

**TOWN COUNCIL**

**ORDINANCE NO. 17-2015**

**AN ORDINANCE AMENDING ORDINANCE NO. 14-2015, WHICH IS AN  
ORDINANCE CONCERNING THE CONSTRUCTION AND  
INSTALLATION OF IMPROVEMENTS AND EXTENSIONS TO THE  
SEWAGE WORKS OWNED AND OPERATED BY THE TOWN OF  
PLAINFIELD, INDIANA, THE ISSUANCE AND SALE OF ADDITIONAL  
REVENUE BONDS TO PROVIDE FUNDS FOR THE PAYMENT OF  
COSTS THEREOF, THE COLLECTION, SEGREGATION AND  
DISTRIBUTION OF THE REVENUES OF SAID WORKS, THE  
SAFEGUARDING OF THE INTERESTS OF THE OWNERS OF SAID  
BONDS, AND OTHER MATTERS CONNECTED THEREWITH,  
INCLUDING THE ISSUANCE OF NOTES IN ANTICIPATION OF  
BONDS**

WHEREAS, The Town of Plainfield, Indiana (the "Town"), has heretofore established and now owns and operates sewage works pursuant to Indiana Code Sections 36-9-23 et seq. (the "Act"); and

WHEREAS, the Town Council of the Town of Plainfield (the "Town Council") has found that said sewage works is in need of certain improvements and extensions; that plans, specifications and estimates for the necessary improvements and extensions to the sewage works have been prepared by Butler, Fairman & Seufert, Inc., Banning Engineering, P.C. and Whitaker Engineering, PC; and

WHEREAS, the Town Council did adopt Ordinance No. 14-2015 on July 27, 2015 (the "2015 Ordinance"), authorizing the acquisition, construction, installation and equipping of certain improvements to the Sewage Works, and for the issuance of revenue bonds and bond anticipation notes; and

WHEREAS, it is deemed necessary to amend the 2015 Ordinance.

BE IT ORDAINED by the Town Council of the Town of Plainfield, Indiana:

Section 1. Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall have the same meaning as provided in the 2015 Ordinance.

Section 2. The following is hereby added as new Sections 14(d) and (e) to the 2015 Ordinance:

"(d) All required deposits in the Sewage Works Sinking Fund required by this Ordinance have been made. The Reserve Requirement shall be satisfied for the additional bonds either at

the time of delivery of the additional Bonds or over a five year or shorter period, in a manner which is commensurate with the requirements established in Section 11 of this Ordinance.

(e) For so long as any outstanding Bonds are owned by the Authority through its SRF Program (defined below), the Town: (i) obtains the consent of the Authority; (ii) the Town has faithfully performed and is in compliance with each of its obligations, agreements and covenants contained in the Financial Assistance Agreement and the ordinance authorizing any outstanding Bonds owned by the Authority through its SRF Program; and (iii) the Town is in compliance with its National Pollutant Discharge Elimination System permits, except for non-compliance for which purpose the additional bonds are issued, including refunding bonds issued prior to, but part of the overall plan to eliminate such non-compliance.”

Section 3. The following is hereby added as new Section 26 to the 2015 Ordinance:

“Section 26. For the purpose of further safeguarding the interests of the holders of the Bonds, it is specifically provided as follows:

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

(b) The Project shall be constructed under the supervision and subject to the approval of such competent engineer as shall be designated by the Town. All estimates for work done or material furnished shall first be checked by the engineer and approved by the Town.

(c) The Town shall at all times maintain its sewage works in good condition and operate the same in an efficient manner and at a reasonable cost.

(d) So long as any of the Bonds herein authorized are outstanding, the Town shall acquire and maintain insurance coverage, including fidelity bonds, to protect the sewage works and its operations, and so long as any Prior Bonds are owned by the Authority as part of its State Revolving Fund Loan Programs (“SRF Program”), such insurance shall be acceptable to the Authority. All insurance shall be placed with responsible insurance companies qualified to do business under the laws of the State of Indiana. Insurance proceeds and condemnation awards shall be used to replace or repair the sewage works unless, for so long as any Prior Bonds are owned by the Authority as part of its SRF Program, the Authority consents to a different use of such proceeds or awards.

(e) For so long as any Prior Bonds are owned by the Authority through its SRF Program, the Town shall not sell, transfer, lease or otherwise encumber the sewage works, or any portion thereof, or any interest therein without the prior written consent of the Authority.

(f) The Town shall not borrow any money, enter into any contract or agreement or incur any other liabilities in connection with the sewage works, other than for normal operating expenditures. For so long as any Prior Bonds are owned by the Authority as part of its SRF Program, the Town shall obtain the prior written consent of the Authority if such undertaking would involve, commit or use the revenues of the sewage works.

(g) Except as hereinbefore provided in Section 14 hereof, so long as any of the Bonds herein authorized are outstanding, no additional bonds or other obligations pledging any portion of the revenues of said sewage works shall be authorized, executed, or issued by the Town except such as shall be made subordinate and junior in all respects to the Bonds herein authorized, unless all of the Bonds herein authorized are redeemed, retired or defeased pursuant to Section 17 hereof coincidentally with the delivery of such additional bonds or other obligations.

(h) The Town shall take all action or proceedings necessary and proper to require connection of all property where liquid, solid waste and sewage is produced with available sanitary sewers. The Town shall, insofar as possible, cause all such sanitary sewers to be connected with said sewage works.

(i) The provisions of this Ordinance shall constitute a contract by and between the Town and the owners of the Bonds herein authorized, and after the issuance of the Bonds, this Ordinance shall not be repealed or amended in any respect which will adversely affect the rights of the owners of the Bonds nor shall the Town Council adopt any law, ordinance or resolution which in any way adversely affects the rights of such owners so long as any of the Bonds or the interest thereon remain unpaid. Except as provided in Section 26, this Ordinance may be amended, however, without the consent of Bond owners, if the Town Council determines, in its sole discretion, that such amendment would not adversely affect the owners of the Bonds.

(i) The provisions of this Ordinance shall be construed to create a trust in the proceeds of the sale of the Bonds herein authorized for the uses and purposes herein set forth, and the owners of the Bonds shall retain a lien on such proceeds until the same are applied in accordance with the provisions of this Ordinance and of the governing Act. The provisions of this Ordinance 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 Sewage Works Sinking Fund for the uses and purposes of said fund as in this Ordinance set forth. The owners of the Bonds shall have all of the rights, remedies and privileges set forth in the provisions of the governing Act hereinbefore referred to, including the right to have a receiver appointed to administer said sewage works, in the event of default in the payment of the principal of or interest on any of the Bonds herein authorized or in the event of default in respect to any of the provisions of this Ordinance or the governing Act.”

Section 4. 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 can be given effect without such invalid part or parts.

Section 5. All other terms and provisions of the 2015 Ordinance are hereby ratified and confirmed.

Section 6. This Ordinance shall be in full force and effect upon its adoption and any publication required by law.

Passed and adopted by the Town Council of the Town of Plainfield on the \_\_\_ day of September, 2015.

TOWN COUNCIL OF THE TOWN OF  
PLAINFIELD, INDIANA



Robin G. Brandgard, President



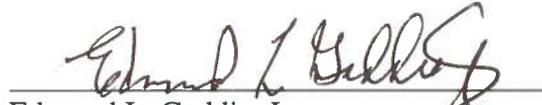
Kent McPhail



Bill Kirchoff



Lance K. Angle



Edmund L. Gaddie, Jr.

Attest:



Wesley R. Bennett, Clerk-Treasurer  
Town of Plainfield, Indiana