

**ORDINANCES AND RESOLUTIONS  
UP FOR INTRODUCTION**

**MAY 26, 2009**

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**FINANCE COMMITTEE**

*Glynn A. Hines - Chair  
Elizabeth M. Brown - Co-Chair  
All Council Members*

**ACTION**

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**S-09-05-13**

**AN ORDINANCE of the Common Council of the City of Fort Wayne, Indiana, authorizing the acquisition and installation of certain improvements to the City's sewage Works, the issuance and sale of additional revenue bonds to provide funds for the payment of the costs thereof, and the collection, segregation, and distribution of the revenues of such Sewage Works and other related matters**

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**R-09-05-1 6**

**A DECLARATORY RESOLUTION designating an "Economic Revitalization Area" under I.C. 6-1.1-12.1 for property commonly known as 4422 Airport Expressway, Fort Wayne, Indiana 46809 (GTA Acquisition, LLC d/b/a GT Automation Group)**

**Total cost of \$180,000 - 3 full time jobs will be created as a Result of the project**

**To be passed this evening**

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**R-09-05-17**

**A CONFIRMING RESOLUTION designating an "Economic Revitalization Area" under I.C. 6-1.1-12.1 for property commonly known as 4422 (GTA Acquisition, LLC d/b/a GT Automation Group)**

**Total cost of \$180,000 - 3 full time jobs will be created as a Result of the project**

**FINANCE COMMITTEE                      CONTINUED**

**ACTION**

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**R-09-05-23**

**A DECLARATORY RESOLUTION designating an “Economic Revitalization Area” under I.C. 6-1.1-12.1 for property commonly known as 505 East Washington Boulevard, Fort Wayne, Indiana 46802 (Rothberg Realty, LLC)**

**Total cost of \$2,000,000 improvements – 42 full-time jobs  
And seven part-time jobs will be retained**

**To be passed this evening**

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**R-09-05-24**

**A CONFIRMING RESOLUTION designating an “Economic Revitalization Area” under I.C. 6-1.1-12.1 for property commonly known as 505 East Washington Boulevard, Fort Wayne, Indiana 46802 (Rothberg Realty, LLC)**

**Total cost of \$2,000,000 improvements – 42 full-time and  
Seven part time-jobs will be retained**

**Public Hearing – 6-9-09 -- 5:30 P.M.**

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**REGULATIONS COMMITTEE**

***John Shoaff – Chair  
Thomas F. Didier – Co-Chair  
All Council Members***

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**Z-09-05-09**

**ORDINANCE amending the City of Fort Wayne Zoning Map No. J-38  
(Sec. 15 of Washington Township)**

**2108 W. Washington Center Road - will be rezoned to IN1-Light  
Industrial**

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## REGULATIONS COMMITTEE      CONTINUED

### **ACTION**

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**Z-09-05-10**

**AN ORDINANCE amending the City of Fort Wayne Zoning Map No .  
J-35 (Sec. 34 of Wayne Township)**

**1900 block of Reservation Drive – property will be downsized to  
RP-Planned Residential to allow for a single family subdivision**

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**Z-09-0 5-11**

**AN ORDINANCE amending the City of Fort Wayne Zoning Map No.  
R-14 (Sec. 2 of St. Joseph Township)**

**3707 and 3737 Lake Avenue – property will be rezoned to CMI-  
Professional and Personal Service to bring existing businesses  
into compliance with the ordinance**

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**Z-09-05-12**

**AN ORDINANCE amending the City of Fort Wayne Zoning Map  
No. R-14 (Sec. 32 of St. Joseph Township)**

**3609 through 3635 Lake Avenue – property will be rezoned  
to CMI- Professional and Personal Service to bring existing  
businesses into compliance with the ordinance**

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**R-09-05-18**

**A RESOLUTION of the Common Council of the City of Fort  
Wayne, Indiana approving an Interlocal Cooperation Agreement  
between the City of Fort Wayne and the County of Allen**

**The Common Council hereby ratifies and approves the  
Interlocal Cooperation Agreement between the City and  
County of Allen for the shared use of GIS infrastructure  
and data**

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## REGULATIONS COMMITTEE CONTINUED

### ACTION

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**G-09-05-14**

**AN ORDINANCE amending Chapter 37, Section 37.39 (A) of the City of Fort Wayne, Indiana, Code of Ordinances**

**There is hereby established a non-reverting Harrison Square Parking Garage Operation Fund for the City**

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**G-09-05-15**

**AN ORDINANCE amending Chapter 37, Section 37.40 (A) of the City of Fort Wayne, Indiana, Code of Ordinances**

**There is hereby established a non-reverting Harrison Square Stadium Maintenance Fund for the City**

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## PUBLIC WORKS COMMITTEE

*Karen E. Goldner- Chair*

*Marty Bender - Co-Chair*

*All Council Members*

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**S-09-05-20**

**AN ORDINANCE certifying and approving the need for the services of a consultant, Bonar Group, to provide Professional services for the State Road 3 Utility Relocation Improvements**

**Total cost of \$197,500**

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**S-09-05-19**

**AN ORDINANCE certifying and approving the need for the services of a consultant (HNTB Corporation) to provide Professional Services for the Northwest Pressure Zone Pumping Improvements**

**Total cost of \$192,480**

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## PUBLIC WORKS COMMITTEE CONTINUED

### ACTION

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**S-09-05-22**

**AN ORDINANCE approving Resolution #7224-2009, Chickasaw Drive/ Blackhawk Lane Concrete Street Repairs between Hipkind Concrete and the City of Fort Wayne, Indiana, in connection with the Board of Public Works**

**Total cost of \$101,692.50**

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## CITY UTILITIES COMMITTEE

*Mitch Harper - Chair*

*Tim Pape- Co-Chair*

*All Council Members*

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**S-09-05-25**

**AN ORDINANCE approving the awarding of the Purchase and Installations of a Computerized Maintenance Management System, (Infor EAM Business Edition v8.3) by the City of Fort Wayne, Indiana, by and through its Department of Purchasing and Global Solutions (Michigan ), Inc. for City Utilities**

**Total cost of \$124,086**

**To be passed this evening**

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BILL NO. S-09-05-13

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, AUTHORIZING THE ACQUISITION AND INSTALLATION OF CERTAIN IMPROVEMENTS TO THE CITY'S SEWAGE WORKS, THE ISSUANCE AND SALE OF ADDITIONAL REVENUE BONDS TO PROVIDE FUNDS FOR THE PAYMENT OF THE COSTS THEREOF, AND THE COLLECTION, SEGREGATION AND DISTRIBUTION OF THE REVENUES OF SUCH SEWAGE WORKS AND OTHER RELATED MATTERS

WHEREAS, the City of Fort Wayne, Indiana (the "City") owns and operates a sewage works by and through its Board of Public Works (the "Board") for the collection and treatment of sewage and other wastes (the "Sewage Works"), pursuant to the provisions of Indiana Code 36-9-23, as in effect on the date of delivery of the bonds authorized herein (the "Act"); and

WHEREAS, the Board has determined and recommended to the Common Council of the City (the "Common Council") that certain improvements and extensions to the Sewage Works, as more fully set forth in summary fashion in Exhibit A hereto and made a part hereof (the "Project"), are necessary; and

WHEREAS, the City has employed consulting engineers (the "Consulting Engineers") to prepare and file plans, specifications, and estimates of the costs of the Project, which plans, specifications and estimates, to the extent required by law, have been duly submitted to and approved or will be approved by all governmental authorities having jurisdiction thereover, including, without limitation, the Indiana Department of Environmental Management (the "Department"); and

WHEREAS, the Common Council finds that the estimates prepared and delivered by the Consulting Engineers with respect to the costs (as defined in Indiana Code 36-9-23-11) of the Project, and including all costs relating thereto, including the costs of issuance of bonds and BANs (as

hereinafter defined) on account of the financing of all or a portion thereof, is in the estimated amount of Two Hundred Sixty-five Million Dollars (\$265,000,000); and

WHEREAS, the Common Council finds that to provide funds necessary to pay for the costs of the Project, it will be necessary for the City to issue sewage works revenue bonds, in one or more series, in an aggregate amount not to exceed Two Hundred Sixty-five Million Dollars (\$265,000,000) and, if necessary, bond anticipation notes ("BANs"); and

WHEREAS, pursuant to Ordinance No. S-63-97 adopted by the Common Council on July 1, 1997, as amended by Ordinance No. S-21-98 adopted by the Common Council on February 24, 1998 (collectively, the "1998 Bond Ordinance"), the City has heretofore issued two series of revenue bonds payable from the net revenues of the Sewage Works, with the first series designated as "Sewage Works Junior Revenue Bonds of 1998, Series A" (the "1998 A Bonds"), outstanding after August 1, 2008, in the amount of \$3,615,000, bearing interest at various rates and maturing in various amounts annually on August 1 in the years 2009 to and including 2012, and the second series of bonds designated as "Sewage Works Junior Revenue Bonds of 1998, Series B" (the "1998 B Bonds"), outstanding after August 1, 2008, in the amount of \$5,740,000, bearing interest at various rates and maturing in various amounts annually on August 1 in the years 2009 to and including 2012; and

WHEREAS, pursuant to Ordinance No. S-01-02-23 adopted by the Common Council on January 8, 2002, as amended by Ordinance No. S-02-04-13, adopted by the Common Council on May 14, 2002 (collectively, the "2002 Bond Ordinance"), the City heretofore issued two series of revenue bonds payable from the net revenues of the Sewage Works with the first series designated as "Junior Sewage Works Revenue Bonds, Series 2002 A" (the "2002 A Bonds") outstanding after August 1, 2008, in an aggregate principal amount of \$19,225,000 bearing interest at four percent (4.0%) and maturing in various amounts annually on August 1 in the years 2009 to 2023, and the second series of

bonds designated as "Junior Sewage Works Refunding and Improvement Revenue Bonds, Series 2002 B (the "2002 B Bonds"), outstanding after August 1, 2008, in the amount of \$10,950,000 bearing interest at various rates and maturing in various amounts annually on August 1 in the years 2009 to 2017; and

WHEREAS, pursuant to Ordinance No. S-126-02 adopted by the Common Council on October 22, 2002 (the "2002 C Bond Ordinance"), the City has heretofore issued revenue bonds payable from the net revenues of the Sewage Works, designated as "Sewage Works Junior Revenue Bonds, Series 2002 C" (the "2002 C Bonds"), outstanding after August 1, 2008, in the amount of \$3,815,000, bearing interest at various rates and maturing in various amounts annually on August 1 in the years 2009 to and including 2017; and

WHEREAS, pursuant to Ordinance No. S-44-03 adopted by the Common Council on April 8, 2003 (the "2003 Bond Ordinance"), the City has heretofore issued revenue bonds payable from the net revenues of the Sewage Works, designated as "Sewage Works Junior Revenue Bonds, Series 2003" (the "2003 Bonds"), outstanding after August 1, 2008, in the amount of \$8,835,000, bearing interest at various rates and maturing in various amounts annually on August 1 in the years 2009 to and including 2018; and

WHEREAS, pursuant to Ordinance No. S-129-05 adopted by the Common Council on August 23, 2005 (the "2005 Bond Ordinance"), the City has heretofore issued revenue bonds payable from the net revenues of the Sewage Works, designated as "Sewage Works Revenue Bonds, Series 2005" (the "2005 Bonds"), outstanding after August 1, 2008, in the amount of \$35,440,000, bearing interest at various rates and maturing in various amounts annually on August 1 in the years 2009 to and including 2025; and

WHEREAS, pursuant to Ordinance No. 5-07-05-26 adopted by the Common Council on June 12, 2007 (the "2007 Bond Ordinance" and with the 1998 Bond Ordinance, the 2002 Bond Ordinance, the 2002 C Bond Ordinance, the 2003 Bond Ordinance and the 2005 Bond Ordinance, the "Prior Ordinances"), the City has heretofore issued revenue bonds payable from the net revenues of the Sewage Works, designated as "Sewage Works Revenue Bonds, Series 2007" (the "2007 Bonds" and with the 1998 A Bonds, the 1998 B Bonds, the 2002 A Bonds, the 2002 B Bonds, the 2002 C Bonds, the 2003 Bonds and the 2005 Bonds, the "Prior Bonds"), outstanding after August 1, 2008, in the amount of \$23,445,000, bearing interest at various rates and maturing in various amounts annually on August 1 in the years 2009 to and including 2027; and

WHEREAS, the Prior Bonds each rank on a parity with each other and each constitute a first charge against the net revenues of the Sewage Works; and

WHEREAS, Sections 16 and 29(f) of the 1998 Bond Ordinance and Section 16 of the 2002 Ordinance, Section 16 of the 2002 C Ordinance, Section 16 of the 2003 Ordinance, Section 16 of the 2005 Ordinance and Section 16 of the 2007 Ordinance, each authorize the issuance of additional revenue bonds ranking on a parity basis with the Prior Bonds for such purposes, so long as certain conditions are met; and

WHEREAS, the Common Council has been advised by the City's financial advisor and now finds that all conditions precedent to the adoption of an ordinance authorizing the issuance of revenue bonds on a parity basis with the Prior Bonds to provide the necessary funds to be applied to the costs of the Project and all authorized costs relating thereto have been complied with in accordance with the provisions of the Act and the Prior Ordinances; and

WHEREAS, the City has previously purchased the sewage works facilities of the Town of Zanesville and, in connection with such purchase, assumed the obligation of payment for certain

outstanding sewage works revenue bonds of the Town of Zanesville ("Zanesville Bonds"); the City's obligation to pay the principal of and interest on the Zanesville Bonds is a charge upon the net revenues of the City's Sewage Works, but payment of the Zanesville Bonds is junior and subordinate to the payment of the Prior Bonds and any bonds issued in the future on a parity with the Prior Bonds, including the bonds issued under this ordinance; and

WHEREAS, the City will enter into one or more Financial Assistance Agreements with the Indiana Finance Authority ("Authority") as part of its wastewater loan program established and existing pursuant to IC 4-4-11 and IC 13-18-13 ("SRF Program"), pertaining to all or a portion of the Project and the financing thereof ("Financial Assistance Agreement"); and

WHEREAS, the Common Council desires to authorize the issuance of BANs hereunder, if necessary, in one or more series, payable solely from the proceeds of the bonds issued hereunder and to authorize the refunding of the BANs, if issued; and

WHEREAS, the Common Council therefore seeks to authorize the issuance of revenue bonds and BANs to finance the Project pursuant to the Act and the sale of one or more series of such revenue bonds and one or more series of BANs pursuant to the provisions of the Act, subject to and dependent upon the terms and conditions hereinafter set forth; and

WHEREAS, the City reasonably expects to reimburse certain preliminary costs of the Project with proceeds of debt to be incurred by the City in an amount not to exceed \$265,000,000; and

WHEREAS, the Common Council has been advised that it may be cost efficient to purchase municipal bond insurance and one or more debt service reserve sureties for the bonds authorized herein;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, AS FOLLOWS:

**Authorization of the Project. The City, acting by and through the Board and as the owner and operator of the Sewage Works for the collection and treatment of sewage and other wastes, hereby orders, authorizes and directs the Board to proceed with the Project, pursuant to the Act and in accordance with the plans, specifications and cost estimates prepared and filed with the Board by the Consulting Engineers, which plans, specifications and cost estimates are hereby adopted and approved and, by reference, incorporated fully into this Ordinance, and two copies of which are now on file in the office of the Board and are open for public inspection. The actions of the Board in connection with the Project are hereby authorized, approved, ratified and confirmed.**

Where used in this ordinance, the term "City" shall be construed also to include any department, board, commission or officer or officers of the City or of any City department, board or commission. The terms "Sewage Works," "sewage works," "works" and similar terms used in this ordinance shall be construed to mean and include the Treatment Works, as defined in the Financial Assistance Agreement entered into between the City and the Authority, the existing structures and property of the Sewage Works and all enlargements, improvements, extensions and additions thereto, and replacements thereof, now or subsequently constructed or acquired, from the proceeds of the bonds authorized herein or otherwise. Such Project shall be constructed and the bonds and BANs herein authorized shall be issued pursuant to the provisions of this ordinance and the Act.

**Issuance of BANs and Bonds; Reimbursement. (a) The City hereby authorizes the Controller of the City ("Controller") to prepare and issue, if necessary, the BANs for the purpose of procuring interim financing to apply on the cost of the Project. The BANs may be issued, in one or more series, in an aggregate amount not to exceed Two Hundred Sixty-five Million Dollars (\$265,000,000) to be designated "[Taxable] Sewage Works Bond Anticipation**

Notes of \_\_\_\_\_" (to be completed with the year in which issued and appropriate series designation, if any). Each series of BANs shall be sold at not less than par value if sold to the Authority as part of its SRF Program or not less than 99% of the par value thereof if sold to any other purchaser, shall be numbered consecutively from 1 upward, shall be in any multiple of One Dollar (\$1), as designated in the Purchase Agreement (as hereinafter defined), shall be dated as of the date of delivery thereof, and shall bear interest at a rate not to exceed 6% per annum (the exact rate or rates to be determined through negotiations with the purchaser of the BANs) payable upon maturity. Each series of BANs will mature no later than five (5) years after their date of delivery. The BANs are subject to renewal or extension at an interest rate or rates not to exceed 6% per annum (the exact rate or rates to be negotiated with the purchaser of the BANs). The term of the BANs and all renewal BANs may not exceed five years from the date of delivery of the initial BANs. The BANs shall be registered in the name of the purchasers thereof. Notwithstanding any thing in this ordinance to the contrary, any series of BANs issued hereunder, may bear interest that is taxable and included in the gross income of the owners thereof. If any such BANs are issued on a taxable basis, the designated name shall include the term "Taxable" as the first word in the designated name.

The BANs shall be issued pursuant to IC 5-1.5-8-6.1 if sold to the Indiana Bond Bank, pursuant to IC 4-4-11 and IC 13-18-13 if sold to the Authority, or pursuant to IC 5-1-14-5 if sold to a financial institution or any other purchaser. The City shall pledge to the payment of the principal of and interest on the BANs the proceeds from the issuance of the bonds pursuant to and in the manner prescribed by the Act (unless the BANs are forgiven pursuant to the terms of the Loan Forgiveness as set forth in the Financial Assistance Agreement). The bonds will be payable out of and constitute a first

charge against the Net Revenues (herein defined as gross revenues after deduction only for the payment of the reasonable expenses of operation, repair and maintenance) of the Sewage Works of the City, on a parity with the Prior Bonds, subject to such bonds meeting the parity conditions set forth in the Prior Ordinances.

**In accordance with the Act and for the purpose of providing funds with which to pay the costs of the Project, providing funds for the hereinafter defined Reserve Accounts, all authorized costs relating to the Project and the financing, including the costs of issuance of the Bonds, as hereinafter defined, on account thereof, and any premiums for bond insurance and debt service reserve sureties, the City shall issue and sell its sewage works revenue bonds, in one or more series, in the aggregate principal amount not to exceed Two Hundred Sixty-five Million Dollars (\$265,000,000). The principal of, redemption premium, if any, and interest on the Bonds shall be payable, on a parity basis with the Prior Bonds, solely out of the Sewage Works Sinking Fund referred to below.**

The Bonds shall be issued in one or more series designated as the "[Taxable]Sewage Works Revenue Bonds of 20\_\_\_\_" to be completed with the year in which issued and the appropriate series designation, if any (the "Bonds"). Each series of Bonds shall be issued as fully registered bonds in the denomination of One Dollar (\$1) or integral multiples thereof if sold to the Authority as part of its SRF Program, or in denominations of \$5,000 or integral multiples thereof if sold to any other purchaser. The Bonds shall be numbered consecutively from 1 up and shall bear interest at a rate not exceeding eight

percent (8%) per annum, the exact rate or rates to be determined by bidding or through negotiation with the Authority through its SRF Program or the Indiana Bond Bank. Interest on the Bonds shall be calculated on the basis of twelve (12) thirty (30)-day months for a three hundred and sixty (360)-day year and shall be payable semiannually on February 1 and August 1 in each year, commencing on the first February 1 or the first August 1, following the original date of the Bonds as determined by the Controller, with the advice of the City's financial advisor. The principal of the Bonds shall mature annually on August 1 of each year, over a period ending no later than twenty (20) years after substantial completion of the Project (as determined under the Financial Assistance Agreement) for any Bonds sold to the Authority as part of its SRF Program, and in such amounts that will allow the City to meet the coverage and/or amortization requirements of the SRF Program. Such debt service schedule for any Bonds sold to the Authority as part of its SRF Program shall be finalized and set forth in the Financial Assistance Agreement. For any Bonds not sold to the Authority as part of its SRF Program, such Bonds shall mature annually on August 1 of each year, over a period not to exceed twenty-five (25) years and in amounts that either (i) produce as level annual debt service as practicable with \$5,000 denominations, taking into account the annual debt service on the Prior Bonds and all other series of Bonds issued under this ordinance, or (ii) produce forecasted coverage to allow the successful marketing of the Bonds.

All or a portion of the Bonds may be issued as one or more term bonds, upon election of the purchaser. Such term bonds shall have a stated maturity or maturities in the years as determined by the successful bidder, but in no event later than the final serial maturity date of the Bonds as determined in the above paragraph. The term bonds shall be subject to mandatory sinking fund redemption and final payment(s) at maturity at 100% of the principal amount thereof, plus accrued interest to the redemption

date, on principal payment dates which are hereinafter determined in accordance with the above paragraph.

Each series of Bonds shall rank on a parity with the other for all purposes, including the pledge of Net Revenues under this ordinance.

The Bonds shall bear an original issue date which shall be the date of issuance of the Bonds or the first day of the month in which the Bonds are delivered, as determined by the Controller, with the advice of the City's financial advisor, and each Bond shall also bear the date of its authentication.

**Notwithstanding anything in this ordinance to the contrary, any series of Bonds issued hereunder, may bear interest that is taxable and included in the gross income of the owners thereof. If any such Bonds are issued on a taxable basis, the designated name shall include the term "Taxable" as the first word in the designated name.**

Notwithstanding anything contained herein, the City may accept any other forms of financial assistance, as and if available, from the SRF Program (including without limitation any forgivable loans, grants or other assistance whether available as an alternative to any Bond or BAN related provision otherwise provided for herein or as a supplement or addition thereto). If required by the SRF Program to be eligible for such financial assistance, one or more of the series of the Bonds issued hereunder may be issued on a basis such that the payment of the principal of or interest on such series of Bonds is junior and subordinate to the payment of the principal of and interest on other series of Bonds issued hereunder (and/or any other revenue bonds secured by a pledge of Net Revenues, whether now outstanding or hereafter issued), all as provided by the terms of such series of Bonds as modified pursuant to this authorization. Such financial assistance, if any, shall be as provided in the Financial Assistance Agreement and the Bonds of each series of Bonds issued hereunder (including any modification made pursuant to the authorization in this paragraph to the form of Bond otherwise contained herein).

**The Mayor and Controller are authorized, on behalf of the City, to select and appoint a qualified financial institution to serve as Registrar and Paying Agent for the Bonds, which Registrar is hereby charged with the responsibility of authenticating the Bonds ("Registrar" or "Paying Agent"). The Controller is hereby authorized, on behalf of the Board, to enter into such agreements or understandings with such institution as will enable the institution to perform the services required of a Registrar and Paying Agent. The Controller is further authorized to pay such fees as the institution may charge for the services it provides as Registrar and Paying Agent, and such fees may be paid from the Sewage Works Sinking Fund established to pay the principal of and interest on the Bonds and fiscal agency charges.**

As to the BANS and as to the Bonds, if any purchaser does not object to such designation, the Controller may serve as Registrar and Paying Agent and is hereby charged with the duties of a Registrar and Paying Agent.

If any Bonds or BANs are sold to the Authority as part of its SRF Program, the principal of and interest thereon shall be paid by wire transfer to such financial institution if and as directed by the Authority on the due date of such payment or, if such due date is a day when financial institutions are not open for business, on the business day immediately after such due date. So long as the Authority is the

owner of the Bonds or BANs, such Bonds and BANs shall be presented for payment as directed by the Authority.

If wire transfer payment is not required and for any Bonds not sold to the Authority, the principal of the Bonds shall be payable at the principal office of the Paying Agent and all payments of interest on the Bonds shall be paid by check mailed one business day prior to the interest payment date to the registered owners thereof, as the names appear as of the fifteenth day of the month preceding the interest payment date ("Record Date"), at the addresses as they appear on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by such registered owner on or before such Record Date. If payment of principal or interest is made to a depository, payment shall be made by wire transfer on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day. The Paying Agent shall be instructed to wire transfer payments by 1:00 p.m. (New York City time) so such payments are received at the depository by 2:30 p.m. (New York City time).

All payments on the BANs and Bonds shall be made in any coin or currency of the United States of America, which on the date of such payment, shall be legal tender for the payment of public and private debts.

Each Bond shall be transferable or exchangeable only upon the books of the City kept for that purpose at the principal office of the Registrar, by the registered owner thereof in person, or by its attorney duly authorized in writing, upon surrender of such Bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner or its attorney duly authorized in writing, and thereupon a new fully registered Bond or Bonds in the same aggregate principal amount and of the same maturity shall be executed and delivered in the name of the transferee

or transferees or the registered owner, as the case may be, in exchange therefor. The costs of such transfer or exchange shall be borne by the City. The City and the Registrar and Paying Agent for the Bonds may treat and consider the person in whose name such Bonds are registered as the absolute owner thereof for all purposes including for the purpose of receiving payment of, or on account of, the principal thereof and interest due thereon.

The Registrar and Paying Agent may at any time resign as Registrar and Paying Agent upon giving 30 days' notice in writing to the City and by first class mail to each registered owner of the Bonds then outstanding, and such resignation will take effect at the end of such 30 day period or upon the earlier appointment of a successor registrar and paying agent by the City. Any such notice to the City may be served personally or sent by registered mail. The Registrar and Paying Agent may be removed at any time as Registrar and Paying Agent by the City, in which event the City may appoint a successor registrar and paying agent. The City shall notify each registered owner of the Bonds then outstanding by first class mail of the removal of the Registrar and Paying Agent. Notices to the registered owners of the Bonds shall be deemed to be given when mailed by first class mail to the addresses of such registered owners as they appear on the registration books kept by the Registrar.

Upon the appointment of any successor registrar and paying agent by the City, the Controller is authorized and directed to enter into such agreements and understandings with such successor registrar and paying agent as will enable the institution to perform the services required of a registrar and paying agent for the Bonds. The Controller is further authorized to pay such fees as the successor registrar and paying agent may charge for the services it provides as registrar and paying agent and such fees may be paid from the Sewage Works Sinking Fund as set forth in Section 12 hereof. Any predecessor registrar and paying agent shall deliver all of the Bonds and any cash or investments in its possession with respect thereto, together with the registration books, to the successor registrar and paying agent.

Interest on any Bonds sold to the Authority as part of its SRF Program shall be payable from the date or dates of payments made by the Authority as part of its purchase of the Bonds as set forth in the Financial Assistance Agreement. Interest on all other Bonds shall be payable from the interest payment date to which interest has been paid next preceding the authentication date of the Bonds unless the Bonds are authenticated after the Record Date and on or before such interest payment date in which case they shall bear interest from such interest payment date, or unless the Bonds are authenticated on or before the Record Date preceding the first interest payment date, in which case they shall bear interest from the original date until the principal shall be fully paid.

**The City has determined that it may be beneficial to have the Bonds held by a central depository system pursuant to an agreement between the City and The Depository Trust Company, New York, New York ("Depository Trust Company") and have transfers of the Bonds effected by book-entry on the books of the central depository system ("Book Entry System"). The Bonds may be initially issued in the form of a separate single authenticated fully registered bond for the aggregate principal amount of each separate maturity of the Bonds. In such case, upon initial issuance, the ownership of such Bonds shall be registered in the register kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company.**

With respect to the Bonds registered in the register kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company, the City and the Paying Agent shall have no

responsibility or obligation to any other holders or owners (including any beneficial owner ("Beneficial Owner")) of the Bonds with respect to (i) the accuracy of the records of the Depository Trust Company, CEDE & CO., or any Beneficial Owner with respect to ownership questions, (ii) the delivery to any bondholder (including any Beneficial Owner) or any other person, other than the Depository Trust Company, of any notice with respect to the Bonds including any notice of redemption, or (iii) the payment to any bondholder (including any Beneficial Owner) or any other person, other than the Depository Trust Company, of any amount with respect to the principal of, or premium, if any, or interest on the Bonds except as otherwise provided herein.

No person other than the Depository Trust Company shall receive an authenticated Bond evidencing an obligation of the City to make payments of the principal of and premium, if any, and interest on the Bonds pursuant to this ordinance. The City and the Registrar and Paying Agent may treat as and deem the Depository Trust Company or CEDE & CO. to be the absolute bondholder of each of the Bonds for the purpose of (i) payment of the principal of and premium, if any, and interest on such Bonds; (ii) giving notices of redemption and other notices permitted to be given to bondholders with respect to such Bonds; (iii) registering transfers with respect to such Bonds; (iv) obtaining any consent or other action required or permitted to be taken of or by bondholders; (v) voting; and (vi) for all other purposes whatsoever. The Paying Agent shall pay all principal of and premium, if any, and interest on the Bonds only to or upon the order of the Depository Trust Company, and all such payments shall be valid and effective fully to satisfy and discharge the City's and the Paying Agent's obligations with respect to principal of and premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. Upon delivery by the Depository Trust Company to the City of written notice to the effect that the Depository Trust Company has determined to substitute a new nominee in place of CEDE & CO., and subject to the provisions herein with respect to consents, the words "CEDE &

CO." in this resolution shall refer to such new nominee of the Depository Trust Company. Notwithstanding any other provision hereof to the contrary, so long as any Bond is registered in the name of CEDE & CO., as nominee of the Depository Trust Company, all payments with respect to the principal of and premium, if any, and interest on such Bonds and all notices with respect to such Bonds shall be made and given, respectively, to the Depository Trust Company as provided in a representation letter from the City to the Depository Trust Company.

Upon receipt by the City of written notice from the Depository Trust Company to the effect that the Depository Trust Company is unable or unwilling to discharge its responsibilities and no substitute depository willing to undertake the functions of the Depository Trust Company hereunder can be found which is willing and able to undertake such functions upon reasonable and customary terms, then the Bonds shall no longer be restricted to being registered in the register of the City kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company, but may be registered in whatever name or names the bondholders transferring or exchanging the Bonds shall designate, in accordance with the provisions of this resolution.

If the City determines that it is in the best interest of the bondholders that they be able to obtain certificates for the fully registered Bonds, the City may notify the Depository Trust Company and the Registrar, whereupon the Depository Trust Company will notify the Beneficial Owners of the availability through the Depository Trust Company of certificates for the Bonds. In such event, the Registrar shall prepare, authenticate, transfer and exchange certificates for the Bonds as requested by the Depository Trust Company and any Beneficial Owners in appropriate amounts, and whenever the Depository Trust Company requests the City and the Registrar to do so, the Registrar and the City will cooperate with the Depository Trust Company by taking appropriate action after reasonable notice (i) to make available one or more separate certificates evidencing the fully registered Bonds of any Beneficial

Owner's Depository Trust Company account or (ii) to arrange for another securities depository to maintain custody of certificates for and evidencing the Bonds.

If the Bonds shall no longer be restricted to being registered in the name of the Depository Trust Company, the Registrar shall cause the Bonds to be printed in blank in such number as the Registrar shall determine to be necessary or customary; provided, however, that the Registrar shall not be required to have such Bonds printed until it shall have received from the City indemnification for all costs and expenses associated with such printing.

In connection with any notice or other communication to be provided to bondholders by the City or the Registrar with respect to any consent or other action to be taken by bondholders, the City or the Registrar, as the case may be, shall establish a record date for such consent or other action and give the Depository Trust Company notice of such record date not less than fifteen (15) calendar days in advance of such record date to the extent possible.

So long as the Bonds are registered in the name of the Depository Trust Company or CEDE & CO. or any substitute nominee, the City and the Registrar and Paying Agent shall be entitled to request and to rely upon a certificate or other written representation from the Beneficial Owners of the Bonds or from the Depository Trust Company on behalf of such Beneficial Owners stating the amount of their respective beneficial ownership interests in the Bonds and setting forth the consent, advice, direction, demand or vote of the Beneficial Owners as of a record date selected by the Registrar and the Depository Trust Company, to the same extent as if such consent, advice, direction, demand or vote were made by the bondholders for purposes of this ordinance and the City and the Registrar and Paying Agent shall for such purposes treat the Beneficial Owners as the bondholders. Along with any such certificate or representation, the Registrar may request the Depository Trust Company to deliver, or cause to be delivered, to the Registrar a list of all Beneficial Owners of the bonds, together with the

dollar amount of each Beneficial Owner's interest in the Bonds and the current addresses of such Beneficial Owners.

(e) In the event any Bond is mutilated, lost, stolen or destroyed, the City may cause to be executed and the Registrar may authenticate a new Bond of like date, maturity, series and denomination as the mutilated, lost, stolen or destroyed Bond, which new Bond shall be marked in a manner to distinguish it from the Bond for which it was issued; provided, that in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Registrar, and in the case of any lost, stolen or destroyed Bond there shall be first furnished to the Registrar evidence of such loss, theft or destruction satisfactory to the City and the Registrar, together with indemnity satisfactory to them. In the event that any such mutilated, lost, stolen or destroyed Bond shall have matured or been called for redemption, instead of causing to be issued a duplicate Bond, the Registrar and Paying Agent may pay the same upon surrender of the mutilated Bond or upon satisfactory indemnity and proof of loss, theft or destruction in the case of a lost, stolen or destroyed Bond. The City and the Registrar and Paying Agent may charge the owner of any such Bond with their reasonable fees and expenses in connection with the above. Every substitute Bond issued by reason of any Bond being lost, stolen or destroyed shall, with respect to such Bond, constitute a substitute contractual obligation of the City pursuant to this ordinance, whether or not the lost, stolen or destroyed Bond shall be found at any time, and shall be entitled to all the benefits of this ordinance, equally and proportionately with any and all other Bonds duly issued hereunder.

In the event that any Bond is not presented for payment or redemption on the date established therefor, the City may deposit in trust with the Paying Agent an amount sufficient to pay such Bond or the redemption price thereof, as appropriate, and thereafter the owner of such Bond shall look only to

the funds so deposited in trust with the Paying Agent for payment and the City shall have no further obligation or liability with respect thereto.

**The City hereby declares its official intent to complete the Project; to reimburse certain costs of completing the Project with proceeds of debt to be incurred by the City, and to issue debt not exceeding \$265,000,000 in aggregate principal amount for purposes of paying and reimbursing costs of the Project.**

**Redemption of BANs and Bonds. (a) The BANs are prepayable by the City, in whole or in part, on any date, upon 7 days' notice to the owner of the BANs, without any premium.**

**For any Bonds not sold to the Authority as part of its SRF Program, the Bonds are redeemable at the option of the City, but no sooner than ten (10) years from their date of issuance, on thirty (30) days' notice, in whole or in part, in the order of maturity as determined by the City and by lot within a maturity, at face value, together with a premium no greater than 2%, plus in each case accrued interest to the date fixed for redemption. The exact redemption features shall be determined by the Controller with the advice of the City's financial advisor prior to the sale of the Bonds.**

For any Bonds sold to the Authority as part of its SRF Program, such Bonds are redeemable at the option of the City, but no sooner than ten (10) years after their date of delivery, and thereafter on any date, on sixty (60) days' notice, in whole or in part, in inverse order of maturity, and by lot within a

maturity, at face value together with a premium no greater than 2%, plus accrued interest to the date fixed for redemption. The exact redemption dates and premiums shall be established by the Controller, with the advice of the City's financial advisor, prior to the sale of the Bonds.

If any Bond is issued as a term bond, the Paying Agent shall credit against the mandatory sinking fund requirement for the Bonds maturing as term bonds, and corresponding mandatory redemption obligation, in the order determined by the City, any Bonds maturing as term bonds which have previously been redeemed (otherwise than as a result of a previous mandatory redemption requirement) or delivered to the Registrar for cancellation or purchased for cancellation by the Paying Agent and not theretofore applied as a credit against any redemption obligation. Each Bond maturing as a term bond so delivered or canceled shall be credited by the Paying Agent at 100% of the principal amount thereof against the mandatory sinking fund obligation on such mandatory sinking fund date, and any excess of such amount shall be credited on future redemption obligations, and the principal amount of the Bonds to be redeemed by operation of the mandatory sinking fund requirement shall be accordingly reduced; provided, however, the Paying Agent shall credit only such Bonds maturing as term bonds to the extent received on or before forty-five (45) days preceding the applicable mandatory redemption date.

Each authorized denomination amount shall be considered a separate bond for purposes of optional and mandatory redemption. If less than an entire maturity is called for redemption, the Bonds to be called for redemption shall be selected by lot by the Registrar. If some Bonds are to be redeemed by optional redemption and mandatory sinking fund redemption on the same date, the Registrar shall select by lot the Bonds for optional redemption before selecting the Bonds by lot for the mandatory sinking fund redemption.

In either case, notice of such redemption shall be given not less than sixty (60) days, for any Bonds sold to the Authority as part of its SRF Program or sold to the Indiana Bond Bank, and at least thirty (30) days for any Bonds sold to another purchaser, prior to the date fixed for redemption by mail unless the notice is waived by the registered owner of a Bond. Such notice shall be mailed to the address of the registered owners as shown on the registration records of the City as of the date which is sixty-five (65) days for any Bonds sold to the Authority as part of its SRF Program or sold to the Indiana Bond Bank, and forty-five (45) days for any Bonds sold to another purchaser, prior to such redemption date. The notice shall specify the date and place of redemption and sufficient identification of the Bonds called for redemption. The place of redemption shall be determined by the City. Interest on the Bonds so called for redemption shall cease on the redemption date fixed in such notice if sufficient funds are available at the principal office of the Paying Agent to pay the redemption price on the date so named. Coincidentally with the payment of the redemption price, the Bonds so called for redemption shall be surrendered for cancellation.

Execution and Authentication of the Bonds and BANs. The Bonds and BANs shall be executed in the name of the City by the manual or facsimile signature of the Mayor of the City (the "Mayor"), countersigned by the manual or facsimile signature of the Controller and attested by the manual or facsimile signature of the Clerk of the City (the "Clerk"), who shall cause the seal of the City or a facsimile thereof to be affixed to each of the Bonds and BANs. These officials, by the signing of a Signature and No Litigation Certificate, shall adopt as and for their own proper signatures their facsimile signatures appearing on the Bonds and BANs. The Bonds shall be authenticated by the manual signature of the Registrar, and no Bond shall be valid or become obligatory for any purpose until the certificate of authentication thereon has been so executed. In case any official whose signature appears on any Bond or BAN shall cease to be such official before the delivery of such Bond or BAN, the signature of such official shall nevertheless be valid and sufficient for all purposes, the same as if such official had been in office at the time of such delivery. Subject to the provisions of this ordinance regarding the registration of the Bonds, the Bonds shall be fully negotiable instruments under the laws of the State of Indiana.

Security and Sources of Payment for the Bonds. The Bonds, as and to the extent paid for and delivered to the purchaser thereof as to both principal and interest, shall be valid and binding special revenue obligations of the City, payable solely from and secured by an irrevocable pledge of and constituting a charge upon all of the Net Revenues to be set aside into the Sewage Works Sinking Fund as herein provided and shall rank on a parity with the Prior Bonds and senior to the Zanesville Bonds. The City shall not be obligated to pay the Bonds or the interest thereon except from the Net Revenues of the Sewage Works, and the

Bonds shall not constitute an indebtedness of the City within the meaning of the provisions and limitations of the constitution of the State of Indiana.

Form of the Bonds. The form and tenor of the Bonds shall be substantially as set forth in Exhibit B attached hereto and incorporated herein as if set forth at this place (with all blanks to be filled in properly and all necessary additions and deletions to be made prior to the delivery thereof).

Issuance, Sale and Delivery of the BANs and the Bonds; Official Statement.

Generally. The Controller is hereby authorized and directed to have the BANs and Bonds prepared, and the Mayor, the Controller and the Clerk are each hereby authorized and directed to execute, and attest as appropriate, the BANs and the Bonds in the form and manner herein provided. The Controller is hereby authorized and directed to deliver the BANs and the Bonds to the respective purchasers thereof after sale made in accordance with the provisions of this ordinance, provided that at the time of said delivery the Controller shall collect the full amount which the respective purchasers have agreed to pay therefor, which amount shall not be less than par value of the BANs if sold to the Authority as part of its SRF Program or not less than 99% of the par value of the BANs if sold to any other purchaser, or not less than par value of the Bonds if sold to the Authority as part of its SRF Program, and not less than 97.5% of the par

value of the Bonds if sold to any other purchaser, as the case may be. Payment for the BANs and any Bonds sold to the Authority as a part of its SRF Program may be made in installments. Each series of Bonds herein authorized and delivered to the purchaser shall be the binding special revenue obligations of the City. The proceeds derived from the sale of the Bonds and BANs shall be and are hereby set aside for application on the cost of the Project hereinbefore referred to, the refunding of the BANs, if issued, and the expenses necessarily incurred in connection with the BANs and Bonds. The proper officers of the City are hereby directed to draw all proper and necessary warrants, and to do whatever acts and things which may be necessary to carry out the provisions of this ordinance.

Public Sale of any Series of Bonds. If any Bonds are sold by public sale, prior to the sale of the Bonds, the Controller shall cause to be published either (i) a notice of bond sale in the *Fort Wayne News-Sentinel* and *The Journal Gazette*, the only newspapers published in the City, two times, at least one week apart, the first publication made at least fifteen (15) days before the date of the sale and the second publication being made at least three (3) days before the date of the sale, or (ii) a notice of intent to sell in the newspapers described in (i) above and the *Court &*

Commercial Record, all in accordance with IC 5-1-11 and IC 5-3-1. The notice of such sale or a summary thereof may also be published in The Bond Buyer, a financial journal published in the City and State of New York and/or in other publications, in the discretion of the Controller. The notice must state that any person interested in submitting a bid for the Bonds may furnish in writing, at the address set forth in the notice, the person's name, address, and telephone number, and that any such person may also furnish a telex number. The notice may also state: (1) the amount of the Bonds to be offered; (2) the denominations; (3) the dates of maturity; (4) the maximum rate or rates of interest; (5) the place of sale; and (6) the time within which the name, address and telephone number must be furnished, which time must not be less than seven (7) days after the last publication of the notice, if a notice of intent to sell is used. If a notice of intent is used, each person so registered shall be notified of the date and time bids will be received not less than twenty-four (24) hours before the date and time of sale. The notification shall be made by telephone at the number furnished by the person, and also by telex if the person furnishes a telex number. A notice may also include such other information as the Controller shall deem necessary. Such notice may also

**provide, among other things, that bids will be accepted electronically, that each bid shall be accompanied by a certified or cashier's check or financial surety bond in an amount equal to one percent (1%) of the principal amount of the Bonds to guarantee performance on the part of the bidder, and that in the event the successful bidder shall fail or refuse to accept delivery of and pay for the Bonds as soon as the Bonds are ready for delivery, or at the time fixed in the notice, then such check or financial surety bond and the proceeds thereof shall become the property of the City and shall be considered as the City's liquidated damages on account of such default.**

All bids for the Bonds shall be sealed and shall be presented to the Controller at the Controller's office (or such other place as the Controller shall designate), and the Controller shall continue to receive all bids offered until the time fixed for the sale of the Bonds, at which time and place the Controller shall open and consider each bid. Bidders for the Bonds shall be required to name the rate or rates of interest which the Bonds are to bear, not exceeding eight percent (8%) per annum. Such interest rate or rates shall be in multiples of one-eighth ( $1/8$ ) or one-twentieth ( $1/20$ ) of one percent (1%). Bids specifying more than one interest rate shall also specify the amount and maturities of the Bonds bearing each rate, and all Bonds maturing on the same date shall bear the same rate of interest. The interest rate on Bonds of a given maturity must be at least as great as the interest rate on Bonds of any earlier maturity. The Controller shall award the Bonds to the bidder offering the lowest net interest cost to the City, to be determined by computing the total interest on all of the Bonds from the date thereof to their maturities,

deducting therefrom the premium bid, if any, and adding thereto the amount of any discount. No bid for less than 97.5% of the par value of the Bonds (or such higher percentage of the par value of the Bonds as the Controller, with the advice of the financial advisor to the City, shall determine prior to the publication of the notice) will be considered. The Controller shall have full right to reject any and all bids. In the event no acceptable bid is received at the time fixed for the sale of the Bonds, the Controller shall be authorized to continue to receive bids from day to day thereafter for a period not to exceed thirty (30) days, without readvertising, pursuant to Indiana law.

Distribution of an Official Statement (preliminary and final) prepared by Crowe Horwath LLP, on behalf of the City, is hereby approved and the Mayor or the Controller are authorized and directed to execute the Official Statement on behalf of the City in a form consistent with this ordinance. The Mayor or the Controller are hereby authorized to designate the preliminary Official Statement as "nearly final" for purposes of Rule 15c2-12 promulgated by the Securities and Exchange Commission ("Rule").

**As an alternative to public sale, the Controller may negotiate the sale of any series of the Bonds to the Indiana Bond Bank at an interest rate or rates not exceeding 8% per annum. The Mayor and the Controller are hereby authorized to: (i) submit an application to the Indiana Bond Bank; (ii) execute a purchase agreement with the Indiana Bond Bank with terms conforming to this ordinance and (iii) sell such Bonds upon such terms as are acceptable to the Mayor and the Controller consistent with the terms of this ordinance.**

If any Bonds are sold to the Indiana Bond Bank, upon delivery of the Bonds, the City may obtain an investment letter from the Indiana Bond Bank which satisfies federal and state securities laws applicable to the Bonds. The Mayor, the Controller and the Clerk are hereby authorized to execute and deliver other agreements and certificates to effect a sale to the Indiana Bond Bank.

**As an alternative to public sale, the Controller may negotiate the sale of any series of Bonds to the Authority as a part of its SRF Program. The Mayor and the Controller are hereby authorized to: (i) submit an application to the Authority as a part of its SRF Program; (ii) execute a Financial Assistance Agreement with the Authority with terms conforming to this ordinance; and (iii) sell such Bonds upon such terms as are acceptable to the Mayor and the Controller consistent with the terms of this ordinance. The substantially final form of Financial Assistance Agreement attached to this ordinance is incorporated herein by reference is hereby approved by the Common Council, and the Mayor and Controller are hereby authorized to execute and deliver the same, and to approve any changes in form or substance to the Financial Assistance Agreement, which are consistent with the terms of this ordinance, such changes to be conclusively evidenced by its execution.**

**Credit Enhancement; Opinion of Bond Counsel. 1) In the event the financial advisor to the City certifies to the City that it would be economically advantageous for the City to obtain**

a municipal bond insurance policy, the City hereby authorizes the purchase of such an insurance policy. The acquisition of a municipal bond insurance policy is hereby deemed economically advantageous in the event the difference between the present value cost of (a) the debt service on the Bonds if issued without municipal bond insurance and (b) the total debt service on the Bonds if issued with municipal bond insurance, is greater than the cost of the premium on the municipal bond insurance policy. If such an insurance policy is purchased, the Mayor and the Controller are hereby authorized to execute and delivery all agreements with the provider of the insurance policy to the extent necessary to comply with the terms of such insurance policy and the commitment to issue such policy. Such agreement shall be deemed a part of this ordinance for all purposes and is hereby incorporated hereby by reference.

Prior to the delivery of any series of Bonds or BANs, the City shall obtain a legal opinion as to the validity of the Bonds and BANs from Ice Miller LLP, Indianapolis, Indiana, bond counsel for the City, with such opinion to be furnished to the purchasers of the Bonds and BANs at the expense of the City. The costs of obtaining any such insurance, other credit enhancement and/or credit ratings, together with bond counsel's fee in preparing and delivering such opinions and in the performance of related services in connection with the issuance, sale and delivery of the Bonds and BANs, shall be considered as a part of the cost of the Project

and shall be paid out of the proceeds of the Bonds or BANs, as the case may be.

Disposition of Proceeds of the Bonds and BANs; City of Fort Wayne Sewage Works Construction Account. The proceeds from the sale of the Bonds and BANs shall be deposited and applied as follows:

The accrued interest, if any, and any premium received at the time of delivery of the Bonds shall be deposited in the Sewage Works Sinking Fund continued by this ordinance. Any proceeds of the Bonds to be used for deposits into the Reserve Accounts shall be deposited into either the hereinafter defined Reserve Account or the SRF Reserve Account, as the case may be.

The remaining proceeds from the sale of the Bonds and BANs shall be deposited in a bank or banks which are legally qualified depositories for the funds of the City, in the special account to be designated as "City of Fort Wayne Sewage Works Construction Account" (the "Construction Account"). Amounts in the Construction Account shall be expended only for the purpose of paying the costs of the Project, as described in this ordinance and in the Act, refunding the BANs if issued, together with all authorized costs relating thereto, including the costs of

issuance of the Bonds and BANs, and as otherwise permitted or required by the Act and this ordinance. Any balance or balances remaining unexpended in the Construction Account after completion of the Project, which are not required to meet unpaid obligations incurred in connection with the construction of the Project, shall be used solely for one or more of the purposes permitted under the provisions of Indiana Code 5-1-13, as amended. Pursuant to the Act, the owners of the Bonds shall be entitled to a lien on the proceeds of the Bonds until such proceeds are applied as required by this ordinance and by Indiana law.

With respect to any Bonds sold to the Authority as part of its SRF Program, to the extent that (a) the total principal amount of the Bonds is not paid by the purchaser or drawn down by the City or (b) proceeds remain in the Construction Account and are not applied to the Project (or any modifications or additions thereto approved by the Department and the Authority), the City shall reduce the principal amount of the Bond maturities to effect such reduction in a manner that will still achieve the annual debt service as described in Section 2 subject to and upon the terms set forth in the Financial Assistance Agreement.

Segregation and Application of Sewage Works Revenues. All revenues derived from the operation of the Sewage Works and from the collection of sewage rates and charges shall be deposited in a special fund of the City (the "Revenue Fund") and segregated and kept separate and apart from all other funds and bank accounts of the City. Out of said revenues the proper and reasonable expenses of operation, repair and maintenance of the Sewage Works shall be paid, the principal and interest of all bonds and fiscal agency charges of bank paying agents shall be paid, debt service reserves shall be funded, and the costs of replacements, extensions, additions and improvements shall be paid as hereinafter provided. Payments in lieu of taxes shall be made not more frequently than semiannually on June 30 and December 31 and may be made only if all monthly deposits required by this ordinance are current and held as of such dates in the Operation and Maintenance Fund and the Sewage Works Sinking Fund (each as defined herein). Other than the payments in lieu of taxes, no moneys derived from the revenues of the Sewage Works shall be transferred to the General Fund of the City or be used for any purpose not connected with the Sewage Works. All moneys deposited in the Revenue Fund may be invested in accordance with IC 5-13-9, as amended and supplemented including pursuant to IC 4-4-11 and IC 13-18-13.

Operation and Maintenance Fund. The Operation and Maintenance Fund is hereby created. Any funds held in the Sewage Works Operation and Maintenance Fund created and continued by the Prior Ordinances shall be held in the Operation and Maintenance Fund in accordance with this Section 11 upon adoption of this ordinance. On the last day of each calendar month, revenues of the Sewage Works shall be transferred from the Revenue Fund to the Operation and Maintenance Fund. The balance maintained in this Fund shall be sufficient to pay the expenses of operation, repair and maintenance for the then next

succeeding two calendar months. The moneys credited to this Fund shall be used for the payment of the reasonable and proper operation, repair and maintenance expenses of the sewage works on a day-to-day basis, but none of the moneys in such Fund shall be used for depreciation, replacements, improvements, extensions or additions. Any monies in said Fund in the excess of the expected expenses of operation, repair and maintenance for the next succeeding month may be transferred to the Sewage Works Sinking Fund if necessary to prevent a default in the payment of principal of or interest on the outstanding bonds of the Sewage Works.

Sewage Works Sinking Fund. (a) The special fund designated the "Sewage Works Sinking Fund," created under Ordinance No. 1939, adopted on July 26, 1938, and continued under the Prior Ordinances is hereby continued and designated as the special fund for the payment of the interest on and principal of the Bonds and the payment of any fiscal agency charges in connection with the payment of the Bonds and interest thereon. There shall be set aside and deposited in the Sewage Works Sinking Fund ("Sinking Fund"), as available, and as hereinafter provided, a sufficient amount of the Net Revenues of the Sewage Works to meet the requirements of the Bond and Interest Account hereby created and the Reserve Accounts (as hereinafter defined) hereby continued in the Sinking Fund. The special account within the Sinking Fund designated as the "1998/2002/2007 Sewage Works Reserve Account" created by the 1998 Bond Ordinance and redesignated by the 2002 Bond Ordinance and the 2007 Bond Ordinance, is hereby redesignated as the "Sewage Works Reserve Account," which account is hereby continued as a debt service reserve for all Prior Bonds except those initially purchased by or for the account of the SRF Program and is constituted as a debt service reserve for any Bonds issued hereunder which are not initially purchased by or for the account

of the SRF Program. The 2002 SRF Reserve Account created by and defined in the 2002 Bond Ordinance is hereby continued and redesignated as the "SRF Reserve Account." The SRF Reserve Account is hereby continued as a debt service reserve for the Prior Bonds which were initially purchased by or for the account of the SRF Program and shall serve as the debt service reserve for all Bonds issued hereunder which are initially purchased by or for the account of the SRF Program. Such payments shall continue until the balances in the Bond and Interest Account and the Reserve Accounts, equal the principal of and interest on all of the then outstanding bonds of the Sewage Works to their final maturity.

**Bond and Interest Account. There is hereby created, within the Sewage Works Sinking Fund, the Bond and Interest Account. There shall be credited on the last day of each calendar month from the Revenue Fund to the Bond and Interest Account an amount of the Net Revenues equal to at least one-twelfth (1/12) of the principal and at least one-sixth (1/6) of the interest on all then outstanding bonds payable on the then next succeeding principal and interest payment dates until the amount of interest and principal payable on the then next succeeding respective interest and principal payment dates shall have been so credited. There shall similarly be credited to the account any amount necessary to pay the bank fiscal agency charges for paying principal and interest on the then outstanding bonds as the same becomes payable. The City shall, from the**

sums deposited in the Sinking Fund and credited to the Bond and Interest Account, remit promptly to the registered owner or to the bank fiscal agency sufficient moneys to pay the interest on the due dates thereof together with the amount of bank fiscal agency charges.

Reserve Accounts. On the date of delivery of any series of Bonds which are not initially purchased by or for the account of the SRF Program, funds on hand of the Sewage Works, Bond proceeds, a debt service reserve surety bond ("Surety Bond"), or a combination thereof may be deposited into the Sewage Works Reserve Account ("Reserve Account") hereby continued. The balance to be maintained in the Reserve Account shall equal but not exceed the least of (i) maximum annual debt service on the Prior Bonds (not initially purchased by or for the account of the SRF Program), Bonds (not initially purchased by or for the account of the SRF Program) and any parity bonds issued in the future by the City which are payable from Net Revenues of the Sewage Works ("Parity Bonds") and not initially purchased by or for the account of the SRF Program; (ii) 125% of average annual debt service on the Prior Bonds (not initially purchased by or for the account of the SRF Program), the Bonds (not initially purchased by or for the account of the SRF Program) and any

**Parity Bonds (not initially purchased by or for the account of the SRF Program) or (iii) 10% of the proceeds of the Prior Bonds (not initially purchased by or for the account of the SRF Program), the Bonds (not initially purchased by or for the account of the SRF Program) and any Parity Bonds (not initially purchased by or for the account of the SRF Program) ("Reserve Requirement"). If the initial deposit into the Reserve Account does not cause the balance therein to equal the Reserve Requirement or if no deposit is made, a sum of Net Revenues shall be credited to the Reserve Account on the last day of each calendar month until the balance therein equals the Reserve Requirement. The monthly deposits of Net Revenues shall be equal in amount and sufficient to accumulate the Reserve Requirement within twelve (12) months of the date of delivery of the Bonds. The Reserve Account shall not secure and may not be used to pay the Zanesville Bonds, or any Prior Bonds, Bonds or Parity Bonds which are initially purchased by or for the account of the SRF Program.**

On the date of delivery of any series of Bonds which are initially purchased by or for the account of the SRF Program, funds on hand of the Sewage Works, Bond proceeds, a Surety Bond, or a combination thereof may be deposited into the SRF Reserve Account (collectively, with the Reserve

Account, referred to as "Reserve Accounts") hereby continued. The balance to be maintained in the SRF Reserve Account shall equal the maximum annual debt service on the Prior Bonds (initially purchased by or for the account of the SRF Program), the Bonds initially purchased by or for the account of the SRF Program and any Parity Bonds initially purchased by or for the account of the SRF Program ("SRF Reserve Requirement"); provided, however, the SRF Reserve Requirement is defined as the initial reserve requirement, and the amount held therein will be decreased on the second day of each January to the maximum annual debt service on the then outstanding Prior Bonds, Bonds and Parity Bonds initially purchased by or for the account of the SRF Program in the then present or any succeeding year, and provided, further than the City shall give 15 days prior written notice to the Authority before transferring funds out of the SRF Reserve Account. If the initial deposit into the SRF Reserve Account does not cause the balance therein to equal the SRF Reserve Requirement or if no deposit is made, a sum of Net Revenues shall be credited to the SRF Reserve Account on the last day of each calendar month until the balance therein equals the SRF Reserve Requirement. The monthly deposits of Net Revenues shall be equal in amount and sufficient to accumulate the SRF Reserve Requirement within twelve (12) months of the date of delivery of the Bonds. The SRF Reserve Account shall not secure and may not be used to pay the Zanesville Bonds, or any Prior Bonds, Bonds or Parity Bonds which are not initially purchased by or for the account of the SRF Program.

The Surety Bond must be issued by an insurance company rated (at the time the Surety Bond is purchased) in the highest rating category by Standard & Poor's Corporation or Moody's Investors Service. However, as long as any of the Prior Bonds or Bonds initially purchased by or for the account of the SRF Program, the City shall receive consent of the Authority before funding any portion of the SRF Reserve Account with such Surety Bond. If such a Surety Bond is purchased, the Mayor and the Controller are hereby authorized to execute and deliver all agreements with the provider of the Surety

Bond to the extent necessary to comply with the terms of such Surety Bond and the commitment to issue such policy. Such agreements shall be deemed a part of this ordinance for all purposes and are hereby incorporated herein by reference.

The respective Reserve Accounts shall constitute the margin for safety and a protection against default in the payment of principal and interest on the respective Prior Bonds, the Bonds and any Parity Bonds which they respectively secure, and moneys in the respective Reserve Accounts shall be used to pay current principal and interest on the respective Prior Bonds, the Bonds and any Parity Bonds which they respectively secure to the extent that moneys in the Bond and Interest Account, after applied on a pro rata basis to any outstanding Prior Bonds, Bonds and Parity Bonds, are insufficient for that purpose.

Any deficiency in the balances maintained in the respective Reserve Accounts shall be promptly made up from the next available Net Revenues remaining after credits into the Bond and Interest Account on a pro rata basis within a twelve (12) month period. Any moneys in the respective Reserve Accounts in excess of the Reserve Requirement or the SRF Reserve Requirement shall be transferred to the Sewage Works Improvement Fund.

**If any Bonds are initially purchased by or for the account of the SRF Program, the Sewage Works Sinking Fund, containing the Bond and Interest Account and the Reserve Accounts, and the Construction Account may be held by a financial institution acceptable to the Authority, pursuant to terms acceptable to the Authority. If all or a portion of the Sewage Works Sinking Fund and the accounts therein are held in trust, the City shall transfer the monthly required amounts of Net Revenues to the Bond**

and Interest Account and the Reserve Accounts in accordance with this Section 12, and the financial institution holding such funds in trust shall be instructed to pay the required payments in accordance with the payment schedules for the City's outstanding bonds. The financial institution selected to serve in this role may also serve as the Registrar and the Paying Agent for such Bonds. If the Construction Account is held in trust, the City shall deposit the proceeds of such Bonds therein until such proceeds are applied consistent with this ordinance and the Financial Assistance Agreement. The Common Council hereby authorizes the Mayor and Controller to execute and deliver an agreement with a financial institution to reflect this trust agreement for all or a part of the Sewage Works Sinking Fund and the Construction Account in the form of trust agreement as approved by the Mayor and the Controller, consistent with the terms and provisions of this ordinance.

Sewage Works Improvement Fund. After meeting the requirements of the Operation and Maintenance Fund and the Sinking Fund, any excess revenues may be transferred or credited from the Revenue Fund to the "Sewage Works Improvement Fund," hereby created, and said Fund shall be used for replacements, additions, improvements and extensions of the Sewage Works or for any other lawful purpose, so long as such use pertains to and involves the business of the Sewage Works. Any funds held in the Sewage Works Replacement Fund

created and continued by the Prior Ordinances shall be held in the Sewage Works Improvement Fund in accordance with this Section 13 upon adoption of this ordinance. Moneys in the Sewage Works Improvement Fund shall be transferred to the Sewage Works Sinking Fund if necessary to prevent a default in the payment of principal of or interest on the then outstanding bonds or, if necessary, to eliminate any deficiencies in credits to or minimum balance in the Reserve Accounts of the Sewage Works Sinking Fund or may be transferred to the Operation and Maintenance Fund to meet unforeseen contingencies in the operation, repair and maintenance of the Sewage Works.

Books of Record and Accounts; Continuing Disclosure. (a) The City shall keep proper books of record and accounts, separate from all of its other records and accounts, in which completed and correct entries shall be made showing all revenues collected from said works and deposited in said funds, and all disbursements made therefrom on account of the operation of the works, and to meet the requirements of the Sewage Works Sinking Fund, and all other financial transactions relating to said works, including the amounts set aside or credited to the Sinking Fund, the Operation and Maintenance Fund and the Sewage Works Improvement Fund, and the cash balances in each of said funds and accounts described herein as of the close of the preceding fiscal year. Upon written request, there shall be prepared and furnished to the original purchaser of the Bonds, and to any owner of the Bonds at the time then outstanding, not more than one hundred twenty (120) days after the close of each fiscal year, complete financial statements of the works, covering the preceding fiscal year, which annual statements shall be certified by the Controller, or by licensed independent public accountants employed for that purpose. Copies of all such statements and reports shall be kept on file in the office of the Controller. Any owner or owners of the Bonds then outstanding

shall have the right at all reasonable times to inspect the works and all records, accounts and data of the City relating thereto. Such inspections may be made by representatives duly authorized by written instrument.

If any of the Bonds are subject to the Rule, the Mayor or the Controller are authorized to execute and deliver a continuing disclosure agreement in satisfaction of the Rule.

So long as any of the Prior Bonds or Bonds are held by the Authority, the City shall establish and maintain the books and other financial records of the Project (including the establishment of a separate account or subaccount for the Project) and the Sewage Works in accordance with (i) generally accepted governmental accounting standards for utilities, on an accrual basis, as promulgated by the Government Accounting Standards Board and (ii) the rules, regulations and guidance of the State Board of Accounts.

Rates and Charges. The City covenants and agrees that it will establish and maintain just and equitable rates or charges for the use of and the services rendered by said works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses said Sewage Works by or through any part of the Sewage Works system of the City, or that in any way uses or is served by such Sewage Works, and that such rates or charges shall be sufficient in each year to produce Net Revenues equal to 11 times the greater of the average annual debt service on the Prior Bonds, the Bonds and any Parity

**Bonds or the debt service payable during the next succeeding twelve calendar months on the Prior Bonds, the Bonds and any Parity Bonds. For these purposes, the interest rate on variable rate debt shall be assumed to be the average interest rate thereon in the preceding calendar year.**

Such rates or charges shall, if necessary, be changed and readjusted from time to time so that the revenues therefrom shall always be sufficient to meet the expenses of Operation and Maintenance (as defined in the Financial Assistance Agreement) of the Sewage Works and the requirements of the Sewage Works Sinking Fund . The rates or charges so established shall apply to any and all use of such Sewage Works by and service rendered to the City and all departments thereof and shall be paid semi-annually by the City or the various departments thereof as the charges accrue.

**Defeasance. If, when the Bonds issued hereunder (or portions thereof) shall have become due and payable in accordance with their terms or shall have been duly called for redemption or irrevocable instructions to call the Bonds (or portions thereof) for redemption shall have been given, and the whole amount of the principal and the interest and the premium, if any, so due and payable upon all of the Bonds (or portions thereof) then outstanding shall be paid; or (i) sufficient moneys, or (ii) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America, the principal of and the interest on which when due will provide sufficient moneys, or (iii) time certificates of deposit fully secured as to both principal and interest by obligations of the kind described in (ii) above of a bank or banks the principal of and interest on which when due will provide sufficient moneys, shall be held in trust for such purpose, and provision shall also be made for paying all fees and expenses for the redemption, then and in that case the**

Bonds (or portions thereof) issued hereunder shall no longer be deemed outstanding or entitled to the pledge of the Net Revenues of the City's Sewage Works.

Additional Bonds. The City reserves the right to authorize and issue additional BANs at any time ranking on a parity with the BANs. The City also reserves the right to authorize and issue additional Parity Bonds, payable out of the Net Revenues of its Sewage Works, ranking on a parity with the Bonds authorized by this ordinance, for the purpose of financing the cost of future additions, extensions and improvements to the Sewage Works, or to refund obligations, subject to the following conditions:

The interest on and principal of all bonds payable from the revenues of the Sewage Works shall have been paid to date in accordance with the terms thereof, provided, this condition shall be deemed satisfied if any required amount is to be provided from the proceeds of the Parity Bonds or other funds of the City, and all required payments into the Sinking Fund shall have been made in accordance with the provisions of this ordinance.

As of the date of issuance of such additional Parity Bonds, the balance in the Reserve Account shall equal not less than the Reserve Requirement, and the balance in the SRF Reserve Account shall equal not less than the SRF Reserve Requirement, calculated to include principal and interest requirements on the Bonds, any then outstanding

parity bonds and the additional Parity Bonds proposed to be issued, provided this condition shall be deemed satisfied if any required amount is to be provided from the proceeds of the newly issued Parity Bonds or other funds of the City over a period of no longer than five (5) years following the delivery of the Parity Bonds.

The Net Revenues of the Sewage Works in the fiscal year immediately preceding the issuance of any such Parity Bonds shall be not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of the then outstanding Bonds, any then outstanding parity bonds and the additional Parity Bonds proposed to be issued; or, prior to the issuance of said Parity Bonds, the sewage rates and charges shall be increased or the service area or customer base shall be expanded sufficiently so that said increased rates and charges and/or volume applied to the previous fiscal year's operations would have produced Net Revenues for said year equal to not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of the then outstanding Bonds, any then outstanding parity bonds and the additional Parity Bonds proposed to be issued. For purposes of this subsection, the records of the Sewage Works shall be analyzed and

all showings shall be prepared by a certified public accountant or nationally recognized firm of professionals experienced in analyzing financial records of municipal utilities retained by the City for that purpose.

The principal of said additional Parity Bonds shall be payable on August 1 and the interest on said additional Parity Bonds shall be payable semiannually on February 1 and August 1 during the periods in which such principal and interest are payable, and, if the additional Parity Bonds are issued as capital appreciation bonds, the amount payable at maturity thereof shall be payable on February 1 and/or August 1 during the periods in such maturity amounts are payable.

Additional Parity Bonds issued as variable rate debt must be assumed to bear the maximum interest rate thereon for the purpose of certifying satisfaction of the 125% condition set forth above, and a maximum rate must be set for any such variable rate additional Parity Bonds. Furthermore, any put feature associated with such variable rate debt must be covered by remarketing proceeds or a liquidity facility issued by a provider which is rated in one of the two highest short-term rating

categories of Moody's Investors Service or Standard & Poors Ratings Group.

For so long as any of the Bonds are outstanding and owned by the Authority as part of its SRF Program, (i) the City obtains the consent of the Authority, (ii) the City has faithfully performed and is in compliance with each of its obligations, agreements and covenants contained in the Financial Assistance Agreement and this resolution, and (iii) the City is in compliance with its National Pollutant Discharge Elimination System permits, except for non-compliance for which purpose the additional Parity Bonds are issued, including refunding bonds issued prior to, but part of the overall plan to eliminate such non-compliance.

Additional Covenants of the City. For the purpose of further safeguarding the interests of the owners of the BANs and the Bonds herein authorized, it is specifically provided as follows:

All contracts let by the City in connection with the construction of said Project shall be let after due advertisement as required by the laws of the State of Indiana, and all contractors shall be required to furnish surety bonds in an amount equal to one hundred percent (100%) of the amount of such contracts, to insure the completion of said contracts in accordance

with their terms, and such contractors shall also be required to carry such employers liability and public liability insurance as are required under the laws of the State of Indiana in the case of public contracts, and shall be governed in all respects by the laws of the State of Indiana relating to public contracts.

Said Project shall be constructed under the supervision and subject to the approval of the Consulting Engineers or such other competent engineer as shall be designated by the Board. All estimates for work done or material furnished shall first be checked by the Consulting Engineers and approved by the Board.

So long as the Bonds or BANs are outstanding, the City shall at all times maintain its Sewage Works in good condition and operate the same in an efficient manner and at a reasonable cost.

So long as any of the Bonds or BANs herein authorized are outstanding, the City shall maintain insurance coverage, including fidelity bonds, to protect the Sewage Works and its operations on the insurable parts of said Sewage Works of a kind and in an amount such as would normally be carried by private companies engaged in a similar type of business, and, so long as the BANs and/or Bonds are owned by the

Authority as part of its SRF Program such insurance shall be acceptable to the Authority. All insurance shall be placed with responsible insurance companies qualified to do business under the laws of the State of Indiana, provided, however, such insurance requirement may be satisfied, in part or in whole, through the City's self insurance program. Insurance proceeds and condemnation awards shall be used to replace or repair the property, provided, for so long as the BANs or Bonds are owned by the Authority as part of its SRF Program, the Authority may consent to a different use of such proceeds.

So long as any of the BANs or Bonds are outstanding, the City shall not mortgage, pledge or otherwise encumber the Sewage Works, or any portion thereof, nor shall it sell, lease or otherwise dispose of any portion thereof except replace equipment which may become worn out or obsolete, provided, however, if any Bonds or BANs are owned by the Authority as part of its SRF Program, the City shall obtain the prior written consent of the Authority.

So long as the BANs or Bonds are owned by the Authority as part of its SRF Program, the City shall not borrow any money, enter into any contract or agreement or incur any other liabilities in connection with the

Sewage Works, other than for normal operating expenditures, without the prior written consent of the Authority if such undertaking would involve, commit, or use the revenues of the Sewage Works.

Except as hereinbefore provided in Section 17 hereof, so long as any of the Bonds herein authorized are outstanding, no additional bonds or other obligations pledging any portion of the revenues of said Sewage Works shall be authorized, executed or issued by the City except such as shall be made subordinate and junior in all respects to the Bonds herein authorized, unless all of the Bonds herein authorized are redeemed, retired or defeased pursuant to Section 16 hereof coincidentally with the delivery of such additional bonds or other obligations.

The City shall take all action or proceedings necessary and proper to require connection of all property where liquid and solid waste, sewage, night soil, or industrial waste is produced with available sanitary sewers. The City shall, insofar as possible, cause all such sanitary sewers to be connected with said Sewage Works.

The provisions of this ordinance shall constitute a contract by and between the City and the owners of the Bonds or BANS herein authorized, and after the issuance of said Bonds or BANS, this ordinance shall not be

repealed or amended in any respect which will adversely affect the rights of the owners of said Bonds or BANs, nor shall the Common Council adopt any law, ordinance or resolution which in any way adversely affects the rights of such owners so long as any of said Bonds or BANs or the interest thereon remains unpaid. Except for the changes set forth in Section 23(a)-(f), this ordinance may be amended, however, without the consent of BAN or Bond owners, if the Common Council determines, in its sole discretion, that such amendment would not adversely affect the owners of the BANs or Bonds provided, however, that if any BANs or Bonds are sold to the Authority as part of its SRF Program, the City shall obtain the prior written consent of the Authority.

The provisions of this ordinance shall be construed to create a trust in the proceeds of the sale of the BANS and the Bonds herein authorized for the uses and purposes herein set forth, and the owners of the BANS and the Bonds shall retain a lien on such respective proceeds until the same are applied in accordance with the provisions of this ordinance and of the Act. The provisions of this ordinance shall also be construed to create a trust in the portion of the Net Revenues herein directed to be set apart and paid into the Sewage Works Sinking Fund for the uses and purposes of

**said fund as in this ordinance set forth. The owner of said Bonds shall have all of the rights, remedies and privileges set forth in the provisions of the Act, including the right to have a receiver appointed to administer said Sewage Works in the event of default in the payment or the principal of or interest on any of the Bonds herein authorized or in the event of default in respect to any of the provisions of this ordinance or the Act.**

**Permitted Actions Relating to Preservation of Exclusion of Interest from Federal Gross Income. The Controller is hereby authorized to invest moneys pursuant to IC 5-1-14-3 and the provisions of this ordinance (subject to applicable requirements of federal law to insure such yield is the then current market rate) to the extent necessary or advisable to preserve the exclusion from gross income of interest on the BANs and Bonds under federal law.**

The Controller shall keep full and accurate records of investment earnings and income from moneys held in the funds and accounts created or referenced herein. In order to comply with the provisions of this ordinance, the Controller is hereby authorized and directed to employ consultants or attorneys from time to time to advise the City as to requirements of federal law to preserve the tax exclusion or exemption.

**Tax Covenants. In order to preserve the exclusion of interest on the Bonds and BANs from gross income for federal tax purposes under Section 103 of the Internal Revenue Code of 1986 as existing on the date of issuance of the Bonds or BANs, as the case may be ("Code"), and as an inducement to purchasers of the Bonds and BANs, the City represents, covenants and agrees that:**

The Sewage Works will be available for use by members of the general public. Use by a member of the general public means use by natural persons not engaged in a trade or business. No person or entity other than the City or another state or local governmental unit will use more than 10% of the proceeds of the Bonds or BANs or property financed by the Bond or BAN proceeds other than as a member of the general public. No person or entity other than the City or another state or local governmental unit will own property financed by Bond or BAN proceeds or will have any actual or beneficial use of such property pursuant to a lease, a management or incentive payment contract, arrangements such as take-or-pay or output contracts or any other type of arrangement that conveys other special legal entitlements and differentiates that person's or entity's use of such property from use by the general public, unless such uses in the aggregate relate to no more than 10% of the proceeds of the Bonds or BANs, as the case may be. If the City enters into a management contract for the Sewage Works, the terms of the contract will comply with IRS Revenue Procedure 97-13, as it may be amended, supplemented or superseded for time to time, so that the contract will not give rise to private business use under the Code and the

**Regulations, unless such use in aggregate relates to no more than 10% of the proceeds of the Bonds or BANs, as the case may be.**

**No more than 10% of the principal of or interest on the Bonds or BANs is (under the terms of the Bonds or BANs, this ordinance or any underlying arrangement), directly or indirectly, secured by an interest in property used or to be used for any private business use or payments in respect of any private business use or payments in respect of such property or to be derived from payments (whether or not to the City) in respect of such property or borrowed money used or to be used for a private business use.**

**No more than 5% of the Bond or BAN proceeds will be loaned to any person or entity other than another state or local governmental unit. No more than 5% of the Bond or BAN proceeds will be transferred, directly or indirectly, or deemed transferred to a nongovernmental person in any manner that would in substance constitute a loan of the Bond or BAN proceeds.**

**The City reasonably expects, as of the date hereof, that the Bonds and BANs will not meet either the private business use test described in paragraph (a) and (b) above or the private loan test described in**

paragraph (c) above during the entire term of the Bonds or BANs, as the case may be.

No more than 5% of the proceeds of the Bonds or BANs will be attributable to private business use as described in (a) and private security or payments described in (b) attributable to unrelated or disproportionate private business use. For this purpose, the private business use test is applied by taking into account only use that is not related to any government use of proceeds of the issue (Unrelated Use) and use that is related but disproportionate to any governmental use of those proceeds (Disproportionate Use).

The City will not take any action nor fail to take any action with respect to the Bonds or BANs that would result in the loss of the exclusion from gross income for federal tax purposes on the Bonds or BANs pursuant to Section 103 of the Code, nor will the City act in any other manner which would adversely affect such exclusion. The City covenants and agrees not to enter into any contracts or arrangements which would cause the Bonds or BANs to be treated as private activity bonds under Section 141 of the Code.

**It shall be not an event of default under this ordinance if the interest on any Bond or BAN is not excludable from gross income for federal tax purposes or otherwise pursuant to any provision of the Code which is not currently in effect and in existence on the date of issuance of the Bonds or BANs, as the case may be.**

**The City represents that it will rebate any arbitrage profits to the United States in accordance with the Code.**

**These covenants are based solely on current law in effect and in existence on the date of delivery of such Bonds or BANs, as the case may be.**

**The City represents that:**

**The Bonds and BANs will not be private activity bonds as defined in Section 141 of the Code;**

**The City hereby designates the Bonds and BANs as qualified tax-exempt obligations for purposes of Section 265(b) of the Code;**

**The reasonably anticipated amount of qualified tax-exempt obligations (including qualified 501(c)(3) obligations and tax-**

**exempt leases but excluding other private activity bonds) which will be issued by the City, and all entities subordinate to the City during 2009 or 2010 will not exceed \$30,000,000; and**

**The City will not designate more than \$30,000,000 of qualified tax-exempt obligations during 2009 or 2010.**

Therefore, the Bonds and BANs will qualify for the exception in the Code from the disallowance of 100% of the deduction by financial institutions of interest expense allocable to newly acquired tax-exempt obligations.

**Issuance of BANs. (a) The City, having satisfied all the statutory requirements for the issuance of its Bonds, may elect to issue its BAN or BANs pursuant to a Bond Anticipation Note Purchase Agreement ("Purchase Agreement") to be entered into between the City and the purchaser of the BAN or BANs. If the BANs are sold to the Authority as part of its SRF Program, the Financial Assistance Agreement shall serve as the Purchase Agreement. The Common Council hereby authorizes the issuance and execution of the BAN or BANs in lieu of initially issuing the Bonds to provide interim financing for the Project until permanent financing becomes available. It shall not be necessary for the City to repeat the procedures for the issuance of its Bonds, as the procedures followed before the issuance of the BAN or BANs are for all purposes sufficient to authorize the issuance of the Bonds and the use of the proceeds to repay the BAN or BANs.**

The Mayor and the Controller are hereby authorized and directed to execute a Purchase Agreement in such form or substance as they shall approve acting upon the advice of counsel. The Mayor and the Controller may also take such other actions or deliver such other certificates as are

necessary or desirable in connection with the issuance of the BANs or the Bonds and the other documents needed for the financing as they deem necessary or desirable in connection therewith.

Compliance with Tax Sections. Notwithstanding any other provisions of this ordinance, the covenants and authorizations contained in his ordinance ("Tax Sections") which are designed to preserve the tax exempt status of interest on the Bonds and BANs or the exclusion of interest on the Bonds and BANs from gross income under federal law ("Tax Exemption") need not be complied with if the City receives an opinion of nationally recognized bond counsel that any Tax Section is unnecessary to preserve the Tax Exemption.

Supplemental Ordinances. Subject to the terms and provisions contained in this Section, and not otherwise, the owners of not less than sixty-six and two-thirds percent (66-2/3%) in aggregate principal amount of the Bonds issued pursuant to this ordinance and then outstanding shall have the right, from time to time, anything contained in this ordinance to the contrary notwithstanding, to consent to and approve the adoption by the City of such ordinance or ordinances supplemental hereto as shall be deemed necessary or desirable by the City for the purpose of modifying, altering, amending, adding to or rescinding in any particular any of the terms or provisions contained in this ordinance, or in any supplemental ordinance; provided, however, that so long as the Bonds or BANs are owned by the Authority as part of its SRF Program, the City shall obtain the prior written consent of the Authority; and provided, further, that nothing herein contained shall permit or be construed as permitting:

**An extension of the maturity of the principal of, mandatory sinking fund redemption dates, if any, or interest on any Bond issued pursuant to this ordinance; or**

**A reduction in the principal amount of any Bond or the redemption premium or the rate of interest thereon; or**

**The creation of a lien upon or a pledge of the revenues of the Sewage Works ranking prior to the pledge thereof created by this ordinance; or**

**A preference or priority of any Bond or Bonds issued pursuant to this ordinance over any other Bond or Bonds issued pursuant to the provisions of this ordinance; or**

**A reduction in the aggregate principal amount of the Bonds required for consent to such supplemental ordinance; or**

**A reduction in the Reserve Requirement or the SRF Reserve Requirement.**

If the owners of not less than sixty-six and two-thirds percent (66-2/3%) in aggregate principal amount of the Bonds outstanding at the time of adoption of such supplemental ordinance shall have consented to and approved the adoption thereof by written instrument to be maintained on file in the office of the Clerk of the City, no owner of any Bond issued pursuant to this ordinance shall have any right to object to the adoption of such supplemental ordinance or to object to any of the terms and

provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the City or its officers from adopting the same, or from taking any action pursuant to the provisions thereof. Upon the adoption of any supplemental ordinance pursuant to the provisions of this Section, this ordinance shall be, and shall be deemed, modified and amended in accordance therewith, and the respective rights, duties and obligations under this ordinance of the City and all owners of Bonds issued pursuant to the provisions of this ordinance then outstanding, shall thereafter be determined, exercised and enforced in accordance with this ordinance, subject in all respects to such modifications and amendments. Notwithstanding anything contained in the foregoing provisions of this ordinance, the rights and obligations of the City and of the owners of the Bonds authorized by this ordinance, and the terms and provisions of the Bonds and this ordinance, or any supplemental ordinance, may be modified or altered in any respect with the consent of the City and the consent of the owners of all the Bonds issued pursuant to this ordinance then outstanding.

**Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby repealed; provided, however, that this ordinance shall not be construed as repealing or modifying in any respect any of the provisions of the Prior Ordinances nor be construed as adversely affecting the rights of any of the holders of the Prior Bonds.**

**Rates and Charges. The estimates of the rates and charges of the Sewage Works are set forth in Ordinance No. \_\_\_\_\_ to be adopted on \_\_\_\_\_, 2009, which ordinance is incorporated herein by reference.**

**Captions. The captions in this ordinance are inserted only as a matter of convenience and reference, and such captions are not intended and shall not be construed to define, limit, establish, interpret or describe the scope, intent or effect of any provision of this ordinance.**

**Effectiveness. This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.**

PASSED AND ADOPTED by the Common Council of Fort Wayne, Indiana, on this  
\_\_\_\_\_ day of \_\_\_\_\_, 2009.

COMMON COUNCIL OF THE CITY OF FORT  
WAYNE, INDIANA

By: \_\_\_\_\_  
Member of the Common Council

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
Carol Taylor, City Attorney

Presented by me to the Mayor of the City of Fort Wayne this \_\_\_ day of \_\_\_\_\_,  
2009 at \_\_\_:\_\_\_m.

\_\_\_\_\_  
Clerk-Treasurer

Signed and approved by me, the Mayor of the City of Fort Wayne, this \_\_\_ day of  
\_\_\_\_\_, 2009 at \_\_\_:\_\_\_m.

\_\_\_\_\_  
Mayor

EXHIBIT A

Project Description

EXHIBIT B

FORM OF REGISTERED BOND

(Form of Face of Bond)

[Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City of Fort Wayne, Indiana, or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.]

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

UNITED STATES OF AMERICA

STATE OF INDIANA

COUNTY OF ALLEN

[TAXABLE] CITY OF FORT WAYNE  
SEWAGE WORKS REVENUE BOND OF 20\_\_[, SERIES \_\_\_\_\_]

Interest	[Maturity	Original	Authentication	
<u>Rate</u>	<u>Date]</u>	<u>Date</u>	<u>Date</u>	[CUSIP]

REGISTERED OWNER:

PRINCIPAL SUM:

The City of Fort Wayne, in Allen County, State of Indiana ("City"), for value received, hereby promises to pay to the Registered Owner named above or registered assigns, solely out of the special revenue fund hereinafter referred to, the Principal Sum set forth above[, or so much thereof as may be advanced from time to time and be outstanding as evidenced by the records of the registered owner making payment for this bond, or its assigns,] on [the Maturity Date set forth above] **OR** [August 1 in the years and in the amounts as set forth on Exhibit A attached hereto] (unless this bond be subject to and shall have been duly called for redemption and payment as provided for herein), and to pay interest

hereon until the Principal Sum shall be fully paid at the rate per annum specified above from [the dates of payment made on this bond] **OR** [the interest payment date to which interest has been paid next preceding the Authentication Date of this bond unless this bond is authenticated after the fifteenth day of the month preceding an interest payment date and on or before such interest payment in which case it shall bear interest from such interest payment date, or unless this bond is authenticated on or before \_\_\_\_ 15, \_\_\_\_, in which case it shall bear interest from the Original Date,] until the principal is paid, which interest is payable semiannually on the first days of February and August in each year, beginning on \_\_\_\_\_ 1, 20\_\_\_. Interest shall be calculated according to a 360-day calendar year containing twelve 30-day months.

[The principal of this bond is payable at the principal office of \_\_\_\_\_ ("Registrar" or "Paying Agent"), in the \_\_\_\_\_ of \_\_\_\_\_, Indiana.] All payments of [principal of and] interest on this bond shall be paid by [check mailed one business day prior to the interest payment date] **OR** [wire transfer for deposit to a financial institution as directed by the Indiana Finance Authority ("Authority") on the due date or, if such due date is a day when financial institutions are not open for business, on the business day immediately after such due date] to the registered owner hereof, as of the fifteenth day of the month preceding such payment, at the address as it appears on the registration books kept by [\_\_\_\_\_ ("Registrar" or "Paying Agent") in the \_\_\_\_\_ of \_\_\_\_\_, Indiana] **OR** [the Registrar] or at such other address as is provided to the Paying Agent in writing by the registered owner. [If payment of principal or interest is made to a depository, payment shall be made by wire transfer on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day. The Paying Agent shall wire transfer payments by 1:00 p.m. (New York City time) so such payments are received at the

depository by 2:30 p.m. (New York City time).] All payments on the Bond shall be made in any coin or currency of the United States of America, which on the dates of such payment, shall be legal tender for the payment of public and private debts.

THE CITY SHALL NOT BE OBLIGATED TO PAY THIS BOND OR THE INTEREST HEREON EXCEPT FROM THE HEREINAFTER DESCRIBED SPECIAL FUND, AND NEITHER THIS BOND NOR THE ISSUE OF WHICH IT IS A PART SHALL IN ANY RESPECT CONSTITUTE A CORPORATE INDEBTEDNESS OF THE CITY WITHIN THE PROVISIONS AND LIMITATIONS OF THE CONSTITUTION OF THE STATE OF INDIANA.

This bond is [the only] one of an authorized issue of bonds of the City, [issued in series] of like date, tenor and effect,[except as to rates of interest[series designation,] and dates of maturity]; aggregating \_\_\_\_\_ Dollars (\$\_\_\_\_\_) [for this series]; numbered consecutively from 1 up; issued for the purpose of providing funds to be applied on the cost of additions, extensions and improvements to the sewage works system of the City ("Project")[, to refund interim notes issued in anticipation of the bonds] and to pay issuance expenses [including premium[s] for municipal bond insurance [and a debt service reserve surety]]. This bond is issued pursuant to an Ordinance adopted by the Common Council of the City on the \_\_\_\_ day of \_\_\_\_\_, 2009, entitled "An Ordinance of the Common Council of the City of Fort Wayne, Indiana, authorizing the acquisition and installation of certain improvements to the City's sewage works, the issuance and sale of additional revenue bonds to provide funds for the payment of the costs thereof, and the collection, segregation and distribution of the revenues of such sewage works and other related matters" ("Ordinance"), and in accordance with the provisions of Indiana law, including without limitation Indiana Code 36-9-23 as in effect on the date of delivery of the bonds of this issue ("Act"), the

proceeds of which bonds are to be applied to the costs of the Project, [the payment of notes issued in anticipation of the bonds,] and expenses incurred in connection therewith.

[Reference is hereby made to the Financial Assistance Agreement ("Financial Assistance Agreement") between the City and the Authority concerning certain terms and covenants pertaining to the Project and the purchase of this bond as part of the wastewater loan program established and existing pursuant to IC 4-4-11 and IC 13-18-13.]

Pursuant to the provisions of the Act and the Ordinance, the principal of and interest on this bond and all other bonds of said issue, [including the Sewage Works Revenue Bonds of 20\_\_\_\_, Series \_\_\_\_ ("Series \_\_\_\_ Bonds")] and any bonds hereafter issued on a parity therewith are payable solely from the Sewage Works Sinking Fund continued by the Ordinance ("Sinking Fund") to be provided from the Net Revenues (defined as gross revenues after deduction only for the payment of the reasonable expenses of operation, repair and maintenance) of the sewage works of the City. This bond and the issue of which it is a part constitute a first charge upon the Net Revenues and shall rank on a parity with the Prior Bonds, as defined in the Ordinance [and the Series \_\_\_\_ Bonds].

The City irrevocably pledges the entire Net Revenues of the sewage works to the prompt payment of the principal of and interest on the bonds authorized by the Ordinance, of which this is one, and any bonds ranking on a parity therewith, including the Prior Bonds [and the Series \_\_ Bonds] to the extent necessary for that purpose, and covenants that it will cause to be fixed, maintained and collected such rates and charges for services rendered by the utility as are sufficient in each year for the payment of the proper and reasonable expenses of Operation and Maintenance (as defined in the Financial Assistance Agreement) of the sewage works and for the payment of the sums required to be paid into the Sinking Fund under the provisions of the Act and the Ordinance. If the City or the proper officers thereof shall fail or refuse to so fix, maintain and collect such rates or charges, or if there be a default in

the payment of the interest on or principal of this bond, the owner of this bond shall have all of the rights and remedies provided for in the Act, including the right to have a receiver appointed to administer the works and to charge and collect rates sufficient to provide for the payment of this bond and the interest hereon.

The City further covenants that it will set aside and pay into its Sinking Fund monthly, as available, or more often if necessary, a sufficient amount of the Net Revenues of the sewage works for payment of (a) the interest on all bonds which by their terms are payable from the revenues of the sewage works, as such interest shall fall due, (b) the necessary fiscal agency charges for paying bonds and interest, (c) the principal of all bonds which by their terms are payable from the revenues of the sewage works, as such principal shall fall due, and (d) an additional amount as a margin of safety to [create and] maintain the debt service reserve required by the Ordinance. Such required payments shall constitute a first charge upon all the Net Revenues of the sewage works on a parity with the Prior Bonds [and the Series \_\_ Bonds].

The bonds of this issue maturing on and after \_\_\_\_\_ 1, 20\_\_\_\_, are redeemable at the option of the City on \_\_\_\_\_ 1, 20\_\_\_\_, or any date thereafter, on [sixty (60)] [thirty (30)] days' notice, in whole or in part, [in inverse order of maturity] **OR** [in the order of maturity as determined by the City] and by lot within a maturity, at face value, together with the following premiums:

\_\_% if redeemed on \_\_\_\_\_ 1, 200\_\_ or thereafter  
on or before \_\_\_\_\_, 20\_\_;  
\_\_% if redeemed on \_\_\_\_\_ 1, 200\_\_ or thereafter  
on or before \_\_\_\_\_, 20\_\_;  
0% if redeemed on \_\_\_\_\_ 1, 20\_\_ or thereafter  
prior to maturity;

plus accrued interest to the date fixed for redemption.

[The bonds maturing on \_\_\_\_\_ 1, 20\_\_\_\_, are subject to mandatory sinking fund redemption prior to maturity, at a redemption price equal to the principal amount thereof plus accrued interest, on the dates and in the amounts set forth below:

_____	Term Bond	
<u>Date</u>	<u>Amount</u>	* Final Maturity]

Each [Five Thousand Dollars (\$5,000)] [One Dollar (\$1)] principal amount shall be considered a separate bond for purposes of optional [and mandatory] redemption. If less than an entire maturity is called for redemption, the bonds to be redeemed shall be selected by lot by the Registrar. [If some bonds are to be redeemed by optional redemption and mandatory sinking fund redemption on the same date, the Registrar shall select by lot the bonds for optional redemption before selecting the bonds by lot for the mandatory sinking fund redemption.]

Notice of such redemption shall be mailed to the address of the registered owner as shown on the registration records of the City, as of the date which is [sixty-five (65)] [forty-five (45)] days prior to such redemption date, not less than [sixty (60)] [thirty (30)] days prior to the date fixed for redemption unless the notice is waived by the registered owner of this bond. The notice shall specify the date and place of redemption and sufficient identification of the bonds called for redemption. The place of redemption may be determined by the City. Interest on the bonds so called for redemption shall cease on the redemption date fixed in such notice if sufficient funds are available at the place of redemption to pay the redemption price on the date so named.

If this bond shall not be presented for payment or redemption on the date fixed therefor, the City may deposit in trust with its depository bank an amount sufficient to pay such bond or the redemption price, as the case may be, and thereafter the registered owner shall look only to the funds so

deposited in trust with said bank for payment and the City shall have no further obligation or liability in respect thereto.

This bond is transferable or exchangeable only upon the books of the City kept for that purpose at the [principal corporate trust] office of the Registrar by the registered owner hereof in person, or by his attorney duly authorized in writing, upon surrender of this bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner, or his attorney duly authorized in writing, and thereupon a new fully registered bond or bonds in an authorized aggregate principal amount and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or to the registered owner, as the case may be, in exchange therefor. This bond may be transferred without cost to the registered owner except for any tax or governmental charge required to be paid with respect to the transfer. The City, the Registrar, the Paying Agent and any other registrar or paying agent for this bond may treat and consider the person in whose name this bond is registered as the absolute owner hereof for all purposes including for the purpose of receiving payment of, or on account of, the principal hereof and interest due hereon.

[The bonds shall be initially issued in a Book Entry System (as defined in the Ordinance). The provisions of this bond and of the Ordinance are subject in all respects to the provisions of the Letter of Representations between the City and The Depository Trust Company, or any substitute agreement, effecting such Book Entry System.]

The City has designated the bonds as qualified tax-exempt obligations to qualify the bonds for the \$30,000,000 exception from the provisions of Section 265(b) of the Internal Revenue Code of 1986, as amended and in effect on the issue date of the bonds, relating to the disallowance of 100% of the deduction for interest expense allocable to tax-exempt obligations.

This bond is subject to defeasance prior to redemption or payment as provided in the Ordinance referred to herein. THE OWNER OF THIS BOND, BY THE ACCEPTANCE HEREOF, HEREBY AGREES TO ALL THE TERMS AND PROVISIONS CONTAINED IN THE ORDINANCE. The Ordinance may be amended without the consent of the owners of the bonds as provided in the Ordinance if the Common Council determines, in its sole discretion, that the amendment shall not adversely affect the rights of any of the owners of the bonds.

The bonds maturing in any one year are issuable only in fully registered form in the denomination of [\$5,000] [\$1] or any integral multiple thereof.

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

This bond shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been executed by an authorized representative of the Registrar.

IN WITNESS WHEREOF, the City of Fort Wayne, in Allen County, Indiana, has caused this bond to be executed in its corporate name by the manual or facsimile signature of its Mayor, countersigned by the manual or facsimile signature of the Controller, and its corporate seal to be hereunto affixed, imprinted or impressed by any means and attested manually or by facsimile by its Clerk.

CITY OF FORT WAYNE, INDIANA

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

COUNTERSIGNED:

By \_\_\_\_\_  
Controller

[SEAL]

Attest:

\_\_\_\_\_  
Clerk

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

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

\_\_\_\_\_,  
as Registrar

By \_\_\_\_\_  
Authorized Representative

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns  
and transfers unto  
this  
bond and all rights thereunder, and hereby irrevocably  
constitutes and appoints \_\_\_\_\_  
\_\_\_\_\_, attorney, to transfer the within bond in the  
books kept for the registration thereof with full power of  
substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_  
NOTICE: Signature(s) must be  
guaranteed by an eligible guarantor  
institution participating in a  
Securities Transfer Association  
recognized signature guarantee  
program.

\_\_\_\_\_  
NOTICE: The signature to  
assignment must correspond with  
name as it appears on the face  
the within bond in every partic  
without alteration or enlargement  
any change whatsoever.

## EXHIBIT A

Project Descriptions:

### 2009/2011/2013 Sewer Bond - General Project Descriptions

#### Plant Capacity Improvements Phase III - (85mgd)

The Long Term Control Plant (LTCP) identifies the need for the City to upgrade the Water Pollution Control Plant (WPCP) facilities to achieve peak capacity of 85 mgd and firm capacity of 74 mgd. Phase III is the final phase of construction (Phases I and II are already completed) and the projects proposed to be completed include the installation of two new raw wastewater pumps, lowering the weirs in the secondary clarifiers, modifications to the existing chlorine contact tank, lowering the chlorine tank discharge line at the discharge of Pond 3, constructing improvements to aerators at the discharge of Pond 3, construction of a new pump station for plant effluent pumping, and the construction of a facility for allowing chemically enhanced primary treatment (CEPT) in the primaries.

#### Early Floatable Control Facilities

This project is proposed to design and construct a facility for the screening and removal of floatables from three Combined Sewer Overflow (CSO) outfalls in the collection system. This pilot project will allow the City to observe operational issues and effectiveness of a chosen technology and screening method. As part of the City's LTCP all CSO outfalls will eventually need to be equipped with floatables control, but the majority of these will not need to be constructed until after 2020. The sizing of these facilities is dependent on many variables for each site, but the City intends to utilize similar methods of removal for each site (where practical) after evaluating the performance of this pilot project for several years. Two facilities have all ready been constructed and the last of the three early floatable project facilities will be constructed in 2009-2010.

#### Combined Sewer System Capacity Improvement Program (CSSCIP) - Phase I

The projects in this category of work are included in the LTCP and generally include partial sewer separation by the construction of new storm drains and/or sanitary sewers, but may include various other technologies/methods to reduce CSO's and neighborhood capacity issues. In all of these projects, the City will investigate the potential for incorporating green/sustainable solutions. The project areas are studied as part of the program and confirmed to be cost-effective components of the CSSCIP. The areas in this phase of CSSCIP have been identified as projects that need to be completed by 2013.

#### CSO Pond Storage and Dewatering Improvements

The CSO ponds (Ponds #1 and #2) on the north side of the river across from the WPCP are a vital part of the City's wet weather facilities, and play a key role in the City's long term wet weather strategy. The LTCP recommends significant improvements to the ponds and the associated facilities. Proposed LTCP improvements include: pump station improvements, pond dewatering improvements, gate structure and isolation structure improvements, floatables control facilities, outfall modifications, odor control improvements, dredging and cleaning improvements, construction of a first flush facility/grit chamber and residual handling facilities and other related wet weather improvements. These projects need to be completed by 2013.

#### Combined Sewer System Capacity Improvement Program (CSSCIP) - Phase I

The projects in this category of work are included in the LTCP and generally include partial sewer separation by the construction of new storm drains and/or sanitary sewers, but may include various other technologies/methods to reduce CSO's and neighborhood capacity issues. In all of these projects, the City will investigate the potential for incorporating green/sustainable solutions. The project areas are studied as part of the program and confirmed to be cost-effective components of the CSSCIP. The areas in this phase of CSSCIP have been identified as projects that need to be completed between 2012 and 2018, so not all projects will be completed will be completed in the time period of these bonds.

#### Satellite Storage Facilities- along St Joseph River

This LTCP project would allow for excess wet weather flows from the combined sewers in these areas to be temporarily stored in underground storage tanks and reduces CSO's to the

St Joseph River. After the storm event, the flow is released back to the local interceptor and the flows are then transported to the WPCP for treatment. The facility would consist of underground storage basins, a pump station, site improvements and all associated operations facilities. This bond provides funding only for planning and preliminary design for the facility. Construction funding will be obtained in the future.

#### Satellite Disinfection Facilities- along St Joseph River

This LTCP project would allow for excess wet weather flows from the combined sewers in these areas to be partially treated before being discharged into the St Joseph River. The facility would consist of underground storage basin, process structures, site improvements and all associated operations facilities. This facility must be completed by 2014.

#### Satellite Disinfection Facilities- other locations

This LTCP project would allow for excess wet weather flows from the combined sewers in these areas to be partially treated before being discharged into small tributaries along the St Marys and Maumee rivers. The facilities would consist of underground storage basin, process structures, site improvements and all associated operations facilities. This bond provides funding only for planning of the facilities. Construction funding will be obtained in the future.

#### Wayne Street and St Mary's Parallel Interceptors

This project is a key component of the LTCP program and would construct a large diameter sewer from the southern side of the combined sewer system along the St Marys River north and then east along the Maumee River to the WPCP. This new sewer would allow a significant increase in wet weather flows from existing CSO outfalls to be transported to the WPCP for treatment, instead of overflowing into the local waterways. This project is not scheduled for construction until 2020, but a significant planning, geotechnical and engineering effort must be made during the period of these bonds to ensure the future success of these projects.

#### Rothman / Warfield / North Maumee SSD Improvements

This category of work will consist of a combination of projects and efforts directed towards the reduction and

mitigation of sanitary sewer overflows in the existing sanitary sewer collection system. Areas of work identified for potential improvements include areas tributary to the North Maumee interceptor, areas tributary to and downstream of the Warfield Street 30" diameter sewer and areas tributary to the Rothman Road 24" diameter sewer and pump station. Work may include sewer rehabilitation, relief sewer construction, storage improvements, manhole rehabilitation and other collection system improvements as determined necessary by ongoing engineering and operational studies of the areas. The Rothman and Warfield areas need to have improvements completed by 2011. The North Maumee area is required to be completed by 2019, but some early planning and engineering efforts need to be conducted as part of this bond.

#### Supplemental Environmental Projects and Program Management Services

As part of the City's consent decree, the City must continue its efforts to help property owners transfer to the City's sewer system instead of utilizing septic systems, which are not often suitable for soil conditions in the City service area. One of the largest septic elimination project the City anticipates doing as part of this bond is the Westlawn neighborhood project.

The City has also agreed to conduct a rain garden program to promote the use of rain gardens as a way of reducing the amount of clean water than enters the sewer system.

In support of the LTCP and all associated projects and programs, the City intends to obtain program management assistance to help ensure the success of the early years of the LTCP implementation.

#### Beckett's Relief Sewer

This sanitary sewer capacity project consists of a new relief sewer paralleling the existing Beckett's Run interceptor sewer. The existing Beckett's Run interceptor is currently at capacity and experiencing significant surcharging during wet weather. This project would provide for reductions or elimination of the existing interceptor surcharging. The proposed complete build out of the relief sewer would generally follow the Beckett's Run Creek from the St. Joe Interceptor north and west past Coldwater Road.

#### St. Joe - Beckett's Equalization Basin

This sanitary sewer capacity project consists of the design of a new six million gallon sanitary equalization facility on the

St. Joe Interceptor located near the connection point with the Beckett's Run interceptor. The northern area of the City is one of the fastest growing areas and the existing interceptor sewers serving the area are nearing capacity during wet weather events. This project would allow for excess wet weather flows from the northern interceptors to be temporarily stored and then released back to the St. Joe interceptor after the wet weather event as capacity becomes available in the interceptor. The facility would consist of above ground storage basins, a pump station, site improvements and all associated operations facilities.

#### Upper Ely Relief Sewer - Phase 1

This sanitary sewer capacity project consists of a new sanitary interceptor sewer paralleling the existing Martin's interceptor sewer and the Belot Drain. The northern area of the City is one of the fastest growing areas and the existing interceptor sewers serving the area are currently at capacity and experiencing significant surcharging during wet weather conditions. This project would allow transfer of flows from existing area interceptors and also allows for an existing lift station to be taken out of service. The project is proposed to be constructed in phases as capacity requires. Work included in Phase 1 shall be approximately the area between the St Joe River and Union Chapel Road.

#### Swift Relief Sewer

This sanitary sewer capacity project consists of a new sanitary interceptor sewer paralleling the existing Swift interceptor sewer. The northern area of the City is one of the fastest growing areas and the existing interceptor sewers serving the area are currently at capacity and experiencing significant surcharging during wet weather conditions. This project would allow transfer of flows from existing Swift Interceptor to the Upper Ely Relief sewer.

#### Digester System Improvements

The WPCP will increase its capacity from 60 MGD to 85 MGD at part of the LTCP. In conjunction with this increase, a multi digester improvement program is currently planned for the capital program. An engineering study investigated infrastructure renewal and improvements on all 6 digesters. Currently, 5 digesters (4 primary and 1 secondary) are in service which allows the City to produce class A sludge. In an effort to make safety and operational improvements to the 5 currently in service, it is necessary to get the 6<sup>th</sup> digester

back in service. This will allow for the rehabilitation and modification of the five digesters currently in service. Additionally, design projections in the 20 year planning period show that 6 primary digesters will be needed.

#### Aeration System Improvements

The WPCP will increase its capacity from 60 MGD to 85 MGD at part of the LTCP. In conjunction with this increase, an improvement program is currently planned for the capital program. The most sensitive wastewater treatment process is aeration in the secondary units. The need to provide the correct balance of oxygen and organic primary effluent to the bacteria in this process is critical. Fort Wayne's original aeration blowers and associated appurtenances are now 67 years old. A few years ago the aeration process was converted from a coarse bubble process to a fine bubble process. An engineering analysis of operating efficiency and reliability of blowers has confirmed that original blowers and equipment need to be replaced or rehabilitated.

#### Collection System Improvements - Sewer Rehab/CIPP Program

The goal of the Sewer Repair and Replacement Program is to develop, implement and monitor sewer repair/replacement strategies to identify deteriorating areas of the sewer collection system. It is also to coordinate review and analysis of sewer maintenance data to select and prioritize sewer repair and replacement projects. Cured in Place Piping (CIPP) and other trenchless construction technologies are often utilized.

**A DECLARATORY RESOLUTION designating an  
“Economic Revitalization Area” under I.C. 6-1.1-12.1  
for property commonly known as 4422 Airport  
Expressway, Fort Wayne, Indiana 46809 (GTA  
Acquisition, LLC d/b/a GT Automation Group)**

**WHEREAS**, Petitioner has duly filed its petition dated May 13, 2009 to have the following described property designated and declared an “Economic Revitalization Area” under Sections 153.13-153.24 of the Municipal Code of the City of Fort Wayne, Indiana, and I.C. 6-1.1-12.1, to wit:

**Attached hereto as “Exhibit A” as if a part herein;**

and

**WHEREAS**, said project will create three full-time, permanent jobs for a total new, annual payroll of \$180,000, with the average new annual job salary being \$60,000 and retain 35 full-time and one part-time, permanent jobs for a total current annual payroll of \$2,137,361, with the average current, annual job salary being \$60,686; and

**WHEREAS**, the total estimated project cost is \$180,000; and

**WHEREAS**, it appears the said petition should be processed to final determination in accordance with the provisions of said Division 6.

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

**SECTION 1.** That, subject to the requirements of Section 6, below, the property hereinabove described is hereby designated and declared an “Economic Revitalization Area” under I.C. 6-1.1-12.1. Said designation shall begin upon the effective date of the Confirming Resolution referred to in Section 6 of this Resolution and shall terminate on December 31, 2011, unless otherwise automatically extended in five year increments per I.C. 6-1.1-12.1-9.

**SECTION 2.** That, upon adoption of the Resolution:

- (a) Said Resolution shall be filed with the Allen County Assessor;

- (b) Said Resolution shall be referred to the Committee on Finance requesting a recommendation from said committee concerning the advisability of designating the above area an “Economic Revitalization Area”;
- (c) Common Council shall publish notice in accordance with I.C. 6-1.1-12.1-2.5 and I.C. 5-3-1 of the adoption and substance of this resolution and setting this designation as an “Economic Revitalization Area” for public hearing;

**SECTION 3.** That, said designation of the hereinabove described property as an “Economic Revitalization Area” shall apply to a deduction of the assessed value of personal property for new manufacturing and logistical distribution equipment.

**SECTION 4.** That, the estimate of the number of individuals that will be employed or whose employment will be retained and the estimate of the annual salaries of those individuals and the estimate of the value of new manufacturing and logistical distribution equipment, all contained in Petitioner’s Statement of Benefits, are reasonable and are benefits that can be reasonably expected to result from the proposed described installation of new manufacturing and logistical distribution equipment.

**SECTION 5.** That, the current year approximate tax rates for taxing units within the City would be:

- (a) If the proposed new manufacturing equipment is not installed, the approximate current year tax rates for this site would be \$2.8838/\$100.
- (b) If the proposed new manufacturing equipment is installed and no deduction is granted, the approximate current year tax rate for the site would be \$2.8838/\$100 (the change would be negligible).
- (c) If the proposed new manufacturing equipment is installed and a deduction percentage of eighty percent (80%) is assumed, the approximate current year tax rate for the site would be \$2.8838/\$100 (the change would be negligible).
- (d) If the proposed new logistical distribution equipment is not installed, the approximate current year tax rates for this site would be \$2.8838/\$100.
- (e) If the proposed new logistical distribution equipment is installed and no deduction is granted, the approximate current year tax rate for the site would be \$2.8838/\$100 (the change would be negligible).

(f) If the proposed new logistical distribution equipment is installed and a deduction percentage of eighty percent (80%) is assumed, the approximate current year tax rate for the site would be \$2.8838/\$100 (the change would be negligible).

**SECTION 6.** That, this Resolution shall be subject to being confirmed, modified and confirmed, or rescinded after public hearing and receipt by Common Council of the above described recommendations and resolution, if applicable.

**SECTION 7.** That, pursuant to I.C. 6-1.1-12.1, it is hereby determined that the deduction from the assessed value of the new manufacturing and logistical distribution equipment shall be for a period of ten years.

**SECTION 8.** That, the benefits described in the Petitioner's Statement of Benefits can be reasonably expected to result from the project and are sufficient to justify the applicable deductions.

**SECTION 9.** That, the taxpayer is non-delinquent on any and all property tax due to jurisdictions within Allen County, Indiana.

**SECTION 10.** That, pursuant to I.C. 6-1.1-12.1-12 et al, any property owner that has received a deduction under section 3 or 4.5 of said chapter may be required to repay the deduction amount as determined by the county auditor in accordance with section 12 of said chapter if the property owner ceases operations at the facility for which the deduction was granted and if the Common Council finds that the property owner obtained the deduction by intentionally providing false information concerning the property owner's plans to continue operation at the facility.

**SECTION 11.** That, this Resolution shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

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Member of Council

APPROVED AS TO FORM AND LEGALITY

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Carol Taylor, City Attorney

**A CONFIRMING RESOLUTION designating an  
“Economic Revitalization Area” under I.C. 6-1.1-12.1  
for property commonly known as 4422 Airport  
Expressway, Fort Wayne, Indiana 46809 (GTA  
Acquisition, LLC d/b/a GT Automation Group)**

**WHEREAS**, Common Council has previously designated and declared by Declaratory Resolution the following described property as an “Economic Revitalization Area” under Sections 153.13-153.24 of the Municipal Code of the City of Fort Wayne, Indiana, and I.C. 6-1.1-12.1, to wit:

**Attached hereto as “Exhibit A” as if a part herein; and**

**WHEREAS**, said project will create three full-time, permanent jobs for a total new, annual payroll of \$180,000, with the average new annual job salary being \$60,000 and retain 35 full-time and one part-time, permanent jobs for a current annual payroll of \$2,137,361, with the average current annual job salary being \$60,686; and

**WHEREAS**, the total estimated project cost is \$180,000; and

**WHEREAS**, a recommendation has been received from the Committee on Finance on said Resolution; and

**WHEREAS**, notice of the adoption and substance of said Resolution has been published in accordance with I.C. 6-1.1-12.1-2.5 and I.C. 5-3-1 and a public hearing has been conducted on said Resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

**SECTION 1.** That, the Resolution previously designating the above described property as an “Economic Revitalization Area” is confirmed in all respects.

**SECTION 2.** That, the hereinabove described property is hereby declared an “Economic Revitalization Area” pursuant to I.C. 6-1.1-12.1, said designation to begin on the effective date of this Resolution and shall terminate on December 31, 2011, unless otherwise automatically extended in five year increments per I.C. 6-1.1-12.1-9.

**SECTION 3.** That, said designation of the hereinabove described property as an “Economic Revitalization Area” shall apply to a deduction of the assessed value of personal property for new manufacturing and logistical distribution equipment.

**SECTION 4.** That, the estimate of the number of individuals that will be employed or whose employment will be retained and the estimate of the annual salaries of those individuals and the estimate of the value of the new manufacturing and logistical distribution equipment, all contained in Petitioner’s Statement of Benefits are reasonable and are benefits that can be reasonably expected to result from the proposed described installation of the new manufacturing and logistical distribution equipment.

**SECTION 5.** The current year approximate tax rates for taxing units within the City would be:

- (a) If the proposed new manufacturing equipment is not installed, the approximate current year tax rates for this site would be \$2.8838/\$100.
- (b) If the proposed new manufacturing equipment is installed and no deduction is granted, the approximate current year tax rate for the site would be \$2.8838/\$100 (the change would be negligible).
- (c) If the proposed new manufacturing equipment is installed, and a deduction percentage of eighty percent (80%) is assumed, the approximate current year tax rate for the site would be \$2.8838/\$100 (the change would be negligible).
- (d) If the proposed new logistical distribution equipment is not installed, the approximate current year tax rates for this site would be \$2.8838/\$100.
- (e) If the proposed new logistical distribution equipment is installed and no deduction is granted, the approximate current year tax rate for the site would be \$2.8838/\$100 (the change would be negligible).
- (f) If the proposed new logistical distribution equipment is installed, and a deduction percentage of eighty percent (80%) is assumed, the approximate current year tax rate for the site would be \$2.8838/\$100 (the change would be negligible).

**SECTION 6.** Pursuant to I.C. 6-1.1-12.1, it is hereby determined that the deduction from the assessed value of the new manufacturing and logistical distribution equipment shall be for a period of ten years.

**SECTION 7.** The benefits described in the Petitioner’s Statement of Benefits can be reasonably expected to result from the project and are sufficient to justify the applicable deductions.

**SECTION 8.** For new manufacturing and logistical distribution equipment, a deduction application must contain a performance report showing the extent to which there has been compliance with the Statement of Benefits form approved by the Fort Wayne Common Council at the time of filing. This report must be submitted to the Allen County Auditor’s Office, and the City of Fort Wayne’s Community Development Division and must be included with the deduction application. For subsequent years, the performance report must be updated and submitted along with the deduction application at the time of filing.

**SECTION 9.** The performance report must contain the following information

- (a) The cost and description of real property improvements and/or new manufacturing and/or new logistical distribution equipment acquired.
- (b) The number of employees hired through the end of the preceding calendar year as a result of the deduction.
- (c) The total salaries of the employees hired through the end of the preceding calendar year as a result of the deduction.
- (d) The total number of employees employed at the facility receiving the deduction.
- (e) The total assessed value of the real and/or personal property deductions.
- (f) The tax savings resulting from the real and/or personal property being abated.

**SECTION 10.** That, the taxpayer is non-delinquent on any and all property tax due to jurisdictions within Allen County, Indiana.

**SECTION 11.** That, pursuant to I.C. 6-1.1-12.1-12 et al, any property owner that has received a deduction under section 3 or 4.5 of said chapter may be required to repay the deduction amount as determined by the county auditor in accordance with section 12 of said chapter if the property owner ceases operations at the facility for which the deduction was granted and if the Common Council finds that the property owner obtained the deduction by intentionally providing false information concerning the property owner’s plans to continue operation at the facility.

**SECTION 12.** That, this Resolution shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

---

Member of Council

APPROVED AS TO FORM AND LEGALITY

---

Carol Taylor, City Attorney

**A DECLARATORY RESOLUTION designating an  
“Economic Revitalization Area” under I.C. 6-1.1-12.1 for  
property commonly known as 505 East Washington  
Boulevard, Fort Wayne, Indiana 46802 (Rothberg Realty,  
LLC)**

**WHEREAS**, Petitioner has duly filed its petition dated April 28, 2009 to have the following described property designated and declared an “Economic Revitalization Area” under Sections 153.13-153.24 of the Municipal Code of the City of Fort Wayne, Indiana, and I.C. 6-1.1-12.1, to wit:

Attached hereto as “Exhibit A” as if a part herein;

and

**WHEREAS**, said project will result in the occupation of an eligible vacant building under I.C. 6-1.1-12.1-4.8; and

**WHEREAS**, said project will retain 42 full-time and seven part-time, permanent jobs for a total current annual payroll of \$1,922,000, with the average current, annual job salary being \$45,762; and

**WHEREAS**, the total estimated project cost of real property improvements is \$250,000; and

**WHEREAS**, it appears the said petition should be processed to final determination in accordance with the provisions of said Division 6.

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

**SECTION 1.** That, subject to the requirements of Section 6, below, the property hereinabove described is hereby designated and declared an “Economic Revitalization Area” under I.C. 6-1.1-12.1. Said designation shall begin upon the effective date of the Confirming Resolution referred to in Section 6 of this Resolution and shall terminate on December 31, 2011, unless otherwise automatically extended in five year increments per I.C. 6-1.1-12.1-9.

**SECTION 2.** That, upon adoption of the Resolution:

- (a) Said Resolution shall be filed with the Allen County Assessor;
- (b) Said Resolution shall be referred to the Committee on Finance requesting a recommendation from said committee concerning the advisability of designating the above area an “Economic Revitalization Area”;
- (c) Common Council shall publish notice in accordance with I.C. 6-1.1-12.1-2.5 and I.C. 5-3-1 of the adoption and substance of this resolution and setting this designation as an “Economic Revitalization Area” for public hearing;

**SECTION 3.** That, said designation of the hereinabove described property as an “Economic Revitalization Area” shall apply to a deduction of the assessed value of occupation of an eligible vacant building and real estate improvements.

**SECTION 4.** That, the estimate of the number of individuals that will be employed or whose employment will be retained and the estimate of the annual salaries of those individuals and the estimate of the value of the proposed occupation of the eligible vacant building and the value of the redevelopment or rehabilitation of the eligible vacant building, all contained in Petitioner’s Statement of Benefits, are reasonable and are benefits that can be reasonably expected to result from the proposed described occupation and redevelopment or rehabilitation of the eligible vacant building.

**SECTION 5.** That, the current year approximate tax rates for taxing units within the City would be:

- (a) If the proposed occupation of the eligible vacant building does not occur, the approximate current year tax rates for this site would be \$2.6321/\$100.
- (b) If the proposed occupation of the eligible vacant building does occur and no deduction is granted, the approximate current year tax rate for the site would be \$2.6321/\$100 (the change would be negligible).
- (c) If the proposed occupation of the eligible vacant building occurs and a deduction percentage of fifty percent (50%) is assumed, the approximate current year tax rate for the site would be \$2.6321/\$100 (the change would be negligible).
- (d) If the proposed development does not occur, the approximate current year tax rates for this site would be \$2.6321/\$100.

- (e) If the proposed development does occur and no deduction is granted, the approximate current year tax rate for the site would be \$2.6321/\$100 (the change would be negligible).
- (f) If the proposed development occurs and a deduction percentage of fifty percent (50%) is assumed, the approximate current year tax rate for the site would be \$2.6321/\$100 (the change would be negligible).

**SECTION 6.** That, this Resolution shall be subject to being confirmed, modified and confirmed, or rescinded after public hearing and receipt by Common Council of the above described recommendations and resolution, if applicable.

**SECTION 7.** That, pursuant to I.C. 6-1.1-12.1, it is hereby determined that the deduction from the assessed value of the occupation of the eligible vacant building shall be for a period of one year and the deduction from the assessed value of the real property improvements shall be for a period of ten years.

**SECTION 8.** That, the benefits described in the Petitioner's Statement of Benefits can be reasonably expected to result from the project and are sufficient to justify the applicable deductions.

**SECTION 9.** That, the taxpayer is non-delinquent on any and all property tax due to jurisdictions within Allen County, Indiana.

**SECTION 10.** That, pursuant to I.C. 6-1.1-12.1-12 et al, any property owner that has received a deduction under section 3, 4.5 or 4.8 of this chapter may be required to repay the deduction amount as determined by the county auditor in accordance with section 12 of said chapter if the property owner ceases operations at the facility for which the deduction was granted and if the Common Council finds that the property owner obtained the deduction by intentionally providing false information concerning the property owner's plans to continue operation at the facility.

**SECTION 11.** That, this Resolution shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

---

Member of Council

APPROVED AS TO FORM AND LEGALITY

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Carol Taylor, City Attorney

**A CONFIRMING RESOLUTION designating an “Economic Revitalization Area” under I.C. 6-1.1-12.1 for property commonly known as 505 East Washington Boulevard, Fort Wayne, Indiana 46802 (Rothberg Realty, LLC)**

**WHEREAS**, Common Council has previously designated and declared by Declaratory Resolution the following described property as an “Economic Revitalization Area” under Sections 153.13-153.24 of the Municipal Code of the City of Fort Wayne, Indiana, and I.C. 6-1.1-12.1, to wit:

**Attached hereto as “Exhibit A” as if a part herein; and**

**WHEREAS**, said project will result in the occupation of an eligible vacant building under I.C. 6-1.1-12.1-4.8; and

**WHEREAS**, said project will retain 42 full-time and seven part-time, permanent jobs for a current annual payroll of \$1,922,000, with the average current annual job salary being \$45,762; and

**WHEREAS**, the total estimated project cost of real property improvements is \$2,000,000; and

**WHEREAS**, a recommendation has been received from the Committee on Finance; and

**WHEREAS**, notice of the adoption and substance of said Resolution has been published in accordance with I.C. 6-1.1-12.1-2.5 and I.C. 5-3-1 and a public hearing has been conducted on said Resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

**SECTION 1.** That, the Resolution previously designating the above described property as an “Economic Revitalization Area” is confirmed in all respects.

**SECTION 2.** That, the hereinabove described property is hereby declared an “Economic Revitalization Area” pursuant to I.C. 6-1.1-12.1, said designation to begin on

the effective date of this Resolution and shall terminate on December 31, 2011, unless otherwise automatically extended in five year increments per I.C. 6-1.1-12.1-9.

**SECTION 3.** That, said designation of the hereinabove described property as an “Economic Revitalization Area” shall apply to a deduction of the assessed value of an eligible vacant building and a deduction of the assessed value of real estate improvements.

**SECTION 4.** That, the estimate of the number of individuals that will be employed or whose employment will be retained and the estimate of the annual salaries of those individuals and the estimate of the value of the occupation of the eligible vacant building and the value of the redevelopment or rehabilitation of the eligible vacant building, all contained in Petitioner’s Statement of Benefits are reasonable and are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

**SECTION 5.** The current year approximate tax rates for taxing units within the City would be:

- (a) If the proposed occupation of the eligible vacant building does not occur, the approximate current year tax rates for this site would be \$2.6321/\$100.
- (b) If the proposed occupation of the eligible vacant building occurs and no deduction is granted, the approximate current year tax rate for the site would be \$2.6321/\$100 (the change would be negligible).
- (c) If the proposed occupation of the eligible vacant building occurs, and a deduction percentage of fifty percent (50%) is assumed, the approximate current year tax rate for the site would be \$2.6321/\$100 (the change would be negligible).
- (d) If the proposed development does not occur, the approximate current year tax rates for this site would be \$2.6321/\$100.
- (e) If the proposed development occurs and no deduction is granted, the approximate current year tax rate for the site would be \$2.6321/\$100 (the change would be negligible).

- (f) If the proposed development occurs, and a deduction percentage of fifty percent (50%) is assumed, the approximate current year tax rate for the site would be \$2.6321/\$100 (the change would be negligible).

**SECTION 6.** Pursuant to I.C. 6-1.1-12.1, it is hereby determined that the deduction from the assessed value of the eligible vacant building shall be for a period of one year and the deduction from the assessed value of real property improvements shall be for a period of ten years.

**SECTION 7.** The benefits described in the Petitioner's Statement of Benefits can be reasonably expected to result from the project and are sufficient to justify the applicable deductions.

**SECTION 8.** For real property, a deduction application must contain a performance report showing the extent to which there has been compliance with the Statement of Benefits form approved by the Fort Wayne Common Council at the time of filing. This report must be submitted to the Allen County Auditor's Office, and the City of Fort Wayne's Community Development Division and must be included with the deduction application. For subsequent years, the performance report must be updated each year in which the deduction is applicable at the same time the property owner is required to file a personal property tax return in the taxing district in which the property for which the deduction was granted is located. If the taxpayer does not file a personal property tax return in the taxing district in which the property is located, the information must be provided by May 15.

**SECTION 9.** The performance report must contain the following information

- A. The cost and description of real property improvements.
- B. The number of employees hired through the end of the preceding calendar year as a result of the deduction.
- C. The total salaries of the employees hired through the end of the preceding calendar year as a result of the deduction.
- D. The total number of employees employed at the facility receiving the deduction.
- E. The total assessed value of the real property deductions.
- F. The tax savings resulting from the real property being abated.

**SECTION 10.** That, the taxpayer is non-delinquent on any and all property tax

due to jurisdictions within Allen County, Indiana.

**SECTION 11.** That, pursuant to I.C. 6-1.1-12.1-12 et al, any property owner that has received a deduction under section 3, 4.5 or 4.8 of this chapter may be required to repay the deduction amount as determined by the county auditor in accordance with section 12 of said chapter if the property owner ceases operations at the facility for which the deduction was granted and if the Common Council finds that the property owner obtained the deduction by intentionally providing false information concerning the property owner’s plans to continue operation at the facility.

**SECTION 12.** That, this Resolution shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

\_\_\_\_\_

Member of Council

APPROVED AS TO FORM A LEGALITY

\_\_\_\_\_  
Carol Taylor, City Attorney

#1173

BILL NO. Z-09-05-09

Plat Book No.: 13B  
Page No.: 150

**ZONING MAP ORDINANCE NO. Z-\_\_\_\_\_**

**AN ORDINANCE amending the City of Fort Wayne  
Zoning Map No. J-38 (Sec. 15 of Washington Township)**

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the area described as follows is hereby designated an IN1  
(Limited Industrial) District under the terms of Chapter 157 Title XV of the Code  
of the City of Fort Wayne, Indiana:

Lots numbered 6 and 7 in Washington Acres Addition to the City of Fort Wayne being a subdivision of the  
South One-Half of the Southeast Quarter of the Southwest Quarter of Section 15, Township 31 North, Range  
12 East, as recorded in Plat Book 13B, page 150 in the Office of the Allen County Recorder, Indiana.

**and the symbols of the City of Fort Wayne Zoning Map No. J-38 (Sec. 15 of Washington  
Township), as established by Section 157.082 of Title XV of the Code of the City of Fort  
Wayne, Indiana is hereby changed accordingly.**

**SECTION 2. That this Ordinance shall be in full force and effect from and after its  
passage and approval by the Mayor.**

\_\_\_\_\_  
Council Member

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Carol T. Taylor, City Attorney

#1174

BILL NO. Z-09-05-10

ZONING MAP ORDINANCE NO. Z-\_\_\_\_\_

**AN ORDINANCE amending the City of Fort Wayne  
Zoning Map No. J-35 (Sec. 34 of Wayne Township)**

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the area described as follows is hereby designated an RP

(Planned Residential) District under the terms of Chapter 157 Title XV of the Code of the  
City of Fort Wayne, Indiana:

**Part of the Southwest Quarter of Section 34, Township 30 North, Range 12 East, Allen  
County, Indiana, more particularly described as follows:**

**Commencing at a mag nail marking the Northwest corner of said Southwest Quarter;  
thence South 00 degrees 00 minutes 00 seconds West (deed bearing and basis of bearings  
to follow), a distance of 83.00 feet along the West line of said Southwest Quarter and  
within the right-of-way of Bluffton Road to a mag nail with "Karst" identification ring set  
on the Westerly extension of the South right-of-way line of Reservation Drive as recorded  
in Document No. 74-06826 in the Office of the Recorder of Allen County, Indiana, said  
point also being the Point of Beginning of the herein described tract; thence North 89  
degrees 34 minutes 01 seconds East, a distance of 1103.19 feet along said Westerly  
extension and along said South right-of-way line to a 5/8" steel rebar found on the West  
line of an existing tract described in Document No. 206048292 in the Office of the  
Recorder of Allen County, Indiana; thence South 00 degrees 00 minutes 00 seconds West,  
a distance of 715.49 feet (715.98 feet Deed) parallel with the West line of said Southwest  
Quarter and along said West line and along the West line of an existing tract described in  
Document No. 206076584 in the Office of the Recorder of Allen County, Indiana to a point  
on the North line of an existing tract described in Document No. 82-016708 in the Office  
of the Recorder of Allen County, Indiana, said point being referenced by a 5/8" steel rebar  
found 0.62 feet South and 1.05 feet East and also being referenced by a 5/8" steel rebar  
found 3.16 feet South and 0.26 feet East; thence South 89 degrees 48 minutes 32 seconds  
West, a distance of 1103.17 feet along said North line and along the North lines of  
existing tracts described in Document Nos. 2007047081 and 205046801 all in the Office  
of the Recorder of Allen County, Indiana to a mag nail with "Karst" identification ring set  
on the West line of said Southwest Quarter; thence North 00 degrees 00 minutes 00  
seconds East, a distance of 710.82 feet along said West line and within the right-of-way of  
said Bluffton Road to the Point of Beginning, containing 18.06 acres, more or less, subject  
to easements of record.**

**and the symbols of the City of Fort Wayne Zoning Map No. J-35 (Sec. 34 of Wayne  
Township), as established by Section 157.082 of Title XV of the Code of the City of Fort  
Wayne, Indiana is hereby changed accordingly.**

**SECTION 2. That this Ordinance shall be in full force and effect from and after its**

**passage and approval by the Mayor.**

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Council Member

APPROVED AS TO FORM AND LEGALITY:

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Carol T. Taylor, City Attorney

#1175

BILL NO. Z-09-05-11

Plat Book No.: 15A  
Page No: 12

ZONING MAP ORDINANCE NO. Z-\_\_\_\_\_

**AN ORDINANCE amending the City of Fort Wayne  
Zoning Map No. R-14 (Sec. 32 of St. Joseph Township)**

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the area described as follows is hereby designated a CM1  
(Professional and Personal Service) District under the terms of Chapter 157 Title XV of the  
Code of the City of Fort Wayne, Indiana:

**Lots 51, 52 and 53 of the Plat of Maysville Heights Addition to the City of Fort Wayne as  
recorded in Plat Book 15A, page 12 in the Office of the Recorder of Allen County, Indiana.**

**and the symbols of the City of Fort Wayne Zoning Map No. R-14 (Sec. 34 of St. Joseph  
Township), as established by Section 157.082 of Title XV of the Code of the City of Fort  
Wayne, Indiana is hereby changed accordingly.**

**SECTION 2. That this Ordinance shall be in full force and effect from and after its  
passage and approval by the Mayor.**

\_\_\_\_\_  
Council Member

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Carol T. Taylor, City Attorney

#1176

BILL NO. Z-09-05-12

ZONING MAP ORDINANCE NO. Z-\_\_\_\_\_

**AN ORDINANCE amending the City of Fort Wayne  
Zoning Map No.R-14 (Sec. 32 of St. Joseph Township)**

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the area described as follows is hereby designated a CM1  
(Professional and Personal Service) District under the terms of Chapter 157 Title XV of the  
Code of the City of Fort Wayne, Indiana:

**Lots 48, 49 and 50 of the Plat of Maysville Heights Addition to the City of Fort Wayne as  
recorded in Plat Book 15A, page 12 in the Office of the Recorder of Allen County, Indiana.**

**and the symbols of the City of Fort Wayne Zoning Map No. R-14 (Sec. 32 of St. Joseph  
Township), as established by Section 157.082 of Title XV of the Code of the City of Fort  
Wayne, Indiana is hereby changed accordingly.**

**SECTION 2. That this Ordinance shall be in full force and effect from and after its  
passage and approval by the Mayor.**

\_\_\_\_\_  
Council Member

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Carol T. Taylor, City Attorney

RESOLUTION NO. R-\_\_\_\_\_

A RESOLUTION of the Common Council of the City Fort Wayne, Indiana approving an Interlocal Cooperation Agreement between the City of Fort Wayne and the County of Allen

**WHEREAS**, the County has established and is operating a geographic information system through the auspices of a County created GIS Board; and

**WHEREAS**, the City, has been operating a GIS system through its Board of Public Works; and

**WHEREAS**, the parties hereto deem it advisable to integrate certain hardware and certain software of the two systems so as to better serve the community; and

**WHEREAS**, the parties have determined that such integration should be undertaken by a reconstituted GIS board with the duties, responsibilities and financial obligations being allocated amongst the City, the County and the reconstituted board, all in accordance with I.C. 36-1-7-1 et seq.

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

**SECTION 1.** The Common Council of the City of Fort Wayne, Indiana, hereby ratifies and approves the Interlocal Cooperation Agreement between the City of Fort Wayne and the County of Allen, for the shared use of GIS infrastructure and data. Said Interlocal Cooperation Agreement is attached hereto, and made a part hereof.

**SECTION 2.** That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

\_\_\_\_\_  
Council Member

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
Carol T. Taylor, City Attorney

May 26, 2009

Fort Wayne City Council  
c/o City Clerk' Office  
1 East Main Street  
Fort Wayne, IN 46802

FROM: James Haley  
Interim CIO  
City of Fort Wayne  
(260) 427-1461

**Subject: City / County GIS Agreement**

Members of City Council:

This ordinance is to approve an Interlocal agreement between the City and County to establish a method for the County to share its GIS infrastructure with the City of Fort Wayne, to establish a cost sharing arrangement and management procedure, and provide for the ownership and use of data.

The amount of this cost sharing arrangement is expected to be \$120,000 per year. The amount is based past County GIS expenditures, and will be adjusted to match future GIS spending.

The contract will benefit the City in several significant ways. It will establish a framework for the new City/County code enforcement and permit approval system to share GIS data. This will provide better comprehensive enforcement of city codes and allow developers to gain approval of contracts faster.

It will help the City and County work together on moving the police dispatch map to new software. This will move the 911 Automatic Vehicle Location system to move forward, allow for the 911 dispatch software to move to the next version, and help the 911 system locate incoming calls.

It will also make future software purchases easier to integrate with maps.

If passed by City Council, this Interlocal agreement will be reviewed by the Allen County Council on June 18, and reviewed by the Allen County Commissioner on June 19.

If you have any questions, please call me at 427-1461.

James Haley  
Interim CIO  
City of Fort Wayne

**BILL NO. G-09-05-14**

**GENERAL ORDINANCE NO.**

**AN ORDINANCE AMENDING CHAPTER 37, SECTION 37.39 (A) OF THE CITY OF FORT WAYNE, INDIANA, CODE OF ORDINANCES.**

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

**SECTION 1.** Chapter 37, Section 37.39 (A) of the City Fort Wayne, Indiana, Code of Ordinances is amended as follows:

37.39 Harrison Square Parking Garage Fund.

(A) There is hereby established a non-reverting Harrison Square Parking Garage Operating Fund for the city. All revenues from contract parking, daily/hourly parking, hotel guest and employee parking and interest earnings on any unused funds shall be deposited in the Fund.

**SECTION 2.** That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

\_\_\_\_\_  
Council Member

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
Carol Taylor, City Attorney

**BILL NO. G-09-05-15**

**GENERAL ORDINANCE NO. S-\_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 37, SECTION 37.40 (A) OF THE CITY OF FORT WAYNE, INDIANA, CODE OF ORDINANCES.**

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

**SECTION 1.** Chapter 37, Section 37.40 (A) of the City of Fort Wayne, Indiana Code of Ordinances is amended as follows:

37.40 Harrison Square Stadium Maintenance Fund.

(A) There is hereby established a non-reverting Harrison Square Stadium Maintenance Fund for the city. All revenues from naming rights fees, concession revenue, performance, special event parking, license fees, and City of Fort Wayne event revenues, and interest earnings on any unused funds shall be deposited in the Fund.

**SECTION 2.** That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

\_\_\_\_\_  
Council Member

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
Carol Taylor, City Attorney

**BILL NO. S-09-05-20**

**SPECIAL ORDINANCE NO. S-\_\_\_\_\_**

**AN ORDINANCE CERTIFYING AND APPROVING THE NEED FOR THE SERVICES OF A CONSULTANT, BONAR GROUP, TO PROVIDE PROFESSIONAL SERVICES FOR THE STATE ROAD 3 UTILITY RELOCATION IMPROVEMENTS.**

**WHEREAS**, the Board of Public Works desires to hire a consultant, BONAR GROUP, for professional services for the State Road 3 Utility Relocation Improvements – Res #2168-2008, W.O. #65846; and

**WHEREAS**, the City of Fort Wayne does not have the capability of performing this work with in-house forces; and

**WHEREAS**, it is anticipated that the amount to be paid to said consultant, BONAR GROUP, is ONE HUNDRED NINETY-SEVEN THOUSAND, FIVE HUNDRED AND NO/100 DOLLARS - \$197,500.00

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

**SECTION 1.** The Common Council of the City of Fort Wayne hereby certifies and approves the need for the services of a consultant, BONAR GROUP, to provide professional services for the State Road 3 Utility Relocation Improvements - Res #2168-2008, W.O. #65846.

**SECTION 2.** This Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

\_\_\_\_\_  
Council Member

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
Carol T. Taylor, City Attorney

**BILL NO. S-09-05-19**

**SPECIAL ORDINANCE NO. S- \_\_\_\_\_**

**AN ORDINANCE CERTIFYING AND APPROVING THE**

**NEED FOR THE SERVICES OF A CONSULTANT (HNTB CORPORATION) TO PROVIDE PROFESSIONAL SERVICES FOR THE NORTHWEST PRESSURE ZONE PUMPING IMPROVEMENTS.**

**WHEREAS**, the Board of Public Works desires to hire a consultant, HNTB CORPORATION, for professional services for the Northwest Pressure Zone Pumping Improvements ("Northwest Pumps 4 & 5) – Res. #2037-2007, W.O. #65744; and

**WHEREAS**, the City of Fort Wayne does not have the capability of performing this work with in-house forces; and

**WHEREAS**, it is anticipated that the amount to be paid to consultant, HNTB Corporation, is ONE HUNDRED NINETY-TWO THOUSAND, FOUR HUNDRED EIGHTY AND NO/100 DOLLARS - \$192,480.00.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

**SECTION 1.** The Common Council of the City of Fort Wayne hereby certifies and approves the need for the services of a consultant, HNTB Corporation, to provide professional services for the Northwest Pressure Zone Pumping Improvements ("Northwest Pumps 4 & 5) – Res. #2037-2007, W.O. #65744.

**SECTION 2.** This Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

\_\_\_\_\_  
Council Member

APPROVED AS TO FORM AND LEGALITY

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Carol T. Taylor, City Attorney

**BILL NO. S-09-05-22**

SPECIAL ORDINANCE NO. S-\_\_\_\_\_

AN ORDINANCE approving RESOLUTION #7224-2009,  
CHICKASAW DRIVE/BLACKHAWK LANE CONCRETE

STREET REPAIRS between HIPSKIND CONCRETE and the City of Fort Wayne, Indiana, in connection with the Board of Public Works.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

**SECTION 1.** That the RESOLUTION #7224-2009, CHICKASAW DRIVE/BLACKHAWK LANE CONCRETE STREET REPAIRS by and between HIPSKIND CONCRETE and the City of Fort Wayne, Indiana, in connection with the Board of Public Works, is hereby ratified, and affirmed and approved in all respects, respectfully for:

All labor, insurance, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for  
CHICKASAW DRIVE/BLACKHAWK LANE CONCRETE STREET REPAIRS;

involving a total cost of ONE HUNDRED ONE THOUSAND, SIX HUNDRED NINETY-TWO AND 50/100 DOLLARS - \$101,692.50.

**SECTION 2.** Prior Approval has been requested from Common Council on MAY 12, 2009. Said copy is on file in the Office of the City Clerk and made available for public inspection, according to law.

**SECTION 3.** That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

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Council Member

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
Carol T. Taylor, City Attorney

**BILL NO. S-09-05-25**

**SPECIAL ORDINANCE NO. S-\_\_\_\_\_**

**AN ORDINANCE** approving the awarding of the Purchase and Installations of a Computerized Maintenance Management System, (Infor EAM Business Edition v8.3) by the City of Fort Wayne, Indiana, by and through its Department of Purchasing and GLOBAL SOLUTIONS (MICHIGAN), INC. for CITY UTILITIES.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA;**

**SECTION 1.** That the Purchase and Installations of a Computerized Maintenance Management System, (Infor EAM Business Edition v8.3) between the City of Fort Wayne, by and through its Department of Purchasing and GLOBAL SOLUTIONS (MICHIGAN), INC. for CITY UTILITIES, respectfully for:

purchase and installation of a Computerized Maintenance Management System, (specifically, Infor EAM business Edition v8.3) for City Utilities Filtration Plant and Water Pollution Control Plant to track the maintenance history of plant equipment, along with the costs for associated maintenance;

involving a total cost of ONE HUNDRED TWENTY-FOUR THOUSAND, EIGHTY-SIX AND NO/100 DOLLARS - (\$124,086.00) all as more particularly set forth in the Contract for Purchase and Installations of a Computerized Maintenance Management System, (Infor EAM Business Edition v8.3) which is on file in the Office of the Department of Purchasing, and is by reference incorporated herein, made a part hereof, and is hereby in all things ratified, confirmed and approved.

**SECTION 2.** That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

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Council Member

APPROVED AS TO FORM AND LEGALITY

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Carol T. Taylor, City Attorney

