



City of Elkhart

Economic Development

AGENDA FOR ECONOMIC DEVELOPMENT COMMISSION MEETING
MUNICIPAL BUILDING (2ND FLOOR), COUNCIL CHAMBERS
TUESDAY AUGUST 13, 2024 at 5:00 P.M.

THIS MEETING WILL BE HELD IN-PERSON & ELECTRONICALLY VIA WEBEX

To join, go <https://signin.webex.com/join>
enter **2305 687 4376** as the event number and **EDC8** as the event password.

To join by phone, call 1-415-655-0001, enter **2305 687 4376 ##**
*Press *6 to unmute telephone*

Comments and questions may be submitted via the WebEx app during the meeting, or may be submitted to mike.huber@coei.org prior to the meeting.

1. Call to Order
2. New Business
 - a) Proposed financing for Economic Development Facilities for EOZ Business, LLC and River District Development Developers, LLC
 - b) Approve and authorize certain actions and proceedings with respect to certain proposed Economic Development Tax Increment Revenue Bonds and related matters.
3. Public Comment
4. Adjournment

ELKHART ECONOMIC DEVELOPMENT COMMISSION
NOTICE OF PUBLIC HEARING

The City of Elkhart, Indiana ("City") Economic Development Commission ("Commission") will hold a public hearing ("Hearing") at 5:00 p.m. (local time) on August 13, 2024, in the Council Chambers located on the 2nd floor of the Municipal Building, 229 South Second Street, Elkhart, Indiana, regarding: (i) a proposed financing of the cost of a portion of the construction of a mixed-use residential/commercial development in 3 phases consisting of (a) the construction of two (2) buildings consisting of commercial multi-use space to be owned by the Developer (as defined in the hereinafter defined Ordinance) and offered for lease to third parties; (b) the construction of five (5) buildings with three (3) buildings consisting of not less than 85 residential units and 13,500 square feet of commercial space to be owned by the Developer and offered for lease to third parties and two (2) of the buildings consisting of not less than 20 residential units to be owned by the Developer and offered to third parties and Pacific Street pedestrian improvements; and (c) the construction of two (2) buildings of not less than 10 residential units to be offered for sale to third parties, together with all necessary appurtenances, related improvements and equipment (collectively, "Projects"), in or physically connected to the Downtown Urban Renewal Area ("Area") and the respective tax allocation areas for each phase; (ii) the issuance of its [Taxable] Economic Development Revenue Bonds, Series 202___ (to be completed with the year in which issued and series designation) (collectively, "Bonds"), in multiple series, in the total aggregate principal amount not to exceed Twelve Million Dollars (\$12,000,000) to finance the Projects; and (iii) to consider whether the financing will have an adverse competitive effect on any similar facilities already constructed or operating in the City.

The Bonds will be issued by the City pursuant to IC 36-7-11.9, 36-7-12, 36-7-14 and 36-7-25, and an ordinance to be adopted by the Common Council ("Ordinance"). The Bonds will not be payable in any manner by taxation but are proposed to be payable from TIF Revenues (as defined in the Trust Indenture) and as otherwise provided in the Financing and Covenant Agreement, the Trust Indenture and the Ordinance related to the Bonds.

Proceeds of the economic development financing will be used for the construction of the Projects to be located generally at 240-420 E. Jackson Blvd., in the City of Elkhart, Indiana.

The Hearing is being held pursuant to IC 36-7-12-24. The public is invited to attend and comment on any of the matters herein noted. Written comments may also be submitted to the Secretary of the Commission until 11:00 a.m., on August 12, 2024, by delivering such comments to the City of Elkhart, Department of Redevelopment, 201 South Second Street, Elkhart, Indiana.

Dated: August 2, 2024.

ELKHART ECONOMIC DEVELOPMENT
COMMISSION

FINANCING AND COVENANT AGREEMENT

BETWEEN

EOZ BUSINESS, LLC AND RIVER DISTRICT DEVELOPMENT DEVELOPER, LLC

AND

CITY OF ELKHART, INDIANA

Dated as of _____ 1, 2024

The rights of the Issuer hereunder have been assigned to [TRUSTEE], _____,
Indiana, as Trustee under a Trust Indenture dated as of the date hereof from the Issuer.

TABLE OF CONTENTS

	PAGE
ARTICLE I. DEFINITIONS AND EXHIBITS	3
Section 1.1. Terms Defined.....	3
Section 1.2. Rules of Interpretation.....	7
ARTICLE II. REPRESENTATIONS.....	9
Section 2.1. Representations by Issuer.....	9
Section 2.2. Representations by Developer.....	9
Section 2.3. Financing of Series 2024 Bond Proceeds by Issuer	10
ARTICLE III. PARTICULAR COVENANTS OF THE DEVELOPER AND THE ISSUER	11
Section 3.1. Consent to Assignments to Trustee.....	11
Section 3.2. General Covenants	11
Section 3.3. Continuing Existence and Qualification; Assignment, Sale or Other Disposition of Projects	11
Section 3.4. Developer Duties Under Indenture	11
Section 3.5. Reserved.....	12
Section 3.6. Trustee's Right to Perform Developer's Covenants; Advances.....	12
Section 3.7. Indemnity	12
Section 3.8. Funding of Indenture Funds; Investments	12
Section 3.9. Completion of Development.....	13
Section 3.10. Reserved.....	13
ARTICLE IV. APPLICATION OF SERIES 2024 BOND PROCEEDS	14
Section 4.1. Use of Series 2024 Bond Proceeds by Issuer.....	14
Section 4.2. Use of TIF Revenues.....	14
Section 4.3. Estoppel Certificate.....	14
ARTICLE V. EVENTS OF DEFAULT AND REMEDIES THEREFOR.....	15
Section 5.1. Events of Default.....	15
Section 5.2. Right to Bring Suit, Etc.....	16
Section 5.3. Remedies Cumulative	16
Section 5.4. Delay or Omission Not a Waiver	16
Section 5.5. Remedies Subject to Provisions of Law.....	16
Section 5.6. Waiver of Events of Default	16
ARTICLE VI. IMMUNITY	17
Section 6.1. Immunity	17
ARTICLE VII. SUPPLEMENTS AND AMENDMENTS TO THIS FINANCING AGREEMENT	18
Section 7.1. Supplements and Amendments to this Financing Agreement	18
ARTICLE VIII. DEFEASANCE.....	19
Section 8.1. Defeasance	19

TABLE OF CONTENTS

(continued)

	<u>PAGE</u>
ARTICLE IX. MISCELLANEOUS PROVISIONS.....	20
Section 9.1. Financing Agreement for Benefit of Parties Hereto	20
Section 9.2. Severability	20
Section 9.3. Limitation on Interest.....	20
Section 9.4. Addresses for Notice and Demands	20
Section 9.5. Successors and Assigns.....	21
Section 9.6. Counterparts	21
Section 9.7. Governing Law.....	21

FINANCING AND COVENANT AGREEMENT

This is a FINANCING AND COVENANT AGREEMENT dated as of _____ 1, 2024 ("Financing Agreement") by and between EOZ Business, LLC and River District Development Developer, LLC, each a limited liability Developer duly organized, existing and authorized to do business under the laws of the State of Indiana (collectively, "Developer"), and the CITY OF ELKHART, INDIANA ("City or Issuer"), a municipal corporation and political subdivision duly organized and validly existing under the laws of the State of Indiana.

PRELIMINARY STATEMENT

Indiana Code, Title 36, Article 7, Chapters 11.9, -12, -14 and -25 (collectively, "Act") has been enacted by the General Assembly of Indiana.

The Act provides that an Issuer may, pursuant to the Act, issue revenue bonds for the purpose of financing costs of economic development facilities, for diversification of industry and the development and promotion of job opportunities in or near the City and vests the City with powers that may be necessary to enable it to accomplish such purposes.

The Elkhart Redevelopment Commission ("Redevelopment Commission") has established and expanded an urban renewal area needing redevelopment known as the Downtown Urban Renewal Area ("Area"), and approved an urban renewal plan for the Area, as amended to date ("Original Plan"), which Original Plan contained specific recommendations for economic development in the Area, pursuant to a Declaratory Resolution, as amended to date, as confirmed by a Confirmatory Resolution, as amended to date, after public hearings (collectively, "Area Resolution").

The Area Resolution established six allocation areas, including the: (i) Downtown Elkhart Allocation Area No. 4 ("Allocation Area No. 4"); (ii) Downtown Elkhart Allocation Area No. 5 ("Allocation Area No. 5"); and (iii) Downtown Elkhart SF Housing Allocation Area No. 6 ("SF Housing Allocation Area No. 6") (collectively, "Allocation Areas") in accordance with IC 36-7-14-39, for the purpose of capturing property taxes generated from the incremental assessed value of real property located in the Allocation Area;

The Issuer, upon finding that the Projects are needed as a part of and support to the desired Development (each as hereinafter defined) and the proposed financing of the construction thereof will induce the Developer to create additional employment opportunities in the City of Elkhart, Indiana ("City"); assist the City with the existing housing shortage; will benefit the health, safety, morals, and general welfare of the citizens of the City and the State of Indiana; and will comply with the purposes and provisions of the Act, the Issuer adopted an ordinance approving the proposed financing.

The Issuer intends to issue its [Taxable] Economic Development Revenue Bonds, Series 202__ (River District Project) ("Series [A][B][C] Bonds"), in one or more series (to be completed with the year in which issued and series designation) in the aggregate principal amount of \$X,XXX,XXX pursuant to the Trust Indenture dated as of _____ 1, 202__ ("Indenture") between the Issuer to [TRUSTEE], _____, Indiana, as Trustee ("Trustee") and intends to utilize the proceeds of the Series [A][B][C] Bonds pursuant to the provisions of this

Financing Agreement to finance the construction of certain local public improvements, including but not limited to, the construction of a mixed-use development that transforms the existing eastern gateway for downtown Elkhart and its River District, which will initially repurpose the site with new office and retail space, complemented by approximately 115 residential units of varying types, together with all necessary appurtenances, related improvements and equipment and, with respect to the Housing Program (as defined in the Area Resolution), assist with the construction of two or more buildings with a minimum of ten (10) residential units and any and all related public improvements (collectively, "Development") in or physically connected to the Allocation Areas and to pay costs of issuance.

This Financing Agreement provides for the payment by the Commission of the Series [A][B][C] Bonds from [Area No. 4 Tax Increment] [Area No. 5 Tax Increment] [Area No. 6 SF Housing Tax Increment].

Subject to the further provisions of this Financing Agreement, the Series [A][B][C] Bonds will be payable solely out of [Area No. 4 Tax Increment] [Area No. 5 Tax Increment] [Area No. 6 SF Housing Tax Increment], Bond proceeds (less costs of issuance) and Net Proceeds.

In consideration of the premises, the use of the proceeds of the Series [A][B][C] Bonds and of other good and valuable consideration, the receipt whereof is hereby acknowledged, the Developer has executed and delivered this Financing Agreement.

The Developer and the Issuer hereby covenant and agree as follows:

ARTICLE I.

DEFINITIONS AND EXHIBITS

Section 1.1. Terms Defined. As used in this Financing Agreement, the following terms shall have the following meanings unless the context clearly otherwise requires:

"Act" means, collectively, Indiana Code 36-7-11.9, -12, -14 and -25 and any successor provisions of the Indiana Code or successor codes.

"Allocation Area No. 4" means the Downtown Elkhart Allocation Area No. 4.

"Allocation Area No. 5" means the Downtown Elkhart Allocation Area No. 5.

"Allocation Areas" means, collectively, the Downtown Elkhart Allocation Area No. 4, the Downtown Elkhart Allocation Area No. 5 and the Downtown Elkhart SF Housing Allocation Area No. 6.

"Annual Fees" means annual fees of the Trustee and reasonable (in an amount not to exceed \$5,000) annual fees and expenses incurred by the Issuer related to monitoring Tax Increment.

"Area" means the Downtown Urban Renewal Area.

"Area No. 4 Tax Increment" means 100% of the Area No. 4 Tax Increment generated in Allocation Area No. 4 and deposited into the Redevelopment Commission's Allocation Fund, minus the first \$2,200,000 in incremental assessed value generated in Allocation Area No. 4 that will be retained by the Redevelopment Commission and minus the Annual Fees, received by the Redevelopment Commission and pledged to the Issuer for payment of the Series A Bonds pursuant to the TIF Pledge Resolution.

"Area No. 5 Tax Increment" means 100% of the Area No. 5 Tax Increment generated in Allocation Area No. 5 and deposited into the Redevelopment Commission's Allocation Fund, minus the Annual Fees, received by the Redevelopment Commission and pledged to the Issuer for payment of the Series B Bonds pursuant to the TIF Pledge Resolution.

"Area No. 6 SF Housing Tax Increment" means 100% of the Area No. 6 SF Housing Tax Increment generated in the SF Housing Allocation Area No. 6 and deposited into the Redevelopment Commission's Allocation Fund, minus the Annual Fees, received by the Redevelopment Commission and pledged to the Issuer for payment of the Series C Bonds pursuant to the TIF Pledge Resolution.

"Authorized Representative" means: (i) as to the Developer, any officer of the Developer or any other person certified by an officer of the Developer to be such and shall serve as Authorized Representative for the Developer; and (ii) as to the Issuer, any person so designated by the Mayor and authorized to serve as Authorized Representative for the Issuer.

"Bond Counsel" means a nationally recognized firm of municipal bond attorneys acceptable to the Trustee.

"Bond Fund" means the Bond Fund established by Section 4.2 of the Indenture.

"Bond Year" means each twelve-month period ending on any bond payment date.

"Bondholder" or any similar term means the registered owner of a Bond.

"Bonds" means the Series [A][B][C] Bonds and any other bonds issued under the Indenture.

"Business Day" means any day other than a Saturday, Sunday or holiday on which commercial banks in the city or town in which the principal office of the Trustee is located are open for conducting substantially all of its banking activities.

"Commission" means the Elkhart Economic Development Commission.

"Completion Date" means the date of delivery by the Developer to the Trustee of the certificate required by Section 4.4(c) of the Indenture, evidencing the completion of the Development.

"Construction Fund" means the Construction Fund established in Section 4.4 of the Indenture.

"Costs of Construction" means the categorical costs of providing for an "economic development project" as defined and set forth in the Act as follows:

(i) the "Bond Issuance Costs," namely the costs, fees and expenses incurred or to be incurred by the Issuer, Redevelopment Commission and the Developer in connection with the issuance and sale of the Series [A][B][C] Bonds, including placement or other financing fees (including applicable counsel fees), the fees and disbursements of Bond Counsel, fees of the Issuer or Redevelopment Commission's municipal advisor, the fees of the Issuer and Redevelopment Commission's counsel, the acceptance fee and first year annual administrative fee of the Trustee, application fees and expenses, publication costs, the filing and recording fees in connection with any filings or recording necessary under the Indenture, the out-of-pocket costs of the Issuer, the fees and disbursements of counsel to the Developer, the fees and disbursements of the Developer's accountants, the fees and disbursements of counsel to the purchasers of the Bonds, the costs of preparing or printing the Series [A][B][C] Bonds and the documentation supporting the issuance of the Series [A][B][C] Bonds, the costs of reproducing documents, and any other costs of a similar nature reasonably incurred;

(ii) the cost of insurance of all kinds that may be required or necessary in connection with the construction of the Projects;

(iii) all costs and expenses which Issuer or Developer shall be required to pay, under the terms of any contract or contracts (including the architectural and engineering, development, and legal services with respect thereto) for materials and the construction of the Projects; and

(iv) any sums required to reimburse the Issuer, Redevelopment Commission or Developer for advances made by either of them for any of the above items or for any other costs incurred and for work done by either of them which are properly chargeable to the Projects.

"Developer" means, collectively, EOZ Business, LLC and River District Development Company, LLC, limited liability companies duly organized, existing and authorized to do business under the laws of the State of Indiana, or any successors thereto permitted under Section 3.3 hereof.

"Development" means the mixed-use residential/commercial development as further set forth in the Development Agreement [attached hereto and incorporated herein as Exhibit ___].

"Development Agreement" means the Development Agreement dated September 28, 2020, as amended, among the City, the Redevelopment Commission and the Developer.

"Government Obligations" means direct obligations of, or obligations the timely payment of the principal of and the interest on which are fully and unconditionally guaranteed by, the United States of America.

"Indenture" means the Trust Indenture dated as of _____ 1, 202___, from the Issuer to the Trustee and all amendments and supplements thereto.

"Issuer" means the City of Elkhart, Indiana, a municipal corporation and political subdivision duly organized and validly existing under the laws of the State.

"Net Proceeds," when used with respect to any insurance or condemnation award, means the gross proceeds from the insurance or condemnation award remaining after payment of all expenses (including attorneys' fees and expenses and any expenses of the Trustee or the Issuer) incurred in the collection of such gross proceeds.

"Outstanding" means Bonds which have been duly authenticated and delivered by the Trustee under the Indenture, except:

(i) Bonds canceled after purchase in the open market or because of payment at or redemption prior to maturity;

(ii) Bonds for the redemption of which cash or investments (but only to the extent that the full faith and credit of the United States of America are pledged to the timely payment thereof) shall have been theretofore deposited with the Trustee (whether upon or prior to the maturity or redemption date of any such Bonds); provided that if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given or arrangements satisfactory to the Trustee shall have been made therefor, or waiver of such notice satisfactory in form to the Trustee, shall have been filed with the Trustee; and

(iii) Bonds in lieu of which others have been authenticated under Section 2.9 of the Indenture.

"Projects" means collectively the hereinafter defined Series A Projects, the Series B Projects and the Series C Projects, together with all necessary appurtenances and related improvements needed to serve the Development, in or physically connected to the respective Allocation Areas.

"Purchaser" means EOZ Business, LLC and River District Development Company, LLC limited liability companies duly organized, existing and authorized to do business under the laws of the State of Indiana.

"Qualified Investments" means to the extent permitted by the laws of the State of Indiana (i) Government Obligations; (ii) bonds, debentures, participation certificates or notes issued by any of the following: Federal Farm Credit Banks, Federal Financing Bank, Federal Home Loan Banks, Federal National Mortgage Association or Federal Home Loan Mortgage Corporation; (iii) certificates of deposit, time deposits and other interest-bearing deposit accounts with any banking institution, including the Trustee, which are insured by the Federal Deposit Insurance Corporation; (iv) any money market fund, sweep account, mutual fund or trust, which may be funds or trusts of the Trustee or Paying Agent, as shall invest solely in a portfolio of obligations described in (i) or (ii) above or money market funds rated, at the time of purchase, in the highest category by Moody's Investors Service or Standard & Poor's Ratings Group; (v) repurchase agreements with the Trustee or any of its affiliated banks or any other bank having a net worth of at least \$100,000,000 secured by a pledge and physical delivery (except in the case of securities issued in book-entry form, which shall be registered in the name of the Trustee) to the Trustee or third-party bank, as custodian of obligations described in (i) or (ii) hereof; (vi) municipal obligations the interest on which would be excluded from the gross income of the owners thereof for federal tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended, if (a) rated, at the time of purchase, in one of the three highest rating categories of either Moody's Investors Service or Standard & Poor's Ratings Group, or, (b) if fully secured by securities guaranteed as to principal and interest by the United States of America; and (vii) stock of a Qualified Regulated Investment Developer which invests solely in obligations described in (vi) above.

"Redevelopment Commission" means the Elkhart Redevelopment Commission.

"Series [A][B][C] Bonds" or "Bonds" means the [Taxable] Economic Development Revenue Bonds, Series [A][B][C] (to be completed with the year in which issued and series designation) (River Project) to be issued by the Issuer under the Indenture in the aggregate principal amount of \$X,XXX,XXX.

"Series A Projects" means the construction of two (2) buildings consisting of commercial multi-use space to be owned by Developer and offered for lease to third parties.

"Series B Projects" means the construction of five (5) buildings with three (3) of the buildings consisting of not less than 85 residential units and 13,500 square feet of commercial space to be owned by the Developer and offered for lease to third parties and with two (2) of the buildings consisting of not less than 20 residential units to be owned by the Developer and offered to third parties and Pacific Street pedestrian improvements.

"Series C Projects" means the construction of two (2) buildings of not less than 10 residential units to be offered for sale to third parties.

"SF Housing Allocation Area No. 6" means the Downtown Elkhart SF Housing Allocation Area No. 6.

"State" means the State of Indiana.

"Tax Increment" means collectively, Area No. 4 Tax Increment, Area No. 5 Tax Increment and Area No. 6 SF Housing Tax Increment.

"TIF Pledge Resolution" means the resolution of the Redevelopment Commission adopted on _____, 2024, pledging Area No. 4 Tax Increment, [Area No. 5 Tax Increment and Area No. 6 SF Housing Tax Increment] to the Issuer for the payment of debt service on the respective Series [A][B][C] Bonds.

"TIF Revenues" means, [collectively,] the Area No. 4 Tax Increment, [Area No. 5 Tax Increment and Area No. 6 SF Housing Tax Increment] pledged, generated and collected by the Redevelopment Commission.

"Trustee" means the trustee and/or co-trustee at the time serving as such under the Indenture and shall initially mean [TRUSTEE], _____, Indiana.

"Written Request" means a request in writing from an Authorized Representative of the party making the request.

Section 1.2. Rules of Interpretation. For all purposes of this Financing Agreement, except as otherwise expressly provided, or unless the context otherwise requires:

(a) "This Financing Agreement" means this instrument as originally executed and as it may from time to time be supplemented or amended pursuant to the applicable provisions hereof.

(b) All references in this instrument to designated "Articles," "Sections" and other subdivisions are to the designated Articles, Sections and other subdivisions of this instrument as originally executed. The words "herein," "hereof" and "hereunder" and other words of similar import refer to this Financing Agreement as a whole and not to any particular Article, Section or other subdivision.

(c) The terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular and the singular as well as the plural.

(d) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles as consistently applied.

(e) Any terms not defined herein but defined in the Indenture shall have the same meaning herein.

(f) The terms defined elsewhere in this Financing Agreement shall have the meanings therein prescribed for them.

[Remainder of page intentionally left blank.]

ARTICLE II.

REPRESENTATIONS

Section 2.1. Representations by Issuer. Issuer represents and warrants that:

(a) The Issuer is a municipal corporation duly organized and validly existing under the laws of the State. Under the provisions of the Act, the Issuer is authorized to enter into the transactions contemplated by this Financing Agreement and to carry out its obligations hereunder. The Issuer has been duly authorized to execute and deliver this Financing Agreement.

(b) The Issuer agrees to provide funds from the issuance of the Series [A][B][C] Bonds for financing a portion of the construction of the Projects to induce the Developer to construct the Development, to the end that industry and the economy may be diversified and job opportunities promoted.

(c) The Issuer covenants that it will timely pay the TIF Revenues to the Trustee as provided in the Indenture. The Issuer represents and warrants that the TIF Pledge Resolution of the Redevelopment Commission was validly adopted and constitutes a valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms.

Section 2.2. Representations by Developer. Developer represents and warrants that:

(a) The Developer is a limited liability Developer duly organized and validly existing under the laws of the State of Indiana and authorized to do business in the State of Indiana, is not in violation of any laws in any manner material to its ability to perform its obligations under this Financing Agreement, has full power to enter into and perform its obligations under this Agreement, and by proper action has duly authorized the execution and delivery of this Financing Agreement.

(b) The execution and delivery of this Financing Agreement and the performance by the Developer of its obligations under this Financing Agreement, (i) have been duly and effectively authorized by all necessary limited liability action on company the part of the Developer, (ii) do not conflict with or result in any breach of any of the material terms, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any material lien, charge or encumbrance upon any property or assets of the Developer pursuant to any indenture, loan agreement or other agreement or instrument (other than this Financing Agreement to which the Developer is a party or by which the Developer, its properties or operations may be bound), and (iii) will not result in any material violation of the provisions of the operating agreement or similar governing documents of the Developer or any material laws, ordinances, governmental rules or regulations or court or other governmental orders to which the Developer, its properties or operations are subject.

(c) The execution, delivery and performance by the Developer of this Financing Agreement does not require the consent or approval of, the giving of notice to, the registration with, or the taking of any other action in respect of, any federal, state or other governmental authority or agency, not previously obtained or performed.

(d) Assuming the due authorization, execution and delivery thereof by the other parties thereto, this Financing Agreement has been duly executed and delivered by the Developer and constitutes the legal, valid and binding agreement of the Developer, enforceable against the Developer in accordance with its terms, except as may be limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights in general.

(e) There are no actions, suits or proceedings pending, or, to the knowledge of the Developer, threatened, before any court, administrative agency or arbitrator which, individually or in the aggregate, might result in any material adverse change in the financial condition of the Developer or might impair the ability of the Developer to perform its obligations under this Financing Agreement.

(f) To the Developer's knowledge, no event has occurred and is continuing which with the lapse of time or the giving of notice would constitute an event of default under this Financing Agreement.

(g) The Developer expects to complete construction of the Development by _____, 202____. [NOTE: does the City want to put completion timing on each phase?]

(h) The Developer, as the Purchaser of the Series [A][B][C] Bonds, shall bear the risk of nonpayment of the Bonds and recognizes that the Issuer's obligation to the repayment of the Bonds is limited to available TIF Revenues, and that the owners of the Series [A][B][C] Bonds shall bear the risk that the TIF Revenues are not sufficient to pay the principal of and interest on the Series [A][B][C] Bonds.

Section 2.3. Financing of Series 2024 Bond Proceeds by Issuer. Concurrently with the execution and delivery hereof, the Issuer is issuing the Series [A][B][C] Bonds and is providing the proceeds from the sale thereof to the Developer by making the deposits and payments specified in Section 3.1 and 4.6 of the Indenture.

(End of Article II)

ARTICLE III.

PARTICULAR COVENANTS OF THE DEVELOPER AND THE ISSUER

Section 3.1. Consent to Assignments to Trustee. The Developer acknowledges and consents to the assignment of the Issuer's rights hereunder to the Trustee pursuant to the Indenture and agrees that the Trustee may enforce the rights, remedies and privileges granted to the Issuer hereunder and agrees to execute and deliver supplements and amendments to this Financing Agreement pursuant to Section 7.1 hereof.

Section 3.2. General Covenants. (a) The Developer covenants and agrees with and for the express benefit of the Issuer, the Trustee and the owners of the Bonds that the Developer shall perform all of its obligations, covenants and agreements hereunder, without notice or demand.

(b) Until such time as the construction of the Projects and Development shall have been completed, the Developer: (i) will perform and observe all of its agreements contained in this Financing Agreement; and (ii) will not terminate this Financing Agreement for any cause, including, without limiting the generality of the foregoing, failure of the Developer to complete the Development, the occurrence of any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Development, commercial frustration of purpose, any change in the tax laws of the United States of America or of the State or any political subdivision of either thereof, or any failure of the Issuer or the Trustee to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Financing Agreement or the Indenture.

Section 3.3. Continuing Existence and Qualification; Assignment, Sale or Other Disposition of Projects. The Developer covenants that until such time as the Series [A][B][C] Bonds have been paid in full, it will maintain in good standing its corporate existence and qualification to do business in the State, will not dissolve or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it; provided that the Developer may, without violating its agreement contained in this Section, consolidate with or merge into another corporation or other entity, or permit one or more other corporations or other entities to consolidate with or merge into it, or sell or otherwise transfer to another corporation or entity all or substantially all of its assets as an entirety and thereafter dissolve, provided the surviving, resulting or transferee entity (such corporation being hereinafter called the "Surviving Corporation") (if other than the Developer) expressly accepts, agrees and assumes in writing to pay and perform all of the obligations of the Developer herein and be bound by all of the agreements of the Developer contained in this Financing Agreement to the same extent as if the Surviving Corporation had originally executed this Financing Agreement, and the Surviving Corporation is an Indiana corporation or is a foreign corporation or partnership, trust or other person or entity organized under the laws of one of the states of the United States and is qualified to do business in the State of Indiana as a foreign corporation or partnership, trust or other person or entity.

Section 3.4. Developer Duties Under Indenture. The Developer agrees to perform all matters provided by the Indenture to be performed by the Developer and to comply with all provisions of the Indenture to be complied with by the Developer.

Section 3.5. Reserved.

Section 3.6. Trustee's Right to Perform Developer's Covenants; Advances. Only if the owner of the Bonds is other than the Purchaser, if the Developer shall fail to (i) complete or cause the completion of the construction and equipping of the Projects, or (ii) fail to make any payment or perform any other act required to be performed hereunder, then and in each such case the Trustee, upon not less than 30 days' prior written notice to the Developer, may (but shall not be obligated to) remedy such default for the account of the Developer and make advances for that purpose. No such performance or advance shall operate to release the Developer from any such default, and any sums so advanced by the Trustee shall be repayable by the Developer on demand and shall bear interest at the Trustee bank's prime rate plus [two] percent [(2%)] from the date of the advance until repaid.

Section 3.7. Indemnity. The Developer will pay, protect, defend, indemnify and save the Issuer and the Trustee harmless from and against, all liabilities, losses, damages, costs, expenses (including reasonable attorneys' fees and expenses of the Issuer and the Trustee), causes of actions, suits, claims, demands and judgments of any nature arising from a breach by the Developer of any covenant, agreement, representation or warranty in this Financing Agreement (except with respect to any breach of any of Issuer's covenants, agreements, representations or warranties included in this Financing Agreement or which may be incurred by the Trustee as a result of its acceptance of or arising from the performance of its duties under the Indenture and except for damage resulting from willful or gross negligent actions by the Issuer and the Trustee).

The Developer will pay, protect, defend, indemnify and save the Commission and the Redevelopment Commission harmless from and against, all liabilities, losses, damages, costs, expenses (including reasonable attorneys' fees and expenses of the Commission and the Redevelopment Commission), causes of actions, suits, claims, demands and judgments of any nature to the extent arising from breach by the Developer of any covenant, agreement, representation or warranty in this Financing Agreement (except with respect to any breach of any of Commission's or Redevelopment Commission's covenants, agreements, representations or warranties included in this Financing Agreement and except for damage resulting from willful or negligent actions by the Commission or the Redevelopment Commission).

If any proceeding is instituted for which indemnity may be sought under this Section 3.7, the party that may seek such indemnity shall notify the Developer and the Issuer in writing in a timely manner to allow the Developer to defend any action or claim in such proceeding.

Section 3.8. Funding of Indenture Funds; Investments. The Issuer shall deposit with the Trustee proceeds from the sale of the Series [A][B][C] Bonds in the manner specified in Article 3 of the Indenture, and the Trustee shall deposit such proceeds in the manner specified in such Article.

The Developer and the Issuer agree that all moneys in any Fund established by the Indenture shall, at the written direction of the Developer, be invested in Qualified Investments. In the absence of written investment direction from the Developer, the Trustee shall not be responsible or liable for keeping the moneys held by it hereunder fully invested in Qualified Investments.

The Trustee is hereby authorized to trade with itself in the purchase and sale of securities for such investments and may charge its ordinary and customary fees for such trades, including cash sweep account fees. The Trustee shall not be liable or responsible for any loss resulting from any such investment properly obtained in accordance with the Developer's direction. All such investments shall be held by or under the control of the Trustee and any income resulting therefrom shall be applied in the manner specified in the Indenture. Although the Issuer and the Developer each recognizes that it may obtain a broker confirmation or written statement containing comparable information at no additional cost, the Issuer and the Developer hereby agree that confirmations of permitted investments are not required to be issued by the Trustee for each month in which a monthly statement is rendered. No statement need be rendered for any fund or account if no activity occurred in such fund or account during such month.

Section 3.9. Completion of Development. (a) The Developer agrees, subject to Force Majeure and other conditions or events beyond the Developer's control, that it will use reasonable efforts to cause to be made, executed, acknowledged and delivered any contracts, orders, receipts, writings and instructions with any other persons, firms, corporations or partnerships and in general do all things which may be requisite or proper, all for constructing and completing the Development by _____, 202___. [NOTE: Does the City want to tie completion to each phase?]

The Developer agrees, for the benefit of the Issuer and the Bondholders and in order to fulfill the purposes of the Act, to complete the construction of the Development and to pay from other funds of the Developer that portion of the costs of the Projects as may be in excess of the moneys available therefor in the Construction Fund. The Issuer does not make any warranty, either express or implied, that the moneys, which will be paid into the Construction Fund and which under the provisions of this Financing Agreement will be available for payment of the costs of the construction of the Projects, will be sufficient to pay all the costs which will be incurred in that connection.

The Issuer has, in Section 4.4 of the Indenture, authorized and directed Trustee to make payments from the Construction Fund to pay the Costs of Construction, or to reimburse Developer or the Issuer for any Costs of Construction paid by it in the manner and subject to the provision of Section 4.4 thereof.

The Completion Date of the respective Projects shall be evidenced to Trustee by a certificate signed by an Authorized Representative of the Issuer in compliance with the provision of Section 4.4(c) of the Indenture and any excess proceeds in the Construction Fund at such time shall be deposited in the Bond Fund and used to prepay the Series [A][B][C] Bonds as provided in Section 4.4(d) of the Indenture, provided, however that any failure to file such certificate shall not constitute an Event of Default under this Financing Agreement or the Indenture.

Section 3.10. Reserved.

(End of Article III)

ARTICLE IV.

APPLICATION OF SERIES 2024 BOND PROCEEDS

Section 4.1. Use of Series 2024 Bond Proceeds by Issuer. Concurrently with the execution and delivery hereof, the Issuer is issuing the Series [A][B][C] Bonds and is depositing the proceeds from the sale thereof with the Trustee for use by making the deposits and payments specified in Section 3.1 and 4.4 of the Indenture; provided such proceeds shall be used solely in connection with the development of the Projects and advanced and used solely in accordance with the terms of this Financing Agreement and the Indenture.

Section 4.2. Use of TIF Revenues. Issuer covenants as follows:

(a) Upon receipt of Written Request of the Developer pursuant to Section 4.4(b) of the Indenture, the Trustee shall distribute sums for Costs of Construction of the Projects as those costs are incurred until the Trustee has distributed the aggregate total amount of _____ Dollars (\$X,XXX,XXX). All of the foregoing is for the benefit of the holders of the Series [A][B][C] Bonds, to the end that industry and the economy may be diversified and job opportunities promoted and retained, and to secure the Series [A][B][C] Bonds by pledging the TIF Revenues to the Trustee.

Section 4.3. Estoppel Certificate. The Issuer shall, upon reasonable request of the Developer, provide the Developer (or such person as the Developer requests) with a certificate stating that an Event of Default by Developer has not occurred hereunder as of the date of such certificate, provided that such statement of facts is true.

(End of Article IV)

ARTICLE V.

EVENTS OF DEFAULT AND REMEDIES THEREFOR

Section 5.1. Events of Default. (a) The occurrence and continuance of any of the following events shall constitute an "event of default" hereunder:

(i) failure of the Developer to observe and perform any covenant, condition or provision hereof, including all warrants and representations, and to remedy such default within 30 days after notice thereof from the Trustee to the Developer, unless the Issuer shall have consented thereto in writing; provided, however, that the Developer shall have such additional time as is reasonably necessary to cure any non-monetary default that is not capable of being cured within such 30-day period so long as the Developer is diligently pursuing such cure to completion; or

(ii) until such time as the Projects and Development have been completed, the entry of a decree or order for relief by a court having jurisdiction in the premises in respect of the Developer in an involuntary case under any applicable bankruptcy, insolvency or similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) of the Developer or for any substantial part of its property, or ordering the windup or liquidation of its affairs; or the filing and pendency for ninety days without dismissal of a petition initiating an involuntary case under any other bankruptcy, insolvency or similar law; or

(iii) until such time as the Projects and Development have been completed, the commencement by the Developer of any voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, whether consent by it to an entry to an order for relief in an involuntary case and under any such law or to the appointment of or the taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) of the Developer or of any substantial part of its property, or the making by the Developer of any general assignment for the benefit of creditors, or the failure of the Developer generally to pay its debts as such debts become due, or the taking of corporate action by the Developer in furtherance of any of the foregoing.

(b) Subject to the further provisions of this Article V, during the occurrence and continuance of any Event of Default hereunder, Issuer shall have the rights and remedies hereinafter set forth in addition to any other remedies herein or provided at law or in equity (provided that the Issuer shall have the right to assign and delegate all such remedies to the Trustee, who may exercise any or all such remedies):

(i) No Further Proceeds. The Issuer shall, upon an Event of Default, be entitled to direct the Trustee to cease honoring draw requests from the Construction Fund or from other proceeds of the Series [A][B][C] Bonds and the Developer shall not be entitled to further draws from the Construction Fund or be entitled to other proceeds from the Series [A][B][C] Bonds during the continuance of any such Event of Default.

Section 5.2. Right to Bring Suit, Etc. The Issuer, with or without entry, personally or by attorney, may in its discretion, proceed to protect and enforce its rights by a suit or suits in equity or at law, whether for recovery of amounts due, for damages or for the specific performance of any covenant or agreement contained in this Financing Agreement or in aid of the execution of any power herein granted, or for the enforcement of any other appropriate legal or equitable remedy, as the Issuer shall deem most effectual to protect and enforce any of its rights or duties hereunder against Developer; provided, however that all costs incurred by the Issuer under this Article V including its attorneys' fees and costs of collection, shall be paid by the Developer to the Issuer within thirty (30) days' after receipt of written demand and receipt of all reasonably requested back-up information (e.g., receipts, and paid invoices). The Developer acknowledges and agrees that the breach of some of its obligations cannot be cured by the payment of money and that equitable relief is an appropriate remedy.

Section 5.3. Remedies Cumulative. No remedy herein conferred upon or reserved to the Trustee is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

Section 5.4. Delay or Omission Not a Waiver. No delay or omission of the Trustee to exercise any right or power accruing upon any event of default shall impair any such right or power, or shall be construed to be a waiver of any such event of default or an acquiescence therein; and every power and remedy given by this Financing Agreement to the Trustee may be exercised from time to time and as often as may be deemed expedient by the Trustee.

Section 5.5. Remedies Subject to Provisions of Law. All rights, remedies and powers provided by this Article may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that they will not render this Loan Agreement invalid or unenforceable under the provisions of any applicable law.

Section 5.6. Waiver of Events of Default. If after any event of default shall have occurred under this Financing Agreement and prior to the Trustee exercising any of the remedies provided in this Article, the Developer shall have completely cured such default, such default may be waived at the discretion of the Issuer and, if so waived, shall be rescinded and annulled by the Trustee by written notice given to the Developer.

(End of Article V)

ARTICLE VI.

IMMUNITY

Section 6.1. Immunity. No covenant or agreement contained in the Bonds, this Financing Agreement or the Indenture shall be deemed to be a covenant or agreement of any member of the Issuer or the Commission or of any officer or employee of the Issuer, the Commission or their legislative and fiscal bodies in his or her individual capacity, and neither the members of the Issuer, the Commission, nor any officer or employee of the Issuer executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance of the Bonds.

(End of Article VI)

ARTICLE VII.

SUPPLEMENTS AND AMENDMENTS TO THIS FINANCING AGREEMENT

Section 7.1. Supplements and Amendments to this Financing Agreement. Subject to the provisions of Article 10 of the Indenture, the Developer and the Issuer may, with the consent of the Trustee, from time to time enter into such supplements and amendments to this Financing Agreement as to them may seem necessary or desirable to effectuate the purposes or intent hereof.

(End of Article VII)

ARTICLE VIII.

DEFEASANCE

Section 8.1. Defeasance. If provision shall have been made for the satisfaction and discharge of the Indenture as provided therein, then and in that case this Financing Agreement shall thereupon cease, terminate and become void; and this Financing Agreement, and the covenants of the Developer contained herein, shall be discharged and the Issuer and the Trustee in such case on demand of the Developer and at its cost and expense, shall execute and deliver to the Developer a proper instrument or proper instruments acknowledging the satisfaction and termination of this Financing Agreement.

(End of Article VIII)

ARTICLE IX.

MISCELLANEOUS PROVISIONS

Section 9.1. Financing Agreement for Benefit of Parties Hereto. Nothing in this Financing Agreement, express or implied, is intended or shall be construed to confer upon, or to give to, any person other than the parties hereto, their successors and assigns the Trustee, any right, remedy or claim under or by reason of this Financing Agreement or any covenant, condition or stipulation hereof; and the covenants, stipulations and agreements in this Financing Agreement contained are and shall be for the sole and exclusive benefit of the parties hereto, their successors and assigns, the Trustee and the holder of the Series [A][B][C] Bonds.

Section 9.2. Severability. If any one or more of the provisions contained in this Financing Agreement or in the Series [A][B][C] Bonds shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein, shall not in any way be affected or impaired thereby.

Section 9.3. Limitation on Interest. No provisions of this Financing Agreement shall require the payment or permit the collection of interest in excess of the maximum permitted by law. If any excess of interest in such respect is herein provided for, or shall be adjudicated to be so provided for herein, neither the Developer nor its successors or assigns shall be obligated to pay such interest in excess of the amount permitted by law, and the right to demand the payment of any such excess shall be and hereby is waived, and this provision shall control any provisions of this Financing Agreement inconsistent with this provision.

Section 9.4. Addresses for Notice and Demands. All notices, demands, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, postage prepaid, with proper address as indicated below. The Issuer, the Developer and the Trustee may, by written notice given by each to the others, designate any address or addresses to which notices, demands, certificates or other communications to them shall be sent when required as contemplated by this Financing Agreement. Until otherwise provided by the respective parties, all notices, demands certificates and communications to each of them shall be addressed as follows:

To the Issuer: City of Elkhart, Indiana
 229 South 2nd Street
 Elkhart, IN 46516
 Attention: Controller

To the Developer: EOZ Business, LLC

 Attention: _____

To the Developer: River District Development Developer, LLC

Attention: _____

To the Trustee:

Attention: Corporate Trust Department

Section 9.5. Successors and Assigns. At any time in this Financing Agreement any of the parties hereto is named or referred to, the successors and assigns of such party shall be deemed to be included and all the covenants, promises and agreements in this Financing Agreement contained by or on behalf of the Developer, or by or on behalf of the Issuer, shall bind and inure to the benefit of the respective successors and assigns, whether so expressed or not.

Section 9.6. Counterparts. This Financing Agreement is being executed in any number of counterparts, each of which is an original and all of which are identical. Each counterpart of this Financing Agreement is to be deemed an original hereof and all counterparts collectively are to be deemed but one instrument.

Section 9.7. Governing Law. It is the intention of the parties hereto that this Financing Agreement and the rights and obligations of the parties hereunder and the rights and obligations of the parties thereunder, shall be governed by and construed and enforced in accordance with, the laws of the State.

(End of Article IX)

IN WITNESS WHEREOF, the Issuer has caused this Financing Agreement to be executed in its name by its authorized officers and the Developer has caused this Financing Agreement to be executed in its name by its authorized officer, all as of the date first written above.

EOZ BUSINESS, LLC

By: _____

Printed: _____

Title: _____

RIVER DISTRICT DEVELOPMENT COMPANY,
LLC

By: _____

Printed: _____

Title: _____

CITY OF ELKHART, INDIANA

Mayor

(SEAL)

Attest:

Controller

This instrument prepared by Lisa A. Lee, Ice Miller LLP, One American Square, Suite 2900, Indianapolis, IN 46282-0200.

BOND PURCHASE AGREEMENT

BOND PURCHASE AGREEMENT, dated as of the _____ day of _____, 202__, by and between the City of Elkhart, Indiana ("City" or "Issuer"), a municipal corporation duly organized and existing under the laws of the State of Indiana and EOZ Business, LLC and River District Development Company, LLC (collectively, "Developer").

WITNESSETH:

WHEREAS, the City has duly authorized the issuance of its bonds designated "Taxable Economic Development Revenue Bonds of 202__ (to be completed with the year in which issued and series designation) (River District Project)" ("Series 202__ Bonds") in the aggregate principal amount of \$XX,XXX,XXX, by the adoption of its Bond Ordinance on July 1, 2024, a true and correct copy of which is incorporated herein by reference ("Bond Ordinance") and as described in the Trust Indenture, dated as of _____ 1, 202__ ("Indenture") between the City and [TRUSTEE], as trustee ("Trustee"); and

WHEREAS, the Developer, as purchaser of the Series 202__ Bonds (hereinafter "Purchaser"), has authorized the purchase of the Series 202__ Bonds;

NOW, THEREFORE, THE DEVELOPER, AS PURCHASER, AND THE CITY AGREE:

Section 1. Purchase and Sale of the Series 202__ Bonds. (a) The Purchaser hereby agrees to purchase the Series 202__ Bonds and the City hereby agrees to use its best efforts to issue the Series 202__ Bonds and to sell the Series 202__ Bonds to the Purchaser at their face value (\$XX,XXX,XXX). The Series 202__ Bonds shall be paid for in installments, and the first installment shall be in the amount of \$XXX,XXX. The Series 202__ Bonds shall be dated their date of issuance. The Series 202__ Bonds shall bear interest at the rate of _____ percent (___%) per annum, payable semiannually on February 1 and August 1, beginning on _____ 1, 202__. The Series 202__ Bonds shall mature on _____ 1, 20__ and be subject to optional and mandatory sinking fund redemption prior to their stated maturities as set forth in Exhibit A attached hereto and made a part hereof. The Series 202__ Bonds shall constitute a contract between the City and the Purchaser, as the owner of the Series 202__ Bonds.

(b) The City has taken or will take prior to closing all actions required by law to enable it to issue its Series 202__ Bonds.

(c) Prior to delivery of the Series 202__ Bonds by the City, the Purchaser will provide an investment letter to the effect that by acceptance of the Series 202__ Bonds the Purchaser will be deemed to have consented to all of the terms and provisions of the Bond Ordinance, the Indenture and the Financing Agreement (both as defined in the Indenture) and will represent that:

(1) It is a sophisticated investor and it is familiar with securities such as the Series 202__ Bonds.

(2) It is familiar with the City, the Elkhart Redevelopment Commission ("Commission") and the Elkhart Redevelopment District ("District"); it has received such information concerning the City, the Series 202____ Bonds, the Indenture, the [Area No. 4 Tax Increment][Area No. 5 Tax Increment][Area No. 6 SF Housing Tax Increment] (as defined in the Indenture), as it deems to be necessary in connection with investment in the Series 202____ Bonds. It has received, read and had an opportunity to comment upon and has consented to the provisions of the Indenture, the Series 202____ Bonds and the Financing Agreement. Prior to the purchase of the Series 202____ Bonds, it has been provided with the opportunity to ask questions of and receive answers from the representatives of the City concerning the terms and conditions of the Series 202____ Bonds, the tax status of the Series 202____ Bonds, legal opinions and enforceability of remedies, the security therefor, and property tax reform (including the hereinafter defined Circuit Breaker), and to obtain any additional information needed in order to verify the accuracy of the information obtained to the extent that the City possesses such information or can acquire it without unreasonable effort or expense. It is not relying on Ice Miller LLP, Baker Tilly Municipal Advisors, LLC or _____ for information concerning the financial status of the City, the Commission or the District, or the ability of the City or the Commission to honor their financial obligations or other covenants under the Series 202____ Bonds, the Indenture or the Financing Agreement. It understands that the projection of [Area No. 4 Tax Increment] [Area No. 5 Tax Increment] [Area No. 6 SF Housing Tax Increment] prepared by Baker Tilly Municipal Advisors, LLC in connection with the issuance of the Series 202____ Bonds has been based on estimates of the investment and assessed value growth assumption in real property provided by the Developer.

(3) It understands that the City's collection of the [Area No. 4 Tax Increment][Area No. 5 Tax Increment][Area No. 6 SF Housing Tax Increment] may be limited by operation of IC 6-1.1-20.6, which provides taxpayers with tax credits for property taxes attributable to different classes of property in an amount that exceeds certain percentages of the gross assessed value of that property ("Circuit Breaker"). The City may not increase its property tax levy or borrow money to make up any shortfalls due to the application of this tax credit. It further understands that neither the City nor the Commission has the authority to levy a tax to pay principal of or interest on the Series 202____ Bonds.

(4) It is acquiring the Series 202____ Bonds for its own account with no present intent to resell; and it will not sell, convey, pledge or otherwise transfer the Series 202____ Bonds without prior compliance with applicable registration and disclosure requirements of state and federal securities laws.

(5) It understands that the Series 202____ Bonds have not been registered under the 1933 Act and, unless so registered, may not be sold without registration under the 1933 Act or an exemption therefrom. It is aware that it may transfer or sell the Series 202____ Bonds only if the Trustee shall first have received: (i) a satisfactory opinion of counsel that the sale or transfer will not violate the 1933 Act, the Securities Exchange Act of 1934 and the Investment Company Act of 1940 and regulations issued pursuant to such Acts; or (ii) a no-action letter of the staff of the Securities and Exchange

Commission that the staff will recommend that no action be taken with respect to such sale or transfer; or (iii) a certificate stating that they reasonably believe that the transferee is a "Qualified Institutional Buyer" within the meaning of Section (a) of Rule 144A ("Rule 144A") promulgated by the Securities and Exchange Commission pursuant to the 1933 Act and has informed the transferee of the transfer restrictions applicable to the Series 202____ Bonds and that the transferor may be relying upon Rule 144A with respect to the transfer of the Series 202____ Bonds.

(6) It has investigated the security for the Series 202____ Bonds, including the availability of [Area No. 4 Tax Increment][Area No. 5 Tax Increment][Area No. 6 SF Housing Tax Increment], to its satisfaction, and it understands that the Series 202____ Bonds are payable solely from [Area No. 4 Tax Increment][Area No. 5 Tax Increment][Area No. 6 SF Housing Tax Increment], subject to any rescission provisions of the Financing Agreement.

(7) It recognizes that: (a) the opinions it has received express the professional judgment of the attorneys participating in the transaction as to the legal issues addressed herein; (b) by rendering such opinions, the attorneys do not become insurers or guarantors of (i) that expression of professional judgment; (ii) the transaction opined upon; or (iii) the future performance of parties to such transaction; and (c) the rendering of the opinions does not guarantee the outcome of any legal dispute that may arise out of the transaction.

(8) It understands that the City has no continuing disclosure obligations with regard to the Series 202____ Bonds.

(9) It understands the Series 202____ Bonds are being issued on a taxable basis.

(d) Simultaneously with the delivery to, or at the direction of, the Purchaser of the Series 202____ Bonds, which Series 202____ Bonds shall be substantially in the form set forth in the Indenture, the City shall furnish to the Purchaser a transcript of proceedings and the opinion of Ice Miller LLP, bond counsel, addressed to the Trustee as to, among other things, the validity of the Series 202____ Bonds.

Section 2. If any provision of this Purchase Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Purchase Agreement and this Purchase Agreement shall be construed and be in force as if such invalid or unenforceable provision had not been contained herein.

Section 3. This Purchase Agreement may be executed in one or more counterparts, any of which shall be regarded for all purposes as an original and all of which constitute but one and the same instrument. The Purchaser and the City each agree that they will execute any and all documents or other instruments and take such other actions as may be necessary to give effect to the terms of this Purchase Agreement.

Section 4. No waiver by either the Purchaser or the City of any term or condition of this Purchase Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different section, subsection, paragraph, clause, phrase or other provision of this Purchase Agreement.

Section 5. This Purchase Agreement merges and supersedes all prior negotiations, representations, and agreements between the Purchaser and the City relating to the subject matter hereof and constitutes the entire agreement among the Purchaser and the City in respect hereof.

IN WITNESS WHEREOF, we have hereunto set our hands as of the day first above written.

CITY OF ELKHART, INDIANA

Mayor

Attest:

Controller

IN WITNESS WHEREOF, I have hereunto set my hand as of the day first above written.

EOZ BUSINESS, LLC, as Developer/Purchaser

By: _____

RIVER DISTRICT DEVELOPMENT COMPANY,
LLC, as Developer/Purchaser

By: _____

EXHIBIT A

Maturity Schedule

Date Amount
\$ _____

Optional Redemption

The Series 202____ Bonds are subject to optional redemption prior to maturity on any date, upon thirty (30) days' notice, in whole or in part, in such order as the City shall direct in writing and by lot within maturities, at face value, with no premium, plus in each case, accrued interest to the date fixed for redemption.

Mandatory Sinking Fund Redemption

The Series 202____ Bonds maturing on _____ 1, 20__ are subject to mandatory sinking fund redemption prior to maturity, at a redemption price equal to the principal amount thereof on February 1 and August 1 on the dates and in the amounts set forth below:

<u>Date</u>	<u>Amount</u>	<u>20__ Term Bond</u>	<u>Date</u>	<u>Amount</u>

*

*Final Maturity

[In addition, to the extent [Area No. 4 Tax Increment] [Area No. 5 Tax Increment] [Area No. 6 SF Housing Tax Increment] exceeds the debt service due on the Series 202____ Bonds, the Series 202____ Bonds shall be redeemed upon seven (7) days' written notice, at face value, plus in each case accrued interest to the date fixed for redemption, with no premium.]

TRUST INDENTURE

BETWEEN

CITY OF ELKHART, INDIANA

AND

[TRUSTEE]

_____, Indiana

as Trustee

\$X,XXX,XXX

CITY OF ELKHART, INDIANA

[TAXABLE] ECONOMIC DEVELOPMENT
REVENUE BONDS, SERIES 202____
(RIVER DISTRICT PROJECT)

Dated as of _____ 1, 202____

TABLE OF CONTENTS

Page

ARTICLE I. DEFINITIONS **ERROR! BOOKMARK NOT DEFINED.**

- Section 1.1. Terms Defined.....**Error! Bookmark not defined.**
- Section 1.2. Rules of Interpretation**Error! Bookmark not defined.**
- Section 1.3. Exhibits**Error! Bookmark not defined.**

ARTICLE II. THE SERIES 202__ BONDS **ERROR! BOOKMARK NOT DEFINED.**

- Section 2.1. Authorized Amount of Series 202__ Bonds**Error! Bookmark not defined.**
- Section 2.2. Issuance of Series 202__ Bonds.....**Error! Bookmark not defined.**
- Section 2.3. Payment on Series 202__ Bonds.....**Error! Bookmark not defined.**
- Section 2.4. Execution; Limited Obligation.....**Error! Bookmark not defined.**
- Section 2.5. Authentication.....**Error! Bookmark not defined.**
- Section 2.6. Form of Series 202__ Bonds.....**Error! Bookmark not defined.**
- Section 2.7. Delivery of Series 202__ Bonds**Error! Bookmark not defined.**
- Section 2.8. Issuance of Additional Bonds**Error! Bookmark not defined.**
- Section 2.9. Mutilated, Lost, Stolen, or Destroyed Series 202__ Bonds**Error! Bookmark not define**
- Section 2.10. Registration and Exchange of Series 202__ Bonds; Persons Treated
as Owners.....**Error! Bookmark not defined.**

ARTICLE III. APPLICATION OF SERIES 202__ BOND PROCEEDS**ERROR! BOOKMARK NOT DEI**

- Section 3.1. Deposit of Funds**Error! Bookmark not defined.**

ARTICLE IV. REVENUE AND FUNDS **ERROR! BOOKMARK NOT DEFINED.**

- Section 4.1. Source of Payment of Bonds.....**Error! Bookmark not defined.**
- Section 4.2. Bond Fund.....**Error! Bookmark not defined.**
- Section 4.3. Reserved.....**Error! Bookmark not defined.**
- Section 4.4. Construction Fund.....**Error! Bookmark not defined.**
- Section 4.5. Reserved.....**Error! Bookmark not defined.**
- Section 4.6. TIF Revenues**Error! Bookmark not defined.**
- Section 4.7. Trust Funds**Error! Bookmark not defined.**
- Section 4.8. Investment.....**Error! Bookmark not defined.**

ARTICLE V. REDEMPTION OF BONDS BEFORE MATURITY**ERROR! BOOKMARK NOT DEFINED**

- Section 5.1. Redemption Dates and Prices**Error! Bookmark not defined.**
- Section 5.2. Notice of Redemption**Error! Bookmark not defined.**
- Section 5.3. Cancellation**Error! Bookmark not defined.**
- Section 5.4. Redemption Payments.....**Error! Bookmark not defined.**
- Section 5.5. Partial Redemption of Series 202__ Bonds **Error! Bookmark not defined.**

ARTICLE VI. GENERAL COVENANTS..... **ERROR! BOOKMARK NOT DEFINED.**

Section 6.1.	<u>Payment of Principal and Interest</u>	Error! Bookmark not defined.
Section 6.2.	<u>Performance of Covenants</u>	Error! Bookmark not defined.
Section 6.3.	<u>Ownership; Instruments of Further Assurance</u>	Error! Bookmark not defined.
Section 6.4.	<u>Filing of Indenture, Financing Agreement and Security Instruments</u>	Error! Bookmark not defined.
Section 6.5.	<u>Inspection of Books</u>	Error! Bookmark not defined.
Section 6.6.	<u>List of Bondholders</u>	Error! Bookmark not defined.
Section 6.7.	<u>Rights Under Financing Agreement</u>	Error! Bookmark not defined.
Section 6.8.	<u>Investment of Funds</u>	Error! Bookmark not defined.
Section 6.9.	<u>Non-presentment of Bonds</u>	Error! Bookmark not defined.
Section 6.10.	<u>Direction of Bondholders</u>	Error! Bookmark not defined.
Section 6.11.	<u>Reserved</u>	Error! Bookmark not defined.

ARTICLE VII. DEFAULTS AND REMEDIES **ERROR! BOOKMARK NOT DEFINED.**

Section 7.1.	<u>Events of Default</u>	Error! Bookmark not defined.
Section 7.2.	<u>Reserved</u>	Error! Bookmark not defined.
Section 7.3.	<u>Remedies; Rights of Bondholders</u>	Error! Bookmark not defined.
Section 7.4.	<u>Right of Bondholders to Direct Proceedings</u>	Error! Bookmark not defined.
Section 7.5.	<u>Application of Moneys</u>	Error! Bookmark not defined.
Section 7.6.	<u>Remedies Vested In Trustee</u>	Error! Bookmark not defined.
Section 7.7.	<u>Rights and Remedies of Bondholders</u>	Error! Bookmark not defined.
Section 7.8.	<u>Termination of Proceedings</u>	Error! Bookmark not defined.
Section 7.9.	<u>Waivers of Events of Default</u>	Error! Bookmark not defined.

ARTICLE VIII. THE TRUSTEE AND PAYING AGENT**ERROR! BOOKMARK NOT DEFINED.**

Section 8.1.	<u>Acceptance of the Trusts</u>	Error! Bookmark not defined.
Section 8.2.	<u>Fees, Charges and Expenses of Trustee and Paying Agent</u>	Error! Bookmark not defined.
Section 8.3.	<u>Notice to Bondholders if Default Occurs</u>	Error! Bookmark not defined.
Section 8.4.	<u>Intervention by Trustee</u>	Error! Bookmark not defined.
Section 8.5.	<u>Successor Trustee</u>	Error! Bookmark not defined.
Section 8.6.	<u>Resignation by the Trustee</u>	Error! Bookmark not defined.
Section 8.7.	<u>Removal of the Trustee</u>	Error! Bookmark not defined.
Section 8.8.	<u>Appointment of Successor Trustee by the Bondholders; Temporary Trustee</u>	Error! Bookmark not defined.
Section 8.9.	<u>Concerning Any Successor Trustees</u>	Error! Bookmark not defined.
Section 8.10.	<u>Trustee Protected in Relying Upon Resolutions, etc.</u>	Error! Bookmark not defined.
Section 8.11.	<u>Appointment of Paying Agent and Registrar; Resignation or Removal of Paying Agent</u>	Error! Bookmark not defined.

ARTICLE IX. SUPPLEMENTAL INDENTURES .. **ERROR! BOOKMARK NOT DEFINED.**

Section 9.1.	<u>Supplemental Indentures Not Requiring Consent of Bondholders</u>	Error! Bookmark not defined.
Section 9.2.	<u>Supplemental Indentures Requiring Consent of Bondholders</u>	Error! Bookmark not defined.

ARTICLE X. AMENDMENTS TO THE FINANCING AGREEMENT **ERROR! BOOKMARK NOT DEFINED**

- Section 10.1. Amendments, etc., to Financing Agreement Not Requiring Consent of Bondholders **Error! Bookmark not defined.**
- Section 10.2. Amendments, etc., to Financing Agreement Requiring Consent of Bondholders **Error! Bookmark not defined.**

ARTICLE XI. MISCELLANEOUS **ERROR! BOOKMARK NOT DEFINED.**

- Section 11.1. Satisfaction and Discharge..... **Error! Bookmark not defined.**
- Section 11.2. Defeasance of Bonds..... **Error! Bookmark not defined.**
- Section 11.3. Cancellation of Bonds..... **Error! Bookmark not defined.**
- Section 11.4. Application of Trust Money..... **Error! Bookmark not defined.**
- Section 11.5. Consents, etc., of Bondholders..... **Error! Bookmark not defined.**
- Section 11.6. Limitation of Rights **Error! Bookmark not defined.**
- Section 11.7. Severability **Error! Bookmark not defined.**
- Section 11.8. Notices **Error! Bookmark not defined.**
- Section 11.9. Counterparts..... **Error! Bookmark not defined.**
- Section 11.10. Applicable Law **Error! Bookmark not defined.**
- Section 11.11. Immunity of Officers and Directors..... **Error! Bookmark not defined.**
- Section 11.12. Holidays **Error! Bookmark not defined.**
- Section 11.13. Shortfall of TIF Revenues..... **Error! Bookmark not defined.**

TRUST INDENTURE

This TRUST INDENTURE dated as of the first day of _____, 2024, by and between the CITY OF ELKHART, INDIANA ("Issuer"), a municipal corporation duly organized and existing under the laws of the State of Indiana and [TRUSTEE], a [national] banking association duly organized and existing under the laws of the [United States of America], with a corporate trust office located in the City of _____, Indiana, as Trustee ("Trustee");

WITNESSETH:

WHEREAS, Indiana Code, Title 36, Article 7, Chapters 11.9, -12, -14 and -25 (collectively, "Act"), authorize and empower the Issuer to issue revenue bonds and to provide the proceeds therefrom for the purpose of financing economic development facilities and vests such Issuer with powers that may be necessary to enable it to accomplish such purposes; and

WHEREAS, in accordance with the provisions of the Act, the Issuer has determined to proceed with the financing of the construction of certain local public improvements, including but not limited to, the construction of a mixed-use development that transforms the existing eastern gateway for downtown Elkhart and its River District, which will initially repurpose the site with new office and retail space, complemented by approximately 115 residential units of varying types, together with all necessary appurtenances, related improvements and equipment and, with respect to the Housing Program (as defined in Exhibit C of Resolution No. 23-R-079 adopted on October 10, 2023), assist with the construction of two or more buildings with a minimum of ten (10) residential units and any and all related public improvements (collectively, "Development"), as further set forth in the Development Agreement, dated as of September 28, 2020, as amended, by and between the City and EOZ Business, LLC and River District Development Company, LLC, in three phases, as more specifically set forth on Exhibit A attached hereto and incorporated herein, together with all necessary appurtenances, related improvements and equipment, in or physically connected to the respective Allocation Area (collectively, "Projects") needed to serve the construction of the Development, to induce the Developer to construct the Development and to pay costs of issuance of the Bonds by offering to issue its [Taxable] Economic Development Revenue Bonds, Series 202__ (River District Project) in the principal amount of \$X,XXX,XXX ("Series 202__ Bonds"), pursuant to this Trust Indenture and to use the proceeds thereof pursuant to the Financing and Covenant Agreement, dated as of _____ 1, 202__, between the Issuer and the Developer ("Financing Agreement") for the purpose of paying certain costs of the Projects and issuance expenses; and

WHEREAS, the execution and delivery of this Indenture and the issuance of revenue bonds under the Act as herein provided have been in all respects duly and validly authorized by proceedings duly passed on and approved by the Issuer; and

WHEREAS, after giving notice in accordance with the Act and IC 5-3-1-4, the Issuer held a public hearing, and upon finding that the Projects and the proposed financing thereof to induce the construction of the Development will create additional employment opportunities and increased investment in the City of Elkhart, Indiana ("City"), creation of multi-family and single-

family housing, creation of commercial/retail space and will benefit the health, safety, morals, and general welfare of the citizens of City and the State of Indiana and will comply with the purposes and provisions of the Act, adopted an ordinance approving the proposed financing; and

WHEREAS, Indiana Code, Title 36, Article 7, Chapter 14 provides that a redevelopment commission may pledge certain incremental property taxes to pay, in whole or in part, amounts due on the Series 202___ Bonds; and

The Elkhart Redevelopment Commission ("Redevelopment Commission") has established and expanded an urban renewal area needing redevelopment known as the Downtown Urban Renewal Area ("Area"), and approved an urban renewal plan for the Area, as amended to date ("Original Plan"), which Original Plan contained specific recommendations for economic development in the Area, pursuant to a Declaratory Resolution, as amended to date, as confirmed by Confirmatory Resolution, as amended to date, after public hearings (collectively, "Area Resolution").

The Area Resolution established six allocation areas, including the: (i) Downtown Elkhart Allocation Area No. 4 ("Allocation Area No. 4"); (ii) Downtown Elkhart Allocation Area No. 5 ("Allocation Area No. 5"); and (iii) Downtown Elkhart SF Housing Allocation Area No. 6 ("Allocation Area No. 6") (collectively, "Allocation Areas") in accordance with IC 36-7-14-39, for the purpose of capturing property taxes generated from the incremental assessed value of real property located in the Allocation Areas;

WHEREAS, the Act provides that such Bonds may be secured by a trust indenture between the Issuer and a corporate trustee; and

WHEREAS, the Financing Agreement provides for the use of the proceeds of the Bonds to complete the Projects, and, pursuant to this Indenture, the Issuer will assign certain of its rights under the Financing Agreement to the Trustee; and

WHEREAS, pursuant to this Indenture, the Bonds shall be payable solely from TIF Revenues and proceeds from the Bonds; and

WHEREAS, the execution and delivery of this Trust Indenture, and the issuance of the Bonds hereunder, have been in all respects duly and validly authorized by an ordinance duly passed and approved by the Issuer; and

WHEREAS, the Redevelopment Commission has, by resolution, pledged TIF Revenues to the Issuer to be applied to the repayment of the Bonds; and

WHEREAS, the Bonds and the Trustee's certificate of authentication to be endorsed thereon are all to be substantially in the following form, with necessary and appropriate variations, omissions and insertions as permitted or required by this Indenture, to-wit:

(Form of Series 202___ Bonds)

NO. R-_____

UNITED STATES OF AMERICA

STATE OF INDIANA

COUNTY OF ELKHART

CITY OF ELKHART, INDIANA
TAXABLE ECONOMIC DEVELOPMENT
REVENUE BOND, SERIES 202__[A][B][C]
(RIVER DISTRICT PROJECT)

<u>INTEREST</u> <u>RATE</u>	<u>MATURITY</u> <u>DATE</u>	<u>ORIGINAL</u> <u>DATE</u>	<u>AUTHENTICATION</u> <u>DATE</u>
--------------------------------	--------------------------------	--------------------------------	--------------------------------------

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____ DOLLARS (\$X,XXX,XXX)

The City of Elkhart, Indiana ("Issuer"), a municipal corporation duly organized and existing under the laws of the State of Indiana, for value received, hereby promises to pay in lawful money of the United States of America to the Registered Owner listed above, but solely from the payments of [Area No. 4 Tax Increment] [Area No. 5 Tax Increment] [Area No. 6 Tax Increment] (as defined in the hereinafter defined Indenture), pledged and assigned for the payment hereof, the Principal Amount set forth above on the Maturity Date set forth above[, or so much of the Principal Amount as shall have been advanced,] unless this Series 202__[A][B][C] Bond (as hereinafter defined) shall have previously been called for redemption and payment of the redemption price made or provided for, and to pay interest on the unpaid principal amount hereof in like money, but solely from those payments, at the Interest Rate specified above per annum payable on _____ 1, 20__, and on each February 1 and August 1 thereafter ("Interest Payment Dates") until the Principal Amount [advanced] is paid in full. Interest on this Series 202__[A][B][C] Bond shall be payable from the Interest Payment Date next preceding the date of authentication thereof ("Interest Date"), except that: (i) if this Series 202__[A][B][C] Bond is authenticated on or prior to _____ 15, 20__, the Interest Date shall be the Original Issue Date specified above[, or, for subsequent advances, the date of each advance]; (ii) if this Series 202__ Bond[A][B][C] is authenticated after the fifteenth day of the month preceding an Interest Payment Date ("Record Date"), the Interest Date shall be such Interest Payment Date; and (iii) if interest on this Series 202__[A][B][C] Bond is in default, the Interest Date shall be the day after the date to which interest hereon has been paid in full. [The schedule of advances is shown on Exhibit A.]

The principal of and premium on, if any, this Series 202__[A][B][C] Bond are payable at the office of _____, as Trustee, or at the payment office of any successor trustee or paying agent. All payments of interest hereon will be made by the Trustee by check mailed one Business Day prior to each Interest Payment Date to the Registered Owner hereof at the address shown on the registration books of the Trustee as maintained by the Trustee, as registrar, determined on the Record Date next preceding such Interest Payment Date. [Principal payments

in connection with mandatory sinking fund redemption hereunder shall not require presentation of the Series 202__ [A][B][C] Bonds for payment except upon final maturity or redemption in full.]

This Series 202__ [A][B][C] Bond is [the only] one of an authorized issue of bonds of the Issuer designated as the Taxable Economic Development Revenue Bonds, Series 202__ [A][B][C] (River District Project), [[to be] [issued in series] [of like tenor and effect, except as to numbering, interest rate, series designation and dates of maturity]] ("Series 202__ [A][B][C] Bonds") which is being issued under the hereinafter described Indenture in the aggregate principal amount of \$X,XXX,XXX. The Series 202__ Bonds are being issued for the purpose of providing funds to finance the construction of certain improvements, including but not limited to, [the construction of two (2) buildings consisting of commercial multi-use space to be owned by the Developer and offered for lease to third parties][the construction of five (5) buildings with three (3) buildings consisting of not less than 85 residential units and 13,500 square feet of commercial space to be owned by Developer and offered for lease to third parties and with two (2) buildings consisting of not less than 20 residential units to be owned by Developer and offered for lease to third parties and Pacific Street pedestrian improvements][the construction of two (2) buildings consisting of not less than 10 residential units to be offered for sale to third parties], together with all necessary appurtenances, related improvements and equipment (collectively, "Projects") needed to serve the construction of a mixed-use development that transforms the existing eastern gateway for downtown Elkhart and its River District, which will initially repurpose the site with new office and retail space, complemented by approximately 115 residential units of varying types, together with all necessary appurtenances, related improvements (collectively, "Development"), in or physically connected to the [Allocation Area No. 4] [Allocation Area No. 5] [Allocation Area No. 6] located in the City of Elkhart, Indiana; and to pay costs of issuance of the Bonds, to be constructed by EOZ Business, LLC and River District Development Company, LLC (collectively, "Developer"), pursuant to the Financing and Covenant Agreement dated as of _____ 1, 202__ ("Financing Agreement") between the Developer and the Issuer which prescribe the terms and conditions under which the proceeds of the Series 202__ [A][B][C] Bonds shall be used for construction of the Projects needed to serve the construction of the Development.

The Series 202__ [A][B][C] Bonds are issued under and entitled to the security of a Trust Indenture dated as of _____ 1, 202__ ("Indenture") duly executed and delivered by the Issuer to [TRUSTEE], as Trustee (the term "Trustee" where used herein referring to the Trustee or its successors), pursuant to which Indenture, the [Area No. 4 Tax Increment] [Area No. 5 Tax Increment] [Area No. 6 Tax Increment] and all rights of the Issuer under the Financing Agreement, except certain rights to payment for expenses, indemnity rights and rights to perform certain discretionary acts as set forth in the Financing Agreement, are pledged and assigned by the Issuer to the Trustee as security for the Series 202__ [A][B][C] Bonds. THE OWNER OF THIS SERIES 202__ [A][B][C] BOND, BY ACCEPTANCE OF THIS SERIES 202__ [A][B][C] BOND, HEREBY AGREES TO ALL OF THE TERMS AND PROVISIONS IN THE INDENTURE AND THIS SERIES 202__ [A][B][C] BOND AND ACKNOWLEDGES THAT:

1. It is a sophisticated investor and it is familiar with securities such as the Series 202__ [A][B][C] Bonds.

2. It is familiar with the City, the Elkhart Redevelopment Commission ("Commission") and the Elkhart Redevelopment District ("District"); it has received such information concerning the City, the Series 202____[A][B][C] Bonds, the Indenture, the [Area No. 4 Tax Increment][Area No. 5 Tax Increment][Area No. 6 Tax Increment] (as defined in the Indenture), as it deems to be necessary in connection with investment in the Series 202____ Bonds. It has received, read and had an opportunity to comment upon and has consented to the provisions of the Indenture, the Series 202____[A][B][C] Bonds and the Financing Agreement. Prior to the purchase of the Series 202____[A][B][C] Bonds, it has been provided with the opportunity to ask questions of and receive answers from the representatives of the City concerning the terms and conditions of the Series 202____[A][B][C] Bonds, the tax status of the Series 202____[A][B][C] Bonds, legal opinions and enforceability of remedies, the security therefor, and property tax reform (including the hereinafter defined Circuit Breaker), and to obtain any additional information needed in order to verify the accuracy of the information obtained to the extent that the City possesses such information or can acquire it without unreasonable effort or expense. It is not relying on Ice Miller LLP, Baker Tilly Municipal Advisors, LLC or _____ for information concerning the financial status of the City, the Commission or the District, or the ability of the City or the Commission to honor their financial obligations or other covenants under the Series 202____[A][B][C] Bonds, the Indenture or the Financing Agreement. It understands that the projection of [Area No. 4 Tax Increment] [Area No. 5 Tax Increment] [Area No. 6 Tax Increment] prepared by Baker Tilly Municipal Advisors, LLC in connection with the issuance of the Series 202____[A][B][C] Bonds has been based on estimates of the investment and assessed value growth assumption in real property provided by the Developer.

3. It understands that the City's collection of the [Area No. 4 Tax Increment][Area No. 5 Tax Increment][Area No. 6 Tax Increment] may be limited by operation of IC 6-1.1-20.6, which provides taxpayers with tax credits for property taxes attributable to different classes of property in an amount that exceeds certain percentages of the gross assessed value of that property ("Circuit Breaker"). The City may not increase its property tax levy or borrow money to make up any shortfalls due to the application of this tax credit. It further understands that neither the City nor the Commission has the authority to levy a tax to pay principal of or interest on the Series 202____[A][B][C] Bonds.

4. It is acquiring the Series 202____[A][B][C] Bonds for its own account with no present intent to resell; and it will not sell, convey, pledge or otherwise transfer the Series 202____[A][B][C] Bonds without prior compliance with applicable registration and disclosure requirements of state and federal securities laws.

5. It understands that the Series 202____[A][B][C] Bonds have not been registered under the 1933 Act and, unless so registered, may not be sold without registration under the 1933 Act or an exemption therefrom. It is aware that it may transfer or sell the Series 202____[A][B][C] Bonds only if the Trustee shall first have received: (i) a satisfactory opinion of counsel that the sale or transfer will not violate the 1933 Act, the Securities Exchange Act of 1934 and the Investment Company Act of 1940 and regulations issued pursuant to such Acts; or (ii) a no-action letter of the staff of the Securities and Exchange Commission that the staff will recommend that no action be taken with respect to such sale or transfer; or (iii) a certificate stating that they reasonably believe that the transferee is a "Qualified Institutional Buyer" within

the meaning of Section (a) of Rule 144A ("Rule 144A") promulgated by the Securities and Exchange Commission pursuant to the 1933 Act and has informed the transferee of the transfer restrictions applicable to the Series 202____[A][B][C] Bonds and that the transferor may be relying upon Rule 144A with respect to the transfer of the Series 202____[A][B][C] Bonds.

6. It has investigated the security for the Series 202____[A][B][C] Bonds, including the availability of [Area No. 4 Tax Increment][Area No. 5 Tax Increment][Area No. 6 Tax Increment], to its satisfaction, and it understands that the Series 202____[A][B][C] Bonds are payable solely from [Area No. 4 Tax Increment][Area No. 5 Tax Increment][Area No. 6 Tax Increment], subject to any rescission provisions of the Financing Agreement.

7. It recognizes that: (a) the opinions it has received express the professional judgment of the attorneys participating in the transaction as to the legal issues addressed herein; (b) by rendering such opinions, the attorneys do not become insurers or guarantors of (i) that expression of professional judgment; (ii) the transaction opined upon; or (iii) the future performance of parties to such transaction; and (c) the rendering of the opinions does not guarantee the outcome of any legal dispute that may arise out of the transaction.

8. It understands that the City has no continuing disclosure obligations with regard to the Series 202____[A][B][C] Bonds.

9. It understands the Series 202____[A][B][C] Bonds are being issued on a taxable basis.

It is provided in the Indenture that the Issuer may hereafter issue Additional Bonds (as defined in the Indenture) from time to time under certain terms and conditions contained therein. (Such Additional Bonds and the Series 202____[A][B][C] Bonds are hereinafter collectively referred to as the "Bonds.") Reference is made to the Indenture and to all indentures supplemental thereto for a description of the nature and extent of the security, the rights, duties and obligations of the Issuer and the Trustee, the rights of the holders of the Bonds, the issuance of Additional Bonds and the terms on which the Bonds are or may be issued and secured, and to all the provisions of which the holder hereof by the acceptance of this Series 202____[A][B][C] Bond assents.

The Series 202____[A][B][C] Bonds are issuable in registered form in the denominations of \$1,000 and integral multiples thereof as fully registered Bonds. This Series 202____[A][B][C] Bond is transferable by the registered holder hereof in person or by its attorney duly authorized in writing at the payment office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture and upon surrender and cancellation of this Series 202____[A][B][C] Bond. Upon such transfer a new registered Bond will be issued to the transferee in exchange therefor.

The Issuer, the Trustee and the Paying Agent may deem and treat the Registered Owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and premium, if any, hereon and for all other purposes and neither the Issuer, the Trustee nor the Paying Agent shall be affected by any notice to the contrary.

If sufficient funds are on deposit in the Bond Fund pursuant to Section 5.1(a) of the Indenture or Sections 4.1 and 4.2 of the Financing Agreement, the Series 202__ [A][B][C] Bonds are subject to redemption in full, at the option of the City, on any date on thirty (30) days' notice, at face value, with no premium, plus accrued interest to the date of maturity.

The Series 202__ [A][B][C] Bonds maturing on _____ 1, 20__ are subject to mandatory sinking fund redemption prior to maturity, at a redemption price equal to the principal amount thereof, on January 1 and July 1 on the dates and in the amounts set forth below:

<u>204 Term Bond</u>			
<u>Date</u>	<u>Amount</u>	<u>Date</u>	<u>Amount</u>
	\$	*	

*Final maturity

[In addition, to the extent [Area No. 4 Tax Increment] [Area No. 5 Tax Increment] [Area No. 6 Tax Increment] exceeds the debt service due on the Series 202__ Bonds, the Series 202__ [A][B][C] Bonds shall be redeemed upon seven (7) days' written notice, at face value, plus in each case accrued interest to the date fixed for redemption, with no premium.]

If any of the Series 202__ [A][B][C] Bonds are called for redemption as aforesaid, notice thereof identifying the Series 202__ [A][B][C] Bonds to be redeemed will be given by mailing a copy of the redemption notice by first class mail not less than thirty (30) days prior to the date fixed for redemption to the Registered Owner of the Series 202__ [A][B][C] Bonds to be redeemed at the address shown on the registration books; provided, however, that failure to give such notice by mailing, or any defect therein with respect to any registered Series 202__ [A][B][C] Bond, shall not affect the validity of any proceedings for the redemption of other Series 202__ [A][B][C] Bonds.

All Series 202__ [A][B][C] Bonds so called for redemption will cease to bear interest on the specified redemption date, provided funds for their redemption are on deposit at the place of payment at that time, and shall no longer be protected by the Indenture and shall not be deemed to be outstanding under the provisions of the Indenture.

This Series 202__ [A][B][C] Bond is transferable by the Registered Owner hereof at the payment office of the Trustee upon surrender and cancellation of this Series 202__ [A][B][C] Bond and on presentation of a duly executed written instrument of transfer and thereupon a new Series 202__ [A][B][C] Bond or Series 202__ [A][B][C] Bonds of the same aggregate principal amount and maturity and in authorized denominations will be issued to the transferee or transferees in exchange therefor, subject to all terms herein.

The Series 202__ [A][B][C] Bonds and the interest payable thereon, do not and shall not represent or constitute a debt of the Issuer within the meaning of the provisions of the constitution or statutes of the State of Indiana or a pledge of the faith and credit of the Issuer. The Series 202__ [A][B][C] Bonds, as to principal, are not an obligation or liability of the State of Indiana, or of any political subdivision or taxing authority thereof, but are a special limited

obligation of the Issuer and payable solely and only from the trust estate consisting of funds and accounts held under the Indenture and the [Area No. 4 Tax Increment][Area No. 5 Tax Increment][Area No. 6 Tax Increment] pledged and assigned for their payment in accordance with the Indenture (collectively, "Trust Estate"). Neither the faith and credit nor the taxing power of the Issuer, the Redevelopment Commission, the State of Indiana or any political subdivision or taxing authority thereof is pledged to the payment of the principal of or, premium, if any, on this Series 202__ [A][B][C] Bond. The Series 2022__ [A][B][C] Bonds do not grant the owners or holders thereof any right to have the Issuer, the State of Indiana or its General Assembly, or any political subdivision or taxing authority of the State of Indiana, levy any taxes or appropriate any funds for the payment of the principal of or premium, if any. No covenant or agreement contained in the Series 202__ [A][B][C] Bonds or the Indenture shall be deemed to be a covenant or agreement of any member, director, officer, agent, attorney or employee of the Redevelopment Commission, the Plymouth Economic Development Commission ("Commission") or the Issuer in his or her individual capacity, and no member, director, officer, agent, attorney or employee of the Redevelopment Commission, the Commission or the Issuer shall be liable personally on the Series 202__ [A][B][C] Bonds or be subject to any personal liability or accountability by reason of the issuance of the Series 202__ [A][B][C] Bonds.

The holder of this Series 202__ [A][B][C] Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all the Bonds issued under the Indenture and then outstanding may become or may be declared due and payable before the stated maturity thereof. Modifications or alterations of the Indenture, or of any supplements thereto, may be made to the extent and in the circumstances permitted by the Indenture. The Issuer's obligation to pay [Area No. 4 Tax Increment][Area No. 5 Tax Increment][Area No. 6 Tax Increment] shall not be subject to acceleration.

It is hereby certified that all conditions, acts and things required to exist, happen and be performed under the laws of the State of Indiana and under the Indenture precedent to and in the issuance of this Series 202__ [A][B][C] Bond, exist, have happened and have been performed, and that the issuance, authentication and delivery of this Series 202__ [A][B][C] Bond have been duly authorized by the Issuer.

This Series 202__ [A][B][C] Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the certificate of authentication hereon shall have been duly executed by the Trustee.

IN WITNESS WHEREOF, City of Elkhart, Indiana, has caused this Series 202__ [A][B][C] Bond to be executed in its name and on its behalf by the manual, facsimile or electronic signature of the Mayor and countersigned by the Controller, and its corporate seal to be hereunto affixed manually or by facsimile and attested to by the manual, facsimile or electronic signature of its Clerk all as of the Original Date set forth above.

CITY OF ELKHART, INDIANA

By: _____
Mayor

COUNTERSIGNED:

Controller

(Seal)

Attest:

Clerk

(FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION)

This Series 202__[A][B][C] Bond is one of the Series 202__[A][B][C] Bonds described in the within mentioned Trust Indenture.

[TRUSTEE], as Trustee

By: _____
Authorized Officer

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

(Please Print or Typewrite Name and Address)

the within Series 202__[A][B][C] Bond and all rights, title and interest thereon, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Series 202__[A][B][C] Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution participating in a Securities Transfer Association recognized signature guarantee program.

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Series 202__ [A][B][C] Bond in every particular, without alteration or enlargement or any change whatever.

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

UNIF TRAN MIN ACT -- _____ Custodian _____

(Cust) (Minor)

under Uniform Transfers to Minors Act

(State)

TEN COM -- as tenants in common

JT TEN -- as joint tenants with right of survivorship
and not as tenants in common

Additional abbreviations may also be used though not in the above list.

[EXHIBIT A

Schedule of Advances

[to be printed on a separate page]]

(End of Bond Form)

NOW, THEREFORE, THIS INDENTURE WITNESSETH: That in order to secure the payment of the principal of and interest and premium, if any, on the Series 202__ Bonds to be issued under this Indenture according to their tenor, purport and effect, and in order to secure the performance and observance of all the covenants and conditions herein and in the Series 202__ Bonds contained, and in order to declare the terms and conditions upon which the Series 202__ Bonds are issued, authenticated, delivered, secured and accepted by all persons who shall from time to time be or become holders thereof, and for and in consideration of the mutual covenants herein contained, of the acceptance by the Trustee of the trust hereby created, and of the purchase and acceptance of the Series 202__ Bonds by the holders or obligees thereof, the

Issuer has executed and delivered this Indenture, and by these presents does hereby convey, grant, assign, pledge and grant a security interest in, unto the Trustee, its successor or successors and its or their assigns forever, with power of sale, all and singular, the property hereinafter described ("Trust Estate"):

GRANTING CLAUSE

DIVISION I

All right, title and interest of the Issuer in and to the Financing Agreement (except the rights reserved to the Issuer therein);

DIVISION II

All right, title and interest of the Issuer in and to the TIF Revenues (such pledge to be effective as set forth in IC 5-1-14-4 and IC 36-7-14-39 without filing or recording of this Indenture or any other instrument), the Financing Agreement (except the rights reserved to the Issuer) and all moneys and the Qualified Investments held by the Trustee from time to time in the Funds and Accounts created hereunder;

TO HAVE AND TO HOLD the same unto the Trustee, and its successor or successors and its or their assigns forever;

IN TRUST, NEVERTHELESS, upon the terms and trusts herein set forth, to secure the payment of the Series 202___ Bonds to be issued hereunder, and premium, if any, payable upon redemption or prepayment thereof, and the interest payable thereon, if any, and to secure also the observance and performance of all the terms, provisions, covenants and conditions of this Indenture, and for the benefit and security of all and singular the holders of all Series 202___ Bonds issued hereunder, and it is hereby mutually covenanted and agreed that the terms and conditions upon which the Series 202___ Bonds are to be issued, authenticated, delivered, secured and accepted by all persons who shall from time to time be or become the holders thereof, and the trusts and conditions upon which the pledged moneys and revenues are to be held and disbursed, are as follows:

ARTICLE I.

DEFINITIONS

Section 1.1. Terms Defined. In addition to the words and terms elsewhere defined in this Indenture, the following words and terms as used in this Indenture shall have the following meanings unless the context or use indicates another or different meaning or intent:

"Additional Bonds" shall have the meaning assigned in Section 2.8 of this Indenture.

"Allocation Area No. 4" means the Downtown Elkhart Allocation Area No. 4.

"Allocation Area No. 5" means the Downtown Elkhart Allocation Area No. 5.

"Allocation Area No. 6" means the Downtown Elkhart Allocation Area No. 6.

"Allocation Areas" means, collectively, the Downtown Elkhart Allocation Area No. 4, the Downtown Elkhart Allocation Area No. 5 and the Downtown Elkhart SF Housing Allocation Area No. 6.

"Annual Fees" means annual fees of the Trustee and reasonable (in an amount not to exceed \$5,000) annual fees and expenses incurred by the Issuer related to monitoring Tax Increment.

"Area" means the Downtown Urban Renewal Area.

"Area No. 4 Tax Increment" means 100% of the Area No. 4 Tax Increment generated in Allocation Area No. 4 and deposited into the Redevelopment Commission's Allocation Fund, minus the first \$2,200,000 in incremental assessed value generated in Allocation Area No. 4 that will be retained by the Redevelopment Commission and minus the Annual Fees, received by the Redevelopment Commission and pledged to the Issuer for payment of the Series A Bonds pursuant to the TIF Pledge Resolution.

"Area No. 5 Tax Increment" means 100% of the Area No. 5 Tax Increment generated in Allocation Area No. 5 and deposited into the Redevelopment Commission's Allocation Fund, minus the Annual Fees, received by the Redevelopment Commission and pledged to the Issuer for payment of the Series B Bonds pursuant to the TIF Pledge Resolution.

"Area No. 6 Tax Increment" means 100% of the Area No. 6 Tax Increment generated in the Allocation Area No. 6 and deposited into the Redevelopment Commission's Allocation Fund, minus the Annual Fees, received by the Redevelopment Commission and pledged to the Issuer for payment of the Series C Bonds pursuant to the TIF Pledge Resolution.

"Authorized Representative" means: (i) as to the Developer, any officer of the Developer or any other person certified by an officer of the Developer to be such and shall serve as Authorized Representative for the Developer; and (ii) as to the Issuer, any person so designated by the Mayor and authorized to serve as Authorized Representative for the Issuer.

"Bondholder" or any similar term means the registered owner of a Bond.

"Bond Purchase Agreement" means the purchase agreement dated _____, 202__ between the Issuer and the Bond Purchaser.

"Bond Purchaser" means collectively, EOZ Business, LLC and River District Development Company, LLC, limited liability companies duly organized, existing and authorized to do business under the laws of the State of Indiana.

"Bonds" means the Series [A][B][C] Bonds and any other bonds issued under the Indenture.

"Costs of Construction" means the categorical costs of providing for an "economic development project" as defined and set forth in the Act as follows:

(i) the "Bond Issuance Costs," namely the costs, fees and expenses incurred or to be incurred by the Issuer, Redevelopment Commission and the Developer in connection with the issuance and sale of the Series [A][B][C] Bonds, including placement or other financing fees (including applicable counsel fees), the fees and disbursements of Bond Counsel, fees of the Issuer or Redevelopment Commission's municipal advisor, the fees of the Issuer and Redevelopment Commission's counsel, the acceptance fee and first year annual administrative fee of the Trustee, application fees and expenses, publication costs, the filing and recording fees in connection with any filings or recording necessary under the Indenture, the out-of-pocket costs of the Issuer, the fees and disbursements of counsel to the Developer, the fees and disbursements of the Developer's accountants, the fees and disbursements of counsel to the purchasers of the Bonds, the costs of preparing or printing the Series [A][B][C] Bonds and the documentation supporting the issuance of the Series [A][B][C] Bonds, the costs of reproducing documents, and any other costs of a similar nature reasonably incurred;

(ii) the cost of insurance of all kinds that may be required or necessary in connection with the construction of the Projects;

(iii) all costs and expenses which Issuer or Developer shall be required to pay, under the terms of any contract or contracts (including the architectural and engineering, development, and legal services with respect thereto) for materials and the construction of the Projects; and

(iv) any sums required to reimburse the Issuer, Redevelopment Commission or Developer for advances made by either of them for any of the above items or for any other costs incurred and for work done by either of them which are properly chargeable to the Projects.

"Developer" means, collectively, EOZ Business, LLC and River District Development Company, LLC, limited liability companies duly organized, existing and authorized to do business under the laws of the State of Indiana, or any successors thereto permitted under Section 3.3 hereof.

"Development" means the mixed-use residential/commercial development as further set forth in the Development Agreement.

"Development Agreement" means the Development Agreement dated September 28, 2020, as amended, among the City, the Redevelopment Commission and the Developer.

"Event of Default" means those events of default specified in and defined by Section 7.1 hereof.

"Financing Agreement" means the Financing and Covenant Agreement, dated as of _____ 1, 202___, between the Developer and the Issuer and all amendments and supplements thereto.

"Indenture" means this instrument as originally executed or as it may from time to time be amended or supplemented pursuant to Article IX.

"Issuer" means the City of Elkhart, Indiana, a municipal corporation duly organized and validly existing under the laws of the State of Indiana or any successor to its rights and obligations under the Financing Agreement and this Indenture.

"Opinion of Counsel" shall mean an opinion in writing signed by legal counsel who may be an employee of or counsel to the Developer and who shall be satisfactory to the Trustee in its reasonable discretion.

"Outstanding" or "Bonds outstanding" means all Bonds which have been duly authenticated, and delivered by the Trustee under this Indenture, except:

(a) Bonds canceled after purchase in the open market or because of payment at or redemption prior to maturity;

(b) Bonds for the redemption of which cash or investments (but only to the extent that the full faith and credit of the United States of America are pledged to the timely payment thereof) shall have been theretofore deposited with the Trustee (whether upon or prior to the maturity or redemption date of any such Bonds); provided that if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given or arrangements satisfactory to the Trustee shall have been made therefor, or waiver of such notice satisfactory in form to the Trustee, shall have been filed with the Trustee; and

(c) Bonds in lieu of which others have been authenticated under Section 2.9 hereof.

"Paying Agent" means _____ and any successor paying agent or co-paying agent.

"Projects" means collectively the Series A Projects, the Series B Projects and the Series C Projects (each as set forth on Exhibit A attached hereto), together with all necessary appurtenances, related improvements and equipment and, with respect to the Housing Program, assist with the construction of two or more buildings with a minimum of ten (10) residential units

and any and all related public improvements in or physically connected to the respective Allocation Areas needed to serve the Development.

"Qualified Investments" shall have the meaning assigned in the Financing Agreement.

"Redevelopment Commission" means the Elkhart Redevelopment Commission.

"Requisite Bondholders" means the holders of 66 2/3% in aggregate principal amount of Bonds.

"Series [A][B][C] Bonds" or "Bonds" means the [Taxable] Economic Development Revenue Bonds, Series [A][B][C] (to be completed with the year in which issued and series designation) (River Project) to be issued by the Issuer under the Indenture in the aggregate principal amount of \$X,XXX,XXX.

"Tax Increment" means collectively, Area No. 4 Tax Increment, Area No. 5 Tax Increment and Area No. 6 Tax Increment.

"TIF Pledge Resolution" means the resolution of the Redevelopment Commission adopted on August 13, 2024, pledging Area No. 4 Tax Increment, Area No. 5 Tax Increment and Area No. 6 Tax Increment to the Issuer for the payment of debt service on the respective Series A, B and C Bonds.

"TIF Revenues" means, collectively, the Area No. 4 Tax Increment pledged to the Series A Bonds, the Area No. 5 Tax Increment pledged to the Series B Bonds and Area No. 6 Tax Increment pledged to the Series C Bonds.

"Trust Estate" means the funds and accounts, TIF Revenues and other assets described in the Granting Clauses of this Indenture.

"Trustee" means [TRUSTEE], _____, Indiana the party of the second part hereto, and any successor trustee or co-trustee.

Section 1.2. Rules of Interpretation. For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(a) "This Indenture" means this instrument as originally executed and as it may from time to time be supplemented or amended pursuant to the applicable provisions hereof.

(b) All references in this instrument to designated "Articles," "Sections" and other subdivisions are to the designated Articles, Sections and other subdivisions of this instrument as originally executed. The words "herein," "hereof" and "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision.

(c) The terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular and the singular as well as the plural.

(d) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles as consistently applied.

(e) Any terms not defined herein but defined in the Financing Agreement shall have the same meaning herein.

(f) The terms defined elsewhere in this Indenture shall have the meanings therein prescribed for them.

Section 1.3. Exhibits. The following Exhibits are attached to and by reference made a part of this Indenture:

Exhibit A: Projects

Exhibit B: Costs of Issuance

Exhibit C: Affidavit of Construction Fund Disbursement Request

(End of Article I)

ARTICLE II.

THE SERIES 202__ BONDS

Section 2.1. Authorized Amount of Series 202__ Bonds. No Series 202__ Bonds may be issued under the provisions of this Indenture except in accordance with this Article. The aggregate principal amount of the Series 202__ Bonds (other than Series 202__ Bonds issued in substitution therefor pursuant to Section 2.9 hereof) that may be issued is hereby expressly limited to \$X,XXX,XXX. Additional Bonds may be issued as provided in Section 2.8 hereof.

Section 2.2. Issuance of Series 202__ Bonds. The Series 202__ Bonds shall be designated "Taxable Economic Development Revenue Bonds, Series 202__ (River District Project)." The Series 202__ Bonds shall be originally issuable as fully registered Series 202__ Bonds in the principal amount of \$X,XXX,XXX, in \$1,000 denominations and integral multiples thereof and shall be lettered and numbered R-1 and upward. The Series 202__ Bonds shall be dated as of the date of their delivery.

The Series 202__ Bonds shall bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless such date of authentication shall be subsequent to a Record Date in which case they shall bear interest from the Interest Payment Date with respect to such Record Date. Interest shall be calculated on the basis of a 360-day year consisting of twelve 30-day months.

[Proceeds of the Series 202__ Bonds shall be advanced from time to time as provided in Section 4.4.]

The Series 202__ Bonds shall mature on _____ 1, 20__ as a term bond to be redeemed on the dates in the amounts and at the per annum interest rate of ____ percent (____%) as set forth in Section 5.1(b) herein.

Section 2.3. Payment on Series 202__ Bonds. The principal of and interest on the Series 202__ Bonds shall be payable in any coin or currency of the United States of America which, at the dates of payment thereof, is legal tender for the payment of public and private debts. The final payment on the Series 202__ Bonds shall be payable at the payment office of the Trustee. All other payments Series 202__ Bonds shall be made to the person appearing on the Bond registration books of the Trustee as the Registered Owner thereof as of the Record Date and shall be paid by check or other draft of the Trustee mailed to the Registered Owner at such Owner's address as it appears on such registration books or at such other address as is furnished the Trustee in writing by such holder. So long as the Series 202__ Bonds are held by the Bond Purchaser, no presentation of the Bonds is required for such payments to be made to the Bond Purchaser, except that upon final payment or redemption in full, the Series 202__ Bonds shall be returned to the trustee for destruction. [Upon the written request of a registered owner of at least \$1,000,000 in aggregate principal amount of Bonds Outstanding, delivered to the Trustee at least 30 days prior to an interest payment date, all payments of principal and interest on such Bonds shall be paid by wire transfer in immediately available funds to an account designated by such registered owner in its request, which request shall remain in effect until revoked.][If payment of principal or interest is made to a depository, payment shall be made by wire transfer

on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding Business Day. The Trustee shall wire transfer payments so that such payments are received at the depository by 2:30 p.m. (New York City Time), so long as sufficient funds have been collected and are on deposit with the Trustee in a timely manner for such purpose.] Notwithstanding anything contained herein, the bond shall only need to be presented for payment upon final maturity or redemption in full.

Section 2.4. Execution; Limited Obligation. The Series 202___ Bonds shall be executed on behalf of the Issuer with the manual, electronic or facsimile signature of its Mayor, countersigned with the manual, electronic or facsimile signature of its Controller and attested with the manual, electronic or the facsimile signature of its Clerk and shall have impressed or printed thereon the corporate seal of the Issuer. Such facsimiles shall have the same force and effect as if such officer had manually signed the Series 202___ Bonds. If any officer whose signature or facsimile signature shall appear on the Series 202___ Bonds shall cease to be such officer before the delivery of such Series 202___ Bonds, such signature or such facsimile shall, nevertheless, be valid and sufficient for all purposes, the same as if he had remained in office until delivery. The use of electronic signatures by the Mayor, Controller and Clerk are authorized and affirmed with full valid legal effect and enforceability.

The Series 202___ Bonds, and the interest payable thereon, do not and shall not represent or constitute a debt of the Issuer, the State of Indiana or any political subdivision or taxing authority thereof within the meaning of the provisions of the constitution or statutes of the State of Indiana or a pledge of the faith and credit of the Issuer, the State of Indiana or any political subdivision or taxing authority thereof. The Series 202___ Bonds, as to both principal and interest, if any, are not an obligation or liability of the State of Indiana, or of any political subdivision or taxing authority thereof, but are a special limited obligation of the Issuer and are payable solely and only from the trust estate consisting of funds and accounts held under the Indenture and the TIF Revenues pledged and assigned for their payment in accordance with the Indenture ("Trust Estate"). Neither the faith and credit nor the taxing power of the Issuer, the Redevelopment Commission, the State of Indiana or any political subdivision or taxing authority thereof is pledged to the payment of the principal of, or premium, if any, or interest on the Series 202___ Bond, if any. The Series 202___ Bonds do not grant the owners or holders thereof any right to have the Issuer, the State of Indiana or its General Assembly, or any political subdivision or taxing authority of the State of Indiana, levy any taxes or appropriate any funds for the payment of the principal of, or premium, if any, or interest on the Series 202___ Bonds. No covenant or agreement contained in the Series 202___ Bonds or the Indenture shall be deemed to be a covenant or agreement of any member, director, officer, agent, attorney or employee of the Redevelopment Commission, the Commission or the Issuer in his or her individual capacity, and no member, director, officer, agent, attorney or employee of the Redevelopment Commission, the Commission or the Issuer shall be liable personally on the Series 202___ Bonds or be subject to any personal liability or accountability by reason of the issuance of the Series 202___ Bonds.

Section 2.5. Authentication. No Series 202___ Bonds shall be valid or obligatory for any purpose or entitled to any security or benefit under this Indenture unless and until the certificate of authentication on such Series 202___ Bond substantially in the form hereinabove set forth shall have been duly executed by the Trustee, and such executed certificate of the

Trustee upon any such Series 202___ Bond shall be conclusive evidence that such Series 202___ Bond has been authenticated and delivered under this Indenture. The Trustee's certificate of authentication on the Series 202___ Bonds shall be deemed to have been executed by it if signed by an authorized officer of the Trustee, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Series 202___ Bonds issued hereunder.

Section 2.6. Form of Series 202___ Bonds. The Series 202___ Bonds issued under this Indenture shall be substantially in the form hereinabove set forth with such appropriate variations, omissions and insertions as are permitted or required by this Indenture or deemed necessary by the Trustee.

Section 2.7. Delivery of Series 202___ Bonds. Upon the execution and delivery of this Indenture, the Issuer shall execute and deliver to the Trustee the Series 202___ Bonds in the aggregate principal amount of \$X,XXX,XXX. The Trustee shall authenticate the Series 202___ Bonds and deliver them to the purchasers thereof upon receipt of:

(i) A copy, duly certified by the Clerk of the Issuer, of the ordinance adopted and approved by the Issuer authorizing the execution and delivery of the Financing Agreement and this Indenture and the issuance of the Series 202___ Bonds.

(ii) A copy, duly certified by the Secretary of the Redevelopment Commission, of the resolution adopted and approved by the Redevelopment Commission pledging the TIF Revenues to the payment of the Bonds.

(iii) Executed counterparts of the Financing Agreement and Indenture.

(iv) A written request of the Issuer to the Trustee requesting the Trustee to authenticate, or cause to be authenticated, and deliver the Series 202___ Bonds in the principal amount of \$X,XXX,XXX to the purchasers thereof.

The proceeds of the Series 202___ Bonds shall be paid over to the Trustee and deposited to the credit of various Funds as hereinafter provided under Section 3.1 hereof.

Section 2.8. Issuance of Additional Bonds. With the consent of the Requisite Bondholders, the Series 202___ Bonds issued under this Indenture in addition to the Series 202___ Bonds ("Additional Bonds") may be authenticated and delivered from time to time for one or more of the purposes of (i) refunding entirely the Series 202___ Bonds outstanding hereunder, if such Bonds may otherwise be refunded, (ii) advance refunding entirely one or more series of Bonds outstanding hereunder, regardless of whether such Bonds may otherwise be refunded, if the same is then permitted by law by depositing with the Trustee, in trust for the sole benefit of such Bonds, cash or investments (but only to the extent that the full faith and credit of the United States of America are pledged to the timely payment thereof) in a principal amount which will, together with the income or increment to accrue thereon, be sufficient to pay and redeem (when redeemable) and discharge such series of Bonds at or before their respective maturity dates, and (iii) financing the cost or estimated cost of completing the Projects or of acquiring and/or constructing additional improvements to the Projects, and, in each case, obtaining additional funds to pay the costs to be incurred in connection with the issuance of such

Additional Bonds, to establish reserves with respect thereto and to pay interest during the estimated construction period of completing the additional improvements, if any.

Prior to the delivery by the Issuer of any such Additional Bonds there shall be filed with the Trustee:

(i) A supplement to this Indenture executed by the Issuer and the Trustee authorizing the issuance of such Additional Bonds and specifying the terms thereof.

(ii) The supplement or amendment to the Financing Agreement and the other instruments, documents, certificates, and opinions referred to in Section 7.1 of the Financing Agreement.

(iii) A copy, duly certified by the Clerk of the Issuer, of the bond ordinance theretofore adopted and approved by the Issuer authorizing the execution and delivery of such supplemental indenture and such supplement to the Financing Agreement and the issuance of such Additional Bonds.

(iv) A written request of the Issuer to the Trustee to authenticate and deliver such Additional Bonds.

(v) For additional Bonds payable from TIF Revenues, a certificate showing the requirements for such additional obligations contained in the resolution or ordinance pledging the TIF Revenues shall have been met.

Any Additional Bonds issued in accordance with the terms of this Section 2.8 shall be secured by this Indenture but such Additional Bonds may bear such date or dates, such interest rate or rates, if any, and with such maturities, redemption dates and premiums as may be agreed upon by the Issuer, at the direction of the Developer, and the purchaser of such Additional Bonds.

Section 2.9. Mutilated, Lost, Stolen, or Destroyed Series 202__ Bonds. If any Series 202__ Bond is mutilated, lost, stolen or destroyed, the Issuer may execute and the Trustee may authenticate a new Series 202__ Bond of like date, maturity and denomination as that mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Series 202__ Bond, such mutilated Series 202__ Bond shall first be surrendered to the Issuer, and in the case of any lost, stolen or destroyed Series 202__ Bond, there shall be first furnished to the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee, together with indemnity satisfactory to it.

If any such Series 202__ Bond shall have matured, instead of issuing a duplicate Series 202__ Bond the Issuer may pay the same without surrender thereof; provided, however, that in the case of a lost, stolen or destroyed Series 202__ Bond, there shall be first furnished to the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee, together with indemnity satisfactory to it. The Trustee may charge the holder or owner of such Series 202__ Bond with their reasonable fees and expenses in this connection. Any Series 202__ Bond issued pursuant to this Section 2.9 shall be deemed part of the original series of Series 202__

Bonds in respect of which it was issued and an original additional contractual obligation of the Issuer.

Section 2.10. Registration and Exchange of Series 202___ Bonds; Persons Treated as Owners. The Issuer shall cause books for the registration and for the transfer of the Series 202___ Bonds as provided in this Indenture to be kept by the Trustee which is hereby constituted and appointed the registrar of the Issuer. Upon surrender for transfer of any fully registered Series 202___ Bond at the designated corporate trust office of the Trustee, duly endorsed by, or accompanied by a written instrument or instruments of transfer in form satisfactory to the Trustee and duly executed by the registered owner or his attorney duly authorized in writing, the Issuer shall execute and the Trustee shall authenticate and deliver in the name of the transferee or transferees a new fully registered Series 202___ Bond or Bonds of the same series and the same maturity for a like aggregate principal amount. The execution by the Issuer of any fully registered Series 202___ Bond without coupons of any denomination shall constitute full and due authorization of such denomination, and the Trustee shall thereby be authorized to authenticate and deliver such registered Series 202___ Bond. The Trustee shall not be required to transfer or exchange any fully registered Series 202___ Bond during the period between the Record Date and any interest payment date of such Series 202___ Bond, nor to transfer or exchange any Series 202___ Bond after the mailing of notice calling such Bond for redemption has been made, nor during a period of fifteen (15) days next preceding mailing of a notice of redemption of any Series 202___ Bonds.

As to any fully registered Series 202___ Bond, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of principal or interest thereon, shall be made only to or upon the order of the registered owner thereof or its legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Series 202___ Bond to the extent of the sum or sums so paid.

(End of Article II)

ARTICLE III.

APPLICATION OF SERIES 202__ BOND PROCEEDS

Section 3.1. Deposit of Funds. The Issuer shall deposit with Trustee in the Construction Fund [all] of the proceeds from the sale of the Series 202__ Bonds. \$_____ of the proceeds from the sale of the Series 202__ Bonds deposited into the Construction Fund shall be used to pay Bond Issuance Costs pursuant to Section 4.4(a) of the Indenture. Such proceeds shall be deposited with the Trustee in the Construction Fund. The proceeds of the Series 202__ Bonds shall be paid out immediately following closing or from time to time upon submission to the Trustee of a written request for funds by the Authorized Representative of the Developer. Such requisition shall be substantially in the form attached as Exhibit C.

(End of Article III)

ARTICLE IV.

REVENUE AND FUNDS

Section 4.1. Source of Payment of Bonds. The Bonds herein authorized and all payments to be made by the Issuer hereunder are not general obligations of the Issuer but are limited obligations payable solely from the Trust Estate as authorized by the Act and as provided herein. No covenant or agreement contained in the Bonds or this Indenture shall be deemed to be a covenant or agreement of the Issuer or of any member, director, officer, agent, attorney or employee of the Issuer in his or her individual capacity, and neither the Issuer nor any member, director, officer, agent, attorney, or employee of the Issuer executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance of the Bonds.

Section 4.2. Bond Fund. The Trustee shall establish and maintain, so long as any of the Bonds are outstanding, a separate fund to be known as the "Bond Fund." Money in the Bond Fund shall be applied as provided in this Section 4.2.

There shall be deposited in the Bond Fund, as and when received, (a) all TIF Revenues; and (b) all interest, if any, and other income derived from investments of Bond Fund moneys as provided herein. Subject to the funding source limitations in this Indenture and the final maturity date of the Bonds, the Issuer hereby covenants and agrees that so long as any of the Series 202__ Bonds issued hereunder are outstanding, it will deposit, or cause to be paid to Trustee for deposit in the Bond Fund for its account, all the TIF Revenues, [as and] when received by the Issuer. The Issuer hereby covenants and agrees that so long as any of the Bonds issued hereunder are outstanding it will deposit or cause to be paid to the Trustee for deposit in the Bond Fund for its account, all revenues and receipts derived from the TIF Revenues promptly to meet and pay the principal of, premium, if any, and interest on the Bonds as the same become due and payable. Nothing herein should be construed as requiring Issuer to deposit or cause to be paid to the Trustee for deposit in the Bond Fund, funds from any source other than receipts derived from the TIF Revenues, Financing Agreement and proceeds from the Series 202__ Bonds.

The Controller of the Issuer shall set aside immediately upon receipt of the Tax Increment into the Issuer's Allocation Fund as created by IC 36-7-14 and shall deposit or cause to be delivered to the Trustee for deposit all the TIF Revenues into the Bond Fund in the manner prescribed in this Section 4.2 and in Section 4.6.

Moneys in the Bond Fund shall be used by the Trustee to pay interest and principal on the Series 202__ Bonds as they become due upon each Interest Payment Date, at maturity, upon redemption or upon acceleration and to pay Annual Fees. The Trustee shall transmit such funds to the Paying Agent for the Series 202__ Bonds in sufficient time to insure that such interest will be paid as it becomes due. If TIF Revenues on deposit in the Bond Fund are not sufficient to pay the principal and interest then due, TIF Revenues shall be applied first to pay unpaid interest and then to unpaid and due principal; provided, however, that no interest shall be due or paid on any unpaid interest.

[To the extent [Area No. 4 Tax Increment][Area No. 5 Tax Increment][Area No. 6 Tax Increment][TIF Revenues] exceeds the debt service due on the Series 202____ Bonds, the Series 202____ Bonds shall be redeemed upon seven (7) days' written notice, at face value, plus in each case accrued interest to the date fixed for redemption, with no premium.]

Section 4.3. Reserved.

Section 4.4. Construction Fund. The Issuer shall establish with the Trustee a separate fund to be known as the Construction Fund, consisting of the Bond Issuance Expense Account and the Construction Account, to the credit of which the deposits are to be made as required by Section 3.1 hereof.

(a) On the date of issuance of the Series 202____ Bonds, the Issuer shall deposit \$ _____ from the sale of the Series 202____ Bonds into the Bond Issuance Expense Account of the Construction Fund to pay Bond Issuance Costs. The Bond Issuance Costs set forth in Exhibit B shall be wire transferred at closing to the entities listed as authorized by the Mayor and the Controller, the authorization evidenced by the execution of this Indenture. Other costs of issuance, if any, shall be paid by the Trustee upon submission of an affidavit signed by the Mayor and the Controller. On _____, 202____, any amounts remaining in the Bond Issuance Expense Account of the Construction Fund shall be transferred to the Construction Account of the Construction Fund and the Bond Issuance Expense Account shall be closed.

(b) Except as set forth in subparagraph (a) of this Section 4.4, moneys on deposit in the Construction Fund shall be paid out from time to time by the Trustee to or upon the order of the Issuer in order to pay, or as reimbursement to the Issuer or the Developer for payment made, for the Costs of Construction, upon receipt by the Trustee of the written request signed by the Authorized Representative of the Developer in the form attached hereto as Exhibit C:

(1) stating that the costs of an aggregate amount set forth in such written request have been made or incurred and were necessary for the construction of the Projects and were made or incurred in accordance with the construction contracts, plans and specifications, or purchase contracts therefor then in effect or that the amounts set forth in such written request are for allowable Costs for Construction;

(2) stating that the amount paid or to be paid, as set forth in such written request, is reasonable and represents a part of the amount payable for the Costs of Construction all in accordance with the cost budget; and that such payment was not paid in advance of the time, if any, fixed for payment and was made in accordance with the terms of any contracts applicable thereto and in accordance with usual and customary practice under existing conditions;

(3) stating that no part of the costs was included in any written request previously filed with the Trustee under the provisions hereof;

(4) stating that such costs are appropriate for the expenditure of proceeds of the Bonds under the Act; and

(5) stating a recap of vendors and the amount paid;

(c) Completion Certificate. The Developer shall deliver to the Trustee and the Issuer within fifteen (15) days after the completion of the Project, a written completion certificate:

(i) stating that the Project has been constructed and/or acquired, delivered and installed on the Project site and the date of completion;

(ii) stating that the Developer is of the opinion that the Project has been fully paid for and that no claim or claims exist against the Issuer or the Developer or against the property of the Issuer or the Developer out of which a lien based on furnishing labor or material for the Project exists or might ripen and that the Developer will not be submitting any further request for a disbursement from the Construction Account.

(d) Disposition of Construction Fund Moneys After Completion. If, after payment by the Trustee of all orders theretofore tendered to the Trustee under the provisions of subparagraph (a) of this Section 4.4 and after receipt by the Trustee of the completion certificate or certificates mentioned in subparagraph (c) of this Section 4.4, there shall remain any balance of moneys in the Construction Fund, the Trustee shall transfer all moneys then in the Construction Fund (except moneys reserved to pay any disputed claims described in the completion certificate required in Section 4.4(c) hereof) to the Bond Fund. The Trustee, as directed in writing by the Issuer, shall use any amount transferred to the Bond Fund from the Series 202__ Bonds, to redeem the Series 202__ Bonds pursuant to Section 5.1 hereof at the earliest redemption date.

Section 4.5. Reserved.

Section 4.6. TIF Revenues. The Controller of the Issuer shall set aside immediately upon receipt the portion of the TIF Revenues attributable to each respective Allocation Area into the Issuer's Allocation Fund as created by IC 36-7-14. On or before each January 15 and July 15 commencing with _____ 15, 202__, the Issuer shall transfer from the Issuer's allocation funds referenced in this Section to the Trustee, all TIF Revenues received. The Trustee is hereby directed to transfer to the Bond Fund on each January 15 and July 15 all TIF Revenues received and shall use such amounts deposited to the Bond Fund in accordance with Section 4.2 hereof. Any amount of the TIF Revenues remaining after the deposits to the Bond Fund shall be used to optionally redeem, on such January 15 or July 15, the outstanding Bonds in accordance with Section 5.1 hereof, or by the Issuer for such other lawful purposes.

Section 4.7. Trust Funds. All moneys and securities received by the Trustee under the provisions of this Indenture, shall be trust funds under the terms hereof and shall not be subject to lien or attachment of any creditor of the Issuer or of the Developer. Such moneys shall be held in trust and applied in accordance with the provisions of this Indenture.

Section 4.8. Investment. Moneys on deposit in the Funds established in this Article IV hereof shall be invested as provided in Section 6.8 hereof.

(End of Article IV)

ARTICLE V.

REDEMPTION OF BONDS BEFORE MATURITY

Section 5.1. Redemption Dates and Prices. (a) Optional Redemption. The Series 202__ Bonds are subject to optional redemption by the Issuer, prior to maturity, at the option of the Issuer, on any date, upon thirty (30) days' notice in whole or in part, in such order of maturity as the Issuer shall direct in writing by lot within maturities, at face value, with no premium, plus in each case accrued interest to the date fixed for redemption, if any.

(b) Mandatory Sinking Fund Redemption. The Series 202__ Bonds maturing on _____ 1, 20__ are subject to mandatory sinking fund redemption semiannually on February 1 and August 1, at a redemption price equal to the purchase amount thereof plus accrued interest to the date of redemption, if any, in accordance with the following schedule:

<u>20__ Term Bond</u>			
<u>Date</u>	<u>Amount</u>	<u>Date</u>	<u>Amount</u>
	\$		\$
	\$	*	\$

*Final Maturity

[In addition, to the extent [Area No. 4 Tax Increment][Area No. 5 Tax Increment][Area No. 6 Tax Increment][TIF Revenues] exceed the debt service due on the Series 202__ Bonds, the Series 202__ Bonds shall be redeemed upon seven (7) days' written notice, at face value, plus in each case accrued interest to the date fixed for redemption, with no premium.]

Section 5.2. Notice of Redemption. In the case of redemption of Series 202__ Bonds pursuant to Section 5.1 hereof, notice of the call for any such redemption identifying the Series 202__ Bonds, or portions of fully registered Series 202__ Bonds, to be redeemed shall be given by mailing a copy of the redemption notice by first class mail not less than ten (10) days prior to the date fixed for redemption to the registered owner of each Series 202__ Bond to be redeemed at the address shown on the registration books. Such notice of redemption shall specify the CUSIP number, if any, and, in the event of a partial redemption the Series 202__ Bond numbers and called amounts of each Series 202__ Bond, the redemption date, redemption price, interest, if any, maturity date and the name and address of the Trustee and the Paying Agent; provided, however, that failure to give such notice by mailing, or any defect therein, with respect to any such registered Series 202__ Bond shall not affect the validity of any proceedings for the redemption of other Series 202__ Bonds.

On and after the redemption date specified in the aforesaid notice, such Series 202__ Bonds, or portions thereof, thus called shall not bear interest, if any, shall no longer be protected by this Indenture and shall not be deemed to be outstanding under the provisions of this Indenture, and the holders thereof shall have the right only to receive the redemption price thereof, plus accrued interest thereon to the date fixed for redemption, if any.

Section 5.3. Cancellation. All Series 202___ Bonds which have been redeemed in whole shall be canceled and destroyed by the Trustee and shall not be reissued in accordance with the Trustee's retention policy then in effect.

Section 5.4. Redemption Payments. Prior to the date fixed for redemption in whole, funds shall be deposited with Trustee to pay, and Trustee is hereby authorized and directed to apply such funds to the payment of the Series 202___ Bonds or portions thereof called, together with accrued interest thereon to the redemption date, if any. Upon the giving of notice and the deposit of funds for redemption, interest on the Series 202___ Bonds thus called shall no longer accrue after the date fixed for redemption, if any. No payment shall be made by the Paying Agent upon any Series 202___ Bond until such Series 202___ Bond shall have been delivered for payment or cancellation or the Trustee shall have received the items required by Section 2.9 hereof with respect to any mutilated, lost, stolen or destroyed Series 202___ Bond.

Section 5.5. Partial Redemption of Series 202___ Bonds. If fewer than all of the Series 202___ Bonds at the time outstanding are to be called for redemption, the maturities of Series 202___ Bonds or portions thereof to be redeemed shall be selected by the Trustee at the direction of the Developer. If fewer than all of the Series 202___ Bonds within a maturity are to be redeemed, the Trustee shall select by lot (meaning also random selection by computer) in such manner as the Trustee, in its discretion, may determine, the Series 202___ Bonds or portions of Series 202___ Bonds within such maturity that shall be redeemed. The Trustee shall call for redemption in accordance with the foregoing provisions as many Series 202___ Bonds or portions thereof as will, as nearly as practicable, exhaust the moneys available therefor.

If less than the entire principal amount of any registered Series 202___ Bond then outstanding is called for redemption, then upon notice of redemption given as provided in Section 5.2 hereof, the Owner of such registered Series 202___ Bond shall forthwith surrender such Series 202___ Bond to the Paying Agent in exchange for (a) payment of the redemption price thereof, plus accrued interest thereon, if any, the principal amount called for redemption and (b) a new Series 202___ Bond or Series 202___ Bonds of like series in an aggregate principal amount equal to the unredeemed balance of the principal amount of such registered Bond, which shall be issued without charge therefor.

(End of Article V)

ARTICLE VI.

GENERAL COVENANTS

Section 6.1. Payment of Principal and Interest. Subject to the funding source limitations in this Indenture, the Issuer covenants that it will promptly pay the principal of and interest on every Bond issued under this Indenture at the place, on the dates and in the manner provided herein and in the Bonds according to the true intent and meaning thereof. The principal of and interest on the Bonds are payable solely and only from the TIF Revenues, and nothing in the Bonds or in this Indenture should be considered as pledging any other funds or assets of the Issuer. The Bonds, and the interest payable thereon, if any, do not and shall not represent or constitute a debt of the Issuer within the meaning of the provisions of the constitution or statutes of the State of Indiana or a pledge of the faith and credit of the Issuer. The Bonds, as to both principal and interest, are not an obligation or liability of the State of Indiana, or of any political subdivision or taxing authority thereof, but are a special limited obligation of the Issuer and are payable solely and only from TIF Revenues. Neither the faith and credit nor the taxing power of the Issuer, the Redevelopment Commission, the State of Indiana or any political subdivision or taxing authority thereof is pledged to the payment of or the principal of and premium, if any, or interest on the Bonds. The Bonds do not grant the owners or holders thereof any right to have the Issuer, the Redevelopment Commission, the State of Indiana or its General Assembly, or any political subdivision or taxing authority of the State of Indiana, levy any taxes or appropriate any funds for the payment of the principal of, or premium, if any, or interest on the Bonds. The Issuer has no taxing power with respect to the Bonds. No covenant or agreement contained in the Bonds or this Indenture shall be deemed to be a covenant or agreement of any member, director, officer, agent, attorney or employee of the Redevelopment Commission, the Commission or the Issuer in his or her individual capacity, and no member, director, officer, agent, attorney or employee of the Redevelopment Commission, the Commission or the Issuer executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance of the Bonds.

Section 6.2. Performance of Covenants. The Issuer covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Bond executed, authenticated and delivered hereunder and in all proceedings of its members pertaining thereto. The Issuer represents that it is duly authorized under the constitution and laws of the State of Indiana to issue the Bonds authorized herein and to execute this Indenture, pledge the TIF Revenues and assign the Financing Agreement in the manner and to the extent herein set forth; that all action on its part for the issuance of the Bonds and the execution and delivery of this Indenture has been duly and effectively taken, and that the Bonds in the hands of the holders and owners thereof are and will be valid and enforceable obligations of the Issuer according to the import thereof, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws, judicial decisions and principles of equity relating to or affecting creditors' rights generally and subject to the valid exercise of the constitutional powers of the Issuer, the State of Indiana and the United States of America.

Section 6.3. Ownership; Instruments of Further Assurance. The Issuer represents that at the time of the pledge and assignment thereof the assignment of the Financing Agreement to the Trustee hereby made will be valid and lawful. The Issuer covenants that it will defend its

interest in the Financing Agreement to the Trustee, for the benefit of the holders and owners of the Bonds against the claims and demands of all persons whomsoever. The Issuer covenants that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such indentures supplemental hereto and such further acts, instruments and transfers as the Trustee may reasonably require for the better assuring, transferring, mortgaging, conveying, pledging, assigning and confirming unto the Trustee, the Financing Agreement and all payments thereon and thereunder pledged hereby to the payment of the principal, or premium, if any, or interest on the Bonds, if any.

Section 6.4. Filing of Indenture, Financing Agreement and Security Instruments. The Issuer, upon the written direction and at the sole expense of the Developer, shall cause this Indenture, the Financing Agreement and all supplements thereto as well as such other security instruments, financing statements and all supplements thereto and other instruments as may be required from time to time to be filed in such manner and in such places as may be required by law in order to fully preserve and protect the lien hereof and the security of the holders and owners of the Bonds and the rights of the Trustee hereunder. This Section 6.4 shall impose no duty to record or file the instruments noted above where filing or recordation is not required by law in order to perfect a security interest. Continuation of financing statements may be filed without consent of the debtor parties thereto.

Section 6.5. Inspection of Books. The Issuer covenants and agrees that all books and documents in its possession relating to the Projects and the revenues derived from the Projects shall at all times be open to inspection by such accountants or other agents as the Trustee may from time to time designate. The Trustee shall have no duty to review or analyze such financial statements and shall hold any financial statements solely as a repository for the benefit of the Owner(s); the Trustee shall not be deemed to have notice of any information contained therein or event of default which may be disclosed therein in any manner.

Section 6.6. List of Bondholders. The Trustee will keep on file at the principal office of the Trustee a list of names and addresses of the holders of all Bonds. At reasonable times and under reasonable regulations established by the Trustee, said list may be inspected and copied by the Developer or by holders and/or owners (or a designated representative thereof) of 25% or more in principal amount of Bonds then outstanding, such ownership and the authority of any such designated representative to be evidenced to the satisfaction of the Trustee.

Section 6.7. Rights Under Financing Agreement. The Issuer agrees that the Trustee in its name or in the name of the Issuer may enforce all rights of the Issuer and all obligations of the Developer under and pursuant to the Financing Agreement for and on behalf of the Bondholders, whether or not the Issuer is in default hereunder.

Section 6.8. Investment of Funds. Moneys in the funds established hereunder may be invested in Qualified Investments to the extent and in the manner provided for in Section 3.8 of the Financing Agreement. The Trustee shall not be liable or responsible for any loss resulting from any such investment. The interest accruing thereon and any profit realized from such investments shall be credited, and any loss resulting from such investments shall be charged to the fund in which the money was deposited.

Section 6.9. Non-presentment of Bonds. If any Bond shall not be presented for payment when the principal thereof becomes due, either at maturity, or at the date fixed for redemption thereof, or otherwise, if funds sufficient to pay any such Bond shall have been made available to Paying Agent for the benefit of the holder or holders thereof, all liability of Issuer to the holder thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of Paying Agent to hold such funds for five (5) years without liability for interest thereon, for the benefit of the holder of such Bond, who shall thereafter be restricted exclusively to such funds, for any claim of whatever nature on his part under this Indenture or on, or with respect to, such Bond.

Any moneys so deposited with and held by the Paying Agent not so applied to the payment of Bonds within five (5) years after the date on which the same shall become due shall be repaid by Paying Agent to Issuer and thereafter Bondholders shall be entitled to look only to Issuer for payment, and then only to the extent of the amount so repaid, and Issuer shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

Section 6.10. Direction of Bondholders. Whenever any action, direction or consent is required of the Trustee, the Trustee shall consult with the holders of the Bonds and shall take such action, give such direction or give such consent as shall be directed by the Requisite Bondholders.

Section 6.11. Reserved.

(End of Article VI)

ARTICLE VII.

DEFAULTS AND REMEDIES

Section 7.1. Events of Default. Each of the following events is hereby declared an "event of default," that is to say, if:

(a) payment of any amount payable on the Bonds shall not be made when the same is due and payable by reason other than collection of insufficient TIF Revenues and paid to the Trustee; or

(b) any event of default as defined in Section 5.1 of the Financing Agreement shall occur and be continuing; or

(c) the Issuer shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bonds or in this Indenture or any agreement supplemental hereof on the part of the Issuer to be performed, and such default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall have been given to the Issuer and the Developer by the Trustee; or

(d) the Issuer shall fail to apply collected TIF Revenues in accordance with Article IV of this Indenture; short fall in the amount of TIF Revenues received shall not be an event or default.

Section 7.2. Reserved.

Section 7.3. Remedies; Rights of Bondholders.

(i) If an event of default occurs, the Trustee may pursue any available remedy by suit at law or in equity to enforce the payment of the principal of, premium, if any, and interest, if any, on the Bonds then outstanding, to enforce any obligations of the Issuer hereunder, and of the Issuer and the Developer under the Financing Agreement.

(ii) Upon the occurrence of an event of default, and if directed to do so by the Requisite Bondholders and indemnified as provided in Section 8.1 hereof, the Trustee shall be obliged to exercise such one or more of the rights and powers conferred by this Article as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Bondholders.

(iii) No remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the Bondholders) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Bondholders hereunder or now or hereafter existing at law or in equity or by statute.

(iv) No delay or omission to exercise any right or power accruing upon any event of default shall impair any such right or power or shall be construed to be a waiver

of any event of default or acquiescence therein, and every such right and power may be exercised from time to time as may be deemed expedient.

(v) No waiver of any event of default hereunder, whether by the Trustee or by the Bondholders, shall extend to or shall affect any subsequent event of default or shall impair any rights or remedies consequent thereon.

Section 7.4. Right of Bondholders to Direct Proceedings. Anything in this Indenture to the contrary notwithstanding, the holders of all Bonds then outstanding shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the time, the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder; provided, that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture, and provided that the Trustee is obligated to pursue its remedies under the provisions of Section 7.3 hereof before any other remedies are sought.

Section 7.5. Application of Moneys. All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of the cost and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Trustee or the Issuer and the creation of a reasonable reserve for anticipated fees, costs and expenses, be deposited in the Bond Fund and all moneys in the Bond Fund shall be applied as follows:

(a) Unless the principal of all the Bonds shall have become or shall have been declared due and payable, all such moneys shall be applied:

First: To the payment to the persons entitled thereto of all installments of interest, if any, then due on the Bonds, in the order of the maturity of the installments of such interest, and if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or privilege; and

Second: To the payment to the persons entitled thereto of the unpaid principal of and premium, if any, of the Bonds which shall have become due (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates, with interest on such Bonds from the respective dates upon which they become due, and if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment ratably, to the amount of principal due on such date, to the persons entitled thereto without any discrimination or privilege; and

Third: To the payment of the balance, if any, to the Developer or its successors or assigns, upon the written request of the Developer, except for any remaining TIF Revenues which shall be paid to the Issuer, or to whosoever may be lawfully entitled to receive the same upon its written request, or as any court of competent jurisdiction may direct.

(b) If the principal of all the Bonds shall have become due or shall have been declared due and payable, all such moneys shall be applied to the payment of the principal and interest, if any, then due and unpaid upon the Bonds, without preference or priority of principal over interest, if any, or of interest, if any, over any other installment of interest, according to the amounts due, respectively, for principal and interest, if any, to the persons entitled thereto without any discrimination or privilege.

(c) If the principal of all the Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of this Article then, subject to the provisions of subsection (b) of this Section in the event that the principal of all the Bonds shall later become due or be declared due and payable, the moneys shall be applied in accordance with the provisions of subsection (a) of this Section.

Whenever moneys are to be applied pursuant to the provisions of this Section, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an interest payment date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest, if any, on the amounts of principal to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date and shall not be required to make payment to the holder of any Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Section 7.6. Remedies Vested In Trustee. All rights of action (including the right to file proof of claims) under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any holders of the Bonds, and any recovery of judgment shall, subject to the provisions of Section 7.4 hereof, be for the equal benefit of the holders of the outstanding Bonds.

Section 7.7. Rights and Remedies of Bondholders. No holder of any Bond shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust thereof or for the appointment of a receiver or any other remedy hereunder, unless a default has occurred of which the Trustee has been notified as provided in subsection (g) of Section 8.1, or of which by said subsection it is deemed to have notice, nor unless also such default shall have become an event of default and the holders of all Bonds then outstanding shall have made written request to the Trustee and shall have offered reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, nor unless also they have offered to the Trustee indemnity as provided in Section 8.1 hereof, nor unless the Trustee shall thereafter fail or refuse to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding in its, his, or their own name or names. Such notification, request and offer of indemnity are hereby declared in every case at the option of the Trustee to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the

enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder; it being understood and intended that no one or more holders of the Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by its, his or their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the holders of all Bonds then outstanding. Nothing in this Indenture contained shall, however, affect or impair the right of any Bondholder to enforce the covenants of the Issuer to pay the principal of and interest on each of the Bonds issued hereunder to the respective holders thereof at the time, place, from the source and in the manner in the Bonds expressed.

Section 7.8. Termination of Proceedings. In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver, or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Issuer, the Developer and the Trustee shall be restored to their former positions and rights hereunder, respectively, with respect to the Trust Estate, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 7.9. Waivers of Events of Default. The Trustee may in its discretion waive any event of default hereunder and its consequences and rescind any declaration of maturity of principal of and interest on the Bonds, and shall do so upon the written request of the holders of (1) all the Bonds then outstanding in respect of which default in the payment of principal and/or premium, if any, and/or interest exists, or (2) all Bonds then outstanding in the case of any other default; provided, however, that there shall not be waived (a) any event of default in the payment of the principal of any outstanding Bonds at the date of maturity specified therein, or (b) any default in the payment when due of the interest, if any, on any such Bonds unless prior to such waiver or rescission, arrears of interest, with interest (to the extent permitted by law) at the rate borne by the Bonds in respect of which such default shall have occurred on overdue installments of interest or all arrears of payments of principal and premium, if any, when due, as the case may be, and all expenses of the Trustee in connection with such default shall have been paid or provided for, and in case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the Issuer, the Trustee and the Bondholders shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon.

(End of Article VII)

ARTICLE VIII.

THE TRUSTEE AND PAYING AGENT

Section 8.1. Acceptance of the Trusts. The Trustee hereby accepts the trusts imposed upon it by this Indenture and agrees to perform said trusts as a corporate trustee ordinarily would perform said trusts under a corporate indenture, but no implied covenants or obligations shall be read into this Indenture against the Trustee.

(a) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or if appointed through attorneys, agents, receivers or employees but shall not be answerable for the conduct of the same if appointed with due care, and shall be entitled to advice of counsel concerning all matters of trusts hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the trusts hereof. The Trustee may act upon the opinion or advice of any attorney (who may be the attorney or attorneys for the Issuer or the Developer). The Trustee shall not be responsible for any loss or damage resulting from any action or non-action in good faith in reliance upon such opinion or advice.

(b) The Trustee shall not be responsible for any recital herein, or in the Bonds (except in respect to the certificate of the Trustee endorsed on the Bonds), or for insuring the property herein conveyed or collecting any insurance moneys, or for the validity of the execution by the Issuer of this Indenture or of any supplements thereto or instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby, or for the value or title of the property herein conveyed or otherwise as to the maintenance of the security hereof; and the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any covenants, conditions or agreements on the part of the Issuer or on the part of the Developer under the Financing Agreement; but the Trustee may require of the Issuer or the Developer full information and advice as to the performance of the covenants, conditions and agreements aforesaid as to the condition of the property herein conveyed. The Trustee shall have no obligation to perform any of the duties of the Issuer under the Financing Agreement, and the Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with the provisions of this Indenture.

(c) The Trustee shall not be accountable for the use of any Bonds authenticated by it or the Paying Agent or delivered hereunder. The Trustee may become the owner of Bonds secured hereby with the same rights which it would have if not Trustee.

(d) The Trustee shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document believed to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the owner of any Bond, shall be conclusive and binding upon all future owners of the same Bond and upon Bonds issued in exchange therefor or in place thereof.

(e) As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a certificate signed on behalf of the Issuer or the Developer by its duly authorized officers as sufficient evidence of the facts therein contained and prior to the occurrence of a default of which the Trustee has been notified as provided in subsection (g) of this Section, or of which said subsection it is deemed to have notice, shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same. The Trustee may accept a certificate of the Issuer or the Developer under its seal to the effect that an ordinance or resolution in the form therein set forth has been adopted by the Issuer or the Developer as conclusive evidence that such ordinance or resolution has been duly adopted, and is in full force and effect.

(f) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty, and the Trustee shall not be answerable for other than its gross negligence or willful misconduct; provided, however, that the provisions of this subsection shall not affect the duties of the Trustee hereunder, including the provisions of Article VII hereof.

(g) The Trustee shall not be required to take notice or be deemed to have notice of any event of default hereunder (other than payment of the principal and interest on the Bonds) unless the Trustee shall be specifically notified in writing of such default by the Issuer or by the holders of at least twenty-five percent (25%) in aggregate principal amount of all Bonds then outstanding and all notices or other instruments required by this Indenture to be delivered to the Trustee must, in order to be effective, be delivered at the principal corporate trust office of the Trustee, and in the absence of such notice so delivered, the Trustee may conclusively assume there is no default except as aforesaid.

(h) The Trustee shall not be personally liable for any debts contracted or for damages to persons or to personal property injured or damaged, or for salaries or nonfulfillment of contracts during any period in which it may be in possession of or managing the Trust Estate.

(i) At any and all reasonable times and upon reasonable prior written notice, the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right fully to inspect the Trust Estate, and to take such memoranda from and in regard thereto as may be desired.

(j) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(k) Notwithstanding anything elsewhere in this Indenture contained, the Trustee shall have the right, but shall not be required, to demand, in respect of the authentication of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action by the Trustee, deemed desirable for the authentication of any Bonds, the withdrawal of any cash, or the taking of any other action by the Trustee.

(l) Before taking any action under this Section 8.1 the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its gross negligence or willful misconduct in connection with any action so taken. Such indemnity shall survive the termination of this Indenture.

(m) All moneys received by the Trustee or the Paying Agent shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required by law. Neither the Trustee nor the Paying Agent shall be under any liability for interest on any moneys received hereunder except such as may be agreed upon.

(n) The Trustee, prior to the occurrence of an event of default and after the curing of all events of default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations should be read into this Indenture against the Trustee. If any event of default under this Indenture shall have occurred and be continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture and shall use the same degree of care as a prudent man would exercise or use in the circumstances in the conduct of his own affairs.

(o) The Trustee shall have no responsibility with respect to any information, statement or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds, except for any information provided by the Trustee, and shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds.

(p) The Trustee shall have the right to accept and act upon instructions, including funds transfer instructions ("Instructions") given pursuant to this Indenture and delivered using Electronic Means; provided, however, that the Issuer and Developer shall provide to the Trustee an incumbency certificate listing officer with the authority to provide such Instructions ("Authorized Officers") and containing specimen signature of such Authorized Officer, which incumbency certificate shall be amended by the Issuer and Developer whenever a person is to be added or deleted from the listing. If the Issuer and Developer elects to give the Trustee Instructions using Electronic Means and the Trustee in its discretion elects to act upon such Instructions, the Trustee's understanding of such Instructions shall be deemed controlling. The Issuer and Developer understands and agrees that the Trustee cannot determine the identity of the actual sender of such instructions and that the Trustee shall conclusively presume that direction that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The Issuer and Developer shall be responsible for ensuring that only Authorized Officer transmit such instructions to the Trustee and that the Issuer and Developer and all Authorized Officer are solely responsible to safeguard that use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Issuer and Developer. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written Instruction. The Issuer and Developer agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Trustee,

including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Issuer and Developer; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures. "Electronic Means" shall mean the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services hereunder.

(q) The Trustee shall not be accountable for the use or application by the Issuer or Developer of any of the Bonds or the proceeds thereof or for the use or application of any money paid over by the Trustee in accordance with the provisions of this Indenture or the Financing Agreement or for the use and application of money received by any paying agent.

(r) None of the provisions of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any liability, financial or otherwise, in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(s) The Trustee shall have no duty to review or analyze financial statements and shall hold such financial statements solely as a repository for the benefit of the Bondholders; the Trustee shall not be deemed to have notice of any information contained therein or event of default which may be disclosed therein in any manner.

Section 8.2. Fees, Charges and Expenses of Trustee and Paying Agent. The Trustee and Paying Agent shall be entitled to payment and/or reimbursement for reasonable fees for its services rendered hereunder and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by the Trustee or Paying Agent in connection with such services. Such fees and expenses shall be payable upon the receipt of TIF Revenues received from the Issuer. In the event such TIF Revenues are insufficient to pay such fees and expenses of the Trustee, the Developer shall be responsible for payment of said fees and expenses of the Trustee. Upon an event of default, but only upon an event of default, the Trustee shall have a right of payment prior to payment on account of interest, if any, or principal of, or premium, if any, on any Bond for the foregoing advances, fees, costs and expenses incurred. In the event of bankruptcy of the Issuer or Developer, any fees and expenses of the Trustee shall constitute administrative expenses. If the Trustee renders any service hereunder not provided for in the Indenture, or the Trustee is made a party to or intervenes in any litigation pertaining to this Indenture or institutes interpleader proceedings relative hereto, the Trustee shall be compensated reasonable by the Issuer for such extraordinary services and reimbursed for any and all claims, liabilities, losses, damages, fines, penalties and expenses, including out-of-pocket and incidental expenses and legal fees occasioned thereby.

Section 8.3. Notice to Bondholders if Default Occurs. If an event of default occurs of which the Trustee is by subsection (g) of Section 8.1 hereof required to take notice or if notice of an event of default be given as in said subsection (g) provided, then the Trustee shall give written notice thereof by first class mail to the last known holders of all Bonds then outstanding shown by the list of Bondholders required by the terms of this Indenture to be kept at the office of the Trustee.

Section 8.4. Intervention by Trustee. In any judicial proceeding to which the Issuer is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of holders of the Bonds, the Trustee may intervene on behalf of Bondholders and, subject to the provisions of Section 8.1(l), shall do so if requested in writing by the owners of at least twenty-five percent (25%) in aggregate principal amount of all Bonds then outstanding. The rights and obligations of the Trustee under this Section are subject to the approval of a court of competent jurisdiction.

Section 8.5. Successor Trustee. Any corporation or association into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, ipso facto, shall be and become successor Trustee hereunder and vested with all of the title to the whole property or trust estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

Section 8.6. Resignation by the Trustee. The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving thirty days' written notice to the Issuer and the Developer and by registered or certified mail to each registered owner of Bonds then outstanding and to each holder of Bonds as shown by the list of Bondholders required by this Indenture to be kept at the office of the Trustee, and such resignation shall take effect at the end of such thirty (30) days, or upon the earlier appointment of a successor Trustee by the Bondholders or by the Issuer. Such notice to the Issuer and the Developer may be served personally or sent by registered or certified mail. If at the end of the 30 days' notice period a successor trustee has not been appointed, the Trustee shall have the right to petition a court of competent jurisdiction to appoint a successor trustee.

Section 8.7. Removal of the Trustee. The Trustee may be removed at any time by an instrument or concurrent instruments in writing delivered to the Trustee and to the Issuer and signed by all the Bondholders.

Section 8.8. Appointment of Successor Trustee by the Bondholders; Temporary Trustee. In case the Trustee hereunder shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by the owners of a majority in aggregate principal amount of Bonds then outstanding, by an instrument or concurrent instruments in writing signed by such owners, or by their attorneys-in-fact, duly authorized; provided, nevertheless, that in case of such

vacancy, the Issuer, by an instrument executed by one of its duly authorized officers, may appoint a temporary Trustee to fill such vacancy until a successor Trustee shall be appointed by the Bondholders in the manner above provided; and any such temporary Trustee so appointed by the Issuer shall immediately and without further act be superseded by the Trustee so appointed by such Bondholders. Every such Trustee appointed pursuant to the provisions of this Section shall be a trust company or bank, having a reported capital and surplus of not less than One Hundred Million Dollars (\$100,000,000) if there be such an institution willing, qualified and able to accept the trust upon reasonable or customary terms.

Section 8.9. Concerning Any Successor Trustees. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Issuer and the Developer an instrument in writing accepting such appointment hereunder, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor; but such predecessor shall, nevertheless, on the written request of the Issuer, or of its successor, execute and deliver an instrument transferring to such successor Trustee all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its successor. Should any instrument in writing from the Issuer be required by any successor Trustee for more fully and certainly vesting in such successor the estate, rights, powers and duties hereby vested or intended to be vested in the predecessor any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article shall be filed by the successor Trustee in each office, if any, where the Indenture shall have been filed.

Section 8.10. Trustee Protected in Relying Upon Resolutions, etc. Subject to the conditions contained herein, the resolutions, ordinances, opinions, certificates and other instruments provided for in this Indenture may be accepted by the Trustee as conclusive evidence of the facts and conclusions stated therein and shall be full warrant, protection and authority to the Trustee for the release of property and the withdrawal of cash hereunder.

Section 8.11. Appointment of Paying Agent and Registrar; Resignation or Removal of Paying Agent. The Trustee is hereby appointed "Paying Agent" under this Indenture. Any Paying Agent may at any time resign and be discharged of the duties and obligations created by this instrument and any supplemental indenture by giving at least 60 days' written notice to the Issuer, the Developer and the Trustee. Any Paying Agent may be removed at any time by an instrument, filed with such Paying Agent and the Trustee and signed by the Issuer and the Developer. Any successor Paying Agent shall be appointed by the Issuer at the direction of the Developer and shall be a bank or trust company duly organized under the laws of any state of the United States or a national banking association, in each case having a capital stock and surplus aggregating at least \$100,000,000, willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by this Indenture.

In the event of the resignation or removal of any Paying Agent, such Paying Agent shall pay over, assign and deliver any moneys or securities held by it as Paying Agent to its successors, or if there is no successor, to the Trustee.

Section 8.12 To the extent permitted by law, the Issuer hereby agrees to indemnify and save harmless the Trustee from all losses, liabilities, costs and expenses, including attorney fees and expenses, which may be incurred by it as a result of its acceptance of or arising from the performance of its duties hereunder unless such losses, liabilities, costs and expenses shall have been finally adjudicated to have resulted from the gross negligence or willful misconduct of the Trustee, and such indemnification shall survive its resignation or removal of the Trustee or the defeasance of this Indenture

(End of Article VIII)

ARTICLE IX.

SUPPLEMENTAL INDENTURES

Section 9.1. Supplemental Indentures Not Requiring Consent of Bondholders. Subject to the last sentence of this Section, the Issuer and the Trustee may without the consent of, or notice to, any of the Bondholders, enter into an indenture or indentures supplemental to this Indenture, as shall not be inconsistent with the terms and provisions hereof, for any one or more of the following purposes:

- (a) To cure any ambiguity or formal defect or omission in this Indenture;
 - (b) To grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Bondholders or the Trustee or any of them;
 - (c) To subject to this Indenture additional security, revenues, properties or collateral;
- or
- (d) To make any other change in this Indenture which, in the judgment of the Trustee, is not to the material prejudice of the Trustee that is supported with an opinion of counsel that such action is not materially prejudicial to the holders, the Developer, the Issuer or the holders of the Bonds; or
 - (e) To modify, amend or supplement the Indenture in such manner as required to permit the qualification thereof under the Trust Indenture Act of 1939, as amended, or any similar Federal statute hereafter in effect, and, if they so determine, to add to the Indenture such other terms, conditions and provisions as may be required by said Trust Indenture Act of 1939, as amended, or similar federal statute.
 - (f) To issue Additional Bonds in accordance with the provisions of Section 2.8 hereof.

Section 9.2. Supplemental Indentures Requiring Consent of Bondholders. Exclusive of supplemental indentures covered by Section 9.1 hereof, and subject to the terms and provisions contained in this Section, and not otherwise, the Requisite Bondholders shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the execution by the Issuer and the Trustee of such other indenture or indentures supplemental hereto as shall be deemed necessary and desirable by the Issuer for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any supplemental indenture; provided however, that nothing in this section contained shall permit or be construed as permitting (except as otherwise permitted in this Indenture) (a) an extension of the stated maturity or reduction in the principal amount of, or reduction in the rate or extension of the time of paying of interest on, or reduction of any premium payable on the redemption of, any Bonds, without the consent of the holder of such Bond, or (b) a reduction in the amount or extension of the time of any payment required by any sinking fund applicable to any Bonds without the consent of the holders of all the Bonds which would be affected by the action to be taken, or (c) the creation of any lien

prior to or on a parity with the lien of this Indenture without the consent of the holders of all the Bonds at the time outstanding, or (d) a reduction in the aforesaid aggregate principal amount of Bonds the holders of which are required to consent to any such supplemental indenture, without the consent of the holders of all the Bonds at the time outstanding which would be affected by the action to be taken, or (e) a modification of the rights, duties or immunities of the Trustee, without the written consent of the Trustee, or (f) a privilege or priority of any Bond over any other Bonds, or (g) deprive the Owners of any Bonds then Outstanding of the lien thereby created.

Anything herein to the contrary notwithstanding, a supplemental indenture under this Article which affects any rights of the Developer shall not become effective unless and until the Developer shall have consented in writing to the execution and delivery of such supplemental indenture. In this regard, the Trustee shall cause notice of the proposed execution and delivery of any such supplemental indenture together with a copy of the proposed supplemental indenture to be mailed by certified or registered mail to the Developer at least fifteen (15) days prior to the proposed date of execution and delivery of any such supplemental indenture.

The Trustee shall be entitled to receive, and shall be fully protected in relying upon, the opinion of any counsel approved by it who may be counsel for the Issuer, as conclusive evidence that any such proposed supplemental indenture complies with the provisions of this Indenture, and that it is proper for the Trustee, under the provisions of this Article, to join in the execution of such supplemental indenture. Costs of any such opinion shall be paid by the Issuer.

(End of Article IX)

ARTICLE X.

AMENDMENTS TO THE FINANCING AGREEMENT

Section 10.1. Amendments, etc., to Financing Agreement Not Requiring Consent of Bondholders. The Issuer and the Trustee with the consent of the Developer shall, without the consent of or notice to the Bondholders, consent to any amendment, change or modification of the Financing Agreement as may be required by (i) the provisions of the Financing Agreement and this Indenture, or (ii) for the purpose of curing any ambiguity or formal defect or omission, or (iii) in connection with any other change therein which, in the judgment of the Trustee, is not to the material prejudice of the Trustee, the Issuer or the holders of the Bonds.

Section 10.2. Amendments, etc., to Financing Agreement Requiring Consent of Bondholders. Except for the amendments, changes or modifications as provided in Section 10.1 hereof, neither the Issuer nor the Trustee shall consent to any other amendment, change or modification of the Financing Agreement without the written approval or consent of the Requisite Bondholders given and procured as in Section 9.2 provided.

(End of Article X)

ARTICLE XI.

MISCELLANEOUS

Section 11.1. Satisfaction and Discharge. All rights and obligations of the Issuer and the Developer under the Financing Agreement and this Indenture shall terminate, and such instruments shall cease to be of further effect, and the Trustee shall execute and deliver all appropriate instruments evidencing and acknowledging the satisfaction of this Indenture, and shall assign and deliver to the Developer any moneys and investments in the Construction Fund and the Rebate Fund established hereunder (except moneys or investments held by the Trustee for the payment of principal of and interest on, if any, the Bonds and except for any TIF Revenues which shall be delivered to the Issuer) when:

- (a) all fees and expenses of the Trustee and the Paying Agent shall have been paid;
- (b) the Issuer and the Developer shall have performed all of their covenants and promises in the Financing Agreement and in this Indenture; and
- (c) all Bonds theretofore authenticated and delivered (i) have become due and payable, or (ii) are to be retired or called for redemption under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee at the expense of the Developer, or (iii) have been delivered to the Trustee canceled or for cancellation; and, in the case of (i) and (ii) above, there shall have been deposited with the Trustee either cash in an amount which shall be sufficient, or investments (but only to the extent that the full faith and credit of the United States of America are pledged to the timely payment thereof) the principal of and interest on, if any, which when due will provide moneys which, together with the moneys, if any, deposited with the Trustee, shall be sufficient, to pay when due the principal or redemption price, if applicable, and interest due and to become due on the Bonds prior to the redemption date or maturity date thereof, as the case may be. Provided, however, none of the Bonds may be advance refunded if such advance refunding is not permitted by the laws of Indiana.

Section 11.2. Defeasance of Bonds. Any Bond shall be deemed to be paid and no longer Outstanding within the meaning of this Article and for all purposes of this Indenture when (a) payment of the principal and interest of, if any, and premium, if any, on such Bond either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by irrevocably depositing with the Trustee in trust and irrevocably set aside exclusively for such payment, (1) moneys sufficient to make such payment or (2) Government Obligations maturing as to principal and interest, if any, in such amounts and at such times as will insure the availability of sufficient moneys to make such payment, and (b) all necessary and proper fees, compensation, indemnities and expenses of the Trustee and the Issuer pertaining to the Bonds with respect to which such deposit is made shall have been paid or the payment thereof provided for. At such time as a Bond shall be deemed to be paid hereunder, as aforesaid, such Bond shall no longer be secured by or entitled to the benefits of this Indenture, except for the purposes of any such payment from such moneys or Government Obligations. The Trustee shall be entitled to receive a verification report of an independent certified public accountant, verification agent or similar expert to the effect that such securities and/or cash, together with the earnings thereon, will be sufficient to pay interest, if any, and principal (and

applicable premium) on the Bonds to redemption or maturity or an opinion of counsel to the effect that all conditions precedent to the defeasance have been complied with.

Notwithstanding the foregoing, no deposit under clause (a)(ii) of the immediately preceding paragraph shall be deemed payment of such Bonds as aforesaid until (a) proper notice of redemption of such Bonds shall have been previously given in accordance with Section 5.2 of this Indenture, or if the Bonds are not by their terms subject to redemption within the next succeeding sixty (60) days, until the Developer shall have given the Trustee in form satisfactory to the Trustee irrevocable instructions to notify, as soon as practicable, the Owners of the Bonds, that the deposit required by the preceding paragraph has been made with the Trustee and that the Bonds are deemed to have been paid in accordance with this Section 11.2 and stating the maturity or redemption date upon which moneys are to be available for the payment of the principal of and the applicable redemption premium, if any, on the Bonds, plus interest thereon, if any, to the due date thereof; or (b) the maturity of such Bonds.

All moneys so deposited with the Trustee as provided in this Section 11.2 may also be invested and reinvested, at the written direction of the Developer, in Government Obligations, maturing in the amounts and at the times as hereinbefore set forth, and all income from all Government Obligations in the hands of the Trustee pursuant to this Section 11.2 which is not required for the payment of principal of the Bonds and interest on, if any, and premium, if any, thereon with respect to which such moneys shall have been so deposited shall be deposited in the Bond Fund as and when realized and collected for use and application as are other moneys deposited in the Bond Fund.

Notwithstanding any provision of any other Article of this Indenture which may be contrary to the provisions of this Section 11.2, all moneys or Government Obligations set aside and held in trust pursuant to the provisions of this Section 11.2 for the payment of Bonds (including premium thereon, if any) shall be applied to and used solely for the payment of the particular Bonds (including the premium thereon, if any) with respect to which such moneys or Government Obligations have been so set aside in trust.

Anything in Article 9 hereof to the contrary notwithstanding, if moneys or Government obligations have been deposited or set aside with the Trustee pursuant to this Section 11.2 for the payment of Bonds and such Bonds shall not have in fact been actually paid in full, no amendment to the provisions of this Section 11.2 shall be made without the consent of the Owner of each Bond affected thereby.

The right to register the transfer of or to exchange Bonds shall survive the discharge of this Indenture.

Section 11.3. Cancellation of Bonds. If the Owner of any Series 202___ Bonds presents that Series 202___ Bond to the Trustee with an instrument satisfactory to the Trustee waiving all claims for payment of that Series 202___ Bond, the Trustee shall cancel that Series 202___ Bond and the Bondholder shall have no further claim against the Trust Estate, the Issuer or the Developer with respect to that Series 202___ Bond.

Section 11.4. Application of Trust Money. All money or investments deposited with or held by the Trustee pursuant to Section 11.1 shall be held in trust for the holders of the Bonds, and applied by it, in accordance with the provisions of the Bonds and this Indenture, to the payment, either directly or through the Paying Agent, to the persons entitled thereto, of the principal (and premium, if any) and interest, if any, for whose payment such money has been deposited with the Trustee; but such money or obligations need not be segregated from other funds except to the extent required by law.

Section 11.5. Consents, etc., of Bondholders. Any consent, request, direction, approval, objection or other instrument required by this Indenture to be executed by the Bondholders may be in any number of concurrent writings of similar tenor and may be executed by such Bondholders in person or by agent appointed in writing. Provided, however, that wherever this Indenture or the Financing Agreement requires that any such consent or other action be taken by the holders of a specified percentage, fraction or majority of the Bonds outstanding, any such Bonds held by or for the account of the following persons shall not be deemed to be outstanding hereunder for the purpose of determining whether such requirement has been met: the Issuer or any of its members. For all other purposes, Bonds held by or for the account of such person shall be deemed to be outstanding hereunder. Proof of the execution of any such consent, request, direction, approval, objection or other instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken under such request or other instrument, namely:

(a) The fact and date of the execution by any person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such writing acknowledged before him the execution thereof, or by affidavit of any witness to such execution.

(b) The fact of the holding by any person of Bonds transferable by assignment and the amounts and numbers of such Bonds, and the date of the holding of the same, may be proved by a certificate executed by any trust company, bank or bankers, wherever situated, stating that at the date thereof the party named therein did exhibit to an officer of such trust company or bank or to such banker, as the property of such party, the Bonds therein mentioned if such certificate shall be deemed by the Trustee to be satisfactory. The Trustee may, in its discretion, require evidence that such Bonds have been deposited with a bank, bankers or trust company, before taking any action based on such ownership. In lieu of the foregoing, the Trustee may accept other proofs of the foregoing as it shall deem appropriate.

For all purposes of this Indenture and of the proceedings for the enforcement hereof, such person shall be deemed to continue to be the holder of such Bond until the Trustee shall have received notice in writing to the contrary.

Section 11.6. Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture, or the Bonds is intended or shall be construed to give to any person other than the parties hereto, and the Developer, and the holders of the Bonds, any legal or equitable right, remedy or claim under or in respect to this Indenture or any covenants, conditions and provisions herein contained, this

Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the Developer and the holders of the Bonds as herein provided.

Section 11.7. Severability. If any provision of this Indenture shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever.

The invalidity of any one or more phrases, sentences, clauses or Sections in this Indenture contained, shall not affect the remaining portions of this Indenture, or any part thereof.

Section 11.8. Notices. All notices, demands, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered mail, certified mail, or first class mail, postage prepaid, with proper address as indicated below. The Issuer, the Developer, and the Trustee may, by written notice given by each to the others, designate any address or addresses to which notices, demands, certificates or other communications to them shall be sent when required as contemplated by this Indenture. Until otherwise provided by the respective parties, all notices, demands, certificates and communications to each of them shall be addressed as provided in Section 9.4 of the Financing Agreement.

Section 11.9. Counterparts. This Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.10. Applicable Law. This Indenture shall be governed exclusively by the applicable laws of the State of Indiana.

Section 11.11. Immunity of Officers and Directors. No recourse shall be had for the payment of the principal of or premium or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement in this Indenture contained against any past, present or future members, officer, directors, agents, attorneys or employees of the Issuer, or any incorporator, member, officer, director, agents, attorneys, employees or trustee of any successor corporation, as such, either directly or through the Issuer or any successor corporation, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such incorporator, members, officers, directors, agents, attorneys, employees or trustees as such is hereby expressly waived and released as a condition of and consideration for the execution of this Indenture and issuance of such Bonds.

Section 11.12. Holidays. If any date for the payment of principal or interest on the Bonds is not a business day then such payment shall be due on the first business day thereafter.

Section 11.13. **Shortfall of TIF Revenues.** Notwithstanding any other provision of this Indenture, any portion of the principal or interest due on the Series 202___ Bonds that remains unpaid due to a shortfall in TIF Revenues shall not be deemed defeased or otherwise satisfied, shall not be considered paid, and shall continue to be due and owing until the earlier of: (i) full payment by the Issuer; or (ii) the date which is **25 years** after the date on which the Series 202___ Bonds are issued. The Issuer and the Bondholder shall be responsible for calculating any shortfall. The Trustee shall not be required or responsible for maintaining any record of a shortfall in TIF Revenues.

(End of Article XI)

IN WITNESS WHEREOF, the City of Elkhart, Indiana, has caused these presents to be signed in its name and behalf by its Mayor and its corporate seal to be hereunto affixed and attested by its Controller, and to evidence its acceptance of the trusts hereby created, [TRUSTEE], in _____, Indiana has caused these presents to be signed in its name and behalf by, and the same to be attested by, a duly authorized officer, all as of the day and year first above written.

CITY OF ELKHART, INDIANA

By: _____
Mayor

Attest:

Controller

SEAL

[TRUSTEE], as Trustee

By: _____
(Written Signature)

(Printed Signature)

This instrument prepared by Lisa A. Lee, Ice Miller LLP, One American Square, Suite 2900,
Indianapolis, Indiana 46282.

EXHIBIT A

Projects

Phase I (Series A Bonds) – construction of three (3) new buildings consisting of not less than 85 residential units and 13,500 square feet of commercial space to be owned by Developer and offered for lease to third parties;

Phase II (Series B Bonds) - construction of two (2) new buildings consisting of not less than 20 residential units to be owned by Developer and offered for lease to third parties an Pacific Street pedestrian improvements; and

Phase III (Series C Bonds) – construction of two (2) buildings consisting of not less than 10 residential units to be offered for sale to third parties.

EXHIBIT B

Costs of Issuance

Ice Miller LLP

[TRUSTEE], as Trustee

Baker Tilly Municipal Advisors, LLC

EXHIBIT C

Affidavit of Construction Fund Disbursement Request

NO. 1

[TRUSTEE]

Attention: Corporate Trust Department

Re: City of Elkhart, Indiana
Taxable Economic Development Revenue Bonds, Series 202___ (River District
Project) ("Bonds")

Ladies and Gentlemen:

This request for disbursement is submitted to you pursuant to Section 4.4(b) of the Trust Indenture dated as of _____ 1, 202___ ("Indenture") between the City of Elkhart, Indiana ("Issuer") and [TRUSTEE] ("Bond Trustee"). You are hereby requested to make the following disbursements in the aggregate amount of \$_____ from the Construction Fund for the payment of Costs of Construction (as defined in the Indenture) in the individual amounts stated on Schedule A attached hereto.

We hereby certify the following as the Developer under the Indenture:

1. The Costs of Construction of an aggregate amount set forth in this written request have been made or incurred and were necessary for the construction of the Projects;
2. The amount paid or to be paid, as set forth in this written request, is reasonable and represents a part of the amount payable for the Costs of Construction all in accordance with the cost budget; and that such payment was not paid in advance of the time, if any, fixed for payment and was made in accordance with the terms of any contracts applicable thereto and in accordance with usual and customary practice under existing conditions;
3. No part of such cost was included in any written request previously filed with the Bond Trustee under the provisions of the Indenture;
4. Such costs are appropriate for the expenditure of proceeds of the Bonds under the Act (as defined in the Indenture); and

5. A recap of vendors and the amount paid and/or to be paid to each and, if a vendor is an unincorporated entity, the taxpayer identification number for such vendor.

_____, as Developer

By: _____

Print: _____

Title: _____

ELKHART REDEVELOPMENT COMMISSION

By: _____

Print: _____

Title: _____

SCHEDULE A

Payment To

Amount

\$ _____

CITY OF ELKHART, INDIANA

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE CITY OF ELKHART TO ISSUE ITS "[TAXABLE] ECONOMIC DEVELOPMENT REVENUE BONDS (RIVER DISTRICT PROJECT)" AND APPROVING AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO

WHEREAS, IC 36-7-11.9 and -12 (collectively, "Act") declares that the financing and refinancing of economic development facilities constitutes a public purpose; and

WHEREAS, pursuant to the Act, the City of Elkhart, Elkhart County, Indiana ("City" or "Issuer") is authorized to issue revenue bonds for the purpose of financing, reimbursing, or refinancing the costs of acquisition, construction, renovation, installation and equipping of economic development facilities in order to foster economic development diversification and the creation or retention of opportunities for gainful employment in or near the City; and

WHEREAS, the City is considering the issuance of its [Taxable] Economic Development Revenue Bonds, Series 202___ (River District Project), in one or more series, to be completed with the year in which issued and series designation (collectively, "Bonds") pursuant to a Trust Indenture between the City and a to-be-determined financial institution, as trustee for the Bonds ("Trustee"), dated as of the first day of the month in which sold or issued ("Indenture"), the proceeds of which will be used to finance all or a portion of certain local public improvements, including but not limited to, the construction of a mixed-use development that transforms the existing eastern gateway for downtown Elkhart and its River District, which will initially repurpose the site with new office and retail space, complemented by approximately 115 residential units of varying types, together with all necessary appurtenances, related improvements and equipment and, with respect to the Housing Program (as defined in Exhibit C

of Resolution No. 23-R-079 adopted on October 10, 2023), assist with the construction of two or more buildings with a minimum of ten (10) residential units and any and all related public improvements (collectively, "Development"), as further set forth in the Development Agreement, dated as of September 28, 2020, as amended, by and between the City and EOZ Business, LLC and River District Development Company, LLC (collectively, "Developer") and costs of issuance, pursuant to a Financing and Covenant Agreement, dated as of the first day of the month the Bonds are sold or issued between the Developer and the City ("Financing Agreement"); and

WHEREAS, the City has created an economic development target area for purposes of IC 36-7-14-0.5(f); and

WHEREAS, the Elkhart Economic Development Commission ("Commission") conducted a public hearing and adopted a resolution on August 13, 2024, which resolution has been transmitted hereto, finding that the financing of certain economic development facilities of the Developer complies with the purposes and provisions of the Act and that such financing will be of benefit to the health and welfare of the City and its citizens; and

WHEREAS, the Elkhart Redevelopment Commission ("Redevelopment Commission") has pledged Area No. 4 Tax Increment (as defined in the Financing Agreement) collected in the Downtown Elkhart Allocation Area No. 4 ("Allocation Area No. 4") pursuant to its resolution adopted on August 13, 2024, to be used to pay debt service on the hereinafter defined Series A Bonds; and

WHEREAS, the Redevelopment Commission has pledged Area No. 5 Tax Increment (as defined in the Financing Agreement) collected in the Downtown Elkhart Allocation Area No. 5 ("Allocation Area No. 5"), pursuant to its resolution adopted on August 13, 2024, to be used to pay debt service on the hereinafter defined Series B Bonds; and

WHEREAS, the Redevelopment Commission has pledged Area No. 6 Tax Increment (as defined in the Financing Agreement) collected in the Downtown Elkhart SF Housing Allocation Area No. 6 ("Allocation Area No. 6" and hereinafter collectively with Allocation Area No. 4 and Allocation Area No. 5, the "Allocation Areas") pursuant to its resolution adopted on August 13, 2024, to be used to pay debt service on the hereinafter defined Series C Bonds, pursuant to the Financing Agreement. The City shall issue, in multiple series, its: (i) [Taxable] Economic Development Revenue Bonds, Series 20__A (River District Project), to be completed with the year in which issued, payable solely from Area No. 4 Tax Increment ("Series A Bonds"); (ii) [Taxable] Economic Development Revenue Bonds, Series 20__B (River District Project), to be completed with the year in which issued, payable solely from Area No. 5 Tax Increment ("Series B Bonds"); and (iii) [Taxable] Economic Development Revenue Bonds, Series 20__C (River District Housing Project), to be completed with the year in which issued, payable solely from the Area No. 6 Tax Increment to finance the construction of the Development consisting of three (3) phases as more specifically set forth on Exhibit A attached hereto and incorporated herein, together with all necessary appurtenances, related improvements and equipment and, with respect to the Housing Program, assist with the construction of two or more buildings with a minimum of ten (10) residential units and any and all related public improvements in or physically connected to the respective Allocation Areas (collectively, "Projects"), costs of issuance, capitalized interest, if necessary, and related expenses for each series of Bonds; and

WHEREAS, the Commission has heretofore approved and recommended the adoption of this form of ordinance by this Common Council, has considered the issue of adverse competitive effect and has approved the forms of and has transmitted for approval by the Common Council as attached hereto and incorporated herein on Exhibit B, the Financing Agreement, the Indenture

(including form of Bonds) and the Bond Purchase Agreement between the Issuer and the Developer, as the purchaser of the Bonds (collectively, "Financing Documents");

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF ELKHART, INDIANA, THAT:

Section 1. It is hereby found that: (i) the financing of the economic development facilities, including the Projects referred to herein and in the Financing Documents approved by the Commission and presented to this Common Council; (ii) the issuance and sale of the City's Bonds, in multiple series; (iii) utilizing the proceeds of the Bonds for the construction of the Projects; (iv) (a) the payment of the Series A Bonds from the Area No. 4 Tax Increment collected in Allocation Area No. 4; (b) the payment of the Series B Bonds from the Area No. 5 Tax Increment collected in Allocation Area No. 5; and (c) the payment of the Series C Bonds from the Area No. 6 Tax Increment collected in Allocation Area No. 6; and (v) the securing of the Bonds under the Indenture, complies with the purposes and provisions of the Act and will be of benefit to the health and welfare of the City and its citizens. The proceeds of the Bonds will be used for the financing of the construction of a portion of the Projects and the costs of issuance of the Bonds, including funding capitalized interest, if necessary. The Common Council further finds, determines, ratifies and confirms that the promotion of economic development, creation of new job opportunities and increased investment in the City is desirable to preserve the health, safety and general welfare of the citizens of the City; and that it is in the public interest that the Commission and the Issuer to take such action as they lawfully may to encourage economic development, creation of job opportunities, creation of multi-family and single-family housing, creation of commercial/retail space and increased investment in the City.

Section 2. At the public hearing held before the Commission, the Commission considered whether the funding of a portion of the Projects would have an adverse competitive effect on any similar facilities located in or near the City, and subsequently found, based on findings of fact set forth in its resolution transmitted hereto ("Resolution") and the absence of evidence from the public or a competitor of substantive probative value, that the funding of a portion of the Projects would not have an adverse competitive effect. This Common Council hereby confirms the findings on adverse competitive effect set forth in the Commission's Resolution, and hereby finds that the construction of the Projects will be of benefit to the health and welfare of the citizens of the City.

Section 3. The substantially final forms of the Financing Documents approved by the Commission are hereby approved and the Financing Documents are attached hereto as Exhibit B. In accordance with the provisions of IC 36-1-5-4, two (2) copies of the Financing Documents are on file in the office of the Clerk for public inspection.

Section 4. The City may issue its Bonds in multiple series, in a combined aggregate principal amount of \$12,000,000, maturing no later than twenty-five (25) years from their date of issuance, or as permitted by law. The Bonds are to be issued for the purpose of procuring funds to pay the costs of construction of a portion of the Projects, all as more particularly set out in the Indenture and the Financing Agreement, which: (i) Series A Bonds will be payable as to principal and interest from Area No. 4 Tax Increment collected in Allocation Area No. 4; (ii) Series B Bonds will be payable as to principal and interest from Area No. 5 Tax Increment collected in Allocation Area No. 5; and (iii) Series C Bonds will be payable as to principal and interest from Area No. Tax Increment collected in the Allocation Area No. 6, each pursuant to the Financing Documents or as otherwise provided in the Indenture. The Bonds shall be issued

in fully registered form in denominations of \$1,000 and integral multiples thereof or as provided in the Indenture, payable semiannually on February 1 and August 1. The Bonds shall be subject to optional redemption prior to maturity at the option of the City, on any date, upon thirty (30) days' written notice, at face value, plus in each case accrued interest to the date fixed for redemption, with no premium, as further provided in the Indenture. To the extent the tax increment collected in the respective Allocation Areas exceeds the debt service on the respective series of Bonds, such series of Bonds shall be redeemed upon seven (7) days' written notice, at face value, plus in each case accrued interest to the date fixed for redemption, with no premium, as further provided in the Indenture. The Bonds may be issued as term bonds subject to mandatory sinking fund redemption. Payments on the Bonds are payable in lawful money of the United States of America by check mailed or delivered to the registered owners or by wire transfer as provided in the Indenture. The Bonds shall never constitute a general obligation of, an indebtedness of, or a charge against the general credit of the City as described in the Indenture.

Section 5. The Mayor and the Controller are authorized and directed to sell the Bonds to the purchaser thereof at a price not less than 100% of the par value thereof and shall accrue interest at a rate not to exceed ten percent (10.0%) per annum.

Section 6. The Bonds may be both purchased by the bond purchaser in installments and drawn down by the Developer in installments (subject to the Internal Revenue Code).

Section 7. The Mayor, Clerk and Controller are authorized and directed to execute and attest, manually or electronically, and to affix or imprint by any means the City seal to, the documents constituting the Financing Documents approved herein on behalf of the City and any other document which may be necessary or desirable prior to, on or after the date hereof to

consummate or facilitate the transaction, including the Bonds authorized herein. The Mayor, Clerk and Controller are hereby expressly authorized to approve any modifications or additions to the documents constituting the Financing Documents which take place after the date of this ordinance with the review and advice of counsel to the City; it being the express understanding of this Common Council that the Financing Documents are in substantially final form as of the date of this ordinance. The approval of these modifications or additions shall be conclusively evidenced by the execution and attestation thereof and the affixing of the seal thereto or the imprinting of the seal thereon; provided, however, that no such modification or addition shall change the terms and conditions set forth in IC 36-7-12-27(a)1-10, including the maximum principal amount of, interest rate on or term of the Bonds as approved by the Common Council by this ordinance without further consideration by the Common Council. The signatures of the Mayor, Clerk and Controller on the Bonds may be either manual, electronic or facsimile signatures. The use of electronic signatures by the Mayor, Clerk and Controller are authorized and affirmed with full valid legal effect and enforceability. The Controller is authorized to arrange for delivery of such Bonds to the Trustee, and payment for the Bonds will be made to the Trustee and after such payment, the Bonds will be delivered by the Trustee to the purchaser thereof. The Bonds shall be originally dated the date of issuance and delivery thereof.

Section 8. The provisions of this ordinance and the Indenture securing the Bonds shall constitute a contract binding between the City and the holders of the Bonds, and after the issuance of the Bonds, this ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holders so long as the Bonds or the interest thereon remains unpaid.

Section 9. This ordinance shall constitute "official action" for purposes of compliance with state laws requiring governmental action as authorization for future reimbursement from the proceeds of Bonds.

Section 10. This ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

[Remainder of page intentionally left blank.]

PASSED AND ADOPTED by the Common Council of the City of Elkhart, Indiana, this
19th day of August, 2024.

COMMON COUNCIL OF THE CITY OF
ELKHART, INDIANA

Arvis Dawson, President of the Common Council

ATTEST:

Debra D. Barrett, City Clerk

PRESENTED to the Mayor by me this _____ day of August, 2024.

Debra D. Barrett, City Clerk

APPROVED by me this _____ day of August, 2024.

Rod Roberson, Mayor

ATTEST:

Debra D. Barrett, City Clerk

EXHIBIT A

Projects

Phase I (Series A Bonds) – construction of two (2) buildings consisting of commercial multi-use space to be owned by Developer and offered for lease to third parties;

Phase II (Series B Bonds) - construction of five (5) buildings with three (3) of the buildings consisting of not less than 85 residential units and 13,500 square feet of commercial space to be owned by the Developer and offered for lease to third parties and with two (2) of the buildings consisting of not less than 20 residential units to be owned by the Developer and offered to third parties and Pacific Street pedestrian improvements; and

Phase III (Series C Bonds) – construction of two (2) buildings of not less than 10 residential units to be offered for sale to third parties.

EXHIBIT B

Financing Documents

(Attached)

MINUTES OF A SPECIAL MEETING OF THE
ELKHART ECONOMIC DEVELOPMENT COMMISSION
HELD ON AUGUST 13, 2024

The Elkhart Economic Development Commission ("Commission") held a meeting at 5:00 p.m. on August 13, 2024, in the Council Chambers located on the 2nd floor of the Municipal Building, 229 South Second Street, Elkhart, Indiana. The Commission members were present or absent as follows:

Present: Brent Curry and Sandra Schreiber

Absent: None

Mr. John M. Espar, Corporation Counsel to the Commission was also present.

The meeting was called to order by Brent Curry, the Presiding Officer who explained the purpose of the meeting.

Consideration was given to a request by EOZ Business, LLC and River District Development Company, LLC (collectively, "Developer"), for financing a portion of the construction of a mixed-use residential/commercial development in 3 phases consisting: of (a) the construction of 3 new buildings with not less than 85 residential units and 13,500 square feet of commercial space for lease in Phase I; (b) the construction of 2 new buildings with not less than 20 residential units for lease and Pacific Street pedestrian improvements in Phase II; and (c) the construction of 2 buildings with not less than 10 for sale residential units in Phase III, together with all necessary appurtenances, related improvements and equipment (collectively, "Projects") to be constructed by the Developer, within the Downtown Urban Renewal Area ("Area") and to pay costs of issuance of the bonds and capitalized interest, if necessary. A discussion was had as to the proposal of the Developer concerning the financing of the Projects to be located generally in the 200 block of East Jackson Blvd. in the City.

The Presiding Officer then presented a proposed Report of the City entitled "Project Report of the Elkhart Economic Development Commission Concerning the Proposed Financing of a Mixed-Use Residential/Commercial Development in Three Phases by EOZ Business, LLC and River District Development Company, LLC" as attached hereto. After consideration of the proposed report, upon motion duly made by Commissioner Sandra Schreiber and seconded by Commissioner Brent Curry, the report was approved and adopted by the following vote:

Ayes: 2

Nays: 0

and upon motion duly made, seconded and carried, the Secretary of the Commission was instructed to cause a copy of the report be submitted to the Elkhart City Plan Commission for comments, if any.

The Presiding Officer then presented proof of publication of a notice published on or before August 2, 2024 of a public hearing for this date before the Commission, regarding the economic development financing for the Developer. The public hearing was then opened by the Presiding Officer, and the public was invited to comment thereon as to the public purpose of the financing and as to any adverse competitive effect that it might have. David Weaver of the Developer presented evidence of the housing shortage in the Area and the need for the construction of the Projects. Neither the public nor a competitor presented evidence of substantive probative value that the construction of the Projects would have a substantial adverse competitive effect.

After all comments were heard and considered, the Presiding Officer closed the public hearing and then presented substantially final forms of the Financing and Covenant Agreement;

the Bond Purchase Agreement; the Trust Indenture; and the proposed form of ordinance (all such documents collectively to be considered the "Financing Agreement" referred to in the Indiana Code, Title 36, Article 7, Chapters 11.9 and -12).

After a discussion and upon motion duly made by Commissioner Sandra Schreiber, seconded by Commissioner Brent Curry, and, on call of the roll, carried by a majority vote, the resolution attached hereto was adopted.

There being no further business to come before the meeting, the meeting was thereupon adjourned.

Secretary, Sandra Schreiber

Approved:

President, Brent Curry

ELKHART ECONOMIC DEVELOPMENT COMMISSION

RESOLUTION NO. _____

**CITY OF ELKHART ECONOMIC DEVELOPMENT COMMISSION
RESOLUTION APPROVING ISSUANCE OF BONDS AND OTHER
ACTIONS IN RESPECT THERETO**

WHEREAS, relieving conditions of unemployment and underemployment, and encouraging economic development and redevelopment of the community and provide additional housing opportunities to the residents of the City of Elkhart, Indiana ("Issuer" or "City") are essential to the health, safety and welfare of the City and its citizens;

WHEREAS, the Issuer is authorized by IC 36-7-11.9 and -12 (collectively, "Act") to issue revenue bonds for the purpose of financing, reimbursing or refinancing the costs of the acquisition, construction, renovation, installation and equipping of economic development facilities in order to foster economic development and diversification of the tax base, and the creation or retention of opportunities for gainful employment in or near the City;

WHEREAS, the Issuer is authorized by the Act to issue revenue bonds for financing a portion of the construction of a mixed-use development in 3 phases as further set forth on Exhibit A attached hereto and incorporated herein, together with all necessary appurtenances, related improvements and equipment (collectively, "Project");

WHEREAS, the Redevelopment Commission has adopted a resolution pledging 100% of tax increment, minus the first \$2,200,000 in incremental assessed value generated in Allocation Area No. 4 to be held by the Redevelopment Commission, to the Issuer to pay debt service on the Series A Bonds (each as defined in the hereinafter defined Indenture) to be issued as set forth in the Trust Indenture between the City and a to-be-determined financial institution, as trustee for the Series A Bonds ("Trustee"), dated as of the first day of the month the bonds are sold or issued ("Indenture");

WHEREAS, the Redevelopment Commission adopted a resolution pledging 100% of tax increment generated in Allocation Area No. 5 to the Issuer to pay debt service on the Series B Bonds (each as defined in the Indenture) to be issued as set forth in the Indenture;

WHEREAS, the Redevelopment Commission adopted a resolution pledging 100% of tax increment generated in Allocation Area No. 6 to the Issuer to pay debt service on the Series C Bonds (each as defined in the Indenture) to be issued as set forth in the Indenture;

WHEREAS, the Series A Bonds, Series B Bonds and the Series C Bonds are hereinafter defined as the "Bonds"; and

WHEREAS, the promotion of economic development and increase in job opportunities to be achieved by the construction and equipping of the Projects and relieving the housing shortage in the Downtown Urban Renewal Area ("Area") through the construction of the Projects will be of public benefit to the health, safety and general welfare of the Issuer and its citizens;

NOW, THEREFORE, BE IT RESOLVED BY THE ELKHART ECONOMIC DEVELOPMENT COMMISSION, THAT:

Section 1. It finds that the proposed financing through the issuance of Bonds, in one or more series, in the total aggregate principal amount not to exceed \$12,000,000 to finance a portion of the cost of the Project to be constructed by the Developer, complies with the purposes and provisions of IC 36-7-11.9 and -12 and will be of benefit to the health and welfare of the City and its citizens. The Commission further finds and determines that the promotion of economic development opportunities, the creation of job opportunities and provision of additional housing opportunities in the Area is desirable to preserve the health, safety and general welfare of the citizens of the City, and that it is in the public interest that the Commission and the Issuer take such action as they lawfully may to encourage economic development and promotion of job opportunities in and near the City.

Section 2. The Commission hereby finds and determines that the issuance and sale of the Bonds of the Issuer under the Act in a total aggregate principal amount not to exceed \$12,000,000 for the construction of the Project will serve the public purposes referred to above, in accordance with the Act.

Section 3. The financing of the economic development facilities will consist of the construction of the Projects to be located [generally] in the 200 Block of East Jackson Blvd. in Elkhart, Indiana.

Section 4. The substantially final forms of the Financing Agreement between the Issuer and the Developer, dated as of the first day of the month the Bonds are sold or issued, the Bond Purchase Agreement between the Issuer and the purchaser of the Bonds, the Indenture, and the proposed form of ordinance for the Common Council presented to this meeting are hereby approved. A copy of the documents are attached to this resolution as Exhibit B.

Section 5. It has considered whether financing the Project will have an adverse competitive effect on any similar development already under construction or in operation in the City and now makes the following special findings of fact based upon the evidence presented:

(a) Neither the public nor competitor presented adequate evidence that the funding of the Project would have a substantial adverse competitive effect; and

(b) The benefits to the public from the new investment, promotion of economic development, the promotion of job opportunities and the provision of additional housing opportunities to be generated by the Project indicates that the Project should be supported by the issuance of the Bonds to assist in relieving the housing shortage in the City.

Section 6. It will use its best efforts to assist the Developer in procuring the issuance of additional economic development revenue bonds, if such additional bonds become necessary for refunding or refinancing the outstanding principal amount of the economic development revenue bonds, for completion of the Projects and for additions to the Projects, including the costs of issuing additional bonds.

Section 7. A copy of this resolution and the other documents approved by this resolution and the proposed form of ordinance shall be presented in their substantially final form by the Secretary of the Economic Development Commission to the Clerk for presentation to the Common Council.

Adopted this 13th day of August, 2024.

ELKHART ECONOMIC DEVELOPMENT
COMMISSION

By: _____
President, Brent Curry

Attest:

Secretary, Sandra Schreiber

EXHIBIT A

Projects

Phase I (Series A Bonds) – construction of two (2) buildings consisting of commercial multi-use space to be owned by Developer and offered for lease to third parties;

Phase II (Series B Bonds) - construction of five (5) buildings with three (3) of the buildings consisting of not less than 85 residential units and 13,500 square feet of commercial space to be owned by the Developer and offered for lease to third parties and with two (2) of the buildings consisting of not less than 20 residential units to be owned by the Developer and offered to third parties and Pacific Street pedestrian improvements; and

Phase III (Series C Bonds) – construction of two (2) buildings of not less than 10 residential units to be offered for sale to third parties.

EXHIBIT B

Financing Documents

(Attached)

PROJECT REPORT OF THE ELKHART ECONOMIC DEVELOPMENT COMMISSION CONCERNING THE PROPOSED FINANCING OF A MIXED-USE RESIDENTIAL/COMMERCIAL DEVELOPMENT IN THREE PHASES BY EOZ BUSINESS, LLC AND RIVER DISTRICT DEVELOPMENT COMPANY, LLC

The Elkhart Economic Development Commission proposes to recommend to the Common Council of the City of Elkhart, Indiana ("City") that it provide funds for the construction of a mixed-use development consisting: of (a) the construction of 3 new buildings with not less than 85 residential units and 13,500 square feet of commercial space for lease in Phase I; (b) the construction of 2 new buildings with not less than 20 residential units for lease and Pacific Street pedestrian improvements in Phase II; and (c) the construction of 2 buildings with not less than 10 for sale residential units in Phase III, together with all necessary appurtenances, related improvements and equipment (collectively, "Project") to be constructed by the Developer, within the Downtown Urban Renewal Area ("Area") and to pay costs of issuance of the bonds and capitalized interest, if necessary. The Projects are located in the 200 block of East Jackson Blvd. in Elkhart, Indiana. The total estimated cost for the construction of the Project is presently estimated to be in the amount of \$12,000,000, and incidental costs of issuance of the taxable economic development revenue bonds, to be issued in multiple series, and capitalized interest, if necessary.

The capital investment by the Developer is anticipated to be approximately \$65,000,000. It is estimated that upon completion of the Projects, the development in the Area served by the Project is expected to provide approximately 150 full-time jobs with an annualized payroll of approximately \$10,000,000 and 500 temporary construction jobs will be created].

Adopted this 13th day of August, 2024.

ELKHART ECONOMIC DEVELOPMENT
COMMISSION

President

ATTEST:

Secretary

August 14, 2024

Elkhart Economic Development Commission
Elkhart, Indiana

Ladies and Gentlemen:

This is to certify that the Elkhart Economic Development Commission duly submitted to the Elkhart City Plan Commission the report of the Elkhart Economic Development Commission entitled "PROJECT REPORT OF THE ELKHART ECONOMIC DEVELOPMENT COMMISSION CONCERNING THE PROPOSED FINANCING OF AN ECONOMIC DEVELOPMENT FACILITY BY EOZ BUSINESS, LLC AND RIVER DISTRICT DEVELOPMENT COMPANY, LLC."

ELKHART CITY PLAN COMMISSION

By: _____