

ORDINANCE NO. _____

An Ordinance concerning the construction of additions and improvements to the sewage works of the Town of Whitestown, Indiana, the issuance of revenue bonds to provide the cost thereof, the collection, segregation and distribution of the revenues of said sewage works, the safeguarding of the interests of the owners of said revenue bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds, and repealing ordinances inconsistent herewith

WHEREAS, the Town of Whitestown, Indiana (the “Town”) has heretofore established, constructed and financed its sewage works, and now owns and operates said sewage works pursuant to Indiana Code 36-9-23, as in effect on the issue date of the bonds authorized herein, and other applicable laws (the “Act”) (all references hereinafter to the Indiana Code are designated as “IC” followed by the applicable code section or sections); and

WHEREAS, the Town Council of the Town (the “Town Council”) finds that certain improvements and extensions to said works are necessary; that plans, specifications and estimates have been prepared and filed by GRW Engineers, Inc., the engineers employed by the Town for the construction of said improvements and extensions (as more fully set forth in summary fashion in Exhibit A hereto and made a part hereof) (the “Project”), which plans and specifications have been or will be submitted to all governmental authorities having jurisdiction, particularly the Indiana Department of Environmental Management, and will be approved by the aforesaid governmental authorities and are incorporated herein by reference and open for inspection at the office of the Clerk-Treasurer of the Town as required by law; and

WHEREAS, the Town will advertise and receive bids for the Project; said bids will be subject to the Town’s determination to construct the Project and obtaining funds to pay for the Project; that on the basis of the engineering estimates for the Project, the cost of said Project, including estimated incidental expenses, is in the estimated amount not to exceed One Million Two Hundred Thousand Dollars (\$1,200,000); and

WHEREAS, the Town Council finds that it is necessary to finance the costs thereof by the issuance of sewage works revenue bonds, in one or more series, in an aggregate principal amount not to exceed One Million Two Hundred Thousand Dollars (\$1,200,000) and, if necessary, bond anticipation notes (the “BANs”); and

WHEREAS, the Town Council finds that there are outstanding bonds of the sewage works payable out of the Net Revenues (as hereinafter defined) thereof designated as (i) the “Sewage Works Revenue Bonds of 2001” (the “2001 Bonds”), now outstanding in the aggregate principal amount of \$122,849 and maturing annually on January 1 over a period ending January 1, 2022, (ii) the “Sewage Works Revenue Bonds, Series 2005” (the “2005 Bonds”), now outstanding in the aggregate principal amount of \$1,340,000 and maturing annually on January 1 over a period ending January 1, 2027, (iii) the “Sewage Works Refunding Revenue Bonds, Series 2009” (the “2009 Bonds”), now outstanding in the aggregate principal amount of \$2,705,000 and maturing annually on January 1 over a period ending January 1, 2029, and (iv) the “Sewage Works Revenue Bond, Series 2014A” (the “2014A Bonds”), now outstanding in the

aggregate principal amount of \$14,210,000 and maturing annually on January 1 over a period ending on January 1, 2036, and which 2001 Bonds, 2005 Bonds, 2009 Bonds and 2014A Bonds (collectively, the “Outstanding Parity Bonds”) constitute a first charge on the Net Revenues of the sewage works, senior to the hereinafter defined 2014B Bonds; and

WHEREAS, the Town Council finds that there are outstanding bonds of the sewage works payable out of the Net Revenues thereof designated as the “Junior Sewage Works Revenue Bonds, Series 2014B” (the “2014B Bonds”), now outstanding in aggregate principal amount of \$5,590,000 and maturing annually on January 1 over a period commencing January 1, 2020 and ending on January 1, 2025, which 2014B Bonds constitute a second charge on the Net Revenues of the sewage works, subject to the prior payment of the Outstanding Parity Bonds; and

WHEREAS, the ordinances authorizing the issuance of the Outstanding Parity Bonds and the 2014B Bonds permit the issuance of additional bonds ranking on a parity with the Outstanding Parity Bonds provided certain conditions can be met (collectively, the “Parity Tests”) or upon the consent of the holders of the Outstanding Parity Bonds; and

WHEREAS, the Town Council finds that prior to the issuance of the revenue bonds authorized herein, the Town will either ensure that the Parity Tests can be met or will obtain the consent of the holders of the Outstanding Parity Bonds so that the revenue bonds authorized herein, when issued, shall rank on a parity with the Outstanding Parity Bonds; and

WHEREAS, the bonds issued pursuant to this ordinance will constitute a first charge against the Net Revenues of the sewage works, on a parity with the payment of the Outstanding Parity Bonds and senior to the 2014B Bonds, and are to be issued subject to the provisions of the laws of the Act, and the terms and restrictions of this ordinance; and

WHEREAS, the Town desires to authorize the issuance of BANs hereunder, if necessary, payable solely from the proceeds of sewage works revenue bonds issued hereunder, and to authorize the refunding of said BANs, if issued; and

WHEREAS, the Town has applied to the United States Department of Agriculture’s Rural Development Program (“RD”) for financing for the Project and expects that RD will purchase the bonds herein authorized in the principal amount not to exceed One Million Two Hundred Thousand Dollars (\$1,200,000); and

WHEREAS, the Town Council finds that proceeds of the bonds to be issued pursuant to this ordinance and, if issued, BANs, may be applied to the costs of reimbursement of the Town for preliminary expenditures incurred by the Town on costs of the Project pursuant to Section 1.150-2 of the Treasury Regulations on Income Tax; and

WHEREAS, the Town Council now finds that all conditions precedent to the adoption of an ordinance authorizing the issuance of said revenue bonds and BANs have been complied with in accordance with the provisions of the Act; now, therefore,

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WHITESTOWN, INDIANA, THAT:

Section 1. Authorization of Project. The Town proceed with the construction of the Project pursuant to the plans and specifications therefore as prepared and filed by GRW Engineers, Inc., the consulting engineers employed by the Town, two copies of which plans and specifications are on file in the office of the Clerk-Treasurer of the Town (the "Clerk-Treasurer") and open for public inspection pursuant to IC 36-1-5-4. The estimated cost for the construction of said Project, based upon information provided to the Town by its engineers for the Project, will not exceed One Million Two Hundred Thousand Dollars (\$1,200,000), plus investment earnings on the BAN and bond proceeds, without further authorization of the Town Council. The terms "sewage works," "sewage works system," "works," "system," and words of like import where used in this ordinance shall be construed to mean and include the Treatment Works, as defined in the Financial Assistance Agreement between the Town and the Indiana Finance Authority (the "Authority") in connection with the 2014A Bonds and the 2014B Bonds, and also includes the existing sewage works system, including items defined at IC 36-9-1-8, and all real estate and equipment used in connection therewith and appurtenances thereto, and all extensions, additions and improvements thereto and replacements thereof now or at any time hereafter constructed or acquired. The Project shall be constructed in accordance with the plans and specifications heretofore mentioned, which Project and plans and specifications are hereby approved. The Project shall be constructed and the BANs and bonds herein authorized shall be issued pursuant to and in accordance with the Act.

Section 2. Issuance of BANs. The Town shall issue, if necessary, its BANs, in one or more series, for the purpose of procuring interim financing to apply on the costs of the Project and to pay cost of issuance. The Town may issue its BANs in an aggregate principal amount not to exceed One Million Two Hundred Thousand Dollars (\$1,200,000) to be designated "Sewage Works Bond Anticipation Notes, Series ____", to be completed with the appropriate series designation. The BANs shall be sold at not less than 99% of their par value, numbered consecutively from 1 upward and shall be in denominations of One Thousand Dollars (\$1,000) and integral multiples thereof. The BANs shall be dated as of the date of delivery thereof and shall bear interest at a rate not to exceed 5.5% per annum (the exact rate or rates to be determined through negotiations with the purchaser of the BANs) payable either upon maturity or redemption.

The 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 5.5% 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 (5) years from the date of delivery of the initial BANs. The BANs shall be registered in the name of the purchasers thereof. Interest on the BANs shall be calculated on the basis of a year consisting of 365 days and the actual number of days elapsed.

The BANs shall be issued pursuant to IC 4-4-11 and IC 13-18-13 if sold to the Authority, pursuant to IC 5-1.5-8-6.1 if sold to the Indiana Bond Bank (the "Bond Bank") or pursuant to IC 5-1-14-5 if sold to a financial institution or any other purchaser. The Town shall pledge to the

payment of the principal of and interest on the BANs the proceeds from the issuance of revenue bonds pursuant to and in the manner prescribed by the Act. In the event the BANs are sold to the Bond Bank, the Town Council President and Clerk-Treasurer of the Town are hereby authorized to execute and deliver any such applications, documents, agreements and certificates relating to the program for the purchase of such BANs by the Bond Bank (the "Bond Bank BAN Purchase Documents"), including any extensions or renewals of such BANs, provided the terms of any such Bond Bank BAN Purchase Documents are consistent with the terms and provisions of this ordinance.

Section 3. Issuance of Bonds. The Town shall issue its sewage works revenue bonds, in one or more series, in the aggregate principal amount not to exceed One Million Two Hundred Thousand Dollars (\$1,200,000), to be designated "Sewage Works Revenue Bonds, Series 201_ _" to be completed with the year in which issued and, if necessary, appropriate series designation (the "Bonds"), for the purpose of procuring funds to apply on the cost of the Project, refunding the BANs, if issued, and costs of issuance. If the Bonds are sold in more than one series, any sale and issuance of Bonds which follows the issuance of the first series of Bonds hereunder shall rank on a parity with such first series of Bonds and must satisfy the requirements established by Section 19 of this ordinance.

The Bonds shall be issued and sold at a price not less than the par value thereof. The Bonds shall be issued in fully registered form in denominations of One Thousand Dollars (\$1,000) or integral multiples thereof. The Bonds shall be numbered consecutively from 1 up and shall be originally dated as of their date of delivery. The Bonds shall bear interest at a rate or rates not exceeding 5.5% per annum (the exact rate or rates to be determined through negotiation with RD). The interest on the Bonds shall be payable semiannually on January 1 and July 1 in each year, commencing on either the first January 1 or the first July 1 following the date of delivery of the Bonds. The principal of the Bonds shall be payable in lawful money of the United States of America at the principal office of the Paying Agent (as hereinafter defined). The Bonds shall mature annually on January 1 of each year over a period ending no later than forty (40) years after substantial completion of the Project. The Bonds shall mature in such amounts that will, as determined by the Clerk-Treasurer with the advice of the Town's financial advisor, (i) produce as level annual debt service as practicable with \$1,000 denominations, (ii) produce as level annual debt service as practicable with \$1,000 denominations and taking into account the annual debt service on the Outstanding Parity Bonds or (iii) otherwise enable the Town to meet the requirements for financing from RD.

The Bonds will be payable solely out of and constitute a first charge against the Net Revenues (herein defined as gross revenues, inclusive of Non-recurring Charges (as hereinafter defined), of the sewage works remaining after the payment of the reasonable expenses of operation, repair and maintenance excluding transfers for payment in lieu of property taxes) of the sewage works of the Town, including the works authorized herein and all additions and improvements thereto and replacements thereof subsequently constructed or acquired, on a parity with the payment of the Outstanding Parity Bonds and senior to the 2014B Bonds.

Interest on the Bonds shall be calculated on the basis of a year consisting of 365 days and the actual number of days elapsed.

For purposes of this ordinance, “Non-recurring Charges” shall mean the proceeds and balances from any non-recurring charges such as tap fees, subsequent connector fees, capacity or contribution fees, and other one time charges that are available for deposit under this ordinance. The Town covenants and agrees so long as 2014B Bonds are outstanding, the Non-recurring Charges shall remain in force (and the Town shall not take or fail to take any action which would: (i) reduce or adversely affect the charge and collection of the Non-recurring Charges; (ii) reduce the rates or amounts of the Non-recurring Charges; or (iii) result in a materially adverse reduction in the Non-recurring Charges).

Section 4. Registrar and Paying Agent. The Clerk-Treasurer is hereby authorized to select and appoint a qualified financial institution to serve as Registrar and Paying Agent for the Bonds and the BANs, which Registrar is hereby charged with the responsibility of authenticating the Bonds (the “Registrar” or “Paying Agent”). The Clerk-Treasurer is hereby authorized 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 Clerk-Treasurer 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 as fiscal agency charges. As to the BANs and as to the Bonds, if sold to a purchaser that does not object to such designation, the Clerk-Treasurer may serve as Registrar and Paying Agent and is, in such case, hereby charged with the duties of a Registrar and Paying Agent.

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 of the fifteenth day of the month preceding each payment (the “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 Town 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 Town. The Town 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.

Bonds which are authenticated on or before the Record Date which precedes the first interest payment date shall be paid from their original date. Interest on Bonds authenticated subsequent to the Record Date which precedes the first interest payment date thereon shall be paid from the interest payment date to which interest has been paid as of the date on which such Bonds are authenticated, unless a Bond is authenticated between the Record Date and the interest payment date in which case the interest shall be paid from such interest payment date.

Section 5. Redemption of BANs. Except with as herein provided with respect to any BANs sold to the Bond Bank, the BANs are prepayable by the Town, in whole or in part, on any date, upon seven (7) days' notice to the owner of the BANs, without any premium. In the event the BANs are sold to the Bond Bank, the redemption terms of the BANs, if any, shall be as set forth in the Bond Bank BAN Purchase Documents.

Section 6. Redemption of Bonds. Any one or more installments of principal of fully registered Bonds of this issue shall be redeemable or prepayable at the option of the Town from any funds regardless of source, in whole, or from time to time in part, in any multiple of One Thousand Dollars (\$1,000), on any date, at the principal amount thereof and accrued interest to the date fixed for redemption, without any premium. Prepayments of installments of principal of fully registered Bonds shall be made in inverse order of maturities outstanding at the time of prepayment, and in inverse order for Bonds if less than an entire maturity is called. Notice of prepayment of principal on a fully registered Bond shall be given by registered mail at least thirty (30) days prior to the date of such redemption or prepayment to the registered owner at its address as shown on the registration record of the Town. The notice of prepayment shall specify the date and place of prepayment, the dates of maturity of the Bonds subject to prepayment, and identification of installments of principal to be prepaid. The place of prepayment of installments of principal shall be the office of the Clerk-Treasurer of the Town who shall record the prepayments on the Bonds. Interest on the installments of principal to be prepaid shall cease on the date fixed in such notice if sufficient funds are available at the place of prepayment to pay the price on the date so named, including interest to said date. If any fully registered Bond called for prepayment shall not be presented on the date and at the place designated, the Town shall hold in trust in the Town's depository bank sufficient funds to effect such prepayment in full, and thereafter the owner of such Bond shall be entitled to payment only from such trust funds and the prepayment thereof shall be deemed to have been effected and the Bonds no longer outstanding.

Section 7. Execution of Bonds and BANs; Pledge of Net Revenues to Bonds. The BANs and Bonds shall be signed in the name of the Town by the manual or facsimile signature of the Town Council President of the Town (the "Town Council President") and attested by the manual or facsimile signature of the Clerk-Treasurer, who shall affix the seal of said Town to each of said Bonds and BANs manually or shall have the seal imprinted or impressed thereon by facsimile. 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 said Bonds and BANs. In case any officer whose signature or facsimile signature appears on the Bonds or BANs shall cease to be such officer before the delivery of the Bonds or BANs, the signature of such officer shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery. The Bonds shall also be authenticated by the manual signature of an authorized representative 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.

The Bonds, and any bonds ranking on a parity therewith, as to both principal and interest, shall be payable from and secured by an irrevocable pledge of and shall constitute a first charge upon the Net Revenues of the sewage works of the Town, on a parity with the payment of the Outstanding Parity Bonds, senior to the payment of the 2014B Bonds. The Town shall not be obligated to pay said Bonds or the interest thereon except from the Net Revenues of said works, and said Bonds shall not constitute an indebtedness of the Town within the meaning of the provisions and limitations of the constitution of the State of Indiana. Said Bonds and BANs shall have all of the qualities of negotiable instruments under the laws of the State of Indiana subject to the provisions for registration herein.

Section 8. Form of Bonds. The form and tenor of the Bonds shall be substantially as follows, all blanks to be filled in properly and all necessary additions and deletions to be made prior to delivery thereof:

Form of Bond

R-__

UNITED STATES OF AMERICA

STATE OF INDIANA

COUNTY OF BOONE

TOWN OF WHITESTOWN, INDIANA

SEWAGE WORKS REVENUE BOND, SERIES 201__

The Town of Whitestown, Indiana (the "Town"), in Boone County, State of Indiana, for value received, hereby promises to pay to the registered owner solely out of the special revenue fund hereinafter referred to, the principal amount of

_____ DOLLARS (\$_____)

on January 1 in the years and amounts as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
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(subject to any prepayments of principal as hereinafter provided) and to pay interest on the unpaid balance hereof from the dates of payment as recorded hereon until the principal is paid, at the rate of ____% per annum, payable semiannually on January 1 and July 1, beginning _____, 201_. Interest shall be calculated on the basis of 365 days and the actual number of days elapsed.

Both the principal and interest of this Bond are payable in lawful money of the United States of America, by check mailed to the registered owner one business day prior to the payment date at the address as it appears on the registration records of the Town. Upon final payment, this Bond shall be delivered to the Town and cancelled.

This Bond shall not constitute an indebtedness of the Town of Whitestown, Indiana, within the meaning of the provisions and limitations of the constitution of the State of Indiana, and the Town shall not be obligated to pay this Bond or the interest hereon except from the special fund provided from the Net Revenues.

This Bond is the only one of an authorized issue of Bonds of the Town of Whitestown, Indiana, in the total amount of _____ Dollars (\$_____) (the “Bonds”) [for this series], issued for the purpose of providing funds to be applied on the cost of construction of additions and improvements to the Town’s sewage works [(the “Project”)], [to refund interim notes issued in anticipation of the Bonds] and to pay incidental expenses, as authorized by an Ordinance adopted by the Town Council of the Town of Whitestown, Indiana, on the ___ day of _____, 2014, entitled “An Ordinance concerning the construction of additions and improvements to the sewage works of the Town of Whitestown, Indiana, the issuance of revenue bonds to provide the cost thereof, the collection, segregation and distribution of the revenues of said sewage works, the safeguarding of the interests of the owners of said revenue bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds, and repealing ordinances inconsistent herewith” (the “Ordinance”), and in strict compliance with the provisions of Indiana Code 36-9-23, as in effect on the issue date of the Bonds (the “Act”).

Pursuant to the provisions of said Act and said Ordinance, the principal and interest of this Bond, and any bonds hereafter issued on a parity therewith, are payable solely from the Sewage Works Sinking Fund (continued by the Ordinance) to be provided from the Net Revenues (defined as the gross revenues, inclusive of Non-recurring Charges (as defined in the Ordinance), remaining after the payment of the reasonable expenses of operation, repair and maintenance excluding transfers for payment in lieu of property taxes) of the sewage works of the Town, including the works authorized under the Ordinance to be acquired and constructed and all additions and improvements thereto and replacements thereof subsequently constructed or acquired. The payment of this Bond ranks on a parity with the payment of the Outstanding Parity Bonds (as defined in the Ordinance)[and the _____ Bonds], senior to the payment of the

2014B Bonds (as defined in the Ordinance). The Town reserves the right to issue additional bonds on a parity with this Bond and the issue of which it is a part, as provided in the Ordinance.

The Town of Whitestown, Indiana irrevocably pledges the entire Net Revenues of said sewage works to the prompt payment of the principal of and interest on the Bonds authorized by said Ordinance, of which this is one, and any bonds ranking on a parity therewith, including the Outstanding Parity Bonds [and the _____ Bonds], senior to the payment of the 2014B 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 service rendered by said works as are sufficient in each year for the payment of the proper and reasonable expenses of operation, repair and maintenance of said works and for the payment of the sums required to be paid into the Sewage Works Sinking Fund under the provisions of the Act and the Ordinance. If the Town or the proper officers of the Town 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 Town of Whitestown, Indiana has designated the Bonds as qualified tax-exempt obligations to qualify for the \$10,000,000 exception from the provisions of Section 265(b) of the Internal Revenue Code of 1986, as amended, relating to the disallowance of 100% of the deduction for interest expense allocable to tax-exempt obligations.]

The Town of Whitestown, Indiana further covenants that it will set aside and pay into its Sewage Works Sinking Fund a sufficient amount of the Net Revenues of said works to meet (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 the 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 to create and maintain the reserves required by the Ordinance. Such required payments shall constitute a first charge upon all the Net Revenues of said works, on a parity with the Outstanding Parity Bonds[and the _____ Bonds], senior to the 2014B Bonds.

This Bond may be transferred upon presentation of the Bond and an executed assignment to the Clerk-Treasurer of the Town for notation of the same upon this Bond and the registration record of the Town kept for that purpose or may be exchanged as provided in the Ordinance.

Installments of principal of this Bond may, at the option of the Town, be prepaid in whole or in part on any date after issuance, in any multiple of One Thousand Dollars (\$1,000), upon thirty (30) days' notice to the registered owner, at par and accrued interest to the date of prepayment. Interest on the installments of principal so prepaid shall cease on such date of prepayment. This Bond must be presented at the office of the Clerk-Treasurer of the Town for any such prepayments.

If this Bond shall not be presented for payment or redemption on the date fixed herefore, the Town 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 Town shall have no further obligation or liability in respect thereto.

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 Town Council of the Town determines, in its sole discretion, that the amendment shall not adversely affect the rights of any owners of the Bonds.

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

IN WITNESS WHEREOF, the Town of Whitestown, Indiana, in Boone County, Indiana, has caused this Bond to be executed in its corporate name by the President of its Town Council, its corporate seal to be hereunto affixed, imprinted or impressed by any means and attested manually by its Clerk-Treasurer, as of _____, 201_.

TOWN OF WHITESTOWN, INDIANA

By: _____
President, Town Council

[SEAL]
Attest:

Clerk-Treasurer

(Form of Registration)

REGISTRATION ENDORSEMENT

This Bond can be transferred and registered only at the office of the Clerk-Treasurer of the Town of Whitestown, Indiana. No writing hereon except by the Clerk-Treasurer.

		Employer I.D. # or Social Security #, If applicable	
<u>Date of Registration</u>	<u>In Whose Name Registered</u>		<u>Clerk-Treasurer</u>
_____	_____	_____	_____

RECORD OF PAYMENT FOR BOND

<u>Date of Payment</u>	<u>Amount</u>	<u>Acknowledgment of Receipt by Clerk-Treasurer</u>	<u>Guarantee of Clerk-Treasurer's Signature</u>
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(NOTE: This should be a separate sheet)

PREPAYMENT RECORD

Principal Installments on Which Payments Have Been Made Prior to Maturity

<u>Date</u>	<u>Principal Amount</u>	<u>Principal Payment</u>	<u>Balance</u>	<u>Date Paid</u>	<u>Name of Authorized Official and Title</u>
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(NOTE: This should be a separate sheet)

End of Bond Form

Section 9. Preparation and Sale of BANs and Bonds. The Clerk-Treasurer is hereby authorized and directed to have said BANs and Bonds prepared, and the Town Council President and Clerk-Treasurer are hereby authorized and directed to execute said BANs and Bonds in the form and manner herein provided. The Clerk-Treasurer is hereby authorized and directed to deliver said BANs to the purchaser thereof and said Bonds to RD, provided that at the time of said delivery the Clerk-Treasurer shall collect the full amount which the respective purchasers have agreed to pay therefor, which amount shall not be less than 99% of the par value of said BANs and not less than the par value of said Bonds, as the case may be. The Town may receive payment for the Bonds and BANs in installments. The Bonds herein authorized, as and to the extent paid for and delivered to the purchaser, shall be the binding special revenue obligations of the Town, payable out of the Net Revenues of the Town's sewage works to be set aside into the Sewage Works Sinking Fund as herein provided. The proceeds derived from the sale of the Bonds 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 Town 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.

Section 10. Use of Proceeds. The accrued interest received at the time of the delivery of the Bonds and premium, if any, shall be deposited in the Sewage Works Sinking Fund. The remaining proceeds from the sale of the Bonds, to the extent not used to refund BANs, and BAN proceeds shall be deposited in a bank or banks which are legally designated depositories for the funds of the Town, in a special account or accounts to be designated as the “Town of Whitestown, Sewage Works Construction Account” (the “Construction Account”). All funds deposited to the credit of said Sewage Works Sinking Fund or Construction Account shall be deposited, held, secured or invested in accordance with the laws of the State of Indiana relating to the depositing, holding, securing or investing of public funds, including particularly IC 5-13, and the acts amendatory thereof and supplemental thereto. The funds in the Construction Account shall be expended only for the purpose of paying the cost of the Project, refunding the BANs, if issued, or as otherwise required by the Act or for the expenses of issuance of the Bonds or BANs. The cost of obtaining the legal services of Bose McKinney & Evans LLP shall be considered as a part of the cost of the Project on account of which the BANs and Bonds are issued.

Any balance or balances remaining unexpended in such special account or accounts after completion of the Project, which are not required to meet unpaid obligations incurred in connection with such Project, shall either (1) be paid into the Sewage Works Sinking Fund and used solely for the purposes thereof or (2) be used for the same purpose or type of project for which the Bonds were originally issued, all in accordance with IC 5-1-13, as amended and supplemented.

The Town hereby declares its “official intent,” as such term is used in the Reimbursement Regulations, to reimburse the Town’s advances to the Project ,such advances from the Town’s General Fund or Improvement Fund (as hereinafter defined), from proceeds of the BAN’s or the Bonds, as anticipated by this ordinance. The Town reasonably expects to make such advances for the costs of the Project.

Section 11. Sewage Works Revenue Fund. There is hereby continued the “Sewage Works Revenue Fund” (the “Revenue Fund”). All income and revenues derived from the operation of the sewage works and from the collection of sewer rates and charges (inclusive of Non-recurring Charges) shall be deposited in the Revenue Fund. Out of these revenues, the proper and reasonable expenses of operation, repair and maintenance of the works shall be paid, the principal and interest of all bonds and fiscal agency charges of registrars and paying agents shall be paid, the hereinafter described Reserve Account shall be funded, and the costs of replacements, extensions, additions and improvements shall be paid.

Section 12. Operation and Maintenance Fund. The “Operation and Maintenance Fund” (the “Operation and Maintenance Fund”) is hereby continued. 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 so that the balance maintained in this fund shall be sufficient to pay the expenses of operation, repair and maintenance of the sewage works for the then next succeeding two (2) 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 the Operation and Maintenance Fund shall be used for payment in lieu of property taxes, depreciation, replacements, improvements, extensions or additions. Any moneys in said fund 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.

Section 13. Sewage Works Sinking Fund. There is hereby continued a sinking fund for the payment of the principal of and interest on revenue bonds which by their terms are payable from the Net Revenues of the sewage works, and the payment of any fiscal agency charges in connection with the payment of bonds, which fund is designated the "Sewage Works Sinking Fund" (the "Sinking Fund"). There shall be set aside and deposited in the Sinking Fund, as available, and as provided below, a sufficient amount of the Net Revenues of the sewage works to meet the requirements of the Bond and Interest Account, the Senior Reserve Account and the Junior Reserve Account hereby continued in the Sinking Fund. Such payments shall continue until the balances in the Bond and Interest Account, the Senior Reserve Account and the Junior Reserve Account equal the principal of and interest on all of the then outstanding bonds of the sewage works to their final maturity.

(a) Bond and Interest Account. There is hereby continued, within said Sinking Fund, the "Bond and Interest Account". After making the credit to the Operation and Maintenance Fund, 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 (i) at least one-sixth (1/6) of the interest on all then outstanding bonds payable on the then next succeeding interest payment date and (ii) at least one-twelfth (1/12) of the principal of all then outstanding bonds payable on the then next succeeding principal payment date, until the amount of interest and principal payable on the then next succeeding 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 interest on outstanding bonds as the same become payable. The Town 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 and principal on the due dates thereof together with the amount of bank fiscal agency charges; provided, however, that so long as any 2014B Bonds and Junior Parity Bonds (as hereinafter defined) are outstanding, any such payments from the Bond and Interest Account shall be payable in order of priority (i) first to the payment of the Outstanding Parity Bonds, the Bonds and any Parity Bonds (as hereinafter defined) on a parity basis, and (ii) second to the payment of the 2014B Bonds and any Junior Parity Bonds on a parity basis. In the event any Junior Parity Bonds are hereafter issued, subaccounts within the Bond and Interest Account shall be established, one for the Outstanding Parity Bonds, the Bonds and any Parity Bonds then outstanding and another for any 2014B Bonds and Junior Parity Bonds then outstanding and such bonds shall be payable solely and exclusively from their respective subaccount.

There is hereby continued, within said Bond and Interest Account, the "Redemption Account". After making the credit to the Bond and Interest Account, and so long as any 2014B Bonds are outstanding and held by the Authority, there shall be credited on the last day of each

calendar month from the Revenue Fund to the Redemption Account an amount equal to all of the Non-recurring Charges received by the Town. When requested by the Authority, and not less frequently than annually by each January 1 so long as any 2014B Bonds are outstanding, the Town shall cause all amounts on deposit in the Redemption Account to be applied to prepay and redeem the 2014B Bonds in order of maturity.

(b) Senior Reserve Account. There is hereby continued, within the Sinking Fund, the Reserve Account (the “Senior Reserve Account”). On the date of delivery of the Bonds, the Town may deposit funds on hand into the Senior Reserve Account. The balance to be maintained in the Senior Reserve Account shall equal but not exceed the maximum annual debt service on the Outstanding Parity Bonds, the Bonds and any additional bonds issued in the future on a parity with the Bonds and Outstanding Parity Bonds as permitted herein (the “Parity Bonds”) (the “Senior Reserve Requirement”). If the initial deposit into the Senior Reserve Account does not cause the balance therein to equal the Senior Reserve Requirement or if no deposit is made, an amount of Net Revenues shall be credited to the Senior Reserve Account on the last day of each calendar month until the balance therein equals the Senior Reserve Requirement. The monthly deposits shall be equal in amount and sufficient to accumulate the Senior Reserve Requirement within five (5) years of the date of delivery of the Bonds.

The Senior Reserve Account shall constitute the margin for safety and a protection against default in the payment of principal of and interest on the Outstanding Parity Bonds, the Bonds and any Parity Bonds, and the moneys in the Senior Reserve Account shall be used to pay current principal and interest on the Outstanding Parity Bonds, the Bonds and any Parity Bonds, to the extent that moneys in the Bond and Interest Account are insufficient for that purpose. Any deficiency in the balance maintained in the Senior Reserve Account shall be made up from the next available Net Revenues remaining after credits into the Bond and Interest Account. Any moneys in the Senior Reserve Account in excess of the Senior Reserve Requirement shall (i) be transferred to the Redemption Account so long as any 2014B Bonds are outstanding and (ii) thereafter be transferred to the Sewage Works Improvement Fund or be used for the purchase of outstanding bonds or installments of principal of fully registered bonds. The Senior Reserve Account does not secure and no funds from the Senior Reserve Account shall be applied to the payment of the 2014B Bonds or any Junior Parity Bonds hereafter issued.

(c) Junior Reserve Account. There is hereby continued, within the Sinking Fund, the Junior Reserve Account (the “Junior Reserve Account”) (with such Junior Reserve Account and Senior Reserve Account, each also a “Reserve Account”). The balance to be maintained in the Junior Reserve Account shall equal but not exceed the maximum annual interest on the 2014B Bonds (the “Junior Reserve Requirement”).

The Junior Reserve Account shall constitute the margin for safety and a protection against default in the payment of principal of and interest on the 2014B Bonds, and the moneys in the Junior Reserve Account shall be used to pay current principal and interest on the 2014B Bonds, to the extent that moneys in the Bond and Interest Account are insufficient for that purpose. Any deficiency in the balance maintained in the Junior Reserve Account shall be made up from the next available Net Revenues remaining after credits into the Bond and Interest

Account and the Senior Reserve Account. Any moneys in the Junior Reserve Account in excess of the Junior Reserve Requirement shall (i) be transferred to the Redemption Account so long as any 2014B Bonds are outstanding and (ii) thereafter be transferred to the Sewage Works Improvement Fund or be used for the purchase of outstanding bonds or installments of principal of fully registered bonds. The Junior Reserve Account does not secure and no funds from the Junior Reserve Account shall be applied to the payment of the Outstanding Parity Bonds, the Bonds or any Parity Bonds or Junior Parity Bonds hereafter issued.

Section 14. Improvement Fund. After meeting the requirements of the Operation and Maintenance Fund and the Sinking Fund, any excess revenues may be transferred or credited to the Sewage Works Improvement Fund (the "Improvement Fund"), hereby continued, and said fund shall be used for improvements, replacement, additions and extensions of the sewage works, and for payment in lieu of property taxes. Moneys in the Improvement Fund shall be transferred to the Sinking Fund if necessary to prevent a default in the payment of principal or interest on any outstanding bonds payable from the Sinking Fund or, if necessary, to eliminate any deficiencies in credits to or minimum balance in the Reserve Account of the Sinking Fund. Moneys in the Improvement Fund may also be transferred to the Operation and Maintenance Fund to meet unforeseen contingencies in the operation, repair and maintenance of the sewage works. The Town may make payments in lieu of property taxes from the Improvement Fund to the Town but only if the amounts required to be held in the Operation and Maintenance Fund and the Sinking Fund are so held after considering any such contemplated payments in lieu of property taxes. Notwithstanding anything herein to the contrary, revenues of the sewage works may only be used for purposes related to the sewage works subject only to permitted transfers to the general fund of the Town representing payments in lieu of taxes as herein provided.

Section 15. Maintenance of Accounts; Investments. The Sinking Fund shall be deposited in and maintained as a separate account or accounts from all other accounts of the Town. The Operation and Maintenance Fund and the Improvement Fund may be maintained in a single account, or accounts, but such account, or accounts, shall likewise be maintained separate and apart from all other accounts of the Town and apart from the Sinking Fund account or accounts. All moneys deposited in the accounts shall be deposited, held and secured as public funds in accordance with the public depository laws of the State of Indiana; provided that moneys therein may be invested in obligations in accordance with the applicable laws, including particularly IC 5-13, IC 4-4-11 and IC 13-18-13 (as applicable), and the acts amendatory thereof and supplemental thereto, and in the event of such investment the income therefrom shall become a part of the funds invested and shall be used only as provided in this ordinance.

Section 16. Maintenance of Books and Records. The Town shall keep proper books of records and accounts, separate from all of its other records and accounts, in which complete and correct entries shall be made showing all revenues collected from said works and all disbursements made on account of the works, also all transactions relating to said works. There shall be furnished, upon written request, to any owner of the Bonds, the most recent audit report of the sewage works prepared by the State Board of Accounts. Copies of all such statements and reports shall be kept on file in the office of the Clerk-Treasurer. Any owner of the Bonds then outstanding shall have the right at all reasonable times to inspect the works and all records,

accounts, statements, audits, reports and data of the Town relating to the sewage works. Such inspections may be made by representatives duly authorized by written instrument.

Section 17. Rate Covenant. The Town covenants and agrees that it will establish and maintain just and equitable rates or charges, exclusive of any Non-recurring Charges, for the use of and the service rendered by the sewage works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses the sewage works by or through any part of the sewage system of the Town, or that in any way uses or is served by the sewage works, at a level adequate to produce and maintain sufficient revenue to provide for the proper operation, repair and maintenance of the sewage works, to comply with and satisfy all covenants contained in this ordinance and to pay all obligations of the sewage works (including the Outstanding Parity Bonds, the Bonds, the 2014B Bonds and any Parity Bonds) and of the Town with respect to the sewage works; *provided, however* that until that date which is eighteen (18) months prior to the date of any principal maturity of the 2014B Bonds, the foregoing provisions of this rate covenant may take into account with respect to such rate covenant an anticipated receipt by the Town from Non-recurring Charges of an amount estimated to be available to the Town so long as such estimated amount is no greater than the lesser of (a) the debt service on the 2014B Bonds due and payable within the next following twelve month period or (b) an amount equal to the least annual amount of Non-recurring Charges received by the Town during any of the last three complete calendar years. Such rates and 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, repair and maintenance of the sewage works and the requirements of the Sinking Fund. The rates and charges so established shall apply to any and all use of such works by and service rendered to the Town, and all departments thereof, and shall be paid by the Town, or the various departments thereof, as the charges accrue.

Section 18. Defeasance of Bonds. So long as RD is the owner of the Bonds, the Bonds will not be defeased without the consent of RD. When RD has provided such consent, or if RD is no longer the owner of the Bonds and the Bonds issued hereunder 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 any portion 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 any portion thereof and coupons then outstanding shall be paid; or (i) sufficient moneys, or (ii) direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America, the principal of and the 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 issued hereunder or any designated portion thereof shall no longer be deemed outstanding or entitled to the pledge of the Net Revenues of the Town's sewage works.

Section 19. Additional Bond Provisions. The Town reserves the right to authorize and issue additional BANs at any time ranking on a parity with the BANs. The Town reserves the right to authorize and issue:

(1) additional Parity Bonds, payable out of the Net Revenues of its sewage works, ranking on a parity with the Bonds so long as no 2014B Bonds are then outstanding; and

(2) additional bonds ranking on a parity with the 2014B Bonds and junior and subordinate to the Outstanding Parity Bonds and the Bonds (the “Junior Parity Bonds”), payable out of the Net Revenues of its sewage works, in the event 2014B Bonds are outstanding;

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:

(a) All required payments into the Sinking Fund shall have been made in accordance with the provisions of this ordinance, and the interest on and principal of all bonds payable from the Net Revenues of the sewage works shall have been paid to date in accordance with their terms. For additional Parity Bonds, the Senior Reserve Requirement shall be satisfied for the additional Parity Bonds either at the time of delivery of the additional Parity Bonds or over a five (5) year or shorter period, in a manner which is commensurate with the requirements established in Section 13(b) of this ordinance. For additional Junior Parity Bonds, a reserve requirement which is commensurate with the requirements for additional Parity Bonds (proportionate to the Senior Reserve Requirement established in Section 13(b) of this ordinance) shall be established and satisfied for the additional Junior Parity Bonds either at the time of delivery of the additional Junior Parity Bonds or over a five (5) year or shorter period, in a manner commensurate with the requirements for additional Parity Bonds.

(b) With respect to the issuance of any 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 Parity Bonds, the 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 sufficiently so that said increased rates and charges applied to the previous year’s operations would have produced Net Revenues for said period equal to not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of the then Outstanding Parity Bonds, the 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 prepared by a certified public accountant employed by the Town for that purpose. In addition, for purposes of this subsection, with respect to any Parity Bonds hereafter issued while the Outstanding Parity Bonds or the Bonds remain outstanding, Net Revenues shall not include revenues from Non-recurring Charges.

(c) With respect to the issuance of any Parity Bonds, in addition to the coverage showing in (b) hereof, the Net Revenues of the sewage works in the fiscal year immediately following the year in which such Parity Bonds are issued shall be not less than one hundred twenty percent (120%) of the average annual interest and principal requirements of the then Outstanding Parity Bonds, the Bonds and the additional Parity Bonds proposed to be issued. For purposes of this subsection, all showings shall be prepared by a certified public accountant employed by the Town for that purpose.

(d) With respect to the issuance of any Junior Parity Bonds, the Net Revenues of the sewage works in the fiscal year immediately preceding the issuance of any such Junior 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 and the additional Junior Parity Bonds proposed to be issued; or, prior to the issuance of said Junior Parity Bonds, the sewage rates and charges shall be increased sufficiently so that said increased rates and charges applied to the previous year's operations would have produced Net Revenues for said period equal to not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of the then outstanding bonds and the additional Junior Parity Bonds proposed to be issued. For purposes of this subsection, the records of the sewage works shall be analyzed and all showings prepared by a certified public accountant employed by the Town for that purpose. In addition, for purposes of this subsection, with respect to any Junior Parity Bonds hereafter issued while the Outstanding Parity Bonds, the Bonds or the 2014B Bonds remain outstanding, Net Revenues shall not include revenues from Non-recurring Charges.

(e) The interest on the additional Parity Bonds or Junior Parity Bonds, as applicable, shall be payable semiannually on the first days of January and July and the principal on, or mandatory sinking fund redemption dates for, the additional Parity Bonds or Junior Parity Bonds, as applicable, shall be payable annually on January 1.

Notwithstanding the foregoing, the holders of the Outstanding Parity Bonds and the Bonds may consent to the issuance of the additional bonds on a parity to the payment of the Outstanding Parity Bonds and any Bonds (as Parity Bonds) and prior and senior to the payment of the 2014B Bonds provided that such consent is done in writing prior to the issuance of any such additional Parity Bonds.

Section 20. Further Covenants. For the purpose of further safeguarding the interests of the holders of the BANs and Bonds, it is specifically provided as follows:

(a) All contracts let by the Town 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 employer's 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.

(b) Said Project shall be constructed under the supervision and subject to the approval of such competent engineers as shall be designated by the Town. All estimates for work done or material furnished shall first be checked by the engineers and approved by the Town.

(c) The Town shall at all times maintain its sewage works in good condition and operate the same in an efficient manner and at a reasonable cost.

(d) So long as any of the BANs or Bonds herein authorized are outstanding, the Town shall acquire and maintain insurance coverage, including fidelity bonds, to protect the sewage works and its operations. For so long as any Outstanding Parity Bonds are held by the Authority, 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. Insurance proceeds and condemnation awards shall be used to replace or repair the sewage works, unless the Authority consents to a different use of such proceeds or awards if any Outstanding Parity Bonds are held by the Authority.

(e) So long as any of the BANs or Bonds are outstanding, the Town shall not mortgage, pledge or otherwise encumber such works or any part thereof, nor shall it sell, lease or otherwise dispose of any portion thereof except machinery, equipment or property which may become worn out, obsolete or no longer suitable for use in the sewage works. So long as any Outstanding Parity Bonds are held by the Authority, the Town shall obtain the consent of the Authority prior to the disposal of any portion of the sewage works as described herein.

(f) Except as hereinbefore provided in Section 19 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 Town 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 18 hereof coincidentally with the delivery of such additional bonds or other obligations.

(g) The Town shall take all actions or proceedings necessary and proper, to the extent permitted by law, to require connection of all property where liquid and solid waste, sewage, night soil or industrial waste is produced with available sanitary sewers. The Town shall, insofar as possible, and to the extent permitted by law, cause all such sanitary sewers to be connected with said sewage works.

(h) The provisions of this ordinance shall constitute a contract by and between the Town and the owners of the Bonds and 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 Town 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, BANs or the interest thereon remain 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 Town Council determines, in its sole discretion, that such amendment would not adversely affect the owners of the BANs or Bonds.

(i) The provisions of this ordinance shall be construed to create a trust in the proceeds of the sale of the Bonds and BANs herein authorized for the uses and purposes herein set forth, and the owners of the Bonds and BANs shall retain a lien on such proceeds until the same are applied in accordance with the provisions of this ordinance and of said governing 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 Sinking Fund for the uses and purposes of said fund as in this ordinance set forth. The owners of said Bonds shall have all of the rights, remedies and privileges set forth in the provisions of the governing Act hereinbefore referred to, including the right to have a receiver appointed to administer said sewage works, in the event the Town shall fail or refuse to fix and collect sufficient rates and charges, or shall fail or refuse to operate and maintain said system and to apply the revenues derived from the operation thereof, or if there be a default in the payment of 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 governing Act.

Section 21. Investment of Funds. The Clerk-Treasurer 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 Bonds and BANs under federal law. The Clerk-Treasurer shall keep full and accurate records of investment earnings and income from moneys held in the funds and accounts continued or referenced herein. In order to comply with the provisions of the ordinance, the Clerk-Treasurer is hereby authorized and directed to employ consultants or attorneys from time to time to advise the Town as to requirements of federal law to preserve the tax exclusion. The Clerk-Treasurer may pay any such fees as operating expenses of the sewage works.

Section 22. Tax Covenants. In order to preserve the exclusion of interest on the Bonds and BANs from gross income for federal income 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 (the "Code") and as an inducement to purchasers of the Bonds and BANs, the Town represents, covenants and agrees that:

(a) 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 Town 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 Town 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 Town enters into a management contract for the sewage works, the terms of the contract will comply with Internal Revenue Service 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.

(b) 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 Town) in respect of such property or borrowed money used or to be used for a private business use.

(c) 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.

(d) The Town reasonably expects, as of the date hereof, that the Bonds and BANs will not meet either the private business use test described in paragraphs (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.

(e) 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).

(f) The Town 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 Town act in any other manner which would adversely affect such exclusion. The Town 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.

(g) It shall not be 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.

(h) The Town represents that:

(i) The Town is a governmental unit with general taxing powers, which powers include the power to impose taxes of general applicability that, when collected, may be used for the general purposes of the Town;

(ii) The BANs and the Bonds are not private activity bonds as defined in Section 141 of the Code;

(iii) At least 95% of the net proceeds of the BANs and Bonds will be used for local governmental activities of the Town or of a governmental unit, the jurisdiction of which is entirely within the jurisdiction of the Town;

(iv) The aggregate face amount of all tax-exempt bonds (other than private activity bonds) issued by the Town and all units subordinate to the Town, including on-behalf-of issuers and subordinate entities as those terms are defined in Regulations Section 1.148-8(c)(2), is not reasonably expected to exceed Five Million Dollars (\$5,000,000) in each of calendar years 2015 and 2016; and

(v) The Town has not been formed or availed of to otherwise avoid the purposes of the Five Million Dollar (\$5,000,000) size limitation.

Therefore the Town meets the requirements of Section 148(f)(4)(D) of the Code and will not have to rebate any arbitrage profits to the United States.

(i) The Town represents that:

(1) The Bonds and the BANs are not private activity bonds as defined in Section 141 of the Code;

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

(3) The reasonably anticipated amount of qualified tax-exempt obligations which will be issued by the Town, and all entities subordinate to the Town, during each of 2015 or 2016 does not exceed \$10,000,000; and

(4) The Town will not designate more than \$10,000,000 of qualified tax-exempt obligations during each of 2015 or 2016.

Therefore, the Bonds and the BANs 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.

(j) 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.

Section 23. Amendments with Consent of Bondholders. Subject to the terms and provisions contained in this Section and Section 20(h), and not otherwise, the owners of not less than seventy-five percent (75%) 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 Town of such ordinance or ordinances supplemental hereto as shall be deemed necessary or desirable by the Town 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 nothing herein contained shall permit or be construed as permitting:

- (a) An extension of the maturity of the principal of or interest on any Bond issued pursuant to this ordinance; or
- (b) A reduction in the principal amount of any Bond or the rate of interest thereon; or
- (c) 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, except with respect to pledges to Parity Bonds ranking senior to the 2014B Bonds as herein permitted pursuant to Section 19; or
- (d) 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
- (e) A reduction in the aggregate principal amount of the Bonds required for consent to such supplemental ordinance; or
- (f) A reduction in the Senior Reserve Requirement or the Junior Reserve Requirement.

If the owners of not less than seventy-five percent (75%) 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-Treasurer, 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 Town 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 Town 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 Town 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 Town and the consent of the owners of all the Bonds issued pursuant to this ordinance then outstanding.

Section 24. Issuance of BANs. The Town, having satisfied all the statutory requirements for the issuance of its Bonds, may elect to issue its BAN or BANs to a financial institution, the Bond Bank, the Authority or to any other purchaser, pursuant to a BAN purchase agreement (the “Bond Anticipation Note Agreement”) to be entered into between the Town and the purchaser of the BAN or BANs. The Town Council hereby authorizes the issuance and execution of the BAN or BANs in lieu of initially issuing Bonds to provide interim financing for the Project until permanent financing becomes available. It shall not be necessary for the Town 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 Town Council President and the Clerk-Treasurer are hereby authorized and directed to execute a Bond Anticipation Note Agreement (and any amendments made from time to time) in such form or substance as they shall approve acting upon the advice of counsel. The Town Council President and the Clerk-Treasurer 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. As hereinbefore provided, in the event the BANs are sold to the Bond Bank, the Town Council President and Clerk-Treasurer are hereby authorized to execute and deliver any Bond Bank BAN Purchase Documents, including a Bond Anticipation Note Agreement and any extensions or renewals of the BANs, provided the terms of any such Bond Bank BAN Purchase Documents are consistent with the terms and provisions of this ordinance.

Section 25. Sewer Rates. The estimates of the rates and charges of the sewage works are set forth in Ordinance No. 2008-20, adopted by the Town Council of the Town on December 9, 2008, and such ordinance is incorporated herein by reference.

Section 26. Tax Exemption. Notwithstanding any other provisions of this ordinance, the covenants and authorizations contained in this ordinance (the “Tax Sections”) which are designed to preserve the exclusion of interest on the BANs and Bonds from gross income under federal law (the “Tax Exemption”) need not be complied with if the Town receives an opinion of nationally recognized bond counsel that any Tax Section is unnecessary to preserve the Tax Exemption. At the time of delivery of the BANs and Bonds, the Town Council President and Clerk-Treasurer will execute post-issuance compliance procedures with respect to the BANs and Bonds relating to continued compliance of the Town with respect to the Tax Sections to preserve the Tax Exemption.

Section 27. RD Covenants. So long as RD is the owner of any of the Bonds, the Town covenants that in addition to the other covenants, terms and conditions applicable to the Bonds, it will comply with all conditions set forth by RD in the Letter of Conditions, Loan Resolution and any Loan Agreement.

Section 28. Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith, except the ordinances authorizing the Outstanding Parity Bonds and the 2014B Bonds, are hereby repealed; provided, however, that this ordinance shall not be construed as adversely affecting the rights of the owners of the Outstanding Parity Bonds or the 2014B Bonds.

Section 29. Effective Date. This ordinance shall be in full force and effect from and after its adoption.

Adopted this __ day of _____, 2014, by a vote of _____ ayes and _____ nays.

TOWN OF WHITESTOWN, INDIANA
TOWN COUNCIL

Eric Miller, President

Julie Whitman, Vice President

Dawn Semmler, Council Member

Kevin Russell, Council Member

Susan Austin, Council Member

ATTEST:

Amanda Andrews, Clerk-Treasurer

EXHIBIT A

Description of Project

The Project consists of all sewage works improvements necessary in connection with the following Royalton & Cozy Lane water and wastewater project summary:

The Royalton neighborhood is located in the southern portion of the Whitestown Service area southwest of the I-865 and I-65 interchange in Boone County, Indiana. Royalton consists of households that currently utilize on-site septic systems for wastewater treatment and groundwater wells for water. The proposed project will provide wastewater collection for the Royalton area.

The Cozy Lane area is located off of SR 334 and Indianapolis Road in the southern portion of the Whitestown Service area. Cozy Lane consists of three businesses that currently utilize private on-site septic systems for wastewater treatment and groundwater wells for water. The proposed project will provide both wastewater collection as well as water service for the area.

The chosen alternative chosen is a Low Pressure Grinder Pump System (LPGPS) and included water service at Cozy Lane.

The LPGPS includes approximately 3,800 lineal feet of small diameter pressure piping estimated at 1.5, 2, and 3 inches in diameter for the mainlines and 1.25 inch in diameter for service lines. The total project includes 17 users on the LPGPS system. The water service includes 900-LF of 8" water main. The total project includes 3 users receiving water service. It is anticipated that the majority of the collection and water systems would be installed in public right-of-ways. However, a small number of easements for the collection lines may be required at various locations throughout the project area. The installation of the collection system would utilize trenchless technology to minimize impacts to the community.

Additional information concerning the proposed Project is available in the plans and specifications for the Project prepared by GRW Engineers and on file with the Clerk-Treasurer of the Town.

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