

ORDINANCE NO. 2000-3

An Ordinance of the City of Rockport authorizing the issuance of waterworks revenue bonds for the purpose of providing funds to pay the cost of certain additions, extensions and improvements to the municipal waterworks of said City, the defeasance of outstanding bonds of the waterworks, providing for the safeguarding of the interests of the owners of said revenue bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds, and repealing ordinances inconsistent herewith

WHEREAS, the City of Rockport, Indiana ("City") now owns and operates an unencumbered municipal waterworks in accordance with the provisions of Title 8, Article 1.5 of the Indiana Code, as in effect on the date of delivery of the bonds herein authorized ("Act"), furnishing the public water supply to said City and its inhabitants; and

WHEREAS, the Common Council of the City now finds that certain improvements and extensions to said works are necessary; and that plans, specifications and estimates have been or will be prepared and filed by the engineers employed by the City for the construction of said improvements and extensions, as more fully described on Exhibit A attached hereto and made a part hereof ("Project"), which plans, specifications and engineering estimates have been or will be approved by said Common Council and by all governmental authorities having jurisdiction, particularly the Indiana Department of Environmental Management; and

WHEREAS, the City has obtained engineer's estimates of the costs for the construction of said Project and will advertise for and receive bids for the Project, which bids will be subject to the City's obtaining funds to pay for said Project; that on the basis of said engineering estimates, the maximum estimated cost of the Project, including incidental expenses, is in the maximum amount of \$2,000,000; and

WHEREAS, the Common Council finds that there are no funds on hand available to apply on the cost of the Project, and that it is necessary to finance the entire cost of the Project by the issuance of waterworks revenue bonds in an aggregate amount not to exceed \$2,000,000 and, if necessary, bond anticipation notes ("BANs"); and

WHEREAS, the City has heretofore issued certain Waterworks Revenue Bonds of 1986, dated October 9, 1986 ("1986 Bonds"), originally issued in the amount of \$1,877,000, now outstanding in the principal amount of \$1,680,000, and maturing annually over a period ending October 1, 2025, and which 1986 Bonds constitute a first charge upon the Net Revenues (as hereinafter defined) of the waterworks; and

WHEREAS, the City has heretofore issued certain Waterworks Revenue Bonds of 1989, dated March 1, 1989 ("1989 Bonds"), originally issued in the amount of \$220,000, now outstanding in the principal amount of \$139,000, and maturing annually over a period ending October 1, 2008, and which 1989 Bonds constitute a second charge upon the Net Revenues of the waterworks, junior and subordinate to the 1986 Bonds; and

WHEREAS, the Common Council finds that it may defease such 1989 Bonds by providing for the redemption of said 1989 Bonds on or before the issue date of the bonds authorized herein; and

WHEREAS, the City finds that the owner of the 1989 Bonds has given its consent to the redemption by the City of said 1989 Bonds on or before the issue date of the bonds authorized herein; and

WHEREAS, the City now finds that the costs of such redemption on or before the issue date of the bonds authorized herein, including the payment of the principal amount of said 1989 Bonds and interest on said 1989 Bonds will not exceed \$150,000; and

WHEREAS, the City now finds that there are funds on hand from the AEP Funds (as hereinafter defined) and funds on hand of the waterworks which may be used to redeem the 1989 Bonds on or before the issue date of the bonds authorized herein; and

WHEREAS, the owner of the 1986 Bonds has given the City its consent to permit the issuance of the bonds authorized herein on a parity with said 1986 Bonds and that, accordingly, the bonds issued hereunder shall rank on a parity with said 1986 Bonds; and

WHEREAS, the revenue bonds authorized herein shall constitute a first charge on the Net Revenues of the waterworks on a parity with the 1986 Bonds and are to be issued subject to the provisions of the laws of the Act, and the terms and restrictions of this ordinance; and

WHEREAS, the City has entered into a settlement agreement ("Agreement") dated October 24, 1998 with Indiana Michigan Power Company and AEP Generating Company (collectively, "AEP") whereby AEP has agreed to make payments to the City on an annual basis over a period ending November 1, 2007 in the aggregate amount of \$2,050,000 ("AEP Funds"); and

WHEREAS, the Agreement provides that if the City or AEP elects the Renewal Term (as defined in the Agreement), AEP will make additional payments to the City on an annual basis commencing November 1, 2008 and ending November 1, 2017 in the aggregate amount of \$3,250,000, subject to the Adjustment Factor (as defined in the Agreement) ("AEP Renewal Funds"); and

WHEREAS, the Agreement provides that the AEP Funds and the AEP Renewal Funds shall be used by the City for infrastructure improvements to the City; and

WHEREAS, the City finds that commencing November 1, 2000, one-half (1/2) of the AEP Funds and one-half (1/2) of the AEP Renewal Funds collected by the City shall be deposited in the Revenue Fund; and

WHEREAS, the City finds that the Pledged AEP Payments (as hereinafter defined) shall be used as Net Revenues of the waterworks for the funding of a debt service reserve and the payment of the bonds herein authorized; and

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

WHEREAS, the City will enter into a Financial Assistance Agreement with the State of Indiana, pertaining to the Project and the financing thereof ("Financial Assistance Agreement"); and

WHEREAS, the City has removed its waterworks from the jurisdiction of the Indiana Utility Regulatory Commission; and

WHEREAS, the Common Council now finds that all conditions precedent to the adoption of an ordinance authorizing the issuance of revenue 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 THE CITY OF ROCKPORT, INDIANA, THAT:

Sec. 1. Authorization of Project. (a) The City, being the owner of and engaged in operating a municipal waterworks furnishing the public water supply to said City and its inhabitants, now

proceed with the construction of the Project in accordance with the cost estimates, and the plans and specifications heretofore prepared or to be prepared and filed by the consulting engineers employed by the City, 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 or shall be placed on file when complete in the office of the Clerk-Treasurer and are open for public inspection, that the cost of construction of said Project shall not exceed the sum of \$2,000,000, plus investment earnings on the bond and BAN proceeds, without further authorization from this Common Council. The terms "waterworks," "waterworks system," "works," "system," and other like terms where used in this ordinance shall be construed to mean and include the Drinking Water System, as defined in the Financial Assistance Agreement, and includes the existing waterworks system and all real estate and equipment used in connection therewith and appurtenances thereto, and all extensions, additions and improvements thereto and replacements thereof now or at any time hereafter constructed or acquired. The Project shall be constructed in accordance with the plans and specifications heretofore mentioned. Said Project shall be constructed and the bonds herein authorized shall be issued pursuant to and in accordance with the Act.

(b) The City proceed with the defeasance and redemption of the 1989 Bonds as described in Section 9 hereof. The cost of the redemption of said 1989 Bonds shall not exceed the sum of \$150,000 without further authorization from this Common Council.

Sec. 2. Issuance of BANs and Bonds. (a) The City shall issue, if necessary, its BANs for the purpose of procuring interim financing to apply to the costs of said Project. The City shall issue its BANs in an amount not to exceed Two Million Dollars (\$2,000,000) to be designated "Waterworks Bond Anticipation Notes." Said BANs shall be numbered consecutively from 1

upward, shall be sold at a price of not less than 99.5% of their par value, shall be in any multiple of \$1 as set forth in the purchase agreement for said BANs, shall be dated as of the date of delivery thereof, and shall bear interest at a rate not to exceed 6.0% per annum (the exact rate or rates to be determined through negotiation with the purchaser of the BANs) payable upon maturity. The BANs will mature no later than one (1) year after their date of delivery. The BANs are subject to renewal or extension at an interest rate or rates not to exceed 6.0% per annum (the exact rate or rates to be negotiated with the purchaser of the BANs). 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 BANs shall be issued pursuant to IC 5-1.5-8-6.1 if sold to the Indiana Bond Bank, pursuant to IC 13-18-21 if sold to the State of Indiana, or pursuant to IC 5-1-14-5 if sold to a financial institution or any other purchaser. The principal of and interest on the BANs shall be payable solely from the issuance of revenue bonds pursuant to and in the manner prescribed by the Act. The revenue bonds will be payable solely out of and constitute a first charge against the Net Revenues (herein defined as gross revenues after deduction only for the reasonable expenses of operation, repair and maintenance) of the waterworks of the City, including all additions, extensions and improvements thereto subsequently constructed or acquired, on a parity with the 1986 Bonds.

Commencing November 1, 2000, one-half (1/2) of the AEP Funds and one-half (1/2) of the AEP Renewal Funds collected by the City shall be deposited in the Revenue Fund, as hereinafter described ("AEP Payments").

The Net Revenues of the waterworks shall include the Pledged AEP Payments. For purposes of this ordinance, the "Pledged AEP Payments" shall mean an annual amount of \$100,000 of AEP

Payments. The Pledged AEP Payments shall remain in force for so long as the bonds authorized herein are outstanding, provided, however, that the Pledged AEP Payments shall no longer be pledged or treated as Net Revenues of the waterworks upon the one time showing (i) that the Net Revenues of the waterworks (not including Pledged AEP Payments) in the fiscal year immediately preceding the City's determination to release the Pledged AEP Payments from the payment of the bonds authorized herein are not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of all bonds payable from the Net Revenues of the waterworks; or (ii) that prior to the City's determination to release the Pledged AEP Payments from the payment of the bonds authorized herein, the water rates and charges are increased sufficiently so that the increased rates and charges applied to the previous fiscal year's operations would have produced Net Revenues (not including Pledged AEP Payments) for said year equal to not less than one hundred twenty-five (125%) of the maximum annual interest and principal requirements of all bonds payable from the Net Revenues of the waterworks. For purposes of this subsection, the records of the waterworks shall be analyzed and all showings prepared by a certified public accountant employed by the City for that purpose. If the bonds authorized herein are sold to the Indiana Drinking Water State Revolving Loan Fund Program ("DWSRF Program"), such showings shall be in a form reasonably acceptable to the State.

(b) The City shall issue its "Waterworks Revenue Bonds of 2000" ("Bonds"), in an aggregate principal amount not to exceed Two Million Dollars (\$2,000,000) for the purpose of procuring funds to be applied on the costs of the Project, the payment of costs of issuance, refunding the BANs, if issued, and all other costs related to the Project.

The Bonds shall be sold at a price of par and shall be issued in the denomination of One Dollar (\$1) each if sold to the DWSRF Program or Five Thousand Dollars (\$5,000) each or integral multiples thereof, if sold to another purchaser, numbered consecutively from 1 upward, dated as of the date of delivery if sold to the DWSRF Program, or the first day of the month in which they are sold if sold to any other purchaser and shall bear interest at a rate or rates not exceeding 7.0% per annum (the exact rate or rates to be determined by bidding or as negotiated with the DWSRF Program) payable annually on October 1 in each year, beginning on the first October 1 after interest on the Bonds shall begin to accrue. The Bonds shall mature annually on October 1, or shall be subject to mandatory sinking fund redemption on October 1, over a period ending no later than twenty (20) years after substantial completion of the Project, and in such amounts that will produce as level annual debt service as practicable, taking into account the annual debt service on the 1986 Bonds.

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

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 of October 1, on the dates as determined by the successful bidder, but in no event later than the last 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.

Sec. 3. Registrar and Paying Agent. The Mayor and Clerk-Treasurer are authorized to select and appoint 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 Waterworks Sinking Fund continued herein to pay the principal of and interest on the Bonds as fiscal agency charges.

As to the BANs and as to the Bonds, if sold to the DWSRF Program, the Clerk-Treasurer shall serve as Registrar and Paying Agent and is hereby charged with the performance of and all duties of and responsibilities of Registrar and Paying Agent.

If the Bonds or BANs are sold to the DWSRF Program, the principal of and interest thereon shall be paid by wire transfer to such financial institution if and as directed by the State of Indiana on the due date of such payment or, if such due date is a day when financial institutions are not open for business, on the business day immediately after such due date. So long as the Indiana Bond Bank is the owner of said Bonds or BANs, such Bonds and BANs shall be presented for payment as directed by the State.

For all other Bonds or if wire transfer payment is not required, the principal of the Bonds and the principal and interest on the BANs 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 to the registered owners thereof, as of the fifteenth day of the month preceding each interest payment date ("Record

Date"), 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 on or before such Record Date. 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 and BANs 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 City 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 City 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 City, 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 City 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 City. Any such notice to the City 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 City, in which event the City may appoint a successor registrar and paying agent. The City 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 City, 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 Waterworks Sinking Fund continued in Section 15 hereof. 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 sold to the DWSRF Program shall be payable from the date or dates as set forth in the Financial Assistance Agreement. Interest on all other 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.

Sec. 4. Redemption of Bonds and BANs. (a) The BANs are prepayable by the City, in whole or in part, on any date, upon 7 days' notice to the owner of the BANs without any premium.

(b) The Bonds maturing on or after October 1, 2011, are redeemable at the option of the City on October 1, 2010, or any date thereafter, on sixty (60) days' notice, in whole or in part, in inverse order of maturity and by lot within a maturity, at face value, together with the following premiums:

2% if redeemed on October 1, 2010, or thereafter
on or before September 30, 2011;
1% if redeemed on October 1, 2011, or thereafter
on or before September 30, 2012;
0% if redeemed on October 1, 2012, or thereafter
prior to maturity;

plus accrued interest to the date fixed for redemption.

(c) 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 cancelled 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 authorized denomination 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 called 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.

(d) In either case, notice of such redemption shall be given at least sixty (60) 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 City as of the date which is sixty-five (65) 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 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 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.

Sec. 5. Execution and Negotiability. Each of the Bonds and BANs shall be executed in the name of the City by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of its Clerk-Treasurer, who shall affix the seal of said City to each of said Bonds manually or shall have the seal imprinted or impressed thereon by facsimile. 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 or BANs. In case any officer whose signature or facsimile signature appears on the Bonds or BANs shall cease to be such officer before the delivery of the Bonds or BANs, 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 and BANs 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.

Sec. 6. Form of Bonds. The form and tenor of the Bonds shall be substantially as follows, all blanks to be filled in properly prior to delivery and all necessary additions and deletions to be made prior to delivery thereof:

UNITED STATES OF AMERICA

STATE OF INDIANA

COUNTY OF SPENCER

CITY OF ROCKPORT
WATERWORKS REVENUE BOND OF 2000

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

REGISTERED OWNER:

PRINCIPAL SUM:

The City of Rockport, in Spencer County, State of Indiana, for value received, hereby promises to pay to the Registered Owner named above or registered assigns, solely out of the special revenue fund hereinafter referred to, the Principal Sum set forth above [or so much thereof as may be advanced from time to time and be outstanding as evidenced by the records of the Registered Owner making payment for this bond, or its assigns,] on [the Maturity Date set forth above] [October 1 in the years and in the amounts as set forth on Exhibit A attached hereto] (unless this bond be subject to and be called for redemption prior to maturity as hereinafter provided), and to pay interest hereon at the Interest Rate per annum stated above from [] [the interest payment date to which interest has been paid next preceding the Authentication Date of this bond unless this bond is authenticated after the fifteenth day of the month preceding an interest payment date and on or before such interest payment date in which case it shall bear interest from such interest payment date or unless this bond is authenticated on or before September 15, ____, in which case it shall bear interest from the Original Date,] until the principal is paid, which interest is payable annually on the first day of October of each year, beginning on October 1, ____. Interest shall be calculated according to a 360-day calendar year containing twelve 30-day months.

[The principal of this bond is payable at the principal office of _____ ("Registrar" or "Paying Agent"), in the _____ of _____, Indiana.] All payments of [principal of and] interest on this bond shall be paid by [check, mailed one business day prior to the interest payment date] [wire transfer for deposit to a financial institution as directed by the State on the due date or, if such due date is a day when financial institutions are not open for business, on the business day immediately after such due date] to the registered owner hereof as of the fifteenth day of the month preceding such interest payment date at the address as it appears on the registration books kept by the [] ("Registrar" or "Paying Agent") in the _____ of _____, Indiana] [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 coin or currency of the United States of America, which on the dates of such payment, shall be legal tender for the payment of public and private debts.

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

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

THE TERMS AND PROVISIONS OF THIS BOND ARE CONTINUED ON THE REVERSE SIDE HEREOF AND SUCH TERMS AND PROVISIONS SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS THOUGH FULLY SET FORTH AT THIS PLACE.

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 City of Rockport, in Spencer County, Indiana, has caused this bond to be executed in its corporate name by the manual or facsimile signature of its Mayor, its corporate seal to be hereunto affixed, imprinted or impressed by any means and attested manually or by facsimile by its Clerk-Treasurer.

CITY OF ROCKPORT, INDIANA

By _____
Mayor

[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

(To be printed on Reverse Side)

This bond is [the only] one of an authorized issue of bonds of the City, [of like date, tenor and effect, except as to rates of interest and dates of maturity;] in the total amount of _____ Dollars (\$ _____); numbered consecutively from 1 up; issued for the purpose of providing funds to be applied on the cost of constructing additions, extensions and improvements to the City's waterworks ("Project"), [to refund interim notes issued in anticipation of the bonds] and to pay issuance expenses. This bond is issued pursuant to an Ordinance adopted by the Common Council of said City on the ___ day of _____, 2000, entitled "An Ordinance of the City of Rockport authorizing the issuance of waterworks revenue bonds for the purpose of providing funds to pay the cost of certain additions, extensions and improvements to the municipal waterworks of said City, the defeasance of outstanding bonds of the waterworks, providing for the safeguarding of the interests of the owners of said revenue bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds, and repealing ordinances inconsistent herewith" ("Ordinance"), and in accordance with the provisions of Indiana law, including without limitation Indiana Code 8-1.5 as in effect on the date of delivery of the bonds of this issue ("Act").

[Reference is hereby made to the Financial Assistance Agreement between the City and the State of Indiana as to certain terms and covenants pertaining to the waterworks project and this bond ("Financial Assistance Agreement").]

Pursuant to the provisions of the Act and the Ordinance, the principal of and interest on this bond and all other bonds of said issue, and any bonds hereafter issued on a parity therewith are payable solely from the Waterworks Sinking Fund continued by the Ordinance ("Sinking Fund") to

be provided from the Net Revenues (defined as the gross revenues after deduction only for the reasonable expenses of operation, repair and maintenance) of the waterworks of the City, including all additions, extensions and improvements thereto subsequently constructed or acquired. This Bond and the issue of which it is a part have been issued on a parity with the 1986 Bonds, as defined in the Ordinance, in accordance with the terms thereof. In addition, the Bonds authorized by the Ordinance are secured by and constitute a first charge against the Pledged AEP Payments (as defined in the Ordinance), and subject to Section 2(a) of the Ordinance.

The City of Rockport irrevocably pledges the Pledged AEP Payments and the entire Net Revenues of the waterworks to the prompt payment of the principal of and interest on the bonds authorized by the Ordinance, of which this is one, and any bonds ranking on a parity therewith, including the 1986 Bonds, to the extent necessary for that purpose, and covenants that it will cause to be fixed, maintained and collected such rates and charges for services rendered by the utility as are sufficient in each year for the payment of the proper and reasonable expenses of Operation and Maintenance (as defined in the Financial Assistance Agreement) of the waterworks, and, together with the Pledged AEP Payments pledged under the Ordinance, for the payment of the sums required to be paid into the Sinking Fund under the provisions of the Act and the Ordinance. If the City or the proper officers thereof shall fail or refuse to so fix, maintain and collect such rates or charges, or if there be a default in the payment of the interest on or principal of this bond, the owner of this bond shall have all of the rights and remedies provided for under Indiana law.

The City of Rockport further covenants that it will set aside and pay into its Sinking Fund the Pledged AEP Payments and a sufficient amount of the Net Revenues of the works for payment of (a) the interest on all bonds which by their terms are payable from the revenues of the waterworks, as such interest shall fall due, (b) the necessary fiscal agency charges for paying bonds and interest, (c) the principal of all bonds which by their terms are payable from the revenues of the waterworks, as such principal shall fall due, and (d) an additional amount as a margin of safety to [create and] maintain the debt service reserve required by the Ordinance. Such required payments shall constitute a first charge upon the Pledged AEP Payments, subject to Section 2(a) of the Ordinance, and a first charge against the Net Revenues of said works, on a parity with the aforementioned 1986 Bonds.

The bonds of this issue maturing on and after October 1, 2011, are redeemable at the option of the City on October 1, 2010, or any date thereafter, on sixty (60) days' notice, in whole or in part, in inverse order of maturity and by lot within a maturity, at face value, together with the following premiums:

- 2% if redeemed on October 1, 2010, or thereafter
on or before September 30, 2011;
- 1% if redeemed on October 1, 2011, or thereafter
on or before September 30, 2012;
- 0% if redeemed on October 1, 2012, or thereafter
prior to maturity;

plus accrued interest to the date fixed for redemption.

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

<u>Year</u>	<u>Amount</u>
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*

* Final Maturity]

Each [Five Thousand Dollars (\$5,000)] [One Dollar (\$1)] principal amount shall be considered a separate bond for purposes of optional [and mandatory] redemption. If less than an entire maturity is called for redemption, the bonds to be redeemed shall be selected by lot by the Registrar. [If some bonds are to be redeemed by optional redemption and mandatory sinking fund redemption on the same date, the Registrar shall select by lot the bonds for optional redemption before selecting the bonds by lot for the mandatory sinking fund redemption.]

Notice of such redemption shall be mailed to the address of the registered owner as shown on the registration records of the City, as of the date which is sixty-five (65) days prior to such redemption date, not less than sixty (60) 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 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 on the date so named.

If this bond shall not be presented for payment or redemption on the date fixed therefor, the City 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 City shall have no further obligation or liability in respect thereto.

This bond is transferable or exchangeable only upon the books of the City 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 City, 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.

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.

The bonds maturing in any one year are issuable only in fully registered form in the denomination of [\$5,000] [\$1] or any integral multiple thereof.

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.

Sec. 7. Authorization for Preparation and Sale of the Bonds and BANs. The Clerk-Treasurer is hereby authorized and directed to have the Bonds and BANs prepared, and the Mayor and Clerk-Treasurer are hereby authorized and directed to execute and attest the Bonds and BANs in the form

and manner provided herein. The Clerk-Treasurer is hereby authorized and directed to deliver the Bonds and BANs to the respective purchasers thereof. At the time of delivery of the Bonds and BANs, the Clerk-Treasurer 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 said BANs and not less than the par value of said Bonds, as the case may be. The City may receive payment on the BANs and the Bonds in installments. The Bonds, as and to the extent paid for and delivered to the purchaser, shall be the binding special revenue obligations of the City payable out of the Pledged AEP Payments and the Net Revenues of the waterworks. The proper officers of the City 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.

Sec. 8. Bond Sale Notice. Prior to the sale of said Bonds, the Clerk-Treasurer shall cause to be published either (i) a notice of bond sale in the *Spencer County Journal-Democrat*, the only newspaper published in the City of Rockport, Indiana, two times, at least one week apart, the first publication made at least fifteen (15) days before the date of the sale and the second publication being made at least three (3) days before the date of the sale, or (ii) a notice of intent to sell in the *Spencer County Journal-Democrat* and in the *Court & Commercial Record* all in accordance with IC 5-1-11 and IC 5-3-1. A notice of sale may also be published one time in the *Court & Commercial Record*, and a summary notice may also be published in *The Bond Buyer* in New York, New York. The notice shall state the character and amount of the Bonds, the maximum rate of interest thereon, the terms and conditions upon which bids will be received and the sale made, and such other information as the Clerk-Treasurer and the attorneys employed by the City shall deem advisable and any summary notice may contain any information deemed so advisable. The notice may provide,

among other things, that each bid shall be accompanied by a certified or cashier's check or a financial surety bond in an amount equal to 1% of the principal amount of the Bonds described in the notice to guarantee performance on the part of the bidder. If a financial surety bond is used, it must be from an insurance company licensed to issue such bond in the State of Indiana, and such bond must be submitted to the City prior to the opening of the bids. The financial surety bond must identify each bidder whose good faith deposit is guaranteed by such financial surety bond. If the Bonds are awarded to a bidder utilizing a financial surety bond, then that purchaser is required to submit to the City a certified or cashier's check (or wire transfer such amount as instructed by the City) not later than 3:30 p.m. (Rockport Time) on the next business day following the award. 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 said check and the proceeds thereof shall be the property of the City and shall be considered as its liquidated damages on account of such default. Bidders for said Bonds will be required to name the rate or rates of interest which the Bonds are to bear, not exceeding the maximum rate hereinbefore fixed, and such interest rate or rates shall be in multiples of one-eighth (1/8) or one-twentieth (1/20) of one percent (1%). The rate bid on a maturity shall be equal to or greater than the rate bid on the immediately preceding maturity. No conditional bid or bid for less than the face amount of the Bonds will be considered. The opinion of Ice Miller Donadio & Ryan, bond counsel of Indianapolis, Indiana, approving the legality of said Bonds, will be furnished to the purchaser at the expense of the City.

The Bonds shall be awarded by the Clerk-Treasurer to the best bidder who has submitted its bid in accordance with the terms of this ordinance, IC 5-1-11 and the notice of sale. The best bidder will be the one who offers the lowest net interest cost to the City, to be determined by computing

the total interest on all of the Bonds to their maturities, and deducting the premium bid, if any. The right to reject any and all bids shall be reserved. If an acceptable bid is not received on the date of sale, the sale may be continued from day to day thereafter without further advertisement for a period of thirty (30) days, during which time no bid which provides a higher net interest cost to the City than the best bid received at the time of the advertised sale will be considered.

As an alternative to public sale, the Clerk-Treasurer may negotiate the sale of said Bonds to the DWSRF Program at an interest rate not exceeding 2.9% per annum. The Mayor and the Clerk-Treasurer are hereby authorized to (i) submit an application to the DWSRF Program, (ii) execute a Bond Purchase Agreement with the Indiana Bond Bank with terms conforming to this ordinance and (iii) sell such Bonds upon such terms as are acceptable to the Mayor and the Clerk-Treasurer consistent with the terms of this ordinance.

The Financial Assistance Agreement for the Bonds and the Project shall be executed by the City and the State of Indiana if the Bonds are sold to the DWSRF Program. The substantially final form of Financial Assistance Agreement attached hereto and incorporated herein by reference is hereby approved by the Common Council and the Mayor and the Clerk-Treasurer are hereby authorized to execute and deliver the same, and to approve any changes in form or substance to the Financial Assistance Agreement which are consistent with the terms of this ordinance, such changes to be conclusively evidenced by its execution.

Sec. 9. Redemption of 1989 Bonds. On or before the issue date of the Bonds, the Clerk-Treasurer is hereby authorized to use a sufficient amount of funds on hand from the AEP Funds and funds on hand of the waterworks to redeem the outstanding 1989 Bonds. The City authorizes the

use of up to \$150,000 of funds on hand from the AEP Funds and waterworks to redeem the outstanding 1989 Bonds.

Sec. 10. Use of Proceeds and Costs of Issuance. The accrued interest received at the time of delivery of the Bonds and premium, if any, shall be deposited into the Bond and Interest Account of the Waterworks Sinking Fund and used to pay interest on the Bonds. The remaining proceeds from the sale of the Bonds, to the extent not used to refund BANs, and BAN proceeds shall be deposited in a bank or banks which are legally designated depositories for the funds of the City, in a special account or accounts to be designated as "City of Rockport, Waterworks Construction Account" ("Construction Account"). All funds deposited to the credit of the Waterworks Sinking Fund or the Construction Account shall be deposited, held, secured or invested in accordance with the laws of the State of Indiana relating to the depositing, holding, securing or investing of public funds, including particularly IC 5-13, as amended and supplemented. The funds in the Construction Account shall be expended only for the purpose of paying the cost of the Project, refunding the BANs, if issued, or as otherwise required by the Act or for the expenses of issuance of the Bonds. The cost of obtaining the legal services of Ice Miller Donadio & Ryan, shall be considered as a part of the cost of the Project on account of which the Bonds and BANs are issued. Any balance or balances remaining unexpended in such special account or accounts after completion of the Project, which are not required to meet unpaid obligations incurred in connection with such Project, shall either (1) be paid into the Sinking Fund and used solely for the purposes of said Sinking Fund or (2) be used for the same purpose or type of project for which the Bonds were originally issued, all in accordance with IC 5-1-13, as amended and supplemented.

With respect to any Bonds sold to the DWSRF Program, to the extent that the total principal amount of the Bonds is not paid by the purchaser or drawn down by the City, the City shall reduce the principal amounts of the remaining Bond maturities in amounts which will still maintain as level annual debt service as practicable as described in Section 2(b).

Sec. 11. Financial Records and Accounts; Continuing Disclosure. The City shall keep proper records and books of account, separate from all of its other records and accounts, in which complete and correct entries shall be made showing all revenues received on account of the operation of the waterworks and all disbursements made therefrom and all transactions relating to the utility. There shall be prepared and furnished to any owner of the Bonds, within thirty (30) days of such request, the most recent audited financial statements of the utility prepared by the State Board of Accounts. Copies of all such statements and reports shall be kept on file in the office of the Clerk-Treasurer. Any owner of the Bonds shall have the right at all reasonable times to inspect the waterworks system and the records, accounts and data of the City. If the Bonds are subject to Rule 15c2-12 of the Securities and Exchange Commission ("Rule"), the Mayor or the Clerk-Treasurer are authorized to execute and deliver a continuing disclosure agreement in satisfaction of the Rule.

If the Bonds or BANs are sold to the DWSRF Program, the City shall establish and maintain the books and other financial records of the Project (including the establishment of a separate account or subaccount for the Project) and the waterworks in accordance with (i) generally accepted governmental accounting standards for utilities, on an accrual basis, as promulgated by the Government Accounting Standards Board and (ii) the rules, regulations and guidance of the State Board of Accounts.

Sec. 12. Pledge of Pledged AEP Payments and Net Revenues. The City pledges to the payment of the Bonds, the Pledged AEP Payments. Such pledge shall constitute a first charge against the Pledged AEP Payments and shall be subject to Section 2(a) of this ordinance. The Bonds are further secured by an irrevocable pledge of and shall constitute a first charge upon the Net Revenues of the waterworks of the City, on a parity with the 1986 Bonds.

Sec. 13. Revenue Fund. All revenues derived from the operation of the waterworks and from the collection of water rates and charges shall be deposited in the Revenue Fund, hereby continued, and segregated and deposited as set forth in this ordinance. Of these revenues the proper and reasonable expenses of operation, repair and maintenance of the works shall be paid, the principal and interest of all bonds and fiscal agency charges of registrars or paying agents shall be paid, the reserve shall be funded, and the costs of replacements, extensions, additions and improvements to the works shall be paid. So long as the 1986 Bonds are outstanding, no moneys derived from the revenues of the waterworks shall be transferred to the general fund of the City or be used for any purpose not connected with the waterworks (however the City is entitled to revenue in lieu of taxes of the City and return on investment if there is provision therefor in the establishment of rates).

The City shall deposit the AEP Payments into the Revenue Fund upon receipt. The Pledged AEP Payments shall be used for the payment of the Bonds and the funding of a reserve. Any AEP Payments remaining after providing for the Pledged AEP Payments shall be used for the payment of the reasonable expenses of operation, repair and maintenance of the works, the costs of replacements, extensions, additions and improvements to the works, or may be transferred to the general fund of the City and used for any lawful purpose.

Sec. 14. Operation and Maintenance Fund. There is hereby continued a fund known as the Operation and Maintenance Fund ("O & M Fund"). On the last day of each calendar month, a sufficient amount of revenues shall be transferred from the Revenue Fund to the O & M Fund so that the balance maintained in the O & M Fund is sufficient to pay the expenses of operation, repair and maintenance of the works for the next succeeding two (2) calendar months. The moneys credited to this Fund shall be used for the payment of the reasonable and proper operation, repair and maintenance expenses of the waterworks on a day-to-day basis, but none of the moneys in such Fund shall be used for depreciation, replacements, improvements, extensions or additions. Any balance in said Fund in excess of the expected expenses of operation, repair and maintenance for the next succeeding month may be transferred to the Waterworks Sinking Fund if necessary to prevent a default in the payment of principal or interest on the outstanding bonds of the waterworks.

Sec. 15. Waterworks Sinking Fund. (a) There is hereby continued a special fund designated the "Waterworks Sinking Fund" (herein, "Waterworks Sinking Fund" or "Sinking Fund") for the payment of the principal of and interest on all outstanding waterworks revenue bonds, and the payment of any fiscal agency charges in connection with the payment of bonds. All Pledged AEP Payments shall be deposited from the Revenue Fund into the Sinking Fund and shall be deemed as Net Revenues of the waterworks. There shall be set aside and deposited in the Sinking Fund, as available, and as hereinafter provided, a sufficient amount of the Net Revenues of the waterworks to meet the requirements of the Bond and Interest Account and Debt Service Reserve Account hereby continued in the Sinking Fund. Such payments shall continue until the balances in the Bond and Interest Account, plus the balance in the Debt Service Reserve Account hereinafter described,

equal the principal of and interest on all of the then outstanding bonds of the waterworks to their final maturity.

Upon receipt by the City, the Pledged AEP Payments shall be credited to the Bond and Interest Account. Any Pledged AEP Payments received by the City in excess of the requirements of the Bond and Interest Account shall be used to satisfy the requirements of the Debt Service Reserve Account.

(b) Bond and Interest Account. There is hereby continued, within the Sinking Fund, the Bond and Interest Account. Any moneys heretofore accumulated to pay principal and interest on the 1989 Bonds may be applied toward the redemption of the 1989 Bonds. There shall be credited on or before the first day of each calendar month to the Bond and Interest Account an amount of Net Revenues equal to the sum of one-twelfth (1/12) of the principal and interest payable on the next succeeding principal and interest payment date, minus the amount of Pledged AEP Payments on deposit in the Bond and Interest Account, until the amount of interest and principal payable on the then next succeeding interest and principal payment date shall have been so credited. There shall similarly be credited to the account any amount necessary to pay the bank fiscal agency charges for paying principal and interest on the bonds as the same become payable. The City shall, from the sums deposited in the Sinking Fund and credited to the Bond and Interest Account, remit promptly to the registered owner or to the bank fiscal agency sufficient moneys to pay the principal and interest on the due dates thereof together with the amount of bank fiscal agency charges.

(c) Debt Service Reserve Account. There is hereby continued, within the Sinking Fund, the Debt Service Reserve Account ("Reserve Account"). Any moneys heretofore accumulated as a reserve for the 1989 Bonds may be used for the redemption of the 1989 Bonds, or may be

maintained in the Reserve Account and used to satisfy the requirements described below. On the date of delivery of the Bonds, funds on hand of the waterworks and any Pledged AEP Payments available for such purpose may be deposited into the Reserve Account. The initial balance or the balance accumulated in the Reserve Account shall equal but not exceed the maximum annual principal and interest requirements of the 1986 Bonds, the Bonds and any parity bonds issued in the future by the City which are payable from the Net Revenues of the waterworks ("Parity 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, the City shall deposit a sum of Net Revenues and any available Pledged AEP Payments into the Reserve Account on the first 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 protection against default in the payment of principal of and interest on the 1986 Bonds, the Bonds and any Parity Bonds, and the moneys in the Reserve Account shall be used to pay current principal and interest on the 1986 Bonds, the Bonds and any Parity Bonds to the extent that moneys in the Bond and Interest Account are insufficient for that purpose. In the event moneys in the Reserve Account are transferred to the Bond and Interest Account to pay principal and interest on outstanding bonds, then such depletion of the balance in the Reserve Account shall be made up from the next available Pledged AEP Payments and Net Revenues after the credits into the Bond and Interest Account. Any moneys in the Reserve Account in excess of the Reserve Requirement shall be transferred to the Waterworks

Improvement Fund or be used for the purchase of outstanding bonds or installments of principal of fully registered bonds.

Sec. 16. Waterworks Improvement Fund. After meeting the requirements of the O & M Fund and the Sinking Fund, any excess revenues may be transferred or credited to the Waterworks Improvement Fund ("Improvement Fund"), hereby continued, and said Fund shall be used for improvements, replacements, additions, and extension to the works. Moneys in the Improvement Fund shall be transferred to the Sinking Fund if necessary to prevent a default in the payment of principal of and interest on the then outstanding bonds or, if necessary, to eliminate any deficiencies in credits to or minimum balance in the Reserve Account, or may be transferred to the O & M Fund to meet unforeseen contingencies in the operation, repair and maintenance of the waterworks.

Sec. 17. Maintenance of Funds. The Sinking Fund shall be deposited in and maintained as a separate account or accounts from all other accounts of the City. The O & M Fund and the Improvement Fund may be maintained in a single account, or accounts, but such account, or accounts, shall likewise be maintained separate and apart from all other accounts of the City and apart from the Sinking Fund account or accounts. All moneys deposited in the accounts shall be deposited, held and secured as public funds in accordance with the public depository laws of the State of Indiana; provided that moneys therein may be invested in obligations in accordance with the applicable laws, including particularly Indiana Code, Title 5, Article 13, as amended or supplemented, and in the event of such investment the income therefrom shall become a part of the funds invested and shall be used only as provided in this ordinance.

Sec. 18. 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 or entitled to the pledge of the Pledged AEP Payments or the Net Revenues of the City's waterworks.

Sec. 19. Rate Covenant. The City shall establish, maintain and collect reasonable and just and equitable rates and charges for facilities and services afforded and rendered by said water utility, which shall to the extent permitted by law produce sufficient revenues at all times, together with the Pledged AEP Payments reasonably expected to be collected and available to provide for the timely payment of debt service on outstanding bonds, to pay all the legal and other necessary expense incident to the operation of such utility, to include maintenance costs, operating charges, upkeep, repairs, interest charges on bonds or other obligations, to provide for the proper Operation and Maintenance (as defined in the Financial Assistance Agreement) of the waterworks, to provide the sinking fund and debt service reserve for the liquidation of bonds or other evidences of indebtedness, to provide adequate funds to be used as working capital, as well as funds for making extensions, additions, and replacements, and also, for the payment of any taxes that may be assessed against such

utility, it being the intent and purpose hereof that such charges shall produce an income sufficient to maintain such utility property in a sound physical and financial condition to render adequate and efficient service. So long as any of the Bonds herein authorized are outstanding, none of the facilities or services afforded or rendered by said system shall be furnished without a reasonable and just charge being made therefor. The City shall pay like charges for any and all services rendered by said utility to the City, and all such payments shall be deemed to be revenues of the utility. Such rates or charges shall, if necessary, be changed and readjusted from time to time so that the revenues therefrom shall always be sufficient, together with the AEP Pledged Payments reasonably expected to be collected and available to provide for the timely debt service on outstanding bonds, to meet the expenses of operation, repair and maintenance and the requirements of the Sinking Fund.

For purposes of determining whether the Pledged AEP Payments will be considered to be reasonably expected to be collected and available to provide for the timely payment of debt service, the following shall control:

- (1) the estimated Pledged AEP Payments to be collected shall be based on the schedule of payments as set forth in Section 3 of the Agreement;
- (2) any delinquent payments of the AEP Payments constituting Pledged AEP Payments shall not be considered available; and
- (3) if there is any pending challenge against the establishment or propriety of the Pledged AEP Payments, or its proposed use under this ordinance, such challenged portion of the Pledged AEP Payments shall not be considered available.

If in any year while the Bonds are outstanding, the Net Revenues of the waterworks and the Pledged AEP Payments received from the scheduled November 1 payment under Section 3 of the

Agreement are less than (i) the next October 1 principal and interest payment on all outstanding bonds and (ii) the monthly deposit requirements for the Reserve Account for said period, then the City shall take all steps required to immediately increase waterworks rates and charges to the level required to provide for (i) the timely payment of the debt service on all outstanding bonds and (ii) the requirements of the Reserve Account. Any such increase shall be enacted to be effective within 45 days after the receipt of the November 1 payment under Section 3 of the Agreement.

Sec. 20. Additional Bond Provisions. The City shall not issue additional obligations payable from or secured by the Pledged AEP Payments without the prior written consent of the State of Indiana. The City reserves the right to authorize and issue additional BANs at any time ranking on a parity with the BANs. The City reserves the right to authorize and issue additional Parity Bonds payable out of the Net Revenues of its waterworks ranking on a parity with the Bonds for the purpose of financing the cost of future additions, extensions and improvements to its waterworks, or to refund obligations, subject to the following conditions:

(a) All required payments into the Sinking Fund shall have been made in accordance with the provisions of this ordinance, and the interest on and principal of all bonds payable from the revenues of the waterworks shall have been paid in accordance with their terms. The Reserve Requirement shall be satisfied for the additional Parity Bonds either at the time of delivery of the additional Parity Bonds or over a five year or shorter period, in a manner which is commensurate with the requirements established in Section 15(c) of this ordinance.

(b) The Net Revenues of the waterworks in the fiscal year immediately preceding the issuance of any such Parity Bonds shall be not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of the then outstanding bonds and the

additional Parity Bonds proposed to be issued; or, prior to the issuance of the Parity Bonds the water rates and charges shall be increased sufficiently so that the increased rates and charges applied to the average of the two (2) preceding year's operations would have produced Net Revenues for said year equal to not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of all bonds payable from the revenues of the waterworks, including the additional Parity Bonds proposed to be issued.

For purposes of this subsection, the records of the waterworks shall be analyzed and all showings prepared by a certified public accountant retained by the City for that purpose.

(c) The interest on the additional Parity Bonds shall be payable annually on October 1 and the principal on, or mandatory sinking fund redemption dates for, the additional Parity Bonds shall be payable annually on October 1 in the years in which principal and interest are payable.

(d) If the Bonds are sold to the DWSRF Program, (i) the City obtains the consent of the State of Indiana, (ii) the City has faithfully performed and is in compliance with each of its obligations, agreements and covenants contained in the Financial Assistance Agreement and this ordinance, and (iii) the City is in compliance with its waterworks permits, except for non-compliance for which purpose the Parity Bonds are issued, including refunding bonds issued prior to, but part of the overall plan to eliminate such non-compliance.

Sec. 21. Further Covenants of the City; Maintenance, Insurance, Pledge Not To Encumber, Subordinate Indebtedness, and Contract with Bondholders. For the purpose of further safeguarding the interests of the owners of the Bonds and BANs, it is hereby specifically provided as follows:

(a) All contracts let by the City in connection with the construction of the Project shall be let after due advertisement as required by the laws of the State of Indiana, and all contractors shall

be required to furnish surety bonds in an amount equal to 100% of the amount of such contracts, to insure the completion of said contracts in accordance with their terms, and such contractors shall also be required to carry such employers' liability and public liability insurance as are required under the laws of the State of Indiana in the case of public contracts, and shall be governed in all respects by the laws of the State of Indiana relating to public contracts.

(b) The Project shall be constructed under plans and specifications approved by a competent engineer designated by the City. All estimates for work done or material furnished shall first be checked by the engineer and approved by the City prior to the payment therefore.

(c) So long as any of the Bonds or BANs are outstanding, the City shall at all times maintain the waterworks system in good condition and operate the same in an efficient manner and at a reasonable cost.

(d) So long as any of the Bonds or BANs are outstanding, the City shall acquire and maintain insurance coverage, acceptable to the State of Indiana, if any Bonds are sold to the DWSRF Program, on the insurable parts of the system, of a kind and in an amount such as is usually carried by private corporations engaged in a similar type of business. All insurance shall be placed with responsible insurance companies qualified to do business under the laws of the State of Indiana.

All insurance proceeds and condemnation awards shall be used to replace or repair the waterworks unless, if the Bonds are sold to the DWSRF Program, the State of Indiana consents to a different use of such proceeds or awards.

(e) So long as any of the Bonds or BANs are outstanding, the City shall not mortgage, pledge or otherwise encumber such works or any part thereof, nor shall it sell, lease or otherwise encumber such works of any part thereof, nor shall it sell, lease or otherwise dispose of any portion

thereof except equipment or property which may become worn out, obsolete, or no longer suitable for use in the waterworks, provided that the City shall obtain the prior written consent of the State of Indiana if the Bonds or BANS are sold to the DWSRF Program.

(f) If the BANS or Bonds are sold to the DWSRF Program, the City shall not borrow any money, enter into any contract or agreement or incur any other liabilities in connection with the waterworks, other than for normal operating expenditures, without the prior written consent of the State of Indiana if such undertaking would involve, commit or use the revenues of the waterworks.

(g) Except as otherwise specifically provided in Section 20 of this ordinance, so long as any of the Bonds are outstanding, no additional bonds or other obligations pledging any portion of the revenues of the waterworks shall be authorized, issued or executed by the City, except such as shall be made junior and subordinate in all respects to the Bonds, unless all of the Bonds are redeemed or defeased coincidentally with the delivery of such additional bonds or other obligations.

(h) The provisions of this ordinance shall constitute a contract by and between the City and the owners of the Bonds and BANS herein authorized, all the terms of which shall be enforceable by any bondholder by any and all appropriate proceedings in law or in equity. After the issuance of the Bonds or BANS, this ordinance shall not be repealed, amended or modified in any respect which will adversely affect the rights or interests of the owners of the Bonds or BANS, nor shall the Common Council or any other body of the City adopt any law, ordinance or resolution in any way adversely affecting the rights of such owners so long as any of the Bonds, the BANS, or the interest thereon, remain outstanding or unpaid. Except in the case of changes described in Section 22 (a)-(f), this ordinance may be amended, however, without the consent of the owners of the Bonds or BANS, if the Common Council determines, in its sole discretion, that such amendment would not adversely

affect the owners of the Bonds or BANs; provided, however, that if the Bonds or BANs are sold to the DWSRF Program, the City shall obtain the prior written consent of the State of Indiana.

(i) The provisions of this ordinance shall be construed to create a trust in the proceeds of the sale of the Bonds and BANs herein authorized for the uses and purposes herein set forth, and the owners of the Bonds and BANs shall retain a lien on such proceeds until the same are applied in accordance with the provisions of this ordinance and said governing Act. The provisions of this ordinance shall also be construed to create a trust in the Pledged AEP Payments and the Net Revenues herein directed to be set apart and paid into the Sinking Fund for the uses and purposes of that Fund as in this ordinance set forth. The owners of said Bonds shall have all of the rights, remedies and privileges set forth under Indiana law in the event of default in the payment of the principal of or interest on any of the Bonds herein authorized or in the event of default in respect to any of the provisions of this ordinance or the governing Act.

Sec. 22. Amendments with Consent of Bondholders. Subject to the terms and provisions contained in this Section and Section 21(h), and not otherwise, the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the Bonds issued pursuant to this ordinance and then outstanding shall have the right from time to time, to consent to and approve the adoption by the Common Council of the City of such ordinance or ordinances supplemental hereto or amendatory hereof, as shall be deemed necessary or desirable by the City for the purpose of modifying, altering, amending, adding to or rescinding any of the terms or provisions contained in this ordinance, or in any supplemental ordinance; provided, however, that if the Bonds or BANs are sold to the DWSRF Program, the City shall obtain the prior written consent of the State of Indiana; and provided further, that nothing herein contained shall permit or be construed as permitting:

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

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

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

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

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

(f) A reduction in the Reserve Requirement.

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

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

Sec. 23. Investment of Funds.

(a) The Clerk-Treasurer is hereby authorized to invest moneys pursuant to IC 5-1-14-3 and the provisions of this ordinance (subject to applicable requirements of federal law to insure such yield is the 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 Clerk-Treasurer shall keep full and accurate records of investment earnings and income from moneys held in the funds and accounts continued 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 City as to requirements of federal law to preserve the tax exclusion. The Clerk-Treasurer may pay any fees as operation expenses of the waterworks.

Sec. 24. Tax Covenants. In order to preserve the exclusion of interest on the Bonds and BANs 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 or BANs, as the case may be ("Code"), and

as an inducement to purchasers of the Bonds and BANs, the City represents, covenants and agrees that:

(a) The waterworks 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 BANs or the Bonds, as the case may be. If the City enters into a management contract for the waterworks, the terms of the contract will comply with IRS Revenue Procedure 97-13, as it may be amended, supplemented or superseded for time to time, so that the contract will not give rise to private business use under the Code and the Regulations, unless such use in aggregate relates to no more than 10% of the proceeds of the Bonds or BANs, as the case may be.

(b) No more than 10% of the principal of or interest on the Bonds or BANs is (under the terms of the Bonds, 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 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 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 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 or 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.

(j) The City represents that:

- (1) The Bonds and BANs are not private activity bonds as defined in Section 141 of the Code;
- (2) The City hereby designates the Bonds and BANs as qualified tax-exempt obligations for purposes of Section 265(b) of the Code;
- (3) The reasonably anticipated amount of qualified tax-exempt obligations (including qualified 501(c)(3) obligations and tax-exempt leases but excluding other private activity bonds) which will be issued by the City, and all entities subordinate to the City during 2000 does not exceed \$10,000,000; and
- (4) The City will not designate more than \$10,000,000 of qualified tax-exempt obligations during 2000.

Therefore, the Bonds and BANs 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.

Sec. 25. Issuance of BANs. (a) The City, having satisfied all the statutory requirements for the issuance of its Bonds, may elect to issue its BAN or BANs to a financial institution, the Indiana Bond Bank, the State of Indiana or any other purchaser, pursuant to a Bond Anticipation Note Purchase Agreement ("Bond Anticipation Note Agreement") to be entered into between the City and the purchaser of the BAN or BANs. If the BANs are sold to the DWSRF Program, the Financial Assistance Agreement shall serve as the Bond Anticipation Note Agreement. The Common Council hereby authorizes the issuance and execution of the BAN or BANs in lieu of initially issuing the Bonds to provide interim financing for 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 Clerk-Treasurer are hereby authorized and directed to execute a Bond Anticipation Note Agreement or Financial Assistance Agreement (and any amendments made from time to time) in such form or substance as they shall approve acting upon the advice of counsel. The Mayor and the Clerk-Treasurer 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.

Sec. 26. 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 any Tax Section is unnecessary to preserve the Tax Exemption.

Sec. 27. 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 ordinance authorizing the 1986 Bonds or as adversely affecting the rights of the holders of the aforementioned 1986 Bonds or 1989 Bonds.

Sec. 28. 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.

Sec. 29. Effective Date. This ordinance shall be in full force and effect from and after its passage and execution by the Mayor.

Passed and adopted by the Common Council of the City of Rockport this 22nd day of May, 2000.

COMMON COUNCIL

Joseph H. O'Keefe
Presiding Officer

Attest:

Bob Packard
Clerk-Treasurer

Presented by me to the Mayor of the City of Rockport this 22nd day of May, 2000,
at 7:20p.m.

Bob Packard
Clerk-Treasurer

Signed and approved by me, the Mayor of the City of Rockport, this 22nd day of May,
2000, at 7:20p.m.

Joseph H. O'Keefe
Mayor

EXHIBIT A

Description of Project

- ▶ Installing an additional 300 gpm aeration/filtration iron removal treatment unit. The new treatment unit will use the same treatment process as is presently used by the City;
 - ▶ Demolishing the garage in the back of the treatment plant site, where the new treatment unit will be built;
 - ▶ Replacing the gas-driven high service pump with a new electrical motor-driven 400 gpm high service pump;
 - ▶ Demolishing the existing pumphouse and constructing a new wellhouse and new piping from existing Wells 1 & 2 to the existing raw water main in front of the pumphouse (subject to approval of SIGECO of the demolition of the existing pumphouse);
 - ▶ Disconnecting the drain lines for the clearwells and making sure that the suction piping for the high service pumps extends to near the bottom of the clearwells to allow them to be pumped down for repairs when needed;
-
- ▶ Installing cable wraps, fiberglass wrapping or other similar devices around the existing clearwells to provide structural support;
 - ▶ Rehabilitating the roof on the old portion of the pumphouse with a bolt-on steel roofing system;
 - ▶ Rehabilitating the existing chlorine feed room and moving the fluoride feed system into another portion of the pumphouse;
 - ▶ Providing some rehabilitation of the interior of the existing pumphouse (ceiling, heating, painting, etc.);
 - ▶ Replacing some windows and doors in the existing pumphouse and the door in the Well #3 wellhouse;
 - ▶ Cleaning the raw water line from Wells #4 & #5 by pigging or similar methods;
 - ▶ Installing a new control system for the plant and tanks;
 - ▶ Installing a backwash metering system (orifice plate and gauges) on the existing filter backwash line;
 - ▶ Installing meters on existing Wells 1, 2, and 3 to meter raw water pumping, and replacing the existing Plant production meter;
 - ▶ Installing a quick-connect on the outer wall of the pumphouse and manual transfer switch for use at the plant of the Fire Department's new emergency power generator;
 - ▶ Installing a water main on the north side of SR 66 to serve about 23 existing homes;
 - ▶ Installing an interconnect with Reo Water along SR 66 that will include a meter vault and pump station; and
 - ▶ Install a new 10" waterline on Base Road north of the City for water service to the new North Wastewater Treatment Plant.

**STATE OF INDIANA
DRINKING WATER REVOLVING LOAN PROGRAM**

FINANCIAL ASSISTANCE AGREEMENT made as of this __ day of June 2000 by and between the State of Indiana (the "State") acting by and through the State Budget Agency (the "Budget Agency") and the City of Rockport, Indiana (the "Qualified Entity"), a political subdivision as defined in I.C. 13-11-2-164, operating its water utility under I.C. 8-1.5 *et seq.* witnesseth:

WHEREAS, the State's Drinking Water Revolving Loan Program (the "Drinking Water SRF Program") has been established in accordance with the federal Safe Drinking Water Act and any regulations promulgated thereunder, and pursuant to I.C. 13-18-21 (the "Drinking Water SRF Act"), which Drinking Water SRF Act also establishes the drinking water revolving loan fund (the "Drinking Water SRF Fund"); and

WHEREAS, the State is authorized pursuant to the Drinking Water SRF Act to fund the Drinking Water SRF Program with federal capitalization grants, together with required State matching funds, therefor; and

WHEREAS, the Indiana Bond Bank (the "Bond Bank") has had a longstanding commitment to finance water quality and drinking water projects for qualified entities by issuing its bonds, pursuant to I.C. 5-1.5 (the "Bond Bank Act") for the purpose of buying securities of such qualified entities; and

WHEREAS, in keeping with its public purpose under the Bond Bank Act, the Bond Bank intends to cooperate with the State in financing the Drinking Water SRF Program, including the required State matching funds, and the political subdivisions' drinking water projects and, to that end, the State intends to cooperate with the Bond Bank; and

WHEREAS, to finance the Drinking Water SRF Program, including the required State matching funds, the Bond Bank has previously and will issue from time to time one or more series of its State Revolving Fund Program Bonds; and

WHEREAS, the Qualified Entity is a duly existing political subdivision of the State, lawfully empowered to undertake all transactions and execute all documents mentioned or contemplated herein; and

WHEREAS, the Qualified Entity is contemporaneously herewith entering into another Financial Assistance Agreement with the State, dated even herewith (the "Other Agreement"), to borrow money from the Wastewater SRF Program to construct and acquire a separate project (as described and defined in the Other Agreement); and

WHEREAS, the Qualified Entity has determined to undertake a drinking water system project (as more fully described herein, the "Project") and to borrow money from the Drinking Water SRF Program to construct and acquire the Project; and

WHEREAS, the State and the Qualified Entity desire to set forth the terms of such financial assistance as hereinafter provided.

NOW THEREFORE, in consideration of the mutual covenants herein set forth, the State and the Qualified Entity agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. The following terms shall, for all purposes of this Agreement, have the following meaning:

"Agency" shall mean the United States Environmental Protection Agency or its successor.

"Authorizing Instrument(s)" shall mean the separate trust indenture(s) of the Qualified Entity entered into with a corporate trustee or the detailed resolution(s) or ordinance(s) of the governing body of the Qualified Entity pursuant to which the Bonds are issued in accordance with State law.

"Authorized Representative" shall mean the Clerk-Treasurer of the Qualified Entity or such other officer, official, or representative of the Qualified Entity duly authorized to act for and on behalf of the Qualified Entity as provided for herein.

"Bond" or **"Bonds"** shall mean the instrument(s) which evidence(s) the Loan, as authorized by the Authorizing Instrument and containing the terms set forth in Section 2.02 of this Agreement.

"Bond Bank Bonds" shall mean any Indiana Bond Bank Drinking Water State Revolving Fund Program Bonds issued as a part of the Drinking Water SRF Program.

"Bond Fund" shall mean the separate and segregated fund or account established and created by the Political Subdivision pursuant to the Authorizing Instrument from which payment of the principal of and interest on the Bonds is required to be made by the Qualified Entity.

"Budget Agency" shall mean the State Budget Agency created under I.C. 4-12-1-3 or its successor.

"Business Day" shall mean any day other than a Saturday, Sunday or State legal holiday or any other day on which financial institutions in the State are authorized by law to close and to remain closed.

“Code” shall mean the Internal Revenue Code of 1986, as amended and supplemented from time to time, together with the regulations related thereto.

“Commission” shall mean the Indiana Utility Regulatory Commission created under I.C. 8-1-1-2 or its successor.

“Department” shall mean the Indiana Department of Environmental Management created under I.C. 13-13-1-1 or its successor.

“Disbursement Request” shall mean a request for a disbursement of the Loan made by an Authorized Representative in the form of Exhibit A to this Agreement, with appropriate attachments, or in such other forms as the State may from time to time prescribe.

“Drinking Water SRF Fund” shall mean the drinking water revolving loan fund as established by I.C. 13-18-21-2.

“Drinking Water SRF Indenture” shall mean the Drinking Water SRF Trust Indenture, dated as of September 1, 1998 between the State and the Trustee, as amended and supplemented from time to time.

“Drinking Water SRF Program Director” shall mean the person designated by the Department and the Budget Agency as authorized to act as the Drinking Water SRF Program Director for purposes of this Agreement.

“Drinking Water SRF Program Representative” shall mean the person designated by the Department and the Budget Agency as authorized to act as the Drinking Water SRF Program Representative.

“Drinking Water System” shall mean all, or any part of, the system for the provision to the public of water for human consumption through pipes and other constructed conveyances that:

- (1) has at least fifteen (15) service connections; or
- (2) regularly serves at least twenty-five (25) individuals;

and as further defined and described in I.C. 13-11-2-177.3, 85 I.A.C. 2-2-26 and 327 I.A.C. 14-2-28, each as amended and supplemented from time to time.

“Eligible Cost” shall mean and include, whether incurred before or after the date of this Agreement, all costs which have been incurred and qualify for Financial Assistance, including engineering, financing and legal costs related thereto.

“Financial Assistance” shall mean the financial assistance authorized by the Safe Drinking Water Act, including the Loan.

“Loan” shall mean the purchase of the Bonds by the State to finance the planning, designing, constructing, renovating, improving and expanding of the Qualified Entity’s Drinking Water System or refinance an existing debt obligation where such debt was incurred and building of such systems began after July 1, 1993, but does not mean the provision of other Financial Assistance.

“Operation and Maintenance” shall mean the activities required to assure the continuing dependable and economic function of the Drinking Water System, including maintaining compliance with primary and secondary drinking water standards, as follows:

(1) Operation shall mean the control and management of the unit processes and equipment which make up the Drinking Water System, including financial and personnel management, records, reporting, laboratory control, process control, safety and emergency operation planning and operating activities.

(2) Maintenance shall mean the preservation of the functional integrity and efficiency of equipment and structures by implementing systems of preventive and corrective maintenance.

“Plans and Specifications” shall mean the detailed written descriptions of the work to be done in undertaking and completing the Project, including the written descriptions of the work to be performed and the drawings, cross-sections, profiles and the like which show the location, dimensions and details of the work to be performed.

“Preliminary Engineering Report” shall mean the information submitted by the Qualified Entity that is necessary for the Department to determine the technical, economic and environmental adequacy of the proposed Project.

“Project” shall mean the activities or tasks identified and described in Exhibit B to this Agreement, as amended or supplemented by the Qualified Entity and consented to by the State, for which the Qualified Entity may expend the Loan.

“Purchase Account” shall mean the account by that name created by the Drinking Water SRF Indenture and held as part of the Drinking Water SRF Fund.

“Safe Drinking Water Act” shall mean the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq. and other laws supplemental thereto, as amended and supplemented from time to time.

“State” shall mean the State of Indiana, acting through the Department and the Budget Agency.

“Substantial Completion of Construction” shall mean the day on which the Department determines that all but minor components of the Project have been built, all equipment is operational and the Project is capable of functioning as designed.

“Trustee” shall mean Bank One Trust Company, NA, Indianapolis, Indiana, in its capacity as trustee or its successor under the Drinking Water SRF Indenture.

(End of Article I)

ARTICLE II

PURPOSE OF BORROWING AND LOAN TERMS

Section 2.01. Amount; Purpose. The State agrees to Loan an amount not to exceed Two Million Dollars (\$2,000,000) in aggregate principal amount to the Qualified Entity as Financial Assistance to pay for the Eligible Costs, as hereinafter described, of the Project on, and subject to, the terms and conditions contained herein. The Loan shall be used only to pay the following Eligible Costs: (a) eligible planning services for the production of a Preliminary Engineering Report ("Planning"), (b) eligible design services for the production of Plans and Specifications ("Design") and (c) eligible construction costs, including financing and legal costs ("Construction"). The Loan shall be funded solely from available proceeds of the Bond Bank Bonds contained in the Purchase Account or from other sources the State, in its sole discretion, may designate. The Loan is evidenced by the Bonds executed and delivered by the Qualified Entity contemporaneously herewith. The Bonds shall be in fully registered form, with the Bond Bank registered as the registered owner. Pursuant to certain agreements between the State and the Bond Bank, so long as the Bond Bank is the registered owner, the principal of and redemption premium, if any, and interest on the Bonds shall be paid to the Trustee by a wire transfer referenced as follows: Bank One, N.A., BNF: Corporate Trust Services, ABA 044000037, A/C 980219029, OBI: INDIANA BOND BANK SRF, Attn: John Stephens (317) 756-1320. The Qualified Entity agrees to undertake and complete the Project and to receive and expend the Loan proceeds in accordance with this Agreement.

Section 2.02. The Bonds.

(a) The Bonds will not bear interest for the two year period from the date of this Agreement and thereafter will bear interest at the per annum rate of two and nine-tenths percent (2.9%) (calculated on the basis of a 360-day year comprised of twelve 30-day months) until paid, as provided in I.C. 13-18-21-10 and -15. Interest, if any, on the Bonds will be payable on October 1 of each year, commencing October 1, 2002. The Bonds will be in the aggregate principal amount of Two Million Dollars (\$2,000,000). Subject to Section 2.05 herein, the Bonds will mature on October 1 of each of the years set forth in, and at the principal amount set opposite each such month and year set forth in, the schedule contained in Exhibit C to this Agreement; provided, however, notwithstanding the foregoing or the terms of the Bonds to the contrary, no maturity of Bonds shall extend beyond the date which is twenty (20) years after Substantial Completion of Construction. If the maturity date for any Bonds is beyond such date, unless otherwise agreed to, such Bonds, together with accrued and unpaid interest thereon, will be due and payable on such date.

(b) The Bonds will be subject to redemption by the Qualified Entity as provided in the Authorizing Instrument.

(c) The form and other terms of the Bonds will be in conformity with the Authorizing Instrument.

Section 2.03. Disbursement Conditions. Each of the following shall be a condition precedent to the disbursement of the Loan or any portion thereof:

(a) (1) With respect to procurement of professional services related to the Project to be paid from Loan proceeds, the Qualified Entity shall have complied with 85 I.A.C. 2-2-26 and 327 I.A.C. 14-10-1. (2) With respect to procurement of all other goods and services related to the Project to be paid from Loan proceeds, the Qualified Entity shall have complied with I.C. 36-1-12.

(b) No representation, warranty or covenant of the Qualified Entity contained in this Agreement or in any paper executed and delivered in connection with the transactions contemplated by this Agreement shall be false or inaccurate in any material respect.

(c) The Qualified Entity shall undertake and faithfully perform each of its obligations, agreements and covenants contained in this Agreement, the Authorizing Instrument and the Bonds.

(d) There shall be available to the State uncommitted funds in an amount sufficient to satisfy the State's obligations hereunder from the proceeds of Bond Bank Bonds in the Purchase Account.

(e) The Qualified Entity shall have undertaken all actions necessary to comply with and satisfied the conditions and requirements for a Loan secured with money made available from the Drinking Water SRF Fund as set forth in federal and State statutes, rules and regulations, including I.C. 13-18-21, 85 I.A.C. 2, 327 I.A.C. 14, the Safe Drinking Water Act.

(f) Prior to making any Loan disbursement to pay any Construction costs, the Project shall have been approved by the State's Historical Preservation Officer in a manner consistent with the policies and practices of the SRF Program (the "Historical Preservation Approval"). Notwithstanding any provision of this Agreement to the contrary, in the event a Historical Preservation Approval has not been given within four (4) months after the date of this Agreement, the State may, in its sole discretion, reduce the aggregate amount of the Loan to the amount then disbursed and outstanding under this Agreement. Upon giving notice to the Qualified Entity of such action, no further Loan disbursement may be made under this Agreement unless consented to by the State.

Section 2.04. Disbursement Procedures. Loan proceeds shall be disbursed to the Qualified Entity by the Trustee for actual Eligible Costs incurred with respect to the Project. The State may, in its discretion, cause Loan disbursements to be made (a) directly to the person or entity identified in the Disbursement Request to whom payment is due, or (b) if advised in writing by the Qualified Entity that I.C. 36-1-12-14 or a similar law applies to the Project, to the Qualified Entity for purposes of collecting retainage, or some combination thereof. Any Loan proceeds in excess of the amount subject to retainage controlled by the Qualified Entity will be immediately remitted to the person or entity to whom payment is due, no later than three (3)

Business Days after receipt or the date such Loan proceeds are no longer subject to retainage. Loan disbursements shall not be made more frequently than monthly and shall only be made following the submission of a Disbursement Request to the State. Disbursement Requests shall be approved by the Department and the Drinking Water SRF Program Representative prior to submission to the Trustee for a Loan disbursement. Disbursement Requests shall be numbered sequentially, beginning with the number 1.

Section 2.05. Effect of Disbursements. Loan disbursements made to or for the benefit of the Qualified Entity shall be deemed to be a purchase of the Bonds in such amounts and with such maturities as achieves as level a debt service as practicable, and with no maturity longer than the original maturity schedule; provided that any principal payments originally scheduled under Section 2.02 herein as being due prior to one year after Substantial Completion of Construction shall first be deemed to be a purchase of the Bonds in order of maturity. Interest on the Loan commences on the day that the State approves a Disbursement Request and forwards such Disbursement Request to the Trustee for payment. In the event any Loan disbursement is made in excess of Eligible Costs, such excess disbursements shall be immediately paid by the Qualified Entity to the Trustee and may, subject to the terms and conditions set forth in this Agreement, be borrowed by the Qualified Entity.

Section 2.06. Acknowledgment of Amount of Loan; Final Disbursement. Within 30 days after any request by the State from time to time, the Qualified Entity shall execute and deliver to the State an acknowledgment in the form prescribed by the State which acknowledges the outstanding principal of and interest on the Bonds. Unless the State consents in writing, no Loan disbursement shall be made more than one year after Substantial Completion of Construction. After Substantial Completion of Construction, upon the request of the State, the Qualified Entity shall replace, at its expense, the Bonds with substitutes issued pursuant to the Authorizing Instrument to evidence the outstanding principal under the Loan.

(End of Article II)

ARTICLE III

REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE QUALIFIED ENTITY

Section 3.01. Planning, Design and Construction Covenants. The Qualified Entity hereby covenants and agrees with the State that the Qualified Entity will:

- (a) Provide information as requested by the State to determine the need for, or to complete any necessary, environmental review or analysis.
- (b) Comply with the procurement procedures and affirmative action requirements contained in 85 I.A.C. 2-10 and 327 I.A.C. 14-10 in the Planning, Design and Construction of the Project to the extent that such are to be paid from Loan proceeds.
- (c) With respect to prime and first tier contract awards, report minority and women business enterprise utilization in the Planning, Design and Construction of the Project, to the extent that such are to be paid from Loan proceeds, by executing and delivering Agency Form SF 5700-528-5-96 to the Department whenever any agreements or subagreements are awarded. (These reports must be submitted by the 15th day of each January, April, July and October after which such agreement or subagreement is awarded).
- (d) Comply with all applicable federal, State and local statutes, rules and regulations relating to the acquisition and construction of the Drinking Water System.
- (e) In the event Construction is to be paid from Loan proceeds, prior to an award of any contract for Construction of the Project, obtain a construction permit from the Department and receive the written approval of the Department of the Preliminary Engineering Report.
- (f) Obtain the property rights necessary to construct the Drinking Water System and, in procuring any such rights comply with federal and State law.
- (g) In the event Construction is to be paid from Loan proceeds, comply with the federal Davis-Bacon Act, codified at 40 U.S.C. 276a-276a-5.
- (h) In the event Construction is to be paid from Loan proceeds, execute and deliver to the Department Agency Form 4700-4 ("Pre-award Compliance Review Report for Wastewater Treatment Construction Grants") and Agency Form 5700-49 ("Certification Regarding the Debarment, Suspension, and Other Responsibility Matters").
- (i) In the event Construction is to be paid from Loan proceeds, follow guidance issued by the Department in procuring contracts for Construction, including (1) submission to the Department of Project change orders, (2) obtaining approval from the

Drinking Water SRF Program Director and the Drinking Water SRF Program Representative of any Project change order which significantly changes the scope or Design of the Project or, when taking into account other change orders and contracts, are reasonably expected to result in expenditures in an amount greater than the Loan, (3) receiving approval from the Drinking Water SRF Program Director prior to the award of any contract for Construction and (4) receiving authorization from the Drinking Water SRF Program Director prior to initiating procurement of construction of the Project.

(j) In the event Construction is to be paid from Loan proceeds, before awarding Construction contracts, receive approval of the Drinking Water SRF Program Director for any interlocal agreement associated with the Project.

(k) In the event Construction is to be paid from Loan proceeds, cause the Project to be constructed in accordance with the Preliminary Engineering Report and the Plans and Specifications, using approved contract papers.

(l) Permit the State and its agents to inspect from time to time (1) the Project, (2) the Drinking Water System and (3) the books and other financial records of the Drinking Water System, including the inspections described in 85 I.A.C. 2-11-7, 85 I.A.C. 2-12-1, 327 I.A.C. 14-11-7 and 327 I.A.C. 14-12-1. Construction contracts shall provide that the State or its agents will have access to the Project and the work related thereto and that the Qualified Entity's contractor will provide proper facilities for such access and inspection. All files and records pertaining to the Project shall be retained by the Qualified Entity for at least six years after Substantial Completion of Construction.

(m) Upon Substantial Completion of Construction and when requested by the State, provide audited reports to the State to permit the State to determine that the Loan proceeds have been used in compliance with this Agreement.

(n) In the event Construction is to be paid from Loan proceeds, within one year of Substantial Completion of Construction, provide as-built plans for the Project to the Department.

Section 3.02. General Covenants. The Qualified Entity hereby covenants and agrees with the State that the Qualified Entity will:

(a) Comply with all applicable federal, State and local statutes, rules and regulations relating to Operation and Maintenance.

(b) (1) Own, operate and maintain the Project and the Drinking Water System for their useful life, or cause them to be operated and maintained for their useful life; (2) at all times maintain the Drinking Water System in good condition and operate it in an efficient manner and at a reasonable cost; and (3) not sell, transfer, lease or otherwise encumber the Drinking Water System or any portion thereof or any interest therein without the prior written consent of the State.

(c) Obtain and maintain the property rights necessary to operate and maintain the Drinking Water System, and in procuring any such rights, comply with federal and State law.

(d) Acquire and maintain insurance coverage acceptable to the State, including fidelity bonds, to protect the Drinking Water System and its operations. All insurance shall be placed with responsible insurance companies qualified to do business under State law. Insurance proceeds and condemnation awards shall be used to replace or repair the Drinking Water System unless the State consents to a different use of such proceeds or awards.

(e) Establish and maintain the books and other financial records of the Project (including the establishment of a separate account or subaccount for the Project) and the Drinking Water System in accordance with (1) generally accepted governmental accounting principles, as promulgated by the Government Accounting Standards Board and (2) the rules, regulations and guidance of the State Board of Accounts.

(f) Provide to the State such periodic financial and environmental reports as it may request from time to time, including (1) annual operating and capital budgets and (2) such other information requested or required of the State or the Qualified Entity by the Agency.

(g) Provide notice to the Department under the circumstances contemplated, and undertake inspections as required, by 85 I.A.C. 2-11-7 and 327 I.A.C. 14-11-7.

(h) (1) Establish and maintain just and equitable rates and charges for the use of and the service rendered by the Drinking Water System, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses the Drinking Water System, or that in any way uses or is served by the Drinking Water System, (2) establish, adjust and maintain rates and charges at a level adequate to produce and maintain sufficient revenue (including user and other charges, fees, income or revenues available to the Qualified Entity) to provide for the proper Operation and Maintenance of the Drinking Water System, to comply with and satisfy all covenants contained herein and to pay all obligations of the Drinking Water System and of the Qualified Entity with respect thereto, and (3) if and to the extent Bonds are payable from property taxes, levy each year a special ad valorem tax upon all property located in the boundaries of the Qualified Entity, to pay all obligations of the Qualified Entity with respect thereto.

(i) If the Bonds are payable from the revenues of the Drinking Water System, not borrow any money, enter into any contract or agreement or incur any other liabilities in connection with the Drinking Water System without the prior written consent of the State if such undertaking would involve, commit or use the revenues of the Drinking Water System; provided that the Qualified Entity may authorize and issue additional obligations, payable out of the revenues of its Drinking Water System, ranking on a parity with the Bonds for the purpose of financing the cost of future additions, extensions

and improvements to the Drinking Water System, or to refund obligations of the Drinking Water System, subject to the conditions, if any, in the Authorizing Instrument.

(j) Comply with the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000d *et seq.*, the Age Discrimination Act, as amended, Public Law 94-135, Section 504 of the Rehabilitation Act of 1973, as amended (including Executive Orders 11914 and 11250), 29 U.S.C. Section 794, Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, Executive Order 11246 regarding equal employment opportunity, and Executive Orders 11625 and 12138.

(k) Undertake all actions necessary to investigate all potential, material claims which the Qualified Entity may have against other persons with respect to the Drinking Water System and the Project and take whatever action is necessary or appropriate to (1) recover on any actionable, material claims related to the Project or the Planning, Design or Construction thereof, (2) meet applicable Project performance standards and (3) otherwise operate the Drinking Water System in accordance with applicable federal, State and local law.

(l) Not modify, alter, amend, add to or rescind any provision of the Authorizing Instrument without the prior written consent of the State.

Section 3.03. Representations and Warranties of the Qualified Entity. After due investigation and inquiry, the Qualified Entity hereby represents and warrants to the State that:

(a) The Qualified Entity is duly organized and existing under state law, and constitutes a "political subdivision" within the meaning of I.C. 13-11-2-164. The Project and the Drinking Water System are subject to I.C. 8-1.5 *et seq.*

(b) The Qualified Entity and its Drinking Water System are not subject to the jurisdiction of the Commission under I.C. 8-1-2 or any other applicable law and the Project and the Bonds are not subject to the Commission's review and approval requirements. If the Qualified Entity or its Drinking Water System is subject to the jurisdiction of the Commission under I.C. 8-1-2 or any other applicable law, the Commission has reviewed and approved the Project and the issuance of the Bonds and no additional approvals or consents are required to be obtained from the Commission related thereto.

(c) The Qualified Entity has full power and authority to adopt the Authorizing Instrument, enter into this Agreement and issue the Bonds and perform its obligations hereunder and thereunder.

(d) By all required action, the Qualified Entity has duly adopted the Authorizing Instrument and authorized the execution and delivery of this Agreement, the Bonds and all other papers delivered in connection herewith.

(e) Neither the execution of, nor the consummation of the transaction contemplated by, this Agreement nor the compliance with the terms and conditions of any other paper referred to herein, shall conflict with, result in a breach of or constitute a default under, any indenture, mortgage, lease, agreement or instrument to which the Qualified Entity is a party or by which the Qualified Entity or its property, including the Drinking Water System, is bound or any law, regulation, order, writ, injunction or decree of any court or governmental agency or instrumentality having jurisdiction.

(f) There is no litigation pending or, to the knowledge of the Qualified Entity, upon investigation, threatened that (1) challenges or questions the validity or binding effect of this Agreement, the Authorizing Instrument or the Bonds or the authority or ability of the Qualified Entity to execute and deliver this Agreement or the Bonds and perform its obligations hereunder or thereunder or (2) would, if adversely determined, have a significant adverse effect on the ability of the Qualified Entity to meet its obligations under this Agreement, the Authorizing Instrument or the Bonds.

(g) The Qualified Entity has not at any time failed to pay when due interest or principal on, and it is not now in default under, any warrant or other evidence of obligation or indebtedness of the Qualified Entity.

(h) All information furnished by the Qualified Entity to the State or any of the persons representing the State in connection with the Loan or the Project is accurate and complete in all material respects.

(i) The Qualified Entity has taken or will take all proceedings required by law to enable it to issue and sell the Bonds as contemplated by this Agreement.

Each of the foregoing representations and warranties will be deemed to have been made by the Qualified Entity as of the date of this Agreement and as of the date of any disbursement of Loan proceeds. Each of the foregoing representations and warranties shall survive the Loan disbursements regardless of any investigation or investigations the State may have undertaken.

Section 3.04. Covenants Regarding Assignment. The Qualified Entity acknowledges that the State may direct the Bond Bank to sell or assign the Bonds, and certain of its rights related thereto, as permitted pursuant to Section 5.02 herein. The Qualified Entity covenants and agrees to cooperate with and assist in, at its expense, any such assignment. Within 30 days following a request by the State, the Qualified Entity covenants and agrees with the State that the Qualified Entity will, at its expense, furnish any information, financial or otherwise, with respect to the Qualified Entity, this Agreement, the Authorizing Instrument and the Bonds and the Drinking Water System as the State reasonably requests in writing to facilitate the sale or assignment of the Bonds.

Section 3.05. Nature of Information. All information furnished by the Qualified Entity to the State or any person representing the State in connection with the Loan or the Project may be furnished to any other person the State, in its judgment, deems necessary or desirable in its operation and administration of the Drinking Water SRF Program.

Section 3.06. Tax Covenants. The Qualified Entity hereby covenants that it will not take, or cause or permit to be taken by it or by any party under its control, or fail to take or cause to permit to be taken by it or by any party under its control, any action that would result in the loss of the exclusion from gross income for federal income tax purposes of interest on the Bonds pursuant to Section 103 of the Code. The Qualified Entity further covenants that it will not do any act or thing that would cause the Bonds to be "private activity bonds" within the meaning of Section 141 of the Code or "arbitrage bonds" within the meaning of Section 148 of the Code. In furtherance and not in limitation of the foregoing, the Qualified Entity shall take all action necessary and appropriate to comply with the arbitrage rebate requirements under Section 148 of the Code to the extent applicable to the Qualified Entity or the Bonds, including accounting for and making provision for the payment of any and all amounts that may be required to be paid to the United States of America from time to time pursuant to Section 148 of the Code.

Section 3.07. Non-Discrimination Covenant. Pursuant to and with the force and effect set forth in I.C. 22-9-1-10, the Qualified Entity hereby covenants that the Qualified Entity, and its contractor and subcontractor for the Project, shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, with respect to the hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin or ancestry.

(End of Article III)

ARTICLE IV

DEFAULTS

Section 4.01. Remedies. The State's obligation to make a disbursement under the Loan to the Qualified Entity hereunder may be terminated at the option of the State, without giving any prior notice to the Qualified Entity, in the event: (a) the Qualified Entity fails to undertake or perform in a timely manner any of its agreements, covenants, terms or conditions set forth herein or in any paper entered into or delivered in connection herewith; or (b) any representation or warranty made by the Qualified Entity as set forth herein or in any paper entered into or delivered in connection herewith is materially false or misleading. Any such event shall constitute an event of default. If an event of default occurs, the State without giving any prior notice, may declare the entire outstanding principal amount of the Loan, together with accrued interest thereon, immediately due and payable.

Section 4.02. Effect of Default. Failure on the part of the State in any instance or under any circumstance to observe or perform fully any obligation assumed by or imposed upon the State by this Agreement or by law shall not make the State liable in damages to the Qualified Entity or relieve the Qualified Entity from paying any Bond or fully performing any other obligation required of it under this Agreement or the Authorizing Instrument; provided, however, that the Qualified Entity may have and pursue any and all other remedies provided by law for compelling performance by the State of such obligation assumed by or imposed upon the State. The obligations of the State hereunder do not create a debt or a liability of the State under the constitution of the State or a pledge of the faith or credit of the State and do not directly, indirectly or contingently, obligate the State to levy any form of taxation for the payment thereof or to make any appropriation for their payment. Neither the State nor any agent, attorney, member or employee of the State shall in any event be liable for damages, if any, for the nonperformance of any obligation or agreement of any kind whatsoever set forth in this Agreement.

Section 4.03. Defaults under other Financial Assistance Agreements. The Qualified Entity and the State agree that any event of default occurring under the Other Agreement shall constitute an event of default under this Agreement. Similarly, the Qualified Entity and the State agree that any event of default under this Agreement, or under any subsequent financial assistance agreement enter into between the Qualified Entity and the State, shall constitute an event of default under the Other Agreement and the subsequent financial assistance agreement, if any, as the case may be.

(End of Article IV)

ARTICLE V

MISCELLANEOUS

Section 5.01. Citations. Any reference to a part, provision, section or other reference description of a federal or State statute, rule or regulation contained herein shall include any amendments, replacements or supplements to such statutes, rules or regulation as may be made effective from time to time.

Section 5.02. Assignment. Neither this Agreement, nor the Loan or the proceeds thereof may be assigned by the Qualified Entity without the prior written consent of the State and any attempt at such an assignment without such consent shall be void. The State may at its option sell or assign all or a portion of its rights and obligations under this Agreement, the Authorizing Instrument, and the Bonds to an agency of the State or to a separate body corporate and politic of the State or to a trustee under trust instrument to which the State or any assignee is a beneficiary or party. The State may at its option assign all or a portion of its rights under this Agreement to any person. The Qualified Entity hereby consents to any such assignment by the State. This Agreement shall be binding upon and inure to the benefit of any permitted successor and assign.

Section 5.03. No Waiver. Neither the failure of the State nor the delay of the State to exercise any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other further exercise of any other right, power or privilege.

Section 5.04. Modifications. No change or modification of this Agreement shall be valid unless the same is in writing and signed by the parties hereto.

Section 5.05. Entire Agreement. This Agreement contains the entire agreement between the parties hereto and there are no promises, agreements, conditions, undertakings, warranties and representations, either written or oral, expressed or implied between the parties hereto other than as herein set forth or as may be made in the Authorizing Instrument and the other papers delivered in connection herewith. In the event there is a conflict between the terms of this Agreement and the Authorizing Instrument, the terms of this Agreement shall control. It is expressly understood and agreed that except as otherwise provided herein this Agreement represents an integration of any and all prior and contemporaneous promises, agreements, conditions, undertakings, warranties and representations between the parties hereto. This Agreement shall not be deemed to be a merger or integration of the existing terms under the Other Agreement except as expressly set forth in Section 4.03 herein.

Section 5.06. Execution of Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be executed by the State and the Qualified Entity, and all of which shall be regarded for all purposes as one original and shall constitute one and the same instrument.

Section 5.07. Severability of Invalid Provisions. If any one or more of the covenants or agreements provided in this Agreement on the part of the State or the Qualified Entity to be performed shall be deemed by a court of competent jurisdiction to be contrary to law or cause the Bonds to be invalid as determined by a court of competent jurisdiction, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements and waived and shall in no way affect the validity of the other provisions of this Agreement.

Section 5.08. Notices. All notices hereunder shall be sufficiently given for all purposes hereunder if in writing and delivered personally or sent or transmitted to the appropriate destination as set forth below in the manner provided for herein. Notice to the State shall be given by providing such notice to both the Budget Agency and the Department as follows:

State of Indiana
Department of Environmental Management
100 North Senate, 12th Floor
Post Office Box 6015
Indianapolis, Indiana 46206-6015
Attention: Drinking Water SRF Program Director

State of Indiana
State Budget Agency
212 State House
Indianapolis, Indiana 46204
Attention: Drinking Water SRF Program Representative

or at such other address(es) or number(s) and to the attention of such other person(s) as the State may designate by notice to the Qualified Entity. Notices to the Qualified entity shall be addressed to:

City of Rockport
City Hall
Box 151
Rockport, Indiana 47635-0151
Attention: Clerk-Treasurer

or at such other address(es) or number(s) and to the attention of such other person(s) as the Qualified Entity may designate by notice to the State. Any notice hereunder shall be deemed to have been served or given as of (a) the date such notice is personally delivered, (b) three (3) Business Days after it is mailed U.S. mail, First Class postage prepaid, (c) one (1) Business Day after it is sent on such terms by Federal Express or similar next-day courier, or (d) the same day as it is sent by facsimile transmission with telephonic confirmation of receipt by the person to whom it is sent.

Section 5.09. Expenses. The Qualified Entity covenants and agrees to pay (a) the fees, costs and expenses in connection with making the Loan, including issuing the Bonds and

providing the necessary certificates, documents and opinions required to be delivered therewith; (b) the fees, costs and expenses in connection with making and administering the Loan; (c) the costs and expenses of complying with its covenants made herein; and (d) any and all costs and expenses, including attorneys' fees, incurred by the State in connection with the enforcement of this Agreement, the Authorizing Instrument and the Bonds in the event of the breach by the Qualified Entity or a default under this Agreement, the Authorizing Instrument or the Bonds. Notwithstanding clause (b) above, the Qualified Entity shall not be obligated to pay any of the fees, costs and expenses in connection with administering the Loan except as follows: (1) the State may request and the Qualified Entity shall promptly pay, an annual administrative fee in connection with the Loan in an amount determined by the State, but not exceeding \$1,000; (2) for so long as the State or the Bond Bank is the registered owner of the Bonds, at the direction of the State, the interest rate on the Bonds may be adjusted to lower the interest rate on the Bonds, and the difference between the amount payable as the original rate on the Bonds and the lower rate shall be deemed an additional administrative fee in connection with the Drinking Water SRF Program; and (3) the Qualified Entity shall only be obligated to pay fees, costs and expenses of the State's counsel and financial advisers in connection with making the Loan up to \$5,000.

Section 5.10. Applicable Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Indiana.

Section 5.11. Term. This Agreement shall terminate at such time as the Qualified Entity has fully met and discharged all of its obligations hereunder, which term may extend beyond the final payment of the Bonds or provision for the payment of the Bonds pursuant to the Authorizing Instrument.

(End of Article V)

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers or officials, all as of the date first above written.

CITY OF ROCKPORT, INDIANA

"Qualified Entity"

By: _____

Printed: _____

Title: _____

Attest: _____

STATE BUDGET AGENCY

By: _____
Betty Cockrum, State Budget Director

"Budget Agency"

Approved:

DEPARTMENT OF ADMINISTRATION

By: _____
Glenn Lawrence, Commissioner

Approved as to form and legality: *

ATTORNEY GENERAL OF THE STATE
OF INDIANA

- * By reference to a form contract approval made by Priscilla Keith, Special Services Section Chief, Office of the Attorney General, in correspondence addressed to Rich Emery, SRF Program Representative, dated February 15, 2000, pursuant to I.C. 4-13-2-14.3(e), this agreement is not required to be individually approved.

EXHIBIT A

State of Indiana
STATE DRINKING WATER REVOLVING LOAN (SRF) PROGRAM
100 North Senate Avenue
P. O. Box 6015
Indianapolis, Indiana 46206-6015
(317) 232-8631

REQUEST FOR A DISBURSEMENT

The undersigned Authorized Representative of the Qualified Entity named in this Request, on behalf of such Qualified Entity, hereby (i) requests that the State make a Disbursement, or cause a Disbursement to be made, in accordance with this Request and (ii) directs that the State mail, or cause to be mailed, the Disbursement to the Qualified Entity or the Contractor named in this Request.

Instructions

1. This Request is applicable only to costs of the Qualified Entity's drinking water project eligible for financing from the State Drinking Water Revolving Loan Fund (the "SRF").
2. Combine multiple bills from a single contractor on one request form.
3. Attach a copy of the claim (a bill, an invoice or a statement) underlying this Request.
4. Complete the required information and please answer all questions.
5. Indicate on this Request if the Qualified Entity has paid all or part of the Contractor's claim and is seeking reimbursement. Attach evidence that such payment was made and the date on which it was made.
6. Inquires related to the status of a Disbursement request must be directed to the Qualified Entity. The Qualified Entity can then contact this office for the information. Please contact your contractors about this policy.
7. Requested amounts must be rounded to the nearest whole dollar.
8. The Request must be typed.

DISBURSEMENT REQUEST INFORMATION

Community: _____ Project No.: CS _____

Mailing Address: _____ Request No.: _____

Contact Person: _____ Contact Phone No.: (____) _____

Community's Authorized Representative: _____

Authorized Representative's Phone No.: _____

Description of Work for which claim is being made (service, fees, type of, etc.): _____

<u>Contractor</u>	<u>Address</u>	<u>Amount Requested</u>
-------------------	----------------	-------------------------

	\$ _____
--	----------

Original Loan Amount	\$ _____
----------------------------	----------

Total Amount of Previous Disbursements	\$ _____
--	----------

<u>Amount of this Request</u>	\$ _____
-------------------------------------	----------

Balance Available after this Disbursement	\$ _____
---	----------

Is a portion of the claim underlying this Request subject to retainage under I.C. 36-1-12-14 or a similar law? YES ___ NO

If yes the retainage amount is	\$ _____
--------------------------------------	----------

Has the Qualified Entity paid the request and seeking reimbursement? YES ___ NO

The undersigned hereby certifies that this Request is true and correct, that the claim underlying this Request is legally due (and is payable from the SRF) in accordance with the Financial Assistance Agreement with the State.

DATE: _____

 SIGNATORY SIGNATURE

STATE AUTHORIZATION

The Department of Environmental Management finds \$_____ of the claim underlying this Request to be eligible SRF Costs to be disbursed as directed below.

The Program Representative hereby (i) authorizes Bank One Trust Company, NA, as trustee, to disburse the amount stated in the preceding sentence and (ii) directs that such amount be mailed to:

\$_____ the Contractor at the address identified on page 2.

\$_____ the Qualified Entity at the address identified on page 2.

DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT

PROGRAM REPRESENTATIVE

By: _____

By: _____

Date: _____

Date: _____

Trustee Certification

The undersigned, on behalf of Bank One Trust Company, NA, as trustee, hereby certifies that a Disbursement in the amount authorized by the State, together with a completed copy of this Request, was mailed on _____, 200_ to the party stated under "State Authorization" above. Further, a copy of this completed Request has been mailed to the Qualified Entity and the Department of Environmental Management.

Bank One Trust Company, NA, as Trustee

Date: _____

By: _____
Authorized Officer

EXHIBIT B

[Subject to State's approval, this information is to be supplied by
the Department prior to Closing.]

The Project is more fully described in, and shall be in accordance with, the Preliminary
Engineering Report and the Plans and Specifications approved by the Department.

EXHIBIT C
Principal Payment Schedule

<u>Date</u>	<u>Principal Amount</u>
10/1/2002	\$
10/1/2003	
10/1/2004	
10/1/2005	
10/1/2006	
10/1/2007	
10/1/2008	
10/1/2009	
10/1/2010	
10/1/2011	
10/1/2012	
10/1/2013	
10/1/2014	
10/1/2015	
10/1/2016	
10/1/2017	
10/1/2018	
10/1/2019	
10/1/2020	
10/1/2021	
Total	

[Subject to State's approval, this information is to be supplied by
the Qualified Entity's Financial Advisor prior to Closing.]