

ORDINANCE NO. 1334

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED TWO MILLION FIVE HUNDRED SEVENTY THOUSAND DOLLARS (\$2,520,000) OF TOWN OF ST. JOHN, LAKE COUNTY, INDIANA ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2004 (ST. JOHN MARKETPLACE, LLC PROJECT); DESIGNATING THE BONDS AS LIMITED OBLIGATIONS OF THE TOWN; APPROVING THE FORM OF, AND AUTHORIZING THE EXECUTION AND DELIVERY OF, THE TRUST INDENTURE, FINANCING AGREEMENT AND OTHER DOCUMENTS RELATED TO THE ISSUANCE AND SALE OF THE BONDS; AND AUTHORIZING PROPER OFFICERS TO DO ALL OTHER THINGS DEEMED NECESSARY OR ADVISABLE IN CONNECTION THEREWITH AND APPROVING AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO

WHEREAS, the Town of St. John, Lake County, Indiana is a political subdivision of the State of Indiana, and by virtue of Title 36, Article 7, Chapters 11.9 and 12, of the Indiana Code, as amended (collectively, the "Act"), is authorized and empowered to adopt this Ordinance and to carry out its provisions; and

WHEREAS, the St. John Economic Development Commission (the "Commission") has rendered its report concerning the proposed financing of economic development facilities for St. John Marketplace, LLC, an Indiana limited liability company (the "Developer"); and

WHEREAS, the Commission, after a public hearing held on February 26, 2004, has adopted a Resolution, which has been transmitted to this Council, (i) finding that the acquisition, construction, expansion, equipping and improving by the Developer of the proposed economic development facilities to be financed (collectively, the "Project") will not have an adverse competitive effect on any similar facilities already constructed or operating in or about the Town, (ii) further finding that the proposed financing of the Project will be of benefit to the health and general welfare of the Town and its citizens, (iii) further finding that the proposed financing of the Project complies with the purposes and provisions of the Act, (iv) approving the financing of the Project, including the form and terms of the Financing Agreement, the Bonds from the Town to the bondholders and the Trust Indenture, more fully described below, and this Ordinance, presented to the Commission, and (v) recommending that this Council find that the proposed financing of the Project will be of benefit to the health and general welfare of the Town and its citizens, and complies with the purposes and provisions of the Act, and that this Council adopt an ordinance approving such financing; and

WHEREAS, this Council believes it is in the best interests of the Town and its citizens to provide a program for financing economic development facilities for developers or users thereof through the issuance of taxable or tax-exempt bonds; and

WHEREAS, the Town, as requested by the Developer, has determined to issue, sell and deliver Town of St. John, Lake County, Indiana Economic Development Revenue Bonds, Series 2004 (St. John Marketplace, LLC Project) in an aggregate principal amount not to exceed \$2,520,000 to make funds available for the financing of the Project (the "Bonds"); and

WHEREAS, the Town desires to sell the Bonds pursuant to a bond purchase agreement among the Town and one or more bond purchasers (collectively the "Purchasers"), in the form of the bond purchase agreement submitted to this Town Council (the "Purchase Agreement"); and

WHEREAS, there have been submitted to this Town Council (the "Council") proposed forms of:

- (i) the Trust Indenture (the "Indenture") to which the Town and Centier Bank, as trustee (the "Trustee") are parties, pursuant to which the Bonds will be issued;
- (ii) the Financing Agreement (the "Financing Agreement") between the Town and the Developer; and
- (iii) the Purchase Agreement pursuant to which the Bonds will be sold.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL, TOWN OF ST. JOHN, LAKE COUNTY, INDIANA, AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The recitals contained in this Ordinance are true and correct and are incorporated in this Ordinance by this reference.

SECTION 2. Findings; Public Benefits. This Council finds that the Project to be financed and refinanced as described in said Financing Agreement are "economic development facilities" within the meaning of the Act and that such facilities will not have an adverse competitive effect on any similar facilities already constructed or operating in or about the Town. This Council further finds that the proposed financing of the Project will be of benefit to the health and general welfare of the Town and its citizens. This Council further finds that the proposed financing of the Project complies with the purposes and provisions of the Act.

SECTION 3. Issuance of the Bonds. The Council hereby authorizes, as part of a program for financing the aforementioned economic development facilities, the issuance of an aggregate principal amount not to exceed \$2,520,000 of the Bonds by the Town, for the purpose of procuring funds to finance the Project, costs of issuance of the Bonds, and expenses related thereto. The Bonds shall be dated the date set forth in the Indenture, and shall be fully registered without coupons. The Bonds shall be payable in the medium and at the place or places, shall bear interest, shall have maturities not exceeding fifteen (15) years from the date of issuance and shall have redemption terms as set forth in the Indenture approved by the Town Council President of the Town (the "Executive") and the Clerk-Treasurer of the Town (the "Clerk").

The Bonds shall be executed on behalf of the Town by, and bear the manual or facsimile signature of, the Executive and Clerk, and the seal of the Town shall be thereunto affixed (or imprinted or engraved if in facsimile).

The Bonds shall be in the form set forth in the final form of the Indenture.

SECTION 4. Limited Obligation. THE BONDS AND THE INTEREST THEREON DO NOT AND SHALL NEVER CONSTITUTE A GENERAL OBLIGATION OF THE TOWN, BUT ARE LIMITED OBLIGATIONS OF THE TOWN PAYABLE SOLELY FROM TAX INCREMENT FINANCE REVENUES WHICH ARE PROPERTY TAX PROCEEDS RECEIVED BY THE ST. JOHN REDEVELOPMENT COMMISSION AND PLEDGED TO THE TOWN PURSUANT TO A RESOLUTION OF THE ST. JOHN REDEVELOPMENT COMMISSION ADOPTED ON FEBRUARY 26, 2004, FROM THE ASSESSED VALUATION OF REAL PROPERTY IN THE SUBDISTRICT S-1 ALLOCATION AREA WITHIN THE ST. JOHN SOUTH ECONOMIC DEVELOPMENT AREA AS SET FORTH IN THE FINANCING AGREEMENT.

SECTION 5. Approval of Financing Documents. The Indenture, the Financing Agreement and the Purchase Agreement are hereby approved in the forms submitted to this meeting, and a copy of each such document shall be kept on file by the Clerk. The Executive and the Clerk are hereby authorized and directed to execute and deliver such documents without further approval of the Council in substantially the forms herein approved with such additions, deletions and modifications thereto as may be approved under the Act, the execution thereof being conclusive evidence of such approval and of the approval of the Council; and the Clerk, or any authorized representative of the Town, is hereby authorized to affix the seal of the Town to such documents and to attest the same. Two copies of the Indenture, the Financing Agreement and the Purchase Agreement hereby incorporated into this Ordinance, were duly filed in the Office of the Clerk and are available for public inspection in accordance with Section 36-1-5-4 of the Indiana Code.

SECTION 6. Trustee. Centier Bank is hereby appointed Trustee under the Indenture. The Indenture may provide that the Trustee thereunder, or another corporate entity, shall act as bond registrar and authenticating agent, and may provide for a co-trustee.

SECTION 7. Delivery of Bonds. After execution on behalf of the Executive and the Clerk, the Bonds shall be delivered to the Trustee, which is hereby authorized and requested to authenticate and deliver the Bonds to or upon the order of the Purchasers in accordance with and upon compliance with the provisions of the Indenture. The Council hereby authorizes the sale of the Bonds pursuant to the Purchase Agreement.

SECTION 8. Other Action. The Executive, the Clerk and the Town Manager of the Town (the "Town Manager") are hereby authorized and directed to execute and deliver, in the name and on behalf of the Town, any and all additional documents and instruments necessary or proper and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this Ordinance (including the recitals hereto and the documents mentioned herein) and the issuance and sale of the Bonds.

The Executive, the Clerk and the Town Manager may, by their execution of the documents requiring their signatures or imprinting of their facsimile signatures thereon, approve changes therein and also in those documents which do not require the signature of the Executive, the Clerk and/or the Town Manager without further approval of this Council if such changes do not affect terms set forth in Indiana Code Title 36, Article 7, Chapter 12, Section 27(a)(1) through (a)(10).

SECTION 9. No Personal Liability. No stipulation, obligation or agreement herein contained or contained in the Indenture, the Financing Agreement, the Purchase Agreement, the Bonds or in any other agreement or document executed on behalf of the Town shall be deemed to be a stipulation, obligation or agreement of any member of the Council, or any officer, agent or employee of the Town in his or her individual capacity, and no such member of the Council, officer, agent or employee shall be personally liable on the Bonds or be subject to personal liability or accountability by reason of the issuance thereof.

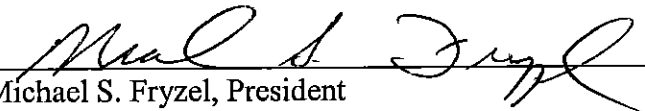
SECTION 10. Action Approved and Confirmed. All acts of the officers of the Town which are in conformity with the purpose and intent of this Ordinance and in the furtherance of the issuance of the Bonds and the execution, delivery and performance of the documents and agreements authorized hereby are in all respects ratified, approved and confirmed.

SECTION 11. Severability. If any provision of this Ordinance shall be held or deemed to be illegal, inoperative or unenforceable, the same shall not affect any other provision or cause any other provision to be invalid, inoperative or unenforceable to any extent whatsoever.

SECTION 12. No Conflict. Any ordinances, resolutions or orders or parts thereof in conflict with this Ordinance are to the extent of such conflict hereby repealed.


SECTION 13. Effective Date. This Ordinance shall be in full force and effect from and after its passage and compliance with Indiana law.

**TOWN OF ST. JOHN, LAKE COUNTY, INDIANA,
TOWN COUNCIL**


Michael S. Fryzel, President

Jerri A. Teibel, Vice-President

Gregory J. Volk, Member


Mark Bagnie, Member

Charles Pearson, Member

ATTEST:


Sherry Surr, Clerk-Treasurer

Passed with a vote of 3 ayes, 1 abstain (no Teibel + 1 No), Mr Volk

SBDS02 PFACCENDA 287131v2

*3/18/04
AS*