resolution or the Contract shall be construed to prevent the County from issuing additional Bonds under the provisions of Act 185 for any of the purposes authorized by Act 185, but any such Bonds shall in no way have any lien on or be payable out of the Contractual Payments pledged to the payment of the Bonds of this authorized issue, except such additional Bonds as may be necessary may be issued to complete the Project pursuant to the authorization provided in Section 14 of the Contract.

15. The proceeds of the sale of the Bonds and the cash payment from the Township shall be deposited in a special depository account in a bank to be designated by the Board of Public Works, said account to be designated "CONSTRUCTION FUND - CLINTON COUNTY WATER SYSTEM (DEWITT CHARTER TOWNSHIP)" (hereinafter referred to as the "Construction Fund"). The moneys from time to time in the Construction Fund shall be used solely and only to pay costs of acquiring and constructing the Project. Any premium and accrued interest paid at the time of delivery of the Bonds shall be deposited into the Debt Retirement Fund established under the provisions of Section 11 of this resolution.

16. The provisions of this resolution, together with the Contract, shall constitute a contract between the County and the holder or holders of the Bonds from time to time, and after the issuance of such Bonds, no change, variation or alteration of the provisions of this resolution and the Contract may be made which would lessen the security for the Bonds. The provisions of this resolution and the Contract shall be enforceable by appropriate proceedings taken by such holder either at law or in equity.

17. The County covenants and agrees with the successive holders of the Bonds that as long as any of the Bonds remain outstanding and unpaid as to either principal or interest:

(a) The County and the Board of Public Works, as agent of the County, will punctually perform all of their obligations and duties under this resolution and the Contract, including all collection, segregation and application of the Contractual Payments in the manner required by the provisions of this resolution.

(b) The County and the Board of Public Works, as the agent of the County, will apply and use the proceeds of the

sale of the Bonds for the purposes and in the manner required by the Contract and this resolution. The County will maintain and keep proper books of record and account relative to the application of funds for the construction of the Project and the Contractual Payments received pursuant to the Contract or monies advanced by the County. Not later than three (3) months after the end of each year, the Board of Public Works shall cause to be prepared a statement, in reasonable detail, sworn to by its chief accounting officer, showing the application of the proceeds of the sale of the Bonds, the cash receipts from the Contractual Payments or monies advanced by the County during such year, and the application thereof, and such other information as may be necessary to enable any taxpayer or any holder or owner of the Bonds, or anyone acting in their behalf, to be fully informed as to all matters pertaining to the construction of the Project and application of funds therefor or for the payment of Bonds during such year. A certified copy of said statement shall be filed with the County Clerk and the Clerk of the Township and a copy shall also be sent to the manager or managers of the account purchasing the Bonds.

(c) The County shall not invest, reinvest or accumulate any moneys deemed to be proceeds of the Bonds pursuant to the Internal Revenue Code of 1986, as amended (the "Code") in such a manner as to cause the Bonds to be "arbitrage Bonds" within the meaning of the Code and such applicable regulations. The County hereby covenants that, to the extent permitted by law, it will take all actions within its control and that it shall not fail to take any action as may be necessary to maintain the exemption of interest on the Bonds from gross income for federal income tax purposes, including but not limited to, actions relating to the rebate of arbitrage earnings, if applicable, and the expenditure and investment of Bond proceeds and moneys deemed to be Bond proceeds, all as more fully set forth in the Non-Arbitrage and Tax Compliance Certificate to be delivered by the County with the Bonds.

18. The County may incur project expenditures prior to receipt of proceeds of the bonds and may advance moneys from the general fund for that purpose to be reimbursed from proceeds of the bonds when available. The Board of Public Works shall keep a specific record of all such expenditures. The County hereby

ratifies and confirms the declarations made on behalf of the County by the Board of Public Works for the purpose of complying with the reimbursement rules of Treas. Reg. § 1.150-2 pursuant to the Internal Revenue Code of 1986, as amended.

19. The Board of Public Works is hereby designated, for and on behalf of the County, to notify the Michigan Department of Treasury of the County's intent to issue the bonds described herein, to pay the related fee from funds to be received from the Township and to request an order providing an exception for the bonds from prior approval by the Department of Treasury, or, if the Department of Treasury will not issue an order providing exception, to request an order of prior approval to issue the bonds.

20. The Board of Public Works is hereby designated, for and on behalf of the County, to (a) prepare form of notice of sale, fix a date of sale, conduct the sale, and accept the best bid received at such sale; (b) publish such notice of sale in an authorized bond paper, at least seven (7) full days prior to the date fixed for sale; and (c) do all other acts and take all other necessary procedures required to effectuate the sale, issuance and delivery of the bonds, including, if appropriate, purchase of the credit enhancements, and reducing the amount of Bonds sold and/or delivered if the Board of Public Works determines that the full amount thereof is not necessary to complete the Project.

21. The County hereby designates the Bonds "qualified tax exempt obligations" for purposes of the deduction of interest expense by financial institutions.

22. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are repealed.

23. This resolution shall become effective immediately upon its passage.

I hereby certify that the foregoing is a true and complete copy of a resolution duly adopted by the County Board of Commissioners of the County of Clinton, at a _____ meeting held on _____, 1995, at ____ o'clock __.m., prevailing Eastern Time, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act 267.

If the above meeting was a Special meeting, I further certify that notice of said Special meeting was given to each member of the County Board of Commissioners in accordance with the rules of procedure of the County Board of Commissioners.

I further certify that the following Members were present at said meeting: _____
_____, and that the following Members were absent: _____.

I further certify that Member _____ moved for adoption of said resolution and that Member _____ supported said motion.

I further certify that the following Members voted for adoption of said resolution: _____
_____, which Members constitute three-fifths (3/5) of the members-elect of the Board of Commissioners, and that the following Members voted against adoption of said resolution: _____.

County Clerk