

ORDINANCE NO. 2000-15

**AN ORDINANCE SUPPLEMENTING AND AMENDING ORDINANCE NO. 1992-4 AND AUTHORIZING THE ISSUANCE BY THE TOWN OF FORT BRANCH, INDIANA, OF ITS WATERWORKS REFUNDING REVENUE BONDS OF 2001 TO PROVIDE FOR THE REFUNDING OF ITS WATERWORKS REVENUE BONDS OF 1992, THROUGH THE EXCHANGE THEREFOR, AND OTHER RELATED MATTERS**

WHEREAS, the Town of Fort Branch, Indiana (the "Town"), has heretofore established and constructed and currently owns and operates a municipal waterworks (the "Waterworks"), pursuant to the provisions of Indiana Code 8-1.5; and

WHEREAS, on the 2<sup>nd</sup> day of December, 1992, the Town issued Two Million Three Hundred Thousand Dollars (\$2,300,000) aggregate principal amount of its Waterworks Revenue Bonds of 1992 (the "1992 Bonds"), to finance certain projects of the Waterworks pursuant to Ordinance No. 1992-4, adopted by the Town Council of the Town on the 6<sup>th</sup> day of May, 1992 (the "Original Ordinance"); and

WHEREAS, the Indiana Bond Bank (the "Bond Bank") issued its Indiana Bond Bank Special Program Bonds, Series 1992 B (the "1992 B Bond Bank Bonds"), the proceeds of which were used to purchase the 1992 Bonds; and

WHEREAS, One Million Nine Hundred Fifty Thousand Dollars (\$1,950,000) aggregate principal amount of the 1992 Bonds remain outstanding on the date hereof, and after January 1, 2001, One Million Eight Hundred Eighty-Five Thousand Dollars (\$1,885,000) aggregate principal amount of the 1992 Bonds will be outstanding (the "Waterworks Refunded Bonds"); and

WHEREAS, the Bond Bank desires to issue its Indiana Bond Bank Special Program Refunding Bonds, Series 2001 A (the "2001 Bond Bank Bonds") for the purpose of refunding all or a portion of the 1992 B Bond Bank Bonds and if the Bond Bank issues its 2001 Bond Bank Bonds and if the 1992 B Bond Bank Bonds are refunded, the Bond Bank requests that the Town issue waterworks refunding bonds which will be exchanged for the Waterworks Refunded Bonds.

WHEREAS, Indiana Code Section 5-1-5 provides that the Town Council of a Town may by ordinance provide for the issuance of bonds to refund outstanding bonds issued at any time by such Town, and to pay redemption premiums and costs of refunding, to effect a savings to such Town; and

WHEREAS, the Town Council desires to adopt this Ordinance No. 2001-\_\_ (the "2001 Supplemental Ordinance") to supplement and amend the Original Ordinance and to authorize the issuance of refunding bonds for the purposes of providing for the refunding of all or a portion of the

Waterworks Refunded Bonds (the Original Ordinance, as supplemented and amended by this 2001 Supplemental Ordinance, the "Ordinance"); and

WHEREAS, the Town Council, after consideration of the estimated or known interest payable to the fixed maturities of such waterworks refunding bonds and the interest payable on the Waterworks Refunded Bonds, has determined that a savings to the Town will be effected by such a refunding; and

WHEREAS, the Town Council now finds that all conditions precedent to the adoption of this 2001 Supplemental Ordinance have been complied with in accordance with the provisions of Indiana Code 5-1-5 and 8-1.5 (collectively, the "Act"); and

WHEREAS, the Town Council consequently seeks to authorize the issuance of waterworks refunding bonds pursuant to the Act and the sale of such waterworks refunding bonds pursuant to the provisions of the Act; now therefore

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

Section 1. Refunding. The Town Council, after consideration of the estimated or known interest payable to the fixed maturities of the 2001 Bonds (as hereinafter defined) and the interest payable on the Waterworks Refunded Bonds, hereby determines that a savings to the Town will be effected by the issuance by the Town of the 2001 Bonds to provide for the refunding of its Waterworks Refunded Bonds through the issuance and delivery of the 2001 Bonds to the Bond Bank in exchange for the Waterworks Refunded Bonds held by the Bond Bank (the "Refunding").

Section 2. The 2001 Bonds. In accordance with the Act and for the purpose of exchanging the 2001 Bonds for the Waterworks Refunded Bonds, the Town shall issue its waterworks refunding revenue bonds, designated "Town of Fort Branch, Indiana, Waterworks Refunding Revenue Bonds of 2001," in the aggregate principal amount not to exceed Two Million One Hundred Thousand Dollars (\$2,100,000) (the "2001 Bonds") and exchange the 2001 Bonds for the Waterworks Refunded Bonds. The principal of and interest on the 2001 Bonds shall be payable solely out of the Net Revenues of the Waterworks as set forth and defined in the Original Ordinance.

The 2001 Bonds shall be issued as fully registered bonds in denominations of One Thousand Dollars (\$1,000) or any integral multiple thereof not exceeding the aggregate principal amount of the 2001 Bonds maturing in any one year, shall be numbered consecutively from R-1 upward and shall bear interest at a rate or rates not exceeding six and one-half percent (6.50%) per annum, the exact rate or rates to be set forth in the Qualified Entity Purchase Agreement (as hereinafter defined). Interest on the 2001 Bonds shall be payable semiannually on January 1 and July 1 in each year (each, an "Interest Payment Date"), commencing July 1, 2001, until principal is fully paid. The principal of the 2001 Bonds shall mature serially on January 1 in the years beginning 2002 through and including 2017. Actual principal amounts due on principal payment dates shall be approved by the

President of the Town Council (the "President") and Clerk-Treasurer of the Town (the "Clerk-Treasurer").

The 2001 Bonds shall bear an original issue date which shall be the first day of the month in which the 2001 Bonds are exchanged, and each 2001 Bond shall also bear the date of its authentication. Any 2001 Bond authenticated on or before June 15, 2001, shall pay interest from its original issue date. Any 2001 Bond authenticated thereafter shall pay interest from the Interest Payment Date next preceding the date of authentication of such 2001 Bond to which interest thereon has been paid or duly provided for, unless such 2001 Bond is authenticated after the fifteenth (15th) day of the month preceding an Interest Payment Date and on or before such Interest Payment Date, in which case interest thereon shall be paid from such Interest Payment Date.

The Clerk-Treasurer or any successor registrar and paying agent appointed pursuant to the terms of the Ordinance, is hereby designated as the registrar and the paying agent for the 2001 Bonds (the "Registrar" and the "Paying Agent" and, in both such capacities, the "Registrar and Paying Agent").

Principal of and any redemption premium on the 2001 Bonds shall be payable at the principal corporate trust office of the Paying Agent. Interest on the 2001 Bonds shall be paid by check or draft mailed by the Paying Agent one business day prior to the payment date to the registered owner thereof at the address as it appears on the registration books kept by the Registrar as of the fifteenth (15th) day of the month immediately preceding the Interest Payment Date or at such other address as may be provided to the Paying Agent in writing by such registered owner. All payments on the 2001 Bonds shall be made in any coin or currency of the United States of America which, on the dates of such payments, shall be legal tender for the payment of public or private debt.

Each 2001 Bond shall be transferable or exchangeable only on the books of the Town maintained for such purpose at the principal corporate trust office of the Registrar, by the registered owner thereof in person, or by his or her attorney duly authorized in writing, upon surrender of such 2001 Bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner or his or her attorney duly authorized in writing, and thereupon a new fully registered 2001 Bond or 2001 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. Each 2001 Bond may be transferred or exchanged without cost to the registered owner or his or her attorney duly authorized in writing, except for any tax or other governmental charge which may be required to be paid with respect to such transfer or exchange. The Registrar shall not be obligated to make any transfer or exchange of any 2001 Bond (i) during the fifteen (15) days immediately preceding an Interest Payment Date or (ii) after the mailing of notice calling such 2001 Bond for redemption. The Town, the Registrar and the Paying Agent may treat and consider the person in whose name any 2001 Bond is registered as the absolute owner thereof for all purposes including the purpose of receiving payment of, or on account of, the principal thereof and the redemption premium, if any, and interest thereon.

In the event any 2001 Bond is mutilated, lost, stolen or destroyed, the Town may cause to be executed and the Registrar may authenticate a new 2001 Bond of like date, maturity and denomination as the mutilated, lost, stolen or destroyed 2001 Bond, which new 2001 Bond shall be marked in a manner to distinguish it from the 2001 Bond for which it was issued; provided, that in the case of any mutilated 2001 Bond, such mutilated 2001 Bond shall first be surrendered to the Registrar, and, in the case of any lost, stolen or destroyed 2001 Bond, there shall be first furnished to the Town and the Registrar evidence of such loss, theft or destruction satisfactory to the Town and the Registrar, together with indemnity satisfactory to them. In the event that any such mutilated, lost, stolen or destroyed 2001 Bond shall have matured or been called for redemption, instead of causing to be issued a duplicate 2001 Bond, the Registrar and Paying Agent may pay the same upon surrender of the mutilated 2001 Bond or satisfactory indemnity and proof of loss, theft or destruction in the case of a lost, stolen or destroyed 2001 Bond. The Town and the Registrar and Paying Agent may charge the owner of any such 2001 Bond with their reasonable fees and expenses in connection with the above. Every substitute 2001 Bond issued by reason of any 2001 Bond being lost, stolen or destroyed shall, with respect to such 2001 Bond, constitute a substitute contractual obligation of the Town pursuant to the Ordinance, whether or not the lost, stolen or destroyed 2001 Bond shall be found at any time, and shall be entitled to all the benefits of the Ordinance, equally and *proportionately* with any and all other 2001 Bonds duly issued hereunder.

In the event that any 2001 Bond is not presented for payment or redemption on the date established therefor, the Town may deposit in trust with the Paying Agent an amount sufficient to pay such 2001 Bond or the redemption price thereof, as appropriate, and thereafter the owner of such 2001 Bond shall look only to the funds so deposited in trust with the Paying Agent for payment and the Town shall have no further obligation or liability with respect thereto.

Section 3. Optional Redemption of 2001 Bonds. The President of the Town Council and the Clerk-Treasurer are hereby authorized to determine at the time of execution and delivery of the Qualified Entity Purchase Agreement whether the 2001 Bonds are subject to optional redemption prior to maturity. If the 2001 Bonds are subject to optional redemption prior to maturity, the President of the Town Council and the Clerk-Treasurer shall determine the terms and conditions for such optional redemption and shall set forth such terms in the Qualified Entity Purchase Agreement.

Section 4. Execution and Authentication of 2001 Bonds. The 2001 Bonds shall be executed in the name of the Town by the manual or facsimile signature of the President of the Town Council and attested by the manual or facsimile signature of the Clerk-Treasurer of the Town. The 2001 Bonds shall be authenticated by the manual signature of the Registrar, and no 2001 Bond shall be valid or become obligatory for any purpose until the certificate of authentication thereon has been so executed. In case any official whose signature appears on any 2001 Bond shall cease to be such official before the delivery of such 2001 Bond, the signature of such official shall nevertheless be valid and sufficient for all purposes, the same as if such official had been in office at the time of such delivery. Subject to the provisions of the Ordinance regarding the registration of the 2001 Bonds, the 2001 Bonds shall be fully negotiable instruments under the laws of the State of *Indiana*.

Section 5. Security and Sources of Payment for 2001 Bonds. The 2001 Bonds together with any bonds thereafter issued 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 all of the Net Revenues of the waterworks. The Town shall not be obligated to pay the 2001 Bonds or the interest thereon except from the Net Revenues, and the 2001 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.

Section 6. Form of 2001 Bonds. The form and tenor of the 2001 Bonds shall be substantially as set forth in Appendix A, attached hereto and incorporated herein as if set forth at this place, with such changes thereto as the President of the Town Council and the Clerk-Treasurer of the Town determine to be necessary or appropriate, such determination to be conclusively evidenced by such President of the Town Council's and such Clerk-Treasurer's execution thereof.

Section 7. Issuance, Exchange and Delivery of 2001 Bonds. The President of the Town Council and Clerk-Treasurer of the Town are hereby authorized and directed to negotiate the issuance of the 2001 Bonds to the Bank at an interest rate which produces a yield not exceeding six and one-half percent (6.50%) per annum. The Qualified Entity Purchase Agreement substantially in the form attached hereto as Appendix B (the "Qualified Entity Purchase Agreement") is hereby approved. The President of the Town Council and Clerk-Treasurer are hereby authorized on behalf of the Town to (i) submit an application to the Bond Bank, (ii) execute a Qualified Entity Purchase Agreement with the Bond Bank with terms conforming to the Ordinance and with such other changes thereto which the President of the Town Council and the Clerk-Treasurer deem necessary or desirable, and (iii) award the 2001 Bonds thereto upon such terms that are acceptable to the President of the Town Council and Clerk-Treasurer consistent with the terms of the Ordinance.

Prior to the delivery of the 2001 Bonds, the Clerk-Treasurer shall obtain a legal opinion as to the validity of the 2001 Bonds from Barnes & Thornburg, bond counsel, of Indianapolis, Indiana, and shall furnish such opinion to the Bond Bank as purchaser of the 2001 Bonds. The cost of said opinion shall be considered as part of the costs incidental to these proceedings and shall be paid by the Bond Bank.

The Clerk-Treasurer is hereby authorized and directed to have the 2001 Bonds prepared, and the President of the Town Council and the Clerk-Treasurer are hereby authorized and directed to execute said 2001 Bonds in the form and manner herein provided. After the 2001 Bonds shall have been properly executed, the Clerk-Treasurer shall receive the canceled Waterworks Refunded Bonds in exchange therefor, deliver the same to the purchaser thereof, and take his receipt thereof. The President of the Town Council of the Town and the Clerk-Treasurer are hereby authorized to take such further actions and execute such further documents as may be necessary to consummate the exchange and delivery of the 2001 Bonds.

Section 8. Reserve Account. Subsection (b) of Section 10 of the Original Ordinance is hereby amended by deleting it in its entirety and replacing it with the following paragraph:

“There is hereby created a Reserve Account for the benefit of the 2001 Bonds and any bonds issued hereafter on a parity therewith (the “Debt Service Reserve Account”). The Town shall deposit as provided below into the Debt Service Reserve Account an amount equal to the least of (i) maximum annual debt service on the 2001 Bonds and any bonds issued hereafter on a parity therewith, (ii) 125% of average annual debt service on the 2001 Bonds and any bonds issued hereafter on a parity therewith or (iii) 10% of the proceeds of the 2001 Bonds and any bonds issued hereafter on a parity therewith (the “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 the 2001 Bonds and any bonds issued hereafter on a parity therewith, and the monies in the Debt Service Reserve Account shall be used to pay current principal and interest on the 2001 Bonds and any bonds issued hereafter on a parity therewith to the extent that monies in the Bond and Interest Account are insufficient for that purpose. Any amount in the Debt Service Reserve Account in excess of the Reserve Requirement may be transferred to the Waterworks Improvement Fund or be used for the purpose of purchasing outstanding bonds or paying installments of principal and interest of fully registered bonds at a price not exceeding par and accrued interest. Accordingly, upon the issuance of the 2001 Bonds, the President of the Town Council and Clerk-Treasurer are hereby directed to (i) leave on deposit in the Debt Service Reserve Account money in an amount equal to the Reserve Requirement and (ii) transfer any money then on deposit in the Debt Service Reserve Account in excess of the Reserve Requirement to the Bond and Interest Account, invested at a yield no higher than the yield on the 2001 Bond Bank Bonds and used to pay interest on the 2001 Bonds on July 1, 2001.”

Section 9. Tax Covenants. In order to preserve the exclusion from gross income of interest on the 2001 Bonds under Section 103 of the Internal Revenue Code of 1986, as in effect on the date of delivery of the 2001 Bonds (the “Code”), the Town hereby represents, covenants and agrees as follows:

(a) No person or entity or any combination thereof, other than the Town or any other governmental unit within the meaning of Section 141(b)(6) and Section 150(a)(2) of the Code (a “Governmental Unit”) will use proceeds of the 2001 Bonds or property financed by the proceeds of the Waterworks Refunded Bonds other than as a member of the general public. No person or entity or any combination thereof other than a Governmental Unit shall own property financed out of the proceeds of the 2001 Bonds or the Waterworks Refunded Bonds or will have actual or beneficial use of such property pursuant to a lease, a management or incentive payment contract or any other type of arrangement that differentiates that person’s or entity’s use of such property from the use of such property by the public at large.

(b) No 2001 Bond proceeds will be lent to any entity or person other than a Governmental Unit. No 2001 Bond proceeds will be transferred directly or indirectly, or be deemed transferred, to a person or entity other than a Governmental Unit in a fashion that would in substance constitute a loan of such 2001 Bond proceeds.

(c) The Town will not take, or cause or permit to be taken by it or by any party under its control, or fail to take or cause or permit to fail to be taken by it or by any party under its control, any action that would result in the loss of the exclusion from gross income for federal income tax purposes of interest on the 2001 Bonds pursuant to Section 103 of the Code. The Town further covenants that it will not make any investment or do any other act or thing during the period that any 2001 Bond is outstanding hereunder which would cause any 2001 Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code and the regulations applicable thereto as in effect on the date of delivery of the 2001 Bonds. In furtherance of the foregoing, the Clerk-Treasurer of the Town is hereby authorized to invest or to cause to be invested monies pursuant to the provisions of the Ordinance at a restricted yield, to the extent permitted by and consistent with the provisions for such investments under the Code and to the extent necessary or advisable to preserve the exclusion from gross income of interest on the 2001 Bonds for federal income tax purposes.

(d) With respect to the 2001 Bonds, the Clerk-Treasurer of the Town shall keep full, complete and accurate records of all investment income and other earnings on the amounts held in the funds and accounts created or referred to in the Ordinance. The Town shall further take all actions necessary and appropriate to comply with the arbitrage rebate requirements under Section 148 of the Code to the extent applicable, including, without limitation, accounting for and making provision for the payment of any and all amounts that may be required to be paid to the United States of America from time to time pursuant to Section 148 of the Code.

(e) All officers, employees and agents of the Town are hereby authorized and directed to provide certifications of facts and estimates that are material to the reasonable expectations of the Town as of the date that the 2001 Bonds are issued, and to make covenants on behalf of the Town evidencing the Town's recognition of and compliance with the covenants and commitments made herein. In particular and without limiting the foregoing, any and all appropriate officers, employees and agents of the Town are authorized to certify and/or enter into covenants on behalf of the Town regarding (i) the facts and circumstances and reasonable expectations of the Town as of the date that the 2001 Bonds are issued and (ii) the representations and covenants made herein by the Town regarding the amount and use of the proceeds of the 2001 Bonds.

(f) The Clerk-Treasurer of the Town is hereby authorized and directed to employ consultants and attorneys from time to time to advise the Town with respect to the requirements under federal law for the continuing preservation of the exclusion of interest on the 2001 Bonds from gross income for purposes of federal income taxation, as described in this Section 9.

Section 10. Waiver of Tax Covenants. Notwithstanding any other provision of the Ordinance, any of the covenants and authorizations contained in the Ordinance (the "Tax

Covenants”) which are designed to preserve the exclusion of interest on the 2001 Bonds from gross income for purposes of federal income taxation need not be complied with if the Town receives an opinion of nationally recognized bond counsel to the effect that compliance with such Tax Covenant is unnecessary to preserve such exclusion of interest.

Section 11. Limitation of Liability. The obligations of the Town under the 2001 Bonds and the Ordinance are special and limited obligations of the Town, payable solely from the Net Revenues. The obligations of the Town under the 2001 Bonds and the Ordinance are not and shall never constitute a general obligation, debt or liability of the Town or the State of Indiana, or any political subdivision thereof, within the meaning of any constitutional limitation or provision, or a pledge of the faith, credit or taxing power of the Town or the State of Indiana, or any political subdivision thereof, and do not and shall never constitute or give rise to any pecuniary liability or charge against the general credit or taxing power of the Town or the State of Indiana, or any political subdivision thereof.

Section 12. Other Actions. The Town Council hereby approves and ratifies any and all actions previously taken by any officer of the Town Council or the Town in connection with the issuance of the 1992 Bonds. The Town Council hereby authorizes each of the President of the Town Council and the Clerk-Treasurer of the Town, for and on behalf of the Town, to execute and deliver any contract, agreement, certificate, instrument or other document and to take any action as such officer determines to be necessary or appropriate to accomplish the purposes of the Ordinance, such determination to be conclusively evidenced by such President of the Town Council’s or such Clerk-Treasurer’s execution of such contract, agreement, certificate, instrument or other document or such President of the Town Council’s or such Clerk-Treasurer’s taking of such action.

Section 13. Town’s Waterworks. Where used in the Ordinance, the term “Town” shall be construed also to include any department, board, commission or officer or officers of the Town or of any Town department, board or commission. The terms “Waterworks”, “works” and similar terms used in the Ordinance shall be construed to mean and include the existing structures and property of the Town’s water utility and all improvements, extensions and additions thereto, and replacements thereof, now or subsequently constructed or acquired.

Section 14. Construction with Other Ordinances. This 2001 Supplemental Ordinance is hereby intended to amend and supplement the Original Ordinance, and to the extent of any inconsistencies or conflicts, if any, between any provision or provisions of this 2001 Supplemental Ordinance and the Original Ordinance, the provisions of this 2001 Supplemental Ordinance shall be controlling and binding. All ordinances or parts of ordinances, except the Original Ordinance as supplemented and amended by this 2001 Supplemental Ordinance, in conflict with the Ordinance are hereby repealed. Any references in the Original Ordinance to the terms bond or bonds shall hereinafter be interpreted to include within such references the 2001 Bonds except to the extent such references are inconsistent with the terms of this 2001 Supplemental Ordinance.



Section 15. Captions. The captions in this 2001 Supplemental Ordinance are inserted only as a matter of convenience and reference, and such captions are not intended and shall not be construed to define, limit, establish, interpret or describe the scope, intent or effect of any provision of this 2001 Supplemental Ordinance.

Section 16. Effective Date. This 2001 Supplemental Ordinance shall be in full force and effect from and after its having been passed by the Town Council.

Passed and adopted by the Town Council of the Town of Fort Branch, Indiana, this 18<sup>th</sup> day of December, 2000

TOWN COUNCIL OF THE TOWN OF  
FORT BRANCH, INDIANA

Donald J. Gries

[Signature]

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

Attest:

Connie Osborne  
Clerk-Treasurer

**APPENDIX A**  
**FORM OF BOND**



The principal of this bond is payable at the principal office of the Clerk-Treasurer in the Town of Fort Branch, Indiana, or of any successor registrar and paying agent appointed under the Ordinance hereinafter mentioned (the "Registrar" and the "Paying Agent"). Interest hereon will be paid by cash or draft mailed by the Paying Agent one business day prior to the payment date the Registered Owner hereof at the address as it appears on the registration books of the Registrar as of the fifteenth day of the month immediately preceding the applicable interest payment date or at such other address as is furnished to the Paying Agent in writing by such Registered Owner. All payments on this bond shall be made in any coin or currency of the United States of America which, on the dates of such payments, shall be legal tender for the payment of public and private debts.

The Town, the Registrar and the Paying Agent may deem and treat the Registered Owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and the interest due hereon and for all other purposes, and neither the Town, the Registrar nor the Paying Agent shall be affected by any notice to the contrary.

This bond shall not be valid or become obligatory for any purpose or entitled to any security or benefit under the Ordinance herein described unless and until the certificate of authentication hereon shall have been executed by a duly authorized representative of the Registrar.

This bond is one of an authorized issue of bonds (the "2001 Bonds") of the Town of Fort Branch, of like date, tenor and effect, except as to numbering, interest rates and dates of maturity, in the total amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), numbered from R-1 upward, issued for the purpose of providing funds for the refunding of certain bonds previously issued by the Town to finance the acquisition and construction of certain improvements and extensions to the Waterworks of the Town, as authorized by Ordinance No. 1992-4 adopted by the Town Council of the Town on the 6<sup>th</sup> day of May, 1992, entitled "An Ordinance of the Town of Fort Branch authorizing the issuance of waterworks revenue bonds for the purpose of providing funds to pay the cost of certain additions, extensions and improvements to the municipal waterworks of said Town Providing for the safeguarding of the interests of the owners of said bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds, and repealing ordinances inconsistent herewith" and by Ordinance No. 2001-\_\_ adopted by the Town Council of the Town on the \_\_\_\_\_ day of \_\_\_\_\_ entitled "An Ordinance Supplementing and Amending Ordinance No. 1992-4 and Authorizing the Issuance by the Town of Fort Branch, Indiana, of its Waterworks Refunding Revenue Bonds of 2001 to Provide for the Refunding of its Waterworks Revenue Bonds of 1992, Through the Exchange Therefor, and Other Related Matters" (collectively, the "Ordinance"), and in strict compliance with the provisions of the Indiana Code 8-1.5 and 5-1-5, and the laws amendatory thereof and supplemental thereto (collectively, the "Act").

This bond is issuable only in fully registered form in the denomination of \$1,000 or any integral multiple thereof not exceeding the aggregate principal amount of the bonds of this issue maturing in any one year.

Pursuant to the provisions of said Act and said Ordinance, the principal and interest on this bond and all other bonds of said issue, and any bonds hereafter issued on a parity herewith, are payable solely from the Waterworks Sinking Fund created by the Ordinance to be provided from the Net Revenues (herein defined as gross revenues of the waterworks after deduction only for the payment of the reasonable expenses of operation, repair and maintenance) of the waterworks, including all additions and improvements thereto and replacements thereto subsequently constructed or acquired. This bond and the issue of which it is a part constitute a first charge upon said Net Revenues

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

The Town of Fort Branch irrevocably pledges the entire Net Revenues of said waterworks to the prompt payment of the principal of and interest on the 2001 Bonds 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 services rendered by such works as are sufficient in each year for the payment of the proper and reasonable expenses of operation, repair, replacements and maintenance of such works, and for the payment of the sums required to be paid into such Waterworks Sinking Funds under the provisions of said Ordinance and said Act. If the Town, or the proper officers thereof, shall fail or refuse to fix, maintain and collect such rates or charges, or if there be a default in the payment of the principal of or interest on this bond, the owner of this bond shall have all of the rights and remedies provided for under Indiana law.

The Town further covenants that it will set aside and pay into its Waterworks Sinking Fund, a sufficient amount of the Net Revenues of said works for payment of (a) the interest on all bonds which by their terms are payable from the Net Revenues as such interest shall fall due, (b) the necessary fiscal agency charges for paying the principal of and interest on all bonds, (c) the principal of all bonds which by their terms are payable from the Net Revenues as such principal shall fall due, and (d) an additional amount as a margin of safety to create and maintain the reserve required by the Ordinance. Such required payments shall constitute a charge upon all the Net Revenues of said waterworks.

[Insert Redemption Provisions, if any.]

Notice of such redemption shall be mailed to the address of the registered owner as shown on the registration record of the Town not less than thirty (30) days prior to the date fixed for redemption unless said notice is waived by the registered owner of the bond. The notice shall specify the date and place of redemption and the dates of maturity 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.

If this bond shall be presented for payment or redemption on the date fixed therefor, 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.

Subject to the provisions of the Ordinance regarding the registration of such bonds, this bond and all other bonds of this issue of which this bond is a part are fully negotiable instruments under the laws of the State of Indiana. This bond is transferable or exchangeable only on the books of the Town maintained for such purpose at the principal corporate trust office of the Registrar, by the Registered Owner hereof in person, or by his attorney duly authorized in writing, upon surrender of this bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner or his attorney duly authorized in writing, and thereupon a new fully registered bond or bonds in 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. This bond may be transferred or exchanged without cost to the Registered Owner or his attorney duly authorized in writing, except for any tax or other governmental charge which may be required to be paid with respect to such transfer or exchange. The Registrar and Paying Agent shall not be obligated to make any exchange or transfer of this bond (i) during the fifteen (15) days immediately preceding an interest payment date on this bond or (ii) after the mailing of any notice calling this bond for redemption. The Town, the Registrar and the 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 the redemption premium, if any, and interest due hereon. In the event this bond is mutilated, lost, stolen or destroyed, the Town may cause to be executed and the Registrar may authenticate a new bond of like date, maturity and denomination as this bond, which new bond shall be marked in a manner to distinguish it from this bond; provided, that in the case of this bond being mutilated, this bond shall first be surrendered to the Registrar, and in the case of this bond being lost, stolen or destroyed, there shall first be furnished to the Registrar evidence of such loss, theft or destruction satisfactory to the Town and to the Registrar, together with indemnity satisfactory to them. In the event that this bond, being mutilated, lost, stolen or destroyed, shall have matured or been called for redemption, instead of causing to be issued a duplicate bond the Registrar may pay this bond upon surrender of this mutilated bond or upon satisfactory indemnity and proof of loss, theft or destruction in the event this bond is lost, stolen or destroyed. In such event, the Town and the Registrar may charge the owner of this bond with their reasonable fees and expenses in connection with the above. Every substitute bond issued by reason of this bond being lost, stolen or destroyed shall, with respect to this bond, constitute a substitute contractual obligation of the Town, whether or not this bond, being lost, stolen or destroyed, shall be found at any time, and shall be entitled to all the benefits of the Ordinance, equally and proportionately with any and all other bonds duly issued thereunder.

The bonds authorized and issued pursuant to the Ordinance, including this bond, are subject to defeasance prior to redemption or payment as provided in the Ordinance.

The owner of this bond, by acceptance hereof, each owner of this bond hereby agrees to all such terms and provisions contained in the Ordinance. This bond is subject to defeasance prior to redemption or payment as provided 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 determines in its sole discretion, that the amendment shall not adversely affect the rights of any of the owners of the bonds. The Town may otherwise amend the Ordinance with consent of 66 2/3% of all bondholders of then outstanding 2001 Bonds and all bonds issued on a parity therewith.

The Town hereby certifies, recites and declares that all acts, conditions and things required to be done precedent to and in the preparation, execution, issuance and delivery of this bond have been done and performed in regular and due form as required by law.

IN WITNESS WHEREOF, the Town of Fort Branch, in Gibson County, State of Indiana, has caused this bond to be executed in its corporate name and on its behalf by the manual or facsimile signature of the President of the Town Council, and attested by the manual or facsimile signature of its Clerk-Treasurer, all as of the Issue Date shown above.

TOWN OF FORT BRANCH

By Donald J. Gries  
President of the Town Council

ATTEST:

Cecilia Osborne  
Clerk-Treasurer

CERTIFICATE OF AUTHENTICATION

This bond is one of the Town of Fort Branch Waterworks Refunding Revenue Bonds of 2001, issued and delivered pursuant to the provisions of the within-mentioned Ordinance.

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

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

ASSIGNMENT

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

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

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.

Signature Guarantee:

\_\_\_\_\_  
NOTICE: Signature(s) must be guaranteed by an eligible guarantor participating in a Securities Transfer Association recognized signatory guaranty program

(End of Bond Form)



**EXHIBIT B**

**QUALIFIED ENTITY PURCHASE AGREEMENT**