

ORDINANCE NO. 2012-1

AN ORDINANCE AUTHORIZING THE ACQUISITION, CONSTRUCTION AND INSTALLATION BY THE MONTGOMERY COUNTY REGIONAL SEWER DISTRICT OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE DISTRICT'S SEWAGE WORKS AND THE COLLECTION, SEGREGATION AND DISTRIBUTION OF THE REVENUES OF SUCH SEWAGE WORKS; IRREVOCABLY PLEDGING THE NET REVENUES OF ITS SEWAGE WORKS TO THE PAYMENT OF THE MONTGOMERY COUNTY REDEVELOPMENT DISTRICT BONDS, SERIES 2012 (NUCOR ROAD PROJECT); AND ALL MATTERS RELATED THERETO

WHEREAS, the Montgomery County Regional Sewer District (the "Regional Sewer District"), has heretofore established and constructed and currently owns and operates a sewage works for the collection and treatment of sewage and other wastes (the "Sewage Works"), pursuant to the provisions of Indiana Code 13-26, as amended (the "Act"); and

WHEREAS, the Montgomery County Redevelopment District (the "Redevelopment District") and the Regional Sewer District desire to cooperate in financing, constructing, operating and owning the improvements that are part of the Nucor Road Wastewater Treatment and Collection System project (as described in the hereinafter defined Financial Assistance Agreement) (the "Project"); and

WHEREAS, the Regional Sewer District and the District may enter into a Joint Interlocal Cooperation Agreement (substantially in the form of Exhibit A attached hereto and made a part hereof) (the "Interlocal Agreement") requiring the District and the Regional Sewer District to cooperate with respect to the financing, constructing, operating and owning the improvements constituting the Project as part of the Regional Sewer District's Sewage Works ; and

WHEREAS, the Redevelopment District has previously created the Nucor Road Economic Development Area (the "Area") and adopted an economic development plan (the "Plan") for the Area, pursuant to Indiana Code 36-7-14, as amended (the "Act"); and

WHEREAS, the Redevelopment District is considering the issuance of its Montgomery County Redevelopment District Bonds, Series 2012 (Nucor Road Project) (the "2012 Bonds"), the proceeds of which are to be applied to the cost of construction, acquisition, renovation, installation and equipping in Montgomery County of any or all or any portion of the following: (1) the Project; (2) any other related improvements thereto; and (3) expenses incurred in connection with or on account of the issuance of the 2012 Bonds; and

WHEREAS, in order to assist in financing a portion of the Project, the Regional Sewer District has determined that it is in its best interests and the best interests of the residents thereof to pledge, pursuant to Indiana Code 13-26-5-2, the net revenues of its sewage works (herein defined as gross revenues of the sewage works of the Regional

Sewer District after deduction only for the reasonable expenses of operation, repair, and maintenance) (the "Net Revenues"), to the payment of the principal of and interest on the 2012 Bonds; and

WHEREAS, the Redevelopment District will issue of its 2012 Bonds for the purpose of financing the Project pursuant to its Resolution No. 2012-1, adopted by the Montgomery County Redevelopment Commission (the "Commission") on February 7, 2012, entitled "RESOLUTION OF THE MONTGOMERY COUNTY REDEVELOPMENT COMMISSION AUTHORIZING THE ISSUANCE OF BONDS FOR THE PURPOSE OF FUNDING CERTAIN SEWAGE WORKS IMPROVEMENTS WITHIN THE NUCOR ROAD ECONOMIC DEVELOPMENT AREA, PAYING THE COSTS OF ISSUING THE BONDS, AND APPROPRIATING THE PROCEEDS THEREOF" (the "Resolution"), wherein such pledged Net Revenues amounts are to be segregated, held and applied as therein described as the Regional Sewer District Pledged Revenues together with tax increment revenue of the District derived from the Nucor Road Allocation Area (the "Tax Increment"); and

WHEREAS, pursuant to the Resolution, the 2012 Bonds will issued in two series, *one series being* the "Montgomery County Redevelopment District Bonds, Series 2012A (Nucor Road Project)" (the "2012A Bonds") which are payable from and secured by the Tax Increment and Regional Sewer District Pledged Revenues on a senior basis and *a second series being* the "Montgomery County Redevelopment District Bonds, Series 2012B (Nucor Road Project)" (the "2012B Bonds") which are payable from and secured by the Tax Increment and Regional Sewer District Pledged Revenues on a junior and subordinate basis to the payment of the 2012A Bonds and, to the extent that the Tax Increment and the Regional Sewer District Pledged Revenues are insufficient and for such purpose, the 2012B Bonds shall also be payable from ad valorem taxes to be levied on all taxable property in the Redevelopment District as required by the Resolution to be so levied, collected and applied to pay debt service on the 2012B Bonds; and

WHEREAS, the Regional Sewer District has no sewage works revenue bonds currently outstanding that are payable from the Net Revenues of the Sewage Works; and

WHEREAS, the Regional Sewer District believes that pledging the Net Revenues will help further the purposes of the Regional Sewer District; and

WHEREAS, the Regional Sewer District is willing to undertake the construction and operation of the Project on behalf of the Redevelopment District;

WHEREAS, the Regional Sewer District may enter into a Financial Assistance Agreement (substantially in the form of Exhibit B attached hereto and made a part hereof) with the Redevelopment District and the Indiana Finance Authority (the "Authority") as part of its wastewater loan program established and existing pursuant to IC 4-4-11 and IC 13-18-13 ("SRF Program"), pertaining to the Project and the financing of the Project ("Financial Assistance Agreement") if any 2012 Bonds are sold to the Authority as part of its SRF Program; and

NOW, THEREFORE, BE IT ORDAINED by the MONTGOMERY COUNTY REGIONAL SEWER DISTRICT as follows:

SECTION 1. Acquisition, Construction and Installation of the Project. The Regional Sewer District, as the owner and operator of the Sewage Works for the collection and treatment of sewage and other wastes, shall acquire any and all necessary property and to proceed with the acquisition, construction and installation of improvements and extensions to the Sewage Works, pursuant to the Act and in accordance with the plans, specifications and cost estimates heretofore prepared and filed with the Board of Trustees of the Regional Sewer District by the Consulting Engineers, which plans, specifications and cost estimates are hereby adopted and approved and, by reference, incorporated fully into this Ordinance, of which two (2) copies are now on file in the Office of the Regional Sewer District. The actions of the Regional Sewer District in connection with the acquisition of any and all necessary property and the acquisition, construction, installation and financing of such improvements and extensions to the Sewage Works are hereby authorized, approved, ratified and confirmed. Where used in this Ordinance, the term "Regional Sewer District" shall be construed also to include any Department, Board, Commission or Officer or Officers of the Regional Sewer District or of any Regional Sewer District Department, Board or Commission. The terms "Sewage Works," "sewage works," "works" and similar terms used in this Ordinance shall be construed to mean the Treatment Works, as defined in the Financial Assistance Agreement, and shall include the proposed Sewage Works and all enlargements, improvements, extensions and additions thereto, and replacements thereof, now or subsequently constructed or acquired, whether from the proceeds of the 2012 Bonds or otherwise. Such Sewage Works shall be constructed pursuant to the provisions of this Ordinance and the Act (together with Indiana Code 4-4-11 and Indiana Code 13-18-13).

SECTION 2. Description of the Project. The Project primarily consists of the construction and installation of improvements to the Regional Sewer District's sewage works treatment system, including as described in Exhibit A to the Financial Assistance Agreement and is hereby approved. The Regional Sewer District shall proceed with the acquisition, construction and installation of the Project and shall enter into all contracts necessary or appropriate for such purpose, in conformity with and subject to the requirements and conditions set forth in this Ordinance and in the Act. The President of the Regional Sewer District is hereby authorized to (i) submit an application to the Authority as part of its SRF Program and (ii) execute a Financial Assistance Agreement with the Redevelopment District and the Authority with terms conforming to this Ordinance. The substantially final forms of the Interlocal Agreement and the Financial Assistance Agreement as attached hereto as Exhibit A and Exhibit B, respectively, and incorporated herein by reference are hereby approved by the Board of Trustees of the Regional Sewer District, and the President of the Regional Sewer District is hereby authorized to execute and deliver the same, and to approve any changes in form or substance to the Financial Assistance Agreement and the Interlocal Agreement, which are consistent with the terms of this Ordinance, such changes to be conclusively evidenced by such execution.

SECTION 3. Segregation and Application of Sewage Works Revenues. All revenues derived from the operation of the Sewage Works and from the collection of

sewage rates and charges shall be segregated and kept separate and apart from all other funds and bank accounts of the Regional Sewer District. Out of said revenues, the proper and reasonable expenses of operation, repair and maintenance of the Sewage Works shall be paid, the principal and interest of the 2012 Bonds and all bonds and other obligations of the Regional Sewer District and fiscal agency charges of bank paying agents shall be paid, and the costs of replacements, extensions, additions and improvements shall be paid as hereinafter provided. No moneys derived from the revenues of the Sewage Works shall be transferred to the General Fund of the Regional Sewer District or be used for any purpose not connected with the Sewage Works (and the Sewage Works Sinking Fund shall be continued) so long as any 2012 Bonds are outstanding.

SECTION 4. Pledge. The interest on and the principal of the 2012A Bonds issued pursuant to the provisions of the Resolution shall constitute a first charge on all the Net Revenues, and such Net Revenues are hereby irrevocably pledged to the payment of the interest on and principal of such 2012A Bonds, to the extent necessary for that purpose. The interest on and the principal of the 2012B Bonds issued pursuant to the provisions of the Resolution, and any Secured Bonds hereafter issued by the Regional Sewer District on a parity with the 2012B Bonds, shall constitute a second charge on all the Net Revenues, junior and subordinate to the payment of interest on and the principal of the 2012A Bonds, and such Net Revenues are hereby irrevocably pledged to the payment of the interest on and principal of such 2012B Bonds, to the extent necessary for that purpose.

SECTION 5. Sewage Works Sinking Fund. On the last day of each calendar month there shall be first credited to the Operation and Maintenance Fund ("Operation and Maintenance Fund") established hereby (and prior to any deposit to the Sewage Works Sinking Fund), a sufficient amount of the revenues of the Sewage Works so that the balance in said fund shall be sufficient to pay the expenses of operation, repair and maintenance of the works for the next succeeding two (2) calendar months. The moneys credited to this Fund shall be used for the payment of the reasonable and proper operation, repair and maintenance expenses of the Sewage Works on a day-to-day basis, but none of the moneys in such Fund shall be used for depreciation, replacements, improvements, extensions or additions. Any balance in said Fund in excess of the expected expenses of operation, repair and maintenance for the next calendar month may be transferred to the Sewage Works Sinking Fund if necessary to prevent a default in the payment of principal or interest on the outstanding 2012 Bonds and any revenue bonds or other obligations of the Regional Sewer District which by their terms are payable in whole or in part from the revenues of the Sewage Works (collectively, the "Secured Bonds").

There shall be deposited into the Sewage Works Sinking Fund established hereby for the payment of the interest on and principal of the Secured Bonds and the payment of any fiscal agency charges in connection with the payment of such bonds and interest thereon, a sufficient amount of the net revenues (herein defined as gross revenues of the Sewage Works of the Regional Sewer District after deduction only for the reasonable expenses of operation, repair, and maintenance) (the "Net Revenues") of said Sewage Works to meet the requirements of the Bond and Interest Account and the Debt Service Reserve Account established hereby in said Sewage Works Sinking Fund. Such payments shall continue until the balance in the Bond and Interest Account, plus the balance in the

Debt Service Reserve Account, equals the principal of and interest on all of the then outstanding Secured Bonds to the final maturity thereof.

(a) Bond and Interest Account. There shall be credited on the last day of each calendar month to the Bond and Interest Account established hereby, an amount of Net Revenues equal to the sum of one-sixth (1/6) of the interest on all then outstanding Secured Bonds payable on the then next succeeding Interest Payment Date, and one-sixth (1/6) of the amount of principal payable on the next principal payment date on all then outstanding Secured Bonds which will be payable on the then next succeeding principal payment date, until the amount of interest and principal payable on the next succeeding respective principal and interest payment dates shall have been so credited; provided that such fractional amounts shall be appropriately increased, if necessary, to provide for the first interest and first principal payments. There shall similarly be credited to the account the amount necessary to pay the bank fiscal agency charges, if any, for paying principal and interest on outstanding Secured Bonds as the same become payable. The Regional Sewer District shall, from the sums deposited into the Sewage Works Sinking Fund and credited to the Bond and Interest Account, remit promptly to the Redevelopment District for payment to the registered owners of the outstanding Secured Bonds or to the bank fiscal agency sufficient moneys to pay the principal and interest on the due dates thereof together with the amount of any bank fiscal agency charges. For purposes of determining whether a deposit of Net Revenues shall be required under this subsection, such deposit shall not be required if and to the extent that such requirement has been satisfied from Tax Increment pursuant to the Resolution.

(b) Debt Service Reserve Account. On the last day of each calendar month, after making the credits to the Bond and Interest Account, there shall be credited from available Net Revenues to the Debt Service Reserve Account established hereby in amounts sufficient to produce, in equal monthly installments over a sixty (60) month period, an amount equal to the least of (i) the maximum annual debt service on the 2012 Bonds, (ii) one hundred twenty-five percent (125%) of the average annual debt service on the 2012 Bonds, or (iii) ten percent (10%) of the proceeds of the 2012 Bonds (the "Debt Service Reserve Requirement"); *provided, however*, that if the 2012 Bonds are sold to the Authority as part of its SRF Program, the Debt Service Reserve Requirement shall mean the maximum annual debt service on the 2012 Bonds and any parity bonds issued as Secured Bonds. Said credits to the Debt Service Reserve Account shall continue until the balance therein shall equal the Debt Service Reserve Requirement. The Debt Service Reserve Account shall constitute the margin for safety as a protection against default in the payment of principal of and interest on the outstanding Secured Bonds and any Secured Bonds hereafter issued so long as the Debt Service Reserve Requirement has been increased proportionately, and the moneys in the Debt Service Reserve Account shall be used to pay current principal and interest on the Secured Bonds, to the extent that moneys in the Bond and Interest Account are insufficient for that purpose. Any deficiencies in credits to the Debt Service Reserve Account shall be promptly made up from the next available Net Revenues remaining after credits 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 principal and interest on Secured Bonds, then such depletion of the balance in the Debt Service Reserve Account shall be made up from the next available Net Revenues after the credits into the Bond and Interest Account hereinbefore provided for. Any moneys in the Debt Service Reserve Account in excess of the Debt Service Reserve Requirement shall be transferred to the Sewage Works Improvement Fund, and in no event shall such excess moneys be held in the Debt Service Reserve Account. For purposes of determining whether a deposit of Net Revenues shall be required under this subsection, such deposit shall not be required if and to the extent that such requirement has been satisfied from Tax Increment pursuant to the Resolution.

If any 2012 Bonds are sold to the Authority as part of the SRF Program, the Sewage Works Sinking Fund and the account holding any proceeds of the 2012 Bonds (the "Construction Account") may be held by a financial institution acceptable to the Authority as a part of its SRF Program, pursuant to terms acceptable to the Authority. If the Sewage Works Sinking Fund and the accounts therein are held in trust, the Regional Sewer District shall transfer the monthly required amounts of Net Revenue in accordance with this SECTION 5, and the financial institution holding such funds in trust shall be instructed to pay the required payments in accordance with the payment schedules for the Secured Bonds. The financial institution selected to serve in this role may also serve as the Registrar and the Paying Agent for the Secured Bonds. If the Construction Account is so held in trust, the Regional Sewer District shall deposit the proceeds of the 2012 Bonds therein until such proceeds are applied consistent with this Ordinance, the Resolution, the Interlocal Agreement and the Financial Assistance Agreement. The Regional Sewer District hereby authorizes the President of the Board of Trustees to execute and deliver an agreement with a financial institution to reflect this trust arrangement for all or a part of the Sewage Works Sinking Fund and the Construction Account in the form of Trust Agreement as approved by the President of the Board of Trustees, consistent with the terms and provisions of this Ordinance.

SECTION 6. Sewage Works Improvement Fund. After meeting the requirements for the Operation and Maintenance Fund, the Bond and Interest Account and the Debt Service Reserve Account as provided in SECTION 5 herein, all available Net Revenues shall be credited to the Sewage Works Improvement Fund established hereby. Said Fund shall be used for improvements, replacements, additions and extensions of the Sewage Works. Moneys in the Sewage Works Improvement Fund shall be transferred to the Sewage Works Sinking Fund if necessary to prevent a default in the payment of principal and interest on the then outstanding Secured Bonds or if necessary to restore the Debt Service Reserve Requirement in the Debt Service Reserve Account.

SECTION 7. Investment of Funds. All of the amounts in the funds and accounts created pursuant to this Ordinance shall be deposited in lawful depositories of the State of Indiana, and shall be continuously held and secured or invested as provided by the laws of the State of Indiana relating to the depositing, securing, holding and investing of public funds, including particularly Indiana Code 5-13-9, as amended and supplemented, including pursuant to IC 4-4-11 and IC 13-18-13. The amounts in the Sewage Works

Sinking Fund and all other funds and accounts created pursuant to this Ordinance shall be kept in separate bank accounts apart from all other bank accounts of the Regional Sewer District. In no event shall any of the revenues of the Sewage Works be transferred or used for any purpose not authorized by this Ordinance so long as any 2012 Bonds shall be outstanding. Investment income earned on moneys in the funds and accounts established by this Ordinance shall become a part of the funds and accounts invested (except as otherwise provided in SECTION 5 hereof) and shall be used only as provided in this Ordinance.

SECTION 8. Rates and Charges. The Regional Sewer District hereby covenants and agrees for the benefit of the holders of the 2012 Bonds that it will establish and maintain just and equitable rates or charges for the use of and the services rendered by said works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses said Sewage Works by or through any part of the sewage works system of the Regional Sewer District, or that in any way uses or is served by such works, at a level adequate to produce and maintain sufficient revenue (including user and other charges, fees, income or revenues available to the Regional Sewage Works District) after considering Tax Increment, if any, reasonably expected to be collected and available to provide for the timely payment of debt service on outstanding 2012 Bonds, to provide for the (i) Operation and Maintenance (as defined in the Financial Assistance Agreement) if any 2012 Bonds are sold to the Authority as part of the SRF Program or (ii) proper operation, repair and maintenance of the works, as the case may be, and for the payment of the sums required to be paid into the Sinking Fund by the Act and this Ordinance.

For purposes of determining whether the Tax Increment will be considered to be reasonably expected to be collected and available to provide for the timely payment of debt service on the 2012 Bonds, the following shall control:

(a) the estimated Tax Increment to be collected shall be based on the existing assessed valuation (unless such valuation has been challenged by the owner of the property, in which case the prior assessed value shall be used) and the then current tax rate;

(b) any delinquent payments of property taxes constituting Tax Increment shall not be considered available;

(c) if there is any pending challenge against the establishment or propriety of the Tax Increment, or its proposed use under the Resolution, such challenged portion of the Tax Increment shall not be considered available;

(d) the amounts thereof shall be consistent with the Annual Report (as defined in the Resolution);

(e) the amounts thereof shall not in any period exceed the Tax Increment that are required by the Resolution to be deposited into the Principal and Interest Account (created under the Resolution); and

(f) the balance held in the 2012 Reserve Account (created under the Resolution) shall not be treated as available to provide for the timely payment of debt service for purposes of this provision.

The Regional Sewer District hereby covenants for the benefit of the holders of the 2012 Bonds that, if in any year while the 2012 Bonds are outstanding, the Regional Sewer District Pledged Revenues and the Tax Increment, if any, received from the Nucor Road Allocation Area, when combined with the amount of any Tax Levy (as defined in the Resolution), are less than the next principal and interest payment due on all outstanding 2012 Bonds, then the Commission shall take all steps required to immediately cause the Regional Sewer District to increase the Sewage Works rates and charges to the level required to provide for the timely payment of debt service on all outstanding 2012 Bonds. Any such increase shall be enacted to be effective within 45 days after the receipt of the June or December settlement, as the case may be.

SECTION 9. Books of Record and Accounts. The Regional Sewer District shall keep proper books of record 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 said works and deposited in said funds, and all disbursements made therefrom on account of the operation of the works, and to meet the requirements of the Sewage Works Sinking Fund, and all other financial transactions relating to said works. There shall be prepared and furnished, upon written request, to any owner of the 2012 Bonds at the time then outstanding, including the Authority, not more than ninety (90) days after the close of each fiscal year, complete financial statements of the works, covering the preceding fiscal year. Copies of all such statements and reports shall be kept on file in the Office of the Regional Sewer District. Any owner or owners of the 2012 Bonds then outstanding, including the Authority, shall have the right at all reasonable times to inspect the works and all records, accounts and data of the Regional Sewer District relating thereto. Such inspections may be made by representatives duly authorized by written instrument.

If any 2012 Bonds are sold to the Authority as part of its SRF Program, the Regional Sewer District shall establish and maintain the books and other financial records of the Project (including the establishment of a separate account or subaccount for the Project) and the sewage works in accordance with (i) generally accepted governmental accounting standards for utilities, on an accrued basis, as promulgated by the Government Accounting Standards Board and (ii) the rules, regulations and guidance of the Indiana State Board of Accounts. In such event, no moneys derived from the revenues of the Sewage Works shall be transferred to any other fund or account of the Regional Sewer District or be used for any purpose not connected with the Sewage Works.

SECTION 10. Additional Secured Bonds. The Regional Sewer District reserves the right to authorize and issue additional Secured Bonds, payable out of the Net Revenues of its Sewage Works, ranking on a parity with the 2012B Bonds (but ranking junior and subordinate to the 2012A Bonds) (“Parity Bonds”) for the purpose of financing the cost of future additions, extensions and improvements to the Sewage Works, subject to the following conditions:

(a) All required payments into the Sewage Works Sinking Fund shall have been made in accordance with the provisions of this Ordinance, and the interest on and principal of all Secured Bonds shall have been paid to date in accordance with the terms thereof.

(b) As of the date of issuance of such additional Parity Bonds, the balance in the Debt Service Reserve Account shall equal not less than the Debt Service Reserve Requirement and the Debt Service Reserve Requirement is proportionately increased in accordance with the provisions of SECTION 5 of this Ordinance and the Regional Sewer District covenants to make equal monthly deposits into the Debt Service Reserve Account over no more than a sixty (60) month period sufficient to equal the increased Debt Service Reserve Requirement.

(c) The Net Revenues of the Sewage Works in the fiscal year immediately preceding the issuance of any such Parity Bonds shall be not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of the then outstanding Secured Bonds and the additional Parity Bonds proposed to be issued; or, prior to the issuance of said Parity Bonds, the sewage rates and charges shall be increased sufficiently so that said increased rates and charges applied to the previous fiscal year's operations reasonably expected to be collected and available to provide for the timely payment of debt service on the then outstanding Secured Bonds and the additional Parity Bonds proposed to be issued, would have produced Net Revenues for said year equal to not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of the then outstanding Secured Bonds and the additional Parity Bonds proposed to be issued. For purposes of this subsection, the records of the Sewage Works shall be analyzed and all showings shall be prepared by a certified public accountant or nationally recognized firm of professionals experienced in analyzing financial records of municipal utilities retained by the Regional Sewer District for that purpose.

(d) The principal of said additional Parity Bonds shall be payable on January 15 and July 15 and the interest on said additional Parity Bonds shall be payable semiannually on January 15 and July 15 in the years in which such principal and interest are payable.

(e) If any 2012 Bonds are sold to the Authority as part of its SRF Program, (i) the Regional Sewer District has obtained the consent of the Authority, (ii) the Regional Sewer District has faithfully performed and is in compliance with each of its obligations, agreements and covenants contained in the respective Financial Assistance Agreement, the Interlocal Agreement, the Ordinance and this Ordinance, and (iii) the Regional Sewer District is in compliance with its National Pollutant Discharge Elimination System permits, except for non-compliance for which the Parity Bonds are to be issued, including refunding bonds issued prior to, but part of, the overall plan to eliminate such non-compliance.

Notwithstanding any provision of this Ordinance, so long as the 2012A Bonds are outstanding, any future Secured Bonds payable from the Net Revenues shall be junior

and subordinate to the 2012A Bonds as to the payment of their principal of and interest on such bonds.

SECTION 11. Additional Covenants. For the purpose of further safeguarding the interests of the owners of the 2012 Bonds, the Regional Sewer District hereby covenants for the benefit of the 2012 Bondholders as follows:

(a) All contracts let by the Regional Sewer District in connection with the construction of said additions and improvements to the Sewage Works 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 employers' liability and public liability insurance as are required under the laws of the State of Indiana in the case of public contracts, and shall be governed in all respects by the laws of the State of Indiana relating to public contracts.

(b) Said additions and improvements shall be constructed under the supervision and subject to the approval of Moore & Bruggink Consulting Engineers, the Regional Sewer District's Consulting Engineers (the "Consulting Engineers") or such other competent engineer as shall be designated by the Regional Sewer District. All estimates for work done or material furnished shall first be checked and reviewed by the Consulting Engineers and approved by the Regional Sewer District.

(c) The Regional Sewer District 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 2012 Bonds are outstanding, the Regional Sewer District shall maintain insurance coverage acceptable to the Authority if any 2012 Bonds are sold to or owned by the Authority as part of its SRF Program, on the insurable parts of the Sewage Works of a kind and in an amount such as would normally be carried by private companies engaged in a similar type of business. All insurance shall be placed with responsible insurance companies qualified to do business under the laws of the State of Indiana. All insurance proceeds and condemnation awards shall be used in replacing or repairing the property destroyed, damaged or taken, unless the Authority shall consent to a different use of such proceeds or awards if any 2012 Bonds are sold to or are owned by the Authority as part of its SRF Program, or, if no 2012 Bonds are sold to or are owned by the Authority as part of its SRF Program and such proceeds or awards are not used for such purposes, such proceeds or awards may be applied as Net Revenues of the works.

(e) So long as any of the 2012 Bonds are outstanding, the Regional Sewer District shall not mortgage, pledge or otherwise encumber such works, or

any part thereof, nor shall it sell, lease or otherwise dispose of any portion thereof except replace equipment which may become worn out or obsolete, and if any 2012 Bonds are sold to the Authority as part of its SRF Program, *provided* that the Regional Sewer District shall obtain the prior written consent of the Authority.

(f) If any 2012 Bonds are sold to the Authority as part of its SRF Program, the Regional Sewer District 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, without the prior written consent of the Authority if such undertaking would involve, commit or use the revenues of the sewage works nor shall it sell, lease or otherwise encumber such works or any part thereof.

(g) Except with the prior written consent of the holders of all of the 2012 Bonds, including the Authority if any 2012 Bonds are sold to the Authority, so long as any of the 2012 Bonds 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 Regional Sewer District except such as shall be made subordinate and junior in all respects to the 2012 Bonds, unless all of the 2012 Bonds are redeemed, retired or defeased pursuant to the resolution of the Redevelopment District authorizing the 2012 Bonds coincidentally with the delivery of such additional bonds or other obligations.

(h) The provisions of this Ordinance shall constitute a contract by and between the Regional Sewer District and the owners of the 2012 Bonds, and after the issuance of said bonds, this Ordinance shall not be repealed or amended in any respect which will adversely affect the rights of the owners of said bonds, nor shall the District adopt any resolution or ordinance which in any way adversely affects the rights of such owners so long as any of said bonds or the interest thereon remains unpaid; *provided, however*, that if any 2012 Bonds are sold to and owned by the Authority as part of its SRF Program, the District shall obtain the prior written consent of the Authority.

(i) The provisions of this Ordinance shall be construed to create a trust in the portion of the Net Revenues herein directed to be set apart and paid into the Bond and Interest Account for the uses and purposes of said fund as in this Ordinance set forth. The owner of the 2012 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 said Sewage Works in the event of default in the payment or the principal of or interest on any of the 2012 Bonds or in the event of default in respect to any of the provisions of this Ordinance or the Act.

SECTION 12. Tax Covenants. In order to preserve the exclusion of interest on the 2012 Bonds from gross income for federal income tax purposes and as an inducement to purchasers of the 2012 Bonds, the Regional Sewer District represents, covenants and agrees that:

- a. No person or entity, or any combination thereof, other than the Regional Sewer District or any other governmental unit (“Governmental Unit”) within the meaning of Section 141(b)(6) and Section 150(a)(2) of the Internal Revenue Code of 1986, as amended (the “Code”), will use more than ten percent (10%) of the proceeds of the 2012 Bonds or property financed by the Bond proceeds other than as a member of the general public. No person or entity or combination thereof, other than the Regional Sewer District or any other Governmental Unit will own property financed by more than ten percent (10%) of the Bond proceeds or will have actual or beneficial use of such property pursuant to a lease, a management or incentive payment contract, an arrangement such as take-or-pay or other type of output contract or any other type of arrangement that differentiates that person’s or entity’s use of such property from the use by the public at large, except pursuant to a management agreement or similar contract which satisfies the requirements of IRS Revenue Procedure 97-13.
- b. No Bond proceeds will be loaned to any entity or person. No 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 Bond proceeds.
- c. The Regional Sewer District will not take, or cause or permit to be taken by it or by any party under its control, or fail to take or cause or permit to fail to be taken by it or by any party under its control, any action with respect to the 2012 Bonds that would result in the loss of the exclusion from gross income for federal income tax purposes of interest on the 2012 Bonds pursuant to Section 103 of the Code, nor will the Regional Sewer District act in any other manner which would adversely affect such exclusion. The Regional Sewer District further covenants that it will not make any investment or do any other act or thing during the period that any Bond is outstanding hereunder which would cause any Bond to be an “arbitrage bond” within the meaning of Section 148 of the Code and the regulations applicable thereto as in effect on the date of delivery of the 2012 Bonds.
- d. The Regional Sewer District will, to the extent necessary to preserve the exclusion of interest on the 2012 Bonds from gross income for federal income tax purposes, rebate all required arbitrage profits on Bond proceeds or other moneys treated as Bond proceeds to the federal government and will set aside such moneys in a Rebate Account to be held by the President of the Board of Trustees in trust for such purpose.

SECTION 13. Compliance with Tax Sections. Notwithstanding any other provisions of this Ordinance, the covenants and authorizations contained in this Ordinance (“Tax Sections”) which are designed to preserve the tax exempt status of

interest on the 2012 Bonds or the exclusion of interest on the 2012 Bonds from gross income under federal law (“Tax Exemption”) need not be complied with if the Regional Sewer District or the Redevelopment District receives an opinion of nationally recognized bond counsel that any Tax Section is unnecessary to preserve the Tax Exemption.

SECTION 14. Supplemental Ordinances. Without notice to or consent of the owners of the 2012 Bonds, the Redevelopment District may, from time to time and at any time, adopt an ordinance or ordinances supplemental hereto (which supplemental ordinance or ordinances shall thereafter form a part hereof) for any of the following purposes:

(a) To cure any ambiguity or formal defect or omission in this Ordinance or in any supplemental ordinance or to make any other change authorized herein;

(b) To grant to or confer upon the owners of the 2012 Bonds any additional benefits, rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the owners of the 2012 Bonds or to make any change which, in the judgment of the Regional Sewer District, is not to the prejudice of the owners of the 2012 Bonds; or

(c) To accomplish any other purpose which, in the judgment of the Regional Sewer District and the Redevelopment District, does not adversely affect the interests of the owners of the 2012 Bonds.

Subject to the terms and provisions contained in this Section, and not otherwise, the owners of not less than sixty-six and two-thirds percent (66-2/3%) in aggregate principal amount of the 2012 Bonds or other obligations issued pursuant to this Ordinance and then outstanding shall have the right, from time to time, anything contained in this Ordinance to the contrary notwithstanding, to consent to and approve the adoption by the Regional Sewer District of such ordinance or ordinances supplemental hereto as shall be deemed necessary or desirable by the Regional Sewer District for the purpose of modifying, altering, amending, adding to or rescinding in any particular any of the terms or provisions contained in this Ordinance, or in any supplemental ordinance; *provided, however*, that if any 2012 Bonds are sold to the Authority as part of its SRF Program, the Regional Sewer District shall obtain the prior written consent of the Authority; and *provided, further*, that nothing herein contained shall permit or be construed as permitting:

(a) An extension of the maturity of the principal of or interest or premium, if any, on any bond or other obligation issued pursuant to this Ordinance or an advancement of the earliest redemption date of any bond or other obligation; or

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

(c) The creation of a lien upon or a pledge of the revenues of the sewage works ranking prior to the pledge thereof created by this Ordinance; or

(d) A preference or priority of any bond or bonds secured pursuant to this Ordinance over any other bond or bonds or other obligations secured pursuant to the provisions of this Ordinance;

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

(f) A reduction in the Debt Service Reserve Requirement; or

(g) The extension of mandatory sinking fund redemption dates, if any.

The owners of not less than sixty-six and two-thirds percent (66-2/3%) in aggregate principal amount of the 2012 Bonds or other obligations outstanding at the time of adoption of such supplemental ordinance shall have consented to and approved the adoption thereof by written instrument to be maintained on file in the Office of the Board of Trustees of the Regional Sewer District. No owner of any bond or other obligation issued pursuant to this Ordinance shall have any right to object to the adoption of such supplemental ordinance or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the Regional Sewer District or its Officers from adopting the same, or from taking any action pursuant to the provisions thereof. Upon the adoption of any supplemental ordinance pursuant to the provisions of this SECTION, this Ordinance shall be, and shall be deemed, modified and amended in accordance therewith, and the respective rights, duties and obligations under this Ordinance of the Regional Sewer District and all owners of 2012 Bonds secured pursuant to the provisions of this Ordinance then outstanding, shall thereafter be determined, exercised and enforced in accordance with this Ordinance, subject in all respects to such modifications and amendments. Notwithstanding anything contained in the foregoing provisions of this Ordinance, the rights and obligations of the Regional Sewer District and of the owners of the 2012 Bonds secured by this Ordinance, and the terms and provisions of the 2012 Bonds and this Ordinance, or any supplemental ordinance, may be modified or altered in any respect with the consent of the Regional Sewer District and the consent of the owners of all the 2012 Bonds secured pursuant to this Ordinance then outstanding.

SECTION 15. Benefit of Pledge to Regional Sewer District. The Regional Sewer District hereby finds that the pledge all of the Net Revenues (to the extent available) for payment of the principal of and interest on the Bonds will help accomplish the purposes of the Regional Sewer District.

SECTION 16. Irrevocable Pledge. The Regional Sewer District hereby irrevocably pledges all of the Net Revenues to the Redevelopment District to be used solely for the payment of the 2012 Bonds for a term not less than the term of the 2012 Bonds.

SECTION 17. Further Assurances. The proper officers of the Regional Sewer District are hereby authorized to take such further actions and enter into such agreements as they deem necessary or appropriate in furtherance of the matters approved hereby.

SECTION 18. Effectiveness. This Ordinance shall be effective upon passage.

ADOPTED AND APPROVED at a meeting of the Montgomery County Regional Sewer District held on the 7th day of February, 2012.

MONTGOMERY COUNTY REGIONAL
SEWER DISTRICT

President



Vice President



Secretary





EXHIBIT A
INTERLOCAL AGREEMENT

EXHIBIT B

FINANCIAL ASSISTANCE AGREEMENT