

24

60711

FEB 6 1995

344

302 COPY

2000 040560

2000 JUN 30 11 0 40

**KOKOMO WATER WORKS COMPANY**

TO

RECEIVED FOR RECORD

This 6 day of Feb 19 95  
1:48 P M and recorded  
mtg Record No. 344  
Page 302-304 of the record  
of Shelby County, Indiana

**Document is NOT OFFICIAL!**  
THE FIDELITY BANK,  
as Trustee

This Document is the property of  
the Lake County Recorder!

*Anna B. Alley*  
SHELBY COUNTY RECORDER

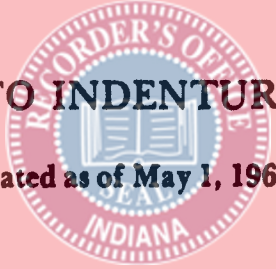
**SECOND SUPPLEMENTAL INDENTURE**

**STOP**

dated as of November 1, 1977

**SUPPLEMENTAL TO INDENTURE OF MORTGAGE**

dated as of May 1, 1968



**GENERAL MORTGAGE BONDS, 8½% SERIES**  
Due November 1, 1997

55.0  
m

034138  
034965

FEB 6 1995

This is a SECOND SUPPLEMENTAL INDENTURE, dated as of the first day of November, 1977, made by and between KOKOMO WATER WORKS COMPANY, a corporation duly organized and existing under the laws of the State of Indiana (hereinafter called the "Company"), and THE FIDELITY BANK, a corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania (hereinafter called the "Trustee").

## RECITALS

The background of this Second Supplemental Indenture is:

A. The Company has heretofore executed and delivered to the Trustee (a) its Indenture of Mortgage dated as of May 1, 1968 (hereinafter sometimes referred to as the "Original Indenture"), and (b) a First Supplemental Indenture dated as of September 1, 1974 (hereinafter sometimes referred to as the "First Supplemental Indenture"), the Original Indenture and any and all indentures supplemental thereto being sometimes referred to hereinafter as the "Indenture", to secure the payment of the principal of and premium (if any) and interest on all bonds at any time issued and outstanding thereunder and to declare the terms and conditions upon which such bonds may be issued.

B. The Company has heretofore executed, issued and delivered and the Trustee has authenticated and delivered under the Indenture (a) \$400,000 aggregate principal amount of General Mortgage Bonds, 7 3/8% Series due July 1, 1993, all of which bonds are presently outstanding, and (b) \$1,100,000 aggregate principal amount of General Mortgage Bonds, 9 7/8% Series due September 1, 1999, \$1,001,000 aggregate principal amount of which bonds are presently outstanding.

C. The Company, in the exercise of the powers and authority conferred upon or reserved to it by the provisions of the Original Indenture and pursuant to appropriate resolutions of its Board of Directors, has duly resolved and determined to make, execute and deliver to the Trustee this second supplemental indenture (hereinafter sometimes referred to as the "Second Supplemental Indenture") in order to create and provide for the issue of a new series of bonds (to be known as "bonds of the 8 1/2% Series" as hereinafter provided in this Second Supplemental Indenture and in the form of bond attached hereto as Exhibit A) and to prescribe with respect to the bonds of the 8 1/2% Series certain particulars as required by paragraph 2 of Section 2.03 of the Original Indenture.

FEB 6 1977

D. The Company proposes to procure the authentication and delivery of an issue of \$2,000,000 aggregate principal amount of bonds of the 8 1/2% Series.

E. All things necessary to make the bonds of the 8 1/2% Series, when duly executed by the Company and authenticated and delivered by the Trustee and issued by the Company as in this Second Supplemental Indenture provided, the valid, binding and legal obligations of the Company, entitled to the benefits and security of the Indenture, and to make this Second Supplemental Indenture a valid, binding and legal instrument in accordance with its terms, have been done and performed, and the issue hereunder of the bonds of the 8 1/2% Series has in all respects been duly authorized.

NOW, THEREFORE, THIS SECOND SUPPLEMENTAL INDENTURE WITNESSETH, that the Company, in consideration of the premises and of the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance by the registered owners thereof of the bonds of the 8 1/2% Series as may be issued under the Indenture, and of One Dollar to it duly paid by the Trustee at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, and in order further to secure the payment of the principal of and premium (if any) and interest on all bonds at any time issued and outstanding under the Indenture, according to their tenor and effect, and the performance and observance by the Company of all the covenants and conditions in such bonds and in the Indenture contained, and intending to be legally bound, does hereby ratify and confirm its mortgage and pledge to the Trustee of all property described in the granting clauses of the Original Indenture and in Exhibit B to the First Supplemental Indenture (except such thereof as may heretofore have been released from the lien of the Indenture in accordance with the terms thereof) and has granted, bargained, sold, released, conveyed, assigned, transferred, mortgaged, pledged, set over and confirmed, and by these presents does grant, bargain, sell, release, convey, assign, transfer, mortgage, pledge, set over and confirm, unto The Fidelity Bank, as Trustee, and to its successors in the trust, and to them and their assigns forever, all those pieces or parcels of land more particularly identified in Exhibit B hereto, which Exhibit is hereby incorporated in and made a part of this Granting Clause as if set forth herein in full.

TOGETHER WITH all and singular the tenements, hereditaments and appurtenances belonging or in any wise appertaining to the aforesaid property, rights and franchises or any part thereof, with the reversion and reversions, remainder and remainders, and to the extent permitted by law, all tolls, rents, revenues, issues, income, product and profits thereof, and all the estate, right, title, interest and claim whatsoever, at law as well as in equity, which the Company now has or may hereafter acquire in and to the aforesaid property, rights and franchises and every part and parcel thereof.

FEB 6 1905

SAVING AND EXCEPTING, HOWEVER, from the property hereby mortgaged and pledged all of the property of every kind and type saved and excepted from the Original Indenture by the terms thereof.

SUBJECT, HOWEVER, to the exceptions reservations and matters of the kind and type recited in the Original Indenture, including, without limitation, the prior lien and all the provisions of the Prior Mortgage, as defined in Article XVI of the Original Indenture.

TO HAVE AND TO HOLD all said premises, property, assets, rights and franchises granted, bargained, sold, released, conveyed, transferred, assigned, mortgaged, pledged, set over or confirmed by the Company as aforesaid or intended so to be unto the Trustee and its successors in the trust, and to them and their assigns forever.

IN TRUST, NEVERTHELESS, upon the terms and trusts set forth in the Original Indenture for the equal and proportionate benefit and security of those who shall own the bonds issued and to be issued under the Indenture or any of them, without preference, priority or distinction of any of said bonds over any others thereof by reason of priority in the time of the issue or negotiation thereof or by reason of the date or maturity thereof, or for any other reason whatsoever, so that all bonds at any time issued and outstanding under the Indenture shall have the same right, lien and preference under and by virtue thereof, and shall all be equally secured thereby, with like effect as if they had all been executed, authenticated and delivered simultaneously on the date of the Original Indenture; provided that the bonds of different series may contain different terms and conditions than the bonds of other series in the respects set forth in Section 1.03 of the Original Indenture; and provided, further, that the Company may in any indenture supplemental to the Original Indenture add to the conditions, limitations, restrictions, covenants and agreements of the Original Indenture, in the manner set forth in clauses (a) and (b) of Section 12.01 thereof, for the sole benefit of any one or more series of bonds.

AND THIS SECOND SUPPLEMENTAL INDENTURE FURTHER WITNESSETH that the Company, for itself and its successors, does hereby covenant and agree to and with the Trustee and its successors in the trust, for the benefit of those who shall own said bonds, or any of them, as follows:

PART I

GENERAL MORTGAGE BONDS, 8 1/2% SERIES

SECTION 1. A series of bonds to be issued under the Indenture and secured thereby is hereby created which shall be designated as, and shall be distinguished from the bonds of all other series by the title, "General Mortgage Bonds, 8 1/2% Series due November 1, 1997, herein called the "bonds" of the 8 1/2% Series". The following terms are hereby prescribed for the bonds of the 8 1/2% Series, in accordance with paragraph 2 of Section 2.03 of the Indenture:

(a) Every bond of the 8 1/2% Series dated prior to May 1, 1978, the first interest payment date for such bonds, shall bear interest from the date of such bond.

(b) The aggregate principal amount of the bonds of the 8 1/2% Series is limited to \$2,000,000.

(c) The bonds of the 8 1/2% Series shall be issuable in denominations of One Thousand Dollars (\$1,000) and any multiple thereof, shall be numbered consecutively CR-1 and upwards, and shall all be registered bonds without coupons.

(d) All bonds of the 8 1/2% Series shall be due November 1, 1997.

(e) The principal of and the premium (if any) and the interest on the bonds of the 8 1/2% Series shall be payable at the principal office of the Trustee in the City of Philadelphia, Pennsylvania (or, if there be a successor trustee, at its principal office), in coin or currency of the United States of America which at the time of payment is legal tender for public and private debts.

(f) The bonds of the 8 1/2% Series shall be dated as of the date of their authentication, except that if any bond of the 8 1/2% Series shall be authenticated on any interest payment date it shall be dated as of the day next following such interest payment date. All bonds of the 8 1/2% Series shall bear interest until maturity at the rate of eight and one-half per cent (8 1/2%) per annum, payable semi-annually on the first day of May and November of each year, commencing on the first day of May, 1978, and the balance of such interest at maturity. Interest shall be computed on the basis of a 360-day year composed of twelve 30-day months.

(g) The bonds of the 8 1/2% Series shall not contain any provisions as to the payment of principal or interest without deduction for, or as to reimbursements of, taxes.

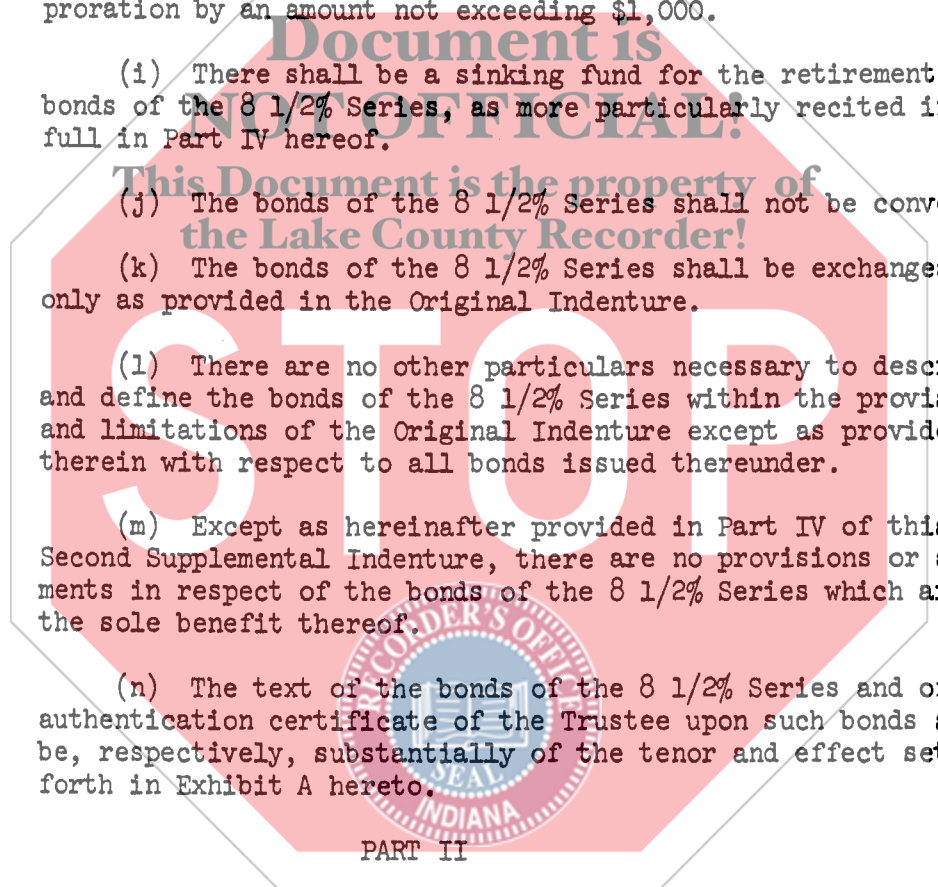
(h) The bonds of the 8 1/2% Series shall be redeemable at the price and on the conditions stated in the form of bond set forth in Exhibit A hereto, any such redemption to be effected in accordance with the provisions of Article IV of the Original Indenture; except that if less than all of the bonds of the 8 1/2% Series are to be redeemed the particular bonds of the 8 1/2% Series (or portion thereof) to be redeemed shall be selected by the Trustee from the outstanding bonds of the 8 1/2% Series by prorating (in the proportion that the principal amount of bonds

344 +

FEB 6 1995

of the 8 1/2% Series held by each registered owner bears to the total principal amount of outstanding bonds of the 8 1/2% Series) the principal amount of bonds of the 8 1/2% Series to be redeemed among the registered owners of bonds of the 8 1/2% Series. In any proration pursuant to this Section, the Trustee shall make such adjustments, reallocations and eliminations as it shall deem proper to the end that the principal amount of bonds so prorated shall be \$1,000 or a multiple thereof, by increasing or decreasing or eliminating the amount which would be allocable to any registered owner on the basis of exact proration by an amount not exceeding \$1,000.

- (i) There shall be a sinking fund for the retirement of bonds of the 8 1/2% Series, as more particularly recited in full in Part IV hereof.
- (j) The bonds of the 8 1/2% Series shall not be convertible.
- (k) The bonds of the 8 1/2% Series shall be exchangeable only as provided in the Original Indenture.
- (l) There are no other particulars necessary to describe and define the bonds of the 8 1/2% Series within the provisions and limitations of the Original Indenture except as provided therein with respect to all bonds issued thereunder.
- (m) Except as hereinafter provided in Part IV of this Second Supplemental Indenture, there are no provisions or agreements in respect of the bonds of the 8 1/2% Series which are for the sole benefit thereof.
- (n) The text of the bonds of the 8 1/2% Series and of the authentication certificate of the Trustee upon such bonds shall be, respectively, substantially of the tenor and effect set forth in Exhibit A hereto.



PART II

ISSUANCE OF BONDS OF THE 8 1/2% SERIES

The bonds of the 8 1/2% Series, as hereinabove defined in Recital C, may be executed by the Company and delivered to the Trustee for authentication, and shall be authenticated and delivered by the Trustee to or upon the order of the Company (which authentication and delivery may be made without awaiting the filing or recording of this Second Supplemental Indenture), upon receipt by the Trustee of the resolutions, certificates, orders, opinions and other instruments required by the provisions of Sections 2.03 and 2.04 of the Original Indenture to be received by the Trustee as a condition to the authentication and delivery of bonds.

FEB 6 1996

## PART III

## AMENDMENTS AND SUPPLEMENTS

The following amendments and supplements shall be made in the Indenture:

SECTION 1. There is hereby added an additional section at the end of Article I of the Original Indenture (page 14) which shall be designated "Section 1.12" and shall read as follows:

"Section 1.12. Notwithstanding any contrary provisions in this Indenture, the Company may enter into a written agreement with any owner of any bond of any series, so long as all of the bonds of that series may be issued only in the form of registered bonds without coupons, providing for the payment to such owner of portions (but not all) of the principal of and the premium, if any, and interest on such bond at a place other than the place specified in such bond as the place for such payment without the necessity of presenting the bond for notation thereon or surrendering the bond for a new bond; provided that (a) if such agreement permits any such payments to be made by the Company directly to the owner of such bond, such agreement must be satisfactory to the Trustee in form and substance, (b) there shall be filed with the Trustee a duplicate original of such agreement, and (c) such agreement shall provide that in each case in which payment of principal is so made, such owner shall not sell, transfer or otherwise dispose of such bond unless he shall have caused notation to be made thereon of all payments of principal on such bond and the last interest payment date to which interest has been paid on such bond and prior to delivery thereof such bond shall have been presented to the Trustee for inspection or surrendered in exchange for a new bond or bonds for the unpaid balance of the principal amount thereof. The Trustee is authorized to approve, and to act in accordance with, any such agreement and shall not be liable or responsible to any such owner or to the Company or to any other person for any act or omission to act on the part of the Company or any such owner in connection with any such agreement. For the purpose of this Section 1.12, the term "owner" shall include, in addition to the registered owner of any bond or bonds, the purchaser named in any contract with the Company for the purchase of such bond or bonds or the person or entity for whom such owner is a nominee."

SECTION 2. Section 2.03 of the Original Indenture (page 14) is hereby amended as follows:

FEB 6 1995

(a) Paragraph 2(h) of Section 2.03 (page 15) is hereby amended to read as follows:

"(h) provisions (if any) as to redemption and the terms, conditions and manner thereof, which may differ from those set forth in Article IV of this Indenture;"

(b) Paragraph 2(i) of Section 2.03 (page 15) is hereby amended to read as follows:

"(i) provisions (if any) for a sinking, purchase or analogous fund for the retirement of bonds of such series and the terms, conditions and manner thereof, which may differ from those set forth in Article IV of this Indenture;"

SECTION 3. There is hereby added an additional section at the end of Article III of the Original Indenture (page 31) which shall be designated "Section 3.18" and shall read as follows:

"Section 3.18. With the written consent of the registered owners of not less than sixty-six and two thirds per cent. (66 2/3%) in principal amount of the bonds then outstanding under this Indenture, compliance with any provision of any covenant, agreement or condition of this Article III (except for Section 3.02) or any other provision of this Indenture (except (i) as contained in Exclusive Benefit Covenants and (ii) as set forth in the second proviso in the first sentence of Article XV of this Indenture), may be waived, either generally or in particular instances, on behalf of the registered owners of all bonds then outstanding; provided, however, that if such consent shall pertain to Sections 3.12, 3.15 or 3.16 no such consent shall be effective unless also consented to in writing by the registered owners of not less than sixty-six and two-thirds per cent. (66 2/3%) in principal amount of each series of bonds then outstanding. Any act or thing which the Company may do or omit to do in accordance with any such consent shall not be deemed to constitute a violation or a default under this Indenture. Any such written consent may be given either before or after the time for compliance with such provision of this Indenture, shall be filed with the Trustee and shall be binding on all registered owners of all bonds then or at any time thereafter outstanding. Notwithstanding the foregoing, compliance with any Exclusive Benefit Covenant may be so waived by the registered owners of such percentage (which, unless otherwise provided in the supplemental indenture establishing the Exclusive Benefit Covenant, shall be sixty-six and two-thirds per cent. (66 2/3%)) of any one or more series of the bonds as may be specified in such supplemental indenture without any requirement for the waiver by the registered owners of any other series of bonds outstanding under this Indenture."



SECTION 4. Section 7.01 of the Original Indenture (page 54) is hereby amended as follows:

(a) Paragraph (c) of Section 7.01 (page 54) is hereby amended to read as follows:

"(c) default shall be made by the Company in the observance or performance of any of the other covenants, agreements or conditions on its part in this Indenture or in any supplemental indenture contained for the benefit of all of the registered owners of bonds outstanding and such default shall continue for sixty (60) days after written notice to the Company by the Trustee electing to treat such event as an event of default, which notice may be given by the Trustee in its discretion, and shall be given at the written request of the registered owners of not less than ten per cent. (10%) in principal amount of the bonds then outstanding; or"

(b) After the semicolon at the end of paragraph (g) of Section 7.01 (page 55), add the word "or".

(c) Immediately after said paragraph (g), add an additional paragraph which shall be designated and shall read as follows:

"(h) default shall be made by the Company in the observance or performance of any Exclusive Benefit Covenant (other than a default in the observance or performance of any covenant requiring payment to any sinking, amortization, purchase or other analogous fund, which shall continue to be governed by paragraph (b) of this Section 7.01) and such default shall continue for a designated number of days (which, unless otherwise provided in the supplemental indenture establishing the Exclusive Benefit Covenant, shall be sixty (60) days) after written notice to the Company by the Trustee electing to treat such event as an event of default, which notice shall only be given by the Trustee at the written request of the registered owners of not less than a designated percentage (which, unless otherwise provided in the supplemental indenture establishing the Exclusive Benefit Covenant, shall be ten per cent. (10%) in principal amount of the bonds then outstanding) of the bonds then outstanding of the series for the protection or benefit of which such Exclusive Benefit Covenant is made;"

(d) At the end of Section 7.01 (page 56), add a sentence which shall read as follows:

FEB 6 1995

344 311

"Anything in this Section 7.01 to the contrary notwithstanding, the rights of the Trustee and of the registered owners of all the bonds (or a given percentage thereof) under this Section 7.01 in the event of a default by the Company in the observance or performance of any Exclusive Benefit Covenant may be exercised only by the registered owners of the series of bonds for the protection or benefit of which such Exclusive Benefit Covenant is made and in accordance with such provisions, if any, as are set forth in the supplemental indenture establishing the Exclusive Benefit Covenant, but only to the extent that such provisions are not inconsistent with the other provisions of this Article VII."

SECTION 5. Paragraph (b) of Section 12.01 of the Original Indenture (page 83) is hereby amended to read as follows:

"(b) To add to the covenants, agreements and conditions of the Company contained in this Indenture, Exclusive Benefit Covenants or further covenants, agreements and conditions for the protection or benefit of the bonds of all series, and in respect of any Exclusive Benefit Covenant (other than any covenant requiring payment to any sinking, amortization, purchase or other analogous fund, which shall be governed by paragraph (b) of Section 7.01) such supplemental indenture may provide for a particular period of grace after default and may establish the percentage or percentages (which may differ) of any one or more series of the bonds which may (i) require the Trustee to declare a default under, (ii) waive a default under, (iii) waive compliance with, or (iv) amend, such Exclusive Benefit Covenant."

SECTION 6. The first paragraph of Article XV of the Original Indenture (page 87) is hereby amended to read as follows:

"Amendments and modifications of this Indenture, or of any indenture supplemental hereto, and of the rights and obligations of the Company and of the owners of the bonds issued and to be issued under this Indenture, may be made with the written consent of the Company and the written consent of the registered owners of not less than sixty-six and two-thirds per cent. (66 2/3%) in principal amount of the bonds then outstanding under this Indenture; provided that any amendment or modification which will affect the rights under this Indenture or any indenture supplemental hereto of the owners of one or more, but less than all, of the series of bonds outstanding under this Indenture or which will amend or modify any Exclusive Benefit Covenant may be made only with the written consent

FEB 6 1995

of the Company and the written consent of the registered owners of not less than sixty-six and two-thirds per cent. (66 2/3%) in total principal amount of the bonds of the series so affected or the bonds of the series for the protection or benefit of which such Exclusive Benefit Covenant is made, as the case may be, then outstanding under this Indenture (unless in the case of any Exclusive Benefit Covenant some other percentage of bonds is provided in the supplemental indenture establishing the Exclusive Benefit Covenant), and may be made with the written consent of the registered owners of said principal amount of the bonds of such series without any requirement for the consent of the registered owners of bonds outstanding under this Indenture which are not affected by such amendment or modification; provided, however, that except with the written consent of each registered owner of any bond affected thereby no amendment or modification shall be made which will permit the extension of the time or times of payment of the principal of or the interest on any bond, or a reduction in the principal amount of any bond or the premium (if any) or the rate of interest thereon, or otherwise affect the terms of payment of the principal of or premium (if any), or interest on, any bonds, or reduce the percentage of principal amount of bonds required by this Article XV for the taking of any action hereunder."

SECTION 7. There is hereby added an additional definition at the end of Article XVI of the Original Indenture (page 92) which shall be designated and shall read as follows:

"11. The term "Exclusive Benefit Covenant" shall mean any covenant, agreement or condition that is expressly stated to be solely for the protection or benefit of the registered owners of the bonds of one or more but less than all series of bonds."

PART IV

COVENANTS WITH RESPECT TO BONDS OF THE 8 1/2% SERIES

SECTION 1. EXCLUSIVE BENEFIT COVENANTS. The covenants, agreements and conditions contained in this Part IV are solely for the protection and benefit of the registered owners of the bonds of the 8 1/2% Series and are therefore Exclusive Benefit Covenants as defined in the Indenture, and the exclusive right to (i) require the Trustee to declare a default under, (ii) waive a default under, (iii) waive compliance with, or (iv) amend, any of such Exclusive Benefit Covenants shall be vested solely in the registered owners of a majority in principal amount of the bonds of the 8 1/2% Series then outstanding. No benefits by reason of such Exclusive Benefit Covenants shall be deemed to be conferred upon persons other than the registered owners of the bonds of the 8 1/2% Series, the Trustee and the Company.

FEB 6 1978

## SECTION 2. SINKING FUND FOR BONDS OF THE 8 1/2% SERIES.

(a) The Company shall pay to the Trustee as and for a Sinking Fund for the redemption and retirement of bonds of the 8 1/2% Series, on November 1, 1978 and on each November 1 thereafter to and including November 1, 1996, so long as any bonds of the 8 1/2% Series are outstanding (the date on which any such payment is required is hereinafter referred to as the "Sinking Fund payment date"), a sum in cash which is sufficient to redeem and retire \$40,000 in principal amount of the bonds of the 8 1/2% Series at the principal amount thereof with interest accrued thereon to the Sinking Fund payment date.

(b) On or before the thirtieth day prior to each Sinking Fund payment date the Trustee shall proceed to select for redemption, in the manner hereinabove provided in Section 1 (h) of Part I, bonds of the 8 1/2% Series in the aggregate principal amount redeemable with the cash required to be paid on the next following Sinking Fund payment date, and in the name of the Company shall give notice to the persons, in the manner prescribed in Article IV of the Original Indenture, of the redemption on the Sinking Fund payment date of the bonds of the 8 1/2% Series so selected.

(c) All cash received by the Trustee pursuant to this Section shall be held by the Trustee as security for the payment of the bonds of the 8 1/2% Series and shall be applied by the Trustee to the redemption of outstanding bonds of the 8 1/2% Series, without premium, on the Sinking Fund payment date on which or for which it was so received.

SECTION 3. COVENANT IN RESPECT OF DIVIDENDS. After the bonds of the 8 1/2% Series have been authenticated and delivered, and so long as any bonds of the 8 1/2% Series are outstanding, without the consent of the registered owners of at least a majority in principal amount of the bonds of the 8 1/2% Series then outstanding, no dividends shall be declared or paid on any shares of common stock of the Company, nor shall any shares of common stock of the Company be purchased or otherwise acquired by the Company, if immediately after or as the result of any such declaration, payment, purchase or other acquisition the sum of the aggregate of the capital of the Company attributable to its common stock plus the amount of all surplus accounts would be reduced to less than \$3,000,000. In determining the aggregate of the capital of the Company attributable to its common stock and the amount of all surplus accounts for the purpose hereof, any write-up or write-down of assets or write-off of the excess over original cost of property made on the books of the Company subsequent to December 31, 1976 shall be disregarded.

344

FER 6 194

314

SECTION 4. COVENANTS WITH RESPECT TO ISSUANCE OF ADDITIONAL BONDS.

(a) So long as any of the bonds of the 8 1/2% Series are outstanding, without the consent of the registered owners of at least a majority in principal amount of the bonds of the 8 1/2% Series then outstanding, the Company shall not issue and the Trustee shall not authenticate additional bonds under Section 2.03 or Section 2.04 of the Original Indenture unless the net income of the Company has been equal to at least one and one-half times the aggregate annual interest charges on all Long Term Debt outstanding immediately after such bonds are issued. The Company shall meet the requirements of this Section 4 by delivering to the Trustee (together with the resolutions, opinions, certificates and instruments provided for in Section 2.03 and Section 2.04) a "Certificate of Required Net Income for Debt" which shall state in substance that the net income of the Company, calculated as hereinafter provided, for a period of twelve consecutive calendar months within the fifteen calendar months immediately preceding the first day of the month in which the additional bonds are to be issued by the Trustee, has been equal to at least one and one-half times the aggregate annual interest charges on all Long Term Debt of the Company to be outstanding immediately after such bonds are issued; provided, however, that in all calculations of such net income effect shall be given to the issue or retirement of any indebtedness that will be accomplished prior to or on the date of such issue and there shall be excepted from such Long Term Debt any thereof for the payment or redemption of which moneys in the necessary amounts have been irrevocably set aside by the Company or deposited with the trustee or other holder of a mortgage or other lien securing any such Long Term Debt. The Certificate of Required Net Income for Debt shall be signed by the President or a Vice President and by the Treasurer or the Assistant Treasurer of the Company and shall set forth the amount of the net income of the Company for such twelve-month period, shall itemize by issue and series the Long Term Debt so to be outstanding and state the aggregate principal amount of each such issue and series and the interest charges thereon for a period of one year. It shall show the method of calculation of such net income to be as follows:

From the total income (except amortization of premium on debt), whether credited to surplus or otherwise, of the Company, from all sources (which shall not include income or losses from the sale of capital assets but shall include as a credit interest charged to construction) for the period in question, there shall be deducted all operating

FEB 6 1925

and nonoperating expenses and charges, including maintenance and depletion as is determined by its Board of Directors in accordance with established practice of the Company, taxes (except as hereinafter provided) and rentals paid or accrued in respect of the properties, license fees and franchise taxes paid or accrued and taxes based upon gross income, gross revenues or gross receipts, but excluding from such deductions Federal and State taxes based on net income paid or accrued, interest charges on indebtedness of the Company, amortization of debt discount and expense, write-downs of property, or other adjustments, and similar items. Any increase or decrease in gross revenues of the Company attributable to higher or lower rates that have been in effect for less than the full twelve-month period on which such calculation is based shall be annualized, and there shall also be annualized such related fixed expenses and charges as are known to the principal officers of the Company.

In case, within or after the period for which the computation of net income of the Company is made, the Company shall have acquired any property (including an acquisition by merger), such acquired property may be treated as having been owned by the Company for the whole of such period of computation and the net income thereof for such period may, at the option of the Company, be included in the net income of the Company, and there shall be excluded, in computing such net income, an amount equal to the net income estimated by the Company to be applicable to any property sold or disposed of by the Company after the beginning of such period of computation.

(b) For the purposes of this Section 4, all determinations of net income shall be made in accordance with the rules and regulations of any governmental body or agency under the jurisdiction of which the Company may be operating, or if there be no such agency or no such rules or regulations, then in accordance with generally accepted accounting principles.

(c) The provisions of this Section 4 shall not limit the power of the Company to issue nor of the Trustee to authenticate bonds under the provisions of Sections 1.04 - 1.11, inclusive, of the Original Indenture in connection with exchanges and transfers.

FEB 6 1996

844

310

PART V

THE TRUSTEE

The Trustee hereby accepts the trusts hereunder and agrees to perform the same, but only upon the terms and conditions set forth in the Original Indenture, as heretofore amended and supplemented, and upon the following terms and conditions:

The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Second Supplemental Indenture or the due execution hereof by the Company or for or in respect of the recitals contained herein, all of which recitals are made by the Company solely. In general, each and every term and condition contained in Article XI of the Original Indenture, as heretofore amended and supplemented, shall apply to this Second Supplemental Indenture with the same force and effect as if the same were herein set forth in full, with such omissions, variations and modifications thereof as may be appropriate to make the same conform to this Second Supplemental Indenture.

PART VI

REAFFIRMATION OF INDENTURE

The covenants, agreements, conditions, limitations and restrictions in the Original Indenture and the First Supplemental Indenture are hereby reaffirmed to the same extent as if they were herein set forth in full, except insofar as any of the provisions thereof may be inconsistent with any of the provisions herein.

PART VII

MISCELLANEOUS PROVISIONS

For all purposes hereof, all terms contained in this Second Supplemental Indenture shall, except as the context may otherwise require or as provided herein, have the meanings given to such terms in the Original Indenture.

This Second Supplemental Indenture may be simultaneously executed in any number of counterparts and all said counterparts executed and delivered, each as an original, shall constitute but one and the same instrument.

FEB 6 1995

344

312

IN WITNESS WHEREOF, KOKOMO WATER WORKS COMPANY has caused these presents to be signed in its corporate name by its President or one of its Vice Presidents and sealed with its corporate seal attested by its Secretary or one of its Assistant Secretaries, and THE FIDELITY BANK has caused these presents to be signed in its corporate name by one of its Vice Presidents or one of its Assistant Vice Presidents and sealed with its corporate seal attested by its Secretary or one of its Assistant Secretaries, all as of the day and year first above written.

KOKOMO WATER WORKS COMPANY

By [Signature]  
President



Document is NOT OFFICIAL!  
This Document is the property of the Lake County Recorder!

Attest: [Signature]  
Assistant Secretary

Signed, sealed and delivered by KOKOMO WATER WORKS COMPANY in the presence of:

[Signature]  
[Signature]

THE FIDELITY BANK

By [Signature]  
Vice President



Attest: [Signature]  
Assistant Secretary

Signed, sealed and delivered by THE FIDELITY BANK in the presence of:

[Signature]  
[Signature]



344 - 318

FEB 6 1978

EXHIBIT A

(FORM OF BOND OF THE 8 1/2% SERIES)

No. CR-

\$

KOKOMO WATER WORKS COMPANY

GENERAL MORTGAGE BOND, 8 1/2% SERIES DUE NOVEMBER 1, 1997

Document is  
 NOT OFFICIAL  
 The Department of Public Safety  
 the Lake County Recorder

KOKOMO WATER WORKS COMPANY, a corporation organized and existing under the laws of the State of Indiana (hereinafter called the "Company", which term shall include any successor corporation as defined in the Indenture hereinafter referred to), for value received, hereby promises to pay to \_\_\_\_\_ or registered assigns, on the first day of November, 1997, at the principal office of the Trustee hereinafter named in the City of Philadelphia, Pennsylvania (or, if there be a successor trustee, at its principal office), the sum of \_\_\_\_\_ Dollars in coin or currency of the United States of America which at the time of payment is legal tender for public and private debts, and to pay interest thereon to the registered owner hereof, at said office, from the interest payment date next preceding the date of this bond (or, if this bond be dated prior to May 1, 1978, from the date hereof) until maturity, at the rate of eight and one-half per cent. (8 1/2%) per annum, in like coin or currency, semi-annually on the first day of May and the first day of November in each year, commencing on the first day of May, 1978, and the balance of such interest at maturity.

This bond is one of an authorized issue of bonds of the Company known as its General Mortgage Bonds, not limited in aggregate principal amount except as provided in the Indenture hereinafter mentioned, all issued and to be issued in one or more series under and equally secured by an indenture of mortgage (hereinafter called the "Original Indenture"), executed by the Company to The Fidelity Bank, as Trustee, dated as of May 1, 1968, as supplemented and amended by a First Supplemental Indenture dated as of September 1, 1974 and a Second Supplemental Indenture dated as of November 1, 1977 (hereinafter called the "Second Supplemental Indenture"), the Original Indenture as so supplemented and amended being hereinafter called the "Indenture", to which Original Indenture and all indentures supplemental thereto reference is hereby made for a description of the property mortgaged and pledged, the nature and extent of the securing, the terms and conditions upon which the bonds are and are to be secured, and the rights of the registered owners thereof and of the Trustee in respect of such security. As provided in the Indenture, said bonds may be issued

in series for various principal sums, may bear different dates and mature at different times, may bear interest at different rates, and may otherwise vary as in the Indenture provided or permitted. This bond is one of the bonds described in the Second Supplemental Indenture and designated therein as "General Mortgage Bonds, 8 1/2% Series due November 1, 1997" (hereinafter referred to as the "bonds of the 8 1/2% Series").

The lien of the Indenture on the property of the Company is subject to the lien of the Prior Mortgage as defined in the Indenture.

The bonds of the 8 1/2% Series are subject to redemption, in whole or in part, at any time and from time to time, at the option of the Company or pursuant to certain requirements of the Indenture, upon notice mailed by registered mail to the registered owners thereof, at least twenty-five days before the redemption date, all on the conditions and in the manner provided in the Indenture; provided, however, that prior to November 1, 1987, no bonds of the 8 1/2% Series may be redeemed by the use, or in anticipation of the receipt, of proceeds from any borrowing at an interest cost of less than eight and one-half per cent. (8 1/2%) per annum, if such borrowing is by the Company or by an entity that directly or indirectly controls, or is controlled by or is under common control with, the Company and is for the purpose of providing funds to the Company for such redemption.

Bonds of the 8 1/2% Series shall be redeemable (a) if redeemed through the operation of the Sinking Fund referred to in Section 2 of Part IV of the Second Supplemental Indenture, or by the use, or in anticipation of the receipt, of moneys derived from the sale to, or other acquisition by or on behalf of, one or more governments or municipal corporations or other governmental subdivisions, bodies, authorities or agencies of any of the assets or stock of the Company or any of the assets of a subsidiary of the Company (including any such sale to or acquisition by an intermediary or intermediaries acquiring such assets or stock under an arrangement for the resale or other disposition thereof to one or more governments or municipal corporations or other governmental subdivisions, bodies, authorities or agencies), at a redemption price of 100% of the principal amount thereof, or (b) if redeemed otherwise than as described in the preceding clause (a), at the redemption price at the time applicable as set forth in the following schedule, in each case together with interest accrued on such bonds to the date fixed for their redemption:

<u>If Redeemed During the 12 Months Commencing</u>	<u>Redemption Price (Percentage of Principal Amount)</u>
November 1, 1977	108.500
November 1, 1978	108.000
November 1, 1979	107.500
November 1, 1980	107.000
November 1, 1981	106.500
November 1, 1982	106.000
November 1, 1983	105.500
November 1, 1984	105.000
November 1, 1985	104.500
November 1, 1986	104.000
November 1, 1987	103.500
November 1, 1988	103.000
November 1, 1989	102.500
November 1, 1990	102.000
November 1, 1991	101.500
November 1, 1992	101.000
November 1, 1993	100.500
November 1, 1994	100.000

And thereafter to maturity at 100% of the principal amount.

If this bond, or any portion hereof, is called for redemption and payment thereof is duly provided for as specified in the Indenture, interest shall cease to accrue hereon or on such portion, as the case may be, from and after the date fixed for redemption.

In the event that all or substantially all of the property of the Company at the time subject to the lien of the Indenture, or all or substantially all of the property of the Company at the time so subject to such lien which is used or useful in connection with its utility business as defined in the Indenture, shall be released from the lien of the Indenture under the provisions of Section 5.03 or Section 5.06 thereof, the award or consideration received by the Trustee for such property (together with any other moneys held by the Trustee under the Indenture) shall be applied by the Trustee to the redemption in full of all bonds then outstanding under the Indenture, any moneys held for the account of any particular bonds being applied to the redemption (or payment, if matured) of such bonds. If the moneys then in the hands of the Trustee available for such purpose shall not be sufficient for such redemption in full, the Company shall deposit with the Trustee on or before the date fixed for redemption an amount sufficient to enable the Trustee to pay the full redemption prices of the bonds at the rate or rates applicable, together with interest accrued to such date and all expenses in connection with such redemption. If the Company shall default in its obligation to deposit any such amount with the Trustee, the moneys in the hands of the Trustee

FEB 6 1944

3444

321

available for such purpose (together with any moneys thereafter received) shall be applied by the Trustee to the partial payment of all bonds then outstanding under the Indenture, pro rata in proportion to the respective amounts then due and owing thereon for principal, premium (if any) and interest but, until the full amount then due and owing on the bonds shall have been paid, no such partial payment shall discharge the obligation of the Company on any bond except to the extent of such partial payment. Notice of any such partial pro rata payment shall be given once by the Trustee to the registered owners of the bonds in the manner hereinabove provided with respect to the redemption of bonds within one week after the date for which the bonds were called for redemption, and from and after a date to be specified in such notice (to be not earlier than the date upon which such notice is given nor later than ten days after such redemption date) interest shall cease to accrue on the obligation of the Company on the bonds so called for redemption to the extent of the partial payment so provided. Subsequently, if any additional moneys applicable to an additional partial payment or to the payment of the entire balance then due on the bonds shall be received by the Trustee, the Trustee shall, with reasonable promptness, give like notice of any such payment (specifying a date within ten days after the date of such notice) with like effect.

The principal of this bond may be declared or may become due prior to its maturity date, in the manner and with the effect and subject to the conditions provided in the Indenture, upon the happening of an event of default as in the Indenture provided; subject, however, to the right, under certain circumstances, of the registered owners of a majority in principal amount of the bonds then outstanding (or, if such event of default be a default in the payment of any principal of or premium or interest on the bonds of any particular series, the registered owners of a majority in principal amount of the bonds of such series then outstanding) to annul such declaration.

In case the Company shall be consolidated with or merged into any other corporation, or all or substantially all of the mortgaged property as an entirety or substantially as an entirety shall be conveyed or transferred, subject to the lien of the Indenture, the corporation resulting from such consolidation, or into which the Company shall have been merged, or which shall have received such conveyance or transfer, may elect to exchange its bonds for bonds outstanding under the Indenture, including the bonds of the 8 1/2% Series, subject to the conditions and in the manner provided in the Indenture.

To the extent permitted by, and as provided in, the Indenture, amendments or modifications of the Original Indenture, or of any indenture supplemental thereto, and of the rights and obligations of the Company and of the owners of the bonds issued and to be issued thereunder, may be made with the written consent of the Company by the written consent of the

registered owners of not less than sixty-six and two-thirds per cent. (66 2/3%) in principal amount of the bonds then outstanding under the Indenture; provided that any amendment or modification which will affect the rights under the Indenture or any indenture supplemental thereto of the owners of one or more, but less than all, of the series of bonds outstanding under the Indenture or which will amend or modify any Exclusive Benefit Covenant (as defined in the Indenture) may be made only with the consent of the Company and the written consent of the registered owners of not less than sixty-six and two-thirds per cent. (66 2/3%) in principal amount of the bonds of the series so affected or the bonds of the series for the protection or benefit of which such Exclusive Benefit Covenant is made, as the case may be, then outstanding under the Indenture (unless in the case of any Exclusive Benefit Covenant some other percentage of bonds is provided in the supplemental indenture establishing the Exclusive Benefit Covenant), and may be made with the written consent of the registered owners of said principal amount of the bonds of such series without any requirement for the consent of owners of bonds outstanding under the Indenture which are not affected by such amendment or modification; provided, however, that except with the written consent of the registered owner of this bond no amendment or modification shall be made which will permit the extension of the time or times of payment of the principal of or the interest on this bond, or a reduction in the principal amount hereof or the premium (if any) or the rate of interest hereon, or otherwise affect the terms of payment of the principal of, or premium (if any) or interest on, this bond, or reduce the percentage of principal amount of bonds the consent of the registered owners of which is required for modification or alteration of the Indenture, or of any indenture supplemental thereto.

This bond is transferable by the registered owner hereof, in person or by duly authorized attorney, on books of the Company to be kept for that purpose at the principal office of the Trustee in the City of Philadelphia, Pennsylvania (or, if there be a successor trustee, at its principal office), upon surrender hereof at such office for cancellation and upon presentation of a written instrument of transfer duly executed, and thereupon the Company shall issue in the name of the transferee or transferees, and the Trustee shall authenticate and deliver, a new registered bond or bonds of the 8 1/2% Series, in authorized denominations, of a like aggregate principal amount; and the registered owner of any bond or bonds of the 8 1/2% Series may surrender the same as aforesaid at said office in exchange for a like aggregate principal amount of bonds of like form, in authorized denominations; all upon payment of the charges and subject to the terms and conditions specified in the Indenture.

The Company and the Trustee may treat the registered owner of this bond as the absolute owner hereof for the purpose of receiving payment hereof, or on account hereof, and for all other purposes.

FEB 6 1995

344 - 323

No recourse under or upon any obligation, covenant or agreement contained in the Indenture or in any indenture supplemental thereto, or in any bond thereby secured, or because of any indebtedness thereby secured, shall be had against any incorporator, or against any past, present or future stockholder, officer or director, as such, of the Company or of any successor corporation, either directly or through the Company or any successor corporation, under any constitution, statute, or rule of law or equity, or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise; it being expressly agreed and understood that the Indenture, any indenture supplemental thereto and the obligations thereby secured are solely corporate obligations, and that no personal liability whatever shall attach to, or be incurred by, such incorporators, stockholders, officers or directors, as such, of the Company, or of any successor corporation, or any of them, because of the incurring of the indebtedness thereby authorized, or under or by reason of any of the obligations, covenants or agreements contained in the Indenture or in any indenture supplemental thereto or in any of the bonds or coupons thereby secured, or implied therefrom.

This bond shall not be entitled to any benefit under the Indenture or any indenture supplemental thereto, and shall not become valid or obligatory for any purpose, until The Fidelity Bank, as the Trustee under the Indenture, or a successor trustee thereunder, shall have signed the form of authentication certificate endorsed hereon.

IN WITNESS WHEREOF, KOKOMO WATER WORKS COMPANY has caused this bond to be signed in its name by its President or a Vice President and its corporate seal to be hereto affixed and attested by its Secretary or an Assistant Secretary, and this bond to be dated



Attest:

Secretary

By

President

(FORM OF TRUSTEE'S AUTHENTICATION CERTIFICATE FOR BONDS OF THE  
8 1/2% SERIES)

Trustee's Authentication Certificate

This bond is one of the bonds, of the series designated therein, described in the within-mentioned Second Supplemental Indenture.

THE FIDELITY BANK, as Trustee

By

Authorized Officer

FEB 6 1995

344 - 324  
BOOK PAGE

EXHIBIT B

(KOKOMO WATER WORKS COMPANY)

I

All of the pieces or parcels of land situate Howard County, State of Indiana, conveyed to the Company by the respective instruments referred to below, which have been recorded as indicated below in the Recorder's Office of said County:

**Document is NOT OFFICIAL!**  
This Document is the property of the Lake County Recorder

<u>Grantor</u>	<u>Date of Deed</u>	<u>Recording Data</u> <u>Record Number</u>	<u>Page Number</u>
Stonybrook Corporation	April 4, 1975	239	723
James B. Bagley, Jr. and Rosalie Bagley	April 2, 1975	239	688
Jack R. Hutcheson and Dolores E. Hutcheson	February 10, 1977	241	394

DEC 6 1977

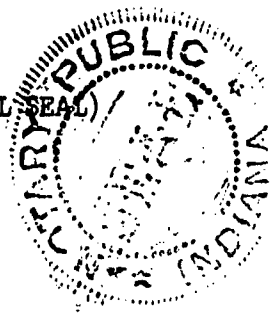
544 - 325

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF WAYNE )

Before me, Ellen Ramel Pearl, a Notary Public in and for the State and County aforesaid, this 6th day of December, 1977, personally appeared J. James Barr and S. B. Givens, to me personally known and known to me to be, respectively, President and Secretary of KOKOMO WATER WORKS COMPANY, and as such President and Secretary and for and on behalf of said corporation acknowledged the execution of the foregoing instrument for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 6th day of December, 1977.

Document is NOT OFFICIAL!  
This Document is the property of the Lake County Recorder!  
*Ellen Ramel Pearl*  
Notary Public  
My Commission expires:  
January 28, 1978



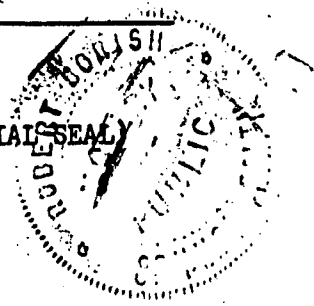
COMMONWEALTH OF PENNSYLVANIA )  
                                  ) SS:  
COUNTY OF PHILADELPHIA )

Before me, *Robert Borish*, a Notary Public in and for the County and State aforesaid, this *9th* day of *December*, 1977, personally appeared *Joseph F. McDonald* and *John H. Chapman*, to me personally known and known to me to be, respectively, a Vice President and an Assistant Secretary of THE FIDELITY BANK, and as such Vice President and Assistant Secretary and for and on behalf of said corporation acknowledged the execution of the foregoing instrument for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this *9th* day of *December*, 1977.

*Robert Borish*  
Notary Public  
My Commission expires:

ROBERT BORISH  
Notary Public, Philadelphia, Philadelphia Co.  
My Commission Expires June 26, 1978





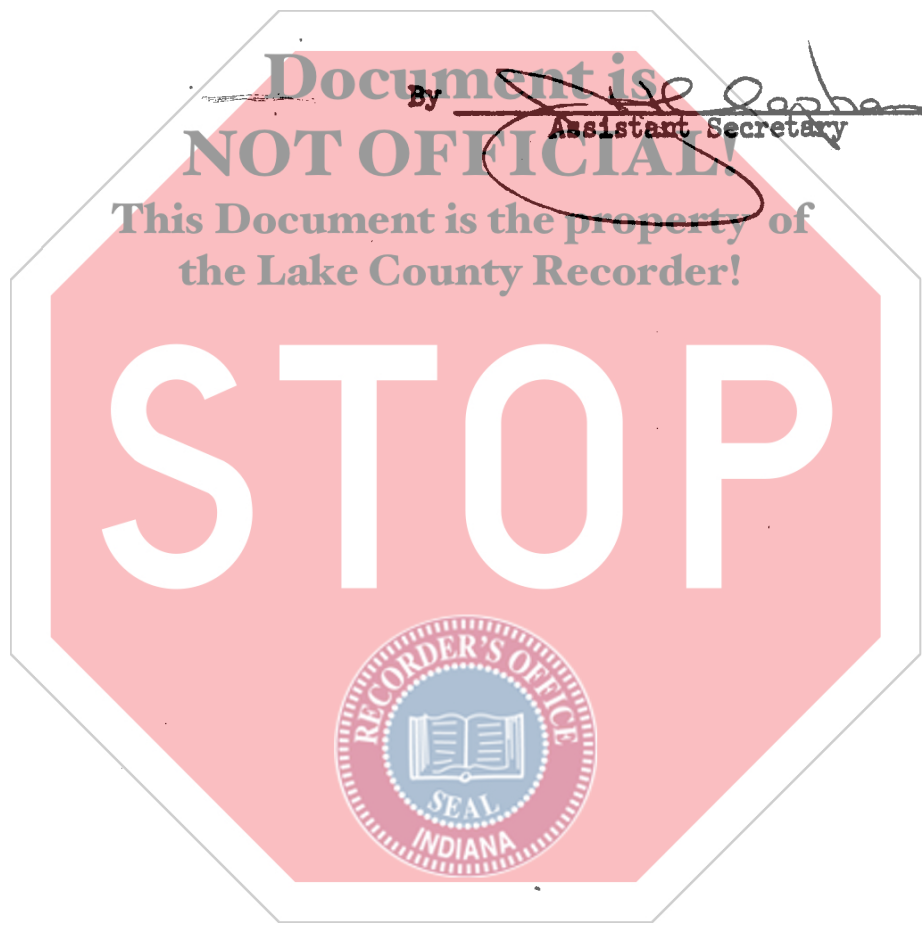
FEB 6 1915

344 326

CERTIFICATE OF RESIDENCE

The Fidelity Bank, mortgagee and trustee within named, hereby certifies that its precise name and address are The Fidelity Bank, 135 South Broad Street, Philadelphia, Pennsylvania.

THE FIDELITY BANK



This instrument was prepared by S. B. Givens, Esq., 1710 Sylvan Nook Drive, Richmond, Indiana.