

5. The Ben Davis Conservancy District petitioned this Court to change the nature of the sewer charges to an Equivalent Dwelling Unit (“EDU”) basis in accordance with 327 IAC 3-6-11. After notice and a court hearing, this 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. Pursuant to said Order, proposed Ordinance 2019-1 was provisionally approved in its entirety subject to a public hearing. After notice and public hearing, Ordinance 2019-1 was subsequently adopted by the Ben Davis Conservancy District Board. Pursuant to Paragraph 13 of Ordinance 2019-1, the Ben Davis Conservancy District Board may changes 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 . . .”
6. 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).
7. The Ben Davis Conservancy District petitioned this Court 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.”
8. The Ben Davis Conservancy District filed an amended petition before this Court for authority to take preliminary steps to secure funding for a proposed sewage treatment facility at market rates on January 4, 2019. After notice and a court 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, this 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.”
9. 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 this Court to increase the funding amount to purchase land for sewer treatment facility and increase bond solicitation amount on February 8, 2021. After notice and a court 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, noting “The Ben Davis Conservancy District shall comply With all notice and other applicable requirements under Indiana Law regarding the issuance and sale of said bonds, but shall not be required to seek further authorization of this Court regarding the sale or issuance of bonds in an amount not to exceed twenty million dollars (\$20,000,000).”

10. Following said hearing, the Ben Davis Conservancy District, after notice and public hearing, and taking 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 having considered the advice of its accountants, engineers, attorneys, and other experts, including Bond Counsel, Kimberly Blanchet of Barnes and Thornburg, on June 21, 2021, the Ben Davis Conservancy District adopted the following:
 - A. Resolution of the Board of Directors of the Ben Davis Conservancy Approving Funding for Purchase of Land and Financing for Sewage Treatment Facility (a copy of which is attached as “Exhibit A” and made a part of the Petition by this Reference)
 - B. Resolution of the Board of Directors of the Ben Davis Conservancy Authoring the Adoption of a Bond Resolution (a copy of which is attached as “Exhibit B” and made a part of the Petition by this Reference), and a
 - C. Bond Resolution (a copy of which is attached as “Exhibit C” and made a part of the Petition by this Reference)
11. The Ben Davis Conservancy District closed on a parcel of real property suitable for the construction of a wastewater treatment plant, to wit, 900 S. Tibbs Avenue, Indianapolis, IN 46241.
12. Ben Davis Conservancy District has received a permit to construct a wastewater treatment plant form the Indiana Department of Environmental Management (“IDEM”).
13. The Ben Davis Conservancy District received zoning approval from the Department of Metropolitan Development on March 16, 2022, to change zoning from I-4 (heavy industrial) to SU-41 (wastewater treatment facility).
14. Bids were opened for the wastewater treatment project on March 17, 2022. At the time of the execution of this petition, all bids received have been in excess of the twenty-millions (\$20,000,000.00) anticipated one year ago. This is believed to be due to supply

issues, a large number of government grants that have increased the demand for utility construction services, excessive inflation not seen since the 1980's and other factors outside the control of the Ben Davis Conservancy District.

15. That the Ben Davis Conservancy District believes that financing the sum of twenty million dollars (\$20,000,000) is no longer sufficient for the project and would request authorization to proceed with Bond Solicitations in a Maximum Par Amount of twenty-four million dollars (\$24,000,000) and requests the consent of this Court to amend the Bond Resolution accordingly.
16. That the Ben Davis Conservancy District would further request the Court's consent to amend the Bond Resolution to modify the definition of Net Revenues such that Operating and Maintenance (including Repair and Replacement) Expenses include only those expenses remaining after the application of the Ben Davis Conservancy District property tax receipts.
17. That the application of ad valorem property taxes (special benefit taxes) to pay for Operating and Maintenance costs is permitted under I.C. 14-33-7-1(a)(5), to wit; "All the real property in the district, except the property that is exempt under section 4 of this chapter, constitutes a taxing district for the purpose of levying special benefit taxes to pay for the following: (5) The expenses of operating and maintaining the district."
18. That the Ben Davis Conservancy District would further request the Court's consent to amend the Bond Resolution Debt Reserve Requirement to be established at the time of sale and at the advice of the Financial Advisor of the Ben Davis Conservancy District, if any.

WHEREFORE, the Board prays that the Court:

1. Set this matter down for a public hearing **(2 hours requested at least twenty (20) days in the future to allow the Ben Davis Conservancy District to Effectuate Publication), preferably on April 12, 2022, April 13, 2022 or April 14, 2022 or, if those dates are not available on April 18, 2022 and if that date is no available, a time during the week of April 25, 2022** and allow all participants to appear electronically in compliance with Governor Holcomb's Executive Orders in response to the coronavirus pandemic.
2. Approve the Board's seeking market rate funding for financing of a sewage treatment facility in the amount of approximately twenty million dollars (\$24,000,000).
3. Approve the proposed Amendments to the Bond Resolution amending the definition of Net Revenue and allowing the Debt Reserve Requirement to be determined at the time of sale on the advice of the Ben Davis Conservancy District Financial Advisor.
4. Grant all other proper relief.

I affirm under the penalties of perjury that the foregoing is true to the best of my knowledge and belief.

BEN DAVIS CONSERVANCY DISTRICT

Dated: 3-23-2022

By: 
Fred F. Buckingham, Chairman of the
Board of Directors of the Ben Davis
Conservancy District

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RESOLUTION OF THE
BOARD OF DIRECTORS OF THE
BEN DAVIS CONSERVANCY
APPROVING FUNDING FOR PURCHASE OF LAND AND
FINANCING FOR SEWAGE TREATMENT FACILITY

WHEREAS, the Ben Davis Conservancy ("BDCD") petitioned the Marion County Circuit Court in Cause No. 49C01-1906-PL-023150 (formerly Cause No. 0000006448) for authority to finance and construct a sewage treatment facility. 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."

WHEREAS, the BDCD filed an Amended Petition for Authority To Take Preliminary Steps Secure Funding for A Proposed Sewage Treatment Facility At Market Rates on January 4, 2019. 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 BDCD 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 BDCD deemed appropriate and to "take all other proper steps to finance the proposed facility in a sum not to exceed \$15,000,000."

WHEREAS, due to the inability to secure a suitable site for a treatment facility for under \$1,000,000 and due to the rising costs of construction and materials, the BDCD filed a Petition to Increase 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 BDCD 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 bond in an amount not to exceed twenty million dollars (\$20,000,000).

WHEREAS, the Board has 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

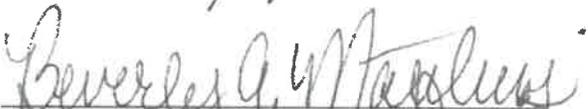
WHEREAS, the Board has taken into consideration the options of the Ben Davis Conservancy District for the treatment of sanitary sewage, the economic impact to the freeholders and all other customers of the Ben Davis Conservancy District, and the concerns of the freeholders and others appearing at the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

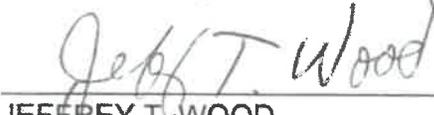
It is hereby RESOLVED by the Board of Directors of the Ben Davis Conservancy as follows:

That the Ben Davis Conservancy District shall commit up to two million dollars (\$2,000,000) towards the purchase of land upon which to erect a sewage treatment facility. The Ben Davis Conservancy District shall commit to financing an amount not to exceed twenty million dollars (\$20,000,000) for the purchase of land and the planning and construction of a sewage treatment facility.

6-21-21
Dated


FRED F. BUCKINGHAM


BEVERLY A. MATTHEW


JEFFREY T. WOOD

ATTEST:

Angela Wirth, Secretary
Ben Davis Conservancy District

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

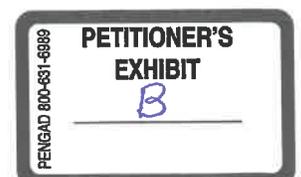
WHEREAS, the Ben Davis Conservancy District was established pursuant to an Order of the Marion County Circuit Court dated March 10, 1950, a copy of which is attached hereto as "Exhibit A" and made a part of this Resolution by this reference; and

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

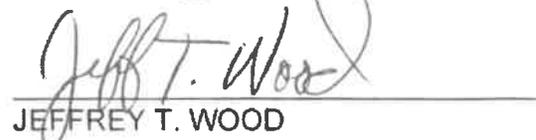
It is hereby RESOLVED by the Board of Directors of the Ben Davis Conservancy as follows:

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.

6-21-21
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 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 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 CCG & 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 parallel to said Norfolk St. to the said CCG & 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 Lindsey Ave.; thence south parallel to said Lindsey 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 Hickley Ave.; thence north parallel to Hickley 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 McKeely, 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 McKeely, 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
dated Mar 10, 1950

A. Jack Tilson
Clerk

Submitted by
Elmon M. Williams

Atty. for petitioners.

LOYD D. CLAYCOMBE
Judge of the Marion Circuit Court

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
Therese 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
Approved and Ordered
Magistrate



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> Calculated at 4,500 Gallons Per Home Per Month 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.

Hereafter, 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.

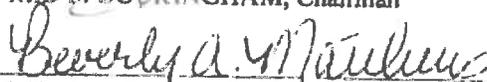
Section 8. The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance which shall be given effect without such invalid part or parts.

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

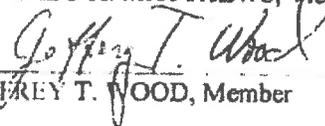
PASSED AND ADOPTED BY THE BOARD OF DIRECTORS OF THE BEN DAVIS CONSERVANCY DISTRICT ON THE 11 DAY OF DECEMBER, 2017.



FRED E. BUCKINGHAM, Chairman

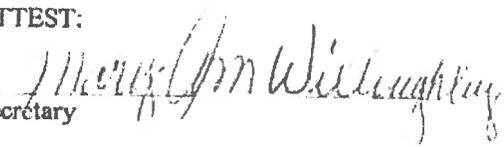


BEVERLY A. MATTHEWS, Vice Chairman



JEFFREY T. WOOD, Member

ATTEST:



Secretary

Appendix A

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

I	<u>Sanita 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.

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-Gabrenier

Commissioner

Approved and Ordered

Magistrate, Amber Collins-Gabrenier
Marion County Circuit Court

Sheryl Lynch
AW

DISTRIBUTION:

John L. Hess

JohnL.HessAttv@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 swelling" 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.

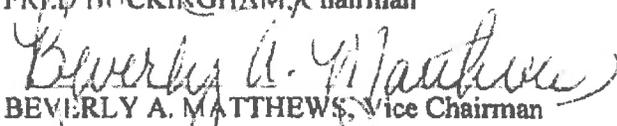
12. Other Ordinances Not Repealed. All other ordinances of the District not modified by this ordinance shall remain in full force and effect.

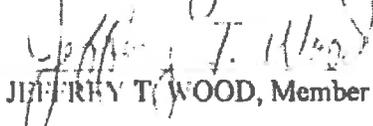
13. Board May Change Rates from Time to Time. If this ordinance is approved by the Circuit Court, it shall not be necessary to request approval of any new rates or charges implemented from time to time, but an aggrieved party shall have the right at any time to file an action with the Marion County Circuit 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</u> [1] [3] - 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> Calculated at 4,500 Gallons Per Home Per Month - 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</u> [4] 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.

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
May 22, 2018
Thya R. Eldridge
CLERK OF THE COURT
MARION COUNTY
TA

**ORDER APPROVING AND AUTHORIZING THE
BEN DAVIS CONSERVANCY DISTRICT
TO TAKE PRELIMINARY STEPS TO SECURE FUNDING
FOR A PROPOSED SEWAGE TREATMENT PLANT**

Come now the Directors of the Ben Davis Conservancy District, by counsel, for a public hearing on the Ben Davis Conservancy District's Petition for Authority to Take Preliminary Steps to Secure Funding for a Proposed Sewage Treatment Plant.

And the Court, having examined the petition and having conducted a public hearing and having considered the evidence presented, now finds that it is prudent to lock up the rate of interest for the funding for a proposed sewage treatment plant which would involve obtaining a loan from the Indiana Finance Authority Wastewater State Revolving Fund (WWSRF) in the sum of \$13,485,000.

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

1. The Conservancy Board is authorized to proceed with a loan application with the Indiana Finance Authority Wastewater State Revolving Fund for approximately \$13,485,000 to secure the rate of interest for funding for the project should the Conservancy Board later decide to commit to the construction of a sewage treatment plant.

2. That the Board is ordered and authorized to take all action to advertise, schedule, and hold public hearings, to present the preliminary engineering report 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 plant at that time.

3. That should the Conservancy Board after the public hearings decide to commit to the construction of a sewage treatment plant, 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 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)
)
COUNTY OF MARION)

SS:

IN THE MARION COUNTY CIRCUIT COURT
CAUSE NO. 0000006448

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

FILED
March 15, 2019
Theresa E. 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-Gebrehawt
 Amber Collins-Gebrehawt

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

BOND RESOLUTION

AN RESOLUTION AUTHORIZING THE ACQUISITION, CONSTRUCTION AND INSTALLATION OF CERTAIN IMPROVEMENTS FOR THE SEWAGE WORKS SYSTEM OF THE BEN DAVIS CONSERVANCY DISTRICT, THE ISSUANCE OF REVENUE BONDS TO PROVIDE THE COST THEREOF, THE COLLECTION, SEGREGATION AND DISTRIBUTION OF THE REVENUES OF SUCH SYSTEM, THE SAFEGUARDING OF THE INTERESTS OF THE OWNERS OF SUCH REVENUE BONDS AND OTHER MATTERS CONNECTED THEREWITH, INCLUDING THE ISSUANCE OF NOTES IN ANTICIPATION OF SUCH BONDS, AND REPEALING RESOLUTIONS INCONSISTENT HEREWITH.

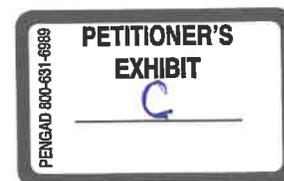
WHEREAS, the Ben Davis Conservancy District (the "District"), has heretofore established, constructed and financed a sewage works system for the purpose of providing for the disposal of sewage from the District residents and users (the "System" or "Sewage Works System") pursuant to IC 14-33, *et seq.*, as in effect on the issue date of the bond anticipation notes or the bonds, as applicable, which are authorized herein (the "Act"); and

WHEREAS, the Board of Directors for the District (the "Board of Directors") hereby finds: (i) that the acquisition, construction, extension and installation of certain improvements for the System, as set forth in Exhibit A hereto (the "Project"), are necessary; (ii) that plans, specifications, detailed descriptions and cost estimates for the Project (collectively, the "Engineering Report") have been prepared by the engineering firm employed by the District (the "Engineer") for such purpose in connection with the Project, and (iii) that the Engineering Report has been previously adopted by the Board of Directors and has been or will be submitted to all government authorities having jurisdiction, particularly the Indiana Department of Environmental Management ("IDEM"), if and to the extent IDEM approval is required under Indiana law, and has been or will be approved by the aforesaid government authorities; and

WHEREAS, the estimates prepared and delivered by the engineers with respect to the costs of acquisition, construction, extension and installation of certain improvements for the System, and including all authorized expenses relating thereto, including the costs of issuance of bonds on account thereof, will be in the estimated amount not to exceed \$20,000,000, to be financed by available funds of the District, if available and the issuance of Sewage Works revenue bonds of the District under the provisions of the Act; and

WHEREAS, the District has or will advertise for and receive bids for the construction of the Project, and such bids will be subject to the determination to acquire, construct and install the Project and obtaining funds for the Project; and

WHEREAS, the Board of Directors finds that there are insufficient funds available to pay the cost of the Project, and that cost of the Project is to be financed by certain available funds on hand, if necessary and through the issuance of its tax-exempt Sewage Works revenue bonds, in one or more series, in a principal amount not to exceed \$20,000,000 (the "Bonds" or the "2021 Bonds") and, if necessary, its bond anticipation notes (the "BANs"); and



WHEREAS, the District is not subject to the jurisdiction of the Indiana Utility Regulatory Commission; and

WHEREAS, the District has no outstanding Sewage Works revenue bonds or other borrowed money obligations payable from, or constituting a charge against, the Net Revenues (as hereinafter defined) of the System; and

WHEREAS, the Bonds to be issued pursuant to this Resolution will constitute a first charge against the Net Revenues of the System, and are to be issued subject to the provisions of the laws of the Act, and the terms and restrictions of this Resolution; and

WHEREAS, the Board of Directors now finds that all conditions precedent to the adoption of an Resolution authorizing the issuance of the BANs and the Bonds have been complied with in accordance with the provisions of the Act; and

WHEREAS, Section 1.150-2 of the Treasury Regulations on Income Tax (the "Reimbursement Regulations") specifies conditions under which a reimbursement allocation may be treated as an expenditure of bond proceeds, and the District intends by this Resolution to qualify amounts advanced by the District to the Project for reimbursement from proceeds of the BANs or the Bonds in accordance with the requirements of the Reimbursement Regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS FOR THE BEN DAVIS CONSERVANCY DISTRICT, THAT:

SECTION 1. Authorization of Project; Declaration of Official Intent. The District shall proceed with the completion of the Project in accordance with the Engineering Report, which is now on file in the office of the Secretary of the District (the "Secretary"), and is hereby adopted and approved, and by reference made a part of this Resolution as fully as if the same were attached hereto and incorporated herein. Two (2) copies of the Engineering Report are on file in the office of the Secretary/Treasurer and open for public inspection pursuant to IC 36-1-5-4. The aggregate cost of the Project shall not exceed the sum of \$20,000,000, plus all investment earnings on the proceeds of the BAN and the Bonds, without further authorization from the Board of Directors. The term "Sewage Works," "System", "works", "utility" and other like terms where used in this Resolution shall be construed to mean the District's existing Sewage Works 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, and all other items as defined in IC 14-33, as amended. The Project is hereby approved and shall be constructed and the BANs and the Bonds shall be issued pursuant to and in accordance with the Act. The District reasonably expects to reimburse expenditures for the Project with proceeds of the BANs or the Bonds and this constitutes a declaration of official intent pursuant to Treasury Regulation 1.150-2(e) and IC 5-1-14-6(c).

SECTION 2. Issuance of BANs and Bonds.

(a) The District shall issue, if necessary, bond anticipation notes (the "BANs") for the purpose of procuring interim financing to pay the cost of the Project, and, if deemed appropriate, the costs of issuance of the BANs. The District may issue the BANs in one or more series, in an

aggregate amount not to exceed \$2,000,000 to be designated "Sewage Works Bond Anticipation Notes of 20__" (with such further or different series designation as may be necessary or appropriate). The BANs shall be lettered and numbered consecutively from R-1 and upward, and shall be in authorized denominations of \$5,000 or more. The BANs shall be dated as of the date of delivery thereof and shall bear interest at a rate not to exceed 4.0% per annum (the exact rate or rates to be determined through negotiations with the purchasers of the BANs) payable upon maturity. Each series of BANs will mature no later than one year after their date of delivery, unless determined otherwise by the Chairman of the District (the "Chairman") with the advice of the financial advisor hired by the District (the "Financial Advisor"). The BANs are subject to renewal or extension at an interest rate or rates not to exceed 4.0% per annum (the exact rate or rates to be negotiated with the purchaser of the BANs). The term of any renewal BANs may not exceed five (5) years from the date of delivery of the initial BANs. The BANs shall be registered in the name of the purchasers thereof.

(b) The BANs shall be issued pursuant to IC 5-1-14-5, as amended, if sold to a financial institution or any other purchaser. The BANs shall be sold at a price not less than 99% of the principal amount thereof. The District shall pledge to the payment of the principal of and interest on the BANs, the proceeds from the issuance of the Bonds pursuant to and in the manner prescribed by the Act. The interest on the BANs may also be payable from the Net Revenues (defined as gross revenues, inclusive of System Development Charges (as hereafter defined), after deduction only for the payment of the reasonable expenses of operation, repair and maintenance) of the System, including the works herein acquired and constructed and all additions and improvements thereto and replacements thereof subsequently constructed or acquired. For purposes of this Resolution, "System Development Charges" shall mean the proceeds and balances from any non-recurring charges such as tap fees, subsequent connector fees, capacity or contribution fees, and other similar one-time charges that are available for deposit under this Resolution.

(c) The District shall issue the Bonds, in one or more series, in an aggregate principal amount not to exceed \$20,000,000 to be designated "Sewage Works Revenue Bonds, Series 20__" (with such further or different series designation as may be necessary or appropriate), for the purpose of procuring funds to pay the cost of the Project and the refunding of the BANs, if issued, and the issuance costs of the Bonds or the BANs, if issued, as determined by the Chairman, with the advice of the Financial Advisor. The Bonds shall be issued and sold at a price not less than the 99.25% of the par value thereof. The Bonds shall be sold by the Chairman pursuant to IC 5-1-11, as amended. The Bonds shall be issued in fully registered form in authorized denominations of \$5,000 or any integral multiple thereof. The Bonds shall be lettered and numbered consecutively from R-1 and upward, originally dated the date of delivery, and shall bear interest at a rate or rates not exceeding 5.5% per annum. Interest is payable semiannually on January 1 and July 1 in each year, commencing on the first January 1 or July 1 following the issuance of the Bonds, all as determined by the Chairman, with the advice of the Financial Advisor. The Bonds shall mature annually, and may be subject to mandatory sinking fund redemption if term bonds are issued, on January 1, over a period ending no later than thirty-five years after issuance of the Bonds, and in such amounts as is deemed appropriate by the Chairman, with the advice of the Financial Advisor. The Bonds will be payable solely out of and constitute a first charge against the Net Revenues of the System.

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

(d) Notwithstanding anything contained herein, the District may accept any other forms of financial assistance, as and if available.

SECTION 3. Registrar and Paying Agent; Book Entry Only Provisions. The Chairman is authorized to select and appoint a qualified financial institution to serve as the Registrar and the Paying Agent for the BANs and the Bonds, which registrar is hereby charged with the responsibility of authenticating the BANs and the Bonds. The Chairman is hereby authorized to enter into such agreements or understandings with such institution as will enable the institution to perform the services required of the Registrar and the Paying Agent for the BANs. The Chairman is further authorized to pay such fees as the institution may charge for the services it provides as the Registrar and the Paying Agent, and such fees may be paid from the Bond and Interest Account, as hereinafter defined.

As to any purchaser of the Bonds that does not object to such designation, the Chairman may serve as the Registrar and the Paying Agent and, in such case, is hereby charged with the duties of the Registrar and the Paying Agent.

The principal of and interest on the BANs (if interest thereon is payable only at maturity) or the principal of the BANs (if interest thereon is not payable only at maturity), and the principal of the Bonds shall be payable at the principal office of the Paying Agent, and all payments of interest on the BANs (if interest thereon is not payable only at maturity) and the Bonds shall be paid by check mailed one business day prior to the interest payment date to the registered owners thereof, as of the fifteenth day of the month preceding each interest payment date ("Record Date"), at the addresses of the registered owners as they appear on the registration books kept by the Registrar. 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. All payments on the BANs and the Bonds shall be made in any coin or currency of the United States of America, which on the date of such payment, shall be legal tender for the payment of public and private debts.

Each BAN or Bond shall be transferable or exchangeable only upon the books of the District kept for that purpose at the principal office of the Registrar, by the registered owner thereof in person, or by its attorney duly authorized in writing, upon surrender of such BAN or 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 BAN or BANs or Bond or Bonds in the same 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 therefore. The costs of such transfer or exchange shall be borne by the District; provided, however, that the Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. The District, the Registrar and Paying Agent for the Bonds

may treat and consider the person in whose name the BANs or the 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, the premium, if any, and interest due thereon.

Interest on the Bonds, which are authenticated on or before the Record Date, which precedes the first interest payment date, shall be paid from their original issue date. Interest on the Bonds authenticated subsequent to the Record Date which precedes the first interest payment date thereon shall be paid from the interest payment date to which interest has been paid as of the date on which such Bonds are authenticated, unless a Bond is authenticated between the Record Date and the interest payment date, in which case the interest shall be paid from such interest payment date.

The BANs or the Bonds may be issued in book-entry-only form as one fully registered BAN or Bond per maturity registered in the name of Cede & Co., as nominee for The Depository Trust Company ("DTC"), New York, New York, and DTC may act as securities depository for the BANs or the Bonds. In that event, the purchase of beneficial interests in the BANs or the Bonds will be made in book-entry-only form in the denomination of \$100,000 or more or in the denomination of \$5,000 or any multiple thereof, respectively. Purchasers of beneficial interests will not receive certificates representing their interests in the BANs or the Bonds purchased. As long as DTC or its nominee, Cede & Co., is the registered owner of the BANs or the Bonds, payments of principal, premium, if any, and interest will be made when due directly to such registered owner in same-day funds wired by the Paying Agent in accordance with the procedures set forth in the Blanket Issuer Letter of Representations made by the District to DTC.

SECTION 4. Redemption of BANs and Bonds.

(a) If deemed appropriate by the Chairman, with the advice of the Financial Advisor, the BANs shall be prepayable by the District, in whole or in part, on or after the date determined to be most appropriate by the Chairman, with the advice of the Financial Advisor, upon seven (7) days' notice to the owner of the BANs, without any premium, but with accrued interest to the date of prepayment.

(b) The Bonds are redeemable at the option of the District, on dates and with premiums as determined at the time of the sale of the Bonds as determined by the Chairman with the advice of the Financial Advisor on any date, on thirty (30) days notice, in whole or in part, in any order of maturity and by lot within a maturity selected by the District, at the par amount thereof, together with a premium not greater than 2%, plus, in each case, accrued interest, if any, to the date fixed for redemption. The exact redemption dates and premiums shall be established by the Chairman, with the advice of the Financial Advisor.

(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 District, any Bonds maturing as term bonds maturing on the same date which have previously been redeemed (other than as a result of a previous mandatory redemption requirement) or delivered to the Registrar for cancellation or purchased for cancellation by the Paying

Agent and not theretofore applied as a credit against any redemption obligation. Each Bond maturing as a term bond so delivered or canceled shall be credited by the Paying Agent at one hundred percent (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.

(d) If less than an entire maturity is called for redemption, the Bonds to be called for redemption shall be selected by lot by the Registrar. If the Bonds are to be redeemed by optional redemption and mandatory sinking fund redemption on the same date, the Registrar shall select the Bonds for mandatory sinking fund redemption before selecting the Bonds for optional redemption.

(e) Notice of redemption shall be given not less than thirty (30) days prior to the date fixed for redemption for Bonds, unless such redemption notice is waived by the owner of the Bond or Bonds to be redeemed. Such notice shall be mailed to the address of the registered owner as shown on the registration record of the District as of the date which is forty-five (45) days prior to such redemption date for Bonds. 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 District. 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.

(f) The BANs and the Bonds shall be called for redemption in multiples of their minimum authorized denomination. The BANs and the Bonds in denominations of more than the minimum authorized denomination shall be treated as representing the number of BANs and Bonds, respectively, obtained by dividing the denomination of the BAN and the Bond, respectively, by the minimum authorized denomination within a maturity. The BANs and the Bonds may be redeemed in part. In the event of redemption of BANs and Bonds in part, upon surrender of the BAN or the Bond to be redeemed, a new BAN or BANs or Bond or Bonds in an aggregate principal amount equal to the unredeemed portion of the BAN or the Bond surrendered shall be issued to the registered owner thereof.

SECTION 5. Execution and Authentication of the BANs and the Bonds; Pledge of Net Revenues to the Bonds. The BANs and the Bonds shall be executed in the name of the Chairman of the Board of Directors by the manual or facsimile signature of the Chairman of the Board of Directors and attested by the manual or facsimile signature of the Secretary/Treasurer, who shall affix the seal of the District, if any, to each of the BANs and the Bonds manually or shall have the seal imprinted or impressed, if any, thereon by facsimile. These officials, by the signing of a Signature and No Litigation Certificate, shall adopt as and for their own proper signatures their facsimile signatures appearing on the BANs and the Bonds. The BANs and the Bonds must be authenticated by an authorized officer of the Registrar or by the

Secretary/Treasurer if the Secretary/Treasurer is acting as the Registrar. The Bonds and any additional bonds issued on a parity with the Bonds in accordance with the restrictions imposed by this Resolution (the "Parity Bonds"), as to both principal and interest, shall be payable from and secured by an irrevocable pledge of and shall constitute a first charge upon the Net Revenues of the System. The District shall not be obligated to pay the principal of and interest on the Bonds, except from the Net Revenues of the System (except to the extent payable from the proceeds of the Bonds), and the Bonds shall not constitute an indebtedness of the District within the meaning of the provisions and limitations of the constitution of the State.

SECTION 6. Form of Bonds. The form and tenor of the Bonds shall be substantially as set forth in Exhibit B, with all blanks to be filled in properly and all necessary additions and deletions to be made prior to delivery thereof.

SECTION 7. Preparation and Sale of BANs and Bonds. The Secretary/Treasurer is hereby authorized and directed to have the BANs and the Bonds prepared, and the Chairman of the Board of Directors and the Secretary/Treasurer are hereby authorized and directed to execute the BANs and the Bonds in the form and manner herein provided. The Chairman is hereby authorized and directed to deliver the BANs and the Bonds to the purchasers thereof after the sale made in accordance with the provisions of this Resolution, provided that at the time of such delivery, the Secretary/Treasurer shall collect the full amount which the purchasers have agreed to pay therefore, which amount shall not be less than the applicable minimum percentage of the par value of the BANs or the Bonds set forth in Section 2 of this Resolution. The District may receive payment for 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 District, payable out of the Net Revenues of the System to be set aside into the Sinking Fund as provided herein. The proceeds derived from the sale of the BANs and the Bonds and the investment income therefrom shall be and are hereby set aside and appropriated to pay the costs of the Project, the refunding of the BANs, if applicable, and the expenses necessarily incurred in connection with the issuance of the BANs and the Bonds. The proper officers of the District are hereby directed to draw all proper and necessary warrants, and to do whatever acts and things which may be necessary to carry out the provisions of this Resolution.

SECTION 8. Bond Sale Notice; Official Statement.

(a) If the BANs or Bonds are to be sold at a competitive sale, the Chairman shall cause to be published either (i) a notice of bond sale in the authorized newspaper(s) for the Ben Davis Conservancy District, two (2) times, at least one week apart, with the first publication being made at least fifteen (15) days before the date of the sale and the second publication being made at least three days before the date of the sale or (ii) a notice of intent to sell bonds in the authorized newspaper(s), all in accordance with IC 5-1-11, as amended, and IC 5-3-1, as amended. The notice shall state the character, the amount and the authorized denominations of the Bonds, the maximum rate or rates of interest thereon, the terms and conditions upon which bids will be received and the sale made, and such other information as the Secretary/Treasurer and the attorneys employed by the District shall deem advisable. The notice may provide for electronic bidding as determined by the Financial Advisor. Any summary notice may contain any information deemed so advisable. The notice may provide, among other things, that the winning bid shall be accompanied by a certified or cashier's check or a financial surety bond in

an amount equal to one percent (1%) of the principal amount of the Bonds described in the notice. If a financial surety bond is used, it must be from an insurance company licensed to issue such bond in the State, and such bond must be submitted to the District 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 the purchaser is required to submit to the District a certified or cashier's check (or wire transfer such amount as instructed by the District) not later than 3:30 p.m. (EST 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 such good faith deposit and the proceeds thereof shall be the property of the District and shall be considered as its liquidated damages on account of such default. Bidders for the 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 that such interest rate or rates shall be in multiples of one-eighth (1/8) of one percent (1%) or one-one hundredth (1/100) of one percent (1%). The rate bid on a maturity shall be equal to or greater than the rate bid on the immediately preceding maturity. No conditional bid or bid for less than the applicable minimum percentage of the par value of the Bonds set forth in Section 2 of this Resolution will be considered. The opinion of Barnes & Thornburg LLP, Indianapolis, Indiana ("Bond Counsel"), approving the legality of the Bonds will be furnished to the purchaser at the expense of the District.

(b) The Bonds shall be awarded by the Chairman to the best bidder who has submitted its bid in accordance with the terms of this Resolution, IC 5-1-11, as amended, and the notice. The best bidder will be the one who offers the lowest interest cost to the District, to be determined by computing the total interest on all of the Bonds to their maturities and deducting the premium bid, if any, or adding thereto the discount 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 District than the best bid received at the time of the advertised sale will be considered.

(c) Distribution of an Official Statement (preliminary and final) when and if prepared by the Financial Advisor, on behalf of the District, is hereby authorized and approved and the Chairman of the Board of Directors is authorized and directed to execute the Official Statement in a form consistent with this Resolution. The Chairman of the Board of Directors and the Secretary/Treasurer are authorized to deem the Preliminary Official Statement as "final" for purposes of Rule 15c2-12 promulgated by the Securities and Exchange Commission.

SECTION 9. Use of Proceeds; Construction Fund. The accrued interest and the premium, if any, received at the time of the delivery of the Bonds shall be deposited in the Sewage Works Revenue Bond and Interest Sinking Fund Account (the "Sinking Fund"). 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 District, in a special account or accounts to be designated as "Sewage Works Construction Fund" (the "Construction Fund"). The funds in each of such special accounts shall be deposited, held, secured or invested in accordance with the laws of the State relating to the depositing, holding, securing or investing of public funds, including particularly IC 5-13. 4-4-11,

and 13-18-21 and the acts amendatory thereof and supplemental thereto. The funds in such special account or accounts shall be expended only for the purpose of paying the costs of issuance of the BANs or the Bonds, the cost of the Project, refunding all or a portion of the BANs, if issued, or as otherwise required by the Act. The cost of obtaining the legal services of Bond Counsel shall be considered a part of the costs of issuance of the BANs and the Bonds.

(a) The District hereby declares that it reasonably expects to reimburse each of the District's advances to the Project from proceeds of the BANs or the Bonds, as anticipated by this Resolution.

(b) 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 the Project, shall subject to (c) below either (1) be deposited in the Sinking Fund and used solely for the purposes of said Fund or (2) be used for the same purpose or type of project for which the BANs or the Bonds were originally issued, all in accordance with IC 5-1-13, as amended and supplemented.

SECTION 10. Revenue Fund. All income and revenues of the System (including any System Development Charges) shall be deposited upon receipt in the Sewage Works System Revenue Fund (the "Revenue Fund"). The Revenue Fund shall be maintained separate and apart from all other accounts of the District. All moneys deposited in the Revenue Fund may be invested in accordance with IC 5-13-9, 4-4-11 and 13-18-21, as amended, and other applicable laws. Out of said Revenue Fund, the proper and reasonable expenses of operation 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 fund shall be funded and the costs of replacements, extensions, additions and improvements to the System shall be paid. No moneys derived from the revenues of the System shall be transferred to the general fund of the District, be transferred to any fund of the District related to any Non-Sewer System, or be used for any purpose not connected with the System.

SECTION 11. Operation and Maintenance Fund. There shall be transferred from the Revenue Fund and credited to the Operation and Maintenance Fund (the "Operation and Maintenance Fund"), on the last day of each calendar month a sufficient amount of the revenues of the System so that the balance in the Operation and Maintenance Fund shall be sufficient to pay the expenses of operation, repair and maintenance of the System for the then next succeeding two (2) calendar months. The moneys credited to the Operation and Maintenance Fund shall be used for the payment of the reasonable and proper operation, repair and maintenance expenses of the System 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 monies in the Operation and Maintenance Fund in excess of the expected expenses of operation, repair and maintenance for the next succeeding month may be transferred to the Sinking Fund (defined below) if necessary to prevent a default in the payment of the principal of or interest on the Bonds.

SECTION 12. Sinking Fund.

(a) *General.* There is hereby created a fund for the payment of principal of, interest on, and premium on, if any, the 2021 Bonds which fund shall be designated as the Sewage Works Bond Fund (herein called the "Sinking Fund"). After meeting the requirements of the Operation and Maintenance Fund set forth above, there shall be set aside and deposited into the Sinking Fund, as available and as provided below, a sufficient amount of the Net Revenues of the System to meet the requirements of the Bond and Interest Account and the Debt Service Reserve Account (each, as defined herein), each of which is continued within the Sinking Fund. Such payments shall continue until the balance in the Bond and Interest Account, plus the balance in the Debt Service Reserve Account, equal the amount necessary to pay the principal of and interest on all the outstanding bonds to the final maturity thereof.

(b) *Bond and Interest Account.* There is hereby created within the Sinking Fund, the Bond and Interest Account (the "Bond and Interest Account"). There shall be transferred on the last day of each calendar month to the Bond and Interest Account an amount equal to at least one-sixth (1/6) of the interest on all then outstanding bonds payable on the then next succeeding interest payment date, and at least one-twelfth (1/12) of the principal of all then outstanding bonds payable on the then next succeeding principal payment date, until the amount of principal and interest payable on the then next succeeding interest and principal payments dates shall have been so credited. There shall similarly be credited to the account any amount necessary to pay the bank fiscal agency charges for paying principal and interest on outstanding bonds as the same become payable. The District shall, from the sums deposited in the Sinking Fund and credited to the Bond and Interest Account, remit promptly to the registered owner or to the bank fiscal agency sufficient moneys to pay the interest and principal on the due dates thereof together with the amount of bank fiscal agency charges.

(c) *Debt Service Reserve Account.* There is hereby created within the Sinking Fund, the Debt Service Reserve Account ("Debt Service Reserve Account").

Beginning with the first month after the 2021 Bonds are delivered, the District shall deposit on the last day of each calendar month an amount of Net Revenues into the Debt Service Reserve Account over a period of five (5) years until the balance therein equals but does not exceed the least of (i) the maximum annual debt service on the 2021 Bonds and any parity bonds issued in the future by the District which are payable from the Net Revenues of the System (the "Parity Bonds"), (ii) 125% of average annual debt service on the 2021 Bonds and any Parity Bonds, or (iii) 10% of the proceeds of the 2021 Bonds and the Parity Bonds (the "Reserve Requirement). The monthly deposits of Net Revenues shall be equal in amount and sufficient to accumulate the Reserve Requirement within five (5) years of the date of delivery of the Bonds. The balance in the Debt Service Reserve Account, allocable to the 2021 Bonds, shall never exceed the Reserve Requirement.

The District may fund all or part of the Debt Service Reserve Account with a debt service reserve surety bond. The surety bond must be issued by an insurance company rated in the highest category by Standard & Poor's Corporation and Moody's Investors Service.

The Debt Service Reserve Account shall constitute a margin for safety and a protection against default in the payment of the principal of, premium, if any, and interest on the Bonds and

any Parity Bonds and the moneys in the Debt Service Reserve Account shall be used to pay the principal of and interest on the 2021 Bonds and any Parity Bonds to the extent that moneys in the Bond and Interest Account are insufficient for that purpose. Any deficiency in the balance maintained in the Debt Service Reserve Account shall be promptly made up from the next available Net Revenues after the required deposits into the Bond and Interest Account. In the event moneys in the Debt Service Reserve Account are transferred to the Bond and Interest Account to pay the principal of and interest on the 2021 Bonds or any Parity Bonds, then that depletion of the balance in the Debt Service Reserve Account shall be made up from the next available Net Revenues after the required deposits into the Bond and Interest Account.

The Sinking Fund (containing the Bond and Interest Account, the Debt Service Reserve Account), or any portion thereof, and the Construction Fund, may be held by one or more financial institutions. If the Sinking Fund and the accounts therein, or any portion thereof, are so held in trust, the District shall transfer the monthly required amounts of Net Revenues to the Bond and Interest Account, the Debt Service Reserve Account in accordance with Section 12 of this Resolution, and the financial institution holding such funds in trust shall be instructed to pay the required payments in accordance with the payment schedules applicable to the District's outstanding bonds. If the Construction Fund is so held in trust, the District shall deposit the proceeds of the Bonds therein until such proceeds are applied consistent with this Resolution. The financial institution selected to serve in this role may also serve as the Registrar and the Paying Agent for the Bonds. The Chairman of the Board of Directors and Secretary/Treasurer are hereby authorized to execute and deliver an agreement with a financial institution to reflect this trust arrangement for all or a part of the Sinking Fund and the Construction Fund in the form of trust agreement as approved by the Chairman of the Board of Directors and Secretary/Treasurer, consistent with the terms and provisions of this Resolution.

SECTION 13. Improvement Fund. There is hereby created a special fund designated as the Improvement Fund (herein called the "Improvement Fund"). In the event any excess revenues exist after all required monthly payments into the Sinking Fund, the Operation and Maintenance Fund or the Debt Service Reserve Account, then any available excess revenues of the System may be deposited into the Improvement Fund, and any amounts so deposited may be used to pay the cost of improvements, betterments, extensions, enlargements and additions to the System, or for any other lawful purpose related to the System. Moneys in the Improvement Fund (i) shall be transferred to the Sinking Fund if necessary to prevent a default in the payment of principal and interest on the then outstanding bonds or, if necessary, to eliminate any deficiencies in credits to or minimum balance in the Debt Service Reserve Account of the Sinking Fund or (ii) may be transferred to the Operation and Maintenance Fund to meet unforeseen contingencies in the operation, repair and maintenance of the System.

SECTION 14. Maintenance of Accounts; Investments. The Sinking Fund shall be maintained as a separate account or accounts from all other accounts of the District. The Operation and Maintenance Fund and the Improvement Fund may be maintained in a single account or separate accounts, but such account or accounts, shall likewise be maintained separate and apart from all other accounts of the District and apart from the Sinking Fund account or accounts. All moneys deposited in the Funds and Accounts created by this Resolution shall be deposited, held and secured as public funds in accordance with the public depository laws of the State; provided that moneys therein may be invested in obligations in accordance with applicable

laws, including IC 5-13, 4-4-11 and 13-18-21, 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 Resolution. Nothing in this Section or elsewhere in this Resolution shall be construed to require that separate bank accounts be established and maintained for the Funds and Accounts created by this Resolution except that (a) the Sinking Fund and Construction Fund shall be maintained separate bank account from the other Funds and Accounts of the System and (b) the other Funds and Accounts of the System shall be maintained as a separate bank account from the other funds and accounts of the District.

SECTION 15. Maintenance of Books and Records. The District shall keep proper books of records and accounts, separate from all of its other records and accounts, in which complete and correct entries shall be made showing all revenues collected from the System, all disbursements made on account of the System and all other transactions relating to the System. Copies of all such statements and reports shall be kept on file in the office of the Secretary/Treasurer.

SECTION 16. Rate Covenant. The District covenants and agrees that it will establish and maintain reasonable and just rates and charges for the use of and the service rendered by the 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 System, or that in any way uses or is served by the System, at a level adequate to produce and maintain sufficient revenue (including user and other charges, fees, income or revenues available to the District, to comply with and satisfy all covenants contained in this Resolution and to all obligations of the System and of the District with respect to the System. Such rates and charges shall, if necessary, be changed and readjusted from time to time so that the revenues therefrom shall always be sufficient to meet the expenses of Operation and Maintenance of the System and the requirements of the Sinking Fund or any BANs. The rates and charges so established shall apply to any and all use of the System by and service rendered to the District and shall be paid by the District as the charges accrue.

SECTION 17. Defeasance of Bonds. If: (i) any of the Bonds shall have become due and payable in accordance with their terms or shall have been duly called for redemption or irrevocable instructions to call the Bonds or any portion thereof for redemption shall have been given, and the whole amount of the principal, the premium, if any, and the interest, so due and payable upon all of the Bonds or any designated portion thereof then outstanding shall be paid; or (ii) the District shall cause to be held in trust for the purpose of paying when due the principal of, premium, if any, and interest on the Bonds or any designated portion thereof, money, together with 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 be sufficient, without reinvestment, to make such payments, and provision shall also be made for paying all fees and expenses for the redemption of such Bonds; then and in that case, such Bonds shall no longer be deemed outstanding or entitled to the pledge of the Net Revenues of the System.

SECTION 18. Additional BANs and Bonds. The District reserves the right to authorize and issue additional BANs at any time ranking on a parity with the BANs. The District reserves the right to authorize and issue Parity Bonds for the purpose of financing the cost of future

additions to, extensions of and improvements to the System, or to refund obligations, subject to the following conditions:

(a) The principal of and interest on all bonds payable from the Net Revenues of the System shall have been paid in accordance with the terms thereof, and the amounts required to be paid into the Sinking Fund shall have been made to date in accordance with the provisions of this Resolution. 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 (5) year or shorter period, in a manner which is commensurate with the requirements established in Section 12(c) of this Resolution.

(b) The Net Revenues of the System 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 principal and interest requirements of the then outstanding bonds payable from the Net Revenues and the additional Parity Bonds proposed to be issued; or, prior to the issuance of such Parity Bonds, the water rates and charges shall be increased sufficiently so that such increased rates and charges applied to the previous year's operations would have produced Net Revenues for such year equal to not less than one hundred twenty-five percent (125%) of the maximum annual principal and interest requirements of the then outstanding bonds payable from the Net Revenues and the additional Parity Bonds proposed to be issued. For purposes of this subsection, the records of the System shall be analyzed and all showings shall be prepared by a certified public accountant employed by the District for that purpose.

(c) The principal of, or mandatory sinking fund redemption dates for, the additional Parity Bonds shall be payable annually on January 1, and interest on the additional Parity Bonds shall be payable semiannually on January 1 and July 1.

(d) Parity bonds may also be issued to refund less than all of the then outstanding bonds issued pursuant to this Resolution or ranking on a parity therewith, but any such refunding bonds shall be subject to the conditions in this section unless the bonds being refunded mature within three (3) months of the date of such refunding and no other funds are available to pay such maturing bonds. In computing the maximum annual interest and principal requirements pursuant to subsection (b), the interest on and principal of the refunding bonds shall be substituted for the interest on and principal of the bonds being refunded.

SECTION 19. Further Covenants. For the purpose of further safeguarding the interests of the owners of the BANs and the Bonds, it is specifically provided as follows:

(a) All contracts entered into by the District in connection with the construction of the Project shall be let after due advertisement as required by the laws of the State, and all contractors shall be required to furnish surety bonds in an amount equal to one hundred percent (100%) of the amount of such contracts, to insure the completion of such contracts in accordance with their terms, and such contractors shall also be required to carry such employer's liability and public liability insurance as are required under the laws of the State in the case of public contracts and shall be governed in all respects by the laws of the State relating to public contracts.

(b) The Project shall be constructed under the supervision and subject to the approval of the Engineer. All estimates for work done or material furnished shall first be checked by the Engineer and approved by the District.

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

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

(e) So long as any of the BANs or the Bonds are outstanding, the District shall not mortgage, pledge or otherwise encumber the property and plant of the System or any portion thereof or any interest therein. The District shall not sell, lease or otherwise dispose of any part of the System, except for such machinery, equipment or other property as may be replaced or shall no longer be necessary for use in connection with the System.

(f) Except as otherwise specifically provided in Section 18 hereof, so long as any of the BANs or the Bonds are outstanding, no additional bonds or other obligations pledging any portion of the revenues of the System shall be authorized, executed, or issued by the District, except those as shall be made subordinate and junior in all respects to the Bonds herein authorized, unless the BANs and the Bonds are redeemed or defeased pursuant to Section 4 hereof coincidentally with the delivery of such additional bonds or other obligations.

(g) The provisions of this Resolution shall constitute a contract by and between the District and the owners of the BANs and the Bonds, all the terms of which shall be enforceable by any holder of the BANs or the Bonds by any and all appropriate proceedings in law or in equity. After the issuance of the BANs or the Bonds, this Resolution shall not be repealed, amended or modified in any respect which will adversely affect the rights or interests of the owners of the BANs or the Bonds, nor shall the Board of Directors or any other body of the District adopt any law, Resolution or resolution which in any way materially adversely affects the rights of such owners so long as any of the BANs or the Bonds remain outstanding. Except for the changes set forth in Section 22 (a)(1)-(7) of this Resolution, this Resolution may be amended, however, without the consent of the BAN or the Bond owners, if the Board of Directors determines, in its sole discretion, that such amendment would not materially adversely affect the rights of any of the owners of the BANs or the Bonds.

(h) The provisions of this Resolution shall be construed to create a trust in the proceeds of the sale of the BANs and the Bonds for the uses and purposes set forth herein, and

the owners of the BANs and the Bonds shall retain a lien on such proceeds until the same are applied in accordance with the provisions of this Resolution and the Act. The provisions of this Resolution shall also be construed to create a trust in the portion of the Net Revenues herein directed to be set apart and paid into the Sinking Fund or the Improvement Fund for the uses and purposes of such Funds as set forth in this Resolution. The owners of the BANs and the Bonds shall have all of the rights, remedies and privileges set forth in the provisions of the Act, including the right to have a receiver appointed to administer the System, in the event of default in the payment of the principal of or interest on any of the Bonds. Upon the appointment of such receiver, the receiver may: (i) charge and collect rates sufficient to provide for the payment of the expenses of the operation, repair and maintenance of the System and debt service as provided in the next following clause (ii); (ii) pay the interest on the BANs or the principal of, premium, if any, and interest on any bonds payable from Net Revenues; and (iii) apply the revenues of the System in conformity with the Act and this Resolution. In addition, any owner of the BANs and the Bonds may, by civil action, protect and enforce rights granted by the Act or under this Resolution in connection with any action or duty to be performed by the District, the Board of Directors or any officer of the District, including the making and collecting of reasonable and sufficient charges and rates for services provided by the System.

(i) In addition, any owner of the BANs and the Bonds may, by civil action, protect and enforce rights granted by the Act or under this Resolution in connection with any action or duty to be performed by the District, the Board of Directors or any officer of the District, including the making and collecting of reasonable and sufficient charges and rates for services provided by the System as described in this Resolution.

(j) None of the provisions of this Resolution shall be construed as requiring the expenditure of any funds of the District derived from any source other than the proceeds of the BANs, the Bonds or the operations of the System.

(k) For purpose this Section 19, the term "lease" shall include any lease, contract, or other instrument conferring a right upon the District to use property in exchange for a periodic payments made from the revenues of the System, whether the District desires to cause such to be, or by its terms (or its intended effects) is to be, (i) payable as rent, (ii) booked as an expense or an expenditure, or (iii) classified for accounting or other purposes as a capital lease, financing lease, operating lease, non-appropriation leases, installment purchase agreement or lease, or otherwise (including any combination thereof).

(l) The District represents and warrants for the benefit of the holders of the Bonds that (i) it has not undertaken, and it does not own, maintain, operate or otherwise financially fund or support, any Non-Sewer Systems purposes and (ii) it does not have any existing obligations or liabilities related to any Non-Sewer System.

SECTION 20. Investment of Funds.

(a) The Secretary/Treasurer is hereby authorized pursuant to IC 5-1-14-3, as amended, to invest moneys pursuant to the provisions of this Resolution (subject to applicable requirements of federal law to insure the yields on such investments are equal to the then current

market rates) to the extent necessary or advisable to preserve the exclusion from gross income of interest on the BANs or the Bonds under federal law.

(b) The Secretary/Treasurer shall keep full and accurate records of investment earnings and income from moneys held in the Funds and Accounts continued by this Resolution. In order to comply with the provisions of the Resolution, the Secretary/Treasurer is hereby authorized and directed to employ consultants or attorneys from time to time to advise the District as to requirements of federal law to preserve the tax exclusion described above. The Secretary/Treasurer may pay the fees of such consultants or attorneys as operation expenses of the System.

SECTION 21. Tax Covenants. In order to preserve the exclusion of interest on the BANs and the Bonds from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as existing on the date of issuance of the BANs or the Bonds, as the case may be (the "Code"), and as an inducement to the purchasers of the BANs and the Bonds, the District represents, covenants and agrees that:

(a) The use of the System will be based upon arrangements providing for use that is available to the general public on the basis of rates that are generally applicable and uniformly applied, and, to the extent so used, such use shall constitute general public use. No person or entity, other than the District or another state or local governmental unit, will use more than 10% of the proceeds of the BANs or the Bonds or the property financed by the BAN or Bond proceeds, other than in a manner constituting general public use. No person or entity, other than the District or another state or local governmental unit, will own property financed by the BAN or Bond proceeds or will have actual or beneficial use of such property pursuant to a lease, management, service or incentive payment contract, 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 general public use, 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 District enters into a management contract for all or a portion of the System, the terms of the contract will comply with the Treasury Regulations issued by the United States Department of the Treasury (the "Regulations") and IRS Revenue Procedure 2021-13, and as such may hereafter be further amended, supplemented or superseded from time to time, so that the contract will not give rise to private business use under the Code and the Regulations, unless such use in the aggregate will not relate to more than ten percent (10%) of the proceeds of the BANs or the Bonds.

(b) No more than ten percent (10%) of the principal of or interest on the BANs or the Bonds is (under the terms of the BANs, the Bonds, this Resolution or any underlying arrangement), directly or indirectly, secured by an interest in property used or to be used for private business use or payments in respect of such property, or to be derived from payments (whether or not to the District or Board of Directors) in respect of property or borrowed money used or to be used for a private business use.

(c) No more than five percent (5%) of the BAN or Bond proceeds will be loaned to any person or entity other than another state or local governmental unit. No more than five percent (5%) of the BAN or Bond proceeds will be transferred, directly or indirectly, or deemed

transferred to a nongovernmental person in any manner that would in substance constitute a loan of the BAN or Bond proceeds.

(d) The District reasonably expects, as of the date hereof, that the BANs and the Bonds will not meet either the private business use test described in paragraphs (a) and (b) above or the private loan test described in paragraph (c) above during the entire term of the BANs and the Bonds.

(e) No more than five percent (5%) of the proceeds of the BANs or the Bonds will be attributable to private business use as described in paragraph (a) above and private security or payments described in paragraph (b) above 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 issues and use that is related but disproportionate to any governmental use of those proceeds.

(f) The District will not take any action nor fail to take any action with respect to the BANs or the Bonds that would result in the loss of the exclusion from gross income for federal tax purposes of interest on the BANs or the Bonds pursuant to Section 103 of the Code, nor will the District act in any other manner which would adversely affect such exclusion.

(g) It shall not be an event of default under this Resolution if the interest on any BANs or Bonds 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 BANs or the Bonds, as the case may be.

(h) The District represents that it will rebate any arbitrage profits to the United States of America to the extent required by the Code and the Regulations.

(i) On or before the date of issuance of each series of BANs and the Bonds, the District is hereby authorized to designate all or any portion of such BANs or Bonds as qualified tax-exempt obligations pursuant to Section 265(b)(3) of the Code, if determined appropriate and permissible thereunder, with the advice of Bond Counsel.

(j) If the principal amount of the BANs or the Bonds issued in any one calendar year by the District, together with the aggregate principal amount of all other tax-exempt bonds, notes, lease obligations and other indebtedness or obligations of the District issued or entered into or to be issued or entered into by the District, its subordinate entities and entities that issue any such indebtedness or obligations on behalf of the District, or on behalf of which the District issues any such indebtedness or obligations, within the meaning of and taken into account under Section 148(f)(4)(D) of the Code, during such calendar year (excluding "private activity bonds" and obligations issued to currently refund tax-exempt obligations to the extent that the principal amount of the refunding obligations does not exceed the principal amount of the refunded obligations), is \$5,000,000 or less, then such BANs or Bonds will be exempt from rebate pursuant to the small issuer exemption set forth in Section 148(f)(4)(D).

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

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

SECTION 22. Amendments with Consent of Bondholders.

(a) Subject to the terms and provisions contained in this Section, and not otherwise, the owners of not less than a majority in aggregate principal amount of the Bonds then outstanding shall have the right, from time to time, anything contained in this Resolution to the contrary notwithstanding, to consent to and approve the adoption by the Board of Directors of such Resolution or Resolutions supplemental hereto or amendatory hereof, as shall be deemed necessary or desirable by the District for the purpose of modifying, altering, amending, adding to or rescinding in any particular any of the terms or provisions contained in this Resolution or any supplemental Resolution; and provided, that that nothing herein contained shall permit or be construed as permitting:

- (1) An extension of the maturity of the principal of or the due date of interest on any BAN or Bond; or
- (2) A reduction in the principal amount of any BAN or Bond or the redemption premium or the rate of interest thereon; or
- (3) The creation of a lien upon or a pledge of the revenues or Net Revenues of the System ranking prior to the pledge thereof created by this Resolution; or
- (4) A preference or priority of any BAN or BANs over any other BAN or BANs or of any Bond or Bonds over any other Bond or Bonds; or
- (5) A reduction in the aggregate principal amount of the Bonds required for consent to such supplemental Resolution; or
- (6) A reduction in the Reserve Requirement; or
- (7) The extension of mandatory sinking fund redemption dates for the Bonds, if any.

(b) If the owners of not less than a majority in aggregate principal amount of the Bonds outstanding at the time of adoption of such supplemental Resolution shall have consented to and approved the adoption thereof by written instrument to be maintained on file in the office of the Secretary/Treasurer, no owner of any Bond shall have any right to object to the adoption of such supplemental Resolution 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 Board of Directors from adopting the same, or from taking any action pursuant to the provisions thereof. Upon the adoption of any supplemental Resolution pursuant to the provisions of this Section, this Resolution shall be, and shall be deemed, modified and amended in accordance therewith, and the respective rights, duties and obligations under this Resolution of the District and all owners of Bonds then outstanding, shall thereafter be

determined, exercised and enforced in accordance with this Resolution, subject in all respects to such modifications and amendments. Notwithstanding anything contained in the foregoing provisions of this Resolution, the rights and obligations of the District and the owners of the Bonds, and the terms and provisions of the Bonds and this Resolution, or any supplemental Resolution, may be modified or altered in any respect with the consent of the District and the owners of all the Bonds then outstanding.

SECTION 23. Amendment of Resolution without Consent of Bondholders. The Board of Directors may, from time to time, and without the consent of the holders of the BANs or the Bonds, adopt Resolutions supplemental hereto (which supplemental Resolutions shall thereafter form a part hereof) for any one or more of the following purposes:

(a) to cure any ambiguity or formal defect or omission in this Resolution or in any supplemental Resolution;

(b) to grant to or confer upon the owners of the Bonds any additional benefits, rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the owners of the BANs or the Bonds;

(c) to modify, amend or supplement this Resolution to permit the qualification of the BANs or the Bonds for sale under the securities laws of the United States of America or of any of the states of the United States of America or to obtain or maintain bond insurance with respect to payments of principal of and interest on the Bonds;

(d) to provide for the refunding or advance refunding of the BANs or the Bonds;

(e) to procure a rating on the Bonds from a nationally recognized securities rating agency designated in such supplemental Resolution, if such supplemental Resolution will not adversely affect the owners of the Bonds; or

(f) any other purpose which in the judgment of the Board of Directors does not adversely impact the interests of the owners of the Bonds.

SECTION 24. Issuance of BANs.

(a) The District, having satisfied all the statutory requirements for the issuance of the Bonds, may elect to issue the BAN or BANs to a financial institution, the Indiana Bond Bank, the State or any other purchaser (if then authorized by State law), pursuant to a Bond Anticipation Note Purchase Agreement (the "Bond Anticipation Note Agreement") to be entered into between the District and the purchaser of the BAN or BANs, but only if such Agreement is deemed necessary by Bond Counsel. The Board of Directors 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 and, if deemed appropriate, to refund such BAN or BANs and to pay the costs of issuance of the BANs. It shall not be necessary for the District to repeat the procedures for the issuance of the 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 Chairman and the Secretary/Treasurer are hereby authorized and directed to execute a Bond Anticipation Note Agreement, if any, in such form or substance as they shall approve, acting upon the advice of Bond Counsel. The Chairman and the Secretary/Treasurer may take such other actions or execute and deliver such 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 any one of them deem necessary or desirable in connection therewith.

SECTION 25. Continuing Disclosure. If necessary in order for the purchaser of the BANs or the Bonds to comply with Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended (the "Rule"), the Chairman and the Secretary/Treasurer are hereby authorized to execute and deliver, in the name and on behalf of the District, (i) an agreement by the District to comply with the requirements for a continuing disclosure undertaking of the District pursuant to subsection (b)(5) or (d)(2) of the Rule, and (ii) amendments to such agreement from time to time in accordance with the terms of such agreement (the agreement and any amendments thereto are collectively referred to herein as the "Continuing Disclosure Agreement"). The District hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement. The remedies for any failure of the District to comply with and carry out the provisions of the Continuing Disclosure Agreement shall be as set forth therein.

SECTION 26. Other Actions. The proper officers of the District are hereby authorized and directed, for and on behalf of the District, to execute and deliver any agreement, certificate or other instrument, including without limitation any financial assistance agreement, escrow agreement, continuing disclosure agreement, agreement with any Bond Insurer, agreement with any Rating Service, preliminary official statement or official statement, or take any other action which such officer determines to be necessary or desirable to carry out the transactions contemplated by this Resolution, which determination shall be conclusively evidenced by such officer's having executed such agreement, certificate or other instrument or having taken such other action, and any such agreement, certificate or other instrument heretofore executed and delivered and any such other action heretofore taken are hereby ratified and approved.

SECTION 27. Severability. If any section, paragraph or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Resolution.

SECTION 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 Resolution.

SECTION 29. Conflicting Resolutions. All prior Resolutions and parts of prior Resolutions, insofar as they are in conflict herewith, are hereby repealed.

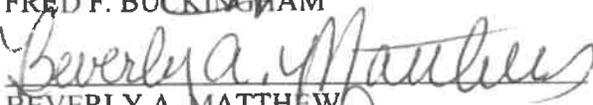
SECTION 30. Effective Date. This Resolution shall be in full force and effect from and after its passage and compliance with the procedures required by law.

Passed and adopted by the Board of Directors for the Ben Davis Conservancy District, on the 21 day of June, 2021.

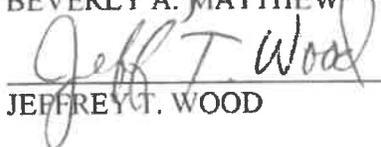
BOARD OF DIRECTORS FOR THE BEN
DAVIS CONSERVANCY DISTRICT



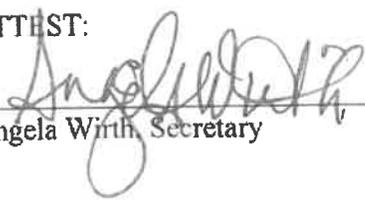
FRED F. BUCKINGHAM



BEVERLY A. MATTHEW



JEFFREY T. WOOD

ATTEST:


Angela Wirth, Secretary

SCHEDULE OF EXHIBITS

EXHIBIT A - Project Description

EXHIBIT B - Form of Bond

EXHIBIT A

PROJECT DESCRIPTION

The work associated with this project consists of improvements to the sewage works within the Ben Davis Conservancy District. The improvements proposed for this project as follows:

A new main lift station to capture and pump all of the BDCD wastewater complete with an influent screening device, pumps and controls, a new force main pipe from the lift station to the new wastewater treatment plant site, and a new wastewater treatment plant with a design average flow rate of 4.0 MGD; and any other projects, improvements or repairs related thereto.

EXHIBIT B
FORM OF BOND
(Attached)

No. 2021R-__

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

UNITED STATES OF AMERICA

STATE OF INDIANA

COUNTY OF MARION

**BEN DAVIS CONSERVANCY DISTRICT
SEWAGE WORKS REVENUE BOND, SERIES 2021**

Maturity Date	Interest Rate	Original Issue Date	Authentication Date	CUSIP
[See Exhibit A]	[See Exhibit A]			

Registered Owner:

Principal Sum:

The Ben Davis Conservancy District (the "District"), in Marion County, State of Indiana, for value received, hereby promises to pay to the Registered Owner specified above or registered assigns, solely out of the special revenue fund hereinafter referred to, the Principal Sum specified 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 (as defined below), or its assigns,] on [the Maturity Date set forth above] or [(unless this Bond is subject to and shall have been duly called for redemption and payment as provided for herein)], and to pay interest hereon until the Principal Sum shall be fully paid at the Interest Rate per annum specified 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 _____ 15, 20__, in which case it shall bear interest from the Original Issue Date, which interest is payable semiannually on the first days of January 1 and July 1 of each year, beginning on _____ 1, 20__. Interest shall be calculated according to a 360-day calendar year containing twelve 30-day months.

[The principal of and premium, if any, on this Bond is payable at the principal office of _____ (the "Registrar" or the "Paying Agent"), in the _____ of _____]

Indiana.] All payments of [principal of, premium, if any, and] interest on this Bond shall be paid by check mailed one business day prior to the interest payment date 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 payment, at the address as it appears on the registration books kept by the [Secretary/Treasurer of the District (the "Registrar" or the "Paying Agent") in the District] [Registrar]. [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 so such payments are received at the depository by 2:30 p.m. (New York District time).] All payments on the District's Sewage Works Revenue Bonds, Series 2021 (the "Bonds"). shall be made in any coin or currency of the United States of America, which on the dates of such payment, shall be legal tender for the payment of public and private debts.

This Bond shall not constitute an indebtedness of the District within the meaning of the provisions and limitations of the constitution of the State, and the District shall not be obligated to pay this Bond or the interest hereon except from the special fund provided from the Net Revenues (herein defined as the gross revenues of the System (herein defined as the District's System, including all real estate, equipment and appurtenances thereto used in connection therewith, and all extensions, additions and improvements thereto and replacements thereof, now or at any time hereafter constructed or acquired) , inclusive of System Development Charges (as defined in the Resolution), remaining after the payment of the reasonable expense of operation, repair and maintenance of the System).

This Bond is one of an authorized series of Bonds of like tenor and effect, except as to numbering, interest rates per annum and dates of maturity, in the total amount of _____ Dollars (\$ _____) lettered and numbered consecutively from 2021R-1 and upward, issued for the purpose of providing funds to pay the cost of the acquisition of, and the construction and installation of certain improvements to, the System, including, without limitation, the acquisition and installation of necessary equipment therefor and the making of other site improvements related thereto (the "Project"), [to refund interim notes issued in anticipation of the Bonds (the "BANs")] and to pay the costs of issuance of the Bonds [and the BANs], as authorized by an Resolution adopted by the Board of Directors for the District on _____, 2021, entitled "AN RESOLUTION AUTHORIZING THE ACQUISITION, CONSTRUCTION AND INSTALLATION OF CERTAIN IMPROVEMENTS FOR THE SEWAGE WORKS SYSTEM OF THE BEN DAVIS CONSERVANCY DISTRICT, THE ISSUANCE OF REVENUE BONDS TO PROVIDE THE COST THEREOF, THE COLLECTION, SEGREGATION AND DISTRIBUTION OF THE REVENUES OF SUCH SYSTEM, THE SAFEGUARDING OF THE INTERESTS OF THE OWNERS OF SUCH REVENUE BONDS AND OTHER MATTERS CONNECTED THEREWITH, INCLUDING THE ISSUANCE OF NOTES IN ANTICIPATION OF SUCH BONDS, AND REPEALING RESOLUTIONS INCONSISTENT HEREWITH" (the "Resolution"), and in strict compliance with the provisions of IC 14-33, as in effect on the issue date of this Bond (the "Act"). Capitalized terms not otherwise defined herein have the same meanings as ascribed to them in the Resolution.

Pursuant to the provisions of the Resolution and the Act, the principal of and interest on this Bond, all other Bonds, and any bonds hereafter issued ranking on a parity therewith (collectively, the "Bonds"), are payable solely from a sinking fund created by the Resolution (the "Sinking Fund") to be funded from the Net Revenues of the System, except to the extent payable from the proceeds of the Bonds.

The District irrevocably pledges the entire Net Revenues of the System to the prompt payment of the principal of and interest on the Bonds, and covenants that it will cause to be fixed, maintained and collected such rates and charges for service rendered by the System as are sufficient in each year for the payment of Operation and Maintenance of the System and for the payment of the sums required to be paid into the Sinking Fund under the provisions of the Act and the Resolution. The rates and charges shall be established, to the extent permitted by law, to produce Net Revenues sufficient to pay the annual debt service on the Bonds. If the District or the proper officers of the District shall fail or refuse to so fix, maintain and collect such rates or charges, or if there shall be a default in the payment of the principal of or interest on the Bonds when due, the owner of this Bond shall have all of the rights and remedies provided for in the Act and the Resolution, including the right to have a receiver appointed to administer the System (but only in the event of a default in the payment of the principal of or the interest on the Bonds when due), and, by civil action, to protect and enforce rights granted by the Act or under the Resolution in connection with any action or duty to be performed by the District, the Board of Directors or any officer of the District, including the making and collecting of reasonable and sufficient charges and rates for services provided by the System.

The District further covenants that it will set aside and pay into the Sinking Fund a sufficient amount of the Net Revenues to pay: (a) the principal of and interest on all Bonds, as such principal and interest shall come due; (b) the necessary fiscal agency charges for paying the principal of and interest on the Bonds; and (c) an additional amount to create and maintain the debt service reserve required by the Resolution. Such required payments shall constitute a first charge upon all the Net Revenues of the System.

The Bonds maturing on and after _____, _____, are redeemable at the option of the District on _____ or any date thereafter, on [thirty (30)][sixty (60)] days' notice, in whole or in part, in [any][inverse] order of maturity selected by the District and by lot within a maturity, at face value, [together with the following premiums:

___% if redeemed on _____, 20__ or thereafter
on or before _____, 20__
___% if redeemed on _____, 20__ or thereafter
on or before _____, 20__
___% if redeemed on _____, 20__, or thereafter
prior to maturity;

plus in each case accrued interest to the date fixed for redemption.

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

Year Amount

*

*Final Maturity.]

[In the event the 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 mandatory sinking fund redemption before selecting the Bonds by lot for optional redemption.]

Notice of redemption shall be mailed to the address of the Registered Owner as shown on the registration record of the District, as of the date which is [forty-five (45)][seventy-five (75)] days prior to such redemption date, not less than [thirty (30)][sixty (60)] days prior to the date fixed for redemption. 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 District. 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.

[The Bonds shall be called for redemption in multiples of [\$5,000][\$1.00]. The Bonds in denominations of more than [\$5,000][\$1.00] shall be treated as representing the number of Bonds obtained by dividing the denomination of the Bond by [\$5,000][\$1.00] within a maturity.] The Bonds may be redeemed in part. In the event of the redemption of the Bonds in part, upon surrender of the Bond to be redeemed, a Bond or Bonds in an aggregate principal amount equal to the unredeemed portion of the Bond surrendered shall be issued to the Registered Owner.

If this Bond shall not be presented for payment or redemption on the date fixed therefor, and the District shall have deposited in trust with [the Paying Agent] [its depository bank], an amount sufficient to pay this Bond or the redemption price, as the case may be, then the Registered Owner shall thereafter look only to the funds so deposited in trust with [the Paying Agent] [such depository bank] for payment and the District shall have no further obligation or liability with respect thereto.

This Bond is transferable or exchangeable only upon the books of the District kept for that purpose at the office of the Registrar, by the Registered Owner hereof in person, or by its 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 its attorney duly authorized in writing, and thereupon a fully registered Bond or Bonds in the same 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 therefore. [Except as otherwise provided in the Disclosure Agreement described below, the] [The] District, the Registrar and the Paying Agent 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, premium, if any, and interest due hereon.

The Bonds maturing in any one year are issuable only in fully registered form in the denomination of [\$5,000][\$1.00] or any integral multiple thereof not exceeding the aggregate principal amount of the Bonds maturing in such year.

[All of the Bonds have been designated [or deemed designated] as “qualified tax-exempt obligations” within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.]

THE REGISTERED OWNER, BY THE ACCEPTANCE HEREOF, HEREBY AGREES TO ALL THE TERMS AND PROVISIONS CONTAINED IN THE RESOLUTION. This Bond is subject to defeasance prior to redemption or payment as provided in the Resolution. The Resolution may be amended without the consent of the owners of the Bonds as provided in the Resolution if the Board of Directors for the District determines, in its sole discretion, that the amendment shall not materially adversely affect the rights of any of the owners of the Bonds.

[A Continuing Disclosure Agreement dated as of the Original Issue Date (the “Disclosure Agreement”) has been executed by the District for the benefit of each registered or beneficial owner of any Bond. A copy of the Disclosure Agreement is available from the District and its terms are incorporated herein by reference. The Disclosure Agreement contains certain covenants of the District to each registered or beneficial owner of any Bond, including a covenant to provide continuing disclosure of certain annual financial information and notices of the occurrence of certain events, if material. By its payment for and acceptance of this Bond, the Registered Owner and any beneficial owner of this Bond assents to the Disclosure Agreement and to the exchange of such payment and acceptance for such covenants.]

It is hereby certified and recited that all acts, conditions and things required to be done precedent to and in the preparation and completion of 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 District has caused this Bond to be executed in its corporate name and on its behalf by the manual or facsimile signature of its Chairman, have its corporate seal affixed hereunto, imprinted or impressed by any means, and be attested manually or by facsimile by its Secretary.

BEN DAVIS CONSERVANCY DISTRICT

[SEAL]

By: _____
Chairman

Attest:

By: _____
Secretary

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

It is hereby certified that this Bond is one of the Bonds described in the Resolution.

[_____
_____, as Registrar]

[_____,
as Registrar

By _____
Authorized Representative]

ABBREVIATIONS

The following abbreviations, when used in this Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM	as tenants in common
TENT ENT	as tenants by the entireties
JT TEN	as joint tenants with right of survivorship and not as tenants in common
UNIF TRAN MIN ACT	(Cust) Custodian (Minor) under Uniform Transfers to Minors Act of

(State)

Additional abbreviations may also be used although not in the list above

ASSIGNMENT

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

(Please print or typewrite name, address and social security or other identifying number of the assignee and insert number for the first named transferee if held by joint account) the within Bond and all rights hereunder, and hereby irrevocably constitutes and appoints _____, as attorney to transfer the within Bond on the books kept for the registration thereof with full power of substitution in the premises.

Dated: _____

REGISTERED OWNER:

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 whatever. When assignment is made by a guardian, trustee, executor or administrator, an officer of a corporation or anyone in a representative capacity, proof of authority to act must accompany this assignment.

Signature guaranteed by:

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution as defined in SEC Rule 17Ad-15 (17 CFR 240.17Ad-15) participating in a Securities Transfer Association recognized signature guarantee program.

EXHIBIT A
BEN DAVIS CONSERVANCY DISTRICT
SEWAGE WORKS REVENUE BOND, SERIES 2021

Year

Principal Amount