

RESOLUTION OF THE
BOARD OF DIRECTORS OF THE
BEN DAVIS CONSERVANCY AUTHORIZING
THE ADOPTION OF A BOND RESOLUTION

WHEREAS, the Ben Davis Conservancy District was established pursuant to an Order of the Marion County Circuit Court dated March 10, 1950, a copy of which is attached hereto as "Exhibit A" and made a part of this Resolution by this reference; and

WHEREAS, Pursuant to this March 10, 1950 Order, "That the purposes for which said district is established are for the collection and disposal of sewage and other liquid wastes produced in said district, and that is a public necessity." The March 10, 1950 Order also notes "in order to promote the public safety, health, convenience, and welfare of its citizens and inhabitants, should be declared and established as a conservancy district and that purposes of the Conservancy Act of Indiana will be subserved by the creation of a conservancy district as prayed in said petition, and that the same should be known and designated as the 'Ben Davis Conservancy District.'" and

WHEREAS, as noted in the March 10, 1950 Order, "that purposes of the Conservancy Act of Indiana will be subserved by the creation of a conservancy district as prayed in said petition. . ." Pursuant to Conservancy Act of Indiana, IC 14-33-1-1, a conservancy District may be established for several purposes, including "Providing for the collection, treatment, and disposal of sewage and other liquid waste;" and

WHEREAS, as the Ben Davis Conservancy District was established for the purpose of "the collection and disposal of sewage and other liquid waste produced in said district" no amendment to the Ben Davis Conservancy District Plan is required as the construction of a treatment facility for the disposal of sewage falls within the scope of the original purpose of the Ben Davis Conservancy District and within the scope of the purposes enumerated in the Indiana Conservancy Act; and

WHEREAS, the Ben Davis Conservancy District is wholly located in Marion County, Indiana as such, pursuant to IC 14-33-2-9, the Marion County Circuit Court has exclusive jurisdiction over all hearings in connection with the Ben Davis Conservancy District; and

WHEREAS, prior to 2018, the Ben Davis Conservancy District was funded solely from ad valorem property taxes, exceptional benefits charges, and contract charges; and

WHEREAS, the Ben Davis Conservancy District petitioned the Marion County Circuit Court in Cause No. 49C01-1906-PL-023150 (formerly Cause No. 0000006448) for authority to implement a flat rate user fee as an additional tool to finance the works of the Conservancy and said petition was granted on October 19, 2017. After notice and hearing, the Marion County Circuit Court issued an Order Authorizing the Implementation of Flat User Fee as an Additional Tool to Finance the Operation of the Ben Davis Conservancy District. A copy of said October 17, 2017 Order is attached hereto as "Exhibit B" and made a part of this Resolution by this Reference. In this Order, the Court preliminarily approved the proposed Sewer Rate Ordinance 2017-1 subject to a public hearing; and

WHEREAS, after notice and public hearing, Sewer Rate Ordinance 2017-1 was subsequently adopted by the BEN DAVIS CONSERVANCY DISTRICT Board. A copy of said Ordinance is attached hereto as "Exhibit C" and made a part of this Resolution by this reference; and

WHEREAS, the Ben Davis Conservancy District petitioned the Marion County Circuit Court in Cause No. 49C01-1906-PL-023150 (formerly Cause No. 0000006448) to change the nature of the sewer charges to an Equivalent Dwelling Unit ("EDU") basis in accordance with 327 IAC 3-6-11. The Court issued an August 30, 2019 Order Authorizing the Ben Davis Conservancy District to Change the Nature of Sewer Charges to an Equivalent Dwelling Unit (EDU) Basis. A copy of said August 30, 2019 Order is attached hereto as "Exhibit D" and made a part of this Resolution by this reference. Pursuant to said Order, proposed Ordinance 2019-1 was provisionally approved in its entirety subject to a public hearing; and

WHEREAS, after notice and public hearing, Ordinance 2019-1 was subsequently adopted by the BEN DAVIS CONSERVANCY DISTRICT Board. A copy of Ordinance 2019-1 is attached hereto as "Exhibit E" and made a part of this Resolution by this reference; and

WHEREAS, pursuant to Paragraph 13 of Ordinance 2019-1, the BEN DAVIS CONSERVANCY DISTRICT Board may change rates from time to time; "If this ordinance is approved by the Circuit Court, it shall not be necessary to request approval of any new rates or charges implemented from time to time . . ." and

WHEREAS, given the foregoing, the Ben Davis Conservancy District has the authority to charge a user fee and may implement new rates and charges without permission of the Marion County Circuit Court. Said revenues can be used for the repayment of revenue bonds pursuant to IC 14-33-11-3(1); and

WHEREAS, the Ben Davis Conservancy District petitioned the Marion County Circuit Court in Cause No. 49C01-1906-PL-023150 (formerly Cause No. 0000006448) for authority to take preliminary steps to secure funding for a proposed sewage treatment plant. Following notice and hearing, the Marion County Circuit Court issued an Order Approving and Authorizing the Ben Davis Conservancy District to Take Preliminary Steps to Secure Funding for a Proposed Sewage Treatment Facility on May 22, 2018 which, pursuant to Paragraph 3(i) included authority "To do all things necessary and proper for the construction of a sewage treatment plant all without further authorization of this Court." A copy of said May 22, 2018 Order is attached hereto as "Exhibit F" and made a part of this Resolution by this reference; and

WHEREAS, the BEN DAVIS CONSERVANCY DISTRICT filed an amended petition before the Marion County Circuit Court in Cause No. 49C01-1906-PL-023150 (formerly Cause No. 0000006448) for authority to take preliminary steps to secure funding for a proposed sewage treatment facility at market rates on January 4, 2019 before the Marion County Circuit Court in Cause No. 49C01-1906-PL-023150 (formerly Cause No. 0000006448). After notice and hearing, the Marion County Circuit Court issued an Order Approving and Authorizing the Ben Davis Conservancy District to Take Preliminary Steps to Secure Funding for A Proposed Sewage Treatment Facility at Market Rates on March 15, 2019. In addition to other authority granted in this Order, the Marion County Circuit Court granted the BEN DAVIS CONSERVANCY DISTRICT authority to commit to the purchase of land in an amount not to exceed one million dollars (\$1,000,000) and to proceed with bond solicitation at the time the BEN DAVIS CONSERVANCY DISTRICT deemed appropriate and to "take all other proper steps to finance the proposed facility in a sum not to exceed \$15,000,000." A copy of said March 15, 2019 Order is attached hereto as "Exhibit G" and made a part of this Resolution by this reference; and

WHEREAS, due to the inability to secure a suitable site for a treatment facility for under \$1,000,000 and due to the rising construction costs, the BEN DAVIS CONSERVANCY DISTRICT filed a subsequent petition before the Marion County Circuit Court in Cause No. 49C01-1906-PL-023150 (formerly Cause No. 0000006448) to increase the funding amount to purchase land for sewer treatment facility and increase bond solicitation amount on February 8, 2021. After notice and hearing, the Marion County Circuit Court issued an Order Approving and Authorizing the Ben Davis Conservancy District to Increase Funding Amount to Purchase Land for Sewer Treatment Facility and Increase Bond Solicitation Amount on March 26, 2021. In addition to other authority granted in this Order, the Marion County Circuit Court granted the BEN DAVIS CONSERVANCY DISTRICT authority to commit to the purchase of land in an amount not to exceed two million dollars (\$2,000,000) and the authority to proceed with financing of the sewage treatment facility with the sale or issuance of bonds in an amount not to exceed \$20,000,000. A copy of said March 26, 2021 Order

is attached hereto as "Exhibit H" and made a part of this Resolution by this reference;
and

WHEREAS, the Ben Davis Conservancy District Board desires to adopt a bond resolution which includes issuance of both bond anticipation notes and revenue bonds to finance the planning and construction of a sewage treatment facility; and

WHEREAS, the Marion County Circuit Court has authorized the issuance of bonds in an amount up to \$20,000,000 as noted above and the Ben Davis Conservancy District desires to adopt a bond resolution authorizing the financing of the land purchase and the sewage treatment facility; and

WHEREAS, the Board has published notice of a public hearing in the Indianapolis Star at least ten (10) days prior to the scheduled public hearing and conducted a public hearing on June 21, 2021, at 6:30 p.m at Fleming Garden Church located at 530 S Taft Ave, Indianapolis, IN 46241 and has considered the matters presented from the public; and

WHEREAS, the Ben Davis Conservancy District Board has taken into consideration the options of the Ben Davis Conservancy District for the treatment of sanitary sewage, the economic impact to the freeholders and all other customers of the Ben Davis Conservancy District, and the concerns of the freeholders and others appearing at the public hearing and has considered the advice of its accountants, engineers, attorneys, and other experts; and

It is hereby RESOLVED by the Board of Directors of the Ben Davis Conservancy as follows:

That the Ben Davis Conservancy District hereby AUTHORIZES the adoption of the proposed Bond Resolution which includes issuance of both bond anticipation notes and revenue bonds to finance the purchase of land and the planning and construction of a sewage treatment facility.

Dated

FRED F. BUCKINGHAM

BEVERLY A. MATTHEW

JEFFREY T. WOOD

ATTEST:

Angela Wirth, Secretary
Davis Conservancy District

STATE OF INDIANA }
COUNTY OF MARION } SS:

IN THE CIRCUIT COURT OF
MARION COUNTY

CAUSE NO. 6448

IN THE MATTER OF THE BEN }
DAVIS CONSERVANCY DISTRICT }

E N T R Y

The Court, having heretofore fixed the 21st day of December, 1949, at 9:30 o'clock A.M. as the time for a hearing on said petition for the establishment of the proposed conservancy district, now finds that the Clerk of this Court, as directed in the order of this Court entered on the 1st day of December, 1949, did give notice of the hearing on said petition for the 21st day of December, 1949, by publication for two (2) successive weeks in the West Side Messenger and the Marion County Mail, and did send a copy of such notice by Registered Mail to the Indiana Flood and Water Resources Commission, all as provided for in the Conservancy Act of Indiana and in compliance with said Act.

The Court further finds that it hath jurisdiction of the parties to, and the subject matter of this proceedings, to hear and determine the matter set forth in said petition.

The Court further finds that no owner of real property in said proposed district as described in said petition filed objections why such district should not be organized and that no person, firm or corporation on or prior to the date set for such hearing filed objections to the organization of such district.

The Court, after having heard evidence and being sufficiently advised in the premises on the 21st day of December,



1949, pursuant to notice given as required by the Conservancy Act of Indiana, and there being no objections made to the establishment of said conservancy district, finds that the facts and figures set forth in said petition are true; that the area described in said petition is located wholly within Marion County, Indiana; that said area is unincorporated, save and except the Town of Lynhurst; that said area is a closely built-up residential and business district and that there are no sanitary or storm sewers serving said area; that no provisions have been made for the collection and disposal of sewage and other liquid wastes produced within said area, and that there is no adequate governmental unit or authority, municipal or otherwise, empowered to make the necessary provisions for the collection and disposal of sewage and other liquid wastes produced within said area.

That the purposes for which said district is established are for the collection and disposal of sewage and other liquid wastes produced in said district, and that it is a public necessity.

The Court further finds that the public health, safety, convenience and welfare require and make it necessary that adequate means be provided for the collection and disposal of sewage and other liquid wastes created in said area, and that said area described in said petition, situate in Wayne Township, Marion County, Indiana, and described as follows, to wit:

Begin at a point 200 feet south of the intersection of Tibbs Avenue and Plainfield Ave.; thence southwest parallel to Plainfield Ave. to a point 200 feet east of Lynhurst dr.; thence south parallel to Lynhurst Dr. to a point 200 feet

south of Minnesota St.; thence west parallel to Minnesota St. to a point 200 feet east of Lindéy Ave.; thence south parallel to said Lindéy Ave. to a point 200 feet south of Mecca Ave.; thence west parallel to said Mecca Ave. to a point 200 feet east of High School Road; thence south parallel to said High School Road to a point 200 feet south of Raymond Street; thence west on Raymond St. to a point 200 feet west of Banner Ave.; thence north parallel to Banner Ave. to a point 200 feet north of U.S. Highway 40 (W. Washington St.); thence northeast parallel to U.S. Highway 40 to a point 200 feet west of Gridley Ave.; thence north parallel to Gridley Ave. to a point 200 feet north of Morris Street; thence east to a point 300 feet west of High School Road; thence north parallel to said High School Road to the CCC & St. L. Railroad; thence east along the right-of-way of said railroad a distance of 600 feet; thence south and parallel to said High School Road a distance of 1320 feet; thence east a distance of 1200 feet; thence south and parallel to said High School Road to a point 200 feet north of Morris Street; thence east parallel to Morris Street to a point 200 feet west of Mickléy Ave.; thence north parallel to Mickléy Ave. to a point 200 feet north of Oliver Ave.; thence east parallel to said Oliver Ave. to a point parallel to said Norfolk St. to the said CCC & St. L. Railroad; thence along said railroad to the corporation line of the City of Indianapolis; thence on and along said corporation line to the place of beginning;

in order to promote the public safety, health, convenience, and welfare of its citizens and inhabitants, should be declared and established as a conservancy district and that purposes of the Conservancy Act of Indiana will be subserved by the creation of a conservancy district as prayed in said petition, and that the same should be known and designated as "Ben Davis Conservancy District."

That the public safety, health, convenience and welfare will be promoted by the organization of a conservancy district as prayed in said petition.

IT IS, THEREFORE, BY THE COURT ORDERED, ADJUDGED AND DECREED that the area described in the petition herein filed,

situate in Wayne Township, Marion County, Indiana, and being described as follows, to wit:

Begin at a point 200 feet south of the intersection of Tibbs Avenue and Plainfield Ave.; thence southwest parallel to Plainfield Ave. to a point 200 feet east of Lynhurst Dr.; thence south parallel to Lynhurst Dr. to a point 200 feet south of Minnesota St.; thence west parallel to Minnesota St. to a point 200 feet east of Lindey Ave.; thence south parallel to said Lindey Ave. to a point 200 feet south of Mecca Ave.; thence west parallel to said Mecca Ave. to a point 200 feet east of High School Road; thence south parallel to said High School Road to a point 200 feet south of Raymond St.; thence west on Raymond St. to a point 200 feet west of Banner Ave.; thence north parallel to Banner Ave. to a point 200 feet north of U.S. Highway 40 (W. Washington St.); thence northeast parallel to U.S. Highway 40 to a point 200 feet west of Gridley Ave.; thence north parallel to Gridley Ave. to a point 200 feet north of Morris Street; thence east to a point 300 feet west of High School Road; thence north parallel to said High School Road to the CCC & St. L. Railroad; thence east along the right-of-way of said railroad a distance of 600 feet; thence south and parallel to said High School Road a distance of 1320 feet; thence east a distance of 1200 feet; thence south and parallel to said High School Road to a point 200 feet north of Morris Street; thence east parallel to Morris Street to a point 200 feet west of Mickley Ave.; thence north parallel to Mickley Ave. to a point 200 feet north of Oliver Ave.; thence east parallel to said Oliver Ave. to a point 200 feet west of Norfolk St.; thence due north parallel to said Norfolk St. to the said CCC & St. L. Railroad; thence along said railroad to the corporation line of the City of Indianapolis; thence on and along said corporation line to the place of beginning;

be, and the same is hereby, declared, established and organized, erected into and created, as a Conservancy District under and pursuant to the terms and provisions of the Conservancy Act of Indiana of the General Assembly of 1947, and that said conservancy district shall be known and designated as the "Ben Davis Conservancy District" with its office or principal

place of business at 4808 West Washington Street, Indianapolis,
Marion County, Indiana.

And the following persons are hereby appointed
directors of said conservancy district:

Irvin McNeeley, for a term of three (3) years,
Robert Teeter, for a term of five (5) years,
Leslie Cadwell, for a term of seven (7) years,

who are hereby directed to qualify and proceed according to
law. And now said Irvin McNeeley, Robert Teeter and Leslie
Cadwell appear in open court and each accepts said appointment
and qualified according to law, and each subscribes to the oath
of office that they and each of them will faithfully and
honestly discharge and perform their respective duties as
directors of the "Ben Davis Conservancy District".

This cause is retained on the docket of this Court
for the consideration of other matters herein.

FILED
30 Mar 10, 1950

LLOYD D. CLAYCOMBE
Judge of the Marion Circuit Court

dated Mar 10, 1950

A. Jack Tilson
Clerk

Submitted by

Elmon M. Williams

Atty. for petitioners.

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

IN THE MARION COUNTY CIRCUIT COURT
CAUSE NO. 0000006448

IN THE MATTER OF THE)
)
BEN DAVIS CONSERVANCY DISTRICT)

FILED
October 19, 2017
Myra A. Eldridge
CLERK OF THE COURT
MARION COUNTY
TA

**ORDER AUTHORIZING THE IMPLEMENTATION OF A
FLAT USER FEE AS AN ADDITIONAL TOOL TO
FINANCE THE OPERATION OF THE
BEN DAVIS CONSERVANCY DISTRICT**

Comes now the Ben Davis Conservancy District, by its chairman, and files its Petition to Implement User Fee System as an Additional Tool to Finance the Operation of the Ben Davis Conservancy District.

The Court finds that the notice of the public hearing on the petition has been duly published and according to law and that the matter now comes on for hearing.

And the Court, having heard the evidence and having received testimony of the Conservancy, its expert accountants, and other evidence and having considered the matter and being duly advised, now finds:

1. That the allegations of the petition are true and that additional funding of the Conservancy by means of a flat rate user fee as provided by law is a proper method of financing and that the implementation of the proposed user fee is just and equitable and may be implemented forthwith.

2. That if and when a proposed user fee system is fully implemented, it should reduce the reliance on the *ad valorem* property tax which should cause the minimal users of the sanitary sewer to be treated more equitably and will place the burden of maintaining the sanitary sewer system more squarely on the users of the sewers rather than on the general *ad valorem* property tax.

3. That because of the uncertainty of receiving normal user fees, it is necessary to maintain the *ad valorem* property tax, the exceptional benefits charges, and contract charges as means of finance for the Conservancy.

4. That proposed Ordinance No. 2017-1 is reasonable in its terms and may be implemented by the Conservancy should the Conservancy Board so determine.



IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

1. That the concept of a flat rate user fee is approved and the Conservancy Board is authorized to take any and all steps necessary to implement said system of rates and charges pursuant to IC § 14-33-22-12 and IC § 14-33-22-8.
2. That the recommendations contained in the report of Steven K. Brock are reasonable and the Conservancy Board is authorized to implement said recommendations should the Board desire after a public hearing.
3. That the proposed Ordinance No. 2017-1 may be implemented should the Board so desire after a public hearing.
4. That the proposed rates and charges recommended and set out in the report of Steven K. Brock are for the present time the maximum rates and charges authorized, which said maximum charges are set out in the Sewage Treatment Rate Tariff attached hereto and made a part of this order as Appendix A.
5. That the Conservancy Board is ordered to conduct a public hearing pursuant to IC § 14-33-22-9 after notice by publication is given to interested persons giving them an opportunity to be heard concerning the proposed user fee schedule. Said public hearing may be held at any reasonable location and time, but as soon as practicable.
6. That the said hearing may be adjourned as needed, but thereafter the Board shall then adopt a resolution fixing the rates and charges of the user fees to be imposed should the Board determine that a user fee should be adopted in keeping with this Order.
7. That thereafter and within 30 days of the Board's action, the Board should they adopt a user fee system shall publish notice of said rates and charges as provided by law and proceed to implement and collect user fees as a separate method of finance for the Conservancy.
8. That the rates and charges may be changed from time to time by further petition to this Court and further action taken according to law.
9. That the Conservancy Board is authorized to maintain the *ad valorem* property tax, the exceptional benefits charges, and contract charges as financial tools to finance the Conservancy and the Board shall proceed to fix its Budget according to law.

All of which is ordered this October 19, 2017.

Recommended for Approval



Mark A. Jones

JUDGE MARION COUNTY CIRCUIT COURT
Magistrate

Approved and Ordered



TA

Appendix A

**Ben Davis Conservancy District
Sewer Works
Sewage Treatment Rate Tariff**

I	<u>Sanitary Sewer Rate</u>		
A.	<u>Unmetered Residential and Unmetered Small Commercial</u> [1] [4] - Per Connection Per Month		\$ 8.00
B.	<u>Unmetered Tax Exempt Properties</u> - Per Connection Per Month		\$36.00
C.	<u>Metered Non Residential</u> - Per 1000 Gallons Per Month [2]		\$ 1.40
D.	<u>Airport Contract</u> - Assessment only per contract provisions		\$ -
E.	<u>Mobile Home Parks</u> <u>Calculated at 4,500 Gallons Per Home Per Month</u> Per 1000 Gallons Per Month [2]		\$ 1.40
II	<u>Other Rates and Charges</u>		
A.	<u>Sewer Deposit</u>		
	Late Payment Deposit – Per EDU		\$50.00
B.	<u>Impact Fee for Sewer</u>		
	Per EDU		\$1,500.00
C.	<u>Unpaid Bills By Renters</u>	Owners Shall Be Responsible For Any Unpaid Bills By Renters	
D.	<u>Returned Check Charge</u>		\$30.00
E.	<u>Late Charge Penalty</u>		
	All Bills 30 days or more delinquent		10% of Bill
F.	<u>Permit Fee and Connection Fee</u> [3]		
	Residential Property		\$100.00
	Non Residential Property		\$250.00
G.	<u>Dye Test (Requested by Customer)</u>		\$100.00

Note: The District reserved the right to bill for sanitary sewer service on a metered water usage basis any customer that has usage characteristics greater than usage characteristics of its typical residential customers.

[1] Plus tax assessment.

[2] Either customer is not assessed or the assessment is subtracted from the volumetric bill.

[3] Includes inspection

[4] Commercial and Multi-Family users are a minimum of \$8.00 per month until Equivalent Dwelling Units (EDUs) are established by the District at which time the monthly fee will be \$8.00 per EDU.

DISTRIBUTION:

**John L. Hess
Hess Hess & Donnelson LLP
2000 E. 116th St., Ste. 106
Carmel, IN 46032**

ORDINANCE No. 2017-1

SEWER RATE ORDINANCE

An Ordinance implementing a schedule of rates and charges to be collected by the Ben Davis Conservancy District from the owners of property served by the Sanitary Sewer System of said District and other matters connected therewith.

WHEREAS, the District owns and operates a Sanitary Sewer System in Wayne Township, Marion County Indiana; and

WHEREAS, it is necessary to implement a schedule of rates and charges so as to produce sufficient revenue to pay expenses of operation and maintenance, any future debt service requirements, and to provide funds for necessary replacements and improvements to the Sanitary Sewer System; and

WHEREAS, such rates set forth below are initially sufficient coupled with existing tax revenues to maintain this Sanitary Sewer System in a sound physical and financial condition and to render adequate and sufficient services, and which rates and charges are consistent with the revenue requirements.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE BEN DAVIS CONSERVANCY DISTRICT, MARION COUNTY, INDIANA:

Section 1. Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows;

- (a) "Board" shall mean the Board of Directors of the Ben Davis Conservancy District, or any duly authorized officials acting in its behalf.
- (b) "Debt Service Costs" shall mean the average annual principal and interest payments on any future bonds or other long-term capital debt.
- (c) "Industrial Wastes" shall mean the wastewater discharges from industrial, trade or business processes as distinct from employee wastes or wastes from sanitary conveniences.
- (d) "Operation and Maintenance Cost" include all costs, direct and indirect, necessary to provide adequate wastewater collection, transport and treatment on a continuing basis and produce discharges to receiving waters that conform with all related Federal, State and local requirements.
- (e) "Other Service Charges" shall mean tap charges, system development charges, connections charges, area charges, and other identifiable charges other than excessive strength surcharges.



- (f) "Person" shall mean any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency or other entity.
- (g) "Replacement Costs" shall mean the expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.
- (h) "Shall" is Mandatory; "May" is permissive.
- (i) "District" shall mean the Ben Davis Conservancy District acting by and through the Board of Directors.
- (j) "User Class" shall mean the division of wastewater treatment customers by source, function, waste characteristics, and process or discharge similarities.

Residential User shall mean a user of the treatment works whose premises or building is used primarily as a residence for one or more persons, including all dwelling units.

Small Commercial User shall mean a commercial user that ordinarily would not discharge more sewage than a residential user in most circumstances.

Non Residential User shall mean any establishment involved in a commercial enterprise, business or service, or an industrial user, which based on a determination by the District discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

Tax Exempt User shall mean any establishment involved in a social, charitable, religious, and/or educational function, which, based on a determination by the District discharges primarily segregated domestic wastes or wastes from sanitary conveniences and includes governmental users.

- (k) The District has pursuant to law implemented a system of Exceptional Benefits Charges affecting trailer parks, car washes, and other heavy users of the sewer. These charges shall remain in effect. The District has entered into contracts for certain commercial establishments outside the District which also shall remain in effect. Further, the District utilizes the *ad valorem* property tax to finance its works and the property tax shall remain as a method of finance although it is anticipated that the rate shall be substantially reduced.

Section 2. Every person whose premises are served by said Sanitary Sewer System and those whose premises could or should be served by said Sanitary Sewer System (such as a vacant

house or a home connected to a septic tank) shall be charged for the service provided. These charges are established for each user class, as defined, in order that the Sanitary Sewer System shall recover, from each user and user class, revenue, which is fair and equitable. User charges shall be uniform within a user class.

The various classes of users of the treatment works for the purpose of this Ordinance shall be as detailed in Appendix A, and shall be charged in accordance with Appendix A, which is the Sewage Treatment Rate Tariff attached hereto and made a part hereof.

Section 3. For the use of the service rendered by Sanitary Sewer System, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with the District sanitary system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly, into the sanitary sewage system of the Ben Davis Conservancy District. Such rates and charges include user charges, debt service costs, excessive strength surcharges and other service charges, which rates and charges shall be payable as hereinafter provided and shall be in an amount determined as follows:

- (a) Except as herein otherwise provided, the sewage rates and charges shall not be based on the quantity of water used and shall not be based on the quantity of sewage flow from the property or premises subject to such rates and charges as the same might be determined by the water meter or sewage flow meter thereby used. Rather, said sewage rates and charges shall be based upon a flat fee regardless of the volume of water used.
- (b) The schedule on which said rates and charges shall be determined shall be in accordance with Appendix A, which is the Sewage Treatment Rate Tariff attached hereto and made a part hereof.

Section 4. Such rates and charges shall be prepared, billed and collected by the District in the manner provided by law and ordinance.

- (a) The rates and charges for all users shall be prepared and billed monthly. The Board is authorized to provide discounts for early payment or lump sum annual payment.
- (b) The rates and charges may be billed to the tenant or tenants occupying the properties served, unless otherwise requested in writing by the owner, but such billing shall in no way relieve the owner from the liability in the event payment is not made as herein required.

The owners of properties served, which are occupied by a tenant or tenants shall have the right to examine the collection records of the District for the purpose of determining whether bills have been paid by such tenant or tenants, provided that such examination shall be made at the office at which such records are kept and during the hours that such office is open for business.

- (c) Delinquent bills not paid within 17 days may be charged 10% of the first \$3.00 and 3% in excess of \$3.00. If a higher rate of interest is authorized by law, the ordinance may be amended to reflect this higher rate of interest. Rates and charges may be collected or liened against the real estate in any manner permitted by Indiana law. After 8 months of delinquency, the Board, in its discretion and after due notice to the property owner giving the owner and tenant an opportunity to be heard, may disconnect the property owner from the sewer without further action of the Circuit Court.

Section 5. In order that the rates and charges for sewage services may remain fair and equitable and be in proportion to the cost of providing services to the various users of user classes, the District shall cause a study to be made within a reasonable period of time following the first two years of operation, following the date on which this ordinance goes into effect. Such study shall include, but not be limited to, an analysis of the cost associated with the treatment of excessive strength effluents from industrial users, volume and delivery flow rate characteristics attributed to the various users or user classes, the financial position of the Sanitary Sewer System and the adequacy of its revenue to provide reasonable funds for the operation and maintenance, replacements, debt service requirements and capital improvements to the wastewater treatment systems.

Thereafter, as the District determines is reasonably appropriate following changes in its cost of service or the lapse of five years, the District may cause a similar study to be made for the purpose of reviewing the fairness, equity and proportionality of the rates and charges for sewage services on a continuing basis. Said studies may be conducted by officers or employees of the District or by a firm of accountants, or a firm of consulting engineers which firms shall have experience in such studies, or by such combination of officers, employees, certified public accountants or engineers as the District shall determine to be best under the circumstances. The District may, upon completion of said study revise and adjust the rates and charges, as necessary, in accordance therewith in order to maintain the proportionality and sufficiency of the rates.

Section 6. The District shall make and enforce such rules and regulations as may be deemed necessary for the safe, economical and efficient management of the District's sewage system for the construction and use of sewers and connections to the sewage collection system and for the regulations, collection and rebating and refunding of such rates and charges.

The District is hereby authorized to prohibit dumping of wastes into the District's sewage system which, in its discretion, are deemed harmful to the operation of the works of the District, or to require method affecting pretreatment of said wastes to comply with the pretreatment standards of any regulatory agency including the Indiana Department of Environmental Management and the Environmental Protection Agency.

Section 7. This ordinance shall not supercede any other ordinance of the District. The District shall continue to utilize the *ad valorem* property tax, special benefit tax, Exceptional Benefits Charges, and contract charges, permits, and impact fees as means to finance the Conservancy District but it is anticipated that the *ad valorem* property tax collected shall be

substantially reduced after the passing of this ordinance. The District shall prepare an annual budget in the manner required by law and shall estimate the annual additional revenues that will be received as a result of the flat fee herein imposed.

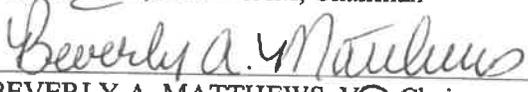
Section 8. The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance which shall be given effect without such invalid part or parts.

Section 9. This ordinance shall be in full force and effect from and after its passage.

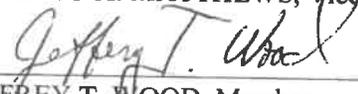
PASSED AND ADOPTED BY THE BOARD OF DIRECTORS OF THE BEN DAVIS CONSERVANCY DISTRICT ON THE 11 DAY OF DECEMBER, 2017.



FRED E. BUCKINGHAM, Chairman



BEVERLY A. MATTHEWS, Vice Chairman



JEFFREY T. WOOD, Member

ATTEST:



Secretary

Appendix A

**Ben Davis Conservancy District
Sewer Works
Sewage Treatment Rate Tariff**

I			
	<u>Sanitary Sewer Rate</u>		
A.	<u>Unmetered Residential and Unmetered Small Commercial</u> [1] [4] - Per Connection Per Month		\$ 8.00
B.	<u>Unmetered Tax Exempt Properties</u> - Per Connection Per Month		\$36.00
C.	<u>Metered Non Residential</u> - Per 1000 Gallons Per Month [2]		\$ 1.40
D.	<u>Airport Contract</u> - Assessment only per contract provisions		\$ -
E.	<u>Mobile Home Parks</u> <u>Calculated at 4,500 Gallons Per Home Per Month</u> Per 1000 Gallons Per Month [2]		\$ 1.40
II			
	<u>Other Rates and Charges</u>		
A.	<u>Sewer Deposit</u>		
	Late Payment Deposit – Per EDU		\$50.00
B.	<u>Impact Fee for Sewer</u>		
	Per EDU		\$1,500.00
C.	<u>Unpaid Bills By Renters</u>	Owners Shall Be Responsible For Any Unpaid Bills By Renters	
D.	<u>Returned Check Charge</u>		\$30.00
E.	<u>Late Charge Penalty</u>		
	All Bills 30 days or more delinquent		10% of Bill
F.	<u>Permit Fee and Connection Fee</u> [3]		
	Residential Property		\$100.00
	Non Residential Property		\$250.00
G.	<u>Dye Test (Requested by Customer)</u>		\$100.00

Note: The District reserved the right to bill for sanitary sewer service on a metered water usage basis any customer that has usage characteristics greater than usage characteristics of its typical residential customers.

[1] Plus tax assessment.

[2] Either customer is not assessed or the assessment is subtracted from the volumetric bill.

[3] Includes inspection

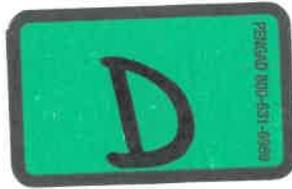
[4] Commercial and Multi-Family users are a minimum of \$8.00 per month until Equivalent Dwelling Units (EDUs) are established by the District at which time the monthly fee will be \$8.00 per EDU.

STATE OF INDIANA) IN THE MARION COUNTY CIRCUIT COURT
) SS:
COUNTY OF MARION) CAUSE NO. 49C01-1906-PL-023150
) (FORMERLY CAUSE NO. 0000006448)
IN THE MATTER OF THE))
))
BEN DAVIS CONSERVANCY DISTRICT))

**ORDER AUTHORIZING THE BEN DAVIS CONSERVANCY DISTRICT
TO CHANGE THE NATURE OF SEWER CHARGES TO AN
EQUIVALENT DWELLING UNIT (EDU) BASIS**

Comes now the Ben Davis Conservancy District (hereafter "Conservancy") by the Chairman of the Board of Directors for a public hearing on the Conservancy's Petition to Change the Nature of Sewer User Charges of the Ben Davis Conservancy District to an "EDU" System. And the Court, having heard all of the evidence and being duly advised in the premises, now FINDS as follows:

1. That the allegations of the Petition are true and that the prayer of the Petition should be granted in its entirety.
2. That the Indiana General Assembly in 1995 enacted IC 14-33-22-1, *et seq.* which authorizes Conservancy Districts in Marion County, Indiana, to charge users of the sewers rates and charges based upon a flat charge for each sewer connection, the amount of water used, the number and size of water pipes, the amount of strength and character of sewer discharge, the size of a sewer connection, and any combination of these factors. That the Conservancy is therefore authorized to charge users in accordance with IC 14-33-22-1.
3. That the proposed Ordinance No. 2019-1 uses a combination of these factors and that the proposed EDU (Equivalent Dwelling Unit) System is fair and has been widely utilized throughout the United States. Said EDU System assigns a multiple number of EDU's to properties other than single-family dwellings as to what water consumption they typically use in comparison to a single-family unit. Further, 327 IAC 3-6-11 fairly classifies most properties and in essence assigns an EDU to those properties.
4. That the proposed Ordinance 2019-1 contains a method of challenge and appeal to the EDU assigned to a particular property within the Conservancy whereby an aggrieved user may administratively challenge the EDU assigned and may appeal to this Court for judicial review and this provides an adequate remedy for an unchecked administrative determination and is consistent with due process of law.
5. That the present system of hiring appraisers to appraise "exceptional benefits" to high volume users of the sewers is antiquated, and the proposed EDU System is a more equitable system and will charge and collect user fees in the current year rather than waiting and charging for sewer fees a year in arrears.



6. That the existing contracts for properties outside of the Conservancy boundaries should be terminated because:

a. The Indianapolis Sanitary District which formerly operated a sanitary sewer district through the Indianapolis Department of Public Works has been sold to CWA Authority, Inc. and the contract for sewer treatment within the Ben Davis Conservancy District has been terminated.

b. New sewage treatment charges mandated by the Indiana Utility Regulatory Commission (I.U.R.C.) have been imposed upon the Conservancy.

c. New methods of determining inflow and infiltration need to be addressed which were not addressed in the old contracts many of which were over 40 years of age.

d. The contracts have no expiration date and, therefore, are terminable at will by either party under existing Indiana law. The Court approves the model contract contained in the Ordinance; however, said contract is subject to negotiation and modification as the parties may later agree.

7. That the Conservancy has served actual notice of this hearing by certified mail on all of the entities paying exceptional benefits charges and all entities located outside of the Conservancy who are now paying contract charges to the Conservancy. Further, the Conservancy has published notice to all freeholders in the Conservancy and all other persons interested in the proposed order, and proof of publication has been duly filed. Moreover, the Conservancy has added notice of this hearing to the August monthly statement of all entities receiving a monthly sewer bill. The Court finds that notice of this hearing has been widely and appropriately disseminated and the notice conforms with law.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

1. That the proposed Ordinance No. 2019-1 is provisionally approved in its entirety subject to holding a public hearing wherein the opinions and concerns of the freeholders and others affected by said Ordinance should be considered by the Conservancy.

2. That all proposed actions and changes in the operation of the Conservancy contemplated by Ordinance No. 2019-1 are provisionally approved subject to the enactment of the Ordinance after a public hearing, including but not limited to, the following:

a. Changing the basis of sewer charges to an Equivalent Dwelling Unit or "EDU."

b. Implementing all other users to an assigned EDU based upon the classification of the property to 327 IAC 3-6-11 as the same may later be amended. If there is a property not classified, it would be assigned an EDU by the Conservancy.

c. Implementing a system which challenges an EDU determination contained in the Ordinance giving an aggrieved party notice and the opportunity to be heard which provides an avenue for judicial review of unchecked administrative action and provides due process of law to an aggrieved customer.

d. Abolishing the system of selecting appraisers to determine exceptional benefits charges for various heavy users of the sewers and implementing an EDU System for all properties.

e. Establishing the charge for an EDU for each year.

f. Terminating the contracts for users outside the boundaries of the Conservancy.

3. That this Order does not abolish the special benefits tax based on property values of each property in the Conservancy but allows for a two-tiered method of finance for the Conservancy.

All of which is ordered August 30, 2019.

Recommended for Approval

Amber Collins-Gebrenwet

Commissioner

Magistrate, Amber Collins-Gebrenwet
Marion County Circuit Court

Approved and Ordered

Sheryl Lynch
AW

DISTRIBUTION:

John L. Hess
JohnLHessAtty@aol.com

BEN DAVIS CONSERVANCY DISTRICT
ORDINANCE NO. 2019-1
IMPLEMENTING EDU'S AS THE BASIS OF
SEWER USER FEES

WHEREAS, the Ben Davis Conservancy District (hereafter sometimes referred to as "District") has heretofore operated a system financed by the special benefits property tax and more recently user fees; and

WHEREAS, users of the sewer system who discharge larger volumes of water into the system have been charged an "exceptional benefit charge," based on a report of "appraisers" who determine the computation of the charge and the basis of computation of the charge. The exceptional benefit charges were made pursuant to the Indiana Conservancy Act and certain orders of the Marion County Circuit Court over time; and

WHEREAS, exceptional benefit charges have been assessed against car washes, laundromats, trailer parks, and other like heavy users of water; and

WHEREAS, the use of the exceptional benefit charge is a cumbersome system leading to uncertainty of charges to the user, is paid a year in arrears, and is not uniform; and

WHEREAS, in 1995, the Indiana General Assembly enacted I.C. § 14-33-22-1 which has authorized conservancy districts within Marion County to charge users of the sewers rates and charges based upon a flat charge for each sewer connection, the amount of water used, the number and size of water outlets, the amount and strength and character of sewer discharge, the size of a sewer connection and any combination of these factors. (See I.C. § 14-33-22-12.)

NOW, THEREFORE, in order to promulgate a fairer, more equitable, and uniform system of rates and charges, the Ben Davis Conservancy District believes a new system should be implemented as set out in this ordinance which will not only replace the exceptional benefit charges but shall implement a system based upon an EDU as the basic unit upon which user fees are made.

The Board of Directors of the Ben Davis Conservancy District (hereafter sometimes referred to as "Board") does hereby enact and ordain as follows:

1. Short Title. This ordinance may be cited as the "Ben Davis Conservancy District User Fee Ordinance."

1.1 Basis of Charges. The basis of the sewer service charges in this ordinance is the establishment of an EDU System which is short for "Equivalent Dwelling Unit." The EDU



System is authorized by I.C. § 14-33-22-1, *et seq.* The exceptional benefit charges heretofore authorized by the Circuit Court are abolished upon the enactment of this ordinance.

2. Definitions. Unless the context otherwise indicates, terms used herein shall have the following meaning:

(a) “Equivalent Dwelling Unit (or EDU)” means the unit of measure by which a single-family residential household in the District is charged by the District for sewer services based on the typical water consumption of a typical single-family residential household. At present, a single-family residential household consumes an average of 310 gallons of water per day and, therefore, is assigned an EDU of one (1). All other users shall be assigned an EDU pursuant to 327 IAC 3-6-11 as amended and incorporated by reference. Any property not classified by 327 IAC 3-6-11 shall be assigned an EDU by the District. The District may use any and all factors that are reasonable, just, and fair in the assignment of the number of EDU’s including negotiation of the appropriate number.

(b) “District” means the Ben Davis Conservancy District. “Board” means the Ben Davis Conservancy District Board of Directors.

(c) “Sewer capacity charge” means a charge for facilities in existence at the time a charge is imposed or charges for new facilities to be constructed in the future that are of benefit to the person or property being charged.

(d) “Sewer user fee” means fees, tolls, rates, or other charges for services and facilities furnished by the District in connection with its sanitary sewerage system for different classifications of property.

(e) “Sewer connection” means the connection of a structure or project to a public sewer system.

(f) “Customer” or “user” means any person, firm, corporation, association, governmental agency or other entity to which the services or facilities of the District are furnished whether the customer is physically located within the District’s boundaries or outside the District’s boundaries.

(g) “Single-family dwelling” means a structure designed, improved or used as a residential dwelling with one complete independent living facility, including permanent provisions for living, sleeping, eating, cooking and sanitation.

(h) “Multiple-family dwelling” means any structure designed, improved or used as a residential dwelling with two or more living units with complete

independent living facilities with separate entrances. Complete independent living facilities include permanent provisions for living, sleeping, eating, cooking and sanitation. Multiple family dwellings include apartment houses and duplexes, but not hotels, motels, dormitories, or similar structures, which do not have separate kitchen facilities for any of the units therein.

(i) “BOD” means biochemical oxygen demand, which is a measure of strength of sewage expressed in terms of the amount of oxygen required by bacteria to render sewage inert.

(j) “Tariff” or “Schedule or Rates and Charges” shall mean a schedule implemented by the District attached to an ordinance or otherwise ordained or ordered by the District from time to time setting out the present charges for sewer user fees for various classifications of property, charges for excess suspended solids, BOD’s, capacity charges, connection fees, and other lawful charges. The tariff shall change from time to time based upon changed conditions. The charge for an EDU shall be determined as follows: The District shall formally adopt its budget as provided by law. Thereafter, the District shall determine the number of EDU’s in the Conservancy District. The District shall determine the charge for each EDU by estimating the amount of money it will need to operate the Conservancy and assign a charge for each EDU considering all factors required in the budget process.

(k) “SS” means suspended solids, a measure of strength of sewage expressed in terms of the quantity of the solid material measured in milligrams within a liter of sewage.

(l) “Maximum Day” means the maximum daily loading (flow, BOD, SS) anticipated from a given discharger in a calendar year.

(m) “Maximum Sustained” means the maximum consecutive 5-day-average loading (flow, BOD, SS), i.e., loadings from the maximum consecutive 5-day discharge period during the calendar year from a given discharger.

3. Severability. The Board hereby declares that if any provision of this ordinance or the application thereof to any person or circumstance is held invalid by court order, the remainder of this ordinance, or the application of any provision held invalid to other persons or circumstances shall not be affected.

4. Authority. The Board finds that the imposition of fees and charges that have been adopted pursuant to this ordinance have been authorized by I.C. § 14-33-22-1, *et seq.*

5. Sewer User Fees. Sewer user fees shall be determined by ordinance from time to time and shall be based on how many EDU’s a user is assigned or billed, or other factors detailed in the Schedule of Rates and Charges in the ordinance.

6. Study for EDU's. The District shall cause a study to be conducted to determine how many EDU's are to be assigned to all users of the sewer. Each single-family residential household shall be assigned one (1) EDU. All other properties in the District shall be assigned an EDU based upon 327 IAC 3-6-11 to the extent possible or upon water consumption or metered usage for categories of property not classified by 327 IAC 3-6-11. There is an irrebuttable presumption that 100% of water consumed will eventually reach the sanitary sewer and that watering and evaporation is *di minimus* and is already factored into the cost of transportation treatment, and cost of an EDU. Therefore, no set off or credit shall be allowed for lawn watering, evaporation, or any other matter. There are no partial EDU's. Any proportioned EDU shall be assigned the next higher EDU.

Example: A customer not classified by 327 IAC 3-6-11 has an average monthly water consumption of 27,000 gallons each month. $27,000 \div 31 = 870.96$ gallons per day. $870.96 \div 310 = 2.809$. The customer shall be assigned an EDU of three (3).

7. Appeals. In the event that an aggrieved customer desires to challenge the number of EDU's assigned to the user, the user shall file with the District a protest, in writing, setting forth why the user believes that the EDU assigned is incorrect. Said challenge may be made at any time but the receipt date of the challenge is the "start date" of any successful appeal. No credit shall be allowed for the time period prior to the start date. A form will be available at the District's office for the use of the aggrieved user. All appeals must be made using the District's form. Upon receipt of the protest, the District shall note the date and time of the receipt of protest and shall appoint a hearing officer to conduct a hearing to hear the merits of the protest and to make a recommendation to the Board as to how many EDU's should be assigned and/or the nature and kind of relief, if any, that should be afforded the aggrieved user. The hearing officer shall be a person familiar with the concept of EDU's and of sewers. The hearing shall be informal and normal rules of evidence shall not apply. The aggrieved user shall be allowed to present any evidence deemed appropriate. The hearing may but is not required to be recorded, and the hearing officer shall forthwith make a recommendation to the Board. The Board shall upon receipt consider the report of the hearing officer and shall notify the aggrieved user as soon as practical as to its decision. The aggrieved user shall not be afforded the right to appear in person before the Board as the hearing officer is to act for and on behalf of the Board. However, the Board may upon majority vote allow the aggrieved party to personally appear before the Board. The decision of the Board shall be mailed by first class mail to the aggrieved user. If favorable, the Board shall adjust the EDU assignments and make a refund to the customer. If the decision is not favorable to the customer, the aggrieved customer shall have thirty (30) days from receipt of the Board's decision to file a request for judicial review with the Marion County Circuit Court. If the report is mailed, an additional five (5) days shall be allowed. If a request for judicial review is not filed within thirty (30) days, the decision of the Board shall be final. The appeal shall be an action *de novo* and shall consist of a request for judicial review in the form of a civil action against the Board with the filing of a complaint and the issuance of a summons to the Board. The Indiana Rules of Civil Procedure and Indiana Statutes regarding evidentiary rules shall govern the trial. The District shall comply with

the Order of the Court and shall refund any monies due if the customer receives a favorable decision from the Court. However, until the Board's initial action is reversed, the number of EDU's assigned to the particular property shall be as first determined by the District and the "end date" of the appeal shall be the date of the determination of the correct EDU assignment. The refund shall be made to the aggrieved user and shall be based upon that sum of money which should have been charged from the "start date" until the date of the corrected assignment of EDU's, either by the Circuit Court or by Order of the Board.

8. Contract Users. The Board has heretofore contracted with certain users whose property lies outside the boundaries of the District. These properties shall be charged for the transportation and treatment of their sewage by assigning an EDU number to the property and assigning other factors affecting their user fees. Such factors shall be determined from time to time and shall be published by ordinance in the Schedule of Rates and Charges. The contract users shall be charged essentially the same as users in the Conservancy boundaries with the exception of other charges that are unique to these properties, including but not limited to inflow and infiltration, plus an additional fee of 15% of the total bill which represents additional administrative costs which these properties have historically cost the District. Any existing contract made between these contract users and the District shall be considered null and void upon the effective date of this ordinance and shall be superseded by this ordinance. This ordinance shall be first approved by the Marion County Circuit Court with notice of the hearing to interested contract users and users being assessed exceptional benefits charges by publication and certified mail. Each contract is subject to negotiation based upon circumstances unique to the property.

9. Grease. Grease causes great problems for the District in that it clogs lines more than any other unlawful substance introduced to the sewer lines. If the District determines that any establishment is introducing unreasonable amounts of grease, the District may require the customer to install a grease trap and if the customer refuses, the District may without further authority install the grease trap and collect the amount required for installation along with reasonable attorney fees from the customer or may seek further injunctive action from the Circuit Court of Marion County.

10. BOD's and Suspended Solids. Should the Board determine that any user is discharging an unreasonable amount of BOD's and suspended solids, the Board may charge the user a reasonable charge later determined and included in the Schedule or Rates and Charges.

11. Sewer Connection. The District has heretofore established uniform existing rates for sewer connections as well as capacity charges. These rates shall be amended from time to time by the Schedule or Rates and Charges or future ordinances.

12. Other Ordinances Not Repealed. All other ordinances of the District not modified by this ordinance shall remain in full force and effect.

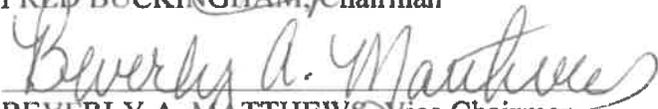
13. Board May Change Rates from Time to Time. If this ordinance is approved by the Circuit Court, it shall not be necessary to request approval of any new rates or charges implemented from time to time, but an aggrieved party shall have the right at any time to file an action with the Marion County Circuit Court challenging the validity of the Schedule or Rates and Charges.

This ordinance shall be effective January 1, 2020.

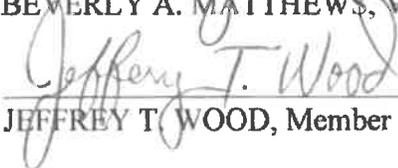
All of which his enacted and ordained this Sept 23, 2019.



FRED BUCKINGHAM, Chairman



BEVERLY A. MATTHEWS, Vice Chairman



JEFFREY T. WOOD, Member

ATTEST:



Secretary

**Ben Davis Conservancy District
Sewer Works
Sewage Treatment Rate Tariff**

I	<u>Sanitary Sewer Rates</u>		
A	<u>Unmetered Residential and Unmetered Non-Residential [1] [3]</u> - Per EDU Per Month	\$	24.00
B	<u>Unmetered Tax Exempt Properties</u> - Per EDU Per Month [5]	\$	30.00
C	<u>Metered Non Residential</u> - Per 1000 Gallons Per Month [2] [3] [5]	\$	2.30
D	<u>Airport Contract</u> - Per Airport EDU number times EDU rate. [1] [3]	\$	-
E	<u>Mobile Home Parks</u> <u>Calculated at 4,500 Gallons Per Home Per Month</u> - Per 1000 Gallons Per Month [1] [2] [3] [5]	\$	2.30
II	<u>Other Rates and Charges</u>		
A	<u>Sewer Deposit</u> Late Payment Deposit - Per EDU	\$	50.00
B	<u>Capacity Fee / Impact Fee for Sewer</u> Per EDU	\$	1,500.00
C	<u>Unpaid Bills By Renters</u>	Owners Shall Be Responsible For Unpaid Bills Of Renters	
D	<u>Returned Check Charge</u>	\$	30.00
E	<u>Late Charge Penalty</u> All Bills 30 days or more delinquent		10% Of Bill
F	<u>Permit Fee and Connection Fee [4]</u> Residential Property Non Residential Property	\$	100.00 250.00
G	<u>Dye Test (Requested by Customer)</u>		100.00

Note: This tariff references 327 IAC 3-6-11 in regards to the EDU evaluation of various non commercial customer types. Customer types not shown in 327 IAC 167 3-6-11, the District will determine an EDU evaluation for each customer based on that customer's individual useage characteristics.

[1] Plus tax assessment.

[2] Either customer is not assessed or the assessment is subtracted from the volumetric bill.

[3] Plus a 15% sur-charge for any customers located outside of the District's service territory.

[4] Includes inspection

[5] District reserves the right to determine an EDU for a customer and to bill that customer on an EDU basis based on an evaluation of a customer's treatment flow and strength.

- (b) Commit to plans and specifications of its engineers regarding preliminary engineering reports and final engineering plans and specifications.
- (c) Obtain all permits necessary for the construction of the sewage treatment plant.
- (d) Enter into the construction bidding process for construction of the Sewage Treatment Plant and to enter into contracts for the construction of said plant.
- (e) Complete the financial and legal due diligence to close on the WWSRF loan.
- (f) Employ attorneys, specialists, accountants, engineers, bond counsel, environmental specialists, and other specialists familiar with the construction of a sewage treatment plant.
- (g) Enter into agreements with other localities as to eminent domain issues.
- (h) To issue revenue bonds from the revenues generated by the Conservancy.
- (i) To do all things necessary and proper for the construction of a sewage treatment plant all without further authorization of this Court.

All of which is ordered May 22, 2018.

Recommended for Approval

Mark A. Jones Mark A. Jones
 JUDGE, MARION COUNTY CIRCUIT COURT
 Approved and Ordered
 Magistrate *Sheryl Lynch*
 TA

DISTRIBUTION:

John L. Hess
 Hess Hess & Donnelson LLP
 2000 E. 116th St., Ste. 106
 Carmel, IN 46032

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

IN THE MARION COUNTY CIRCUIT COURT
CAUSE NO. 0000006448

IN THE MATTER OF THE)
)
BEN DAVIS CONSERVANCY DISTRICT)

FILED
March 15, 2019
Myra R. Eldridge
CLERK OF THE COURT
MARION COUNTY
BR

ORDER APPROVING AND AUTHORIZING THE
BEN DAVIS CONSERVANCY DISTRICT
TO TAKE PRELIMINARY STEPS TO SECURE FUNDING
FOR A PROPOSED SEWAGE TREATMENT FACILITY
AT MARKET RATES

Come now the Directors of the Ben Davis Conservancy District, by counsel, and petition the Court for a public hearing on the Ben Davis Conservancy District's Second Amended Petition for Authority to Take Preliminary Steps to Secure Funding for a Proposed Sewage Treatment Facility at Market Rates.

And the Court, having examined the petition and having conducted a public hearing and having considered the evidence presented and being duly advised, now finds that it is prudent to authorize the construction of a sewage treatment facility if, after holding public hearings, the Board deems it to be necessary and proper and in the best interests of the freeholders of the Conservancy.

It is, therefore, ORDERED, ADJUDGED, AND DECREED as follows:

1. The Conservancy Board is authorized to proceed with bond solicitations at the time they deem it appropriate and to take all other proper steps to finance the proposed facility in a sum not to exceed \$15,000,000.
2. That the Board is ordered and authorized to take all action to advertise, schedule, and hold public hearings, to present the engineering reports and accounting projections to the public and the freeholders of the Conservancy, and after the hearings or continuations thereof, to consider public input and to decide whether to proceed with the construction of a sewage treatment facility at that time.
3. That should the Conservancy Board after the public hearings decide to commit to the construction of a sewage treatment facility, the Board may without further authorization or order from this Court:
 - (a) Commit to the project and exercise the options with the Town of Speedway for the lease of 6 acres of land as described in the Option Agreement with the Town of Speedway executed on March 13, 2018.



- (b) Commit to purchase land at other available locations and to purchase said land in fee simple absolute for a sum not to exceed \$1,000,000.
- (c) Commit to plans and specifications of its engineers regarding engineering reports and other engineering plans and specifications.
- (d) Obtain all permits necessary for the construction of the sewage treatment facility.
- (e) Enter into the construction bidding process for construction of the Sewage Treatment Facility and to enter into contracts for the construction of said facility.
- (f) Employ attorneys, specialists, accountants, engineers, bond counsel, environmental specialists, and other specialists familiar with the construction of a sewage treatment facility.
- (g) Enter into agreements with other localities as to eminent domain issues.
- (h) To issue revenue bonds from the revenues generated by the Conservancy.
- (i) To do all things necessary and proper for the construction of a sewage treatment facility all without further authorization of this Court.

All of which is ordered March 15, 2019.

Recommended for Approval

Amber Collins-Gebrehiwet

Amber Collins-Gebrehiwet

Magistrate, MARION COUNTY CIRCUIT COURT

Approved and Ordered

Sheryl Lynch

BR

DISTRIBUTION:

John L. Hess
JohnLHessAtty@aol.com

of land for the proposed sewer treatment facility in an amount not to exceed two million dollars (\$2,000,000) for all parcels. Further, said the purchase price of said parcels shall comply with Ind. Code §36-1-10.5-6.

4. That the Ben Davis Conservancy District Board is ordered and authorized to take all action to advertise, schedule, and hold a public hearing, to present the engineering reports and accounting projections to the public and the freeholders of the Conservancy regarding the proposed increase in financing of up to twenty million dollars (\$20,000,000) and the increase in the land purchase costs not to exceed two million dollars (\$2,000,000), and after the hearings or continuations thereof, to consider public input and to decide whether it is in the best interest of the freeholders of the Ben Davis Conservancy District to proceed with the construction of a sewage treatment facility at that time.

5. That should the Ben Davis Conservancy District Board, after the public hearing and after considering public comments and concerns, decide to commit to the construction of a sewage treatment facility given the increased financing needed and increased land costs anticipated, the Board may without further authorization or order from this Court:

- (a) Commit to the project and exercise the option with Tibbs Property Investments II, LLC, and any amendments or addendums thereto, for the purchase of 900 S. Tibbs Ave, Indianapolis, Indiana 46241, a copy of which was admitted as Petitioner's Exhibit 2.
- (b) Commit to purchase land at other available locations and to purchase said land in fee simple absolute for a sum not to exceed two million dollars (\$2,000,000) for all parcels purchased.
- (c) File any zoning, variance, or land use petitions necessary for the construction of a sewage treatment facility on any proposed land to be utilized for the sewage treatment facility.
- (d) Commit to plans and specifications of its engineers regarding engineering reports and other engineering plans and specifications.
- (e) Obtain all permits necessary for the construction of the sewage treatment facility.
- (f) Enter into the construction bidding process for construction of the Sewage Treatment Facility and to enter into contracts for the construction of said facility.
- (g) Employ attorneys, specialists, accountants, engineers, bond counsel, environmental specialists, and other specialists familiar with the construction of a sewage treatment facility.
- (h) Enter into agreements with other localities as to eminent domain issues, if

necessary.

(i) To issue revenue bonds from the revenues generated by the Ben Davis Conservancy District.

(j) To do all things necessary and proper for the construction of a sewage treatment facility all without further authorization of this Court.

All of which is ordered March 26, 2021.

Amber Collins-Gebrehwet

Amber Collins-Gebrehwet, Magistrate
Marion Circuit Court

DISTRIBUTION:

Jennifer M. Hess
Hess Hess & Donnelson, LLP
2000 E. 116th Street, Suite 106
Carmel, IN 46032
Jen.Hess@HHDLegal.com