

FILED

JUL 31 2015

SPECIAL ORDINANCE NO. 18, 2015

CITY CLERK

An ordinance of the City of Terre Haute, Indiana, authorizing the issuance and sale of bonds of the City for the purpose of providing funds to be applied on a portion of the cost of the construction of a police station, other matters connected therewith, including the issuance of notes in anticipation of bonds, together with the incidental expenses in connection therewith and on account of the issuance of bonds and bond anticipation notes therefor

WHEREAS, a city is authorized by IC 36-4-6-19, IC 5-1-14 and IC 6-3.5-7, as in effect on the date of issuance of the bonds authorized herein, to issue bonds: (i) to procure moneys to be used in the exercise of the powers of the city; (ii) to procure moneys for the payment of city debts; and (iii) to issue bonds for the purposes authorized under IC 6-3.5-7;

WHEREAS, the Common Council hereby determines to provide for the cost of a portion of the construction of a police station, together with the necessary appurtenances, related improvements and equipment ("Project") and the incidental expenses in connection therewith and on account of the issuance of the bonds authorized herein;

WHEREAS, the Common Council now finds that the completion of the construction of the Project is necessary and will be of general benefit to the City and its residents and will help promote economic development in the City;

WHEREAS, the Common Council now finds that cost estimates, plans and specifications for the Project have been or will be approved by the Common Council and by all governmental authorities having jurisdiction;

WHEREAS, the Common Council finds and has determined that the estimated cost of the Project and funding a debt service reserve, together with the incidental expenses incurred in

connection with the Project and with the issuance of bonds to finance the Project, will be in an amount not to exceed Two Million Two Hundred Thousand Dollars (\$2,200,000);

WHEREAS, the Common Council finds and has determined that \$2,200,000 may be financed by the issuance of bonds and, if necessary, bond anticipation notes ("BANs");

WHEREAS, Vigo County has imposed the economic development income tax ("EDIT") pursuant to IC 6-3.5-7, and the City is a recipient of a distributive share of the EDIT ("EDIT Revenues") pursuant to IC 6-3.5-7;

WHEREAS, the Mayor of the City has adopted a Capital Improvement Plan ("Plan") with respect to the EDIT Revenues, and the Project is or will be identified in the Plan;

WHEREAS, the City finds that there are now outstanding certain: (i) Terre Haute Redevelopment District Tax Increment Revenue Bonds of 2013, dated January 29, 2013, originally issued in the amount of \$8,670,000 and now outstanding in the amount of \$8,040,000, maturing semiannually over a period ending February 1, 2033; and (ii) Terre Haute Redevelopment District Tax Increment and Economic Development Income Tax Revenue Bonds of 2004, dated January 29, 2004, originally issued in the amount of \$1,100,000 and now outstanding in the amount of \$580,000, maturing semiannually over a period ending February 1, 2024 (collectively, "Outstanding Obligations") each payable from EDIT Revenues;

WHEREAS, the Outstanding Obligations permit the issuance of additional obligations on a parity with the Outstanding Obligations under certain conditions and the City, based on the advice of its financial advisor, has determined that such conditions can be met and the Bonds authorized herein shall rank on a parity with the Outstanding Obligations;

WHEREAS, except for the Outstanding Obligations, there are no prior liens, encumbrances or other restrictions on the EDIT Revenues or on the City's ability to pledge the EDIT Revenues;

WHEREAS, the bonds and BANs to be issued pursuant to this ordinance are to be issued subject to the provisions of the laws of the State of Indiana, including, without limitation, IC 36-4-6-19, IC 5-1-14 and IC 6-3.5-7, as in effect on the date of delivery of the bonds and BANs (collectively, "Act"), and the terms and restrictions of this ordinance;

WHEREAS, the City desires to authorize the issuance of BANs hereunder, if necessary, payable from the proceeds of bonds issued to finance the aforementioned costs of the Project and to authorize the refunding of the BANs, if issued;

WHEREAS, the total indebtedness of the City, including the amount of the bonds authorized by this ordinance (assuming all such indebtedness constitutes debt in the constitutional sense under the Indiana Constitution), is in the amount of \$10,820,000 and does not exceed any constitutional or statutory limitations on indebtedness, and the net assessed valuation of taxable property in the City, as shown by the last complete and full assessment for state and City taxes is \$1,629,993,928; and

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

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF CITY OF TERRE HAUTE, INDIANA, THAT:

Section 1. Authorization of the Project. The City shall proceed to undertake the completion of the Project as set forth in this ordinance. That the costs of the Project payable

from BAN and bond proceeds shall not exceed the sum of \$2,200,000, plus investment earnings on the BAN and bond proceeds, without further authorization from this Common Council. The Project shall be completed and the bonds herein authorized shall be issued pursuant to and in accordance with the Act.

Section 2. Issuance of BANs and Bonds; Registrar and Paying Agent. The City shall issue, if necessary, its BANs for the purpose of procuring interim financing to apply to a portion of the costs of the Project. The City shall issue its BANs in an aggregate amount not to exceed Two Million Two Hundred Thousand Dollars (\$2,200,000) to be designated "Bond Anticipation Notes of 2015" ("BANs"). The BANs shall be numbered consecutively from 1 upward, shall be in multiples of \$1,000 as designated in the purchase agreement for the BANs, shall be dated as of the date of delivery thereof, and shall bear interest at a rate not to exceed 4% per annum (the exact rate or rates to be determined through negotiation) payable semiannually on February 1 and August 1, commencing on February 1, 2016 or at maturity or upon redemption. The BANs shall be issued and sold at a price not less than 99.5% of the par value thereof. The BANs shall mature no later than five (5) years after their date of delivery. The BANs are subject to renewal or extension at an interest rate or rates not to exceed 4% per annum (the exact rate or rates to be negotiated). The term of the BANs and all renewal BANs may not exceed five years from the date of delivery of the initial BANs. The BANs shall be registered in the name of the purchasers thereof. The City may receive payment on the BANs in the form of installments.

The BANs shall be issued pursuant to IC 5-1-14-5. The principal on the BANs shall be payable from the issuance of the bonds authorized under this ordinance or from the issuance of any notes, bonds or other obligations of the City which may be legally issued to refund such BANs. The interest on the BANs shall be payable solely from EDIT Revenues, on a parity with

the Outstanding Obligations. The bonds will be payable solely out of EDIT Revenues, on a parity with the Outstanding Obligations.

The City shall issue its bonds in an aggregate principal amount not to exceed \$2,200,000 to be designated "Economic Development Income Tax Revenue Bonds of \_\_\_\_" (to be completed with the year in which the bonds are issued), for the purpose of procuring funds to apply on a portion of the cost of the Project, costs of issuance and refunding the BANs, if issued. The Bonds shall be sold at a price not less than 98.5% of the par value thereof in fully registered form in denominations of Five Thousand Dollars (\$5,000) or any integral multiple thereof, numbered consecutively from 1 up, originally dated as of the date of delivery thereof, and shall bear interest at a rate or rates not exceeding 6% per annum (the exact rate or rates to be determined by bidding or negotiation with the purchaser). Interest is payable semiannually on February 1 and August 1, commencing on the first February 1 or the first August 1, as determined by the Controller, with the advice of the City's financial advisor. Principal shall be payable in lawful money of the United States of America, at the principal office of the Paying Agent (as hereinafter defined) and such bonds shall mature semiannually, or be subject to mandatory sinking fund redemption if term bonds are issued, on February 1 and August 1 over a period ending no later than fifteen years after the date of issuance of the bonds, and in amounts which achieve as level debt service as practicable with \$5,000 denominations, taking into account the annual debt service on the Outstanding Obligations.

All or a portion of the bonds may be issued as one or more term bonds, upon election of the successful purchaser of the bonds. Such term bonds shall have a stated maturity or maturities of February 1 and August 1 on the dates as determined by the successful purchaser of the bonds, but in no event later than the final maturity date of the bonds established 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 dates which correspond to the principal payment dates that are set in accordance with the above paragraph.

Interest on the bonds and BANs shall be calculated according to a 360-day calendar year containing twelve 30-day months.

The bonds shall bear an original date which shall be the date of delivery thereof, and each bond shall also bear the date of its authentication. Bonds authenticated on or before the Record Date (as hereinafter defined) immediately preceding the first interest payment date shall be paid interest from the original date. Bonds authenticated thereafter shall be paid interest from the interest payment date to which interest has been paid next preceding the date of authentication of such bonds unless the bonds are authenticated after the Record Date and on or before the corresponding interest payment date, in which case interest thereon shall be paid from such interest payment date. If at the time of authentication of any bond interest is in default thereon, that bond shall bear interest from the date to which interest has been paid in full.

The Mayor and the Controller are authorized and directed to appoint a qualified banking institution to serve as Registrar and Paying Agent ("Registrar" or "Paying Agent") or trustee ("Trustee") for the bonds or BANs, which shall be charged with the responsibility of authenticating the bonds and BANs. The Controller is hereby authorized to enter into such agreements or understandings with such bank as will enable the bank to perform the services required of a Registrar and Paying Agent or Trustee. The Controller is further authorized to pay such fees as the bank may charge for the services it provides as Registrar and Paying Agent or Trustee, and such fees may be paid from the bond fund established to pay the principal of and

interest on the bonds or BANs. Upon agreement between the City and the purchaser for the bonds, the Controller may be designated as the Registrar and Paying Agent, and, in that case, shall be charged with all responsibilities of a Registrar and Paying Agent. As to the BANs, the Controller may serve as Registrar and Paying Agent and, in that case, shall be charged with the duties of Registrar and Paying Agent.

All payments of interest on and principal of the bonds shall be payable by check mailed by first class mail one business day prior to the interest payment date to the registered owner, as of the fifteenth day of the month preceding a payment date ("Record Date"), to 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 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).

The bonds and BANs are transferable by the registered owner at the principal office of the Registrar and Paying Agent upon presentation and surrender of a bond or BAN, as the case may be, and on presentation of a duly executed written instrument of transfer acceptable to the City and Registrar, and thereupon a new bond, bonds, BAN or BANs of the same aggregate principal amount and maturity and in authorized denominations will be issued to the transferee or transferees in exchange therefor. The bonds and BANs may be exchanged upon surrender at the principal office of the Registrar and Paying Agent, duly endorsed by the registered owner for the

same aggregate principal amount of bonds or BANs, as the case may be, of the same maturity in authorized denominations as the owner may request.

The BANs and bonds shall be executed in the name of the City by the manual or facsimile signatures of the Mayor, countersigned with the manual or facsimile signature of the Controller and attested by the manual or facsimile signature of the Clerk who shall affix or imprint by facsimile or any others means the seal of the City to each of the BANs and bonds. The Mayor, the Controller and the Clerk, by the execution of a signature and no litigation certificate, shall adopt as and for their own proper signatures their facsimile signatures appearing on the BANs and bonds. If any official whose signature or facsimile of whose signature shall appear on the BANs and bonds shall cease to be such officer before the issuance, authentication or delivery of such BANs or bonds, such signature or such facsimile shall, nevertheless, be valid and sufficient for all purposes, the same as if said official had remained in office until delivery.

No bond shall be valid or obligatory for any purposes, unless and until authenticated by the Registrar. The City and the Paying Agent may deem and treat the person in whose name a bond or BAN is registered on the bond register as the absolute owner thereof for all purposes, notwithstanding any notice to the contrary.

The Common Council has determined that it may be beneficial to the City to have the bonds held by a central depository system pursuant to an agreement between the City 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"). The bonds may 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 City 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 City to make payments of the principal of and premium, if any, and interest on the bonds pursuant to this ordinance. The City 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 City'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 City 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 resolution 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 City to the Depository Trust Company.

Upon receipt by the City 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 City 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 City determines that it is in the best interest of the bondholders that they be able to obtain certificates for the fully registered bonds, the City 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 City and the Registrar to do so, the Registrar and the City 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 the Depository Trust Company, the Registrar shall cause the 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 City 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 City or the Registrar with respect to any consent or other action to be taken by bondholders, the City 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 City 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 resolution and the City 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 3. Redemption Provisions. Commencing February 1, 2017, the BANs are prepayable by the City, in whole or in part, at any time, upon twenty (20) days' written notice to the owner of the BANs with no premium, plus accrued interest to the date of redemption.

The bonds are redeemable at the option of the City no earlier than eight years after their date of issuance, and on any date thereafter, on thirty (30) days' notice, in whole or in part, in such order of maturity as determined by the City, and by lot within a maturity, at par, plus interest accrued to the date of redemption, with no premium.

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 City, 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.

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.

In either case, notice of such redemption shall be mailed to the registered owner not less than thirty (30) days prior to the date fixed for redemption at the address of the registered owner as shown on the registration record of the City as of the date which is forty-five (45) days prior to said redemption date, unless such redemption notice is waived by the owner of the bond or bonds redeemed. 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 City. Interest on the bonds so called for redemption shall cease and the bonds will no longer be deemed outstanding under this ordinance on the redemption date fixed in such notice if sufficient funds are available at the place of redemption to pay the redemption price, including

accrued interest and redemption premium, if any, to the redemption date, on the date so named. Failure to give such notice by mailing, or any defect in such notice, with respect to any bond shall not affect the validity of any proceedings for redemption of other bonds.

If the bonds are not presented for payment or redemption on the date fixed therefor, the City may deposit in trust with the Paying Agent, an amount sufficient to pay such bond or the redemption price, as the case may be, including accrued interest to the date of such payment or redemption, and thereafter the registered owner shall look only to the funds so deposited in trust with the Paying Agent for payment, and the City shall have no further obligation or liability in respect thereto.

Section 4. Pledge of EDIT Revenues. The bonds, as to both principal and interest, shall be payable solely from and secured by an irrevocable pledge of EDIT Revenues, on a parity with the Outstanding Obligations. The City hereby pledges to the payment of the principal of the BANs, the proceeds of the bonds authorized under this ordinance and any other notes, bonds or other obligations which may be legally issued to refund the BANs. The City also hereby irrevocably pledges the EDIT Revenues to the payment of interest on the BANs, on a parity with the Outstanding Obligations. The bonds and BANs are within every limit of indebtedness of the City as prescribed by the constitution of the State of Indiana.

Section 5. Form of Bonds. The bonds shall be issued in substantially the following form, 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 City of Terre Haute, 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. \_\_\_\_\_

STATE OF INDIANA UNITED STATES OF AMERICA COUNTY OF VIGO

CITY OF TERRE HAUTE, INDIANA  
ECONOMIC DEVELOPMENT INCOME TAX  
REVENUE BOND OF \_\_\_\_\_

[INTEREST [MATURITY ORIGINAL AUTHENTICATION  
RATE] DATE] DATE DATE DATE [CUSIP]

REGISTERED OWNER:

PRINCIPAL SUM:

The City of Terre Haute, in Vigo County, Indiana ("City"), a municipal corporation organized and existing under the laws of the State of Indiana, for value received, hereby acknowledges itself indebted and promises to pay to the Registered Owner named above, or registered assigns, the Principal Sum set forth above on [the Maturity Date set forth above] [February 1 and August 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 thereon at the rate per annum [stated above] [set forth on Exhibit A attached hereto] from the interest payment date next preceding the date of authentication hereof unless this bond is authenticated on or before \_\_\_\_\_, 20\_\_, in which case interest shall be paid from the Original Date, or unless this bond is authenticated on or after the fifteenth day of the month preceding an interest payment date and on or before such interest payment date in which case interest shall be paid from such interest payment date, which interest is payable on February 1 and August 1, beginning on \_\_\_\_\_ 15, 20\_\_ until the Principal Sum has been paid.

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 containing an 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. 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 lawful money 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 principal of and interest on this bond are payable from EDIT Revenues, on a parity with the Outstanding Obligations (each as hereinafter defined).

This bond is [the only] one of an authorized issue of bonds of the City[, of like date, tenor and effect, except as to numbering, interest rates, dates of maturity] in the total aggregate principal amount of \$ \_\_\_\_\_, numbered consecutively from 1 up; issued for the purpose of providing funds to pay the cost of completing the construction of a police station, together with the necessary appurtenances, related improvements and equipment ("Project")[, refunding notes issued in anticipation of bonds,] funding a debt service reserve and to pay issuance expenses. This bond is issued pursuant to an ordinance adopted by the Common Council of the City on the \_\_\_\_\_ day of \_\_\_\_\_, 2015, entitled "An ordinance of the City of Terre Haute, Indiana, authorizing the issuance and sale of bonds of the City for the purpose of providing funds to be applied on a portion of the cost of the construction of a police station, other matters connected therewith, including the issuance of notes in anticipation of bonds, together with the incidental expenses in connection therewith and on account of the issuance of bonds and bond anticipation notes therefor" ("Ordinance"), and in accordance with the provisions of Indiana law, including without limitation Indiana Code, Title 36, Article 4, Chapter 6, Title 19, Title 6, Article 3.5, Chapter 7 and Title 5, Article 1, Chapter 14 as in effect on the date of delivery of the bonds of this issue ("Act"), the proceeds of which bonds are to be applied solely to the completion of the Project, [refunding said interim notes issued in anticipation of bonds,] funding a debt service reserve and the incidental expenses incurred in connection therewith.

The bonds maturing on \_\_\_\_\_ 1, 20\_\_ , are redeemable at the option of the City on \_\_\_\_\_ 1, 20\_\_ in whole or in part, in the order of maturity as determined by the City and by lot within a maturity, at face value, with no premium, plus in each case accrued interest to the date of redemption.

[The bonds maturing on \_\_\_\_\_ 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>Term Bond</u>
<u>Date</u>	<u>Amount</u>

\*

\* 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 record of the Registrar, as of the date which is forty-five (45) days prior to the date fixed for redemption, but not less than thirty (30) days prior to such redemption date, unless said notice is waived by the registered owner of this bond. Any 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 City. 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, including interest accrued to the redemption date, on the date so named. Failure to give such notice by mailing, or any defect in such notice, with respect to any bond shall not affect the validity of any proceedings for redemption of other bonds.

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

THIS BOND DOES NOT CONSTITUTE A GENERAL OBLIGATION OF THE CITY, BUT IS PAYABLE SOLELY OUT OF THE CITY'S DISTRIBUTIVE SHARE OF THE ECONOMIC DEVELOPMENT INCOME TAX ("EDIT REVENUES"), ON A PARITY WITH THE OUTSTANDING OBLIGATIONS (AS DEFINED IN THE ORDINANCE), AND INVESTMENT EARNINGS ON ANY CASH OR SECURITIES HELD IN THE REVENUE FUND ESTABLISHED UNDER THE ORDINANCE IN ACCORDANCE WITH IC 6-3.5-7.

The bonds are all equally and ratably secured by and entitled to the protection of the Ordinance. Additional bonds may be issued as described in the Ordinance. The bonds are subject to defeasance as provided in the Ordinance.

Reference is hereby made to the Ordinance for a description of the rights, duties and obligations of the City and the owners of the bonds, the terms and conditions upon which the bonds are or may be issued and the terms and conditions upon which the bonds will be paid at or prior to maturity, or will be deemed to be paid and discharged upon the making of provisions for payment therefor. Copies of the Ordinance are on file at the office of the Clerk. THE OWNER OF THIS BOND, BY ACCEPTANCE OF THIS BOND, HEREBY AGREES TO ALL OF THE TERMS AND PROVISIONS IN THE ORDINANCE.

This bond is transferable by the registered owner hereof at the office of the Registrar upon presentation and surrender of this bond and on presentation of a duly executed written instrument of transfer or exchange acceptable to the Registrar, and thereupon a new bond or bonds of the same aggregate principal amount and maturity and in authorized denominations will be issued to the transferee or transferees in exchange therefor. This bond may be exchanged upon surrender hereof at the principal office of the Registrar, duly endorsed by the registered owner, for the same aggregate principal amount of bonds of the same maturity and in authorized denominations as the owner may request.

[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 City and The Depository Trust Company, or any substitute agreement, effecting such Book Entry System.]

The bonds maturing in any one year are issuable only in fully registered form in the denomination of \$5,000 or any integral multiple thereof not exceeding the aggregate principal amount of the bonds maturing in such year.

The City and Registrar may deem and treat the person in whose name this bond is registered as the absolute owner hereof.

It is hereby certified and recited that all acts, conditions and things required by law and the constitution of the State of Indiana to be done precedent to and in the issuance, sale and delivery of this bond have been properly done, happened and performed in regular and due form as provided by law, and that the bonds of this issue do not exceed any constitutional or statutory limitation of indebtedness. The EDIT Revenues are hereby irrevocably pledged to the punctual payment of the principal and interest of this bond according to its terms, on a parity with the Outstanding Obligations.

This bond shall not be valid or become obligatory for any purpose until authenticated by the Registrar.

IN WITNESS WHEREOF, the City of Terre Haute, in Vigo County, Indiana, has caused this bond to be executed in its name by the manual or facsimile signature of its Mayor, countersigned with the manual or facsimile signature of its Controller, its corporate seal to be hereunto affixed or imprinted manually or by facsimile and attested by the manual or facsimile signature of its Clerk.

CITY OF TERRE HAUTE, INDIANA

---

Mayor

Countersigned:

\_\_\_\_\_  
Controller

(SEAL)

Attested:

\_\_\_\_\_  
Clerk

CERTIFICATE OF AUTHENTICATION

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

\_\_\_\_\_, as  
Registrar

\_\_\_\_\_  
Authorized Representative

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto

\_\_\_\_\_  
the within bond and all rights hereunder and hereby irrevocably constitutes and appoints \_\_\_\_\_, attorney, to transfer this bond on the bond register kept for the City, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature guaranteed by:

\_\_\_\_\_  
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 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 the Bonds and BANs. The Controller is hereby authorized and directed to have the bonds and BANs prepared, and the Mayor, the Controller and the Clerk are hereby authorized and directed to execute the bonds and BANs, in the form and manner herein provided. The Controller is hereby authorized and directed to deliver the bonds and BANs to the respective purchasers thereof after sale made in accordance with the provisions of this ordinance, provided that at the time of said delivery the Controller shall collect the full amount which the respective purchasers have agreed to pay therefor, which amount shall not be less than 99.5% of the par value of the BANs and not less than 98.5% of the par value of the bonds, as the case may be. The proceeds derived from the sale of the BANs and bonds shall be and are hereby set aside for application on the costs of the Project, the refunding of the BANs, if issued, and the expenses necessarily incurred in connection with the bonds and BANs. The proper officers of the City are hereby directed 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 7. Sale of Bonds. (a) If the bonds will be sold at competitive sale, as determined by the Controller, with the advice of the City's financial advisor, prior to the sale of bonds the Controller shall cause to be published either (i) a notice of such sale two (2) times at least one (1) week apart in the *Tribune-Star*, 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, or (ii) a notice of intent to sell bonds in the *Court & Commercial Record* and the

*Tribune-Star*, all in accordance with IC 5-1-11 and IC 5-3-1. A notice or summary notice of sale may also be published one time in the *Court & Commercial Record* or *The Bond Buyer*, in New York, New York. 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 Controller, upon advice of counsel deemed necessary. The notice may provide, among other things, that the successful bidder shall be required to submit a certified or cashier's check to guarantee performance on the part of the bidder. If 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 check and the proceeds thereof shall become the property of the City and shall be considered as its liquidated damages on account of such default.

All bids for the bonds shall be sealed and shall be presented to the Controller at his or her office, and the Controller shall continue to receive all bids offered until the hour on the day fixed in the notice, at which time and place she shall open and consider the bids. Bidders for the bonds shall be required to name the rate or rates of interest which the bonds are to bear, not exceeding six percent (6%) or such lower maximum rate set forth in the notice, and such interest rate or rates shall be in multiples of one-eighth ( $1/8$ ) or one-hundredth ( $1/100$ ) of one percent (1%). The rate bid on any maturity shall be equal to or greater than the rate bid on the immediately preceding maturity. No conditional bid for less than 98.5% of the par amount of the bonds will be considered.

(b) The Controller shall award the bonds to the highest responsible and qualified bidder. The highest bidder shall be the one who offers the lowest net interest cost to the City, computing

the total interest on all of the bonds to their maturities and adding thereto the discount bid, if any, and deducting therefrom the premium bid, if any. The Controller shall have full right to reject any and all bids. If no acceptable bid is received at the time fixed in the notice for sale of the bonds, the Controller shall be authorized to continue to receive bids from day to day thereafter for a period not to exceed thirty (30) days, without readvertising, 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.

(c) As an alternative to the public sale, the bonds may be sold by a negotiated sale with terms consistent with this ordinance. The Mayor and Controller are hereby authorized to execute a purchase agreement with the purchaser of the bonds ("Purchase Agreement") with terms conforming to this ordinance and sell such bonds upon such terms as are acceptable to the Mayor and the Controller consistent with the terms of this ordinance. The Mayor and the Controller are authorized and directed to obtain an investment letter from the purchaser of the bonds in a form acceptable to the Mayor and the Controller, with the advice of bond counsel, and consistent with the terms and provisions of this ordinance and the Purchase Agreement.

(d) The Mayor, the Controller and the Clerk may also take such other actions or deliver such other certificates as are necessary or desirable in connection with the issuance of the BANs and the bonds and the other documents needed for the financing as they deem necessary or desirable in connection therewith.

Prior to the delivery of the BANs or the bonds, the City shall obtain a legal opinion as to the validity of the BANs or the bonds, respectively, from Ice Miller LLP, bond counsel of Indianapolis, Indiana, and shall furnish such opinion to the purchaser of the BANs or the bonds, respectively. The cost of this opinion, the services of the City Attorney and the services of the

City's financial advisor shall be considered as part of the costs incidental to these proceedings and may be paid out of proceeds of the bonds or BANs, as the case may be.

Section 8. Continuing Disclosure; Official Statement. (a) If the bonds or BANs authorized herein are subject to Rule 15c2-12 of the Securities and Exchange Commission ("Rule"), the Mayor or the Controller are hereby authorized to execute and deliver a continuing disclosure undertaking agreement in satisfaction of the Rule.

(b) If the bonds or BANs authorized herein will be sold with an Official Statement or any other form of offering materials, distribution of an Official Statement (preliminary and final) or any other offering materials on behalf of the City, is hereby approved and the Mayor or Controller is authorized and directed to execute the Official Statement or other offering material on behalf of the City in a form consistent with this ordinance. The Mayor or Controller is hereby authorized to designate the preliminary Official Statement as "nearly final" for purposes of the Rule.

Section 9. Use of Proceeds and Costs of Issuance; Construction Fund. After the BANs and bonds shall have been properly executed, the Controller shall receive payment therefor, deliver the same to the respective purchasers thereof, and take receipt therefor. The proceeds from the sale of the BANs and bonds shall be paid into the Construction Fund created hereby. The Construction Fund shall be deposited in a separate account of the City and kept separate and apart from all other funds and accounts of the City. The proceeds deposited in the Construction Fund and investment earnings on amounts in the Construction Fund shall be expended only to pay the costs of the Project, refunding the BANs, if issued, and costs incurred in connection with the issuance of the bonds and BANs. Any balance or balances remaining unexpended in the Construction Fund after the completion of the Project, which are not required

to meet unpaid obligations incurred in connection with the construction of the Project, shall either (i) be deposited in the Revenue Fund and used solely for the purposes of said Fund or (ii) be used for the same purpose or type of project for which the bonds were issued, all in accordance with IC 5-1-13, as amended from time to time.

Section 10. Revenue Fund. There is hereby created a Revenue Fund ("Revenue Fund"). Any EDIT Revenues received by the City to pay debt service on the bonds shall be deposited in the Revenue Fund held either by the Trustee or the Controller. All moneys in the Revenue Fund shall be used solely for the purpose of paying principal of and interest on the BANs, the bonds and the Outstanding Obligations and meeting the requirements of the Bond and Interest Account created in the Revenue Fund and to fund a debt service reserve. The moneys deposited into the Revenue Fund, on an annual basis, shall not exceed the amount of principal and interest due on the BANs, the bonds and the Outstanding Obligations for the next succeeding year.

(a) Bond and Interest Account. There is hereby created, within the Revenue Fund, the Bond and Interest Account. There shall be credited, upon receipt of each monthly distribution, to the Bond and Interest Account, an amount of the EDIT Revenues equal to the interest on and principal of all then outstanding obligations from EDIT Revenues payable on the then next succeeding interest and principal payment dates. There shall similarly be credited to the Account any amount necessary to pay the bank fiscal agency charges for paying principal and interest on outstanding obligations as the same become payable. The City shall, from the sums deposited in the Revenue 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. There is hereby created, within the Revenue Fund, the Debt Service Reserve Account ("Reserve Account"). The City may deposit on the date of delivery of the bonds authorized herein, into the Reserve Account, funds on hand, bond proceeds or any combination thereof. The initial deposit or the balance accumulated in the Reserve Account shall equal but not exceed the least of: (i) the maximum annual debt service on the bonds; (ii) 125% of average annual debt service on the bonds; or (iii) 10% of the proceeds of the 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 EDIT 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 bonds.

The Reserve Account shall constitute the margin for safety and a protection against default in the payment of principal of and interest on the bonds, and the moneys in the Reserve Account shall be used only to pay current principal and interest on the 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 EDIT Revenues distributed to the City remaining after credits into the Bond and Interest Account and payments on the bonds and any Parity Obligations. Any moneys in the Reserve Account in excess of the Reserve Requirement shall be used for the purchase of outstanding bonds or

installments of principal of fully registered bonds at a price not exceeding par and accrued interest, and redemption premium, if any, or shall be used by the City for any lawful purpose.

(c) The City covenants that it will not take any action to repeal, rescind or reduce the pledge of EDIT Revenues so long as the bonds authorized hereunder are outstanding.

(d) Except for the Outstanding Obligations, the City has not pledged or otherwise encumbered the EDIT Revenues and there are no prior liens, encumbrances or other restrictions on the EDIT Revenues or on the City's ability to pledge the EDIT Revenues.

Section 11. Additional Bonds. The City reserves the right to authorize and issue additional BANs at any time ranking on a parity with the BANs. The City also reserves the right to authorize and issue additional bonds or other obligations payable from EDIT Revenues ranking on a parity with the bonds authorized by this ordinance ("Parity Obligations"), subject to the following conditions:

(a) all principal and interest payments and all rental payments with respect to all obligations payable from EDIT Revenues shall be current to date in accordance with the terms thereof with no payment in arrears;

(b) for Parity Obligations without a special benefits tax levy under IC 36-7-14-27 or other property tax backup authorized to pay such Parity Obligations, the City shall have received a certificate prepared by an independent, qualified accountant or feasibility consultant ("Certifier") certifying the amount of the City's distributive share of EDIT estimated to be received by the City in each succeeding year, adjusted as provided below, shall be at least equal to 125% of the lease rental and debt service requirements with respect to the Outstanding Obligations, the outstanding bonds and the proposed Parity Obligations for each year during the term of the outstanding bonds and the proposed Parity Obligations. If, when the proposed EDIT

Parity Obligations are issued, Vigo County shall have finally approved an increase in the rate at which the EDIT is imposed, the Certifier may adjust the amount of EDIT Revenues to take into account the increased EDIT rate into account. The City shall approve and confirm the figures and estimates set forth by the Certifier in a certificate delivered to the City by the Certifier. If the Parity Obligations will be secured by a special benefits tax under IC 36-7-14-27 or a property tax levy, the requirements of this paragraph (b) need not be met.

(c) principal and interest payments of Parity Obligations shall be payable semiannually on February 1 and August 1.

Section 12. Defeasance. If, when the bonds issued hereunder or any 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 any 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 any portion thereof then outstanding shall be paid; or (i) sufficient moneys or (ii) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, the principal of and the interest on which when due will provide sufficient moneys for such purpose, 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 issued hereunder or any designated portion thereof shall no longer be deemed outstanding or entitled to the pledge of the City's distributive share of the EDIT Revenues.

Section 13. Investment of Funds; Financial Records. (a) The Controller is hereby authorized to invest moneys pursuant to IC 5-1-14-3 and the provisions of this ordinance at a yield (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 and BANs under federal law.

(b) The Controller 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 Controller is hereby authorized and directed to employ consultants or attorneys from time to time to advise the City as to requirements of federal law to preserve the tax exclusion.

Section 14. Bond Anticipation Note Purchase Agreement. (a) The City, having satisfied all the statutory requirements for the issuance of its bonds, may elect to issue its BAN or BANs pursuant to a Bond Anticipation Note Purchase Agreement ("BAN Purchase Agreement") to be entered into between the City and the purchaser of the BAN or BANs. The Common Council hereby authorizes the issuance and execution of the BAN or BANs in lieu of initially issuing bonds to provide interim financing for a portion of the Project until permanent financing becomes available. It shall not be necessary for the City to repeat the procedures for the issuance of its bonds, as the procedures followed before the issuance of the BAN or BANs are for all purposes sufficient to authorize the issuance of the bonds and the use of the proceeds to repay the BAN or BANs.

(b) The Mayor and the Controller are hereby authorized and directed to execute a BAN Purchase Agreement in such form or substance as they shall approve acting upon the advice of counsel. The Mayor, the Controller and the Clerk may also take such other actions or deliver such other certificates as are necessary or desirable in connection with the issuance of the BANs or the bonds and the other documents needed for the financing as they deem necessary or desirable in connection therewith.

Section 15. Further Covenants of the City; Contract with Bondholders. (a) The provisions of this ordinance shall constitute a contract by and between the City and the owners of the bonds. After the issuance of the bonds, this ordinance or the definition of, the manner of collecting and distributing, or pledge of EDIT Revenues or the lien created by this ordinance, shall not be repealed or amended (except as specifically provided in Sections 16 and 17), or impaired in any respect which will adversely affect the rights of owners of the bonds, nor shall the City adopt any law, resolution, order or ordinance which in any way adversely affects the rights of such owners so long as any of the bonds or the interest thereon remains unpaid.

(b) The City will take no action to rescind the EDIT or to reduce the EDIT rate below a rate that would produce EDIT Revenues of at least one and twenty-five hundredths (1.25) times the highest annual debt service on the bonds to their final maturity based upon a study by a qualified public accountant or financial advisor.

Section 16. Supplemental Ordinances. The Council may, without the consent of, or notice to, any of the owners of the BANs or bonds, adopt a supplemental ordinance for any one or more of the following purposes:

(a) To cure any ambiguity or formal defect or omission in this ordinance;

(b) To grant to or confer upon the owners of the bonds or BANs any additional benefits, rights, remedies, powers or authorities that may lawfully be granted to or conferred upon the owners of the bonds and BANs;

(c) To modify, amend or supplement this ordinance to permit the qualification of the BANs or bonds for sale under the securities laws of the United States of America or of any of the states of the United States of America or the qualification of this ordinance under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect if such

modification, amendment or supplement will not have a material adverse effect on the owners of the bonds or BANs;

(d) To provide for the refunding or advance refunding of all or a portion of the bonds;

(e) To provide for the issuance of Parity Obligations by the City; or

(f) Any other purpose which does not adversely affect the interests of the owners of the BANs or bonds in any material way.

Section 17. Amendments with Consent of Bondholders. The owners of not less than fifty-one percent (51%) in aggregate principal amount of the bonds then outstanding who are, in the sole judgment of the City, affected shall have the right, from time to time, anything contained in the ordinance to the contrary notwithstanding, to consent to and approve the adoption by the Council of such supplemental ordinances as shall be deemed necessary and desirable by the Council for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this ordinance or in any supplemental ordinance other than those provisions covered by Section 16; provided however, that nothing in this Section shall permit, or be construed as permitting, without the consent of the owners of all the then outstanding bonds affected, any of the following: (a) an extension of the maturity, or mandatory sinking fund redemption schedule, of the principal of and interest on any bonds payable from EDIT Revenues, (b) a reduction in the principal amount of any bond or change in the rate of interest, (c) a privilege or priority of any bond or bonds over any other bond or bonds, (d) a reduction in the aggregate principal amount of the bonds required for consent to such supplemental ordinance, (e) the creation of any lien securing any bonds other than a lien ratably securing all of the bonds at any time outstanding hereunder (except as now provided in this

ordinance), (f) a reduction in the Reserve Requirement, or (g) a change in the method of accrual of interest on any bonds.

If at any time the Council desires to adopt a supplemental ordinance for any of the purposes set forth in this Section, the City shall cause notice of the proposed adoption of such supplemental ordinance to be mailed by registered or certified mail to each owner of a bond at the address shown on the registration books maintained by the Registrar. Such notice shall briefly set forth the nature of the proposed supplemental ordinance and shall state that copies thereof are on file at its office for inspection by all owners of bonds. If, within 60 days, or such longer period as shall be prescribed by the City, following the mailing of such notice, the owners of not less than fifty-one percent (51%) in aggregate principal amount of the bonds outstanding at the time of the execution of any such supplemental ordinance shall have consented to and approved the execution of such supplemental ordinance, no owner of any bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the City from adopting the same or from taking any action pursuant to the provisions thereof. Upon the adoption of any such supplemental ordinance as is permitted and provided by this Section, this ordinance shall be and be deemed to be modified and amended in accordance therewith.

Any consent, request, direction, approval, objection or other instrument required by this ordinance to be signed and executed by the owners of the bonds may be in any number of concurrent writings of similar tenor and may be signed or executed by such owners of the bonds in person or by agent appointed in writing. Proof of the execution of any such consent, request, direction, approval, objection or other instrument or of the writing appointing any such agent and of the ownership of the bonds, if made in the following manner, shall be sufficient for any of the

purposes of this ordinance, and shall be conclusive in favor of the City with regard to any action taken by it or them under such request or other instrument, namely:

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

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

Section 18. Tax Covenants and Representations. In order to preserve the exclusion of interest on the bonds and BANs from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as existing on the date of issuance of the bonds or BANs and the Regulations in effect and applicable on the date of issuance of the bonds or BANs, as the case may be (collectively, "Code") and as an inducement to purchasers of the bonds and BANs, the Council 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 City or another state or local governmental unit will use more than 10% of the proceeds of the bonds or BANs or property financed by the bond or BAN proceeds other than as a member of the general public. No person or entity other than the City or another state or local governmental unit will own property financed by bond or BAN 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 or BANs, as the case may be. If the City enters into a management contract for the Project, the terms of the contract will comply with IRS Revenue Procedure 97-13, as it may be amended, supplemented or superseded from time to time, so that the contract will not give rise to private business use under the Code and the Regulations, 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 or BANs is (under the terms of the bonds or BANs, 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 City) 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 or BAN proceeds will be loaned to any person or entity other than another state or local governmental unit. No more than 5% of the bond or BAN 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 or BAN proceeds.

(d) The City reasonably expects, as of the date hereof, that the bonds and BANs 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 or BANs, as the case may be.

(e) No more than 5% of the proceeds of the bonds or BANs 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 governmental 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 City will not take any action nor fail to take any action with respect to the bonds or BANs that would result in the loss of the exclusion from gross income for federal tax purposes on the bonds or BANs pursuant to Section 103 of the Code, nor will the City act in any other manner which would adversely affect such exclusion. The City covenants and agrees not to enter into any contracts or arrangements which would cause the bonds or BANs 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 or BAN 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 or BANs, as the case may be.

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

(i) The City represents that it will rebate any arbitrage profits to the United States in accordance with the Code.

Section 19. 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 and BANs from

gross income under federal law ("Tax Exemption") need not be complied with if the City receives an opinion of nationally recognized bond counsel that compliance with any Tax Section is unnecessary to preserve the Tax Exemption.

Section 20. Debt Limit Not Exceeded. The City represents and covenants that the bonds and BANs herein authorized, when combined with other outstanding indebtedness of the City, will not exceed any applicable constitutional or statutory limitation on the City's indebtedness.

Section 21. Severability. If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

Section 22. 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 23. Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby repealed; provided, however, that this ordinance shall not be construed as modifying, amending or repealing the resolution authorizing the Outstanding Obligations or as adversely affecting the rights of the holders of the Outstanding Obligations.

Section 24. Effective Date. This ordinance shall be in full force and effect from and after its passage and signing by the Mayor.


Introduced by:  Norman Loudermilk, Councilman

Passed in open Council this 13<sup>th</sup> day of AUGUST, 2015.

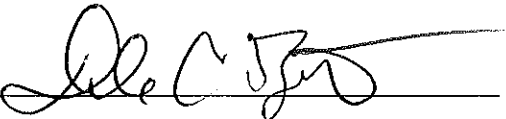
 John Mullican, President


ATTEST:  Charles P. Hanley, City Clerk

Presented by me to the Mayor this 14<sup>th</sup> day of AUGUST, 2015.

 Charles P. Hanley, City Clerk

Approved by me, the Mayor, this 14<sup>th</sup> day of AUGUST, 2015.

 Duke A. Bennett, Mayor

ATTEST:  Charles P. Hanley, City Clerk