

TIPPECANOE COUNTY COUNCIL

ORDINANCE NO. 2005-45-CL

AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$6,810,000 COUNTY OF TIPPECANOE, INDIANA ADJUSTABLE RATE DEMAND ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2005 (FAITH BAPTIST PROJECT) FOR THE PURPOSE OF MAKING A LOAN TO ASSIST FAITH PROPERTIES, INC. IN THE FINANCING OF COSTS OF "ECONOMIC DEVELOPMENT FACILITIES" WITHIN THE MEANING OF INDIANA CODE 36-7-12; AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT PERTAINING TO THE PROJECT AND A TRUST INDENTURE SECURING THE PAYMENT OF THE BONDS; AND AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, A TAX REGULATORY AGREEMENT, AN OFFICIAL STATEMENT AND CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION WITH THE ISSUANCE OF SUCH BONDS.

WHEREAS, the County of Tippecanoe, Indiana (the "Issuer"), a public instrumentality and a public body corporate and politic of the State of Indiana, is authorized and empowered, by virtue of the laws of the State of Indiana, including without limitation, Title 36, Article 7, Chapters 11.9 and 12 of the Indiana Code, as supplemented and amended from time to time (the "Act"), (a) to issue its revenue bonds for the purpose, among others, of making a loan to assist in the financing of costs of acquiring, constructing, equipping, installing and improving "economic development facilities", as defined in section 36-7-11.9-3, as amended, of the Act, (b) to enter into a loan agreement and to provide for revenues from such loan agreement sufficient to pay the principal of and interest and any premium on those revenue bonds, (c) to secure those revenue bonds by a trust indenture, as provided herein, and (d) to enact this Ordinance (this "Bond Legislation") and to enter into the Indenture, the Loan Agreement, the Tax Regulatory Agreement and the Bond Purchase Agreement, each as defined herein, and other documents in connection therewith upon the terms and conditions provided herein and therein; and

WHEREAS, Faith Properties, Inc., a not-for-profit corporation organized and validly existing under the laws of the State of Indiana (the "Borrower"), has requested that the County of Tippecanoe, Indiana (the "Issuer") issue its economic development revenue bonds in an aggregate principal amount not to exceed \$6,810,000 (the "Bonds"), and lend the proceeds thereof to the Borrower in order to enable the Borrower to undertake and complete the acquisition, construction, improving, equipping and furnishing of an approximately 62,000 square foot community center, athletic fields, and related parking, landscaping, infrastructure and site improvements (collectively, the "Project"), to be located at 5526 State Road 26 East Lafayette, Indiana 47905, within the boundaries of the County of Tippecanoe, Indiana (the "Project");

WHEREAS, the Tippecanoe County Economic Development Commission ("EDC") has rendered its report on the Project (the "Project Report") concerning the proposed financing of the Project for the Borrower, and the Project Report has been sent to the Tippecanoe County Plan Commission for comment;

WHEREAS, the Bonds are to be issued pursuant to a Trust Indenture (the "Indenture"), by and between the Issuer and Regions Bank or other commercial bank or trust company acceptable to the Borrower and the Issuer (the "Trustee"), in order to obtain funds to lend to the Borrower pursuant to a Loan Agreement (the "Loan Agreement"), between the Issuer and the Borrower, for the purpose of financing or providing reimbursement for the costs of the Project and to pay a portion of the costs of issuance of the Bonds;

WHEREAS, the Loan Agreement provides for the repayment by the Borrower of the loan of the proceeds of the Bonds pursuant to which the Borrower will agree to make payments sufficient to pay the principal, premium, if any, and interest on the Bonds as the same become due and payable and to pay administrative expenses in connection with the Bonds; and

WHEREAS, the EDC, after a public hearing (the "Public Hearing") conducted, following reasonable notice, on October 19, 2005 pursuant to the Act and Section 147(f) of the Internal Revenue Code of 1986, as amended, adopted a Resolution on October 19, 2005, a copy of which has been previously transmitted hereto, pursuant to which it (i) finds that the Project constitutes economic development facilities the financing of which complies with the purposes and provisions of the Act, and that such financing will be of benefit to the health and welfare of the Issuer and its citizens; (ii) approves and recommends the adoption of this form of Bond Legislation by this County Council, (iii) finds that the Project shall not have an adverse competitive effect, and (iv) approves the substantially final forms of the Indenture, the Loan Agreement, the Bond Purchase Agreement among the Issuer, the Borrower and B.C. Ziegler and Company, as underwriter of the Bonds (the "Underwriter"), the Tax Regulatory Agreement among the Issuer, the Borrower and the Trustee (the "Tax Regulatory Agreement") and the Bonds, and of an Official Statement (the "Official Statement") in connection with the Bonds (all such forms of documents

hereby deemed to collectively constitute the “financing agreement,” as referred to in the Act, and sometimes herein referred to as the “Financing Agreement”).

NOW, THEREFORE, BE IT ORDAINED by this County Council (“Legislative Authority”) of the County of Tippecanoe, in the State of Indiana, that:

Section 1. Definitions. All words and terms used herein as defined words and terms but not otherwise defined herein shall have the respective meanings given to them in the Indenture, the form of which shall be on file with the Tippecanoe County Auditor (the “Fiscal Officer”).

Any reference herein to the Issuer or this Legislative Authority, or to any officers, employees or members thereof, shall include those which succeed to their functions, duties or responsibilities pursuant to or by operation of law or who are lawfully performing their functions.

Unless the context shall otherwise indicate, words importing the singular number shall include the plural number, and vice versa, and the terms “hereof,” “hereby,” “hereto,” “hereunder,” and similar terms, mean this Bond Legislation.

Section 2. Determinations and Approvals. This Legislative Authority determines that: (i) the Project is an “economic development facility” as defined in the Act; (ii) the issuance and sale of the Bonds, the loan of the net proceeds thereof to the Borrower for the purpose of financing (or providing reimbursement for) some or all of the costs of the Project (including the costs of issuance of the Bonds) and the repayment of such loan by the Borrower, and the operation of the Project by the Borrower, all in furtherance of the purposes of the Act, will benefit the people of the Issuer and of the State by creating and preserving jobs and employment opportunities and improving the economic welfare of the people of the Issuer and of the State, and (iii) the Public Hearing was conducted by the EDC in compliance with and as required by the Act and Section 147(f) of the Code.

Section 3. Authorization of Bonds. It is hereby determined to be necessary to, and the Issuer shall, issue, sell and deliver, as provided herein and in the Indenture and pursuant to the authority of the Act, the Bonds in the principal amount of not to exceed \$6,810,000 for the purpose of making a loan to assist the Borrower in financing the costs of the Project. The Bonds initially shall be issued in fully registered book entry only form and shall be designated “County of Tippecanoe, Indiana Adjustable Rate Demand Revenue Bonds, Series 2005 (Faith Properties, Inc. Project),” or words of similar import. The final principal amount of the Bonds shall be set forth in the Bond Purchase Agreement.

Section 4. Terms and Execution of the Bonds. The Bonds shall be issued in the forms and denominations and shall be numbered and payable as provided in the Indenture. The Bonds shall be dated as of the date of their initial delivery, shall mature on the date set forth in the Indenture (but in no event later than November 1, 2035), and shall have such terms, bear such interest (not to exceed 10% per annum), and be subject to mandatory and optional tender and redemption as provided in the Indenture. The Issuer hereby directs the Remarketing Agent to fix and establish the interest rate in effect from time to time on the Bonds in the manner and pursuant to the provisions of the Indenture. The Bonds shall be signed by at least two (2) members of the Board of County Commissioners (the “County Commissioners”) and the Fiscal Officer in their official capacities (provided that any of those signatures may be facsimiles). In case any official whose signature or a facsimile thereof appears on the Bonds shall cease to be such official before the issuance or delivery of the Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if that official had remained in office until after that time.

The form of the Bonds attached as an exhibit to the Indenture and submitted to this meeting, subject to appropriate insertions and revisions in order to comply with the provisions hereof and of the Indenture, is hereby approved, and when the same shall be executed on behalf of the Issuer by the appropriate officers thereof in the manner contemplated hereby and by the Indenture, shall represent the approved form of Bonds.

Section 5. Sale of the Bonds. The Bonds shall be sold to the Underwriter pursuant to the Bond Purchase Agreement on the terms and conditions described therein. The County Commissioners and the Fiscal Officer, or their delegate, on behalf of the Issuer, are authorized and directed to make the necessary arrangements with the Underwriter to establish the date, location, procedure and conditions for the delivery of the Bonds, and to take all steps necessary to effect due execution and delivery of the Bonds under the terms of this Bond Legislation, the Bond Purchase Agreement, the Loan Agreement and the Indenture. The County Commissioners or the Fiscal Officer are further authorized, by execution and delivery of the Bond Purchase Agreement by the County Commissioners or the Fiscal Officer, to determine on behalf of the Issuer that the terms of the Bonds, and the sale thereof, all as provided in the aforesaid documents, are in the best interests of the Issuer and consistent with all legal requirements. The proceeds from the sale of the Bonds shall be deposited in the Project Fund and/or Bond Fund created in the Indenture and applied as

provided in the Indenture and the Loan Agreement.

Section 6. Arbitrage and Information Reporting Provisions. The Issuer covenants that it will restrict the use of the proceeds of the Bonds in such manner and to such extent as may be necessary so that the Bonds will not constitute arbitrage bonds under Section 148 of the Code, after taking into account reasonable expectations at the time of the delivery of and payment for the Bonds.

The Fiscal Officer or the County Commissioners, either alone or in conjunction with the Borrower or any officer, employee, agent of or consultant to the Borrower, shall give:

- (i) an appropriate certificate or agreement of the Issuer, including but not limited to the Tax Regulatory Agreement, for inclusion in the transcript of proceedings for the Bonds setting forth the reasonable expectations of the Issuer regarding the amount and use of the proceeds of the Bonds and the facts, estimates and circumstances on which they are based and other facts and circumstances relevant to the tax treatment of interest on the Bonds, as provided by the Borrower, all as of the date of delivery of and payment for the Bonds; and
- (ii) the statement setting forth the information required by Section 149(e) of the Code, which shall be based on the relevant information provided by the Borrower.

The Issuer covenants that it (i) will take, or require to be taken, all actions that may be required of it for the interest on the Bonds to be and remain excluded from gross income of the registered owners thereof for federal income tax purposes, and (ii) will not take or authorize to be taken any actions that would adversely affect that exclusion under the provisions of the Code. The Fiscal Officer, the County Commissioners and other appropriate officers are hereby authorized and directed to take any and all actions and make or give reports and certifications, as may be appropriate to assure such exclusion of that interest.

Section 7. Authorization of Loan Agreement, Indenture, Bond Purchase Agreement, Tax Regulatory Agreement and All Other Documents to be Executed by the Issuer. In order to better secure the payment of the principal of, premium, if any, and interest on the Bonds as the same shall become due and payable, and to provide for the financing of the Project, the County Commissioners and the Fiscal Officer are authorized and directed to execute, acknowledge and deliver, in the name and on behalf of the Issuer, the Loan Agreement, the Indenture, the Bond Purchase Agreement and the Tax Regulatory Agreement, in substantially the forms submitted to and now on file with the Issuer which are hereby approved, with such changes therein not inconsistent with this Bond Legislation and not substantially adverse to the Issuer as may be permitted by the Act and approved by the officers executing the same on behalf of the Issuer. The approval of such changes by such officers, and that such are not substantially adverse to the Issuer, shall be conclusively evidenced by the execution of the Loan Agreement, the Indenture, the Bond Purchase Agreement and the Tax Regulatory Agreement by such officers.

The Issuer consents to the use and distribution of the Official Statement, in substantially the form submitted to and now on file with the Issuer, in connection with the issuance, sale and delivery of the Bonds. The County Commissioners are authorized and directed to execute and deliver, in the name and on behalf of the Issuer, the Official Statement, in substantially the form submitted to and now on file with the Issuer which is hereby approved, with such changes therein not inconsistent with this Bond Legislation and not substantially adverse to the Issuer as may be permitted by the Act and approved by the officers executing the same on behalf of the Issuer. The Issuer has not confirmed, and assumes no responsibility for, the accuracy, sufficiency or fairness of any statements in the Official Statement, any other written materials used in connection with the offer and sale of the Bonds or in any way relating to the Project, the Borrower, Regions Bank (as issuer of the letter of credit securing payment of the Bonds) or the Underwriter.

The County Commissioners and the Fiscal Officer are each separately authorized to take any and all actions and to execute such financing statements, assignments, certificates and other instruments that may be necessary or appropriate, in the opinion of Peck, Shaffer & Williams LLP, as Bond Counsel, in order to effect the issuance of the Bonds, the financing of the Project and the intent of this Bond Legislation.

Section 8. Covenants of Issuer. In addition to other covenants of the Issuer in this Bond Legislation, the Issuer further covenants and agrees as follows:

- (a) Payment of Principal, Premium and Interest. The Issuer will, solely from the sources herein or in the Indenture provided, pay or cause to be paid the principal of, premium, if any, and interest on each and all Bonds on the dates, at the places and in the manner provided herein, in the Indenture and in the Bonds.

(b) Performance of Covenants, Authority and Actions. The Issuer will at all times faithfully observe and perform all agreements, covenants, undertakings, stipulations and provisions contained in the Bonds, the Loan Agreement, the Bond Purchase Agreement, the Tax Regulatory Agreement and the Indenture, and in all proceedings of the Issuer pertaining to the Bonds. The Issuer warrants and covenants that it is, and upon delivery of the Bonds will be, duly authorized by the laws of the State of Indiana, including particularly and without limitation the Act, to issue the Bonds and to execute the Loan Agreement, the Bond Purchase Agreement, the Tax Regulatory Agreement and the Indenture, and all other documents to be executed by it, to provide for the security for payment of the principal of, premium, if any, and interest on the Bonds in the manner and to the extent herein and in the Indenture set forth; that all actions on its part for the issuance of the Bonds and execution and delivery of the Loan Agreement, the Bond Purchase Agreement, the Indenture, the Tax Regulatory Agreement and all other documents to be executed by it in connection with the issuance of the Bonds, have been or will be duly and effectively taken; and that the Bonds will be valid and enforceable special obligations of the Issuer according to the terms thereof.

Section 9. Transcript of Proceedings. The Fiscal Officer or other appropriate official of the Issuer shall furnish to the Underwriter a true transcript of proceedings, certified by the Fiscal Officer or other officer, of (i) all proceedings had with reference to the issuance of the Bonds and (ii) any other information from the records of the Issuer which may be necessary or appropriate to determine the regularity and validity of the issuance of the Bonds.

Section 10. No Debt or Tax Pledge. Anything in the Bond Legislation, the Bonds or the Indenture to the contrary notwithstanding, the Bonds do not and shall not represent or constitute a debt or pledge of the faith and credit of the Issuer, and the Bonds shall contain a statement to that effect and to the effect that the Bonds are payable solely from the Revenues and are not secured by an obligation or pledge of any moneys raised by taxation. Nothing herein or in the Indenture, however, shall be deemed to prohibit the Issuer, of its own volition, from using to the extent that it is authorized by law to do so, any other resources for the fulfillment of any of the terms, conditions or obligations of the Indenture, the Bond Legislation or any of the Bonds.

THE BONDS AND THE INTEREST THEREON DO NOT AND SHALL NEVER CONSTITUTE AN INDEBTEDNESS OF, OR A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWER OF, THE ISSUER, BUT ARE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM REVENUES AND OTHER AMOUNTS DERIVED FROM THE LOAN AGREEMENT.

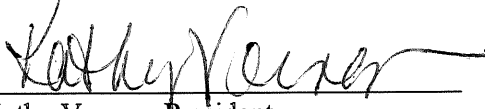
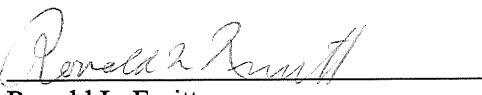
Section 11. Official Action. This Ordinance shall constitute "official action" for purposes of compliance with federal and state laws requiring government action as authorization for future reimbursements from the proceeds of the Bonds.

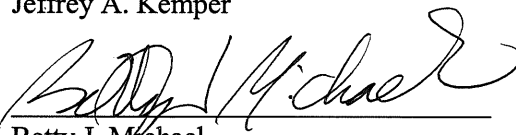
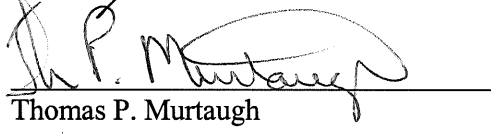
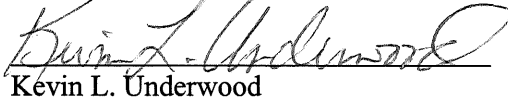
Section 12. Approval of Financing Agreement. The substantially final forms of the documents comprising the Financing Agreement presented herewith are hereby approved, shall be inserted in and retained as part of the minutes of this Legislative Authority. In compliance with Indiana Code Title 36, Article 1, Chapter 5, Section 4, two (2) copies of the Financing Agreement shall be on file in the office of the Fiscal Officer for public inspection.

Section 13. Open Meetings. This Legislative Authority hereby finds and determines that all formal actions relative to the adoption of this Bond Legislation were taken in an open meeting of this Legislative Authority, and that all deliberations of this Legislative Authority and of its committees, which resulted in those formal actions, were in meetings open to the public in compliance with the law.


Section 14. Effective Date. This Ordinance shall be in full force and effect from and after its passage.

Presented to the County Council of Tippecanoe County, Indiana, and read in full for the first time, and approved this 8th day of November, 2005, by the following vote:

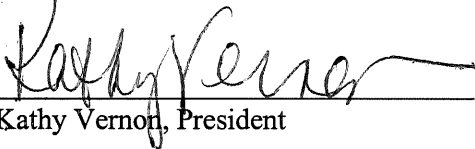
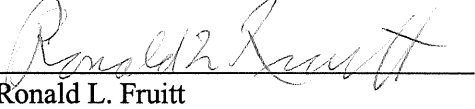
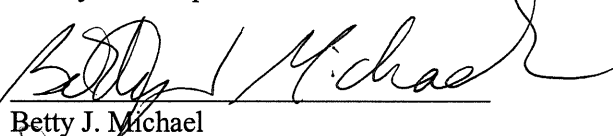
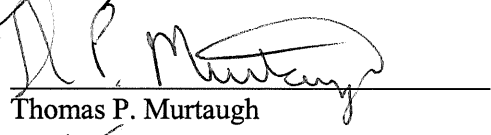
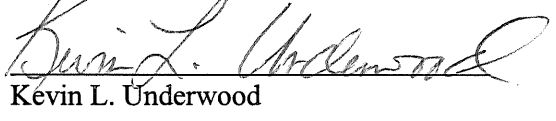
	VOTE	TIPPECANOE COUNTY COUNCIL
Kathy Vernon	Yes	 Kathy Vernon, President
Ronald L. Fruitt	Yes	 Ronald L. Fruitt

David S. Byers	Absent	<u>Absent</u> David S. Byers
Jeffrey A. Kemper	Absent	<u>Absent</u> Jeffrey A. Kemper
Betty J. Michael	Yes	 <u>Betty J. Michael</u>
Thomas P. Murtaugh	Yes	 <u>Thomas P. Murtaugh</u>
Kevin L. Underwood	Yes	 <u>Kevin L. Underwood</u>

ATTEST:


Robert A. Plantenga, Auditor Tippecanoe County

Presented to the County Council of Tippecanoe County, Indiana, and read in full for the second time, and adopted this 8th day of November, 2005, by the following vote:

	VOTE	TIPPECANOE COUNTY COUNCIL
Kathy Vernon	Yes	 <u>Kathy Vernon, President</u>
Ronald L. Fruitt	Yes	 <u>Ronald L. Fruitt</u>
David S. Byers	Absent	<u>Absent</u> David S. Byers
Jeffrey A. Kemper	Absent	<u>Absent</u> Jeffrey A. Kemper
Betty J. Michael	Absent	 <u>Betty J. Michael</u>
Thomas P. Murtaugh	Yes	 <u>Thomas P. Murtaugh</u>
Kevin L. Underwood	Yes	 <u>Kevin L. Underwood</u>

ATTEST:


Robert A. Plantenga, Auditor Tippecanoe County