

ORDINANCE NO. 1989-1

An Ordinance concerning the construction by the Town of Fort Branch, Indiana, of additions, improvements and extensions to its sewage works, the issuance of revenue bonds to provide the cost thereof, the collection, segregation and distribution of the revenues of said works, the safeguarding of the interests of the owners of said revenue bonds, other matters connected therewith, and repealing ordinances inconsistent herewith

WHEREAS, the Town of Fort Branch, Indiana ("Town") has heretofore established, constructed and financed sewage works, and now owns and operates said sewage works pursuant to IC 36-9-23; and

WHEREAS, the Board of Trustees of the Town finds that certain improvements and extensions to said works are necessary; that plans, specifications and estimates have been prepared and filed by the engineers employed by the Board of Trustees 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) ("Project"), which plans and specifications have been submitted to all governmental authorities having jurisdiction and have been approved by the aforesaid governmental authorities; and

WHEREAS, the Town has obtained engineers' estimates of the costs for the construction of the Project and has advertised for and received bids for the construction of the Project which bids are subject to the Town's obtaining funds to pay for said Project; that on the basis of these estimates the cost of said Project, as defined in IC 36-9-1-8, including incidental expenses, is in the amount of \$3,321,877; and

WHEREAS, the Town now finds that the total cost of the Project is \$3,321,877; that state and federal grants in the amount of \$2,396,877 will be available for application on costs of the Project; and that the balance of the cost of the Project will be financed by the issuance of sewage works revenue bonds of the Town in the amount of \$925,000; and

WHEREAS, the bonds to be issued pursuant to this ordinance will constitute a first charge against the Net Revenues of the sewage works (as herein defined), and are to be issued subject to the provisions of the laws of the State of Indiana, including, without limitation, IC 36-9-23, and all acts amendatory and supplemental (the "Act"), and the terms and restrictions of this ordinance; and

WHEREAS, the Board of Trustees now finds that all conditions precedent to the adoption of an ordinance authorizing the issuance of said revenue bonds have been complied with in accordance with the provisions of the governing ordinances and statutes; now therefore,

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FORT BRANCH, INDIANA:

Section 1. The Town proceed with the Project, in accordance with the plans and specifications heretofore prepared and filed by Commonwealth Engineers, Inc., Greenwood, Indiana, which plans and specifications are by reference made a part of this ordinance as fully as if the same were attached hereto and incorporated herein. The total cost of said Project and refunding shall not exceed the sum of \$3,321,877 without further authorization from this Board of Trustees. The terms "sewage treatment works," "works," and other like terms where used in this ordinance shall be construed to mean and include all structures and property of the Town's sewer utility, including the Project and the items defined at IC 36-9-1-8. The Project shall be acquired and constructed and bonds herein authorized shall be issued pursuant to and in accordance with the provisions of the Act.

Section 2. The Town shall issue its sewage works revenue bonds designated "Sewage Works Revenue Bonds of 1989," in the amount of Nine Hundred Twenty-five Thousand Dollars (\$925,000), sold at par or at a discount not to exceed three percent (3%), for the purpose of procuring funds to apply on the cost of said Project.

Said bonds shall be issued in the denomination of Five Thousand Dollars (\$5,000) or integral multiples thereof, numbered consecutively from 1 up, dated as of and bearing interest from the first day of the month in which sold, and shall bear interest at a rate or rates not exceeding ten percent (10%) per annum payable on the first days of January and July in each year, beginning July 1, 1989. 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) and such bonds shall mature serially on January 1 in the years and amounts as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
1991	\$20,000	2000	\$45,000
1992	25,000	2001	50,000
1993	25,000	2002	55,000
1994	30,000	2003	55,000
1995	30,000	2004	60,000
1996	30,000	2005	65,000
1997	35,000	2006	70,000
1998	35,000	2007	80,000
1999	40,000	2008	85,000
		2009	90,000

A qualified institution shall be selected by the President of the Board of Trustees and the Clerk-Treasurer to serve as Registrar and Paying Agent for the bonds ("Registrar" or "Paying Agent") and is hereby charged with the responsibility of authenticating the bonds. The Clerk-Treasurer is hereby authorized to enter into such agreements or understandings with the Registrar 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 Registrar may charge for the services it provides as Registrar and Paying Agent and such fees may be paid from the Sinking Fund established to pay the principal of and interest on the bonds as fiscal agency charges.

The principal of the bonds shall be payable at the principal office of the Paying Agent. All payments of interest on the bonds shall be paid by check mailed one day prior to the interest payment date to the registered owners thereof as of the fifteenth day of the month preceding an interest payment 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. All payments on the 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 his 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 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 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, 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.

Interest on the 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 fifteenth day of the month preceding an interest payment 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 June 15, 1989, in which case they shall bear interest from the original date, until the principal shall be fully paid.

Section 3. The bonds of this issue maturing on January 1, 2000, and thereafter, are redeemable at the option of the Town on January 1, 1999, or any date thereafter, on thirty (30) days' notice, in whole or in part, in inverse order of maturity and by lot within a maturity, at face value, together with the following premiums:

- 2% if redeemed on January 1, 1999, or thereafter on or before December 31, 2001;
- 1% if redeemed on January 1, 2002, or thereafter on or before December 31, 2004;
- 0% if redeemed on January 1, 2005, or thereafter prior to maturity;

plus accrued interest to the date of redemption. Notice of redemption shall be mailed to the address of the registered owner as shown on the registration record of the Town as of the date of mailing unless notice is waived by the owner of the bond or bonds redeemed. The notice shall specify the date and place of redemption and the serial numbers of the bonds called for redemption. The place of redemption may be determined by the Town. 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 or when said bonds shall be presented for redemption.

Section 4. Said bonds shall be signed in the name of the Town by the manual or facsimile signature of the President of the Board of Trustees and attested by the manual or facsimile signature of its Clerk-Treasurer, who shall affix the seal of said Town to each of said bonds manually or shall have the seal imprinted or impressed thereon by facsimile or any other means. Said officials, by the signing of the Signature and No Litigation Certificate, shall adopt as and for their own proper signatures their facsimile signatures appearing on said bonds. Subject to the provisions hereof for registration, said

Original Date, which interest is payable semiannually on the first days of January and July of each year, beginning on July 1, 1989.

The principal on this bond is payable at the office of the _____ (the "Registrar" or "Paying Agent"), in _____, Indiana. All payments of interest on this bond shall be paid by check or draft mailed or delivered to the registered owner hereof as of the fifteenth day of the month preceding an interest payment date at the address as it appears on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by the registered owner. 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.

This bond shall not constitute an indebtedness of the Town of Fort Branch 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 thereon except from the special fund provided from the Net Revenues as set forth herein.

THE TERMS AND PROVISIONS OF THIS BOND ARE CONTINUED ON THE REVERSE SIDE HEREOF AND SUCH TERMS AND PROVISIONS SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS THOUGH FULLY SET FORTH AT THIS PLACE.

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.

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 Town of Fort Branch, in Gibson County, Indiana, has caused this bond to be executed in its corporate name by the manual or facsimile signature of the President of its Board of Trustees, its corporate seal to be hereunto affixed, imprinted or impressed by any means and attested manually or by facsimile by its Clerk-Treasurer.

TOWN OF FORT BRANCH, INDIANA

By: _____
President, Board of Trustees

(SEAL)

Attest:

Clerk-Treasurer

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

It is hereby certified that this bond is one of the bonds described in the within-mentioned Ordinance duly authenticated by the Registrar.

_____ as Registrar

By: _____
Authorized Representative

(To be printed on Reverse Side)

This bond is one of an authorized issue of bonds of the Town of Fort Branch, of like date, tenor and effect, except as to numbering, interest rate and date of maturity, in the total amount of Nine Hundred Twenty-five Thousand Dollars (\$925,000), numbered 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, as defined in the hereinafter defined Ordinance, as authorized by an ordinance adopted by the Board of Trustees of the Town of Fort Branch on the _____ day of January, 1989, entitled "An Ordinance concerning the construction by the Town of Fort Branch, Indiana, of additions, improvements and extensions to its sewage works, the issuance of revenue bonds to provide the cost thereof, the collection, segregation and distribution of the revenues of said works, the safeguarding of the interests of the owners of said revenue bonds, other matters connected therewith, and repealing ordinances inconsistent herewith" (the "Ordinance"), and in strict compliance with the provisions of IC 36-9-23 (the "Act").

Pursuant to the provisions of said Act and said Ordinance, the principal and interest of this bond and all other bonds of said issue and any bonds hereafter issued on a parity therewith, are payable solely from the Sewage Works Sinking Fund (heretofore created by the Ordinance) to be provided from 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 Town of Fort Branch, including the existing works, the improvements and extensions constructed or acquired by the use of the proceeds of this bond and the issue of which it is a part, and all additions and improvements thereto and replacements thereof subsequently constructed or acquired.

The Town of Fort Branch 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 the Ordinance, of which this is one, and any bonds ranking on a parity therewith, 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, to provide for proper depreciation, and for the payment of the sums required to be paid into said Sinking Fund under the provisions of said Act and said Ordinance. In the event the Town 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 the rights and remedies provided for in said 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 Fort Branch has designated the bonds as qualified tax-exempt bonds to qualify the bonds for the \$10,000,000 exception from the provisions of Section 265(b) of the Internal Revenue Code of 1986 relating to the disallowance of 100% of the deduction by financial institutions for interest expense allocable to tax-exempt obligations acquired after August 7, 1986.

The Town of Fort Branch 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 payable from the revenues of said sewage works, as such interest shall fall due, (b) the necessary fiscal agency charges for paying all bonds and interest, (c) the principal of all bonds payable from the revenues of said sewage works, as such principal shall fall due, and (d) an additional amount, if necessary, to maintain the reserve as provided in said Ordinance. Such required payments shall constitute a first charge upon all the Net Revenues of said works.

The bonds of this issue maturing on January 1, 2000, and thereafter, are redeemable at the option of the Town on January 1, 1999, or any date thereafter, on thirty (30) days' notice, in whole or in part, in inverse order of maturity and by lot within a maturity, at face value, together with the following premiums:

- 2% if redeemed on January 1, 1999, or thereafter
on or before December 31, 2001;
- 1% if redeemed on January 1, 2002, or thereafter
on or before December 31, 2004;
- 0% if redeemed on January 1, 2005, or thereafter
prior to maturity;

plus accrued interest to the date fixed for redemption. Notice of redemption shall be mailed to the address of the registered owner as shown on the registration record of the Town as of the date of mailing not less than thirty (30) days prior to the date fixed for redemption unless said notice is waived by the registered owner of this bond. Any notice shall specify the date and place of redemption and the serial numbers of the bonds called for redemption. The place of redemption may be determined by the Town. 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 or when said bonds shall be presented for redemption.

If this bond shall not be presented for payment or redemption on the date fixed therefor, the Town may deposit in trust with the Paying Agent, 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.

The bonds are subject to defeasance prior to redemption or payment as provided in the Ordinance referred to herein and the owner of this bond, by the acceptance hereof, hereby agrees to all the terms and provisions contained in the Ordinance.

This bond is transferable or exchangeable only upon the books of the Town kept for that purpose at the 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 the same 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. The Town, the Registrar and any 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 maturing in any one year are issuable only in fully registered form in the denomination of \$5,000 or any integral multiple thereof not exceeding the aggregate principal amount of the bonds maturing in such year.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

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

Dated: _____

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by a broker-dealer or a commercial bank or trust company

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

Section 6. The Clerk-Treasurer is hereby authorized and directed to have said bonds prepared, and the President of the Board of Trustees and Clerk-Treasurer are hereby authorized and directed to execute said bonds in the form and manner herein provided. The Clerk-Treasurer is hereby authorized and directed to deliver said 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 Clerk-Treasurer shall collect the full amount which the respective purchasers have agreed to pay therefor, which amount shall not be less than 97% of the face value of said bonds. The bonds herein authorized, when fully paid for and delivered to the purchaser, shall be binding special revenue obligations of the Town, payable solely out of the Net Revenues of the Town's sewage works to be set aside into the Sewage Works Sinking Fund as herein provided, and the proceeds derived from the sale of said bonds shall be and are hereby set aside for application on the cost of the Project, including issuance costs of the 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 7. Prior to the sale of said bonds, the Clerk-Treasurer shall cause to be published a notice of such sale in the Princeton Daily Clarion and the Fort Branch Times, newspapers of general circulation in the County of Gibson, Indiana, 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, all in accordance with IC 5-1-11 and IC 5-3-1. A notice or summary notice of sale may also be published in The Indianapolis Commercial or in The Bond Buyer in New York, New York. The bond sale notice shall state the time and place of sale, the character and amount of the bonds, the maximum rates of interest thereon, the terms and conditions upon which bids will be received and the sale made, and such other information as the Clerk-Treasurer and the attorneys employed by the Town shall deem advisable, and any summary notice may contain any information deemed so advisable. Said notice shall provide, among other things, that each bid shall be accompanied by a certified or cashier's check in the amount of Nine Thousand Two Hundred Fifty Dollars

(\$9,250) 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 the bonds and pay for the same as soon as the bonds are ready for delivery, or at the time fixed in the notice of sale, then said check and the proceeds thereof shall be the property of the Town and shall be considered as its liquidated damages on account of such default; that bidders for said bonds will be required to name the rate or rates of interest which the bonds are to bear, not exceeding the maximum rate hereinbefore fixed, and that such interest rate or rates shall be in multiples of one-eighth (1/8) or one-twentieth (1/20) of one percent (1%). The rate bid on a maturity shall be equal to or greater than the rate bid on the immediately preceding maturity. No conditional bids or bids for less than 97% of the face value of the bonds will be considered. The opinion of Ice Miller Donadio & Ryan, bond counsel of Indianapolis, Indiana, approving the legality of said bonds will be furnished to the purchaser at the expense of the Town.

The bonds shall be awarded by the Clerk-Treasurer to the best bidder who has submitted his bid in accordance with the terms of this ordinance and the notice of sale. The best bidder will be the one who offers the lowest net interest cost to the Town to be determined by computing the total interest on all of the bonds to their maturities and deducting therefrom the premium bid, if any and adding thereto the discount bid, if any. The right to reject any and all bids is hereby reserved. If an acceptable bid is not received on the date of sale, the sale may be continued from day to day thereafter without further advertisement for a period of thirty (30) days, during which time no bid which provides a higher net interest cost to the Town than the best bid received at the time of the advertised sale will be considered.

Section 8. (a) The accrued interest and premium, if any, received at the time of the delivery of the bonds, if any, shall be deposited in the Sewage Works Sinking Fund hereinafter referred to. The balance of the bond 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, separate and apart from other bank accounts of the Town, to be designated as "Sewage Works Construction Account" ("Account"). All moneys deposited to the credit of said 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, as amended and supplemented. Any income from such investment shall be deposited in the Account. The funds in said Account shall be expended only for the purpose of paying the cost of the Project, the incidental expenses incurred in connection with the Project or the issuance of the bonds, including the necessary engineering and legal expenses, and to provide for necessary equipment all in accordance with the Act.

(b) Any balance or balances remaining unexpended in such Account after completion of the Project, which are not required to meet unpaid obligations incurred in connection with such Project, (i) may be deposited in the Sewage Works Sinking Fund, and may be used solely for the purposes of said Sewage Works Sinking Fund, or (ii) may be used for any purpose or project for which the bonds could have been issued, all in accordance with IC 5-1-13, as amended and supplemented.

Section 9. There is hereby created a fund known as the Sewage Works Revenue Fund ("Revenue Fund") into which there shall be deposited upon receipt all income and revenues of the sewage works. This fund shall be maintained separate and apart from all other bank accounts of the Town. All moneys deposited in the Revenue Fund may be invested in accordance with IC 5-13-9.

Section 10. There is hereby created a fund known as the Operation and Maintenance Fund ("Operation and Maintenance Fund") into which fund there shall be credited on the last day of each calendar month a sufficient amount of the revenues of the sewage works so that the balance in the Operation and Maintenance 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 balance in said Fund in 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.

Section 11. There is hereby created 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 and interest, which fund shall be designated the Sewage Works Sinking Fund ("Sinking Fund"). There shall be set aside and deposited in said Sinking Fund, as available, and as hereinafter provided, a sufficient amount of the Net Revenues of said sewage works to meet the requirements of the Bond and Interest Account and of the Debt Service Reserve Account hereby created in said Sinking Fund. Such payments shall continue until the balance in the Bond and Interest Account, plus the balance in the Debt Service Reserve Account hereinafter described, equals the amount needed to redeem all of the then outstanding bonds.

(a) Bond and Interest Account. There shall be transferred, on the last day of each calendar month, from the Revenue Fund and credited to the Bond and Interest Account an amount of the Net Revenues equal to the sum of one-tenth (1/10) of the principal and one-fifth (1/5) of the interest on all then outstanding bonds payable from Net Revenues on the next succeeding principal and interest payment dates, until the amount so credited shall equal the principal payable during the next succeeding twelve (12) calendar months

and the interest payable during the next succeeding six (6) calendar months. 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 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 principal and interest on the due dates thereof together with the amount of bank fiscal agency charges.

(b) Debt Service Reserve Account. On the last day of each calendar month, after making the credits to the Bond and Interest Account in an amount which equals, but does not exceed, the lesser of (i) the maximum annual debt service on the bonds (ii) 125% of average annual debt service on the bonds or (iii) 10% of the proceeds of the bonds plus a minor portion as defined in the Internal Revenue Code of 1986 ("Reserve Requirement"). The balance in the Debt Service Reserve Account shall never exceed the Reserve Requirement. The Debt Service Reserve Account shall constitute the margin for safety and protection against default in the payment of principal of and interest on outstanding bonds, and the moneys in the Debt Service Reserve Account shall be used to pay current principal and interest on outstanding bonds to the extent that moneys in the Bond and Interest Account are insufficient for that purpose. Any deficiency in balance maintained in the Debt Service Reserve Account shall be promptly made up from the next available Net Revenues remaining after credits into the Bond and Interest Account. In the event moneys in the Debt Service Reserve Account are transferred to the Bond and Interest Account to pay principal and interest on outstanding bonds, then such depletion of the balance in the Debt Service Reserve Account shall be made up from the next available Net Revenues after the credits into the Bond and Interest Account. Any moneys in the Debt Service Reserve Account in excess of the Reserve Requirement may be used for the prepayment of installments of principal on the then outstanding bonds which are then

callable or prepayable, or for the purchase of outstanding bonds or installments of principal of fully registered bonds at a price not exceeding par and accrued interest, or shall be transferred to the Sewage Works Improvement Fund as provided below.

Section 12. After meeting the requirements of the Operation and Maintenance Fund, and the Sinking Fund, any excess revenues may be transferred or credited to a fund designated the "Sewage Works Improvement Fund," and said Fund shall be used for improvements, replacements, additions and extensions of the sewage works. Moneys in the Sewage Works Improvement Fund shall be transferred to the Sinking Fund if necessary to prevent a default in the payment of principal and interest on the then outstanding bonds or, if necessary, to eliminate any deficiencies in credits to or minimum balance in the Debt Service Reserve Account of the Sinking Fund or may be transferred to the Operation and Maintenance Fund to meet unforeseen contingencies in the operation and maintenance of the sewage works.

Section 13. 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 Sewage Works 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 Indiana Code, Title 5, Article 13, as amended or supplemented, 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 14. 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 prepared and furnished, upon written request, to the original purchasers of the bonds and to any subsequent owner of the bonds, not more than ninety (90) days after the close of each fiscal year, complete operating income and expense statements of the works, covering the preceding fiscal year and the balances in the several Funds and Accounts created or continued by this ordinance. Copies of all such statements and reports shall be kept on file in the office of the Clerk-Treasurer. 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, 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 15. The Town covenants and agrees that it will establish and maintain just and equitable rates or charges for the use of and the service 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 system of the Town, or that in any way uses or is served by such works; that such rates or charges shall be sufficient in each year for the payment of the proper and reasonable expenses of operation, repair and maintenance of the works, and for the payment of the sums required to be paid into the Sinking Fund by said Act and this ordinance. 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, repair and maintenance, and the requirements of the Sinking Fund. The rates or 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 semiannually by the Town or the various departments thereof as the charges accrue.

Section 16. If, when any 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 all or any portion of the bonds for redemption shall have been given, and the whole amount of the principal of, interest on and premium, if any, so due and payable upon all or any portion of the bonds 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, such bonds shall no longer be deemed outstanding or entitled to the pledge of the Net Revenues of the Town's sewage works.

Section 17. The Town reserves the right to authorize and issue additional 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 for refunding bonds, subject to the following conditions:

(a) The interest on and principal of all obligations payable from the revenues of the sewage works shall have been paid to date in accordance with the terms thereof.

(b) The Net Revenues of the sewage works in the fiscal year immediately preceding the issuance of any such bonds ranking on a parity with the bonds authorized by this ordinance 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 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 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 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 employed by the Town for that purpose.

(c) The principal of said additional parity bonds shall be payable annually on January 1 and the interest on said additional parity bonds shall be payable semiannually on January 1 and July 1 in the years in which such principal and interest are payable.

Section 18. For the purpose of further safeguarding the interests of the owners of the bonds herein authorized, it is specifically provided as follows:

(a) All contracts let by the Town in connection with the construction of said sewage works 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 in the laws of the State of Indiana in the case of a public contract, and shall be governed in all respects by the laws of Indiana relating to public contracts.

(b) The improvements and extensions shall be constructed under the supervision and subject to the approval of such competent engineer as shall be designated by the Board of Trustees. All estimates for work done or material furnished shall first be checked by the engineers and approved by the Board of Trustees.

(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 bonds herein authorized are outstanding, the Town shall maintain insurance 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. All insurance shall be placed with responsible insurance companies qualified to do business under the laws of the State of Indiana. Insurance proceeds shall be used in replacing or repairing the property destroyed or damaged; or if not used for that purpose shall be treated and applied as Net Revenues of the works.

(e) So long as any of the 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 replaced equipment which may become worn out or obsolete.

(f) 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 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 16 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 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, 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 herein authorized, and after the issuance of said bonds, this ordinance shall not be repealed or amended in any respect which will adversely affect the rights of the owners of said bonds, nor shall the Board of Trustees 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 the interest thereon remain unpaid. This ordinance may be amended, however, without the consent of bond owners, if the Board of Trustees determines, in its sole discretion, that such amendment would not adversely affect the owners of the bonds.

(i) The provisions of this ordinance shall be construed to create a trust in the proceeds of the sale of the bonds herein authorized for the uses and purposes herein set forth, and the owners of the bonds shall retain a lien on such 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 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, including the right of owners of the bonds to have a receiver appointed to administer said sewage works in the event of 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 Act.

Section 19. (a) The Clerk-Treasurer is hereby authorized to invest moneys pursuant to the provisions of this ordinance (subject to applicable requirements of federal law to insure such yield is then current market rate) to the extent necessary or advisable to preserve the exclusion from gross income of interest on the bonds under federal law.

(b) The Clerk-Treasurer 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 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 or exemption described in Section 20 hereof.

Section 20. In order to preserve the exclusion of interest on the bonds 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 ("Code") and as an inducement to purchasers of the bonds, the Town represents, covenants and agrees that:

(a) No person or entity, other than the Town or another state or local governmental unit, will use proceeds of the bonds or property financed by said 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 proceeds or will have actual or beneficial use of such property pursuant to a lease, a management or incentive payment contract, an arrangement such as take-or-pay or output contract or any other type of arrangement that differentiates that person's or entity's use of such property from the use by the public at large.

(b) No bond proceeds will be loaned to any entity or person other than another state or local governmental unit. No bond 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 proceeds.

(c) The Town will not take any action nor fail to take any action with respect to the bonds that would result in the loss of the exclusion from gross income for federal income tax purposes of interest on the bonds pursuant to Section 103 of the Code.

(d) It shall not be an event of default under this ordinance if the interest on any bonds 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 the issuance of the bonds.

(e) The Town represents that:

- (1) The Town is a governmental unit with general taxing powers;
- (2) The bonds are not private activity bonds as defined in Section 141 of the Code;
- (3) At least 95% of the net proceeds of the 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; and
- (4) The aggregate face amount of all tax-exempt bonds (other than private activity bonds) issued by the Town, all units to which the Town is subordinate and all units subordinate to the Town is not reasonably expected to exceed \$5,000,000 in calendar year 1989.

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

(f) The Town represents that:

- (1) The bonds are not private activity bonds as defined in Section 141 of the Code;
- (2) The Town hereby designates the bonds as qualified tax-exempt obligations for purposes of Section 265(b) of the Code; and
- (3) The reasonably anticipated amount of qualified tax-exempt obligations (including qualified 501(c)(3) obligations but excluding other private activity bonds) which will be issued by the Town, all entities to which the Town is subordinate and all entities subordinate to the Town during 1989 does not exceed \$10,000,000.

(4) The Town has not designated more than \$10,000,000 of qualified tax-exempt obligations during 1989.

Therefore, the bonds 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.

Section 21. 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 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, the redemption premium 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; 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.

The owners of not less than sixty-six and two thirds percent (66-2/3%) in aggregate principal amount of the bonds outstanding under this ordinance 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 of the Town. 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 bonds issued pursuant to this ordinance then outstanding.

Section 22. The estimate of the rates and charges are set forth in the ordinance to be adopted by the Board of Trustees and numbered 1989-2 Said ordinance is incorporated herein by reference.

Section 23. Notwithstanding any other provisions of this ordinance, the covenants and authorizations contained in this ordinance ("Tax Sections") which are designed to preserve the tax exempt status of interest on the bonds or the exclusion of interest on the bonds from gross income under federal law ("Tax Exemption") need not be complied

EXHIBIT A


with if the Town receives an opinion of bond counsel that any Tax Section is unnecessary to preserve the Tax Exemption.

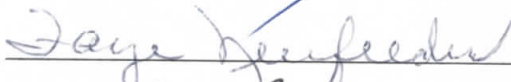
Section 24. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

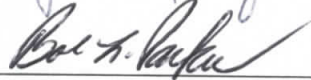
Section 25. This ordinance shall be in full force and effect from and after its passage.

Adopted this 4th day of January, 1989.

BOARD OF TRUSTEES OF THE TOWN OF
FORT BRANCH







Attest:



Clerk-Treasurer

(Seal)

RESOLUTION 1989-1

COPY

WHEREAS the Board of Trustees of the Town of Ft. Branch, Indiana, did at its regular meeting on January 4, 1989, adopt Ordinance No. 1989-1, an Ordinance determining the need to construct additions and improvements to the Town's Sewage Works; and

WHEREAS there was a scrivener's error in Section 11 of said original Ordinance;

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Town of Ft. Branch that the scrivener's error which appeared in Section 11 of the original Ordinance be amended by insertion of new pages 15 and 16 in and to said Ordinance (a copy of said new pages attached hereto and made a part hereof by reference).

IN WITNESS WHEREOF the Board of Trustees of the Town of Ft. Branch, Indiana, has adopted this Resolution this 1st day of March 1989.

BOARD OF TRUSTEES OF TOWN OF
FORT BRANCH, INDIANA



STAN MAY, President



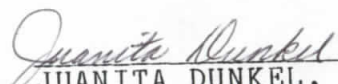
FAYE NEUFELDER, Member



Bob L. Parker, Member



ATTEST:



JUANITA DUNKEL,
Clerk/Treasurer

and the interest payable during the next succeeding six (6) calendar months. 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 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 principal and interest on the due dates thereof together with the amount of bank fiscal agency charges.

(b) Debt Service Reserve Account. On the last day of each calendar month, after making the credits to the Bond and Interest Account there shall be transferred from the Revenue Fund and credited to the Debt Service Reserve Account \$1,711 until the balance therein equals, but does not exceed, the lesser of (i) the maximum annual debt service on the bonds (ii) 125% of average annual debt service on the bonds or (iii) 10% of the proceeds of the bonds plus a minor portion as defined in the Internal Revenue Code of 1986 ("Reserve Requirement"). The balance in the Debt Service Reserve Account shall never exceed the Reserve Requirement. The Debt Service Reserve Account shall constitute the margin for safety and protection against default in the payment of principal of and interest on outstanding bonds, and the moneys in the Debt Service Reserve Account shall be used to pay current principal and interest on outstanding bonds to the extent that moneys in the Bond and Interest Account are insufficient for that purpose. Any deficiency in balance maintained in the Debt Service Reserve Account shall be promptly made up from the next available Net Revenues remaining after credits into the Bond and Interest Account. In the event moneys in the Debt Service Reserve Account are transferred to the Bond and Interest Account to pay principal and interest on outstanding bonds, then such depletion of the balance in the Debt Service Reserve Account shall be made up from the next available Net Revenues after the credits into the Bond and Interest Account. Any moneys in the Debt Service Reserve Account in

excess of the Reserve Requirement may be used for the prepayment of installments of principal on the then outstanding bonds which are then callable or prepayable, or for the purchase of outstanding bonds or installments of principal of fully registered bonds at a price not exceeding par and accrued interest, or shall be transferred to the Sewage Works Improvement Fund as provided below.

Section 12. After meeting the requirements of the Operation and Maintenance Fund, and the Sinking Fund, any excess revenues may be transferred or credited to a fund designated the "Sewage Works Improvement Fund," and said Fund shall be used for improvements, replacements, additions and extensions of the sewage works. Moneys in the Sewage Works Improvement Fund shall be transferred to the Sinking Fund if necessary to prevent a default in the payment of principal and interest on the then outstanding bonds or, if necessary, to eliminate any deficiencies in credits to or minimum balance in the Debt Service Reserve Account of the Sinking Fund or may be transferred to the Operation and Maintenance Fund to meet unforeseen contingencies in the operation and maintenance of the sewage works.

Section 13. 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 Sewage Works 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 Indiana Code, Title 5, Article 13, as amended or supplemented, 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.