

ORDINANCE NO. 2013-12

**AN ORDINANCE OF THE COMMON COUNCIL OF THE
CITY OF HOBART, INDIANA, AUTHORIZING THE ISSUANCE OF
ECONOMIC DEVELOPMENT REVENUE BONDS IN ONE (1) OR MORE
SERIES IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO
EXCEED FIVE MILLION EIGHT HUNDRED FIFTY THOUSAND AND
00/100 DOLLARS (\$5,850,000.00) AND APPROVING AND
AUTHORIZING OTHER ACTIONS IN RESPECT THERETO**

WHEREAS, the Common Council of the City of Hobart, Indiana (the "Common Council"), has previously adopted a resolution on March 6, 2013 (the "Inducement Resolution"), finding that the proposed economic development facilities project to be owned and operated by ITR America, LLC (the "Company"), consisting of the acquisition, construction, installation and equipping of a manufacturing facility which shall be approximately 100,000 square feet all to be located on a parcel of land located at 6301 North Wind Parkway in the City (the "Project"), will not have an adverse competitive impact on other facilities of the same or similar kind already constructed or operating in the City of Hobart, Indiana (the "City");

WHEREAS, the City of Hobart, Indiana, Economic Development Commission (the "Commission") has rendered a Report of the Commission concerning the proposed financing of the costs of the Project;

WHEREAS, the Commission after a public hearing conducted on April 15, 2013, adopted a resolution on that date, which resolution has been transmitted hereto, finding that the financing of the costs of certain economic development facilities of the Company complies with the purposes and provisions of IC 36-7-11.9 and IC 36-7-12, as amended, and that such financing will be of benefit to the health, prosperity, economic stability, general welfare and public interest of the City and its citizens;

WHEREAS, the Commission has approved in substantially final form, subject to subsequent changes by the Mayor and the City Clerk-Treasurer, the Loan Agreement by and among the City, the Company and GE Government Finance, Inc., as purchaser of the Bonds (the "Loan Agreement"), the form of the City of Hobart, Indiana, Tax-Exempt Economic Development Revenue Bond, Series 2013A (ITR America, LLC Project) (the "Series A Bond"), and the form of the City of Hobart, Indiana, Taxable Economic Development Revenue Bond, Series 2013B (ITR America, LLC Project) (the "Series B Bond" and with the Series A Bond, the "Bonds"), by such resolution; and

WHEREAS, no member of the Common Council has any pecuniary interest in any employment, financing agreement or other contract made under the provisions of IC 37-7-11.9 and IC 36-7-12, as amended, and relating to the economic development facilities project of the Company or to the issuance of the Bonds, which pecuniary interest has not been

fully disclosed to the Common Council and no such member has voted on any such matter, all in accordance with the provisions of I.C. 36-7-12-16;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF HOBART, INDIANA;

Section 1. The Common Council hereby ratifies and confirms its findings and determinations contained in the Inducement Resolution that the Project will not have an adverse competitive impact on other facilities of the same or similar kind already constructed or operating in the City.

Section 2. The Common Council hereby finds that the financing of the Project previously approved by the Commission and presented to this Common Council, the issuance and sale of the Bonds, the loan of the net proceeds thereof to the Company for the acquisition, renovation, construction, installation and equipping of the Project (the "Loan") and the repayment of the Loan by the Company, will be of benefit to the health, prosperity, economic stability, general welfare and public interest of the City and its citizens and complies with the purposes and provisions of IC-36-7-11.9 and IC 36-7-12, as amended.

Section 3. The proposed financing and the form of the Loan Agreement approved by the Commission are hereby approved and all such documents shall be incorporated herein by reference and shall be inserted in the minutes of the Common Council and kept on file by the Clerk-Treasurer.

Section 4. The City shall issue the Bonds in an aggregate principal amount not to exceed Five Million Eight Hundred Fifty Thousand and 00/100 Dollars (\$5,850,000.00) for the purpose of procuring funds to loan to the Company in order to pay the costs of the acquisition, construction, installation and equipping of the Project as more particularly set forth in the Loan Agreement. The Bonds will be payable as to principal, premium, if any, and interest solely from the payments made by the Company under the Loan Agreement. The Bonds shall never constitute a general obligation of, an indebtedness of, or a charge against the general credit of the City nor are they payable in any manner from revenues raised by taxation. The Series A Bond shall be issued as a fully registered bond in a principal amount not to exceed Four Million Seven Hundred Fifty Thousand and 00/100 Dollars (\$4,750,000.00) and shall mature, be dated, be subject to redemption and be payable in the medium and at the place or places and in the manner provided in the Loan Agreement approved by this Ordinance and incorporated herein by reference. The Series B Bond shall be issued as a fully registered bond in a principal amount not to exceed One Million One Hundred Thousand and 00/100 Dollars (\$1,100,000.00) and shall mature, be dated, be subject to redemption and be payable in the medium and at the place or places and in the manner provided in the Loan Agreement approved by this Ordinance and incorporated herein by reference.

Section 5. The Mayor and the Clerk-Treasurer are authorized and directed to sell the Bonds upon such terms as are set forth in the Loan Agreement with a maximum term of not to exceed fifteen (15) years, at a rate of interest on the Bonds which rate may be a fixed or

variable rate as set forth in the Loan Agreement and incorporated herein by reference, but in no event shall the interest rate on the Bonds exceed ten percent (10.0%) per annum, and at a price equal to not less than 98% of the principal amount thereof plus accrued interest to the date of delivery of the Bonds, if any.

Section 6. The Mayor and the Clerk-Treasurer are authorized and directed to execute, attest, deliver, and affix or imprint by any means the City seal to, the Loan Agreement and the Bonds approved herein on behalf of the City and, by their execution of such documents, they may approve any changes therein without further approval of the Common Council or the Commission excepting, however, such changes as must be approved pursuant to IC 36-7-12-25 and IC 36-7-12-27. The Mayor and the Clerk-Treasurer are each authorized to execute any other documents and take such other action that may be necessary or desirable to consummate the issuance and sale of the Bonds and the Loan to the Company. The signatures of the Mayor and the Clerk-Treasurer on the Bonds may be manual or facsimile signatures. The Clerk-Treasurer is authorized to arrange for delivery of the Bonds to the purchaser thereof. The proceeds of the Bonds net of the expenses incurred in connection with or on account of the issuance of the Bonds shall be made available to the Company pursuant to the Loan Agreement.

Section 7. The Mayor hereby elects to have the provisions of Section 144(a)(4) of the Internal Revenue Code of 1986, as amended, relating to the \$10,000,000 limitation on industrial development bonds, apply to the Series A Bond and hereby authorizes the Clerk-Treasurer to execute any documents necessary or appropriate to evidence such election.

Section 8. The provisions of this Ordinance and the Loan Agreement shall constitute a contract binding between the City and the holder of the Bonds, and after the issuance of said Bonds, this Ordinance shall not be repealed or amended in any respect that would adversely affect the rights of such holder so long as the Bonds or the interest thereon remains unpaid.

Section 9. No recourse under or upon any obligation, covenant, acceptance or agreement contained in this Bond Ordinance, or in the Bonds, the Loan Agreement or under any judgment obtained against the City or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, under or independent of the Loan Agreement, shall be had against any member, director, or officer or attorney, as such, past, present, or future, of the City, either directly or through the City, or otherwise, for the payment for or to the City or any receiver thereof, or for or to any holder of the Bonds secured thereby, or otherwise, of any sum that may be due and unpaid by the City upon any of such Bonds. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such member, director, or officer or attorney, as such, to respond by reason of any act or omission on his or her part, or otherwise, for, directly or indirectly, the payment for or to the City or any receiver thereof, or for or to any owner or holder of the Bonds, or otherwise, of any sum that may remain due and unpaid upon the Bonds hereby secured or any of them, shall be expressly waived and released as a condition of and consideration for the execution and delivery of the Loan Agreement and the issuance of the Bonds.

Section 10. The Bonds shall not constitute a debt or pledge of the faith and credit of the City, the State or any political subdivision thereof, and the holders, or owners thereof shall have no right to have taxes levied by the City, the State or of any political subdivision, for the payment of the principal thereof or interest thereon. Moneys raised by taxation shall not be obligated or pledged for the payment of principal of or interest on the Bonds, and the Bonds shall be payable solely from the revenues and security interests pledged for their payment as authorized by the Trust Indenture.

Section 11. If any section, paragraph or provision of this Bond Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Bond Ordinance.

Section 12. All ordinances, resolutions and orders, or parts thereof, in conflict with the provisions of this Bond Ordinance are, to the extent of such conflict, hereby repealed.

Section 13. Passage of this Ordinance by the Mayor and the affixing by the Mayor of his signature hereto shall constitute and evidence the approval of the elected legislative body of the issuer of the Bonds authorized herein and the approval of the chief elected executive officer of the issuer of the Bonds authorized herein, respectively, as required by Section 103 of the Internal Revenue Code of 1986, as amended.

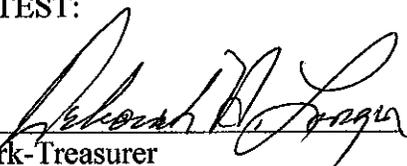
Section 14. This Ordinance shall be in full force and effect from and after compliance with the procedures required by law.

PASSED AND ADOPTED this 17th day of April, 2013.



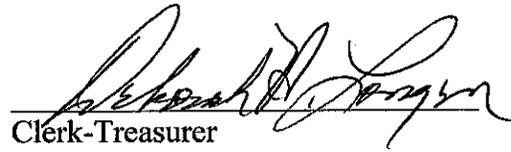
Presiding Officer

ATTEST:

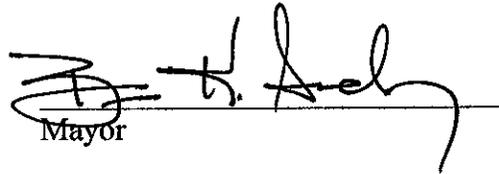


Clerk-Treasurer

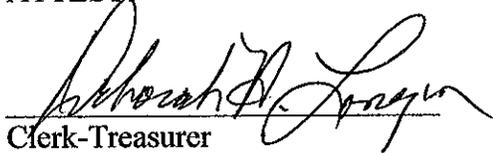
PRESENTED to the Mayor by me this 17th day of April, 2013.


Clerk-Treasurer

APPROVED by me this 17th day of April, 2013.


Mayor

ATTEST:


Clerk-Treasurer