

ORDINANCE NO. 743

An Ordinance concerning the refunding by the Town of Yorktown of its outstanding Sewage Works Revenue Bonds of 2008; authorizing the issuance of sewage works refunding revenue bonds for such purpose; providing for the collection, segregation and distribution of the revenues of the sewage works and the safeguarding of the interests of the owners of the sewage works refunding revenue bonds authorized herein; other matters connected therewith; and repealing ordinances inconsistent herewith

WHEREAS, the Town of Yorktown, Indiana ("Town") has heretofore established, constructed and financed a municipal sewage works and now owns and operates the sewage works pursuant to IC 36-9-23, and other applicable laws; and

WHEREAS, the Town Council finds that certain hereinafter described outstanding bonds of the sewage works should be advance refunded to obtain a reduction in interest payments and effect a savings to the Town by providing for the payment of such outstanding bonds; that the refunding of said outstanding bonds, together with accrued interest thereon and including all costs related to the refunding cannot be provided for out of funds of the sewage works now on hand and the refunding should be accomplished by the issuance of revenue bonds of the sewage works; and

WHEREAS, the Town Council finds that there are now outstanding bonds originally issued to finance the construction of additions and improvements to the sewage works and payable out of the revenues therefrom designated Sewage Works Revenue Bonds of 2008, dated November 26, 2008 ("2008 Bonds"), originally issued in the amount of \$3,220,000, now outstanding in the amount of \$2,865,000, and maturing annually over a period ending March 1, 2029, which 2008 Bonds constitute a first charge upon the hereinafter defined Net Revenues of the sewage works; and

WHEREAS, the Town Council finds that the 2008 Bonds (hereinafter, "Refunded Bonds") should be refunded pursuant to the provisions of IC 5-1-5 to enable the Town to obtain a reduction in interest payments and effect a savings to the Town; and

WHEREAS, the Town Council finds that there are insufficient funds on hand of the Town to apply on the cost of the refunding and that it is necessary to issue its refunding revenue bonds in an aggregate principal amount not to exceed \$2,895,000 and to use the proceeds, together with funds on hand, to refund the Refunded Bonds and to pay for all costs related to the refunding; and

WHEREAS, the bonds to be issued pursuant to this ordinance will constitute a first charge against the Net Revenues (defined as the gross revenues after deduction only for the payment of the reasonable expenses of operation, repair and maintenance, excluding transfers for payment in lieu of property taxes ("PILOTs")) of the sewage works, and are to be issued subject to the provisions of the laws of the State of Indiana, including, without limitation, IC 5-1-5 and IC 36-9-23, as in effect on the issue date of the bonds (collectively, "Act"), and the terms and restrictions of this ordinance; and

WHEREAS, the Town Council has been advised that it may be cost efficient to purchase a debt service reserve surety for the bonds authorized herein; and

WHEREAS, the Town Council now finds that all conditions precedent to the adoption of an ordinance authorizing the issuance of revenue bonds have been complied with in accordance with the provisions of the Act;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF YORKTOWN, INDIANA, THAT:

Section 1. Issuance of Refunding Bonds; Redemption of Refunded Bonds. The Town, being the owner of and engaged in operating an unencumbered sewage works supplying the Town, its inhabitants, and the residents adjacent thereto, with sewage collection and treatment services, now finds it necessary to provide funds for refunding the Refunded Bonds thereby reducing its interest payments and effecting a savings, as reported by the Town's financial advisor, H.J. Umbaugh & Associates, Certified Public Accountants, LLP. The terms "sewage works," "sewage works system," "works," "system," and words of like import where used in this ordinance shall be construed to mean and include all structures and property of the Town's sewer utility, including items defined in IC 36-9-1-8.

The Town shall issue its bonds to be designated "Sewage Works Refunding Revenue Bonds of ____" to be completed with the year in which issued ("Refunding Bonds"), in an aggregate principal amount not to exceed Two Million Eight Hundred Ninety-five Thousand Dollars (\$2,895,000), for the purpose of procuring funds to be applied to the advance refunding of the Refunded Bonds, the payment of costs of issuance, including a premium for a debt service reserve surety, if acquired, and all other costs related to the refunding. The Town shall apply moneys currently held for the payment of debt service on the Refunded Bonds to the refunding as provided in Section 8.

The Refunding Bonds shall be issued in the denomination of Five Thousand Dollars (\$5,000) each or integral multiples thereof. If the Refunding Bonds are sold to a sophisticated investor, the Refunding Bonds may be issued in minimum denominations of \$100,000 and integral multiples of \$5,000 thereafter. The Refunding Bonds shall be numbered consecutively from 1 upward, dated as of the first day of the month in which they are sold or issued, or as of the date of delivery of the Refunding Bonds, as determined by the Clerk-Treasurer with the

advice of the Town's financial advisor. Interest on the Refunding Bonds shall be payable semiannually on March 1 and September 1 in each year, beginning on the first March 1 or the first September 1 following delivery of the Refunding Bonds as designated by the Clerk-Treasurer, with the advice of the Town's financial advisor. The Refunding Bonds shall be sold at a price of not less than 99% of the par value thereof. The Refunding Bonds shall be payable in lawful money of the United States of America, at the principal office of the Paying Agent (as hereinafter defined). The Refunding Bonds shall bear interest at a rate or rates not exceeding 4% per annum (the exact rate or rates to be determined by bidding or negotiation). The Refunding Bonds shall mature semiannually, or shall be subject to mandatory sinking fund redemption if term bonds are issued, on March 1 and September 1 of each year, ending no later than March 1, 2029, and in such amounts which will either (i) maintain the approximate annual debt service less the annual savings as a result of the refunding; or (ii) maximize savings.

All or a portion of the Refunding Bonds may be issued as one or more term bonds, upon election of the successful bidder. Such term bonds shall have a stated maturity or maturities on the dates as determined by the purchaser, but in no event later than the final serial maturity date of the Refunding Bonds as hereafter determined in accordance with the above paragraph. The term bonds shall be subject to mandatory sinking fund redemption and final payment(s) at maturity at 100% of the principal amount thereof, plus accrued interest to the redemption date, on principal payment dates which are hereinafter determined in accordance with the above paragraph.

Interest on the Refunding Bonds shall be calculated according to a 360-day calendar year containing twelve 30-day months.

Section 2. Registrar and Paying Agent; Book-Entry Provisions. The Clerk-Treasurer is hereby authorized to contract with a qualified financial institution to serve as Registrar and Paying Agent for the Refunding Bonds ("Registrar" or "Paying Agent"). The Registrar is hereby charged with the responsibility of authenticating the Refunding Bonds. The Clerk-Treasurer is hereby authorized to enter into such agreements or understandings with the Registrar as will enable the institution to perform the services required of a registrar and paying agent. The Clerk-Treasurer is further authorized to pay such fees as the Registrar may charge for the services it provides as Registrar and Paying Agent and such fees may be paid from the Sewage Works Sinking Fund established to pay the principal of and interest on the Refunding Bonds as fiscal agency charges. As to the Refunding Bonds, if the purchaser does not object to such designation, the Clerk-Treasurer may serve as Registrar and Paying Agent and in that case, is hereby charged with the duties of a Registrar and Paying Agent.

The principal of the Refunding Bonds shall be payable at the principal corporate trust office of the Paying Agent. All payments of interest on the Refunding Bonds shall be paid by check, mailed one business day prior to the interest payment date to the registered owners thereof as the names appear as of the fifteenth day of the month preceding the interest payment date ("Record Date") and at the addresses as they appear on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by such registered owner. If payment of principal or interest is made to a depository, payment shall be made by wire transfer on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day. The Paying Agent shall be instructed to wire transfer payments by 1:00 p.m. (New York City time) so such payments are received at the depository by 2:30 p.m.

(New York City time). All payments on the Refunding Bonds shall be made in any coin or currency of the United States of America, which on the date of such payment, shall be legal tender for the payment of public and private debts.

Each Refunding Bond shall be transferable or exchangeable only upon the books of the Town kept for that purpose at the principal corporate trust office of the Registrar by the registered owner in person, or by its attorney duly authorized in writing, upon surrender of such Refunding 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 Refunding Bond or Refunding Bonds in an authorized aggregate principal amount and of the same maturity and the same series, shall be executed and delivered in the name of the transferee or transferees or the registered owner, as the case may be, in exchange therefor. The costs of such transfer or exchange shall be borne by the Town except for any tax or governmental charge required to be paid with respect to the transfer or exchange, which taxes or governmental charges are payable by the person requesting such transfer or exchange. The Town and the Registrar and Paying Agent for the Refunding Bonds may treat and consider the person in whose name such Refunding 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.

The Registrar and Paying Agent may at any time resign as Registrar and Paying Agent upon giving 30 days' notice in writing to the Town and by first class mail to each registered owner of the Refunding Bonds then outstanding, and such resignation will take effect at the end of such 30 day period or upon the earlier appointment of a successor registrar and paying agent by the Town. Any such notice to the Town may be served personally or sent by registered mail.

The Registrar and Paying Agent may be removed at any time as Registrar and Paying Agent by the Town, in which event the Town may appoint a successor registrar and paying agent. The Town shall notify each registered owner of the Refunding Bonds then outstanding by first class mail of the removal of the Registrar and Paying Agent. Notices to the registered owners of the Refunding Bonds shall be deemed to be given when mailed by first class mail to the addresses of such registered owners as they appear on the registration books kept by the Registrar.

Upon the appointment of any successor registrar and paying agent by the Town, the Clerk-Treasurer is authorized and directed to enter into such agreements and understandings with such successor registrar and paying agent as will enable the institution to perform the services required of a registrar and paying agent for the Refunding Bonds. The Clerk-Treasurer is further authorized to pay such fees as the successor registrar and paying agent may charge for the services it provides as registrar and paying agent and such fees may be paid from the Sewage Works Sinking Fund created in Section 15 hereof. Any predecessor registrar and paying agent shall deliver all of the Refunding Bonds and any cash or investments in its possession with respect thereto, together with the registration books, to the successor registrar and paying agent.

Interest on the Refunding Bonds shall be payable from the interest payment date to which interest has been paid next preceding the authentication date of the Refunding Bonds unless the Refunding Bonds are authenticated after the Record Date and on or before such interest payment date in which case they shall bear interest from such interest payment date, or unless the Refunding Bonds are authenticated on or before the Record Date preceding the first interest payment date, in which case they shall bear interest from the original date until the principal shall be fully paid.

The Town has determined that it may be beneficial to the Town to have the Refunding Bonds held by a central depository system pursuant to an agreement between the Town and The Depository Trust Company, New York, New York ("Depository Trust Company") and have transfers of the Refunding Bonds effected by book-entry on the books of the central depository system ("Book Entry System"). The Refunding Bonds may be initially issued in the form of a separate single authenticated fully registered Refunding Bond for the aggregate principal amount of each separate maturity of the Refunding Bonds. In such case, upon initial issuance, the ownership of such Refunding Bonds shall be registered in the register kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company.

With respect to the Refunding Bonds registered in the register kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company, the Town and the Paying Agent shall have no responsibility or obligation to any other holders or owners (including any beneficial owner ("Beneficial Owner")) of the Refunding Bonds with respect to (i) the accuracy of the records of the Depository Trust Company, CEDE & CO., or any Beneficial Owner with respect to ownership questions, (ii) the delivery to any bondholder (including any Beneficial Owner) or any other person, other than the Depository Trust Company, of any notice with respect to the Refunding Bonds including any notice of redemption, or (iii) the payment to any bondholder (including any Beneficial Owner) or any other person, other than the Depository Trust Company, of any amount with respect to the principal of, or premium, if any, or interest on the Refunding Bonds except as otherwise provided herein.

No person other than the Depository Trust Company shall receive an authenticated Refunding Bond evidencing an obligation of the Town to make payments of the principal of and premium, if any, and interest on the Refunding Bonds pursuant to this ordinance. The Town and

the Registrar and Paying Agent may treat as and deem the Depository Trust Company or CEDE & CO. to be the absolute bondholder of each of the Refunding Bonds for the purpose of (i) payment of the principal of and premium, if any, and interest on such Refunding Bonds; (ii) giving notices of redemption and other notices permitted to be given to bondholders with respect to such Refunding Bonds; (iii) registering transfers with respect to such Refunding Bonds; (iv) obtaining any consent or other action required or permitted to be taken of or by bondholders; (v) voting; and (vi) for all other purposes whatsoever. The Paying Agent shall pay all principal of and premium, if any, and interest on the Refunding Bonds only to or upon the order of the Depository Trust Company, and all such payments shall be valid and effective fully to satisfy and discharge the Town's and the Paying Agent's obligations with respect to principal of and premium, if any, and interest on the Refunding Bonds to the extent of the sum or sums so paid. Upon delivery by the Depository Trust Company to the Town of written notice to the effect that the Depository Trust Company has determined to substitute a new nominee in place of CEDE & CO., and subject to the provisions herein with respect to consents, the words "CEDE & CO." in this ordinance shall refer to such new nominee of the Depository Trust Company. Notwithstanding any other provision hereof to the contrary, so long as any Refunding Bond is registered in the name of CEDE & CO., as nominee of the Depository Trust Company, all payments with respect to the principal of and premium, if any, and interest on such Refunding Bonds and all notices with respect to such Refunding Bonds shall be made and given, respectively, to the Depository Trust Company as provided in a representation letter from the Town to the Depository Trust Company.

Upon receipt by the Town of written notice from the Depository Trust Company to the effect that the Depository Trust Company is unable or unwilling to discharge its responsibilities

and no substitute depository willing to undertake the functions of the Depository Trust Company hereunder can be found which is willing and able to undertake such functions upon reasonable and customary terms, then the Refunding Bonds shall no longer be restricted to being registered in the register of the Town kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company, but may be registered in whatever name or names the bondholders transferring or exchanging the Refunding Bonds shall designate, in accordance with the provisions of this ordinance.

If the Town determines that it is in the best interest of the bondholders that they be able to obtain certificates for the fully registered Refunding Bonds, the Town may notify the Depository Trust Company and the Registrar, whereupon the Depository Trust Company will notify the Beneficial Owners of the availability through the Depository Trust Company of certificates for the Refunding Bonds. In such event, the Registrar shall prepare, authenticate, transfer and exchange certificates for the Refunding Bonds as requested by the Depository Trust Company and any Beneficial Owners in appropriate amounts, and whenever the Depository Trust Company requests the Town and the Registrar to do so, the Registrar and the Town will cooperate with the Depository Trust Company by taking appropriate action after reasonable notice (i) to make available one or more separate certificates evidencing the fully registered Refunding Bonds of any Beneficial Owner's Depository Trust Company account or (ii) to arrange for another securities depository to maintain custody of certificates for and evidencing the Refunding Bonds.

If the Refunding Bonds shall no longer be restricted to being registered in the name of a Depository Trust Company, the Registrar shall cause the Refunding Bonds to be printed in blank in such number as the Registrar shall determine to be necessary or customary; provided,

however, that the Registrar shall not be required to have such Refunding Bonds printed until it shall have received from the Town indemnification for all costs and expenses associated with such printing.

In connection with any notice or other communication to be provided to bondholders by the Town or the Registrar with respect to any consent or other action to be taken by bondholders, the Town or the Registrar, as the case may be, shall establish a record date for such consent or other action and give the Depository Trust Company notice of such record date not less than fifteen (15) calendar days in advance of such record date to the extent possible.

So long as the Refunding Bonds are registered in the name of the Depository Trust Company or CEDE & CO. or any substitute nominee, the Town and the Registrar and Paying Agent shall be entitled to request and to rely upon a certificate or other written representation from the Beneficial Owners of the Bonds or from the Depository Trust Company on behalf of such Beneficial Owners stating the amount of their respective beneficial ownership interests in the Refunding Bonds and setting forth the consent, advice, direction, demand or vote of the Beneficial Owners as of a record date selected by the Registrar and the Depository Trust Company, to the same extent as if such consent, advice, direction, demand or vote were made by the bondholders for purposes of this ordinance and the Town and the Registrar and Paying Agent shall for such purposes treat the Beneficial Owners as the bondholders. Along with any such certificate or representation, the Registrar may request the Depository Trust Company to deliver, or cause to be delivered, to the Registrar a list of all Beneficial Owners of the Refunding Bonds, together with the dollar amount of each Beneficial Owner's interest in the Refunding Bonds and the current addresses of such Beneficial Owners.

Section 3. Redemption Refunding Bonds. The Refunding Bonds of this issue are redeemable at the option of the Town no sooner than September 1, 2026, and thereafter on any date, on thirty (30) days' notice, in whole or in part, in the order of maturity as determined by the Town and by lot within a maturity, at face value, together with a premium no greater than 1%, plus in each case accrued interest to the date fixed for redemption. The exact redemption features shall be established by the Clerk-Treasurer, with the advice of the Town's financial advisor, and shall be set out in the preliminary Official Statement or the Purchase Contract described in Sections 6 and 8 herein, respectively.

If any Refunding Bond is issued as a term bond, the Paying Agent shall credit against the mandatory sinking fund requirement for the Refunding Bonds maturing as term bonds, and corresponding mandatory redemption obligation, in the order determined by the Town, any Refunding Bonds maturing as term bonds which have previously been redeemed (otherwise than as a result of a previous mandatory redemption requirement) or delivered to the Registrar for cancellation or purchased for cancellation by the Paying Agent and not theretofore applied as a credit against any redemption obligation. Each Refunding Bond maturing as a term bond so delivered or canceled shall be credited by the Paying Agent at 100% of the principal amount thereof against the mandatory sinking fund obligation on such mandatory sinking fund date, and any excess of such amount shall be credited on future redemption obligations, and the principal amount of the Refunding Bonds to be redeemed by operation of the mandatory sinking fund requirement shall be accordingly reduced; provided, however, the Paying Agent shall credit only such Refunding Bonds maturing as term bonds to the extent received on or before forty-five (45) days preceding the applicable mandatory redemption date as stated above.

Each Five Thousand Dollars (\$5,000) principal amount shall be considered a separate bond for purposes of optional mandatory redemption. If less than an entire maturity is called for redemption, the Refunding Bonds to be called shall be selected by lot by the Registrar. If some Refunding Bonds are to be redeemed by optional redemption and mandatory sinking fund redemption on the same date, the Registrar shall select by lot the Bonds for optional redemption before selecting the Refunding Bonds by lot for the mandatory sinking fund redemption.

(a) In either case, notice of such redemption shall be given at least thirty (30) days prior to the date fixed for redemption by mail unless the notice is waived by the registered owner of a Refunding Bond. Such notice shall be mailed to the address of the registered owners as shown on the registration records of the Town as of the date which is forty-five (45) days prior to such redemption date. The notice shall specify the date and place of redemption and sufficient identification of the Refunding Bonds called for redemption. The place of redemption shall be determined by the Town. Interest on the Refunding Bonds so called for redemption shall cease on the redemption date fixed in such notice if sufficient funds are available at the principal office of the Paying Agent to pay the redemption price on the date so named. Coincidentally with the payment of the redemption price, the Refunding Bonds so called for redemption shall be surrendered for cancellation.

Section 4. Execution and Negotiability. Each of the Refunding Bonds shall be executed in the name of the Town by the manual or facsimile signature of the Town Council President and attested by the manual or facsimile signature of its Clerk-Treasurer, and the seal of the Town shall be affixed, imprinted or impressed to or on each of the Refunding Bonds manually, by facsimile or any other means; and these officials, by the execution of a Signature and No Litigation Certificate, shall adopt as and for their own proper signatures the facsimile

signatures appearing on the Refunding Bonds. In case any officer whose signature or facsimile signature appears on the Refunding Bonds shall cease to be such officer before the delivery of the Refunding Bonds, the signature of such officer shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

The Refunding Bonds shall have all of the qualities and incidents of negotiable instruments under the laws of the State of Indiana, subject to the provisions for registration herein.

The Refunding Bonds shall also be authenticated by the manual signature of the Registrar, and no Refunding Bond shall be valid or become obligatory for any purpose until the certificate of authentication thereon has been so executed.

Section 5. Form of Refunding Bonds. The form and tenor of the Refunding Bonds shall be substantially as follows, all blanks to be filled in properly prior to delivery:

[Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the Town of Yorktown, Indiana, or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.]

NO. _____

UNITED STATES OF AMERICA

STATE OF INDIANA

COUNTY OF DELAWARE

TOWN OF YORKTOWN

SEWAGE WORKS REFUNDING REVENUE BOND OF _____

[Interest <u>Rate</u>]	[Maturity <u>Date</u>]	Original <u>Date</u>	Authentication <u>Date</u>	[CUSIP]
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REGISTERED OWNER:

PRINCIPAL SUM:

The Town of Yorktown ("Town"), in Delaware County, State of Indiana, for value received, hereby promises to pay to the Registered Owner named above or registered assigns, solely out of the special revenue fund hereinafter referred to, the Principal Sum set forth above on [the Maturity Date set forth above] **OR** [March 1 and September 1 on the dates and in the amounts as set forth on Exhibit A attached hereto] (unless this bond be subject to and be called for redemption prior to maturity as hereinafter provided), and to pay interest hereon at the Interest Rate per annum [stated above] **OR** [as set forth on Exhibit A attached hereto] from the interest payment date to which interest has been paid next preceding the Authentication Date of this bond unless this 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 bond is authenticated on or before _____, 15, 20____ in which case it shall bear interest from the Original Date, until the principal is paid, which interest is payable semiannually on the first day of March and September of each year, beginning on _____, 20____. Interest shall be calculated according to a 360-day calendar year containing twelve 30-day months.

The principal of this bond is payable at the principal office of _____ ("Registrar" or "Paying Agent"), in the _____ of _____, Indiana. All payments of interest on this bond shall be paid by check, mailed one business day prior to the interest payment date to the registered owner hereof as of the fifteenth day of the month preceding such interest payment date at the address as it appears on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by the registered owner. [Notwithstanding anything to the contrary herein, this bond shall not be required to be presented or surrendered to receive payment in connection with any mandatory sinking fund redemption until the final maturity date of this bond or earlier payment in full of this bond.] If payment of principal or interest is made to a depository, payment shall be made by wire transfer on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day. The Paying Agent shall wire transfer payments by 1:00 p.m. (New York City time) so such payments are received at the depository by 2:30 p.m. (New York City). All payments on the bond shall be made in any coin or currency of the United States of America, which on the dates of such payment, shall be legal tender for the payment of public and private debts.

THE TOWN SHALL NOT BE OBLIGATED TO PAY THIS BOND OR THE INTEREST HEREON EXCEPT FROM THE HEREINAFTER DESCRIBED SPECIAL FUND, AND NEITHER THIS BOND NOR THE ISSUE OF WHICH IT IS A PART SHALL IN ANY RESPECT CONSTITUTE A CORPORATE INDEBTEDNESS OF THE TOWN WITHIN THE PROVISIONS AND LIMITATIONS OF THE CONSTITUTION OF THE STATE OF INDIANA.

This bond is [the only] one of an authorized issue of bonds of the Town[, of like date, tenor and effect, except as to rates of interest and dates of maturity]; aggregating _____ Dollars (\$_____); numbered consecutively from 1 up; issued for the purpose of refunding certain Refunded Bonds (as defined in the hereinafter defined Ordinance) and to pay issuance expenses[including a premium for a debt service reserve surety]. This bond is issued pursuant to an Ordinance adopted by the Town Council of the Town on the _____ day of _____, 2016, entitled "An Ordinance concerning the refunding by the Town of Yorktown of its outstanding Sewage Works Revenue Bonds of 2008; authorizing the issuance of sewage works refunding revenue bonds for such purpose; providing for the collection, segregation and distribution of the revenues of the sewage works and the safeguarding of the interests of the owners of the sewage works refunding revenue bonds authorized herein; other matters connected therewith; and repealing ordinances inconsistent herewith" ("Ordinance"), and in accordance with the provisions of Indiana law, including without limitation Indiana Code 5-1-5 and IC 36-9-23, as in effect on the date of delivery of the bonds of this issue (collectively, "Act"), the proceeds of which bonds are to be applied to the costs of the refunding and legal defeasance of the Refunded Bonds and expenses incurred in connection therewith.

Pursuant to the provisions of the Act and the Ordinance, the principal of and interest on this bond and all other bonds of said issue, and any bonds hereafter issued on a parity therewith are payable solely from the Sewage Works Sinking Fund created by the Ordinance ("Sinking Fund") to be provided from the Net Revenues (defined as the gross revenues after deduction only for the payment of the reasonable expenses of operation, repair and maintenance, excluding transfers for payment in lieu of property taxes) of the sewage works of the Town now owned or hereafter acquired.

Pursuant to the Ordinance and the Escrow Agreement defined therein, the Town has set aside securities (purchased from proceeds of the bonds of this issue and funds on hand of the Town) and certain cash in a Trust Account to provide payment of principal of and interest on the Refunded Bonds by the purchase of obligations of the United States of America.

The Town has designated the bonds as qualified tax-exempt obligations to qualify the bonds for the \$10,000,000 exception from the provisions of Section 265(b)(3) of the Internal Revenue Code of 1986 relating to the disallowance of the deduction for interest expense allocable to tax-exempt obligations.

The Town irrevocably pledges the entire Net Revenues of the sewage works to the prompt payment of the principal of and interest on the bonds authorized by the Ordinance, of which this is one, and any bonds ranking on a parity therewith to the extent necessary for that purpose, and covenants that it will cause to be fixed, maintained and collected such rates and charges for services rendered by the utility as are sufficient in each year for the payment of the proper and reasonable expenses of operation, repair and maintenance of the sewage works and for the payment of the sums required to be paid into the Sinking Fund under the provisions of the Act and the Ordinance. If the Town or the proper officers thereof shall fail or refuse to so fix, maintain and collect such rates or charges, or if there be a default in the payment of the interest on or principal of this bond, the owner of this bond shall have all of the rights and remedies provided for in the Act, including the right to have a receiver appointed to administer the works

and to charge and collect rates sufficient to provide for the payment of this bond and the interest hereon.

The Town further covenants that it will set aside and pay into its Sinking Fund monthly, as available, or more often if necessary, a sufficient amount of the Net Revenues of the works for payment of: (a) the interest on all bonds which by their terms are payable from the revenues of the sewage works, as such interest shall fall due; (b) the necessary fiscal agency charges for paying bonds and interest; (c) the principal of all bonds which by their terms are payable from the revenues of the sewage works, as such principal shall fall due; and (d) an additional amount as a margin of safety to [create and] maintain the debt service reserve required by the Ordinance. Such required payments shall constitute a first charge upon all the Net Revenues of the sewage works.

The bonds of this issue maturing on and after _____ 1, 20____, are redeemable at the option of the Town on _____ 1, 20____, or any date thereafter, on thirty (30) days' notice, in whole or in part, in the order of maturity as determined by the Town and by lot within a maturity, at face value, together with the following premiums:

____% if redeemed on _____ 1, 20____ or thereafter
on or before _____, 20____;
0% if redeemed on _____ 1, 20____ or thereafter
prior to maturity;

plus accrued interest to the date fixed for redemption.

[The bonds maturing on _____ 1, ____ are subject to mandatory sinking fund redemption prior to maturity, at a redemption price equal to the principal amount thereof plus accrued interest on the dates and in the amounts set forth below:

<u>Date</u>	<u>Amount</u>
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*

* Final Maturity]

Each Five Thousand Dollars (\$5,000) principal amount shall be considered a separate bond for purposes of optional [and mandatory] redemption. If less than an entire maturity is called for redemption, the bonds to be redeemed shall be selected by lot by the Registrar. [If some bonds are to be redeemed by optional redemption and mandatory sinking fund redemption on the same date, the Registrar shall select by lot the bonds for optional redemption before selecting the bonds by lot for the mandatory sinking fund redemption.]

Notice of such redemption shall be mailed to the address of the registered owner as shown on the registration records of the Town, as of the date which is forty-five (45) days prior to such redemption date, not less than thirty (30) days prior to the date fixed for redemption unless the notice is waived by the registered owner of this bond. The notice shall specify the date and place of redemption and sufficient identification of the bonds called for redemption.

The place of redemption may be determined by the Town. Interest on the bonds so called for redemption shall cease on the redemption date fixed in such notice if sufficient funds are available at the place of redemption to pay the redemption price on the date so named.

If this bond shall not be presented for payment or redemption on the date fixed therefor, the Town may deposit in trust with its depository bank an amount sufficient to pay such bond or the redemption price, as the case may be, and thereafter the registered owner shall look only to the funds so deposited in trust with said bank for payment and the Town shall have no further obligation or liability in respect thereto.

This bond is transferable or exchangeable only upon the books of the Town kept for that purpose at a principal corporate trust office of the Registrar by the registered owner hereof in person, or by his attorney duly authorized in writing, upon surrender of this bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner, or his attorney duly authorized in writing, and thereupon a new fully registered bond or bonds in an authorized aggregate principal amount and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or to the registered owner, as the case may be, in exchange therefor. This bond may be transferred without cost to the registered owner except for any tax or governmental charge required to be paid with respect to the transfer. The Town, the Registrar, the Paying Agent and any other registrar or paying agent for this bond may treat and consider the person in whose name this bond is registered as the absolute owner hereof for all purposes including for the purpose of receiving payment of, or on account of, the principal hereof and interest due hereon.

[The bonds shall be initially issued in a Book Entry System (as defined in the Ordinance). The provisions of this bond and of the Ordinance are subject in all respects to the provisions of the Letter of Representations between the Town and The Depository Trust Company, or any substitute agreement, effecting such Book Entry System.]

This bond is subject to defeasance prior to redemption or payment as provided in the Ordinance referred to herein. **THE OWNER OF THIS BOND, BY THE ACCEPTANCE HEREOF, HEREBY AGREES TO ALL THE TERMS AND PROVISIONS CONTAINED IN THE ORDINANCE.** The Ordinance may be amended without the consent of the owners of the bonds as provided in the Ordinance if the Town Council determines, in its sole discretion, that the amendment shall not adversely affect the rights of any of the owners of the bonds.

[The bonds maturing in any one year are issuable only in fully registered form in the denomination of [\$5,000 or integral multiples thereof] **OR** [\$100,000 and any integral multiple of \$5,000 thereafter] not exceeding the aggregate principal amount of the bonds maturing in such year. [The sale or transfer of this bond in principal amounts of less than \$100,000 is prohibited other than through a primary offering.]

It is hereby certified and recited that all acts, conditions and things required to be done precedent to and in the execution, issuance and delivery of this bond have been done and performed in regular and due form as provided by law.

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

IN WITNESS WHEREOF, the Town of Yorktown, in Delaware County, Indiana, has caused this bond to be executed in its corporate name by the manual or facsimile signature of its Town Council President, its corporate seal to be hereunto affixed, imprinted or impressed by any means and attested manually or by facsimile by its Clerk-Treasurer.

TOWN OF YORKTOWN, INDIANA

By _____
Town Council President

[SEAL]

Attest:

Clerk-Treasurer

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds described in the within-mentioned Ordinance.

_____, as Registrar

By: _____
Authorized Representative

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ this bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, attorney, to transfer the within bond in the books kept for the registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: Signature(s) must be
guaranteed by an eligible guarantor

NOTICE: The signature to this
assignment must correspond with the

institution participating in a Securities Transfer Association recognized signature guarantee program.

name as it appears on the face of the within bond in every particular, without alteration or enlargement or any change whatsoever.

[EXHIBIT A]

[End of bond form]

Section 6. Authorization for Preparation and Sale of Refunding Bonds; Official Statement; Continuing Disclosure. (a) The Clerk-Treasurer is hereby authorized and directed to have the Refunding Bonds prepared, and the Town Council President and Clerk-Treasurer are hereby authorized and directed to execute and attest the Refunding Bonds in the form and manner provided herein.

(b) The Clerk-Treasurer is hereby authorized and directed to deliver the Refunding Bonds to the purchaser thereof. At the time of delivery of the Refunding Bonds, the Clerk-Treasurer shall collect the full amount which the purchaser has agreed to pay therefor, which amount shall not be less than 99% of the face value of the Refunding Bonds. The Refunding Bonds herein authorized, when fully paid for and delivered to the purchaser, shall be the binding special revenue obligations of the Town payable out of the Net Revenues of the sewage works. The proper officers of the City are hereby directed to sell the Refunding Bonds, to draw all proper and necessary warrants, and to do whatever acts and things which may be necessary to carry out the provisions of this ordinance.

(c) The Clerk-Treasurer is hereby authorized to appoint a financial institution to serve as escrow trustee ("Escrow Trustee") in accordance with the terms of the Escrow Agreement between the Town and the Escrow Trustee ("Escrow Agreement"). The Town Council President and the Clerk-Treasurer are hereby authorized and directed to complete, execute and attest an

Escrow Agreement on behalf of the Town so long as its provisions are consistent with this ordinance.

(d) The execution, by either the Town Council President, the Clerk-Treasurer, the purchaser of the Refunding Bonds, or the Town's financial advisor, of a subscription for United States Treasury Obligations – State and Local Government Series for investments of proceeds of the Refunding Bonds to be held under the Escrow Agreement in a manner consistent with this ordinance is hereby approved.

(e) Distribution of an Official Statement (preliminary and final) for the Refunding Bonds, prepared by H.J. Umbaugh & Associates, Certified Public Accountants, LLP, on behalf of the Town, is hereby authorized and approved and the Town Council President and Clerk-Treasurer are authorized and directed to execute the Official Statement on behalf of the Town in a form consistent with the ordinance. The Town Council President or Clerk-Treasurer is hereby authorized to designate the preliminary Official Statement as "nearly final" for purposes of Rule 15c2-12 as promulgated by the Securities and Exchange Commission ("Rule").

(f) If an Official Statement is not required upon delivery of the Refunding Bonds, the Town shall obtain an investment letter from the purchaser of the Refunding Bonds which satisfies federal and state securities laws applicable to the Refunding Bonds.

(g) If the Refunding Bonds are subject to the Rule, a continuing disclosure undertaking ("Undertaking") for the Refunding Bonds is hereby authorized and approved by the Town Council, and the Town Council President and Clerk-Treasurer are hereby authorized and directed to complete, execute and attest the same on behalf of the Town. Notwithstanding any other provisions of this ordinance, failure of the Town to comply with the Undertaking shall not be considered an event of default under the Refunding Bonds or this ordinance.

(h) The Town authorizes the purchase of a debt service reserve surety bond based upon the advice of the Town's financial advisor. If such a surety bond is purchased, the Town Council President and the Clerk-Treasurer are hereby authorized to execute and deliver all agreements with the provider of the surety bond to the extent necessary to comply with the terms of such surety bond and the commitments to issue such surety bond, and the terms of such agreement shall be deemed to be a part of this ordinance and are incorporated herein by reference.

Section 7. Refunding of the Refunded Bonds. Concurrently with the delivery of the Refunding Bonds, the Clerk-Treasurer shall acquire if available, with a portion of the proceeds of the Refunding Bonds and cash on hand, direct obligations of or obligations the principal and interest on which are unconditionally guaranteed by, the United States of America ("Government Obligations") to be used, together with certain cash from the proceeds of the Refunding Bonds and cash on hand as set forth in the Escrow Agreement, to refund and legally defease the Refunding Bonds all as set forth in the Escrow Agreement. In order to refund the Refunded Bonds, the Clerk-Treasurer shall deposit Government Obligations and certain cash with the Escrow Trustee under the Escrow Agreement in an amount sufficient to provide money for payment of the principal of and interest on the Refunded Bonds until the earliest date upon which the Refunded Bonds may be called for redemption.

The Clerk-Treasurer shall obtain a verification of an accountant as to the sufficiency of the funds deposited in the Trust Account under the Escrow Agreement to accomplish said refunding and legal defeasance of the Refunded Bonds.

Section 8. Bond Sale Notice. Prior to the sale of Refunding Bonds to be sold at a competitive bond sale, the Clerk-Treasurer shall cause to be published either (i) a notice of bond

sale in *The Star Press*, two times, at least one week apart, the first publication made at least fifteen (15) days before the date of the sale and the second publication being made at least three (3) days before the date of the sale, or (ii) a notice of intent to sell in *The Star Press* and the *Court & Commercial Record* all in accordance with IC 5-1-11 and IC 5-3-1. A notice of sale may also be published one time in the *Court & Commercial Record*, and a summary notice may also be published in *The Bond Buyer* in New York, New York. The notice shall state the character and amount of the Refunding Bonds, the maximum rate of interest thereon, the terms and conditions upon which bids will be received and the sale made, and such other information as the Clerk-Treasurer and the attorneys employed by the Town shall deem advisable and any summary notice may contain any information deemed so advisable. The notice may provide, among other things, that electronic bidding will be permitted and that the successful bidder shall be required to submit a certified or cashier's check or a wire transfer of funds in an amount equal to 1% of the principal amount of the Refunding Bonds described in the notice to guarantee performance on the part of the bidder. In the event the successful bidder shall fail or refuse to accept delivery of the Refunding Bonds and pay for the same as soon as the Refunding Bonds are ready for delivery, or at the time fixed in the notice of sale, then said check and the proceeds thereof shall be the property of the Town and shall be considered as its liquidated damages on account of such default. Bidders for the Refunding Bonds will be required to name the rate or rates of interest which the Refunding Bonds are to bear, not exceeding the maximum rate hereinbefore fixed, and such interest rate or rates shall be in multiples of one-eighth ($1/8$), one-twentieth ($1/20$) or one-hundredth ($1/100$) of one percent (1%). The rate bid on a maturity shall be equal to or greater than the rate bid on the immediately preceding maturity. No conditional bid or bid for less than 99% of the face amount of the Refunding Bonds will be considered. The

opinion of Ice Miller LLP, bond counsel of Indianapolis, Indiana, approving the legality of the Refunding Bonds, will be furnished to the purchaser at the expense of the Town.

The Refunding Bonds shall be awarded by the Clerk-Treasurer to the best bidder who has submitted his bid in accordance with the terms of this ordinance, IC 5-1-11 and the notice of sale. The best bidder will be the one who offers the lowest net interest cost to the Town, to be determined by computing the total interest on all of the Refunding Bonds to their maturities and adding thereto the discount bid, if any, and deducting the premium bid, if any. The right to reject any and all bids shall be reserved. If an acceptable bid is not received on the date of sale, the sale may be continued from day to day thereafter without further advertisement for a period of thirty (30) days, during which time no bid which provides a higher net interest cost to the Town than the best bid received at the time of the advertised sale will be considered.

As an alternative to public sale, the Town Council President and the Clerk-Treasurer are hereby authorized to negotiate the sale of any series of Refunding Bonds in accordance with a Bond Purchase Agreement or Bond Placement Agreement ("Purchase Agreement") between the Town and the purchaser or placement agent of the Refunding Bonds being issued to refund the Refunded Bonds. The Town Council President and the Clerk-Treasurer are authorized to execute the Purchase Agreement and deliver the Refunding Bonds to the purchaser of the Refunding Bonds so long as their terms are consistent with this ordinance. Such Purchase Agreement shall establish a final principal amount, interest rates, maturity schedule, optional redemption provisions and term bond mandatory redemptions, if any.

Section 9. Use of Proceeds for Costs of Issuance. Any accrued interest and any premium received at the time of the delivery of the Refunding Bonds shall be deposited in the Sewage Works Sinking Fund hereinafter defined.

Section 10. Financial Records and Accounts. The Town shall keep proper records and books of account, separate from all of its other records and accounts, in which complete and correct entries shall be made showing all revenues received on account of the operation of the sewage works and all disbursements made therefrom and all transactions relating to the utility. Copies of all such statements and reports shall be kept on file in the office of the Clerk-Treasurer.

Section 11. Pledge of Net Revenues. The interest on and the principal of any Refunding Bonds issued pursuant to the provisions of this ordinance, and any bonds hereafter issued on a parity therewith, shall constitute a first charge on all the Net Revenues, and such Net Revenues are hereby irrevocably pledged to the payment of the interest on and principal of such Refunding Bonds, to the extent necessary for that purpose.

Section 12. Revenue Fund. All revenues derived from the operation of the sewage works and from the collection of sewer rates and charges shall be deposited in the Revenue Fund ("Revenue Fund"), hereby created, and segregated and deposited as set forth in this ordinance. Of these revenues the proper and reasonable expenses of operation, repair and maintenance of the works shall be paid, the principal and interest of all bonds and fiscal agency charges of registrars or paying agents shall be paid, the reserve shall be funded, and the costs of replacements, extensions, additions and improvements shall be paid.

Section 13. Operation and Maintenance Fund The Operation and Maintenance Fund ("O&M Fund") is hereby created. On the last day of each calendar month, revenues of the sewage works shall thereafter be transferred from the Revenue Fund to the O&M Fund. The balance maintained in the O&M Fund shall be sufficient to pay the expenses of operation, repair and maintenance for the then next succeeding two calendar months. The moneys credited to the

O&M Fund shall be used for the payment of the reasonable and proper operation, repair and maintenance expenses of the sewage works on a day-to-day basis, but none of the moneys in the fund shall be used for PILOTs, depreciation, improvements, extensions or additions. Any monies in the O&M Fund may be transferred to the Sewage Works Sinking Fund if necessary to prevent a default in the payment of principal of or interest on the outstanding bonds of the sewage works.

Section 14. Sewage Works Sinking Fund There is hereby created the Sewage Works Sinking Fund ("Sinking Fund"). As set forth herein, the Sinking Fund shall be used for the payment of the principal of and interest on revenue bonds which by their terms are payable from the Net Revenues of the sewage works and the payment of any fiscal agency charges in connection with the payment of Refunding Bonds. There shall be set aside and deposited in the Sinking Fund, as available, and as hereinafter provided, a sufficient amount of the Net Revenues of the sewage works to meet the requirements of the Bond and Interest Account and the Debt Service Reserve Account hereby created in the Sinking Fund. Such payments shall continue until the balances in the Bond and Interest Account and the Debt Service Reserve Account equal the principal of and interest on all of the then outstanding bonds of the sewage works to their final maturity and provide for payment of all fiscal agency charges.

(a) Bond and Interest Account. Any moneys heretofore accumulated to pay the principal of and interest on the Refunded Bonds shall be credited to and become a part of the Trust Account under the Escrow Agreement and shall be applied on the first payments made from the Trust Account. There shall be credited on the last day of each calendar month from the Revenue Fund to the Bond and Interest Account of the Sinking Fund ("Bond and Interest Account") an amount of the Net Revenues equal to: (i) at least one-sixth ($1/6$) of the interest on

all then outstanding bonds payable on the then next succeeding interest payment date, and (ii) at least one-sixth (1/6) of the principal on all then outstanding bonds payable on the then next succeeding principal payment date, until the amount of interest and principal payable on the then next succeeding interest and principal payment dates shall have been so credited. There shall similarly be credited to the account any amount necessary to pay the bank fiscal agency charges for paying interest on outstanding bonds as the same become payable. The Town shall, from the sums deposited in the Sinking Fund and credited to the Bond and Interest Account, remit promptly to the registered owner or to the bank fiscal agency sufficient moneys to pay the interest and principal on the due dates thereof together with the amount of bank fiscal agency charges.

(b) Debt Service Reserve Account. Any moneys accumulated as a reserve for the Refunded Bonds may be credited to and made a part of the funds used for the refunding of the Refunded Bonds or may be deposited into the Debt Service Reserve Account ("Reserve Account") created herein. On the date of delivery of the Refunding Bonds, funds on hand of the sewage works, Refunding Bond proceeds or a combination thereof may be deposited into the Reserve Account. The balance to be maintained in the Reserve Account shall not exceed the least of: (i) maximum annual debt service on the Refunding Bonds; (ii) 125% of average annual debt service on the Refunding Bonds; or (iii) 10% of the proceeds of the Refunding Bonds ("Reserve Requirement"). If the initial deposit into the Reserve Account does not cause the balance therein to equal the Reserve Requirement or if no deposit is made, an amount of Net Revenues shall be credited to the Reserve Account on the last day of each calendar month until the balance therein equals the Reserve Requirement. The monthly deposits shall be equal in

amount and sufficient to accumulate the Reserve Requirement within five years of the date of delivery of the Refunding Bonds.

The Town may fund all or part of the Reserve Account with a debt service reserve surety bond. The surety bond must be issued by an insurance company rated, at the time of issuance, in the highest rating category by Standard & Poor's Corporation and Moody's Investors Service. The Reserve Account shall constitute the margin for safety and as protection against default in the payment of principal of and interest on the Refunding Bonds, and moneys in the Reserve Account shall be used to pay current principal and interest on the Refunding Bonds to the extent that moneys in the Bond and Interest Account are insufficient for that purpose. Any deficiency in the balance maintained in the Reserve Account shall be made up from the next available Net Revenues remaining after credits into the Bond and Interest Account. In the event moneys in the Reserve Account are transferred to the Bond and Interest Account to pay principal or interest on the Refunding Bonds, then such depletion shall be made up from the next available Net Revenues remaining after credits into the Bond and Interest Account. Any moneys in the Reserve Account in excess of the Reserve Requirement shall be transferred to the Sewage Works Improvement Fund.

Section 15. Sewage Works Improvement Fund. Any excess revenues may be transferred or credited from the Revenue Fund to a fund designated the "Sewage Works Improvement Fund," hereby created ("Improvement Fund"), and the Improvement Fund shall be used for improvements, replacements, additions and extensions of the sewage works and to make payments representing PILOTs. The Town reserves the right to transfer PILOTs from the Improvement Fund no more frequently than semiannually, in accordance with the Act, and only if all required transfers have been made to the Sinking Fund and the Accounts of the Sinking

Fund contain the required balances as of the date the PILOTs are paid. In no event shall any PILOTs be treated as an expense of operation and maintenance, nor in any case shall it be payable from the O&M Fund or the Sinking Fund. Moneys in the Improvement Fund shall be transferred to the Sinking Fund if necessary to prevent a default in the payment of principal and interest on the then outstanding bonds or, if necessary, to eliminate any deficiencies in credits to or minimum balance in the Reserve Account or may be transferred to the O&M Fund to meet unforeseen contingencies in the operation, repair and maintenance of the sewage works.

Section 16. Maintenance of Funds; Investments. The Sinking Fund shall be deposited in and maintained as a separate account or accounts from all other accounts of the Town. The O&M Fund and the Improvement Fund may be maintained in a single account, or accounts, but such account, or accounts, shall likewise be maintained separate and apart from all other accounts of the Town and apart from the Sinking Fund account or accounts. All moneys deposited in the accounts shall be deposited, held and secured as public funds in accordance with the public depository laws of the State of Indiana; provided that moneys therein may be invested in obligations in accordance with the applicable laws, including particularly Indiana Code, Title 5, Article 13, as amended or supplemented, and in the event of such investment the income therefrom shall become a part of the funds invested and shall be used only as provided in this ordinance. Nothing in this section or elsewhere in this ordinance shall be construed to require that separate bank accounts be established and maintained for the Funds and Accounts created by this ordinance.

Section 17. Defeasance of the Refunding Bonds. If, when the Refunding 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 Refunding Bonds or a

portion thereof for redemption shall have been given, and the whole amount of the principal and the interest and the premium, if any, so due and payable upon all of the Refunding Bonds or a portion thereof then outstanding shall be paid; or (i) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in (ii) below), or (ii) direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America, the principal of and the interest on which when due will provide sufficient moneys for such purpose, shall be held in trust for such purpose, and provision shall also be made for paying all fees and expenses for the redemption, then and in that case the Refunding Bonds or any designated portion thereof issued hereunder shall no longer be deemed outstanding or entitled to the pledge of the Net Revenues of the Town's sewage works.

Section 18. Rate Covenant. The Town covenants and agrees that it will establish and maintain just and equitable rates or charges for the use of and the service rendered by the works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses said sewage works by or through any part of the sewage system of the Town, or that in any way uses or is served by such works; that such rates or charges shall be sufficient in each year to provide for the payment of the proper and reasonable expenses of operation, repair and maintenance of the works, and for the payment of the sums required to be paid into the Sinking Fund by the Act and this ordinance. Such rates and charges shall, if necessary, be changed and readjusted from time to time so that the revenues therefrom shall always be sufficient to meet the expenses of operation, repair and maintenance of the sewage works and the requirements of the Sinking Fund. The rates and charges so established shall apply to any and

all use of such works by and service rendered to the Town and all departments thereof, and shall be paid by the Town or the various departments thereof as the charges accrue.

Section 19. Additional Bond Provisions. The Town reserves the right to authorize and issue additional bonds or other obligations payable out of the Net Revenues of its sewage works ranking on a parity with the Refunding Bonds for the purpose of financing the cost of future additions, extensions and improvements to its sewage works, or to refund obligations, subject to the following conditions:

(a) All required payments into the Sinking Fund shall have been made in accordance with the provisions of this ordinance, and the interest on and principal of all outstanding bonds from the Net Revenues of the sewage works shall have been paid in accordance with their terms.

(b) The Net Revenues of the sewage works in the fiscal year immediately preceding the issuance of any such bonds ranking on a parity with the Refunding Bonds shall not be less than one hundred twenty-five percent (125%) of the maximum annual principal and interest requirements of the then outstanding bonds and the additional parity bonds proposed to be issued; or, prior to the issuance of the parity bonds the sewage rates and charges shall be increased sufficiently so that increased rates and charges applied to the previous year's operations would have produced Net Revenues for said year equal to not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of all bonds payable from the revenues of the sewage works, including the additional parity bonds proposed to be issued. For purposes of this subsection, the records of the sewage works shall be analyzed and all showings prepared by a certified public accountant employed by the Town for that purpose.

(c) The interest on the additional parity bonds shall be payable semiannually on March 1 and September 1, and the principal on, or mandatory sinking fund redemption dates for, the additional parity bonds shall be payable semiannually on March 1 and September 1.

Section 20. Further Covenants of the Town; Maintenance, Insurance, Pledge Not To Encumber, Subordinate Indebtedness, and Contract with Bondholders. For the purpose of further safeguarding the interests of the owners of the Refunding Bonds, it is hereby specifically provided as follows:

(a) So long as any of the Refunding Bonds are outstanding, the Town shall at all times maintain the sewage works system in good condition and operate the same in an efficient manner and at a reasonable cost.

(b) So long as any of the Refunding Bonds are outstanding, the Town shall maintain insurance on the insurable parts of the system of a kind and in an amount such as is usually carried by private corporations engaged in a similar type of business. All insurance shall be placed with responsible insurance companies qualified to do business under the laws of the State of Indiana. As an alternative to maintaining such insurance, the Town may maintain a self-insurance program with catastrophic or similar coverage so long as such program meets the requirements of any applicable laws or regulations and is maintained in a manner consistent with programs maintained by similarly situated municipalities.

All insurance or self-insurance proceeds shall be used either in replacing or restoring the property destroyed or damaged, or shall be deposited in the Sinking Fund.

(c) So long as any of the Refunding Bonds are outstanding, the Town shall not mortgage, pledge or otherwise encumber the property and plant of its sewage works system, or any part thereof, and shall not sell, lease or otherwise dispose of any part of the same, excepting

only such machinery, equipment or other property as may be replaced, or shall no longer be necessary for use in connection with said utility.

(d) Except as otherwise specifically provided in Section 19 of this ordinance, so long as any of the Refunding Bonds are outstanding, no additional bonds or other obligations pledging any portion of the revenues of the system shall be authorized, issued or executed by the Town, except such as shall be made junior and subordinate in all respects to the Refunding Bonds, unless all of the Refunding Bonds are redeemed or defeased coincidentally with the delivery of such additional bonds or other obligations.

(e) The Town shall take all actions or proceedings necessary and proper, to the extent permitted by law, to require connection of all property where liquid and solid waste, sewage, night soil or industrial waste is produced with available sanitary sewers. The Town shall, insofar as possible, and to the extent permitted by law, cause all such sanitary sewers to be connected with said sewage works.

(f) The provisions of this ordinance shall constitute a contract by and between the Town and the owners of the Refunding Bonds herein authorized, all the terms of which shall be enforceable by any bondholder by any and all appropriate proceedings in law or in equity. After the issuance of the Refunding Bonds, this ordinance shall not be repealed, amended or modified in any respect which will adversely affect the rights or interests of the owners of the Refunding Bonds, nor shall the Town Council or any other body of the Town adopt any law, ordinance or resolution in any way adversely affecting the rights of such owners so long as any of the Refunding Bonds, or the interest thereon, remain outstanding or unpaid. Except in the case of changes described in Section 21(a)-(e), this ordinance may be amended, however, without the

consent of the owners of the Refunding Bonds, if the Town Council determines, in its sole discretion, that such amendment would not adversely affect the owners of the Refunding Bonds.

(g) The provisions of this ordinance shall be construed to create a trust in the proceeds of the sale of the Refunding Bonds herein authorized for the uses and purposes herein set forth, and the owners of the Refunding Bonds shall retain a lien on such proceeds until the same are applied in accordance with the provisions of this ordinance and the governing Act. The provisions of this ordinance shall also be construed to create a trust in the Net Revenues herein directed to be set apart and paid into the Sinking Fund for the uses and purposes of that Fund as in this ordinance set forth. The owners of the Refunding Bonds shall have all the rights, remedies and privileges set forth in the provisions of the governing Act, including the right to have a receiver appointed to administer the sewage works, in the event the Town shall fail or refuse to fix and collect sufficient rates and charges for those purposes, or shall fail or refuse to operate and maintain said system and to apply properly the revenues derived from the operation thereof, or if there be a default in the payment of the interest on or principal of the Refunding Bonds.

Section 21. Amendments with Consent of Bondholders. Subject to the terms and provisions contained in this section, and not otherwise, the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the Refunding Bonds issued pursuant to this ordinance and then outstanding shall have the right from time to time, to consent to and approve the adoption by the Town Council of the Town of such ordinance or ordinances supplemental hereto or amendatory hereof, as shall be deemed necessary or desirable by the Town for the purpose of modifying, altering, amending, adding to or rescinding in any particular

any of the terms or provisions contained in this ordinance, or in any supplemental ordinance; provided, however, that nothing herein contained shall permit or be construed as permitting:

(a) An extension of the maturity of the principal of or interest on, or any mandatory sinking fund redemption date for, any Refunding Bond issued pursuant to this ordinance; or

(b) A reduction in the principal amount of any Refunding Bond or the redemption premium or the rate of interest thereon; or

(c) The creation of a lien upon or a pledge of the revenues or Net Revenues of the sewage works ranking prior to the pledge thereof created by this ordinance; or

(d) A preference or priority of any Refunding Bond or Refunding Bonds issued pursuant to this ordinance over any other Refunding Bond or Refunding Bonds issued pursuant to the provisions of this ordinance; or

(e) A reduction in the aggregate principal amount of the Refunding Bonds required for consent to such supplemental ordinance.

If the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the Refunding Bonds outstanding at the time of adoption of such supplemental ordinance shall have consented to and approved the adoption thereof by written instrument to be maintained on file in the office of the Clerk-Treasurer of the Town, no owner of any Refunding Bond issued pursuant to this ordinance shall have any right to object to the adoption of such supplemental ordinance or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the Town Council of the Town from adopting the same, or from taking any action pursuant to the provisions thereof. Upon the adoption of any supplemental ordinance pursuant to the provisions of this section, this ordinance shall be, and

shall be deemed, modified and amended in accordance therewith, and the respective rights, duties and obligations under this ordinance of the Town and all owners of Refunding Bonds then outstanding, shall thereafter be determined, exercised and enforced in accordance with this ordinance, subject in all respects to such modifications and amendments. Notwithstanding anything contained in the foregoing provisions of this ordinance, the rights and obligations of the Town and of the owners of the Refunding Bonds authorized by this ordinance, and the terms and provisions of the Refunding Bonds and this ordinance, or any supplemental or amendatory ordinance, may be modified or altered in any respect with the consent of the Town and the consent of the owners of all the Refunding Bonds then outstanding.

Section 22. Investment of Funds. (a) The Clerk-Treasurer is hereby authorized to invest moneys pursuant to the provisions of this ordinance and IC 5-1-14-3 (subject to applicable requirements of federal law to insure such yield is then current market rate) to the extent necessary or advisable to preserve the exclusion from gross income of interest on the Refunding Bonds under federal law.

(b) The Clerk-Treasurer shall keep full and accurate records of investment earnings and income from moneys held in the funds and accounts referenced herein. In order to comply with the provisions of the ordinance, the Clerk-Treasurer is hereby authorized and directed to employ consultants or attorneys from time to time to advise the Town as to requirements of federal law to preserve the tax exclusion. The Clerk-Treasurer may pay any fees as operation expenses of the sewage works.

Section 23. Tax Covenants. In order to preserve the exclusion of interest on the Refunding Bonds from gross income for federal tax purposes under Section 103 of the Internal Revenue Code of 1986 as existing on the date of issuance of the Refunding Bonds ("Code"), and

as an inducement to purchasers of the Refunding Bonds, the Town represents, covenants and agrees that:

(a) Since the date of issuance of the Refunded Bonds and until the earlier of the last date of the reasonably expected economic life of the projects constructed with funds from the bonds refunded by the Refunded Bonds or the latest maturity date of the Refunding Bonds allocable to the refunding ("Combined Measurement Period"), the sewage works 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. During the Combined Measurement Period, no person or entity other than the Town or another state or local governmental unit will use more than 10% of the proceeds of the Refunding Bonds or property financed by the Refunding Bond proceeds or the bonds refunded by the Refunded Bonds other than as a member of the general public. During the Combined Measurement Period, no person or entity other than the Town or another state or local governmental unit will own property financed by Refunding Bond proceeds or the bonds refunded by the Refunded Bonds or will have any actual or beneficial use of such property pursuant to a lease, a management or incentive payment contract, arrangements such as take-or-pay or output contracts 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 use by the general public, unless such uses in the aggregate relate to no more than 10% of the proceeds of the Refunding Bonds. If the Town enters into a management contract for the sewage works, the terms of the contract will comply with IRS Revenue Procedure 2016-44, as it may be amended, supplemented or superseded for time to time, so that the contract will not give rise to private business use under the Code and the

Regulations, unless such use in aggregate relates to no more than 10% of the proceeds of the Refunding Bonds.

(b) No more than 10% of the principal of or interest on the Refunding Bonds over the Combined Measurement Period will (under the terms of the Refunding Bonds, this ordinance or any underlying arrangement), directly or indirectly, secured by an interest in property used or to be used for any private business use or payments in respect of any private business use or payments in respect of such property or to be derived from payments (whether or not to the Town) in respect of such property or borrowed money used or to be used for a private business use.

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

(d) The Town reasonably expects, as of the date hereof, that the Refunding Bonds will not meet either the private business use test described in paragraph (a) and (b) above or the private loan test described in paragraph (c) above for the Combined Measurement Period.

(e) During the Combined Measurement Period, no more than 5% of the proceeds of the Refunding Bonds will be attributable to private business use as described in (a) and private security or payments described in (b) 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 (Unrelated Use) and

use that is related but disproportionate to any governmental use of those proceeds (Disproportionate Use).

(f) The Town will not take any action nor fail to take any action with respect to the Refunding Bonds that would result in the loss of the exclusion from gross income for federal tax purposes on the Refunding Bonds pursuant to Section 103 of the Code, nor will the Town act in any other manner which would adversely affect such exclusion. The Town covenants and agrees not to enter into any contracts or arrangements which would cause the Refunding Bonds to be treated as private activity bonds under Section 141 of the Code.

(g) It shall be not an event of default under this ordinance if the interest on any Refunding Bond is not excludable from gross income for federal tax purposes or otherwise pursuant to any provision of the Code which is not currently in effect and in existence on the date of issuance of the Refunding Bonds.

(h) The Town covenants that it will rebate any arbitrage profits to the United States to the extent required by the Code and the regulations promulgated thereunder.

(i) The Town represents that:

(1) The Refunding Bonds are not private activity bonds as defined in Section 141 of the Code;

(2) The Town hereby designates the Refunding Bonds, to the extent such Refunding Bonds are not deemed designated, as qualified tax-exempt obligations for purposes of Section 265(b) of the Code;

(3) The reasonably anticipated amount of qualified tax-exempt obligations (including qualified 501(c)(3) obligations and tax-exempt leases but excluding other

private activity bonds) which will be issued by the Town, and all entities subordinate to the Town during 2016 does not exceed \$10,000,000; and

(4) The Town will not designate more than \$10,000,000 of qualified tax-exempt obligations during 2016.

Therefore, the Refunding Bonds qualify for the exception in the Code from the disallowance of 100% of the deduction by financial institutions of interest expense allocable to newly acquired tax-exempt obligations.

(j) These covenants are based solely on current law in effect and in existence on the date of delivery of such Refunding Bonds.

Section 24. Noncompliance with Tax Covenants. Notwithstanding any other provisions of this ordinance, the covenants and authorizations contained in this ordinance ("Tax Sections") which are designed to preserve the exclusion of interest on the Refunding Bonds from gross income under federal law ("Tax Exemption") need not be complied with if the Town receives an opinion of nationally recognized bond counsel that any Tax Section is unnecessary to preserve the Tax Exemption.

Section 25. Rates and Charges. The present rates and charges of the sewage works are set forth in Ordinance No. 621 adopted on September 15, 2008, which ordinance is incorporated herein by reference.

Section 26. Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby repealed; provided that the adoption of this ordinance shall not be construed as adversely affecting the rights of the holders of the Refunded Bonds.

Section 27. Headings. The headings or titles of the several sections shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this ordinance.

Section 28. Effective Date. This ordinance shall be in full force and effect from and after its passage.

ALL OF WHICH IS ORDAINED by the Town Council of the Town of Yorktown, Indiana, this ____ day of _____, 2016.

TOWN COUNCIL OF THE TOWN OF
YORKTOWN, INDIANA

President

Attest:

Clerk-Treasurer