

**TIPPECANOE COUNTY
ECONOMIC DEVELOPMENT DISTRICT**

ORDINANCE NO. 97-49-CL

BOND ORDINANCE

WHEREAS, the General Assembly of the State of Indiana ("State") enacted IC 6-1.1-39, IC 4-4-8 and IC 5-1-14 (collectively and as further defined in Section 2, "Act"), which authorize Tippecanoe County ("County") to establish an economic development district before January 1, 1988 and apply to the State's Department of Commerce ("Department") for loans from the State's industrial development fund;

WHEREAS, the County Council of Tippecanoe County, Indiana ("Council"), adopted Ordinance No. 87-37-CL (the "Declaratory Ordinance") on November 12, 1987, which ordinance was confirmed by a confirmatory ordinance ("Confirmatory Ordinance"), adopted on December 8, 1987, which established an economic development district in the County ("District"), established an allocation area consisting of the entire District ("Allocation Area"), the District and Allocation Area encompassing the specific area described in Exhibit B, and provided for the distribution of the property tax revenues generated within the Allocation Area in accordance with IC 6-1.1-39-5;

WHEREAS, the County, acting for and on behalf of the District, applied to the Department for a loan ("1989 Loan") from the State's industrial development fund under IC 4-4-8 to finance costs of certain local public improvements, consisting of extensions of and replacements for County roads and highways located within or serving the District ("1989 Improvements");

WHEREAS, the County, to evidence the Loan, heretofore issued its Economic Development District Tax Increment Revenue Bonds of 1989 ("1989 Bonds");

WHEREAS, the 1989 Bonds were originally issued and sold to the Department and simultaneously assigned and sold by the Department to the Indiana Bond Bank;

WHEREAS, the County issued its refunding bonds ("1994 Bonds") and used the proceeds of such bonds, together with funds on hand, to redeem the 1989 Bonds and pay costs related to the refunding;

WHEREAS, the County applied for and received another loan from such industrial development fund to finance the 1994 Bonds and replace the 1989 Loan;

WHEREAS, the County desires to finance additional local public improvements, consisting of road and sewer improvements in or serving the District and providing a special benefit to property owners in the District, which are of public use and benefit (as more fully described in Section 2, "1997 Improvements"), all as part of the industrial development program and relating to the qualified industrial development project within the meaning of IC 6-1.1-39-1.6 previously approved by the Department and the State Board of Finance ("State Board") in connection with the District;

WHEREAS, the County applied to the Department ("Application") for a loan from the Fund in an amount not to exceed \$16,500,000 ("1997 Loan") to finance the 1997 Improvements;

WHEREAS, the Department and the State Board approved or are expected to approve the 1997 Loan to the County for the 1997 Improvements;

WHEREAS, IC 4-4-8 provides that a "qualified entity," which term includes the County, may issue and sell its bonds to the Department to evidence a loan;

WHEREAS, to evidence the 1997 Loan, the County will issue and sell its Economic Development District Tax Increment Revenue Bonds of 1997 ("1997 Bonds") to the Department;

WHEREAS, the County has determined that it is in the best interest of the County to sell the 1997 Bonds to the Department in a negotiated sale to evidence the 1997 Loan and finance (i) the costs of the 1997 Improvements, (ii) a debt service reserve for the 1997 Bonds and (iii) incidental costs associated therewith and with the issuance of the 1997 Bonds;

WHEREAS, as a condition to the approval of the 1997 Loan by the Department, the Department will, simultaneously with the purchase from the County of the 1997 Bonds, assign and sell the 1997 Bonds to the Purchaser (defined in Section 2);

WHEREAS, the State Board approved, and the Department is expected to approve such purchase of the 1997 Bonds from the County and the simultaneous assignment and sale of the 1997 Bonds to such Purchaser, all without recourse as contemplated by the Act (defined in Section 2), upon compliance with certain conditions set forth in the Purchase Agreement (defined in Section 2);

WHEREAS, the County expects to redeem all the outstanding 1994 Bonds promptly following the issuance and sale of the 1997 Bonds from moneys available to the County therefor (not including any 1997 Bond proceeds);

WHEREAS, the Council adopted this Ordinance approving and authorizing the issuance of the 1997 Bonds; and

WHEREAS, the County has obtained or will obtain all necessary approvals of the State Board of Tax Commissioners prior to the issuance of the 1997 Bonds and all other approvals required by law for the issuance of the 1997 Bonds and use of the proceeds of the 1997 Bonds, including the letter from the State Board of Tax Commissioners authorizing the County to pay an additional credit, which is equal to the property tax replacement credit, calculated as set forth in IC 6-1.1-39-5(a)(2);

WHEREAS, the 1997 Bonds are issued pursuant to authority granted in the Act;

WHEREAS, initially, the 1997 Bonds will be junior and subordinate to the 1994 Bonds; *provided, however*, once the 1994 Bonds are paid and no longer deemed to be outstanding; no bonds or other obligations payable from the Trust Estate are or shall be senior or superior in any way; and

WHEREAS, provision for redemption and payment on January 1, 1998, of all the outstanding 1994 Bonds, including the premium payable thereon, has been made; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF TIPPECANOE COUNTY, INDIANA, AS FOLLOWS:

SECTION 1. GRANTING CLAUSES. The County, in consideration of the premises and of the purchase and acceptance of the Bonds by the Owners and any Junior Bonds, to secure the payment of the Debt Service on the Bonds according to their tenor and effect and to secure the performance and observance by the County of all covenants expressed or implied herein and in the Bonds, and any Junior Bonds, does hereby pledge the rights, interests, properties, moneys and other assets described below to the Trustee for the benefit of the Owners of the Bonds, and any Junior Bonds, for the securing of the performance of the obligations of the County hereinafter set forth, such pledge to be effective as set forth in IC 5-1-14-4 without the recording of this Ordinance or any other instrument:

- (a) all cash and securities now or hereafter held in the Construction Fund and the Loan Fund, including the Bond Principal and Interest Account and the General Account and the investment earnings thereon and all proceeds thereof (except to the extent transferred or disbursed from such funds and accounts from time to time in accordance with this Ordinance);
- (b) all Tax Increment, subject to prior payment of the 1994 Bonds; and
- (c) any moneys hereinafter pledged to the Trustee as security to the extent of that pledge;

provided, however, that if the County shall pay or cause to be paid, or there shall otherwise be paid or made provision for payment of, Debt Service on the Bonds and any Junior Bonds, due or to become due thereon, at the times and in the manner mentioned in the Bonds or Junior

Bonds, respectively, and shall pay or cause to be paid or there shall otherwise be paid or made provision for payment to the Owners of the outstanding Bonds and the owners of any Junior Bonds of all sums of money due or to become due according to the provisions hereof and shall otherwise comply with Section 13, then this Ordinance and the rights hereby granted shall cease, terminate and be void; otherwise this Ordinance to be and remain in full force and effect.

This Ordinance further witnesseth, and it is expressly declared, that all Bonds and Junior Bonds issued and secured hereunder are to be issued, authenticated and delivered, and all property, rights and interests, including, without limitation, the amounts hereby pledged, are to be dealt with and disposed of, under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes hereinafter expressed, and the County has agreed and covenanted, and does hereby agree and covenant, with the respective Owners, from time to time, of the Bonds, or any part thereof, and owners of any Junior Bonds as provided in this Ordinance.

SECTION 2. DEFINITIONS. All terms defined herein and all pronouns used in this Ordinance shall be deemed to apply equally to singular and plural and to all genders. All terms defined elsewhere in this Ordinance shall have the meaning given in such definition. In this Ordinance, unless a different meaning clearly appears from the context:

“Act” means, separately and collectively, IC 6-1.1-39, IC 4-4-8 and IC 5-1-14 and all related and supplemental statutes conferring powers or authority on the County, as in effect on the date of issuance of any series of Bonds.

“Additional Credit” means the additional credit the State Board of Tax Commissioners authorized the County to pay, which additional credit is equal to the property tax replacement credit, calculated as set forth in IC 6-1.1-39-5(a)(2), as such statutory provision exists on the date of issuance of the 1997 Bonds.

“Bond Principal and Interest Account” means the Bond Principal and Interest Account created under Section 6.

“Bond Ordinance” and “Ordinance” means this Ordinance, adopted by the Council on November 12, 1997, authorizing the issuance of the 1997 Bonds supplemented and amended from time to time.

“Bonds” means the 1997 Bonds and any Parity Obligations.

“Business Day” means any day except Saturday, Sunday or any day on which banking institutions situated in the cities of Lafayette and Indianapolis, Indiana, or the city in which the principal office of the Trustee is situated, are required or authorized by law to close or a day on which the New York Stock Exchange is closed or a day which is a legal holiday in Tippecanoe County, Indiana.

“Certifier” means an independent certified public accountant who certifies the Tax Increment to be received in succeeding years for purposes of the Parity Obligations test.

“Code” means the Internal Revenue Code of 1986, as amended and in effect on the date of issuance of the 1997 Bonds and the applicable judicial decisions and published rulings and any applicable regulations promulgated thereunder.

“Commissioners” and “County Commissioners” means The Board of Commissioners of the County.

“Construction Fund” means the Construction Fund created under Section 8.

“Council” means the County Council of Tippecanoe County, Indiana.

“Debt Service” means the principal of and interest on the 1997 Bonds and fiscal agency charges of the County.

“Debt Service Reserve Account” means the Debt Service Reserve Account created under Section 6.

"District" means the County's economic development district created by the Confirmatory Ordinance, a special taxing district created pursuant to IC 6-1.1-39 encompassing the specific area described in Exhibit B.

"Department" means the State's Department of Commerce.

"Event of Default" means any occurrence or event specified in Section 17.

"Excess Assessed Valuation" means the assessed value in the District that is in excess of (a) the assessed value described in IC 6-1.1-39(a)(1) and (b) the assessed value needed to generate revenues sufficient to (i) pay Debt Service on the Bonds and any Junior Bonds in July of the next calendar year and January of the second following year and (ii) fully fund the Debt Service Reserve Account.

"General Account" means the General Account created hereunder and further described in Section 6.

"Junior Bonds" means additional bonds described in Section 7(B), which are junior and subordinate to the Bonds.

"Loan Fund" means the special fund established by the County for the District in the Confirmatory Ordinance and described under Section 6.

"1997 Bonds" means the Bonds authorized in Section 3.

"1997 Improvements" means local public improvements within the meaning of IC 6-1.1-35-1.2, consisting of road and sewer improvements located in or serving the District, which 1997 Improvements provide a special benefit to property owners in the District, are of public use and benefit and constitute a part of an industrial development program as defined in the Act relating to the qualified industrial development project as defined in the Act, previously approved by the Department and the Board, and described in Exhibit A.

"Notice Address" means with respect to the County, the Trustee and the Purchaser:

County: Tippecanoe County
Tippecanoe County Office Building
20 North Third Street
Lafayette, Indiana 47902
Attention: Auditor

Trustee: The address set forth in the Trustee's acceptance attached to this Bond Ordinance.

Purchaser: The Purchaser's address set forth in Attachment C to the final form of the Purchase Agreement.

"Owner" means the registered owner of any Bond.

"Parity Obligations" means additional bonds issued on a parity with the 1997 Bonds under Section 7(A).

"Paying Agent" means the paying agent so designated under Section 3(D).

"Project" means the 1997 Improvements.

"Purchase Agreement" means the Purchase Agreement entered into among the County, the Department and the Purchaser, and approved by the State Board, the substantially final form of which is attached as Exhibit C.

"Purchaser" means the purchaser or purchasers of the 1997 Bonds, named in the final form of the Purchase Agreement.

"Qualified Investments" means any direct obligation of the United States of America or other investment which is permitted by Indiana law at the time of investment.

"Registrar" means the registrar so designated under Section 3(D).

"Reserve Requirement" means the amount described as such in Attachment C to the final form of the Purchase Agreement.

"State" means the State of Indiana.

"Tax Increment" means, to the extent permitted by law, all property tax proceeds from assessed valuation in the Allocation Area in excess of the assessed valuation described in IC 6-1.1-39-5(a)(1), as such statutory provision exists on the date of issuance of the 1997 Bonds, less the Additional Credit.

"Trustee" means the trustee so designated under Section 3(D).

"Trust Estate" means the Tax Increment, any cash or securities held in any of the funds and accounts established under this Ordinance and the investment earnings thereon and all proceeds thereof and any moneys hereinafter pledged as security for any Bonds and any Junior Bonds, as more particularly described in Section 1.

SECTION 3. THE BONDS.

(A) (1) The County shall issue on or before January 1, 1998, the 1997 Bonds in an aggregate principal amount not to exceed \$16,500,000 for the purpose of evidencing the 1997 Loan to finance the 1997 Improvements, and the payment of costs of issuance and all other costs related hereto and thereto. The County may receive payments from time to time on the 1997 Bonds in installments so as to effect a "draw bond."

The County shall apply moneys currently held for the payment of debt service on the 1994 Bonds to the redemption of the 1994 Bonds forthwith upon issuance of the 1997 Bonds, all as provided in Section 6.

(2) To procure the 1997 Loan, the Auditor of the County and the Commissioners are hereby authorized and directed to have prepared and to issue and sell to the Department on or before January 1, 1998, the 1997 Bonds, payable, as set forth in Sections 3(H) and 6, solely out of the Trust Estate. The 1997 Bonds shall be issued in the name of the County and shall be designated "Tippecanoe County Economic Development District Tax Increment Revenue Bonds of 1997" in the aggregate principal amount not to exceed \$16,500,000 as set forth in the final form of the Purchase Agreement.

(B) (1) The 1997 Bonds shall be issued in fully registered form and in the denomination of One Dollar (\$1.00) each and any even dollar amount in excess thereof, and shall be lettered and numbered separately from one consecutively upward in order of maturity, preceded by the letter "R," and with such further or alternate designation as provided for herein or as the Trustee may determine.

(2) The 1997 Bonds shall be dated the date of their delivery to the Department and the Purchaser. Interest will be payable semiannually on each January 1 and July 1, beginning on July 1, 1998, the first interest payment date on the 1997 Bonds. The 1997 Bonds shall mature or be subject to mandatory redemption and bear interest as set forth in the final form of the Purchase Agreement. Notwithstanding anything in this Bond Ordinance or the Purchase Agreement to the contrary, the (i) final maturity date on a 1997 Bond shall not be later than January 1, 2004, and (ii) interest payable on a 1997 Bond shall not exceed eight percent (8%) per annum.

(C) (1) The 1997 Bonds are redeemable at the option of the County in whole or in part, at any time, at face value, without premium as set forth in the final form of the Purchase Agreement, plus accrued interest to the date of redemption.

(2) Notice of any redemption identifying the 1997 Bonds to be redeemed in whole or in part shall be given by the Registrar at least three (3) days prior to the date fixed for redemption if the Department, owns the 1997 Bonds and at least five (5) days prior to the date fixed for redemption otherwise by sending written notice by mail to the Owner of each 1997 Bond to be redeemed in whole or in part at the address shown on the registration books of the Registrar. Failure to give such notice by mailing, or any defect therein with respect to any 1997 Bond, shall not affect the validity of any proceeding for the redemption of other 1997 Bonds. Such notice shall state the redemption date, the amount of accrued interest, if any, payable on the redemption date, the place at which 1997 Bonds are to be surrendered for payment and the portion thereof to be redeemed. By the date fixed for redemption, due provision shall be made with the Registrar for the payment of the redemption price of the 1997 Bonds to be redeemed, plus accrued interest, if any, to the date fixed for redemption. When the 1997 Bonds have been called for redemption, in whole or in part, and due provision has been made to redeem same as herein provided, the 1997 Bonds or portions thereof so redeemed shall no longer be regarded as outstanding, except for the purpose of receiving payment solely from the funds so provided for redemption, and the rights of the Owners of such 1997 Bonds to collect interest which would otherwise accrue after the redemption date on any 1997 Bond or portion thereof called for redemption shall terminate on the date fixed for redemption, *provided* that funds for their redemption are on deposit at the place of payment at that time.

(3) If fewer than all of the 1997 Bonds are to be redeemed, the Registrar as directed by the Auditor of the County will select the particular 1997 Bonds or portion to be redeemed in principal amounts of One Dollar (\$1.00) and any even dollar amount in excess thereof.

(D) The Auditor of the County and the County Commissioners, on behalf of the Council, shall appoint a duly qualified bank or trust company to serve as the initial Trustee, Registrar and Paying Agent for the 1997 Bonds, charged with the performance of the respective duties and responsibilities of Trustee, Registrar and Paying Agent as set forth herein. Such appointment shall be memorialized in a certificate of the Auditor of the County or such other writing as shall be acceptable to the Purchaser.

(E) (1) The Auditor of the County and the Commissioners are hereby authorized and directed, on behalf of the Council, to enter into such agreements or understandings with the Trustee, Registrar and Paying Agent as will enable them to perform the services required of them.

(2) The Bonds shall be authenticated with the manual signature of an authorized representative of the Registrar and no Bond shall be valid or become obligatory for any purpose until the Certificate of Authentication on such Bond shall have been so executed. Subject to the provisions hereof for registration, the Bonds shall be negotiable under the laws of the State of Indiana.

(3) Each Bond shall be transferable or exchangeable only upon the books of the County kept for that purpose at the office of the Registrar by the Owner thereof in person, or by its attorney duly authorized in writing, upon surrender of such Bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the Owner or its attorney duly authorized in writing, and thereupon a new fully registered Bond or Bonds in the same aggregate principal amount and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or the Owner, as the case may be, in exchange therefor. The Registrar shall not be obligated to make any exchange or transfer of Bonds following the fifteenth day of the month immediately preceding an interest payment date on any Parity Obligations until such interest payment date. The Registrar shall not be obligated (a) to register, transfer or exchange any Bond during a period of 15 days next preceding mailing of a notice of redemption of any Bonds, or (b) to register, transfer or exchange any Bonds selected, called or being called for redemption in whole or in part after mailing notice of such call. The County and the Registrar 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.

(4) If any Bond is mutilated, lost, stolen or destroyed, the County may execute and the Registrar may authenticate a new Bond which in all respects shall be identical to the Bond which was mutilated, lost, stolen or destroyed including like date, maturity and denomination, except that such new Bond shall be marked in a manner to distinguish it from

the Bond for which it was issued; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the County and the Registrar, and in the case of any lost, stolen or destroyed Bond there shall be first furnished to the County and the Registrar evidence of such loss, theft or destruction satisfactory to the County and the Registrar, together with indemnity satisfactory to them. In the event any such lost, stolen or destroyed Bond shall have matured, instead of issuing a duplicate Bond, the County and the Registrar may, upon receiving indemnity satisfactory to them, pay the same without surrender thereof. The County and the Registrar may charge the Owner of the Bond with their reasonable fees and expenses in connection with the foregoing. Every substitute Bond issued by reason of any Bond being lost, stolen or destroyed shall, with respect to such Bond, constitute a substitute contractual obligation of the County, whether or not the lost, stolen or destroyed Bond shall be found at any time, and shall be entitled to all the benefits of this Ordinance, equally and proportionately with any and all other Bonds duly issued hereunder.

(F) The principal of the 1997 Bonds shall be payable by the Paying Agent on behalf of the County in immediately available funds in lawful money of the United States of America at the principal corporate trust office of the Registrar and Paying Agent. Interest on the 1997 Bonds shall be paid by the Paying Agent on behalf of the County by check mailed to each Owner at the address as it appears on the registration books kept by the Registrar as of the fifteenth day of the month immediately preceding the interest payment date or at such other address as provided to the Registrar in writing by such Owner; *provided, however*, if the 1997 Bonds are owned by one Purchaser, by wire transfer to such account as the Purchaser may specify to the Registrar in writing.

(G) The Bonds shall be executed in the name of the County, by the manual or facsimile signatures of the Commissioners and attested by the manual or facsimile signature of the Auditor of the County, who shall cause the official seal of the County to be impressed upon or a facsimile thereof to be printed on each of the Bonds.

(H) (1) The Bonds do not constitute general obligations of the County, but constitute limited obligations of the County, payable solely from the Trust Estate. The County is not obligated to pay the Debt Service on the Bonds from any source other than the Trust Estate; *provided, however*, the County reserves the right to appropriate any available funds to pay debt service on the 1997 Bonds.

(2) The 1997 Bonds shall be repaid from the Trust Estate, including the Tax Increment allocated and collected during the stated term of the 1997 Bonds, and, to the extent permitted by law, thereafter until the 1997 Bonds are repaid.

(I) Notwithstanding anything in this Ordinance to the contrary, initially the 1997 Bonds are junior and subordinate to the 1994 Bonds; *provided, however*, once the 1994 Bonds are paid and no longer deemed to be outstanding, no bonds or other obligations payable from the Trust Estate are or shall be senior or superior in any way to the 1997 Bonds.

SECTION 4. FORM OF THE BONDS.

(A) Form of the 1997 Bonds. The form and tenor of the 1997 Bonds shall be substantially as follows (all blanks and other incomplete provisions to be properly completed prior to the preparation of the 1997 Bonds):

UNITED STATES OF AMERICA
STATE OF INDIANA
TIPPECANOE COUNTY

No. R- _____ \$ _____

TIPPECANOE COUNTY ECONOMIC DEVELOPMENT DISTRICT
TAX INCREMENT REVENUE BOND OF 1997

| INTEREST RATE | MATURITY DATE | ORIGINAL DATE | AUTHENTICATION DATE |
|------------------|------------------|-------------------|------------------------|
| _____% | January 1, | December 31, 1997 | December 31, 1997 |

REGISTERED OWNER:

PRINCIPAL AMOUNT:

Tippecanoe County, Indiana ("County"), for and on behalf of the Tippecanoe County Economic Development District (the "District"), for value received, hereby promises to pay to the Registered Owner named above or registered assigns, but solely out of the Trust Estate (defined in the Bond Ordinance defined below), the Principal Sum set forth above or so much of such Principal Sum as the County may have received in payment for this 1997 Bond as may be evidenced by the records of the registered Owner hereof (or its assigns), as attached to this 1997 Bond, on the Maturity Date set forth above (unless this 1997 Bond be subject to and be called for redemption prior to maturity, as hereinafter provided, and prepaid as may be evidenced by the records of the registered owner hereof (or its assigns), as attached to this 1997 Bond), and to pay interest hereon at the Interest Rate per annum stated above from the respective dates of payment for this 1997 Bond [or] [the interest payment date to which interest has been paid next preceding the Authentication Date of this 1997 Bond unless this 1997 Bond is authenticated after the fifteenth day of the month preceding an interest payment date and on or before such interest payment date in which case it shall bear interest from such interest payment date or unless this 1997 Bond is authenticated on or before June 15, 1998, in which case it shall bear interest from the Original Date, until the principal is paid, which interest is payable semiannually on the first days of January and July in each year, beginning on July 1, 1998].

This 1997 Bond is payable in lawful money of the United States of America, at the principal corporate trust office of [INSERT NAME], as trustee ("Trustee," "Registrar" or "Paying Agent"), in [INSERT CITY, STATE] or at the principal corporate trust office of any successor paying agent appointed under the Bond Ordinance hereinafter defined.

THIS BOND DOES NOT CONSTITUTE A GENERAL OBLIGATION OF TIPPECANOE COUNTY, INDIANA, BUT CONSTITUTES A LIMITED OBLIGATION OF TIPPECANOE COUNTY, PAYABLE SOLELY OUT OF TAX INCREMENT (DEFINED IN THE BOND ORDINANCE) AND INVESTMENT EARNINGS ON AND ANY CASH OR SECURITIES HELD IN ANY OF THE FUNDS AND ACCOUNTS ESTABLISHED UNDER THE BOND ORDINANCE AND ALL PROCEEDS THEREOF ("Trust Estate"); *provided, however*, the County reserves the right to appropriate any available moneys to pay Debt Service on the 1997 Bonds.

This 1997 Bond shall be repaid from the Trust Estate, including the Tax Increment allocated and collected during the stated term of the 1997 Bonds, and, to the extent permitted by law, thereafter until this 1997 Bond is repaid.

This 1997 Bond is one of an authorized issue of bonds of Tippecanoe County, Indiana, of like date, tenor and effect, aggregating [INSERT NUMBER] Dollars (\$[INSERT NUMBER]), designated "Tippecanoe County Economic Development District Tax Increment Refunding Revenue Bonds of 1997" ("1997 Bonds"). The 1997 Bonds are numbered consecutively from R-1 upwards, and are issued pursuant to an ordinance adopted by the Tippecanoe County Council (the "Council"), on November 12, 1997, as Ordinance No. 97-[INSERT DESIGNATION] ("Bond Ordinance") and in strict compliance with IC 6-1.1-39, IC 4-4-8 (collectively, as more fully described in the Bond Ordinance, "Act"), for the purpose of evidencing a loan to the County from the State of Indiana ("State") and procuring such loan to finance certain local public improvements more fully described in the Bond Ordinance, a debt service reserve and costs of issuance and all other costs related to such improvements, costs of issuance and the Bond Ordinance, including the incidental expenses incurred in connection therewith. The County may receive payment for this 1997 Bond from time to time in installments so as to effect a "draw bond."

The 1997 Bonds and any bonds issued on a parity with the 1997 Bonds under the Bond Ordinance are referred to herein collectively, as the "Bonds."

Except as provided in the Bond Ordinance, the 1997 Bonds and any obligations issued on a parity therewith are all equally and ratably secured by and entitled to the protection of the Bond Ordinance. Additional Bonds may be issued as described below. To secure payment of the Debt Service (defined in the Bond Ordinance) on all the Bonds and performance of all other covenants of the County under the Bond Ordinance, the County, pursuant to the Bond Ordinance, has assigned and pledged to the Trustee, and has granted to the Trustee a security interest in, the Trust Estate. Reference is hereby made to the Bond Ordinance for a

description of the rights, duties and obligations of the County, the Trustee and the owners of the Bonds, the terms and conditions upon which the Bonds and junior bonds are or may be issued and the terms and conditions upon which the Bonds will be paid at or prior to maturity, or will be deemed to be paid and discharged upon the making of provisions for payment therefor. Copies of the Bond Ordinance are on file at the principal corporate trust office of the Trustee[, in [INSERT CITY, STATE]].

Notwithstanding anything in this 1997 Bond or in the Bond Ordinance to the contrary, initially, this 1997 Bond is junior and subordinate to the 1994 Bonds (defined in the Bond Ordinance). *However*, once the 1994 Bonds are paid and no longer deemed to be outstanding, no other bonds or other obligations payable from the Trust Estate are or shall be senior or superior in any way to the 1997 Bonds.

The 1997 Bonds are redeemable at the option of the County, at any time, in whole or in part, at face value, plus accrued interest to the date fixed for redemption.

If fewer than all the 1997 Bonds are to be redeemed the Registrar will select the particular 1997 Bonds or portion to be redeemed in principal amounts of One Dollar (\$1.00) and any even dollar amount in excess thereof.

Notice of any redemption identifying the Bonds to be redeemed in whole or in part shall be given by the Registrar at least three (3) days prior to the date fixed for redemption if the State of Indiana owns the 1997 Bonds and at least five (5) days prior to the date fixed for redemption otherwise by sending written notice by certified or registered mail to the Registered Owner of each Bond to be redeemed in whole or in part at the address shown on the registration books of the Registrar. Failure to give such notice by mailing, or any defect therein with respect to any Bond, shall not affect the validity of any proceeding for the redemption of the other Bonds. All Bonds so called for redemption shall no longer be regarded as outstanding except for the purposes of receiving payment solely from the funds so provided for redemption, and the rights of the owners of such Bonds to collect interest which would otherwise accrue after the redemption date shall terminate on the date fixed for redemption, provided that funds for their redemption are on deposit at the place of payment at that time.

The County reserves the right to authorize and issue additional Bonds payable from the Tax Increment, ranking on a parity with the 1997 Bonds ("Parity Obligations") for the purpose of raising money for future local public improvements within the meaning of IC 6-1.1-35-1.2 in or serving the Allocation Area (defined in the Bond Ordinance) or to refund the 1997 Bonds or other Parity Obligations. The authorization and issuance of such Parity Obligations shall be subject to the following conditions precedent:

(a) all interest and principal payments with respect to all bonds payable from the Tax Increment shall be current to date in accordance with the terms thereof, with no payment in arrears;

(b) the County Commissioners, the Council and the Trustee shall have received a certificate prepared by an independent certified public accountant ("Certifier") certifying the amount of the Tax Increment estimated to be received in each succeeding year, adjusted as provided below, which estimated amount shall be at least equal to 125% of the principal and interest requirements with respect to the outstanding Bonds and the proposed Parity Obligations for each respective year during the term of the outstanding Bonds. In estimating the Tax Increment to be received in any future year, the Certifier shall base the calculation on assessed valuation actually assessed or to be assessed as of the assessment date immediately preceding the issuance of the Parity Obligations; *provided, however*, to the extent permitted by law, the Certifier shall adjust such assessed values for the current and future reductions of real property tax abatements granted to property owners in the Allocation Area and to take into account the effect of reassessment on the Tax Increment to the extent it can be reasonably estimated; and

(c) principal of and interest on any Parity Obligations or junior bonds shall be payable semiannually on January 1 and July 1.

The Council shall approve and confirm the findings and estimates set forth in the above-described certificate in any supplemental ordinance authorizing the issuance of Parity Obligations.

The County may also issue junior bonds as provided in the Bond Ordinance.

Notwithstanding anything in this Bond or the Bond Ordinance to the contrary, no Parity Obligation or junior bond may mature later than January 1, 2004.

The Council may, without the consent of, or notice to, the owner of this Bond, adopt a supplemental ordinance to the Bond Ordinance for any one or more of the following purposes:

- (a) to cure any ambiguity or formal defect or omission in the Bond Ordinance;
- (b) to grant to or confer upon the owners of the Bonds any additional benefits, rights, remedies, powers or authorities that may lawfully be granted to or conferred upon the owners of the Bonds;
- (c) to modify, amend or supplement the Bond Ordinance to permit the qualification of the Bonds for sale under the securities laws of the United States of America or of any of the states of the United States of America or the qualification of the Bond Ordinance under the Trust Indenture Act of 1939, as amended, or any similar state or federal statute hereafter in effect if such modification, amendment or supplement will not have a material adverse effect on the owners of the Bonds;
- (d) to provide for the refunding or advance refunding all or a portion of the Bonds;
- (e) to provide for the issuance of Parity Obligations or junior bonds by the County;
- (f) any other purpose which in the judgment of the Council, and upon the advice of counsel, does not adversely affect the interests of the owners of the Bonds in any material way; and
- (g) to amend the Ordinance to permit the County to comply with any future federal tax law or any covenants contained in any supplemental ordinance with respect to compliance with future federal tax law.

The owners of not less than 51% in aggregate principal amount of the Bonds then outstanding shall have the right, from time to time, anything contained in the Bond Ordinance to the contrary notwithstanding, to consent to and approve the adoption by the Council of such supplemental ordinances as shall be deemed necessary and desirable by the Council for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in the Bond Ordinance or in any supplemental ordinance other than those provisions covered by the paragraph above; *provided however*, that nothing contained in this paragraph shall permit, or be construed as permitting, without the consent of the owners of all the then outstanding Bonds affected (a) an extension of the maturity of the principal of and interest on any Bonds payable from the Tax Increment, (b) a reduction in the principal amount of any Bond or change in the rate of interest, (c) a privilege or priority of any Bond or Bonds of the same series over any other Bond or Bonds of that series, (d) a reduction in the aggregate principal amount of the Bonds required for consent to such supplemental ordinance, (e) a reduction in the Reserve Requirement, (f) a change in the provisions regarding the collection, deposit and allocation of the Tax Increment as set forth in IC 6-1.1-39-5 as in effect on the date of issuance of the 1997 Bonds and in the Bond Ordinance or in the lien on the Tax Increment for any Bonds, (g) the creation of any lien securing any Bonds other than a lien ratably securing all of the Bonds at any time outstanding hereunder (except as now provided in the Bond Ordinance) or (h) a change in the method of accrual of interest on any Bonds.

If at any time the Council desires to adopt a supplemental ordinance for any of the purposes set forth in the preceding paragraph the County shall cause notice of the proposed adoption of such supplemental ordinance to be mailed by registered or certified mail to each registered owner of a Bond at the address shown on the registration books maintained by the Registrar. Such notice shall briefly set forth the nature of the proposed supplemental ordinance and shall state that copies of it are on file at its principal corporate trust office for inspection by all owners of Bonds. If, within 60 days, or such longer period as shall be prescribed by the Council, following the mailing of such notice, the owners of not less than 51% in aggregate principal amount of the Bonds outstanding at the time of the execution of any such supplemental ordinance shall have consented to and approved the execution of such supplemental ordinance, no owner of any Bond shall have any right 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 Council from adopting the same or from taking any action pursuant to the provisions thereof. Upon the adoption of any such supplemental ordinance as is permitted and provided for the Bond Ordinance shall be and be deemed to be modified and amended in accordance therewith.

This Bond is transferable or exchangeable only upon the books of the County kept for that purpose at the office of the Registrar by the registered owner hereof in person, or by its 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 its attorney duly authorized in writing, and thereupon a new fully registered 1997 Bond or 1997 Bonds in the same aggregate principal amount and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or the Registered Owner, as the case may be, in exchange therefor. The Registrar shall not be obligated to (a) register, transfer or exchange any 1997 Bond during a period of 15 days next preceding mailing of a notice of redemption of any 1997 Bonds or (b) to register, transfer or exchange any Bonds selected, called or being called for redemption in whole or in part after mailing notice of such call. The County and the Registrar 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.

If this Bond is mutilated, lost, stolen or destroyed, the County may execute and the Registrar may authenticate a new 1997 Bond which in all respects shall be identical to the Bond which was mutilated, lost, stolen or destroyed including like date, maturity and denomination as this Bond, except that such new 1997 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 County and the Registrar, and in the case of this Bond being lost, stolen or destroyed, there shall first be furnished to the County and the Registrar evidence of such loss, theft or destruction satisfactory to the County and the Registrar, together with indemnity satisfactory to them. In the event that this Bond, being lost, stolen or destroyed, shall have matured, instead of issuing a duplicate 1997 Bond the County and the Registrar may, upon receiving indemnity satisfactory to them, pay this Bond without surrender hereof. The County and the Registrar may charge the owner of this Bond with their reasonable fees and expenses in connection with the above. Every substitute 1997 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 County, 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 Bond Ordinance, equally and proportionately with any and all other Bonds duly issued thereunder, except as provided in the Bond Ordinance.

The 1997 Bonds maturing in any one year are issuable only in fully registered form in the denomination of One Dollar (\$1.00) and any even dollar amount in excess thereof not exceeding the aggregate principal amount of the 1997 Bonds maturing in such year.

If this Bond or a portion thereof shall have become due and payable in accordance with its terms or shall have been duly called for redemption or irrevocable instructions to call this Bond or a portion thereof for redemption shall have been given, and the whole amount of the principal of and interest so due and payable upon this Bond or a portion thereof then outstanding shall be paid or (i) sufficient moneys, or (ii) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America, the principal of and the interest on which when due will provide sufficient moneys for such purpose, or (iii) obligations of any state of the United States of America or any political subdivision thereof, the full payment of principal of and interest on which (a) are unconditionally guaranteed or insured by the United States of America, or (b) are provided for by an irrevocable deposit of securities described in clause (ii) and are not subject to call or redemption by the issuer thereof prior to maturity or for which irrevocable instructions to redeem have been given, shall be held in trust for such purpose, and provision shall also have been made for paying all fees and expenses in connection with the redemption, then and in that case this Bond or such portion thereof shall no longer be deemed outstanding or an indebtedness of the County.

It is hereby certified, recited and declared that all acts, conditions and things required to be done precedent to and in the execution, issuance, sale and delivery of this 1997 Bond have been properly done, happened and performed in regular and due form as prescribed by law, and that the total indebtedness of the Tippecanoe County Economic Development District,

including the 1997 Bonds, does not exceed any constitutional, statutory or local ordinance code limitation of indebtedness.

This 1997 Bond shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been duly executed by the authorized representative of the Registrar.

OWNER REPRESENTATIONS

The owner of this 1997 Bond and every subsequent owner hereof, if any, represents to the County and the State of Indiana:

(1) We are an institutional accredited or sophisticated investor purchasing this 1997 Bond for our own account, and we are acquiring this Bond for investment purposes and not with a view to, or for offer or sale in connection with, any distribution in violation of the Securities Act of 1933, as amended ("Securities Act"). We have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risk of our investment in this 1997 Bond and invest in or purchase securities similar to this 1997 Bond in the normal course of our business, and we are able to bear the economic risk of our or its investment for an indefinite period of time. We confirm that neither the County nor any person acting on its behalf has offered to sell this 1997 Bond by, and that we have not been made aware of the offering of this 1997 Bond by, any form of general solicitation or general advertising, including, but not limited to, any advertisement, article, notice or other communication published in any newspaper, magazine or similar media or a broadcast over television or radio.

(2) We acknowledge on our behalf that neither the County nor any person representing the County has made any representation to us with respect to the County of the offering or sale of this 1997 Bond other than the information contained in the Bond Ordinance, the Purchase Agreement to which we are a party and the report of the County's financial adviser dated November __, 1997, relating to the Tax Increment, as it may be amended and supplemented from time to time through the date of issuance of this 1997 Bond, including the Inter-Local Agreement referred to therein (collectively, "Information"), which were delivered to us and upon which we are relying in making our investment decision with respect to this 1997 Bond.

(3) We understand that this 1997 Bond has not been registered under the Securities Act and, unless so registered, may not be sold without registration under the Securities Act or an exemption therefrom, and the prior written consent of the County. We fully understand and agree that we must bear the economic risk of our purchase for an indefinite period of time because, among other reasons, this 1997 Bond may not be sold, transferred, pledged, hypothecated or otherwise disposed of in the absence of compliance with the Securities Act (such compliance to be at our own expense). We are purchasing this 1997 Bond for our own account, for investment and not with a view to resale or distribution except in compliance with the Securities Act.

(4) We are familiar with the County, the District and any significant taxpayer or taxpayers in the District (collectively, the "Taxpayer"). We received such information concerning the County, this 1997 Bond, the Trust Estate (defined in the Ordinance), including the Tax Increment (defined in the Ordinance), the Ordinance and such Purchase Agreement and Inter-Local Agreement, as we deemed to be necessary in connection with investment in this 1997 Bond, and consent to all the terms and conditions thereof; we have received, read and commented upon, or have had the opportunity to read and comment upon all the Information and foregoing papers prior to the purchase of this 1997 Bond. We have been provided with the opportunity to ask questions of and receive answers from the representatives of the County concerning the terms and conditions of this 1997 Bond, the tax status thereof, and legal opinions and enforceability of remedies, and to obtain any additional information needed to verify the accuracy of the information obtained to the extent the County possesses such information or can acquire it without unreasonable effort or expense. We are not relying upon Ice Miller Donadio & Ryan for information concerning the financial status of the County or the Taxpayer or the availability of the Tax Increment, or the ability of the County to honor its obligations under the Ordinance, this 1997 Bond or such Inter-Local Agreement. We understand that the projection of Tax Increment prepared in connection with the issuance of this 1997 Bond has been based on estimates and, for any number of reasons or circumstances, may not be realized.

(5) We have investigated the security for this 1997 Bond, including the Trust Estate and the availability of Tax Increment to our satisfaction, and we understand that this 1997 Bond is payable solely from the Trust Estate, including the Tax Increment, and that the County has no authority to levy a tax to pay debt service on the this 1997 Bond.

(6) We understand that this 1997 Bond is not subject to IC 4-4-8-10 and, as a result, we understand that the Auditor of State may not withhold any money payable to the County or the District to pay this 1997 Bond.

IN WITNESS WHEREOF, The Board of Commissioners of Tippecanoe County has caused this Bond to be executed by the manual or facsimile signature of the Commissioners, in the name of Tippecanoe County and attested by the manual or facsimile signature of the Auditor of Tippecanoe County, who has caused the seal of Tippecanoe County to be impressed or a facsimile thereof to be printed hereon.

TIPPECANOE COUNTY, INDIANA

By: _____
Commissioner

(SEAL)
Attest:

By: _____
Commissioner

Auditor

By: _____
Commissioner

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

This Bond is one of the 1997 Bonds described in the within mentioned Bond Ordinance.

[INSERT NAME], as Registrar
Indianapolis, Indiana

Authentication Date: _____

Authorized Representative

RECORD OF PAYMENT FOR 1997 BOND

| <u>Date of Payment</u> | <u>Amount</u> | <u>Acknowledgment of Receipt by Auditor</u> | <u>Guarantee of Auditor's Signature</u> |
|------------------------|---------------|---|---|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

RECORD OF PREPAYMENTS

| <u>Date</u> | <u>Principal Amount</u> | <u>Principal Payments Made Prior to Maturity</u> | | <u>Date Paid</u> | <u>Name of Authorized Official and Title</u> |
|-------------|-------------------------|--|----------------|------------------|--|
| | | <u>Principal Payment</u> | <u>Balance</u> | | |
| _____ | _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ | _____ |

ASSIGNMENT

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

(insert name and address)

the within 1997 Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, attorney to transfer such bond on the books kept for the registration thereof with full power of substitution in the premises.

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

Signature Guaranteed:

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

(End of Form of 1997 Bond)

(B) Form of Parity Obligations. The form of any Parity Obligations shall be set forth in the ordinance approving the issuance of such Parity Obligations.

SECTION 5. SALE OF THE 1997 BONDS. The Auditor of the County is hereby authorized and directed to sell through a negotiated sale the 1997 Bonds to the Department for and conditioned upon the simultaneous sale or assignment to the Purchaser or Purchasers, in either case, through a private placement upon receipt of a check or wire transfer of funds payable to the Department and endorsed by the Department in favor of the County. The 1997 Bonds shall be sold at a price not less than the par, or face, value thereof, less a discount or placement or other fee of not to exceed \$35,000.

Prior to the delivery of the 1997 Bonds, the Auditor shall obtain a legal opinion addressed to the County as to the validity of the 1997 Bonds from Ice Miller Donadio & Ryan, Indianapolis, Indiana, bond counsel to the County, and shall furnish such opinion and a customary reliance letter to the Purchaser. The cost of such opinion shall be considered as part of the costs incidental to the proceedings for the issuance and sale of the 1997 Bonds and shall be paid out of proceeds of the 1997 Bonds.

An amount not to exceed the Reserve Requirement shall be deposited in the Debt Service Reserve Account and the balance of the proceeds received from the sale of the 1997 Bonds shall be deposited in the Construction Fund and used as provided in Section 8.

SECTION 6. FLOW OF FUNDS.

(A) Loan Fund and Accounts.

(1) A fund designated as the "Loan Fund" is hereby created, together with two accounts therein; such accounts, designated as the "Bond Principal and Interest Account" and the "General Account," are hereby created. All such Fund and Accounts are created and shall be managed for the purposes provided herein, and subject to the terms hereof. All Tax Increment shall immediately, upon receipt of and identification as Tax Increment by the County, be set aside in the following such accounts, in the following order of priority and to the extent indicated below:

- (a) Bond Principal and Interest Account;
- (b) Debt Service Reserve Requirement; and
- (c) General Account.

The Trust Estate shall be held in trust and pledged for the benefit of the Owners of the Bonds and shall be applied, used and withdrawn only for the purposes authorized in this Section 6.

(2) The Loan Fund shall be invested in Qualified Investments. Interest earned in each account shall be credited to such account, except that amounts owed to the United States of America under Section 12(A)(5) and the Purchase Agreement shall be paid from such earnings. The Loan Fund and all accounts in the Loan Fund shall be held by the Trustee.

(B) Bond Principal and Interest Account. There shall immediately be set aside from the Tax Increment and deposited with the Trustee in immediately available funds into the Bond Principal and Interest Account, beginning upon receipt of and identification as Tax Increment by the County but no later than on June 30, 1998, and no later than each December 31 and June 30 thereafter, an amount of money which, together with any money

contained therein, is equal to the aggregate Debt Service becoming due and payable on the next date on which principal or interest is due. No deposit need be made into the Bond Principal and Interest Account if the amount contained therein is at least equal to the aggregate amount of Debt Service becoming due and payable on all outstanding Bonds on the next date on which principal and interest are due. All money in the Bond Principal and Interest Account shall be used and withdrawn solely for the purpose of paying Debt Service on the Bonds as it shall become due and payable to the extent it is required therefor (including accrued interest on any Bonds purchased or redeemed prior to maturity).

(C) Debt Service Reserve Account. After making the deposits to the Bond Principal and Interest Account described in subsection (B) of this Section 6, Tax Increment shall be deposited in the Debt Service Reserve Account until the balance equals the Reserve Requirement. Moneys deposited and maintained in the Debt Service Reserve Account shall be applied to the payment of the principal of and interest on the 1997 Bonds to the extent that amounts in the Bond Principal and Interest Account and the General Account are insufficient to pay Debt Service when due and payable. If moneys in the Debt Service Reserve Account are transferred to the Bond Principal and Interest Account to pay Debt Service on the 1997 Bonds, the amounts transferred shall be made up from any moneys in the General Account and from the Tax Increment next available after the required deposits to the Bond Principal and Interest Account are made. Any moneys in the Debt Service Reserve Account in excess of the Reserve Requirement shall be deposited in the General Account and applied as set forth in subsection (E) of this Section 6.

The County, upon the advice of its financial adviser, hereby finds that funding the Debt Service Reserve Account is reasonably required and that the Reserve Requirement is no larger than necessary to sell or privately place the 1997 Bonds. The County further finds that the Reserve Requirement is directly related to the 1997 Improvements because the 1997 Bonds could not be issued to finance the 1997 Improvements without the Debt Service Reserve Account.

The debt service reserve requirement, if any, for any Parity Obligations shall be set forth in the ordinance authorizing such Parity Obligations.

(D) Excess Assessed Valuation. Each year, on July 1, beginning July 1, 1998, or when the County prepares its budget, the Auditor of the County shall estimate the amount of Tax Increment expected to be collected (the "Expected Tax Increment") in the subsequent calendar year. The Auditor shall: (1) *add* (a) the Expected Tax Increment and (b)(i) Tax Increment on hand and expected to be collected in December of the current calendar year, and (ii) amounts in the General Account; and (2) *subtract* therefrom (a) Debt Service due on January 1 of the subsequent calendar year and (b) Tax Increment expected to be used to redeem Bonds in the subsequent calendar year and on or about January 1 of the second subsequent calendar year (the "Net Expected Tax Increment").

If the Net Expected Tax Increment is a positive number, the Auditor shall calculate the amount of Excess Assessed Valuation by dividing the Net Expected Tax Increment by the estimated tax rate for the District in the subsequent calendar year. The Excess Assessed Valuation shall be used by the overlapping taxing units in the District for budgeting purposes; *provided, however,* the Excess Assessed Valuation may be adjusted throughout the budgeting process as more information becomes available about the components of that calculation, including the estimated tax rate.

If the Net Expected Tax Increment is zero or a negative number, the Auditor of the County need take no further action.

The Auditor of the County may employ an independent accountant to perform the foregoing calculations and pay the costs of such calculations from the Tax Increment as Debt Service.

(E) General Account. After making the deposits described in (B), the amounts remaining in the Loan Fund shall be deposited in the General Account and shall be available in the following order of priority:

- (1) to pay Debt Service on the Bonds under Section 6(B);
- (2) to fund Debt Service Reserve Account under Section 6(C) and maintain it in an amount not to exceed the Reserve Requirement;

- (3) to make payments on any Junior Bonds issued under Section 7(E);
- (4) at the option of the Commissioners, to redeem Bonds as provided in Section 3(C); and
- (5) for any purpose permitted by the Act, including distributions to the overlapping taxing units in the District, as permitted by the Act.

Notwithstanding Section 6(A)(2), the Trustee shall invest moneys on deposit in the General Account in direct obligations of the United States of America maturing within 90 days from the date of purchase unless directed in writing by the Treasurer of the County.

(F) As set forth in Section 1, the Tax Increment shall be irrevocably pledged for the purposes set forth in this Section 6 subject to the prior payment of the 1994 Bonds, and in the priorities provided herein.

SECTION 7. ISSUANCE OF ADDITIONAL BONDS.

(A) Parity Obligations. The County reserves the right to authorize and issue Parity Obligations for the purpose of raising money for future local public improvements within the meaning of IC 6-1.1-39-1.2 in or serving the Allocation Area or to refund the Bonds or other Parity Obligations. If any Parity Obligations are issued pursuant to this Section 7, the term "Bonds" in this Bond Ordinance shall, unless the context requires, be deemed to refer to the 1997 Bonds and such Parity Obligations. The authorization and issuance of such Parity Obligations shall be subject to the following conditions precedent:

(1) all interest and principal payments with respect to all Bonds and Junior Bonds payable from the Tax Increment shall be current to date in accordance with the terms thereof, with no payment in arrears;

(2) the County Commissioners, the Council and the Trustee shall have received a certificate prepared by a Certifier certifying the amount of the Tax Increment estimated to be received in each succeeding year, adjusted as provided below, which estimated amount shall be at least equal to 125% of the Debt Service requirements with respect to the outstanding Bonds and the Parity Obligations, for each respective year during the term of the outstanding Bonds. In estimating the Tax Increment to be received in any future year, the Certifier shall base the calculation on assessed valuation actually assessed or estimated to be assessed as of the assessment date immediately preceding the issuance of the Parity Obligations; *provided, however,* the Certifier shall adjust such assessed values for the current and future reductions of real property tax abatements granted to property owners in the Allocation Area and take into account the effect of reassessment on the Tax Increment to the extent it can reasonably be estimated;

(3) principal of and interest on any Parity Obligations or junior bonds shall be semiannually payable on January 1 and July 1; and

the Council shall approve and confirm the findings and estimates set forth in the above-described certificate in any supplemental ordinance authorizing the issuance of Parity Obligations. Except as provided in this Ordinance, the terms and conditions of any Parity Obligations shall be set forth in the ordinance authorizing the issuance of such Parity Obligations.

(B) Junior Bonds. The County may issue bonds which are junior and subordinate to the Bonds. The terms and conditions of such Junior Bonds will be set forth in an ordinance adopted by the County. Principal of and interest on any Junior Bonds shall be payable on January 1 and July 1 out of Tax Increment as set forth in Section 6.

(C) Notwithstanding anything in this Bond Ordinance to the contrary, the final maturity date of any Parity Obligation or Junior Obligation may not be later than January 1, 2004.

SECTION 8. CONSTRUCTION FUND.

(A) A fund designated as the "Construction Fund" is hereby created for the purposes provided herein, subject to the terms hereof. Interest earned in the Construction Fund shall be credited to that Fund except that amounts owed to the United States of America

under Section 148(f) of the Code shall be paid from such earnings. Moneys in the Construction Fund shall be invested at a yield not in excess of the yield on the 1997 Bonds. The proceeds in the Construction Fund shall be expended only to pay the costs of the 1997 Improvements which are within or serving the District. The County will proceed with due diligence and complete such 1997 Improvements as soon as practicable.

(B) There may be disbursed from the Construction Fund the amount required for the payment of costs of the 1997 Improvements upon the receipt of a requisition signed by the Auditor or her designated representative ("Authorized Representative") which shall state with respect to each payment to be made:

- (1) the requisition number;
- (2) the name and address of the person, firm or corporation to whom payment is due or to whom a reimbursement of an advance, if any, by the County has been made;
- (3) the amount to be paid; and
- (4) that each obligation mentioned in the requisition has been properly incurred, is currently due and payable, is a proper charge against the Construction Fund, is unpaid or unreimbursed, and has not been the basis of any previous requisition.

(C) If, after payment of all requisitions tendered under this Section 8, there shall remain any balance of moneys in the Construction Fund, the Auditor shall transfer all moneys then in the Construction Fund (except moneys reserved to pay any disputed or unpaid claims), as directed by the County Commissioner, to the Bond Principal and Interest Account to pay Debt Service on the Bonds or shall apply such moneys in accordance with IC 5-1-13, as amended from time to time.

(D) Notwithstanding anything in this Bond Ordinance to the contrary, the Trustee shall disburse from the Construction Fund on the date of issuance of the 1997 Bonds, the amount or amounts listed on the County's Certificate Re: Costs of Issuance, without further claim or approval by the Auditor, Commissioners or Council.

SECTION 9. DELIVERY OF INSTRUMENTS. The Council hereby authorizes and directs the Commissioners, the Auditor and the Treasurer of the County, and each of them, for and on behalf of the County to prepare, execute and deliver any and all other instruments, letters, certificates, agreements and documents as the official executing the same determines is necessary or appropriate to consummate the transactions contemplated by this Ordinance, including the Purchase Agreement, and such determination shall be conclusively evidenced by the execution thereof. The instruments, letters, certificates, agreements and documents, including the 1997 Bonds, necessary or appropriate to consummate the transactions contemplated by this Ordinance shall, upon execution, as contemplated herein, constitute the valid and binding obligations or representations and warranties of the County the full performance and satisfaction of which by the County is hereby authorized and directed.

SECTION 10. PURCHASE AGREEMENT, INVESTMENT LETTERS.

(A) The Council hereby approves the substantially final form of the Purchase Agreement by which the 1997 Bonds are to be sold to the Department and simultaneously sold and assigned by the Department to the Purchaser, which Purchase Agreement is attached as Exhibit C, and, on behalf of the County, the Commissioners are hereby authorized and directed to execute, and the Auditor of the County is hereby authorized and directed to attest and affix the seal of the County to, the final form of the Purchase Agreement with such changes and revisions thereto as they deem necessary or appropriate to consummate the transactions contemplated thereby and such execution and attestation shall be conclusive evidence of their approval of such changes and revisions. The Purchase Agreement in the form executed shall constitute the valid and binding obligations of the County, the full performance and satisfaction of which by the County is hereby authorized and directed.

(B) The Commissioners and the Auditor of the County, on behalf of the County, are authorized and directed to obtain investment letters from the Department and the Purchaser as a condition precedent to issuance of the 1997 Bonds. The investment letters shall be in the respective forms attached to the final form of the Purchase Agreement, but may be changed and revised from time to time, with the advice of counsel, including bond counsel, as

necessary or appropriate to comply with federal securities laws and consummate the transactions contemplated by this Bond Ordinance and the Purchase Agreement.

SECTION 11. EXECUTION OF 1997 BONDS. The Commissioners are hereby authorized and directed to execute the 1997 Bonds with their manual or facsimile signatures and the Auditor is hereby authorized and directed to have the 1997 Bonds prepared, attest the 1997 Bonds with her manual or facsimile signature, and cause the seal of the County to be impressed or a facsimile thereof to be printed on the 1997 Bonds, all in the form and manner herein provided. Subject to Section 3(A), upon the consummation of the sale of the 1997 Bonds, the Auditor shall be authorized to receive from the Department or the Purchaser or Purchasers on behalf of the Department, the amount to be paid for the 1997 Bonds or any installments thereon, and the Auditor shall deliver the 1997 Bonds to the Department, or, at the direction of the Department, to the Purchaser or the Trustee.

SECTION 12. TAX COVENANTS.

(A) To preserve the exclusion from gross income of interest on the 1997 Bonds under the Code and as an inducement to the Purchaser, the County represents, covenants and agrees that:

(1) The Project will be available for use by members of the general public. Use by a member of the general public means use by natural persons not engaged in a trade or business. No person or entity, other than the County or another state or local governmental unit, will use more than 10% of the proceeds of the 1997 Bonds or property financed by proceeds of the 1997 Bonds other than as a member of the general public. The Project will be available for general public use. No person or entity, other than the County or another state or local governmental unit, will own property financed by 1997 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 a take-or-pay or output contract or any other type of arrangement that conveys other special legal entitlements and differentiates that person's or entity's use of such property from the use by the general public, unless such uses in the aggregate relate to no more than 10% of the proceeds of the 1997 Bonds. If the County enters into a management contract for the Project, the terms of the contract will comply with IRS Revenue Procedure 97-13, as it may be amended, supplemented or superseded from time to time, so that the contract will not give rise to private business use under the Code and the Regulations relating thereto, unless such use in aggregate relates to no more than 10% of the proceeds of the 1997 Bonds.

(2) No more than 10% of the payment of the principal of or interest on the 1997 Bonds will be (under the terms of the 1997 Bonds, this Bond Ordinance or any underlying arrangement), directly or indirectly, (i) secured by any interest in property used or to be used for a private business use or payments in respect of such property or (ii) derived from payments (whether or not to the County) in respect of such property or borrowed money used or to be used for a private business use. The County acknowledges that taxpayers in the District will pay the County and the other taxing units in the District all taxes levied on real and personal property in accordance with Indiana law. These taxes are taxes of general applicability and the taxpayers in the District have not entered into any agreements, contracts, guarantees or other arrangements with the County with respect to the payment of property taxes or the 1997 Bonds.

(3) No more than 5% of the 1997 Bond proceeds will be loaned to any entity or person. No more than 5% of the 1997 Bond proceeds will be transferred, directly or indirectly, or deemed transferred to any person or entity other than another state or local governmental unit in any manner that would in substance constitute a loan of the 1997 Bond proceeds.

(4) The County reasonably expects, as of the date hereof, that the 1997 Bonds will not meet either the private business use test described in paragraphs 1 and 2 of this Section 12 or the private loan test described in paragraph 3 of this Section 12 above during the entire term of the 1997 Bonds.

(5) The County reasonably expects, as of the date hereof, that the Project will be used for a governmental purpose and will not meet either the private business use test described in paragraphs 1 and 2 of this Section 12 or the private loan test described in paragraph 3 of this Section 12 for a substantial period of time following the date hereof. The County has not, as of the date hereof, entered into any arrangement with a nongovernmental

person which would cause either the private business use test described in such paragraphs 1 and 2 or the private loan test described in such paragraph 3 to be met.

(6) No more than 5% of the proceeds of the 1997 Bonds will be attributable to private business use as described in paragraph 1 of this Section 12 and private security or payments described in paragraph 2 of this Section 12 attributable to unrelated or disproportionate private business use. For this purpose, the private business use test is applied by taking into account only use that is not related to any government use of proceeds of the issue (the "Unrelated Use") and use that is related but disproportionate to any governmental use of those proceeds (the "Disproportionate Use").

(7) The County will not take any action or fail to take any action with respect to the 1997 Bonds that would result in the loss of the exclusion from gross income for federal tax purposes of interest on the 1997 Bonds under Section 103 of the Code, nor will it act in any other manner which would adversely affect such exclusion; and the County will not make any investment or do any other act or thing during the period that the 1997 Bonds are outstanding which would cause any of the 1997 Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code. The County covenants and agrees not to enter into any contracts or arrangements which would cause the 1997 Bonds to be treated as private activity bonds under Section 141 of the Code.

(8) The 1997 Bonds are not private activity bonds as defined in Section 141 of the Code.

(9) The 1997 Bonds are not federally guaranteed under Section 149(b) of the Code.

[(10) The covenants in this Section 12 are based solely upon current law in effect and in existence on the date of issuance of the 1997 Bonds. It shall not be an event of default under this Ordinance if interest on the 1997 Bonds is not excludable from gross income pursuant to any provision of the Code which is not in existence and in effect on the issue date of the 1997 Bonds.]

(11) All officers, members, employees and agents of the County are authorized and directed to provide certifications of facts and estimates that are material to the reasonable expectations of the County as of the date the 1997 Bonds are issued, and to enter into covenants evidencing the County's commitments made in this Ordinance. In particular, all or any officers of the County are authorized to certify and enter into covenants for the County regarding the facts and circumstances and reasonable expectations of the County on the date the 1997 Bonds are issued and the commitments made by the County regarding the amount and use of the proceeds of the 1997 Bonds.

(B) Notwithstanding any other provisions of this Ordinance, the covenants and authorizations contained in this Ordinance (the "Tax Sections") which are designed to preserve the exclusion of interest on the 1997 Bonds from gross income for federal tax purposes (the "Tax Exemption") need not be complied with if the County receives an opinion of nationally recognized bond counsel satisfactory to the County that any Tax Section is unnecessary to preserve the Tax Exemption.

(C) Any Parity Obligations will be subject to the tax covenants set forth in the ordinance authorizing the issuance of such Parity Obligations.

(D) The Auditor of the County is hereby authorized and directed to work with bond counsel to complete the calculations needed to comply with the rebate requirements for the 1997 Bonds.

SECTION 13. DEFEASANCE OF BONDS.

(A) If, when the Bonds or a portion thereof shall have become due and payable in accordance with their terms or shall have been duly called for redemption or irrevocable instructions to call the Bonds or a portion thereof for redemption shall have been given, and the whole amount of the Debt Service so due and payable upon all of the Bonds or a portion thereof then outstanding shall be paid or (i) sufficient moneys, or (ii) direct, noncallable 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 for such purpose, or (iii) obligations of any state of the

United States of America or any political subdivision thereof, the full payment of principal of, and interest on which (a) are unconditionally guaranteed or insured by the United States of America, or (b) are provided for by an irrevocable deposit of securities described in clause (ii) and are not subject to call or redemption by the issuer thereof prior to maturity or for which irrevocable instructions to redeem have been given, shall be held in trust for such purpose, and provision shall also have been made for paying all fees and expenses in connection with the redemption, then and in that case the Bonds or such portion thereof issued hereunder shall no longer be deemed outstanding or an indebtedness of the County. If none of the Bonds is outstanding, any funds (including Tax Increment) remaining in the Trust Estate shall be used first to pay amounts owed on any Junior Bonds and second as provided in IC 6-1.1-39-5 or any successor provision.

(B) No deposit under this Section 13 shall be made or accepted hereunder and no use made of any such deposit unless the Auditor shall have received an opinion of nationally recognized bond counsel to the effect that such deposit and use would not cause any of the Bonds to be treated as arbitrage bonds within the meaning of Section 148 of the Code or any successor provision. No such deposit shall be deemed a payment of the Bonds unless the Auditor shall have received a verification from an accountant or firm of accountants appointed by the Auditor and acceptable to the Trustee verifying the sufficiency of the deposit to pay the principal of and interest on the Bonds to the due date, whether such due date be by reason of maturity or upon redemption.

SECTION 14. AMENDING SUPPLEMENTAL ORDINANCES. The County may, without the consent of, or notice to, any Owner of the Bonds adopt a supplemental ordinance for any one or more of the following purposes:

- (a) to cure any ambiguity or formal defect or omission in this Ordinance;
- (b) to grant to or confer upon the Owners of the Bonds any additional benefits, rights, remedies, powers or authorities that may lawfully be granted to or conferred upon the Owners of the Bonds;
- (c) to modify, amend or supplement this Ordinance to permit the qualification of the Bonds for sale under the securities laws of the United States of America or of any of the states of the United States of America or the qualification of this Ordinance under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect if such modification, amendment or supplement will not have a material adverse effect on the Owners of the Bonds;
- (d) to provide for the refunding or advance refunding of all or a portion of the Bonds;
- (e) to provide for the issuance of Parity Obligations or Junior Bonds by the County;
- (f) any other purpose which in the judgment of the Council, and upon the advice of counsel, does not adversely affect the interests of the Owners the Bonds in any material way; and
- (g) to amend the Ordinance to permit the County to comply with any future federal tax law or any covenants contained in any supplemental ordinance with respect to compliance with future federal tax law.

SECTION 15. CONSENT TO SUPPLEMENTAL ORDINANCES. The Owners of not less than 51% in aggregate principal amount of the Bonds shall have the right, from time to time, anything contained in the Bond Ordinance to the contrary notwithstanding, to consent to and approve the adoption by the Council of such supplemental ordinances as shall be deemed necessary and desirable by the Council 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 other than those provisions covered by Section 14; *provided however*, that nothing in this Section 15 contained shall permit, or be construed as permitting, without the consent of the Owners of all the then outstanding Bonds affected, (a) an extension of the maturity of the principal of and interest on any bonds payable from Tax Increment, (b) a reduction in the principal amount of any Bond or change in the rate of interest, (c) a privilege or priority of any Bond or Bonds over any other Bond or Bonds, (d) a reduction in the aggregate principal amount of the Bonds required for consent to such

supplemental ordinance, (e) a reduction in the debt service reserve requirement established for any Parity Obligations, (f) a change in the provisions regarding the collection, deposit, and allocation of the Tax Increment as set forth in IC 6-1.1-39-5 as in effect on the date of issuance of the 1997 Bonds and in the Bond Ordinance or in the lien on the Tax Increment for any Bonds, (g) the creation of any lien securing any Bonds other than a lien ratably securing all of the Bonds at any time outstanding hereunder (except as now provided in this Ordinance) or (h) a change in the method of accrual of interest on any Bonds.

If at any time the Council desires to adopt a supplemental ordinance for any of the purposes set forth in this Section 15, the County shall cause notice of the proposed adoption of such supplemental ordinance to be mailed by registered or certified mail to each Owner of a Bond at the address shown on the registration books maintained by the Registrar. Such notice shall briefly set forth the nature of the proposed supplemental ordinance and shall state that copies thereof are on file at its principal office for inspection by all Owners of Bonds. If, within 60 days, or such longer period as shall be prescribed by the County, following the mailing of such notice, the Owners of not less than 51% in aggregate principal amount of the Bonds outstanding at the time of the execution of any such supplemental ordinance shall have consented to and approved the execution of such supplemental ordinance, no Owner of any Bond shall have any right 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 Council from adopting the same or from taking any action pursuant to the provisions thereof. Upon the adoption of any such supplemental ordinance as is permitted and provided by this section, this Ordinance shall be and be deemed to be modified and amended in accordance therewith.

Any consent, request, direction, approval, objection or other instrument required by this Ordinance to be signed and executed by the Owners of the Bonds, may be in any number or concurrent writings of similar tenor and may be signed or executed by such owners of the Bonds in person or by agent appointed in writing. Proof of the execution of any such consent, request, direction, approval, objection or other instrument or of the writing appointing any such agent and of the ownership of the Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Ordinance, and shall be conclusive in favor of the County with regard to any action taken by it or them under such request or other instrument, namely:

(a) The fact and date of the execution by any person of any such writing may be proved (i) by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such writing acknowledged before him the execution thereof, or (ii) by an affidavit of any witness to such execution.

(b) The fact of ownership of Bonds and the amount or amounts, numbers and other identification of Bonds, and the date of holding the same shall be proved by the registration books maintained by the Registrar.

SECTION 16. CONTRACTUAL NATURE OF THIS ORDINANCE. This Ordinance shall constitute a contract by and between the County and the Owners of the Bonds herein authorized, and after the issuance of the Bonds, this Ordinance, and the definition of, or the manner of determining, allocating or collecting the Tax Increment or the lien created by this Ordinance, shall not be repealed or amended or impaired in any respect which will adversely affect the rights of Owners of the Bonds (except as specifically provided in Section 15), nor shall the Council or the Commissioners adopt any law, resolution or ordinance which in any way adversely affects the rights of such Owners so long as any of the Bonds or the interest thereon remain unpaid.

Subject to Section 6, the County covenants not to impair the pledge of the Tax Increment to the payment of the 1997 Bonds, so long as any 1997 Bonds are outstanding, or to impair any other pledge or covenant under this Ordinance during that period.

The County further covenants not to change, alter or diminish the District in any way that would adversely affect the Owners of the Bonds so long as any 1997 Bonds remain outstanding.

SECTION 17. EVENTS OF DEFAULT.

(A) If any of the following events occurs, it is hereby defined as and declared to be and to constitute an "Event of Default":

(1) default in the due and punctual payment of any interest on any Bond;
and

(2) default in the due and punctual payment of the principal of any Bond at its stated maturity.

(B) (1) The County shall notify the Trustee of the occurrence of any Event of Default as soon as it has knowledge of such occurrence. The Trustee shall notify the Owners of all Bonds then outstanding of such Event of Default by registered or certified mail, and will have the following rights and remedies:

(a) The Trustee may pursue any available remedy at law or in equity or by statute to enforce the payment of the principal of and interest on the Bonds then outstanding.

(b) The Trustee may use any money in the Construction Fund and the Loan Fund to pay Debt Service if there is an Event of Default.

If an Event of Default shall have occurred, if requested to do so by the Owners of 25% or more in aggregate principal amount of all Bonds then outstanding and if indemnified as provided in Section 18(A)(11), the Trustee shall be obligated to exercise such one or more of the rights, remedies and powers conferred by this subsection as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Owners.

(2) No right or remedy by the terms of this Ordinance conferred upon or reserved to the Trustee or to the Owners is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and shall be in addition to any other right or remedy given to Trustee or to the Owners hereunder or now or hereafter existing at law or in equity or by statute. The assertion or employment of any right or remedy shall not prevent the concurrent or subsequent assertion or employment of any other right or remedy.

(3) No delay or omission to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right or remedy may be exercised from time to time and as often as may be deemed expedient.

(4) No waiver of any Event of Default hereunder, whether by the Trustee or by the Owners, shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

(C) All moneys received hereunder pursuant to any right or remedy given or action taken upon occurrence of an Event of Default under this Ordinance shall, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made hereunder, be deposited in the Bond Principal and Interest Account and all such moneys shall be applied to the Bonds as follows:

(1) Unless the principal of all the Bonds shall have become due and payable, all such moneys shall be applied:

FIRST, to the payment to the persons entitled thereto of all installments of interest then due on the Bonds, including interest on any past due principal of any Bond at the rate borne by such Bond, in the order of the maturity of the installments of such interest and, if the amount available shall not be sufficient to pay in full any particular installment, then to such payment ratably, according to the amounts due on such installments, to the persons entitled thereto, without any discrimination or privilege;

SECOND, to the payment to the persons entitled thereto of the unpaid principal of any of the Bonds which shall have become due either at maturity

or pursuant to a call for redemption (other than Bonds called for redemption for the payment of which other moneys are held pursuant to the provisions this Ordinance), in the order of their due dates, and, if the amount available shall not be sufficient to pay in full the principal of Bonds due on any particular date, together with such interest, then to such payment ratably, according to the amount of principal due on such date, to the persons entitled thereto without any discrimination or privilege; and

THIRD, to be held for the payment to the persons entitled thereto as the same shall become due of the principal of and interest on the Bonds which may thereafter become due either at maturity or upon call for redemption prior to maturity and, if the amount available shall not be sufficient to pay in full the principal of and interest on Bonds due on any particular date, such payment shall be made ratably according to the amount of principal and interest due on such date to the persons entitled thereto without any discrimination or privilege.

(2) Whenever moneys are to be applied pursuant to this subsection, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard for the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue. The Trustee shall establish a special record date for such payments and shall mail, at least 15 days prior to such special record date, such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date. The Trustee shall not be required to make payment of principal to the Owner of any Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

(3) Whenever all principal of and interest on all Bonds have been paid under this subsection and all expenses and charges of the Trustee have been paid, any balance remaining in the Bond Principal and Interest Account, the Debt Service Reserve Account or the General Account shall be paid as provided in the Act.

(D) All rights of action (including the right to file proof of claims) under this Ordinance or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceeding related thereto and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any Owners of the Bonds, and any recovery of judgment shall be for the equal and ratable benefit of the Owners of all the outstanding Bonds.

(E) No Owner of any Bond shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of this Ordinance or for the execution of any trust or for any other remedy hereunder; *provided, however*, nothing contained in this Ordinance shall affect or impair the right of any Owner to enforce the payment of the principal of and interest on any Bond at and after the maturity thereof, or the limited obligation of the County to pay the principal of and interest on each of the Bonds issued hereunder to the respective Owners thereof at the time and place, from the source and in the manner expressed in the Bonds.

(F) In case the Trustee or any Owner of any Bonds shall have proceeded to enforce any right under this Ordinance, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the County, the Trustee and the Owners shall be restored to their former positions and rights hereunder, respectively, and with regard to the property subject to this Ordinance, and all rights, remedies and powers of the Trustee and the Owners of Bonds shall continue as if no such proceedings had been taken.

SECTION 18. THE TRUSTEE.

(A) The Trustee hereby accepts the trusts and duties imposed upon it by this Ordinance, and agrees to perform such trusts and duties with the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of its own affairs, but only upon and subject to the following express terms and conditions:

(1) The Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Ordinance. In case an Event of Default has occurred, the Trustee shall exercise the rights and powers vested in it by this Ordinance in accordance with the standard specified above.

(2) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employees but shall be answerable for the conduct of the same in accordance with the standard specified above, and shall be entitled to advice of counsel concerning all matters of trusts hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the trusts hereof. The Trustee may act upon the opinion or advice of any attorneys (who may be the attorney or attorneys for the County), approved by the Trustee in the exercise of reasonable care. The Trustee shall not be responsible for any loss or damage resulting from any action or nonaction in good faith in reliance upon such opinion or advice.

(3) The Trustee shall not be responsible for any recital herein or in the Bonds, other than the Certificate of Authentication required by this Ordinance, or for the validity of the execution by the County of this Ordinance or of any supplements hereto or instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby.

(4) The Trustee shall not be accountable for the use of any Bond authenticated or delivered hereunder. The Trustee may become the Owner of any Bond secured hereby with the same rights which it would have if not the Trustee and any Bond owned by the Trustee shall be deemed outstanding unless cancelled pursuant to the provisions hereof.

(5) The Trustee shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document reasonably believed to be genuine and correct and to have been signed or sent by the proper person or persons. The Trustee shall not withhold unreasonably its consent, approval or action to any reasonable request of the County. Any action taken by the Trustee pursuant to this Ordinance upon the request or consent of any person who at the time of making such request or giving such consent is the Owner of any of the Bonds, shall be conclusive and binding upon all future Owners of the Bonds and upon Owners of any Bonds issued in exchange therefor or in place thereof.

(6) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled in good faith to rely upon a certificate signed by an Authorized Representative as sufficient evidence of the facts therein contained and prior to the occurrence of an Event of Default of which the Trustee has become aware shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same. The Trustee may accept a certificate of an Authorized Representative to the effect that a resolution or ordinance in the form therein set forth has been adopted by the County as conclusive evidence that such resolution or ordinance has been duly adopted and is in full force and effect.

(7) The permissive right of the Trustee to do things enumerated in this Resolution shall not be construed as a duty and it shall not be answerable for other than its gross negligence or willful default.

(8) At any and all reasonable times the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right to inspect any and all of the books, papers and records of the County pertaining to the revenues and receipts pledged to the payment of the Bonds, and to take such memoranda from and in regard thereto as may be desired.

(9) The Trustee shall not be required to give any bond or surety in respect of the execution of such trusts and powers or otherwise in respect of the premises.

(10) Notwithstanding anything in this Ordinance to the contrary, the Trustee shall have the right, but shall not be required, to demand, in respect of the authentication of any Bonds, the withdrawal of any cash, or any action whatsoever within the purview of this

Ordinance, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action, deemed desirable by the Trustee for the purpose of establishing the right of the County to the authentication of the Bonds, the withdrawal of any cash or the taking of any other action by the Trustee.

(11) Before taking the action referred to in Section 17(B), the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful default, by reason of any action so taken.

(12) All moneys received by the Trustee shall, until used, applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required by law. The Trustee shall not be under any liability for interest on any moneys received hereunder except such as may be agreed upon.

(13) The Trustee for all purposes of this Ordinance shall be deemed to be aware of any Event of Default in the payment of principal of or interest on the Bonds.

(B) The Trustee shall be entitled to payment and reimbursement for reasonable fees for its services rendered hereunder and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by the Trustee in connection with such services, but solely from moneys available therefor under Section 6. Upon any Event of Default, but only upon an Event of Default, the Trustee shall have a first lien with right of payment prior to payment on account of principal of or interest on any Bond upon the Trust Estate for the foregoing fees, charges and expenses incurred by it.

(C) In any judicial proceeding to which the County is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of the Owners of the Bonds, the Trustee may intervene on behalf of the Owners, and shall do so if requested in writing by the Owners of at least 25% of the aggregate principal amount of Bonds then Outstanding.

(D) Any corporation or association into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party (a "Reorganization"), *ipso facto* shall be and become successor Trustee hereunder, if legally qualified to serve as such, and vested with all of the title to the Trust Estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding; *provided* that within 30 days of the effective date of a Reorganization, the Commissioners or the Auditor may object to such corporation or association becoming successor Trustee by filing written notice of such objection with the Trustee and by mailing such notice to the Owners whereupon a successor or temporary Trustee shall be appointed in accordance with subsection (G) of this Section 18.

(E) The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving 30 days' written notice by registered or certified mail to the Auditor, the Commissioners and the Owners of the Bonds, and such resignation shall take effect upon the appointment of a successor Trustee in accordance with subsection (G) of this Section 18 and acceptance of such appointment by the successor Trustee. If the County fails to appoint a successor Trustee within 60 days of receipt of notice of the Trustee's resignation, the Trustee may petition a court of competent jurisdiction to appoint a successor Trustee.

(F) The Trustee may be removed at any time with or without cause by an instrument or concurrent instruments in writing delivered to the Trustee and to the Auditor and the Commissioners and signed by the Owners of a majority of the aggregate principal amount of the outstanding Bonds or their attorneys-in-fact duly authorized. Notice of the removal of the Trustee shall be given in the same manner as provided in subsection (E) or (G) of this Section 18 with respect to the resignation of the Trustee and such removal shall take effect upon the appointment of a successor Trustee. The County shall appoint a successor Trustee immediately upon the removal of the Trustee. So long as no Event of Default, or an event

which with the passage of time would become an Event of Default, shall have occurred and be continuing, the Trustee may be removed at any time, upon appointment of a successor Trustee by resolution of the County filed with the Trustee.

(G) In case the Trustee shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by the Owners of a majority of the aggregate principal amount of all Bonds then outstanding by an instrument or concurrent instruments in writing signed by such Owners or by their attorneys-in-fact duly authorized, a copy of which shall be delivered personally or sent by registered or certified mail to the County. Nevertheless, in case of such vacancy the County by resolution may appoint a temporary Trustee to fill such vacancy. Within 90 days after such appointment, the Owners may appoint a successor Trustee; and any such temporary Trustee so appointed by the County shall become the successor Trustee if no appointment is made by the Owners within such period but in the event an appointment is made by the Owners, such appointment shall immediately and without further act be superseded by any Trustee so appointed by such Owners. Notice of the appointment of a temporary or successor Trustee shall be given in the same manner as provided by subsection (E) of this Section 18 with respect to the resignation of a Trustee. Every such Trustee appointed pursuant to this Section 18 shall be a trust company or bank having a reported capital and surplus of not less than **\$50,000,000**, if there be such an institution willing, qualified and able to accept the trust upon reasonable or customary terms.

(H) Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Auditor and Commissioners an instrument in writing accepting such appointment hereunder, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessors; but such predecessor shall, nevertheless, on the written request of the Auditor or the Commissioners, after the payment of all fees, charges and expenses which may be due and owing to such predecessor pursuant to the provisions of subsection (B) of this Section 18, execute and deliver an instrument transferring to such successor Trustee all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities, moneys and other property or documents held by it as Trustee hereunder to its successor hereunder. Should any instrument in writing from the Commissioners or the Auditor be required by any successor Trustee for more fully and certainly vesting in such successor the estate, rights, powers and duties hereby vested or intended to be vested in the predecessor any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Commissioners or the Auditor. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Section 18, shall be filed or recorded by the successor Trustee in each recording office where this Ordinance shall have been filed or recorded.

(I) In certain cases, it may be necessary that the Trustee, with the approval of the Commissioners or the Auditor, appoint an additional individual or institution as a separate or co-trustee or as a separate registrar or paying agent. The following provisions of this subsection are to effect this end:

(1) If the Trustee with the approval of the County appoints an additional individual or institution as a separate or co-trustee or as a separate registrar or paying agent, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Ordinance to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vested in such separate or co-trustee or separate registrar or paying agent but only to the extent necessary to enable such separate or co-trustee, or separate registrar or paying agent, to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or co-trustee, or separate registrar or paying agent, shall run to and be enforceable by either of them.

(2) Should any instrument in writing from the County be required by the separate or co-trustee, or separate registrar or paying agent, so appointed by the Trustee for more fully and certainly vesting in and confirming to it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Commissioners or the Auditor of the County. In case any separate or co-trustee, or separate registrar or paying agent, or a successor to either, shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers,

trusts, duties and obligations of such separate or co-trustee, registrar or paying agent so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new Trustee or successor to such separate or co-trustee, or separate registrar or paying agent.

(J) If there is a change in the office of Trustee, the predecessor Trustee shall cease to be Registrar and Paying Agent and the successor Trustee shall become Registrar and Paying Agent, unless the Trustee with the approval of the Commissioners or the Auditor appoints a separate registrar or paying agent in accordance with subsection (I) of this Section 18.

SECTION 19. ACCEPTANCE OF TERMS OF BOND. By acceptance of a Bond, each Owner of a Bond, including any subsequent Owner, is deemed to have consented to all the terms and provisions of such Bond and this Bond Ordinance and represents, and is deemed to represent to the County and the Department each and every representation included in the form of the 1997 Bonds (or in the form of any Parity Obligation or Junior Bond, as applicable) under the caption "OWNER REPRESENTATIONS," as if set forth in this Section 19.

SECTION 20. NOTICES. Any notice, request, complaint, demand, communication or other paper shall be sufficiently given when delivered or mailed by certified mail, postage prepaid, or sent by telecopy or overnight commercial delivery service, addressed to the appropriate Notice Address. A duplicate copy of each notice required to be given hereunder by the Trustee or the County to the other shall also be given to the Purchaser. The County, the Trustee or the Purchaser may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

SECTION 21. BUSINESS DAYS. In any case where the date of maturity of interest on or principal of the Bonds or the date fixed for redemption of any Bonds shall not be a Business Day, then payment of interest or principal may be made on the succeeding business day with the same force and effect as if made on the date of maturity or the date fixed for redemption.

SECTION 22. SEVERABILITY. If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 23. REPEAL OF CONFLICTING PROVISIONS. Except for Amended and Restated Ordinance No. 94-32-CL, pursuant to which the 1994 Bonds were issued and are secured, all resolutions, ordinances and orders, or parts thereof, in conflict with the provision of this Ordinance, are, to the extent of such conflict, hereby repealed or amended, and this Ordinance shall be in immediate effect from and after its adoption.

SECTION 24. EFFECTIVE DATE. This Ordinance shall be in full force and effect immediately upon its passage and signing. The Secretary of the Council is hereby directed to deliver a certified copy of this Ordinance to the Auditor of the County.

Adopted on first reading at the meeting of the Tippecanoe County Council held on the 12th day of November, 1997, at the Tippecanoe County Office Building, Lafayette, Indiana.

VOTE

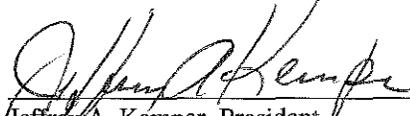
Yes

Yes

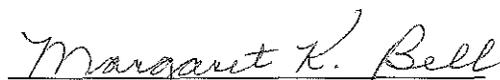
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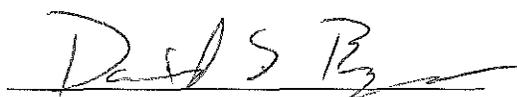
Yes

TIPPECANOE COUNTY COUNCIL


Jeffrey A. Kemper, President


Connie Basham


Margaret K. Bell


David S. Byers

Yes

Jeffrey Kessler
Jeffrey Kessler

No

David S. Koltick
David S. Koltick

Yes

John R. Parente
John R. Parente

Attest: Betty J. Michael
Betty J. Michael, Auditor

Passed upon second reading this 12th day of November, 1997.

VOTE

TIPPECANOE COUNTY COUNCIL

Yes

Jeffrey A. Kemper
Jeffrey A. Kemper, President

Yes

Connie Basham
Connie Basham

Yes

Margaret K. Bell
Margaret K. Bell

No

David S. Byers
David S. Byers

Yes

Jeffrey Kessler
Jeffrey Kessler

No

David S. Koltick
David S. Koltick

Yes

John R. Parente
John R. Parente

Attest: Betty J. Michael
Betty J. Michael, Auditor