

Landowner(s): _____

Parcel ID(s): _____

**PROMISSORY NOTE AND MORTGAGE ON REAL PROPERTY
FOR REPAYMENT OF
DRAIN RECONSTRUCTION FINANCIAL ASSISTANCE
(PROJECT: MARION DUNKIN # 25 RECONSTRUCTION)**

Come now the Tippecanoe County Drainage Board (“County”) and the Landowner(s) listed above (“Landowner”) and enter into this agreement for the repayment of Drain Reconstruction Financial Assistance provided by the County to the Landowner which agreement shall be secured by a lien on certain real property as set forth herein.

RECITAL: The County has entered a reconstruction order with respect to the above referenced Project. Under the Indiana Drainage Code, IC 36-9-27, that order and the reconstruction of a regulated drain have resulted in a reconstruction assessment attributable to drainage improvements to the Landowner’s real estate and the surrounding watershed. By virtue of Tippecanoe County Resolution Number 2016-01-DB, the Drainage Board of Tippecanoe County has created a Reconstruction Financing Assistance Program. This allows the Landowner to repay costs of reconstruction on more favorable terms than would be possible by operation of IC 36-9-27-85 and/or with less expense to Landowners and the County than would be possible through drainage construction loans or issuance of drainage reconstruction bonds. Specifically, reconstruction assessments on the specified parcels will be paid from funds in the Drainage Reconstruction Financing Assistance Fund and, in return, the Landowner(s) will repay the amount paid by the Fund on the terms specified herein and will grant the Drainage Board a security interest in the parcels benefitted.

NOW THEREFORE THE LANDOWNER(S) AND THE COUNTY AGREE AS FOLLOWS:

1. Definitions: As used in this Agreement, the following terms have the following meanings:

(a) **Landowner** means the Landowner or Landowners of the benefitted Real Estate as set forth in Exhibit “A”. In the event of multiple Landowners, when this Agreement refers to “Landowner,” unless the context clearly indicates otherwise, it shall be construed to refer to all Landowners jointly and severally.

(b) **Assessment Amount** means the amount of the reconstruction assessment imposed on the Real Estate by virtue of the Reconstruction Project.

(c) **Reconstruction Project** means the reconstruction of a regulated drain which resulted in a reconstruction order under IC 36-9-27-52 and imposition of a reconstruction assessment under IC 36-9-27-84.

(d) **Real Estate** means the real property belonging to the Landowner and benefitted by the Reconstruction Project as more specifically set forth in the Key Number(s) and Legal Description(s) included on Exhibit A.

2. Payment of Reconstruction Assessment by Tippecanoe County: Tippecanoe County will pay to the Tippecanoe County Treasurer the Assessment Amount from the Reconstruction Financial Assistance Fund. Said payment will be exclusively for satisfaction of reconstruction assessments and is not intended for the

benefit of any other party or for any other use.

3. Payment Agreement: The Landowner hereby agrees to repay the Assessment Amount according to the Repayment Schedule attached hereto as Exhibit B, with annual payment coupons provided by the County Treasurer. It is generally the intent of the parties that the Landowner will repay the Assessment Amount over the course of five years with an interest rate of five percent (5%) with said payment to be made in two, semi-annual installments each year. Payments will be applied first to interest and then to the outstanding Assessment Amount. This section is an express covenant within the meaning of IC 32-29-1-2 acknowledging that, in addition to the mortgage created by this agreement, Landowner will also be personally liable for repayment as described herein. If more than one Landowner has signed this Agreement, Landowner obligations are joint and several. County may proceed against any, all or, none of the Landowners at its discretion, in order to enforce its rights under this Agreement. Absent a written agreement to the contrary, transfer of the Real Estate securing this Payment Agreement shall not relieve Landowner of Landowner's obligations under this Agreement.

4. Right to Prepay: The Landowner may make additional payments toward the Assessment Amount prior to an installment becoming due. There is no penalty for early payment of some or all of the Assessment Amount. However, a Landowner may not make prepayment toward Assessment Amounts until outstanding interest and penalties, if any, have been paid.

5. Penalty for Late Payment: If the full amount of a payment installment due is not received by the end of five (5) calendar days after it is due, a late charge equal to ten percent (10%) of the amount due will be imposed. If the full amount of a payment installment due is not received by the end of sixty (60) calendar days after it is due, the County may, at its option, accelerate this note and seek immediate payment of the entire balance remaining unpaid under the note. Landowner waives rights of presentment and notice of dishonor.

6. Security: To secure repayment of the Assessment Amount and the other conditions and stipulations of this agreement, Landowner (as mortgagor) mortgages to Tippecanoe County (as mortgagee) the Real Estate in Tippecanoe County, Indiana described by the key number(s) and legal description(s) on **Exhibit A** together with appurtenances, improvements, rents, profits, other income which may be derived therefrom all without relief from Valuation and Appraisal Laws. In the event any proceedings shall be instituted on any junior lien or encumbrance against the Real Estate, County may declare this mortgage due and payable and institute such proceedings as may be necessary to protect the County's interest. If Real Estate is to be sold or otherwise transferred while obligations under the repayment agreement remain outstanding, repayment in full shall be made prior to or at the time of sale. In the alternative, at the discretion of the County, the person or persons acquiring the benefitted real estate shall become an additional obligor for the amounts owed under this Agreement. Landowner shall remain personally liable as to the obligations imposed by the Agreement.

7. Notices: County may satisfy any notice requirements under this agreement by sending notice to the address listed for the Landowner to receive tax bills for the Real Estate. Landowner shall send any such notices to "Tippecanoe County Treasurer, 20 N. 3rd Street, Lafayette, Indiana 47901."

8. Costs of Collection and Attorney's Fees: County shall be entitled to all costs of collection and attorney's fees that may be reasonably necessary to enforce the provisions of this Agreement.

9. Waiver of Challenge to Reconstruction Proceedings: Landowner hereby waives any right Landowner has to challenge the reconstruction order, the amount of the assessment, and/or the

determination of benefits and costs under the reconstruction order.

AGREED TO BY LANDOWNER:

This Promissory Note and Mortgage is agreed to and executed by Landowner(s) this ____ day of _____, _____.

Landowner 1:

Name of Landowner (printed)

By (if Landowner is not an individual) (printed): _____

Signature: _____

Landowner 2 (if any):

Name of Landowner (printed)

By (if Landowner is not an individual) (printed): _____

Signature: _____

STATE OF INDIANA)
) SS:
COUNTY OF TIPPECANOE)

Before me, a Notary Public in and for said County and State, personally appeared _____ (Landowner 1) and _____ (Landowner 2 - if any) who acknowledged execution of the foregoing Promissory Note and Mortgage, and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this ____ day of _____, 20__.

My commission expires: _____ Signature _____

Printed _____
Notary Public

Resident of _____ County

APPROVED AND ACCEPTED BY TIPPECANOE COUNTY DRAINAGE BOARD:

This Promissory Note and Mortgage is accepted and approved by the Tippecanoe County Drainage Board this ____ day of _____, _____.

Tracy A. Brown

Thomas P. Murtaugh

David S. Byers

STATE OF INDIANA)
) SS:
COUNTY OF TIPPECANOE)

Before me, a Notary Public in and for said County and State, personally appeared Tracy A. Brown, Thomas P. Murtaugh, and David S. Byers who acknowledged approval and acceptance of the foregoing Promissory Note and Mortgage.

Witness my hand and Notarial Seal this ____ day of _____, 20__.

My commission expires: _____ Signature _____

Printed _____
Notary Public

Resident of _____ County

This instrument prepared by Douglas J. Masson, #19474-53 Hoffman, Luhman & Masson, PC 200 Ferry Street, Suite C, Box 99 Lafayette, IN 47902 Telephone (765) 423-5404

I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. /s/ Douglas J. Masson