STATE OF INDIANA

BEFORE THE BOARD OF CLARK COUNTY COMMISSIONERS

ORDINANCE NO. 13 -2012

AN ORDINANCE RATIFYING AND CONFIRMING THE ESTABLISHMENT OF THE CLARK COUNTY SHERIFF'S DEPARTMENT PENSION TRUST FUND.

WHEREAS, this Board of Commissioners of Clark County, Indiana (this "Board"), is the executive body of Clark County government pursuant to the provisions of IC 36-2-2-2; and,

WHEREAS, this Board is also the legislative body of Clark County Government pursuant to the provisions of IC 36-1-2-9; and,

WHEREAS, the Clark County Sheriff's Department has had established a Pension Trust Fund (the "Sheriff Pension Trust Fund") for an unknown number of years in accordance with the provisions of IC 36-8-10-12, but the State Board of Accounts ("SBOA") has to date been unable to locate the ordinance authorizing the establishment of such Sheriff Pension Trust Fund; and,

WHEREAS, this Board has now identified the need to ratify and confirm the establishment of the Sheriff Pension Trust Fund by the adoption of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by this Board of Clark County Commissioners as follows:

1. Ratification and Confirmation of the Establishment of the Clark County Sheriff's Department Pension Trust Fund. The establishment of the *Clark County Sheriff's Department Pension Trust Fund* (the "Sheriff Pension Trust Fund") is hereby ratified and confirmed, including without limitation, (i) the propriety of all contributions previously made and received

into the Sheriff Pension Trust Fund, and (ii) the propriety of all expenditures and distributions previously made from the Sheriff Department Pension Trust Fund.

2. Purpose of Fund. The Sheriff's Department and its designated trustee may establish and operate an actuarially sound pension trust as a retirement plan for the exclusive benefit of the employee beneficiaries in accordance with the provisions of IC 36-8-10-12.

3. Retirement Age. The normal retirement age for participants in the Sheriff Pension Trust Fund shall be fifty-five (55) years of age. However, the Sheriff may retire an employee who is otherwise eligible for retirement if the Sheriff Department Merit Board (the "Merit Board") finds that the employee is not physically or mentally capable of performing the employee's duties.

4. Contributions. Joint contributions shall be made to the Sheriff Pension Trust Fund as follows:

a. Either by:

(1) the department through a general appropriation provided to the department;

(2) a line item appropriation directly to the Sheriff Pension Trust Fund; or

(3) both; and

b. By an employee beneficiary through authorized monthly deductions from the employee beneficiary's salary or wages. However, the employer may pay all or a part of the contribution for the employee beneficiary.

c. The monthly deductions from an employee beneficiary's wages for the Sheriff Pension Trust Fund may not exceed six percent (6%) of the employee beneficiary's average monthly wages. For a county having a consolidated city, the monthly deductions from an employee beneficiary's wages for the Sheriff Pension Trust Fund may not exceed seven percent (7%) of the employee beneficiary's average monthly wages.

d. The minimum annual contribution by the department must be sufficient, as determined by the pension engineers, to prevent deterioration in the actuarial status of the Sheriff Pension Trust Fund during that year. If the department fails to make minimum contributions for three (3) successive years, the pension trust terminates and the Sheriff Pension Trust Fund shall be liquidated.

5. Distributions; Liquidation.

a. If during liquidation all expenses of the pension trust are paid, adequate provision must be made for continuing pension payments to retired persons. Each employee beneficiary is entitled to receive the net amount paid into the Sheriff Pension Trust Fund from the employee beneficiary's wages, and any remaining sum shall be equitably divided among employee beneficiaries in proportion to the net amount paid from their wages into the Sheriff Pension Trust Fund.

b. If a person ceases to be an employee beneficiary because of death, disability, unemployment, retirement, or other reason, the person, the person's beneficiary, or the person's estate is entitled to receive at least the net amount paid into the Sheriff Pension Trust Fund from the person's wages, either in a lump sum or monthly installments not less than the person's pension amount.

c. If an employee beneficiary is retired for old age, the employee beneficiary is entitled to receive a monthly income in the proper amount of the employee beneficiary's pension during the employee beneficiary's lifetime.

d. To be entitled to the full amount of the employee beneficiary's pension classification, an employee beneficiary must have contributed at least twenty (20) years of service to the department before retirement. Otherwise, the employee beneficiary is entitled to receive a pension proportional to the length of the employee beneficiary's service.

6. Management of the Fund.

a. The Sheriff Pension Trust Fund may not be commingled with other funds, except as provided by IC 36-8-10, *et seq.*, and may be invested only in accordance with applicable Indiana statutes for investment of trust funds, including other investments that are specifically designated in the trust agreement.

b. The trustee receives and holds as trustee all money paid to it as trustee by the department, the employee beneficiaries, or by other persons for the uses stated in the trust agreement.

c. The trustee shall engage pension engineers to supervise and assist in the technical operation of the pension trust in order that there is no deterioration in the actuarial status of the plan.

d. Within ninety (90) days after the close of each fiscal year, the trustee, with the aid of the pension engineers, shall prepare and file an annual report with the department. The report must include the following:

(1) Schedule 1. Receipts and disbursements.

(2) Schedule 2. Assets of the pension trust listing investments by book value and current market value as of the end of the fiscal year.

(3) Schedule 3. List of terminations, showing the cause and amount of refund.

(4) Schedule 4. The application of actuarially computed "reserve factors" to the payroll data properly classified for the purpose of computing the reserve liability of the Sheriff Pension Trust Fund as of the end of the fiscal year.

(5) Schedule 5. The application of actuarially computed "current liability factors" to the payroll data properly classified for the purpose of computing the liability of the Sheriff Pension Trust Fund as of the end of the fiscal year.

e. No part of the corpus or income of the Sheriff Pension Trust Fund may be used or diverted to any purpose other than the exclusive benefit of the members and the beneficiaries of the members.

5. <u>Effective Date of Ordinance.</u> This Ordinance shall be in full force and effect upon its passage and promulgation as evidenced by the affirmative signatures of the undersigned as the majority of the duly elected and serving members of this Board.

So Ordained this 29th day of March, 2012.

Members voting "NO":

Les Young, President

M. Edward Meyer, Commissioner

John D. Perkins, Commissioner

Members voting "YES":

Les Young, President

Absent
M. Edward Meyer, Commissioner

John D. Perkins, Commissioner

Attested by:

R. Monty Snelling, Clark County Auditor