

ORDINANCE NO. 820

An Ordinance of the Town of Yorktown, Indiana authorizing the issuance of general revenue bonds for the purpose of providing funds to pay a portion of the cost of the acquisition of real property and construction of road improvements, together with all necessary appurtenances, related improvements and equipment, providing for the safeguarding of the interests of the owners of said bonds, other matters connected therewith and repealing ordinances inconsistent herewith

WHEREAS, the Town of Yorktown ("Town") is authorized by IC 36-5-2-11 as in effect on the date of issuance of the bonds authorized hereinto issue bonds to procure moneys to be used in the exercise of the powers of the Town and for the payment of Town debts; and

WHEREAS, the Town Council of the Town ("Council") now determines that it is necessary and a proper exercise of powers of the Town to issue bonds for the purpose of procuring funds to finance a portion of the costs of the acquisition of real property and the construction of road improvements, together with all necessary appurtenances, related improvements and equipment, together with all related improvements, ("Project"); and

WHEREAS, the Town has obtained engineer's estimates of the costs for financing the acquisition and construction of the Project and, to the extent required by law, will advertise and receive bids therefor, which bids are subject to the Town's obtaining funds to pay for the Project; that on the basis of said estimates, the cost of the Project, including incidental expenses, is in the maximum amount of \$1,720,250; and

WHEREAS, the Council now finds that an INDOT grant is available to apply to the cost of the Project, and the Town's portion of the cost of the Project shall be authorized to be financed by the issuance of general revenue bonds in an amount not to exceed One Million One Hundred Thousand Dollars (\$1,100,000) payable from restricted revenues in the Motor Vehicle

Highway Account and from revenues in the Local Road and Street Account, together with any legally available revenues (collectively, "Revenues") and, to the extent such Revenues are not sufficient, from an ad valorem property tax to be levied on all taxable property in the Town; and

WHEREAS, the certified assessed valuation of taxable property in the Town, as shown in the last final and complete assessment which was made in the year 2021 for state and Town taxes collectible in the year 2022, is \$374,319,691 and the outstanding indebtedness counting towards the Town's two percent constitutional debt limit is in the amount of \$810,000, excluding the bonds authorized herein; such assessment and outstanding indebtedness amounts shall be verified at the time of the payment for and delivery of the bonds; and

WHEREAS, the Council now finds that all conditions precedent to the adoption of an ordinance authorizing the issuance of general revenue bonds have been complied with in accordance with the provisions of the IC 36-5-2-11, IC 8-14-1, IC 8-14-2 and IC 5-1-14-4, each as in effect on the date of delivery of the bonds authorized herein (collectively, "Act"); and

WHEREAS, the Council has been advised that it may be cost efficient to purchase municipal bond insurance for the bonds authorized herein; and

WHEREAS, the Council has published notice in accordance with IC 5-3-1 and will hold a public hearing on the appropriation of the proceeds of the bonds authorized herein to pay the costs of the Project;

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

Section 1. Project Authorization. The Town proceed with the construction and funding of the Project in accordance with the cost estimates, plans and specifications heretofore prepared and filed by engineers employed by the Town, which cost estimates, plans and specifications are by reference made a part of this ordinance as fully as if the same were attached hereto and incorporated herein and two copies of which are now on file in the office of the Clerk-Treasurer of the Town and are open for public inspection pursuant to IC 36-1-5-4, that the cost of the Town's portion of the construction and funding of the Project shall not exceed the sum of \$1,100,000, plus investment earnings on the bond proceeds, without further authorization from this Council. The Project shall be constructed in accordance with the plans and specifications heretofore mentioned, which plans and specifications are hereby approved. The Project shall be constructed and funded and the bonds herein authorized shall be issued pursuant to and in accordance with the Act.

Section 2. Issuance of Bonds. The Town shall issue its "General Revenue Bonds of \_\_\_\_\_," to be completed with the year in which issued ("Bonds"), in an aggregate principal amount not to exceed \$1,100,000 for the purpose of procuring funds to be applied on the cost of the Project and the payment of costs of issuance, including a premium for municipal bond insurance, if necessary, and all other costs related to the Project.

The Bonds shall be sold at a price not less than 100% of the par value thereof. The Bonds shall be issued in any denominations of One Thousand Dollars (\$1,000), numbered consecutively from 1 upward, dated as of their date of delivery and shall bear interest at a rate or rates not exceeding four percent (4%) per annum (the exact rate or rates to be determined by

bidding or negotiation with the purchaser of the Bonds) payable semiannually on January 15 and July 15 in each year, commencing on the first January 15 or the first July 15 after the date of issuance of the Bonds, but no earlier than July 15, 2022, as determined by the Clerk-Treasurer with the advice of the Town's municipal advisor. Interest on the Bonds shall be calculated according to a 360-day year containing twelve 30-day months. The Bonds shall mature semiannually, or be subject to mandatory sinking fund redemption, on January 15 and July 15 of each year over a period ending no later than January 15, 2030 and in such amounts as will result in as level annual debt service as practicable.

All or a portion of the 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 as determined by the successful bidder, but in no event later than the final serial maturity date of the Bonds as determined in 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.

Section 3. Registrar and Paying Agent; Book-Entry Provisions. (a) The Town Council President and the Clerk-Treasurer are hereby authorized to contract with a qualified financial institution to serve as Registrar and Paying Agent for the Bonds ("Registrar" or "Paying Agent"). The Registrar is hereby charged with the responsibility of authenticating the 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 Bond Fund established under this ordinance to pay the principal of and interest on the Bonds and any fiscal agency charges. In the alternative, the Clerk-Treasurer of the Town may serve as Registrar and Paying Agent, as determined by the Town Council President and the Clerk-Treasurer.

The principal of the Bonds shall be payable at the principal corporate trust office of the Paying Agent. All payments of interest on the 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 first day of the month preceding an 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 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 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 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 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 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, Registrar and Paying Agent 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.

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 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 Bonds then outstanding by first class mail of the removal of the Registrar and Paying Agent. Notices to the registered owners of the 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 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 fund established under this ordinance. Any predecessor registrar and paying agent shall deliver all of the 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 Bonds shall be payable from the interest payment date to which interest has been paid next preceding the authentication date of the Bonds unless the 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 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. Notwithstanding anything to the contrary herein, the Bonds 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 the Bonds or earlier payment in full of the Bonds.

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

No person other than the Depository Trust Company shall receive an authenticated Bond evidencing an obligation of the Town to make payments of the principal of and premium, if any, and interest on the 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 Bonds for the purpose of (i) payment of the principal of and premium, if any, and interest on such Bonds; (ii) giving notices of redemption and other notices permitted to be given to bondholders with respect to such Bonds; (iii) registering transfers with respect to such 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 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 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 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 Bonds and all notices with respect to such 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 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 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 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 Bonds. In such event, the Registrar shall prepare, authenticate, transfer and exchange certificates for the 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 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 Bonds.

If the Bonds shall no longer be restricted to being registered in the name of a Depository Trust Company, the Registrar shall cause said 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 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 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 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 Bonds, together with the dollar amount of each Beneficial Owner's interest in the Bonds and the current addresses of such Beneficial Owners.

Section 4. Redemption of Bonds. (a) The Bonds of this issue are not subject to optional redemption prior to maturity.

(b) If any Bond is issued as a term bond, the Paying Agent shall credit against the mandatory sinking fund requirement for the Bonds maturing as term bonds, and corresponding mandatory redemption obligation, in the order determined by the Town, any 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 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 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 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 One Hundred Thousand Dollars (\$100,000) principal amount shall be considered a separate bond for purposes of mandatory redemption. If less than an entire maturity is called for redemption, the Bonds to be called shall be selected by lot by the Registrar.

(c) 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 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 Bonds called for redemption. The place of redemption shall 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 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 Bonds so called for redemption shall be surrendered for cancellation. Notwithstanding anything to the contrary herein, the Bonds 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 the Bonds or earlier payment in full of the Bonds.

Section 5. Execution and Negotiability. Each of the 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 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 Bonds. The use of electronic signatures by the Town Council President and the Clerk-Treasurer are authorized and affirmed with full valid legal effect and enforceability. In case any officer whose signature or facsimile signature appears on the Bonds shall cease to be such officer before the delivery of the 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 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 Bonds shall also be authenticated by the manual signature of the Registrar, and no Bond shall be valid or become obligatory for any purpose until the certificate of authentication thereon has been so executed.

Section 6. Pledge of Revenues; Covenant to Levy Tax. The interest on and principal of the Bonds are payable from and are secured by restricted revenues in the Motor Vehicle Highway Account and revenues in the Local Road and Street Account, together with any legally available revenues (collectively, "Revenues") and, to the extent Revenues are not sufficient, from an ad valorem property tax levied on all taxable property in the Town ("Property Taxes"). The Town hereby irrevocably pledges such Revenues and, to the extent such Revenues are not sufficient, Property Taxes, to the payment of the interest on and principal of the Bonds, such pledge to be effective pursuant to IC 5-1-14-4 without the filing or recording of this ordinance or

any other instrument. The Town shall not be obligated to pay the bonds or the interest thereon except from such Revenues and, to the extent Revenues are not sufficient, from Property Taxes, deposited in the Bond Fund established in Section 10 of this ordinance.

Section 7. Form of Bonds. The form and tenor of the Bonds shall be substantially as follows, all blanks will 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, INDIANA  
GENERAL REVENUE BOND OF \_\_\_\_\_

|                            |                            |                         |                               |         |
|----------------------------|----------------------------|-------------------------|-------------------------------|---------|
| [INTEREST<br><u>DATE</u> ] | [MATURITY<br><u>DATE</u> ] | ORIGINAL<br><u>DATE</u> | AUTHENTICATION<br><u>DATE</u> | [CUSIP] |
|----------------------------|----------------------------|-------------------------|-------------------------------|---------|

[See  
attached  
Exhibit A]

REGISTERED OWNER:

PRINCIPAL SUM:

The Town of Yorktown, Delaware County, Indiana ("Town"), 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** [on January 15 and July 15 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[s] per annum [specified above] **OR** [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 first day of the month containing 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 \_\_\_\_\_ 1, 20\_\_, in which case it shall bear interest from the Original Date, until the principal is paid, which interest is payable semiannually on the fifteenth day of February and July 15in each year, beginning on \_\_\_\_\_ 15, 20\_\_.

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 first 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 time). 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.

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 providing funds to be applied on a portion of the cost of the acquisition of real property and the of road improvements, together with all necessary appurtenances, related improvements and equipment ("Project"), and to pay issuance expenses[, including a premium for municipal bond insurance]. This bond is issued pursuant to an Ordinance adopted by the Town Council of the Town on the \_\_\_\_\_ day of \_\_\_\_\_,

2022, entitled "An Ordinance of the Town of Yorktown, Indiana authorizing the issuance of general revenue bonds for the purpose of providing funds to pay the cost of the acquisition of real property and construction of road improvements, together with all necessary appurtenances, related improvements and equipment, providing for the safeguarding of the interests of the owners of said bonds, other matters connected therewith and repealing ordinances inconsistent herewith" ("Ordinance"), and in accordance with the provisions of Indiana law, including without limitation Indiana Code 36-5-2-11, 8-14-1, IC 8-14-2 and 5-1-14-4, each 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 a portion of the costs of the Project, 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 are payable solely from restricted revenues in the Motor Vehicle Highway Account of the General Fund and revenues in the Local Road and Street Account of the Highway, Road and Street Fund, together with any legally available revenues (collectively, "Revenues") and, to the extent Revenues are not sufficient from an ad valorem property tax levied and collected on all taxable property in the Town.

The Town irrevocably pledges the Revenues to the prompt payment of the principal of and interest on the bonds authorized by the Ordinance, of which this is one to the extent necessary for that purpose.

The bonds are not subject to optional redemption prior to maturity.

[The bonds maturing on \_\_\_\_\_ 15, 20\_\_ 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> |
|-------------|---------------|
|-------------|---------------|

\*

\* Final Maturity]

[Each One Hundred Thousand Dollars (\$100,000) principal amount shall be considered a separate bond for purposes of 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.

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 the principal corporate trust office of the Registrar by the registered owner hereof in person, or by his attorney duly authorized in writing, upon surrender of this bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner, or his attorney duly authorized in writing, and thereupon a new fully registered bond or bonds in 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 minimum denomination of \$100,000 or integral multiples of \$1,000 thereafter.

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.

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

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

[EXHIBIT A]

(End of bond form)

Section 8. Sale of Bonds; Official Statement; Continuing Disclosure; Municipal Bond Insurance. (a) Prior to the sale of the Bonds, the Clerk-Treasurer may cause to be published either (i) a notice of such sale two (2) times at least one (1) week apart in the newspaper or newspapers in accordance with IC 5-1-11-2(a) and IC 5 1-11-1(a)(1) which meets the requirements of IC 5-3-1, with the first publication occurring at least fifteen (15) days prior to the sale date and the second publication occurring at least three (3) days prior to the sale date; (ii) a notice of intent to sell bonds in the *Indianapolis Business Journal* and the newspaper or newspapers which meet the requirements of IC 5-3-1, as described in (i) above, all in accordance with IC 5-1-11-2(b) and IC 5 1-11-1(a)(1) and IC 5-3-1; (iii) a notice or notices as determined by the Clerk-Treasurer, upon the advice of the Town's municipal advisor, to assist the Town with the sale of the Bonds pursuant to IC 5-1-11-1(a)(2); or (iv) the Town may negotiate a sale with a potential bidder, upon the advice of the Town's municipal advisor. At the election of the Town, a notice or summary notice of sale may be published in the *Indianapolis Business Journal* or *The Bond Buyer*, financial journals published in the City of Indianapolis and in the Town and State of New York, respectively, in the discretion of the Clerk-Treasurer. If published, the notice shall

state the purpose for which the Bonds are being issued, the total amount of the Bonds, the maximum rate of interest on the Bonds, the time and place of payment, the terms and conditions on which bids will be received and the sale made, and such other information as the Clerk-Treasurer, upon advice of counsel deems necessary. The notice will also state that the winning bidder will agree to assist the Town in establishing the issue price of the Bonds under Treas. Reg. Section 1.148-1(f) ("Issue Price Regulation"). The criteria for establishing the issue price under the Issue Price Regulation shall be set forth in the preliminary Official Statement and/or the bid form. The notice may provide, among other things, that electronic bidding will be permitted and that the successful bidder may be required, at the election of the Town, to submit a certified or cashier's check or a wire transfer to guarantee performance on the part of the bidder by 3:30 p.m. (Local Time) on the next business day following the award. If a deposit is required, in the event the successful bidder shall fail or refuse to accept delivery of the Bonds and pay for the same as soon as the Bonds are ready for delivery, or at the time fixed in the notice of sale, then the proceeds of such deposit shall become the property of the Town and shall be considered as its liquidated damages on account of such default.

Bidders for the Bonds shall be required to name the rate or rates of interest which the Bonds are to bear, not exceeding four percent (4%) or such lower maximum rate set forth in the notice, 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%). No conditional bid or bid for less than ninety-nine percent (99%) of the face amount of the Bonds will be considered.

The Clerk-Treasurer shall award the Bonds to the highest responsible and qualified bidder. The highest bidder shall be the one who offers the lowest true interest cost to the Town,

to be determined by computing the total present value as of the date of delivery of the Bonds of all debt service payments on the Bonds on the basis of semiannual compounding, produces an amount equal to the sum of the par value of the Bonds minus any premium bid plus any discount. The Clerk-Treasurer shall have full right to reject any and all bids. For a competitive sale, if no acceptable bid is received at the time fixed in the notice for sale of the Bonds, the Clerk-Treasurer shall be authorized to continue to receive bids from day to day thereafter for a period not to exceed thirty (30) days, without re-advertising, but during such continuation, no bid shall be accepted which offers an interest cost which is equal to or higher than the best bid received at the time fixed for such sale in the notice. No conditional bid or bid for less than all of the Bonds will be considered.

Prior to the delivery of the Bonds, the Clerk-Treasurer shall obtain a legal opinion as to the validity of the Bonds from Ice Miller LLP, bond counsel, of Indianapolis, Indiana, and shall furnish this opinion to the purchaser of the Bonds. The cost of this opinion, the services of the Town Attorney and the services of the Town's municipal advisor shall be considered as part of the costs incidental to these proceedings and may be paid out of proceeds of the Bonds.

As an alternative to public sale, the Town Council President is hereby authorized to negotiate terms of the sale of the Bonds to a purchaser consistent with this Ordinance.

(b) Distribution of an Official Statement (preliminary and final) or other offering material for the Bonds prepared by the Town's municipal advisor, on behalf of the Town, is hereby authorized and approved and the Town Council President or the Clerk-Treasurer are authorized and directed to execute the Official Statement on behalf of the Town in a form consistent with this ordinance. The Town Council President or the Clerk-Treasurer are hereby

authorized to designate the Official Statement as "nearly final" for purposes of Rule 15c2-12 promulgated by the Securities and Exchange Commission. In the alternative, the Town Council President may obtain an investment letter from the purchaser of the Bonds in a form satisfactory to the Town Attorney and Bond Counsel.

(c) In the event the municipal advisor to the Town certifies to the Town that it would be economically advantageous for the Town to obtain a municipal bond insurance policy the Town hereby authorizes the purchase of such an insurance policy. The acquisition of a municipal bond insurance policy is hereby deemed economically advantageous in the event the difference between the present value cost of (a) the total debt service on the Bonds if issued without municipal bond insurance and (b) the total debt service on the Bonds if issued with municipal bond insurance, is greater than the cost of the premium on the municipal bond insurance policy. Additionally, the Town may accept bids during a competitive sale where an underwriter has received a commitment from a bond insurance provider for a bond insurance policy, but any cost of such bond insurance policy shall be paid by the successful bidder. If such an insurance policy is purchased, the Town Council President and the Clerk-Treasurer are hereby authorized to execute and deliver all agreements with the provider of the policy to the extent necessary to comply with the terms of such insurance policy and the commitment to issue such policy. Such agreement shall be deemed a part of this ordinance for all purposes and is hereby incorporated herein by reference.

(d) If necessary to sell the Bonds, the Town Council President and the Clerk-Treasurer are hereby authorized and directed to complete, execute and attest on behalf of the Town a Continuing Disclosure Certificate ("Disclosure Undertaking") that complies with the

requirements of SEC Rule 15c2-12. Notwithstanding any other provisions of this ordinance, failure of the Town to comply with the Disclosure Undertaking shall not be considered an event of default under the Bonds or this ordinance.

Section 9. Authorization for Preparation and Sale of the Bonds. The Clerk-Treasurer is hereby authorized and directed to have the Bonds prepared, and the Town Council President and Clerk-Treasurer are hereby authorized and directed to execute and attest the Bonds in the form and manner provided herein. The Clerk-Treasurer is hereby authorized and directed to deliver the Bonds to the respective purchasers thereof. At the time of delivery of the Bonds, the Clerk-Treasurer shall collect the full amount which the purchaser has agreed to pay therefor, which amount shall not be less than the face value of the Bonds, plus accrued interest to the date of delivery. The Bonds, when fully paid for and delivered to the purchaser, shall be the binding general revenue obligations of the Town payable out of the Revenues and, to the extent Revenues are not sufficient, from Property Taxes. The proper officers of the Town are hereby directed to sell the 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.

Section 10. Use of Proceeds and Costs of Issuance. (a) Any accrued interest shall be deposited in the Bond Fund, hereby created. The Clerk-Treasurer is hereby authorized and directed to deposit the remaining proceeds of the Bonds in a separate fund ("Bond Proceeds Fund") to pay for: (1) the cost of the Project; (2) all costs and expenses incurred in connection with the Project; and (3) costs of issuance of the Bonds. Except as described in this Section, the Bond Proceeds Fund may not be used for any other purpose.

All Revenues and, to the extent Revenues are not sufficient, Property Taxes, available to pay debt service on the Bonds shall be deposited into the Bond Fund up to the amount of principal, interest and fiscal agency charges coming due on the Bonds for the next succeeding six (6) calendar months.

(b) The Bond Proceeds Fund and the Bond Fund shall be deposited, at interest, with the depository or depositories of other public funds by the Town, and all interest collected on it belongs to the fund to which it is attributable. Any surplus remaining from the proceeds of the Bonds after all costs and expenses are fully paid, at the direction of the Town Council, shall be paid into and become a part of the Bond Fund or to reduce the rate or amount of ad valorem property taxes imposed by the Town, if any.

Section 11. Defeasance of the Bonds. 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 principal and the interest and the premium, if any, so due and payable upon all of the 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 Bonds or any designated portion thereof issued hereunder shall no longer be deemed outstanding.

Section 12. 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 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 created or 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.

Section 13. Tax Covenants. In order to preserve the exclusion of interest on the 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 Bonds ("Code") for any Bonds issued as tax exempt Bonds and as an inducement to purchasers of the Bonds, the Town represents, covenants and agrees that:

(a) 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 Town or another state or local governmental unit will use more than 10% of the proceeds of the Bonds or property financed by the Bond proceeds other than as a member of the general public. No person or entity other than the Town or another state or local governmental unit will own property financed by Bond proceeds 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 Bonds. If the Town enters into a management contract for the sewage works, the terms of the contract shall comply with IRS Revenue Procedure 2017-13 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 Bonds.

(b) No more than 10% of the principal of or interest on the Bonds is (under the terms of the 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 Bond proceeds will be loaned to any person or entity other than another state or local governmental unit. No more than 5% of the 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 Bond proceeds.

(d) The Town reasonably expects, as of the date hereof, that the 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 during the entire term of the Bonds.

(e) No more than 5% of the proceeds of the 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 Bonds that would result in the loss of the exclusion from gross income for federal tax purposes on the 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 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 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 Bonds.

(h) These covenants are based solely on current law in effect and in existence on the date of delivery of such Bonds, as the case may be.

(i) The Town represents that:

(i) The Town is a governmental unit with general taxing powers, which powers include the power to impose taxes of general applicability that, when collected, may be used for the general purposes of the Town;

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

(iii) At least 95% of the net proceeds of the Bonds will be used for local governmental activities of the Town or of a governmental unit, the jurisdiction of which is entirely within the jurisdiction of the Town;

(iv) The aggregate face amount of all tax-exempt bonds (other than private activity bonds) issued by the Town and all units subordinate to the Town, including on-behalf-of issuers and subordinate entities as those terms are defined in Regulations Section 1.148-8(c)(2), is not reasonably expected to exceed \$5,000,000 in calendar year 2022; and

(v) The Town has not been formed or availed of to otherwise avoid the purposes of the \$5,000,000 size limitation.

Therefore, the Town meets the requirements of Section 148(f)(4)(D) of the Code and will not have to rebate any arbitrage profits to the United States.

(j) The Town represents that:

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

(ii) The Town hereby designates the Bonds as qualified tax-exempt obligations for purposes of Section 265(b) of the Code;

(iii) 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 2022 does not exceed \$10,000,000; and

(iv) The Town will not designate more than \$10,000,000 of qualified tax-exempt obligations during 2022.

Therefore, the 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.

Section 14. 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 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 15. Debt Limit Not Exceeded. The Town represents and covenants that the Bonds herein authorized, when combined with other outstanding indebtedness of the Town at the time of issuance of the Bonds, will not exceed any applicable constitutional or statutory limitation on the Town's indebtedness.

Section 16. Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 17. 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 18. Effective Date. This ordinance shall be in full force and effect from and after its passage.

PASSED and adopted by the Town Council of the Town of Yorktown, Indiana, this 18th day of January, 2022.

TOWN COUNCIL OF THE TOWN OF  
YORKTOWN, INDIANA

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ATTEST:

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Clerk-Treasurer