

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, APPROVING THE PRELIMINARY FINDINGS OF THE CITY OF FORT WAYNE ECONOMIC DEVELOPMENT COMMISSION WITH RESPECT TO THE ISSUANCE OF TAXABLE ECONOMIC DEVELOPMENT REVENUE BONDS FOR THE FINANCING OF CERTAIN ECONOMIC DEVELOPMENT FACILITIES TO BE UNDERTAKEN BY HOUSE INVESTMENTS, LLP, AND AUTHORIZING AND COMMITTING THE CITY OF FORT WAYNE, INDIANA, TO PROCEED WITH SUCH FINANCING, SUBJECT TO FINAL ACTION BY THIS COMMON COUNCIL WITH RESPECT TO THE TERMS AND CONDITIONS OF SUCH FINANCING

WHEREAS, the City of Fort Wayne, Indiana (the "City") is authorized by Indiana Code 36-7-11.9 and Indiana Code 36-7-12 (collectively, the "Act") to issue revenue bonds and other obligations for the financing of economic development facilities, the funds from said financing to be used for a portion of the acquisition, construction, installation and equipping of said facilities; and

WHEREAS, House Investments, LLP (the "Company") has advised the City that there is under consideration a proposal of the Company for the construction and equipping of certain improvements to economic development facilities including but not limited to, the construction of a multi-use complex consisting of a total of approximately 208 affordable housing units together with all necessary on- and off-site infrastructure, appurtenances, related improvements and equipment, and costs of issuance, including capitalized interest and funding a debt service reserve, if necessary (collectively, "Project"); and

WHEREAS, the total cost of the portion of the Project to be financed under the Act is presently estimated in an amount not to exceed Four Million Five Hundred Thousand Dollars (\$4,500,000), plus the incidental costs of issuance of taxable economic development revenue bonds, including capitalized interest and funding a debt service

1 reserve, the maximum amount of such costs of issuance of such bonds to be reflected in a  
2 certain Trust Indenture to be approved in substantially final form by an Ordinance to be  
3 adopted by the Common Council of the City providing final approval of the financing of a  
4 portion of the Project under the Act (the "Costs of Issuance"); and

5  
6 WHEREAS, the Company has proposed that the City issue taxable economic  
7 development revenue bonds under the Act (the "Bonds") to finance a portion of the  
8 construction and equipping of the Project, pursuant to a financing agreement whereby the  
9 proceeds of such Bonds would be provided to the Company (or an affiliate thereof  
10 acceptable to the City) to enable the Company (or such affiliate) to construct and equip a  
11 portion of the Project, with the principal of and premium, if any, and interest on the Bonds  
12 to be payable from tax increment revenues pledged by the City of Fort Wayne  
13 Redevelopment Commission to the payment of the Bonds and taxpayer payments; and the  
14 Company has further advised the City that a determination by the City to accept such a  
15 proposal for financing a portion of the Project will constitute a substantial attraction for  
16 the Company to construct the Project; and

17  
18 WHEREAS, the City of Fort Wayne Economic Development Commission (the  
19 "Commission") has given its preliminary approval of the Project and the financing of a  
20 portion thereof; and

21  
22 WHEREAS, subject to required approvals, it would appear that the Project and the  
23 financing of a portion thereof would be of public benefit to the health, prosperity, economic  
24 stability and general welfare of the City and its citizens;

25 NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF  
26 THE CITY OF FORT WAYNE, INDIANA, AS FOLLOWS:

27 1. The Common Council of the City hereby finds, determines, ratifies and  
28 confirms that the promotion of diversification of economic development and job  
29

1 opportunities in and near the City is desirable to preserve the health, prosperity, economic  
2 stability and general welfare of the citizens of the City; and that it is in the public interest  
3 that the Commission and the City take such action as they lawfully may to encourage  
4 economic development, diversification of industry and promotion of job opportunities in  
5 and near the City.  
6

7 2. The Common Council of the City hereby approves, determines, ratifies and  
8 confirms that the issuance and sale of the Bonds of the City under the Act in the estimated  
9 principal amount not to exceed Four Million Five Hundred Thousand Dollars  
10 (\$4,500,000), plus the Costs of Issuance, for the lending of the proceeds of the Bonds to  
11 the Company for a portion of the construction and equipping of the Project will serve the  
12 public purposes referred to above, in accordance with the Act.  
13

14 3. In order to attract the Company to make the construction and equipping of  
15 the Project, the Common Council of the City hereby approves, determines, ratifies and  
16 confirms that:

17 (a) it will take or cause to be taken such actions pursuant to the Act as  
18 may be required to implement the aforesaid financing, or as it may deem  
19 appropriate in pursuance thereof; provided that all of the foregoing shall be  
20 mutually acceptable to the City and the Company; and  
21

22 (b) it will adopt such ordinances and resolutions and authorize the  
23 execution and delivery of such instruments and the taking of such action as may be  
24 necessary and advisable for the authorization, issuance and sale of the Bonds; and  
25 that the aforementioned purposes comply with the provisions of the Act.

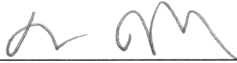
26 4. The liability and obligation of the Common Council of the City shall be  
27 limited solely to good faith efforts to consummate the proceedings leading to the issuance  
28 of the Bonds to finance a portion of the construction and equipping of the Project, and the  
29  
30

1 Bonds shall not ever constitute a general obligation of, or indebtedness of, or a charge  
2 against the general credit of the City. Neither the Common Council nor the City, nor their  
3 officers or agents, shall incur any liability if, for any reason, the proposed issuance of the  
4 Bonds is not consummated.

5  
6 5. This Resolution shall constitute "official action" for purposes of compliance  
7 with laws requiring governmental action as authorization for future reimbursement from the  
8 proceeds of bonds.

9 6. This Resolution shall be effective upon its passage by the Common Council  
10 and approval by the Mayor of the City, in accordance with procedures as required by law.

11 \* \* \* \* \*

12  
13   
14 \_\_\_\_\_  
15 Council Member

16 APPROVED AS TO FORM AND LEGALITY:

17  
18   
19 \_\_\_\_\_  
20 Malak Heiny, City Attorney

21  
22  
23  
24  
25  
26  
27  
28  
29  
30

RESOLUTION NO. 9-15-2022

FORT WAYNE ECONOMIC DEVELOPMENT COMMISSION

WHEREAS, relieving conditions of unemployment and underemployment, and encouraging economic development and redevelopment of the community to reduce the evils associated with unemployment and underemployment are essential to the health, safety and welfare of the City of Fort Wayne, Indiana ("Issuer" or "City") and its citizens; and

WHEREAS, the Issuer is authorized by IC 36-7-11.9 and -12 (collectively, "Act") to issue revenue bonds for the financing of economic development facilities consisting of the financing all or a portion of the construction and equipping of certain improvements, including but not limited to, the construction of a multi-use complex consisting of a total of approximately 208 affordable housing units together with all necessary on- and off-site infrastructure, appurtenances, related improvements and equipment (collectively, "Project") in or physically connected to the Posterity Heights Urban Renewal Area and the Tillman-Anthony Economic Development Area and the funds from said financing to be used for construction and equipping of the Project and costs of issuance, including capitalized interest and funding a debt service reserve, if necessary; and

WHEREAS, the Fort Wayne Redevelopment Commission has adopted a resolution to pledge tax increment generated in the Tillman-Anthony Allocation Area and the Posterity Heights Allocation Area to the Issuer to pay debt service on the bonds to be issued as set forth in the Financing and Covenant Agreement between House Investments, LLP and the Issuer, dated as of the first day of the month the bonds are sold or issued ("Financing Agreement") and any further security will be described in such Financing Agreement; and

WHEREAS, the promotion of economic development and increase in job opportunities to be achieved by the construction and equipping of the Project will be of public benefit to the health, safety and general welfare of the Issuer and its citizens; and

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

Section 1. It finds that the proposed financing in the aggregate principal amount not to exceed \$4,500,000 for the construction and equipping of the Project by House Investments, LLP ("Company"), 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 and diversification of economic development and job opportunities in and near 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 take such action as they lawfully may to encourage economic development, diversification of industry and promotion of job opportunities in and near the City.

Section 2. The Commission hereby finds and determines that the issuance and sale of economic development revenue bonds in an aggregate principal amount not to exceed

\$4,500,000 of the Issuer under the Act for the construction and equipping 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 and equipping of the Project to be located southeast of the intersection of South Anthony Boulevard and McKinnie Avenue in Fort Wayne, Indiana.

Section 4. The substantially final forms of the Financing Agreement, the Bond Purchase Agreement between the Issuer and the purchaser of the Bonds, the Trust Indenture between the Issuer and a to-be-determined trustee, dated as of the first day of the month the Bonds are sold or issued, and 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 A.

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

(a) No member of the public or competitor presented any evidence of substantial probative value establishing that the Project would have any adverse competitive effect in any respect;

(b) There are no direct competitors of the Company located in the City; and

(c) In the absence of any evidence of any adverse competitive effect, the benefits to the public from the new jobs to be generated by the Project clearly indicate that the Project should be supported by the issuance of economic development revenue bonds.

Section 6. It will use its best efforts to assist the Company 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 Project and for additions to the Project, including the costs of issuing additional bonds.

Section 7. The Secretary shall initial and then insert a copy of the forms of documents approved by this resolution in the minute book of this Commission.

Section 8. 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 Auditor for presentation to the Common Council.

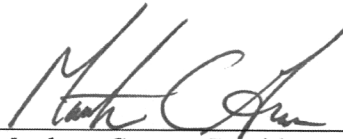
EXHIBIT A

Financing Documents

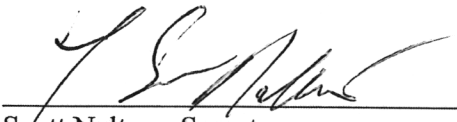
(Attached)

Adopted this 15th day of September, 2022.

FORT WAYNE ECONOMIC DEVELOPMENT  
COMMISSION

By:   
Matthew Graves, President

Attest:

  
Scott Naltner, Secretary

FINANCING AND COVENANT AGREEMENT

BETWEEN

HOUSE INVESTMENTS, LLP

AND

CITY OF FORT WAYNE, INDIANA

Dated as of October 1, 2022

The rights of the Issuer hereunder have been assigned to U.S. Bank Trust Company, National Association, Indianapolis, Indiana, as Trustee under a Trust Indenture dated as of the date hereof from the Issuer.

TABLE OF CONTENTS

|   | <u>Page</u> |
|---|-------------|
| ARTICLE I. DEFINITIONS AND EXHIBITS.....  | 3           |
| Section 1.1. <u>Terms Defined</u> .....   | 3           |
| Section 1.2. <u>Rules of Interpretation</u> .....   | 6           |
| ARTICLE II. REPRESENTATIONS .....   | 8           |
| Section 2.1. <u>Representations by Issuer</u> .....   | 8           |
| Section 2.2. <u>Representations by Company</u> .....  | 8           |
| Section 2.3. <u>Financing of Series 2022 Bond Proceeds by Issuer</u> .....  | 10          |
| ARTICLE III. PARTICULAR COVENANTS OF THE COMPANY .....  | 11          |
| Section 3.1. <u>Consent to Assignments to Trustee</u> .....   | 11          |
| Section 3.2. <u>General Covenants</u> .....   | 11          |
| Section 3.3. <u>Continuing Existence and Qualification; Assignment, Sale or Other<br/>Disposition of Facilities</u> ..... | 12          |
| Section 3.4. <u>Company Duties Under Indenture</u> .....  | 12          |
| Section 3.5. <u>Assignment, Sale or Other Disposition of Project</u> .....  | 12          |
| Section 3.6. <u>Trustee's Right to Perform Company's Covenants; Advances</u> .....  | 12          |
| Section 3.7. <u>Indemnity</u> .....   | 12          |
| Section 3.8. <u>Funding of Indenture Funds; Investments</u> .....   | 13          |
| Section 3.9. <u>Completion of Project</u> .....   | 13          |
| Section 3.10. <u>Sale, Substitution, or Lease of the Project</u> .....  | 14          |
| ARTICLE IV. APPLICATION OF SERIES 2022 BOND PROCEEDS .....  | 15          |
| Section 4.1. <u>Use of Series 2022 Bond Proceeds by Issuer</u> .....  | 15          |
| Section 4.2. <u>Use of TIF Revenues</u> .....   | 15          |
| Section 4.3. <u>Estoppel Certificate</u> .....  | 15          |
| ARTICLE V. EVENTS OF DEFAULT .....  | 16          |
| Section 5.1. <u>Events of Default</u> .....   | 16          |
| Section 5.2. <u>Right to Bring Suit, Etc.</u> .....   | 17          |
| Section 5.3. <u>Remedies Cumulative</u> .....   | 17          |
| Section 5.4. <u>Delay or Omission Not a Waiver</u> .....  | 17          |
| Section 5.5. <u>Waiver of Extension, Appraisement or Stay Laws</u> .....  | 17          |
| Section 5.6. <u>Remedies Subject to Provisions of Law</u> .....   | 17          |
| Section 5.7. <u>Waiver of Events of Default</u> .....   | 17          |
| ARTICLE VI. IMMUNITY.....   | 19          |
| Section 6.1. <u>Immunity</u> .....  | 19          |

ARTICLE VII. SUPPLEMENTS AND AMENDMENTS TO THIS FINANCING AGREEMENT.....20

Section 7.1. Supplements and Amendments to this Financing Agreement.....20

ARTICLE VIII. DEFEASANCE.....21

Section 8.1. Defeasance.....21

ARTICLE IX. MISCELLANEOUS PROVISIONS.....22

Section 9.1. Financing Agreement for Benefit of Parties Hereto.....22

Section 9.2. Severability.....22

Section 9.3. Limitation on Interest.....22

Section 9.4. Addresses for Notice and Demands.....22

Section 9.5. Successors and Assigns.....23

Section 9.6. Counterparts.....23

Section 9.7. Governing Law.....23

Exhibit A – Taxpayer Agreement

## FINANCING AND COVENANT AGREEMENT

This is a FINANCING AND COVENANT AGREEMENT dated as of October 1, 2022 ("Financing Agreement") between HOUSE INVESTMENTS, LLP, a limited liability partnership duly organized, existing and authorized to do business under the laws of the State of Indiana ("Company"), and the CITY OF FORT WAYNE, INDIANA ("Issuer"), a municipal corporation 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 economic development and promotion of job opportunities in or near the Issuer and vests the Issuer with powers that may be necessary to enable it to accomplish such purposes.

The Fort Wayne Redevelopment Commission ("Redevelopment Commission") created the Posterity Heights Urban Renewal Area ("Posterity Heights URA") and adopted a redevelopment plan for the URA ("Posterity Heights Plan") pursuant to Declaratory Resolution 2017-32, as confirmed by Confirmatory Resolution 2017-43, and further created the Tillman-Anthony Economic Development Area ("Tillman-Anthony EDA"), pursuant to Declaratory Resolution 2001-60, as confirmed by Confirmatory Resolution 2002-65, which EDA was amended pursuant to Declaratory Resolution 2021-01, as confirmed by Confirmatory Resolution 2021-18, which amendment included adoption of a redevelopment plan for the amended EDA ("Tillman-Anthony Plan"); and

Allocation areas were created in conjunction with the establishment of both the Tillman-Anthony EDA and the Posterity Heights URA (hereinafter, collectively, "Area") in accordance with IC 36-7-14-39 (collectively, "Allocation Areas"), for the purpose of capturing all real property tax proceeds from assessed valuation of property in the Allocation Areas in excess of the assessed valuation described in IC 36-7-14-39(a)(1), as such statutory provision exists on the date of issuance of the hereinafter defined Series 2022 Bonds (collectively, "Tax Increment"); and

The City of Fort Wayne, Indiana ("City" and "Issuer"), upon finding that hereinafter defined Project and the proposed financing of the construction and equipping thereof will create additional employment opportunities in the City; 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.

The Issuer intends to issue its Taxable Economic Development Revenue Bonds, Series 2022 (Village Premier Project) ("Series 2022 Bonds") in the aggregate principal amount of \$ \_\_\_\_\_ pursuant to the Trust Indenture dated as of October 1, 2022 ("Indenture") from the Issuer to U.S Bank Trust Company, National Association, Indianapolis, Indiana, as Trustee ("Trustee") and intends to use the proceeds of the Series 2022 Bonds pursuant to the provisions of this Financing Agreement to the Company to finance all or a portion of the construction and

equipping of the Project (as hereinafter defined), in or physically connected to the Area and to pay issuance costs.

This Financing Agreement provides for the payment by the Commission of the Series 2022 Bonds from TIF Revenues (as defined in the Indenture).

Subject to the further provisions of this Financing Agreement, the Series 2022 Bonds will be payable solely out of TIF Revenues, Bond proceeds and Net Proceeds; provided, however, that the Redevelopment Commission will enter into a taxpayer agreement with the Company ("Taxpayer Agreement"), providing that payments to the Redevelopment Commission ("Taxpayer Payments") will be made under certain circumstances if real property taxes paid on all property in the Allocation Areas are less than the tax payment required under the Taxpayer Agreement.

In consideration of the premises, the use of the proceeds of the Series 2022 Bonds and of other good and valuable consideration, the receipt whereof is hereby acknowledged, the Company has executed and delivered this Financing Agreement.

This Financing Agreement is executed upon the express condition that if the Company shall keep, perform and observe all and singular the covenants and promises expressed in this Financing Agreement to be kept, performed and observed by the Company, then this Financing Agreement and the rights hereby granted shall cease, determine and be void; otherwise to remain in full force and effect.

## 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.

"Annual Fees" means annual Trustee fees and reasonable annual fees and expenses incurred by the Issuer related to monitoring Tax Increment and filing required annual reports.

"Allocation Areas" means, collectively, the Tillman-Anthony Allocation Area and the Posterity Heights Allocation Area.

"Area" means, collectively, the Posterity Heights Urban Renewal Area and the Tillman-Anthony Economic Development Area

"Authorized Representative" means, as to the Company, any officer of the Company or any other person certified by an officer of the Company to be such and means any person so designated by resolution of the Board of Commissioners as to the Issuer.

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

"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 2022 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 in which the principal office of the Trustee is located are open for conducting substantially all of its banking activities.

"Commission" means the Fort Wayne Economic Development Commission.

"Completion Date" means the date of delivery by the Company to the Trustee of the certificate required by Section 4.3(d) of the Indenture, evidencing the completion of the Project.

"Construction Fund" means the Construction Fund established in Section 4.3 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 and the Company in connection with the issuance and sale of the Series 2022 Bonds, including underwriting or other financing fees (including applicable counsel fees), the fees and disbursements of Bond Counsel, the fees of disbursements of the Issuer's financial advisor, the acceptance 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 or to perfect the lien thereof, the out-of-pocket costs of the Issuer, the fees and disbursements of counsel to the Company, the fees and disbursements of the Company's accountants, the fees and disbursements of counsel to the Issuer, the fees and disbursements of counsel to the purchasers of the Bonds, the costs of preparing or printing the Series 2022 Bonds and the documentation supporting the issuance of the Series 2022 Bonds, the costs of reproducing documents, and any other costs of a similar nature reasonably incurred;

(ii) documentation supporting the issuance of the Series 2022 Bonds, the costs of reproducing documents, and any other costs of a similar nature reasonably incurred;

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

(iv) all costs and expenses which Issuer or Company 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, equipment and the construction of the Project; and

(v) any sums required to reimburse Issuer or Company for advances made by either of them subsequent to the date of inducement by the Issuer 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 Project.

"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 October 1, 2022, from the Issuer to the Trustee and all amendments and supplements thereto.

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

"Financing" means the Financing by the Issuer to the Company of the proceeds of the sale of the Series 2022 Bonds.

"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" or "Bonds 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.

"Project" means, collectively, the construction of a multi-use complex consisting of a total of approximately 208 affordable housing units together with all necessary on- and off-site infrastructure, appurtenances, related improvements and equipment, and costs of issuance, including capitalized interest and funding a debt service reserve.

"Purchaser" means \_\_\_\_\_.

"Qualified Investments" means any of the following classes of securities, to the extent to which investment in such securities is permitted under State law: (i) direct obligations of, or obligations the payment of the principal of and interest on which when due are unconditionally guaranteed by, the United States of America; (ii) bonds, debentures, participation certificates, or notes of any of the following agencies of the United States government: Federal Farm Credit Banks, the Federal National Mortgage Association, the Government National Mortgage Association, the Student Financing Marketing Corporation, the Federal Land Bank, the World Bank, the Resolution Trust Corporation, the Federal Home Financing Mortgage Corporation, and the Federal Home Financing Bank; (iii) investments which evidence direct ownership of future interest and principal payments of obligations described in (i) or (ii) above; (iv) mutual funds or money market funds (including those of the Trustee or an affiliate of the Trustee) which only invest in obligations described in (i), (ii), or (vii) herein and which are rated in the highest category by a national rating agency; (v) unsecured interest-bearing obligations of any commercial bank (including the Trustee or its affiliate), trust company, bank holding company, insurance company, or any other entity with long-term debt obligations which have been assigned to a rating category no less than the second highest category assigned by Standard & Poor's Ratings Group and Moody's Investors Service; (vi) deposits in interest-bearing time deposits or savings accounts in banks (including the Trustee or its affiliate) organized under the laws of any state of the United States or under the laws of the United States or in savings and Financing associations organized under the laws of any state of the United States or under the laws of the United States, provided that any such deposits are (x) insured by the Federal Deposit Insurance Corporation or (y) fully secured by obligations of the type specified in (i), (ii), (iii), or (v) above; and (vii) fully collateralized direct repurchase agreements or guaranteed investment

contracts having a defined termination date, secured by obligations of the United States of America or its agencies and instrumentalities in market value of not less than the principal amount of the funds disbursed, pledged with a third party selected or approved by the Company, and placed through a primary government securities dealer, as defined by the Board of Governors of the Federal Reserve System, or a nationally or state chartered bank (which may include the Trustee or its affiliate).

"Redevelopment Commission" means the Fort Wayne Redevelopment Commission.

"Series 2022 Bonds" or "Bonds" means the Taxable Economic Development Revenue Bonds, Series 2022 (Village Premier Project) to be issued by the Issuer under the Indenture in the aggregate principal amount of \$\_\_\_\_\_.

"State" means the State of Indiana.

"Tax Increment" means all real property tax proceeds of designated taxpayers attributable to the assessed valuation of property in the Allocation Areas in excess of the assessed valuation described in IC 36-7-14-39(b)(1), as such statutory provision exists on the date of the issuance of the hereinafter defined Bonds.

"Taxpayer Agreement" means the agreement entered into by and among the Redevelopment Commission, the Company and the Issuer dated \_\_\_\_\_, 2022, substantially in the form attached hereto as Exhibit A.

"Taxpayer Payments" means the payments to the Controller provided for in the Taxpayer Agreement.

"TIF Pledge Resolution" means the resolution of the Redevelopment Commission adopted on July 11, 2022, pledging TIF Revenues to the Issuer.

"TIF Revenues" means Tax Increment generated received by the Redevelopment Commission and pledged to the Issuer for payment of the Bonds pursuant to the TIF Pledge Resolution.

"Trustee" means the trustee and/or co-trustee at the time serving as such under the Indenture, and shall initially mean U.S. Bank Trust Company, National Association, Indianapolis, Indiana.

"Company" means House Investments, LLP, a limited liability partnership 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.

"Written Request" shall have the meaning assigned in Section 4.3(c) of the Indenture.

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.

(End of Article I)

## 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 2022 Bonds for financing the construction and equipping of the Project, 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 and Taxpayer Payments 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 Company. Company represents and warrants that:

(a) Company is a limited liability partnership duly organized, existing and authorized to do business under the laws of the State of Indiana, is not in violation of any provision of its Articles of Organization or Operating Agreement by-laws, has not received notice and has no reasonable grounds to believe that it is in violation of any laws in any manner material to its ability to perform its obligations under this Financing Agreement, has power to enter into and to perform its obligations under this Financing Agreement and has duly authorized the execution and delivery of this Financing Agreement by appropriate corporate action.

(b) The adoption of the resolution by the Commission on July 21, 2022 has encouraged the Company to construct and equip the Project that will promote diversification of economic development and create new opportunities in the Area.

(c) All of the proceeds from the Series 2022 Bonds (including any income earned on the investment of such proceeds) will be used solely for Costs of Construction.

(d) The Company intends to operate or cause the Project to be operated as an economic development facility under the Act until the expiration or earlier termination of this Financing Agreement as provided herein, unless the Company has sold or otherwise transferred the Project to a Surviving Corporation (as hereinafter defined) in accordance with Section 3.3 of this Financing Agreement.

(e) Neither the execution and delivery of this Financing Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the terms and conditions of this Financing Agreement, will contravene the Company's Articles of Organization, Operating Agreement or by-laws or any law or any governmental rule, regulation or

order presently binding on the Company or conflicts with or results in a breach of the terms, conditions or provisions of any agreement or instrument to which Company is now a party or by which it is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any liens, charges, or encumbrances whatsoever upon any of the property or assets of Company under the terms of any instrument or agreement.

(f) The execution, delivery and performance by the Company of this Financing Agreement do 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.

(g) Assuming the due authorization, execution and delivery thereof by the other parties thereto, this Financing Agreement has been duly executed and delivered by the Company and constitutes the legal, valid and binding agreement of the Company, enforceable against the Company 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.

(h) There are no actions, suits or proceedings pending, or, to the knowledge of the Company, 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 Company or might impair the ability of the Company to perform its obligations under this Financing Agreement.

(i) 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.

(j) The Company expects to complete construction and equipping of the Project by \_\_\_\_\_, 20\_\_.

(k) The Company, as the Purchaser of the Bonds, acknowledges and agrees that the Issuer's obligation to pay the Series 2022 Bonds is limited to TIF Revenues and Taxpayer Payments and the Purchaser of the Bonds, shall bear the risk of nonpayment of the Bonds and recognize that the Issuer's obligation to the repayment of the Bonds is limited to available TIF Revenues and Taxpayer Payments.

(l) The Company agrees not to contest or appeal any determinations of assessed value on the property where the Project is located or request any deductions from assessed valuation with respect to any redevelopment or rehabilitation on the property where the Project is located to a level that Company's obligation shall be below the levels provided in the Taxpayer Agreement, while the Series 2022 Bonds are outstanding.

(m) The Company agrees to perform all matters provided by the Taxpayer Agreement to be performed by the Company and to comply with all provisions of the Taxpayer Agreement to be complied with by the Company including, but not limited to, payment of the [Deficiency Amounts] (as defined in the Taxpayer Agreement).

Section 2.3. Financing of Series 2022 Bond Proceeds by Issuer. Concurrently with the execution and delivery hereof, the Issuer is issuing the Series 2022 Bonds and is lending the proceeds from the sale thereof to the Company by making the deposits and payments specified in Section 3.1 and 4.4 of the Indenture.

(End of Article II)

## ARTICLE III.

### PARTICULAR COVENANTS OF THE COMPANY

Section 3.1. Consent to Assignments to Trustee. The Company 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 other than the rights of the Issuer to receive payments under Sections 3.7 and 3.09 hereof and agrees to execute and deliver supplements and amendments to this Financing Agreement pursuant to Section 7.1 hereof. The Company agrees that any provisions governing the rights, immunities and protections of the Trustee under the Indenture are incorporated by reference into this Financing Agreement and applied to the Trustee as though fully set forth herein.

Section 3.2. General Covenants. (a) As long as the Bonds are outstanding, the Company covenants to pay all property tax bills for its property in the Area owned or leased by the Company, its affiliates and its subsidiaries before the tax bills are delinquent; provided, however, the Company shall have the right to contest or appeal in good faith any property tax assessment only to the extent TIF Revenues exceed the amount needed to pay debt service on the Series 2022 Bonds and the Annual Fees as further provided in the Taxpayer Agreement.

(b) The Company covenants and agrees with and for the express benefit of the Issuer, the Trustee and the owners of the Bonds that the Company shall perform all of its other obligations, covenants and agreements hereunder, without notice or demand (except as provided herein), and without abatement, deduction, reduction, diminution, waiver, abrogation, set-off, counterclaim, recoupment, defense or other modification or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and regardless of any contingency, event or cause whatsoever, and irrespective (without limitation) of whether the Company's title to the Project or any part thereof is defective or nonexistent, and notwithstanding any damage to, or loss, theft or destruction of, the Project or any part thereof, any failure of consideration or frustration of purpose, the taking by eminent domain or otherwise of title to or of the right of temporary use of, all or any part of the Project, legal curtailment of the Company's use thereof, or whether with or without the approval of the Issuer, any change in the tax or other laws of the United States of America, the State, or any political subdivision of either thereof, any change in the Issuer's legal organization or status, or any default of the Issuer hereunder, and regardless of the invalidity of any portion of this Financing Agreement; and the Company hereby waives (to the extent permitted by law) the provisions of any statute or other law now or hereafter in effect impairing or conflicting with any of its obligations, covenants or agreements under this Financing Agreement or which releases or purports to release the Company therefrom.

(c) Until such time as the Series 2022 Bonds shall have been fully paid, or provision for the payment thereof shall have been made in accordance with the Indenture, the Company: (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 Company to complete the Project, the occurrence of any acts or circumstances that may constitute failure of consideration, eviction or constructive

eviction, destruction of or damage to the Project, 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 Facilities. The Company covenants that so long as any Bonds are outstanding, 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 Company 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 entity being hereinafter called the "Surviving Corporation") (if other than the Company) expressly accepts, agrees and assumes in writing to pay and perform all of the obligations of the Company herein and be bound by all of the agreements of the Company 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. Company Duties Under Indenture. The Company agrees to perform all matters provided by the Indenture to be performed by the Company and to comply with all provisions of the Indenture to be complied by the Company.

Section 3.5. Assignment, Sale or Other Disposition of Project. Any sale, lease or other disposition of the Project or any portion thereof is subject to the conditions of Section 3.10 hereof.

Section 3.6. Trustee's Right to Perform Company's Covenants; Advances. Only if the owner of the Bonds is other than the Purchaser, if the Company shall fail to (i) complete or cause the completion of the construction of the Project, 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 5 days' prior written notice to the Company, may (but shall not be obligated to) remedy such default for the account of the Company and make advances for that purpose. No such performance or advance shall operate to release the Company from any such default, and any sums so advanced by the Trustee shall be repayable by the Company on demand.

Section 3.7. Indemnity. The Company will pay, protect, defend, indemnify and save the Issuer, the Commission, the Redevelopment Commission and the Trustee harmless from and against, all liabilities, losses, damages, costs, expenses (including attorneys' fees and expenses of the Issuer and the Trustee), causes of actions, suits, claims, demands and judgments of any nature arising from or relating to the Project, this Financing Agreement or the Indenture (except

with respect to any breach of any of Issuer's or Trustee's covenants, agreements, representations or warranties included in this Financing Agreement and except for damage resulting from willful or negligent actions by the Trustee or the Issuer). 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 Company and the Issuer in writing in a timely manner to allow the Company to defend any action or claim in such proceeding.

The indemnifications set forth herein shall survive the termination of this Financing Agreement and the resignation or removal of the Trustee.

Section 3.8. Funding of Indenture Funds; Investments. The Issuer shall deposit with the Trustee proceeds from the sale of the Series 2022 Bonds in the manner specified in Article III of the Indenture, and the Trustee shall deposit such proceeds in the manner specified in such Article.

The Company and the Issuer agree that all moneys in any Fund established by the Indenture with the Trustee shall, at the written direction of the Issuer, be 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 Issuer'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 Company each recognizes that it may obtain a broker confirmation or written statement containing comparable information at no additional cost, the Issuer and the Company 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 Project. (a) The Company agrees 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 Project, to the extent permitted by law, by \_\_\_\_\_, 20\_\_.

The Company agrees, for the benefit of the Issuer and the Bondholders and in order to fulfill the purposes of the Act, to complete the construction and assembly of the Project and to pay from other funds of the Company that portion of the costs 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 and the Indenture will be available for payment of the costs of the construction and assembly of the Project, will be sufficient to pay all

the costs which will be incurred in that connection. The Company shall not be entitled to any reimbursement therefor from the Issuer, the Trustee, or the holders of any of the Bonds.

(b) The Issuer has, in Section 4.3 of the Indenture, authorized and directed Trustee to make payments from the Construction Fund to pay the Costs of Construction, or to reimburse Company or the Issuer for any Costs of Construction paid by it in the manner and subject to the provision of Section 4.3 thereof.

(c) The Completion Date shall be evidenced to Trustee by a certificate signed by the Company in compliance with the provisions of Section 4.3(d) 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 2022 Bonds as provided in Section 4.3(e) of the Indenture.

Section 3.10. Sale, Substitution, or Lease of the Project. The Company, subject to the written consent of the Issuer (which consent shall not be unreasonably withheld), may sell, lease or transfer or otherwise dispose of the Project or any portion thereof only if the sale, lease or transfer or other disposition shall not relieve the Company from liability from the performance of all of the obligations of this Financing Agreement, except as permitted by Section 3.3 hereof, unless the transferee accepts, agrees and assumes in writing to pay and perform all of the obligations of the Company herein and be bound by all of the agreements of the Company contained in this Financing Agreement to the same extent as if the transferee had originally executed this Financing Agreement.

(End of Article III)

ARTICLE IV.

APPLICATION OF SERIES 2022 BOND PROCEEDS

Section 4.1. Use of Series 2022 Bond Proceeds by Issuer. Concurrently with the execution and delivery hereof, the Issuer is issuing the Series 2022 Bonds and is depositing the proceeds from the sale thereof with the Trustee for the use of the Company by making the deposits and payments specified in Section 3.1 and 4.3 of the Indenture; provided such proceeds shall be used solely in connection with the development of the Project 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 a proper Written Request of the Company pursuant to Section 4.3(c) of the Indenture, approved by the Redevelopment Commission, the Trustee shall distribute sums for Costs of Construction of the Project as those costs are incurred until the Trustee has distributed in the aggregate total amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_). All of the foregoing is for the benefit of the holders of the Series 2022 Bonds, to the end that industry and the economy may be diversified and job opportunities promoted and retained, and to secure the Series 2022 Bonds by pledging the TIF Revenues and Taxpayer Payments to the Trustee.

(b) The Issuer covenants that, to the extent collected, it will timely pay the TIF Revenues and Taxpayer Payments to the Trustee as provided in Section 4.5 of the Indenture, provided that the Issuer shall have no other obligation with respect to the Series 2022 Bonds.

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

(End of Article IV)

ARTICLE V.

EVENTS OF DEFAULT

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) the breach of provisions of Section 3.2 hereunder;

(ii) failure of the Company to observe and perform any other covenant, condition or provision hereof, including all warrants and representations set forth in Section 2.2, and to remedy such default within 30 days after notice thereof from the Trustee to the Company, unless the Issuer shall have consented thereto in writing; or

(iii) the entry of a decree or order for relief by a court having jurisdiction in the premises in respect of the Company 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 Company 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

(iv) the commencement by the Company 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 Company or of any substantial part of its property, or the making by the Company of any general assignment for the benefit of creditors, or the failure of the Company generally to pay its debts as such debts become due, or the taking of corporate action by the Company 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) Advances to Cure. In addition to the provisions of Section 3.6, the Issuer may, but shall have no obligation to, cure such Event of Default or make advances to do so and shall be entitled to recover such sums from the Construction Fund or other Series 2022 Bond proceeds or from the Company.

(ii) No Further Proceeds. The Issuer shall, upon either an Event of Default or upon the occurrence of a default that, if not cured, would be a material detriment or impairment to the Project, be entitled to direct the Trustee to cease honoring draw requests from the Construction Fund or from other proceeds of the Series 2022 Bonds

and the Company shall not be entitled to further draws from the Construction Fund or be entitled to other proceeds from the Series 2022 Bonds.

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 Company; provided, however that all costs incurred by the Issuer under this Article V including its attorneys' fees and costs of collection, shall be paid on demand to the Issuer by the Company. The Company acknowledges and agrees that the breach of some of their 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. Waiver of Extension, Appraisalment or Stay Laws. To the extent permitted by law, the Company will not during the continuance of any event of default hereunder insist upon, or plead, or in any manner whatever claim or take any benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants and terms of performance of this Financing Agreement; and the Company hereby expressly waives all benefits or advantage of any such law or laws and covenants not to hinder, delay or impede the execution of any power herein granted or delegated to the Trustee, but to suffer and permit the execution of every power as though no such law or laws had been made or enacted.

Section 5.6. 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 Financing Agreement invalid or unenforceable under the provisions of any applicable law.

Section 5.7. 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 Company 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 Company.

(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 X of the Indenture, the Company 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 Company contained herein, shall be discharged and the Issuer and the Trustee in such case on demand of the Company and at its cost and expense, shall execute and deliver to the Company a proper instrument or proper instruments acknowledging the satisfaction and termination of this Financing Agreement.

(End of Article VIII)



To the Trustee: U.S. Bank Trust Company, National Association  
10 W. Market Street, Suite 830  
Indianapolis, Indiana 46204  
Attention: Global Corporate Trust

All notices, approvals, consents, requests and any communications to the Trustee hereunder must be in writing in English and must be in the form of a document that is signed manually or by way of an electronic signature (including electronic images of handwritten signatures and digital signatures provided by DocuSign, Orbit, Adobe Sign or any other electronic signature provider acceptable to the Trustee). Electronic signatures believed by the Trustee to comply with the ESIGN ACT of 2000 or other applicable law shall be deemed original signatures for all purposes. If the Issuer or the Company chooses to use electronic signatures to sign documents delivered to the Trustee, the Issuer and the Company each agrees to assume all risks arising out of its use of electronic signatures, including without limitation the risk of the Trustee acting on an unauthorized document and the risk of interception or misuse by third parties. Notwithstanding the foregoing, the Trustee may in any instance and in its sole discretion require that an original document bearing a manual signature be delivered to the Trustee in lieu of, or in addition to, any document signed via electronic signature.

Section 9.5. Successors and Assigns. Whenever 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 Company, 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 has caused its corporate seal to be hereunto affixed, and the Company has caused this Financing Agreement to be executed in their names, all as of the date first above written.

HOUSE INVESTMENTS, LLP

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

CITY OF FORT WAYNE, INDIANA

---

Mayor

(SEAL)

Attest:

---

Controller

This instrument prepared by Heather R. James, Ice Miller LLP, One American Square,  
Suite 2900, Indianapolis, Indiana 46282-0200.

EXHIBIT A  
Taxpayer Agreement  
(See Attached)

TRUST INDENTURE  
BETWEEN  
CITY OF FORT WAYNE, INDIANA  
AND  
U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,  
As Trustee

\$ \_\_\_\_\_

CITY OF FORT WAYNE, INDIANA  
TAXABLE ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2022  
(VILLAGE PREMIER PROJECT)

Dated as of October 1, 2022

TABLE OF CONTENTS

|   | Page |
|---|------|
| ARTICLE I. <u>DEFINITIONS</u> .....   | 11   |
| Section 1.1. <u>Terms Defined</u> .....   | 11   |
| Section 1.2. <u>Rules of Interpretation</u> .....   | 14   |
| Section 1.3. <u>Exhibits</u> .....  | 14   |
| ARTICLE II. <u>THE BONDS</u> .....  | 16   |
| Section 2.1. <u>Authorized Amount of Series 2022 Bonds</u> . ....   | 16   |
| Section 2.2. <u>Issuance of Series 2022 Bonds</u>   |      |
| Section 2.3. <u>Payment on Bonds</u> . ....   | 16   |
| Section 2.4. <u>Execution; Limited Obligation</u> . ....  | 17   |
| Section 2.5. <u>Authentication</u> . ....   | 17   |
| Section 2.6. <u>Form of Bonds</u> .....   | 18   |
| Section 2.7. <u>Delivery of Series 2022 Bonds</u> .....   | 18   |
| Section 2.8. <u>Issuance of Additional Bonds</u> .....  | 18   |
| Section 2.9. <u>Mutilated, Lost, Stolen, or Destroyed Bonds</u> .....   | 19   |
| Section 2.10. <u>Registration and Exchange of Series 2022 Bonds; Persons Treated as</u><br><u>Owners</u> . .... | 20   |
| ARTICLE III. <u>APPLICATION OF SERIES 2022 BOND PROCEEDS</u> .....  | 21   |
| Section 3.1. <u>Deposit of Funds</u> . ....   | 21   |
| ARTICLE IV. <u>REVENUE AND FUNDS</u> .....  | 22   |
| Section 4.1. <u>Source of Payment of Bonds</u> .....  | 22   |
| Section 4.2. <u>Bond Fund</u> .....   | 22   |
| Section 4.3. <u>Construction Fund</u> .....   | 22   |
| Section 4.4. <u>Debt Service Reserve Fund</u> .....   | 24   |
| Section 4.5. <u>TIF Revenues</u> . ....   | 25   |
| Section 4.6. <u>Trust Funds</u> . ....  | 25   |
| Section 4.7. <u>Investment</u> .....  | 26   |
| ARTICLE V. <u>REDEMPTION OF SERIES 2022 BONDS BEFORE MATURITY</u> .....   | 27   |
| Section 5.1. <u>Redemption Dates and Prices</u> .....   | 27   |
| Section 5.2. <u>Notice of Redemption</u> .....  | 27   |
| Section 5.3. <u>Cancellation</u> .....  | 28   |
| Section 5.4. <u>Redemption Payments</u> .....   | 28   |
| Section 5.5. <u>Partial Redemption of Bonds</u> . ....  | 28   |
| ARTICLE VI. <u>GENERAL COVENANTS</u> .....  | 29   |
| Section 6.1. <u>Payment of Principal and Interest</u> . ....  | 29   |

|  |    |
|--|----|
| Section 6.2. <u>Performance of Covenants</u> .....   | 29 |
| Section 6.3. <u>Filing of Indenture, Financing Agreement and Security Instruments</u> .....                      | 30 |
| Section 6.4. <u>Inspection of Books</u> .....  | 30 |
| Section 6.5. <u>List of Bondholders</u> .....  | 30 |
| Section 6.6. <u>Rights Under Financing Agreement</u> .....   | 30 |
| Section 6.7. <u>Investment of Funds</u> .....  | 30 |
| Section 6.8. <u>Non-presentment of Bonds</u> .....   | 31 |
| Section 6.9. <u>Direction of Bondholders</u> .....   | 31 |
| Section 6.10. <u>Reserved</u> .....  | 31 |
| <br>ARTICLE VII. DEFAULTS AND REMEDIES .....   | 32 |
| Section 7.1. <u>Events of Default</u> .....  | 32 |
| Section 7.2. <u>Reserved</u> .....   | 32 |
| Section 7.3. <u>Remedies; Rights of Bondholders</u> .....  | 32 |
| Section 7.4. <u>Right of Bondholders to Direct Proceedings</u> .....   | 33 |
| Section 7.5. <u>Application of Moneys</u> .....  | 33 |
| Section 7.6. <u>Remedies Vested In Trustee</u> .....   | 34 |
| Section 7.7. <u>Rights and Remedies of Bondholders</u> .....   | 34 |
| Section 7.8. <u>Termination of Proceedings</u> .....   | 35 |
| Section 7.9. <u>Waivers of Events of Default</u> .....   | 35 |
| <br>ARTICLE VIII. THE TRUSTEE AND PAYING AGENT .....   | 36 |
| Section 8.1. <u>Acceptance of the Trusts</u> .....   | 36 |
| Section 8.2. <u>Fees, Charges and Expenses of Trustee and Paying Agent</u> .....                                 | 40 |
| Section 8.3. <u>Notice to Bondholders if Default Occurs</u> .....  | 40 |
| Section 8.4. <u>Intervention by Trustee</u> .....  | 40 |
| Section 8.5. <u>Successor Trustee</u> .....  | 40 |
| Section 8.6. <u>Resignation by the Trustee</u> .....   | 40 |
| Section 8.7. <u>Removal of the Trustee</u> .....   | 41 |
| Section 8.8. <u>Appointment of Successor Trustee by the Bondholders; Temporary<br/>Trustee</u> .....             | 41 |
| Section 8.9. <u>Concerning Any Successor Trustees</u> .....  | 41 |
| Section 8.10. <u>Trustee Protected in Relying Upon Resolutions, etc.</u> .....                                   | 41 |
| Section 8.11. <u>Appointment of Paying Agent and Registrar; Resignation or Removal<br/>of Paying Agent</u> ..... | 41 |
| <br>ARTICLE IX. SUPPLEMENTAL INDENTURES .....  | 43 |
| Section 9.1. <u>Supplemental Indentures Not Requiring Consent of Bondholders</u> .....                           | 43 |
| Section 9.2. <u>Supplemental Indentures Requiring Consent of Bondholders</u> .....                               | 43 |
| Section 9.3. <u>Opinion of Counsel</u> .....   | 44 |
| <br>ARTICLE X. AMENDMENTS TO THE FINANCING AGREEMENT .....   | 45 |
| Section 10.1. <u>Amendments, etc., to Financing Agreement Not Requiring Consent of<br/>Bondholders</u> .....     | 45 |

|  |    |
|--|----|
| Section 10.2. <u>Amendments, etc., to Financing Agreement Requiring Consent of Bondholders</u> ..... | 45 |
| Section 10.3. <u>Opinion of Counsel</u> .....  | 45 |
| ARTICLE XI. MISCELLANEOUS .....  | 46 |
| Section 11.1. <u>Satisfaction and Discharge</u> .....  | 46 |
| Section 11.2. <u>Defeasance of Bonds</u> .....   | 46 |
| Section 11.3. <u>Cancellation of Series 2022 Bonds</u> .....   | 47 |
| Section 11.4. <u>Application of Trust Money</u> .....  | 48 |
| Section 11.5. <u>Consents, etc., of Bondholders</u> .....  | 48 |
| Section 11.6. <u>Limitation of Rights</u> .....  | 49 |
| Section 11.7. <u>Severability</u> .....  | 49 |
| Section 11.8. <u>Notices</u> .....   | 49 |
| Section 11.9. <u>Counterparts</u> .....  | 49 |
| Section 11.10. <u>Applicable Law</u> .....   | 50 |
| Section 11.11. <u>Immunity of Officers and Directors</u> .....                                       | 50 |
| Section 11.12. <u>Holidays</u> .....   | 50 |

## TRUST INDENTURE

THIS TRUST INDENTURE dated as of the first day of October, 2022, by and between the CITY OF FORT WAYNE, INDIANA ("Issuer"), a municipal corporation duly organized and existing under the laws of the State of Indiana and U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking and financial institution duly organized, existing and authorized to accept and execute trusts of the character herein set out under the laws of the United States of America, with a corporate trust office in the City of Indianapolis, 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 lend 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 induced House Investments, LLP, a limited liability partnership ("Company"), to proceed with the construction and equipping of certain improvements, including but not limited to, the construction of a multi-use complex consisting of a total of approximately 203 affordable housing units together with all necessary on- and off-site infrastructure, appurtenances, related improvements and equipment, and costs of issuance, including funding a debt service reserve (collectively, "Project"), by offering to issue its Taxable Economic Development Revenue Bonds, Series 2022 (Village Premier Project) in the aggregate principal amount of \$ \_\_\_\_\_ ("Series 2022 Bonds") pursuant to this Trust Indenture and the provisions of the Financing and Covenant Agreement, dated as of October 1, 2022 ("Financing Agreement") for the purpose of paying costs of the Project; 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 Project and the proposed financing thereof will create additional employment opportunities in the City of Fort Wayne, Indiana ("City"); will benefit the health, safety, morals, and general welfare of the citizens of the Issuer 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, the Act provides that such bonds may be secured by a trust indenture between the Issuer and a corporate trustee; and

WHEREAS, the execution and delivery of this Trust Indenture ("Indenture"), and the issuance of the Series 2022 Bonds hereunder have been in all respects duly and validly authorized by an ordinance duly passed and approved by the Issuer; and

WHEREAS, Indiana Code, Title 36, Article 7, Chapter 14 provides that a redevelopment commission of a city may pledge certain incremental property taxes to pay, in whole or in part, amounts due on the Series 2022 Bonds; and

WHEREAS, the Fort Wayne Redevelopment Commission ("Redevelopment Commission") created the Posterity Heights Urban Renewal Area ("Posterity Heights URA") and adopted a redevelopment plan for the URA ("Posterity Heights Plan") pursuant to Declaratory Resolution 2017-32, as confirmed by Confirmatory Resolution 2017-43, and further created the Tillman-Anthony Economic Development Area ("Tillman-Anthony EDA"), pursuant to Declaratory Resolution 2001-60, as confirmed by Confirmatory Resolution 2002-65, which Tillman-Anthony EDA was amended pursuant to Declaratory Resolution 2021-01, as confirmed by Confirmatory Resolution 2021-18, which amendment included adoption of a redevelopment plan for the amended EDA ("Tillman-Anthony Plan"); and

WHEREAS, there are outstanding certain Amended First Mortgage Bonds, Series 2006 (Public Safety Academy Project) issued by the Fort Wayne Municipal Building Corp., dated July 27, 2016 ("2006 Bonds");

WHEREAS, the final principal and interest payment on the 2006 Bonds will occur on December 15, 2022 in the approximate amount of \$600,000 payable from TIF Revenues and other funds available to the Redevelopment Commission;

WHEREAS, the Redevelopment Commission has by resolution irrevocably dedicated and pledged to the Issuer TIF Revenues and Taxpayer Payments (each as hereinafter defined) to the payment of debt service on the Series 2022 Bonds; and

WHEREAS, pursuant to the Financing Agreement and this Indenture, the Series 2022 Bonds are payable solely and only out of: (i) TIF Revenues; (ii) Bond proceeds and proceeds of insurance; provided, however, that the Redevelopment Commission will enter into a taxpayer agreement executed by and between the Redevelopment Commission and the Company ("Taxpayer Agreement"), providing that the hereinafter defined Taxpayer Payments will be made under certain circumstances if the property taxes paid the Project are less than the tax payment required under the Taxpayer Agreement; and (iii) Taxpayer Payments; and

WHEREAS, the Series 2022 Bonds and the Trustee's certificate of authentication to be endorsed thereon are all to be in substantially the following forms, and any Additional Bonds and Trustee's certificate of authentication are also to be in substantially the following forms (except as to redemption, sinking fund and other provisions peculiar to such Additional Bonds), with necessary and appropriate variations, omissions and insertions as permitted or required by this Indenture, to-wit:

(Form of Series 2022 Bond)

NO. R-\_\_\_

UNITED STATES OF AMERICA  
 STATE OF INDIANA COUNTY OF WHITLEY  
 CITY OF FORT WAYNE, INDIANA  
 TAXABLE ECONOMIC DEVELOPMENT REVENUE BOND, SERIES 2022  
 (VILLAGE PREMIER PROJECT)

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

REGISTERED OWNER: \_\_\_\_\_

PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_)

The City of Fort Wayne, 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 TIF Revenues and Taxpayer Payments (each as defined in the hereinafter defined Indenture), pledged and assigned for the payment hereof, the Principal Amount on the Maturity Date set forth above, unless this Series 2022 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 is paid in full. Interest on this Series 2022 Bond shall be payable from the Interest Payment Date next preceding the date of authentication thereof ("Interest Date"), except that: (i) if this Series 2022 Bond is authenticated on or prior to December 15, 2022, the Interest Date shall be the Original Issue Date specified above; (ii) if this Series 2022 Bond is authenticated on or 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 2022 Bond is in default, the Interest Date shall be the day after the date to which interest hereon has been paid in full. Interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months.

The principal of this Series 2022 Bond is payable at a designated corporate trust office of U.S. Bank Trust Company, National Association, as Trustee, in the City of Indianapolis, Indiana, or at the principal office of any successor trustee or paying agent, or, if payment is made to a depository, by wire transfer of immediately available funds on the payment date. All payments of interest hereon will be made by the Trustee by check mailed on 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. [Notwithstanding anything to the contrary herein, this Series 2022 Bond shall not be required to be presented or surrendered to receive payment in connection with any mandatory sinking fund redemption until the final maturity date of this Series 2022 Bond or

earlier payment in full of this Series 2022 Bond.] [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 by 1:00 p.m. (New York City time) so such payments are received at the depository by 2:30 p.m. (New York City time).]

This Series 2022 Bond is [the only] one of an authorized issue of bonds of the Issuer designated as the Taxable Economic Development Revenue Bonds, Series 2022 (Village Premier Project) (hereinbefore and hereinafter the "Series 2022 Bonds") which are being issued under the Indenture in the aggregate principal amount of \$ \_\_\_\_\_. The Series 2022 Bonds are being issued for the purpose of providing funds to finance the construction and equipping of certain improvements, including but not limited to, the construction of a multi-use complex consisting of a total of approximately 203 affordable housing units together with all necessary on- and off-site infrastructure, appurtenances, related improvements and equipment, and costs of issuance, including funding a debt service reserve (collectively, "Project") that is in or physically connected to the Posterity Heights Urban Renewal Area and the Tillman-Anthony Economic Development Area, together with necessary appurtenances, related improvements and costs of issuance, to be constructed by House Investments, LLP ("Company"), pursuant to the Financing and Covenant Agreement dated as of [October] 1, 2022 ("Financing Agreement") between the Company and the Issuer which prescribe the terms and conditions under which the proceeds of the Series 2022 Bonds shall be used for construction of the Project.

The Series 2022 Bonds are issued under and entitled to the security of a Trust Indenture dated as of [October] 1, 2022 ("Indenture") duly executed and delivered by the Issuer to U.S. Bank Trust Company, National Association, Indianapolis, Indiana, as Trustee (the term "Trustee" where used herein referring to the Trustee or its successors), pursuant to which Indenture the TIF Revenues and Taxpayer Payments, and all rights of the Issuer under the Indenture and 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 2022 Bonds. THE OWNER OF THIS BOND, BY ACCEPTANCE OF THIS SERIES 2022 BOND, HEREBY AGREES TO ALL OF THE TERMS AND PROVISIONS IN THE INDENTURE AND THIS SERIES 2022 BOND AND ACKNOWLEDGES THAT:

(a) It is a sophisticated investor and is familiar with securities such as the Series 2022 Bonds.

(b) It is familiar with the Issuer, the Fort Wayne Redevelopment Commission ("Redevelopment Commission") and the Fort Wayne Redevelopment District ("District"); it has received such information concerning the Issuer, the Redevelopment Commission, the District, the Series 2022 Bonds, the TIF Revenues and Taxpayer Payments as it deems to be necessary in connection with investment in the Series 2022 Bonds. It has received, read and had an opportunity to comment upon the Indenture, the Series 2022 Bonds, the TIF Pledge Resolution ("TIF Resolution") and the Financing Agreement. Prior to the purchase of the Series 2022 Bonds, it has been provided with the opportunity to ask questions of and receive answers from the representatives of the Issuer and the Redevelopment Commission concerning the terms and conditions of the Series 2022 Bonds, the tax status of the Series 2022 Bonds, legal opinions and

enforceability of remedies, the security therefor, and property tax reform, and to obtain any additional information needed in order to verify the accuracy of the information obtained to the extent that the Issuer possesses such information or can acquire it without unreasonable effort or expense. It is not relying on Ice Miller LLP or Baker Tilly Municipal Advisors, LLC for information concerning the financial status of the Issuer or the Redevelopment Commission or the ability of the Issuer or the Redevelopment Commission to honor their financial obligations or other covenants under the Series 2022 Bonds, the Indenture or the Financing Agreement. It is understood that the projection of TIF Revenues (as defined in the TIF Resolution) prepared by Baker Tilly Municipal Advisors, LLC in connection with the issuance of the Series 2022 Bonds has been based on estimates of the investment in real property provided by the Company.

(c) It understands that the Issuer's collection of the TIF Revenues 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. It further understands that the neither the Issuer nor the Redevelopment Commission may levy a property tax or borrow money to make up any shortfall due to the application of this credit.

(d) It is acquiring the Series 2022 Bonds for its own account with no present intent to resell; and will not sell, convey, pledge or otherwise transfer the Series 2022 Bonds without prior compliance with applicable registration and disclosure requirements of state and federal securities law.

(e) It has investigated the security for the Series 2022 Bonds, including the availability of TIF Revenues, to its satisfaction, and it understands that the Series 2022 Bonds are payable from TIF Revenues and Taxpayer Payments.

(f) It recognizes that the opinions it has received express the professional judgment of the attorneys participating in the transaction as to the legal issues addressed herein. It also recognizes that by rendering such opinions, the attorneys do not become insurers or guarantors of that expression of professional judgment, of the transaction opined upon, or of the future performance of parties to such transaction. Nor does the rendering of the opinions guarantee the outcome of any legal dispute that may arise out of the transaction.

(g) It understands that the Issuer has no continuing disclosure obligations with regard to the Series 2022 Bonds.

(h) It understands that interest on the Series 2022 Bonds is taxable for federal income tax purposes.

(i) It understands that on June 11, 2020, the World Health Organization proclaimed the Coronavirus (COVID-19) to be a pandemic. In an effort to lessen the risk of transmission of COVID-19, the United States government, state governments, local governments and private industries have taken measures to limit social interactions in an effort to limit the spread of COVID-19, affecting business activities and impacting global, state and local commerce and financial markets. The emergence of COVID-19 and the spread thereof is an emerging and evolving issue. As the Issuer continues its efforts to contain and limit the spread COVID-19

disease, future tax and other revenue collections may deviate from anticipated and historical collections and may have an adverse impact on the financial position and operations of the Issuer and its ability to fund debt obligations, including the bonds in accordance with its terms. The Issuer is not able to predict and makes no representations as to the economic impact of the COVID-19 pandemic on the Issuer or its financial position.

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 2022 Bonds are hereinafter collectively referred to as the "Bonds.") Reference is made to the Indenture and to all indentures supplemental thereto and to the Financing Agreement 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 2022 Bond assents.

The Series 2022 Bonds are issuable in registered form in denominations of \$1,000 and integral multiples thereof. This Series 2022 Bond is transferable by the registered holder hereof in person or by its attorney duly authorized in writing at the principal 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 2022 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 and interest hereof and premium, if any, hereon and for all other purposes and neither the Issuer nor 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, the Series 2022 Bonds shall be subject to redemption prior to maturity at the option of the Issuer on any date, upon thirty (30) days' written notice, in whole or in part, in such order of maturity as the Issuer shall direct and by lot within maturities on any date, from any moneys made available for that purpose, at face value, with no premium, plus in each case accrued interest to the date fixed for redemption.

The Series 2022 Bonds 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>20__ Term Bond</u> |               |             |               |
|-----------------------|---------------|-------------|---------------|
| <u>Date</u>           | <u>Amount</u> | <u>Date</u> | <u>Amount</u> |

\*

\*Final Maturity

Each One Thousand Dollars (\$1,000) principal amount shall be considered a separate bond for purposes of optional and mandatory redemption. If less than an entire maturity is called for redemption, the Bonds to be redeemed shall be selected by lot by the Registrar. If some Bonds are to be redeemed by optional redemption and mandatory sinking fund redemption on the same date, the Registrar shall select by lot the Bonds for optional redemption before selecting the Bonds by lot for the mandatory sinking fund redemption.

If any of the Series 2022 Bonds are called for redemption as aforesaid, notice thereof identifying the Series 2022 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 nor more than sixty (60) days prior to the date fixed for redemption to the Registered Owner of the Series 2022 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 2022 Bond, shall not affect the validity of any proceedings for the redemption of other Series 2022 Bonds.

All Series 2022 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 2022 Bond is transferable by the Registered Owner hereof at the designated corporate trust office of the Trustee upon surrender and cancellation of this Series 2022 Bond and on presentation of a duly executed written instrument of transfer and thereupon a new Series 2022 Bond or Series 2022 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 of the terms herein.

The Series 2022 Bonds, and the interest payable thereon, does 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 2022 Bonds 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, TIF Revenues, and Taxpayer Payments 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 State of Indiana or any political subdivision or taxing authority thereof is pledged to the payment of the principal of or interest on, or premium, if any, on this Series 2022 Bond. The Series 2022 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 interest on, or premium, if any, on the Series 2022 Bonds. No covenant or agreement contained in the Series 2022 Bonds or the Indenture shall be deemed to be a covenant or agreement of the Redevelopment Commission, the Fort Wayne Economic Development Commission ("Commission"), the Issuer or of any member, director, officer, agent, attorney or employee of the Redevelopment Commission, Commission or the Issuer in his or her individual capacity, and neither the Redevelopment Commission, the Commission, the Issuer nor any member, director, officer, agent, attorney or employee of the Redevelopment Commission, the Commission or the

Issuer executing the Series 2022 Bonds shall be liable personally on the Series 2022 Bonds or be subject to any personal liability or accountability by reason of the issuance of the Series 2022 Bonds.

The holder of this Series 2022 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, together with interest accrued thereon. 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 TIF Revenues 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 2022 Bond, exist, have happened and have been performed, and that the issuance, authentication and delivery of this Series 2022 Bond have been duly authorized by the Issuer.

This Series 2022 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, the City of Fort Wayne, in Allen County, Indiana, has caused this bond to be executed in its corporate name by the manual or facsimile signature of its Mayor, countersigned by the manual or facsimile signature of the Controller, and its corporate seal to be hereunto affixed, imprinted or impressed by any means and attested manually or by facsimile by its Clerk.

CITY OF FORT WAYNE, INDIANA

By \_\_\_\_\_  
Mayor

COUNTERSIGNED:

By \_\_\_\_\_  
Controller

[SEAL]

Attest:

\_\_\_\_\_  
Clerk

(FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION)

This Series 2022 Bond is the only one of the Series 2022 Bonds described in the within mentioned Indenture.

U.S. BANK TRUST COMPANY, NATIONAL  
ASSOCIATION, 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 2022 Bond and all rights, title and interest thereon, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Series 2022 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 on the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

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.

(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 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 Bonds contained, and in order to declare the terms and conditions upon which the 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 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

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 Taxpayer Payments, 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 Bonds to be issued hereunder, and premium, if any, payable upon redemption or prepayment thereof, and the interest payable thereon, 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 Bonds issued hereunder, and it is hereby mutually covenanted and agreed that the terms and conditions upon which the 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" means, collectively, the Tillman-Anthony EDA and the Posterity Heights URA.

"Area" means, collectively, the Posterity Heights Urban Renewal Area and the Tillman-Anthony Economic Development Area.

"Authorized Representative" means any officer of the Company.

"Bondholder", "Holder", "Owner", and "Registered Owner" shall mean the registered owner of a Bond or Bonds.

"Bond Purchaser" means \_\_\_\_\_.

"Bond Purchase Agreement" means the Bond Purchase Agreement, dated \_\_\_\_\_, 2022, between the Issuer and the Bond Purchaser.

"Bonds" means any Bonds issued pursuant to this Indenture, including the Series 2022 Bonds.

"Business Day" shall mean any day other than (i) a Saturday or Sunday, (ii) a day on which commercial banks in New York, New York, or the city or cities in which the corporate trust office of the Trustee or the Tender Agent are authorized or required by law to close or (iii) a day on which the New York Stock Exchange or the federal reserve payment system is closed.

"Construction Fund" shall mean the Construction Fund established in Section 4.3 herein.

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

(i) the "Bond Issuance Costs," namely the costs, fees and expenses incurred or to be incurred by the Issuer and the Company in connection with the issuance and sale of the Series 2022 Bonds, including underwriting or other financing fees (including applicable counsel fees), the fees and disbursements of Bond Counsel, the fees of disbursements of the Issuer's financial advisor, the acceptance 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 or to perfect the lien thereof, the out-of-pocket costs of the Issuer, the fees and disbursements of counsel to the Company, the fees and disbursements of the Company's accountants, the fees and

disbursements of counsel to the Issuer, the fees and disbursements of counsel to the purchasers of the Bonds, the costs of preparing or printing the Series 2022 Bonds and the

(ii) documentation supporting the issuance of the Series 2022 Bonds, the costs of reproducing documents, and any other costs of a similar nature reasonably incurred;

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

(iv) all costs and expenses which Issuer or Company 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 the construction of the Project; and

(v) any sums required to reimburse Issuer or Company for advances made by either of them subsequent to the date of inducement by the Issuer 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 Project.

"Debt Service Reserve Fund" means the Debt Service Reserve Fund established, if required, in Section 4.4 of this Indenture.

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

"Fiscal Year" shall mean a period of twelve consecutive months constituting the fiscal year of the Company commencing on the first day of January of any year and ending on the last day of December of such year, both inclusive, or such other period as hereafter may be established from time to time for budgeting and accounting purposes by the Company or by the governing body of any successor entity to the Company.

"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 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 Fort Wayne, Indiana, a municipal corporation organized and validly existing under the laws of the State of Indiana.

"Financing Agreement" means the Financing and Covenant Agreement, dated as of October 1, 2022, between the Company and the Issuer and all amendments and supplements thereto.

"Opinion of Counsel" shall mean an opinion in writing signed by legal counsel who may be an employee of or counsel to the Company and who shall be satisfactory to the Issuer 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.

"Paying Agent" means U.S. Bank Trust Company, National Association and any successor paying agent or co-paying agent.

"Project" means, collectively, the construction of a multi-use complex consisting of a total of approximately 208 affordable housing units together with all necessary on- and off-site infrastructure, appurtenances, related improvements and equipment, and costs of issuance, including funding a debt service reserve.

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

"Record Date" means the fifteenth day of the month preceding an interest payment date, if any.

"Redevelopment Commission" means the Fort Wayne Redevelopment Commission.

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

"Reserve Requirement" with respect to the original Bonds, means \$ \_\_\_\_\_, the maximum annual principal and interest payable on all original Bonds.

"Series 2022 Bonds" means City of Fort Wayne, Indiana Taxable Economic Development Revenue Bonds, Series 2022 (Village Premier Project) in the aggregate principal amount of \$ \_\_\_\_\_.

"Tax Increment" means all real property tax proceeds of designated taxpayers attributable to the assessed valuation of property in the Allocation Areas in excess of the assessed valuation described in IC 36-7-14-39(b)(1), as such statutory provision exists on the date of the issuance of the hereinafter defined Bonds.

"TIF Pledge Resolution" means the resolution of the Commission adopted on July 11, 2022 pledging TIF Revenues to the payment of the Bonds.

"Taxpayer Payments" means the payments due from the Company pursuant to that certain Taxpayer Agreement executed by and among the Redevelopment Commission, the Issuer and the Company, dated as of \_\_\_\_\_, 2022.

"TIF Revenues" means Tax Increment generated received by the Redevelopment Commission and pledged to the Issuer for payment of the Bonds pursuant to the TIF Pledge Resolution.

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

"Trustee" means U.S. Bank Trust Company, National Association, Indianapolis, Indiana the party of the second part hereto, and any successor trustee or co-trustee.

"Trustee Fees" means the acceptance fee and annual fees of the Trustee.

"Company" means House Investments, LLP, an Indiana corporation.

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: Issuance Costs  
Exhibit B: Written Request

(End of Article I)

## ARTICLE II.

### THE BONDS

Section 2.1. Authorized Amount of Series 2022 Bonds. No Bonds may be issued under the provisions of this Indenture except in accordance with this Article. The principal amount of the Series 2022 Bonds (other than Bonds issued in substitution therefor pursuant to Section 2.9 hereof) that may be issued is hereby expressly limited to \$\_\_\_\_\_. Additional Bonds may be issued as provided in Section 2.8 hereof.

Section 2.2. Issuance of Series 2022 Bonds. The Series 2022 Bonds shall be designated "Taxable Economic Development Revenue Bonds, Series 2022 (Village Premier Project)." The Series 2022 Bonds shall be originally issuable as fully registered Series 2022 Bonds in the principal amount of \$\_\_\_\_\_, in denominations of \$1,000 and integral multiples thereof and shall be lettered and numbered R-1 and upward. Interest on the Series 2022 Bonds shall be at the rate of \_\_\_% per annum and shall be paid to the owners of such Bonds determined as of the close of business of the Record Date next preceding each Interest Payment Date at the registered addresses of such owners as they shall appear on the registration books of the Trustee notwithstanding the cancellation of any such Bonds upon any exchange or transfer thereof subsequent to the Record Date and prior to such Interest Payment Date, except that, if and to the extent that there shall be a default in the payment of the interest due on such interest payment date, such defaulted interest shall be paid to the owners in whose name any such Bonds (or any Bond issued upon transfer or exchange thereof) are registered at the close of business of the Special Record Date (defined below) next preceding the date of payment of such defaulted interest. Payment of interest to all Bondholders shall be by check drawn on the main office of the Paying Agent and mailed to such Bondholder on each Interest Payment Date. The "Special Record Date" shall be the date established by the Trustee for the payment of defaulted interest. The Series 2022 Bonds shall be dated as of the date of their delivery and shall accrue interest from their date of issuance. Interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The interest on the Series 2022 Bonds shall be payable on each February 1 and August 1, commencing on \_\_\_\_\_ 1, 20\_\_.

So long as the 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, the Bonds shall be returned to the Paying Agent for destruction.

Section 2.3. Payment on Bonds. The principal of and interest on the Bonds shall be payable in any coin or currency of the United States of America which, at the respective dates of payment thereof, is legal tender for the payment of public and private debts. The final payments on the Series 2022 Bonds shall be payable at the designated corporate trust office of the Trustee in St. Paul, Minnesota. All other payments on the Bonds shall be made to the person appearing on the Bond registration books of the Trustee as the registered owner of the Bonds by check mailed to the Registered Owner thereof as shown on the registration books of the Trustee, or by wire transfer to any registered owner of the aggregate amount of \$1,000,000 or more of the principal amount of the bonds, upon the written request of such registered owner to the Trustee on or prior to the Record Date, which direction shall remain in effect until revoked in writing by such registered owner.

Section 2.4. Execution; Limited Obligation. The Series 2022 Bonds shall be executed on behalf of the Issuer with the manual or facsimile signature of its Mayor, countersigned by the Controller, and attested with the manual 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 each of the Series 2022 Bonds. The City further authorizes their officers and representatives to execute any and all documents necessary to issue the Series 2022 Bonds by use of electronic signatures and agree and affirm that such electronic signatures have full, valid and legal effect and enforceability as original signatures. If any officer whose signature or facsimile signature shall appear on the Series 2022 Bonds shall cease to be such officer before the delivery of such 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 Series 2022 Bonds 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 2022 Bonds 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, TIF Revenues and Taxpayer Payments, 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 State of Indiana or any political subdivision or taxing authority thereof is pledged to the payment of the principal of, premium, if any, and interest on the Series 2022 Bond. The Series 2022 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, and interest on the Series 2022 Bonds. No covenant or agreement contained in the Series 2022 Bonds or the Indenture shall be deemed to be a covenant or agreement of the Redevelopment Commission, the Fort Wayne Economic Development Commission ("Commission"), the Issuer or of any member, director, officer, agent, attorney or employee of the Redevelopment Commission, Commission or the Issuer in his or her individual capacity, and neither the Redevelopment Commission, Commission, the Issuer nor any member, director, officer, agent, attorney or employee of the Redevelopment Commission, Commission or the Issuer executing the Series 2022 Bonds shall be liable personally on the Series 2022 Bonds or be subject to any personal liability or accountability by reason of the issuance of the Series 2022 Bonds.

Section 2.5. Authentication. No Series 2022 Bond 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 2022 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 Bond shall be conclusive evidence that such Series 2022 Bond has been authenticated and delivered under this Indenture. The Trustee's certificate of authentication on any Series 2022 Bond 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 2022 Bonds issued hereunder.

Section 2.6. Form of Bonds. The 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 2022 Bonds. Upon the execution and delivery of this Indenture, the Issuer shall execute and deliver to the Trustee the Series 2022 Bonds in the aggregate principal amount of \$ \_\_\_\_\_. The Trustee shall authenticate such Bonds and deliver them to the purchasers thereof upon receipt of:

- (i) A copy, duly certified by the Controller 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 2022 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 and Taxpayer Payments to the payment of the Series 2022 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 2022 Bonds in the principal amount of \$ \_\_\_\_\_, to the purchasers thereof.
- (v) Such other documents as shall be required by the bond counsel and identified to the Trustee as documents to be received by the Trustee prior to delivery of the Series 2022 Bonds.

The proceeds of the Series 2022 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. One or more series of Bonds in addition to the Series 2022 Bonds ("Additional Bonds"), may be authenticated and delivered from time to time for one or more of the purposes of (i) refunding entirely one or more series of 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 series of 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 Project or of acquiring and/or constructing additional improvements to the Project, 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, specifying the terms thereof, and providing for the disposition of the proceeds of the sale thereof.
- (ii) The supplement or amendment to the Financing Agreement and the other instruments, documents, certificates, and opinions referred to in Article IX of this Indenture.
- (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) Additional Bonds payable from TIF Revenues, 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, and with such maturities, redemption dates and premiums as may be agreed upon by the Issuer, at the direction of the Company, and the purchaser of such Additional Bonds.

Section 2.9. Mutilated, Lost, Stolen, or Destroyed Bonds. If any Series 2022 Bond is mutilated, lost, stolen or destroyed, the Issuer may execute and the Trustee may authenticate a new Series 2022 Bond of like date, maturity and denomination as that mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Series 2022 Bond, such mutilated Series 2022 Bond shall first be surrendered to the Issuer, and in the case of any lost, stolen or destroyed Series 2022 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 2022 Bond shall have matured, instead of issuing a duplicate Series 2022 Bond the Issuer may pay the same without surrender thereof; provided, however, that in the case of a lost, stolen or destroyed Series 2022 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 2022 Bond with their reasonable fees and expenses in this connection (including reasonable attorney's fees, costs and expenses, if any). Any Series 2022 Bond issued pursuant to this Section 2.9 shall be deemed part of the original series of Series 2022 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 2022 Bonds; Persons Treated as Owners. The Issuer shall cause books for the registration and for the transfer of the Series 2022 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 2022 Bond at the principal 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 2022 Bond or Series 2022 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 2022 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 2022 Bond. The Trustee shall not be required to transfer or exchange any fully registered Series 2022 Bond during the period between the Record Date and any principal or interest payment date of such Series 2022 Bond, nor to transfer or exchange any Series 2022 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 Bonds.

As to any fully registered Series 2022 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 Bond to the extent of the sum or sums so paid.

(End of Article II)

ARTICLE III.

APPLICATION OF SERIES 2022 BOND PROCEEDS

Section 3.1. Deposit of Funds. (a) The Issuer shall deposit with Trustee in the Construction Account of the Construction Fund \$\_\_\_\_\_ of the proceeds from the sale of the Series 2022 Bonds. \$\_\_\_\_\_ of the proceeds from the sale of the Series 2022 Bonds deposited into the Bond Issuance Expense Account of the Construction Fund shall be used to pay Bond Issuance Costs pursuant to Section 4.3(b) hereof. The proceeds of the Series 2022 Bonds deposited in the Construction Fund shall be paid out immediately following closing or from time to time upon submission to the Trustee of a Written Request (as defined in Section 4.3(c)) for funds by the Authorized Representative of the Company approved by the Redevelopment Commission, in accordance with Section 4.3(c) hereof. Such Written Request shall be substantially in the form attached as Exhibit B.

(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 by the Trustee: (a) TIF Revenues, as set forth in Section 4.5; (b) any amounts transferred from the Debt Service Reserve Fund to the Bond Fund pursuant to Section 4.4; (c) any amount remaining in the Construction Fund to be transferred to the Bond Fund pursuant to Section 4.3(e) upon completion of the Project; (d) all interest and other income derived from investments of Bond Fund moneys as provided herein; (e) Taxpayer Payments; and (f) all other moneys received by the Trustee under and pursuant to any of the provisions of the Financing Agreement which are required or which are accompanied by written directions that such moneys are to be paid into the Bond Fund. 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 Trustee for deposit in the Bond Fund for its account, sufficient TIF Revenues and Taxpayer Payments, taking into account any Parity TIF Obligations (as described below) promptly to meet and pay the principal of, and premium, if any, and interest on the Bonds as the same become due and payable. Nothing herein should be construed as requiring the Issuer to deposit or cause to be paid to Trustee for deposit in the Bond Fund, funds from any source other than TIF Revenues and Taxpayer Payments.

The Controller of the Issuer shall set aside, immediately upon receipt, the TIF Revenues in the Issuer's Allocation Fund as created by IC 36-7-14 and Taxpayer Payments and transfer the TIF Revenues and Taxpayer Payments to the Trustee for the payment of the Bonds. The Trustee is hereby directed to deposit the TIF Revenues and Taxpayer Payments into the Bond Fund in the manner prescribed in this Section 4.2 and in Section 4.5. Taxpayer Payments shall be applied to the payment of debt service due on the Bonds on the next payment date.

Moneys in the Bond Fund shall be used by the Trustee to pay principal of and interest on the Bonds as they become due, at maturity or upon redemption.

Section 4.3. Construction Fund. The Issuer shall establish with the Trustee a separate fund to be known as the Construction Fund, to the credit of which the deposits are to be made as required by Section 3.1 hereof.

(a) The Construction Fund shall consist of two separate accounts including the Bond Issuance Expense Account and the Construction Account. On the issue date of the Bonds, the Issuer shall deposit a total sum of \$\_\_\_\_\_, which consists of \$\_\_\_\_\_, less the portion of the proceeds of the Bonds deposited in the Bond Issuance Expense Account (\$\_\_\_\_\_) in the Construction Fund from the proceeds of the sale of the Bonds, as provided in Section 3.1 hereof.

(b) The Issuer shall deposit \$\_\_\_\_\_ from the sale of the Bonds of the Issuer, into the Bond Issuance Expense Account of the Construction Fund to pay Bond Issuance Costs. The Bond Issuance Costs set forth in Exhibit A attached hereto shall be wire transferred at closing to the entities listed as authorized by the Mayor and the Controller. Execution of this Indenture shall be authorization for these payments. Other Bond Issuance Costs shall be paid out from time to time by the Trustee to or upon the order of the Issuer in accordance with the written requisition of the Issuer. 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.

(c) Except as set forth in subparagraphs (a) (b) and (c) of this Section 4.3, 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 Company in order to pay, or as reimbursement to the Company for payment made, for the Costs of Construction, upon receipt by the Trustee of a written request signed by the Authorized Representative of the Company and approved by the Redevelopment Commission, in substantially the form set forth in Exhibit B (a "Written Request"), and accompanied by invoices or other documentation relating to the payments or reimbursement requested:

- (i) 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 or equipping of the Project, 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 Bond Issuance Costs;
- (ii) 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 Bond Issuance Costs during construction of the Project or the costs of equipping the Project 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;
- (iii) stating that no part of such costs was included in any Written Request previously filed with the Trustee under the provisions hereof;
- (iv) stating that such costs are appropriate for the expenditure of proceeds of the Bonds under the Act; and

- (v) stating a recap of vendors and the amount paid and/or to be paid to each and copies of invoices paid and/or to be paid with copies of checks used for any previously made payment and, if a vendor is an unincorporated entity, the taxpayer identification number for such vendor.

The Trustee shall rely fully on any such Written Request delivered pursuant to this Section and shall not be required to make any investigation in connection therewith.

(d) Completion Certificate. The Issuer shall deliver to the Trustee and the Issuer within fifteen (15) days after the acquisition and construction 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 Company has made such investigation of such sources of information as are deemed by the Company to be necessary and is of the opinion that the Project has been fully paid for and that no claim or claims exist against the Company or the Issuer or against the properties of either out of which a lien based on furnishing labor or material for the Project exists or might ripen; provided, however, there may be excepted from the foregoing statement any claim or claims out of which a lien exists or might ripen in the event that the Company or the Issuer intends to contest such claim or claims, in which event such claim or claims shall be described; provided, further, however, that it shall be stated that funds are on deposit in the Construction Fund sufficient to make payment of the full amount which might in any event be payable in order to satisfy such claim or claims.

If such certificate shall state that there is a claim or claims in controversy which create or might ripen into a lien, there shall be filed with the Issuer and the Trustee a certificate of the Company or Issuer when and as such claim or claims shall have been fully paid.

(e) 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 subparagraphs (b) and (c) of this Section 4.3 and after receipt by the Trustee of the completion certificate mentioned in subparagraph (d) of this Section 4.3, there shall remain any balance of moneys in the Construction Fund, the Trustee shall transfer all moneys then in the corresponding account (except moneys reserved to pay any disputed claims described in the completion certificate required in Section 4.3) to the Bond Fund. The Trustee, as directed in writing by the Company, shall use any amount transferred to the Bond Fund from the Series 2022 Bonds, to redeem the Series 2022 Bonds pursuant to Section 5.1(a) hereof at the earliest redemption date.

Section 4.4. Debt Service Reserve Fund. After final payment is made on the 2006 Bonds on **[December 15, 2022]** and after the **[February 1/August 1, 20\_\_]** debt service payment[s] on the Series 2022 Bonds have been made, there shall be deposited semiannually on February 1 and August 1 as described herein with the Trustee TIF Revenues into the herein created Debt Service Reserve Fund on deposit with the Trustee. The Issuer shall be responsible for monitoring and maintaining the Reserve Requirement as set forth below. The initial deposit or

the balance accumulated in the Debt Service Reserve Fund shall equal the maximum annual principal and interest due on the Bonds (\$ \_\_\_\_\_) ("Reserve Requirement").

If the initial deposit into the Debt Service Reserve Fund does not equal the Reserve Requirement or if no deposit is made, an amount of TIF Revenues shall be credited to the Debt Service Reserve Fund on each February 1 and August 1 (after providing for the requirements set forth in Section 4.2 hereof) until the balance therein equals the Reserve Requirement. The semiannual deposits shall be equal in amount and sufficient to accumulate the Reserve Requirement within five (5) years of the date of delivery of the Bonds. If, at any time, the balance is less than the Reserve Requirement, the shortfall will be made up from TIF Revenues after making the deposits to the Bond Fund. Moneys deposited and maintained in the Debt Service Reserve Fund shall be applied to the payment of the principal of and interest on the Bonds to the extent that amounts in the Bond Fund are insufficient to pay debt service when due and payable. If moneys in the Debt Service Reserve Fund are transferred to the Bond Fund to pay debt service on the Bonds, the depletion of the balance on the Debt Service Reserve Fund shall be made up from the next available TIF Revenues, after the required deposits to the Bond Fund are made. Any moneys in excess of the Reserve Requirement shall be deposited in the Bond Fund and applied as set forth in Section 4.2 hereof.

The Issuer, upon the advice of its financial advisor, hereby finds that funding the Debt Service Reserve Fund is reasonably required and that the Reserve Requirement is no larger than necessary to market the Bonds. The Issuer further finds that the Reserve Requirement is directly related to the Project because the Bonds could not be issued to fund the Project without the Debt Service Reserve Fund.

The debt service reserve requirement, if any, for any parity obligations shall be set forth in the resolution authorizing the party obligations.

Section 4.5. TIF Revenues. (a) On or before January 15 and July 15, commencing \_\_\_\_\_ 15, 20\_\_, the Issuer shall deposit with the Trustee an amount of TIF Revenues sufficient to pay, after taking into account amounts on deposit in the Bond Fund, the principal and interest due on the next February 1 or August 1. The Issuer hereby covenants and agrees that so long as any of the Bonds issued hereunder are outstanding, it will transfer to the Trustee for deposit in the Bond Fund, a sufficient amount of TIF Revenues promptly to meet and pay the principal of and interest on the Bonds as the same becomes due and payable. On or before each January 15 and July 15, the Controller shall deposit with the Trustee any Taxpayer Payments received. Other than the deposit of any Taxpayer Payments, nothing herein should be construed as requiring Issuer to deposit or cause to be paid to Trustee for deposit in the Bond Fund, funds from any source other than the TIF Revenues.

Section 4.6. 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 Company. Such moneys shall be held in trust and applied in accordance with the provisions of this Indenture.

Section 4.7. Investment. Moneys on deposit in the Funds established in this Article IV hereof shall be invested as provided in Section 6.7 hereof.

(End of Article IV)

ARTICLE V.

REDEMPTION OF SERIES 2022 BONDS BEFORE MATURITY

Section 5.1. Redemption Dates and Prices. (a) The Series 2022 Bonds are subject to optional redemption by the Issuer, prior to maturity 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 and by lot within maturities, at face value, without premium, plus in each case accrued interest to the date of redemption.

(b) Mandatory Sinking Fund Redemption. The Bonds maturing on \_\_\_\_\_ 1, 20\_\_ are subject to mandatory sinking fund redemption prior to maturity, at a redemption price equal to the purchase amount thereof plus accrued interest to the date of redemption in accordance with the following schedule:

The Series 2022 Bonds 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><br><u>Date</u> | <u>Amount</u> |
|-------------|---------------|--------------------------------------|---------------|
|-------------|---------------|--------------------------------------|---------------|

\*

\*Final Maturity

Section 5.2. Notice of Redemption. In the case of redemption of Series 2022 Bonds pursuant to Section 5.1 hereof, notice of the call for any such redemption identifying the Series 2022 Bonds, or portions of fully registered Series 2022 Bonds, to be redeemed shall be given by mailing a copy of the redemption notice by first class mail not less than thirty (30) days nor more than sixty (60) days prior to the date fixed for redemption to the registered Owner of each Series 2022 Bond to be redeemed at the address shown on the registration books. Such notice of redemption shall specify the CUSIP number, if applicable, and, in the event of a partial redemption the Series 2022 Bond numbers and called amounts of each Series 2022 Bond, the redemption date, redemption price, 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 2022 Bond shall not affect the validity of any proceedings for the redemption of other Series 2022 Bonds.

On and after the redemption date specified in the aforesaid notice, such Series 2022 Bonds, or portions thereof, thus called 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.

Notice of any redemption hereunder required to be given to the Owners with respect to Series 2022 Bonds held under a book entry system shall be given by the Trustee only to the securities depository, or its nominee, as the Holder of such Series 2022 Bonds.

Section 5.3. Cancellation. All Series 2022 Bonds which have been redeemed in whole shall be canceled and cremated or otherwise destroyed by the Trustee in accordance with the Trustee's record retention policy and shall not be reissued and a counterpart of the certificate of cremation or other destruction evidencing such cremation or other destruction shall be furnished by the Trustee to the Issuer and the Company upon request.

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 2022 Bonds or portions thereof called, together with accrued interest thereon to the redemption date. Upon the giving of notice and the deposit of funds for redemption, interest on the Series 2022 Bonds thus called shall no longer accrue after the date fixed for redemption. No payment shall be made by the Paying Agent upon any Series 2022 Bond until such Series 2022 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 2022 Bond.

Section 5.5. Partial Redemption of Bonds. If fewer than all of the Series 2022 Bonds at the time outstanding are to be called for redemption, the maturities of Series 2022 Bonds or portions thereof to be redeemed shall be selected by the Trustee at the written direction of the Company. If fewer than all of the Series 2022 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 2022 Bonds or portions of Series 2022 Bonds within such maturity that shall be redeemed; provided, however, if the Series 2022 Bonds are then held in a book-entry only system, such selection shall be made by the depository in accordance with its procedures. The Trustee shall call for redemption in accordance with the foregoing provisions as many Series 2022 Bonds or portions thereof as will, as nearly as practicable, exhaust the moneys available therefor. Particular Series 2022 Bonds or portions thereof shall be redeemed in part only in \$1,000 integral multiples.

If less than the entire principal amount of any registered Series 2022 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 2022 Bond shall forthwith surrender such Series 2022 Bond to the Paying Agent in exchange for (a) payment of the redemption price of, and (b) a new Series 2022 Bond or Series 2022 Bonds of like series in an aggregate principal amount equal to the unredeemed balance of the principal amount of such registered Series 2022 Bond, which shall be issued without charge therefor. Notwithstanding the foregoing, if the Series 2022 Bonds are registered in the name of a securities depository or its nominee, the redemption of the Series 2022 Bonds (or portions thereof) shall be made in a manner consistent with the policies and procedures of such securities depository.

(End of Article V)

## ARTICLE VI.

### GENERAL COVENANTS

Section 6.1. Payment of Principal and Interest. The Issuer covenants that it will promptly pay the principal of, and premium, if any, 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 and premium, if any, and interest on the Bonds are payable solely and only from the TIF Revenues and Taxpayer Payments, which payments are hereby specifically pledged and assigned to the payment thereof in the manner and to the extent herein specified, 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 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 and Taxpayer Payments. Neither the faith and credit nor the taxing power of the Issuer, 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 Bonds. The 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, and 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 the Redevelopment Commission, the Commission, the Issuer or of any member, director, officer, agent, attorney or employee of the Redevelopment Commission, Commission or the Issuer in his or her individual capacity, and neither the Redevelopment Commission, Commission, the Issuer nor any member, director, officer, agent, attorney or employee of the Redevelopment Commission, 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 hereby and to execute this Indenture, and to pledge the TIF Revenues and Taxpayer Payments, 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. Filing of Indenture, Financing Agreement and Security Instruments. The Issuer, upon the written direction and at the sole expense of the Company, 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 6.3 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. If applicable, the Trustee shall file continuation statements with respect to each financing statement relating to the Trust Estate filed by the Issuer or the Company at the time of the issuance of the Bonds; provided that a copy of the filed initial financing statement is timely delivered to the Trustee. In addition, unless the Trustee shall have been notified in writing by the Issuer or the Company that any such initial filing or description of collateral was or has become defective, the Trustee shall be fully protected in (a) relying on such initial filing and descriptions in filing any financing or continuation statements or modifications thereto pursuant to this Section and (b) filing any continuation statements in the same filing offices as the initial filings were made. The Company shall be responsible for the customary fees charged by the Trustee for the preparation and filing of continuation statements and for the reasonable costs incurred by the Trustee in the preparation and filing of all continuation statements hereunder.

Section 6.4. Inspection of Books. The Issuer covenants and agrees that all books and documents in its possession relating to the Project and the revenues derived from the Project shall at all times be open to inspection by such accountants or other agents as the Trustee may from time to time designate.

Section 6.5. 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 Company 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 6.6. 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 Company under and pursuant to the Financing Agreement for and on behalf of the Bondholders, whether or not the Issuer is in default hereunder.

Section 6.7. Investment of Funds. Moneys in the Funds established hereunder may be invested at the written direction of the Issuer 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. The Trustee may conclusively rely upon the Issuer's written instructions as to both the suitability and legality of the directed investments and such written investment instructions shall be deemed to be a

certification to the Trustee that such directed investments constitute Qualified Investments. The Trustee may credit the funds and accounts hereunder with amounts expected to be received from the sale or redemption of, or the earnings on, the investments in such funds and accounts, prior to actual receipt of final payment thereof, and may advance funds to purchase directed investments in anticipation of receipt of such final payments. Any such credit or advance shall be conditional upon actual receipt by the Trustee of final payment and may be reversed if final payment is not actually received in full. The Company and the Issuer each acknowledges that the legal obligation to pay the purchase price of any investment arises immediately at the time of the purchase. Nothing in this Indenture shall constitute a waiver of any of the Trustee's rights as a securities intermediary under Uniform Commercial Code § 9-206.

Section 6.8. 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, if any, 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 Company and thereafter Bondholders shall be entitled to look only to Company for payment, and then only to the extent of the amount so repaid, and Company shall not be regarded as a trustee of such money.

Section 6.9. 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 in writing by the Requisite Bondholders except as otherwise provided herein.

Section 6.10. 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; 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 Company by the Trustee.

(d) the Issuer shall fail to apply collected TIF Revenues and Taxpayer Payments as required by Article IV of this Indenture.

The insufficiency of TIF Revenues to pay debt service due on the Series 2022 Bonds shall not constitute an event of default hereunder.

#### Section 7.2. Reserved.

Section 7.3. Remedies; Rights of Bondholders. (a) 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, and premium, if any, and interest on the Bonds then outstanding, to enforce any obligations of the Issuer hereunder and of the Company under the Financing Agreement.

(b) Upon the occurrence of an event of default, and if directed in writing so to do 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.

(c) 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.

(d) 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.

(e) 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 and any other moneys held as part of the Trust Estate shall, after payment of the cost and expenses of the proceedings resulting in the collection of such moneys and of the fee of and the expenses, liabilities and advances incurred or made by the Trustee or the Issuer, including reasonable attorney's fees, costs and expenses, if any, 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 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 discriminations 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, according to the amount of principal due on such date, to the persons entitled thereto without any discrimination or privilege.

Third: To the payment of the balance, if any, to the Company or its successors or assigns, upon the written request of the Company, except for any remaining TIF Revenues which shall be paid to the Issuer, or to whomsoever 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 then due and unpaid upon the Bonds, 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. 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 7.5 hereof, be for the equal benefit of the holders of the outstanding Bonds. When the Trustee incurs costs or expenses (including reasonable attorney's fees, costs or expenses) or renders services after the occurrence of an event of default, such costs and expenses and the compensation for such services are intended to constitute expenses of administration under any federal or state bankruptcy, insolvency, arrangement, moratorium, reorganization or other debtor relief law.

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 said 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 Company 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 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, or (2) all Bonds then outstanding in the case of any other default; provided, however, that there shall not be waived any event of default in the payment of the principal of any outstanding Bonds at the date of maturity specified therein, 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, 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.

The Trustee agrees to perform such trusts only upon and subject to the following expressed terms and conditions:

(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 Company). 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 Company under the Financing Agreement; but the Trustee may require of the Issuer or the Company 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 or for any money paid to or upon the order of the Issuer or the Company under any provision of this Indenture or of the Financing Agreement. The Trustee may become the owner of Bonds secured hereby with the same rights which it would have if not Trustee.

(d) The Trustee may conclusively rely upon, shall be fully 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, or whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee shall be entitled to conclusively rely upon a certificate signed on behalf of the Issuer or the Company 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 Company 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 Company 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. The Trustee is not required to inspect the Project or the construction work or to make any independent investigation with respect to the matters set forth in any Written Request or other statements, orders, certifications, plans or approvals received by the Trustee. The Trustee is not required to obtain completion bonds, lien releases or otherwise supervise the acquisition, construction, renovation, equipping, improvement and installation of the Project.

(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 Indenture or the Financing Agreement, 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, including, but not limited to, any liability arising directly or indirectly under any federal, state or local statute, rule, law or ordinance related to the protection of the environment or hazardous substances, 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 or the sooner resignation or removal of the Trustee and shall inure to the benefit of the Trustee's successors and assigns.

(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 in writing.

(n) 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) Notwithstanding the effective date of this Indenture or anything to the contrary in this Indenture, the Trustee shall have no liability or responsibility for any act or event relating to this Indenture which occurs prior to the date the Trustee formally executes this Indenture and commences acting as Trustee hereunder.

(p) 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 and shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds.

(q) None of the provisions of this Indenture shall require the Trustee to expend or risk its own funds or otherwise to 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 indemnity satisfactory to it against such risk or liability is not assured to it.

(r) The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligation under this Indenture arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation, acts of God; earthquakes; fire; flood; hurricanes or other storms; wars; terrorism; similar military disturbances; sabotage; epidemic; pandemic; riots; interruptions; loss or malfunctions of utilities, computer (hardware or software) or communications services; accidents; labor disputes; acts of civil or military authority or governmental action; it being understood that the Trustee shall use commercially reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as reasonably practicable under the circumstances.

(s) The Trustee shall have the right to accept and act upon instructions, including funds transfer instructions ("Instructions") given pursuant to this Indenture or the Financing Agreement and delivered using Electronic Means (as hereinafter defined); provided, however, that the Issuer and the Company shall provide to the Trustee an incumbency certificate listing officers with the authority to provide such Instructions ("Authorized Officers") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the Issuer or the Company 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 absent the Trustee's willful misconduct or gross negligence. Each of the Issuer and the Company 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 Instructions 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 the Company shall be responsible for ensuring that only their respective Authorized Officers transmit such Instructions to the Trustee, and the Issuer, the Company and their Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys provided by the Trustee, if any. The Trustee shall not be liable, except for, in instances of gross negligence or willful misconduct, 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. Each of the Issuer and the Company agrees: (i) to assume all risks arising out of its 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 except, in each case, in instances where there is willful misconduct of the Trustee or gross negligence of the Trustee; (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 it; (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" means e-mail as a portable document format ("pdf") or other replicating image attached to an 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.

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, costs and expenses and other expenses reasonably and necessarily made or incurred by the Trustee or Paying Agent in connection with such services. 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 principal of, or premium, if any, and interest on any Bond for the foregoing advances, fees, costs and expenses incurred.

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 registered or certified 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(1), 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 (30) days' written notice to the Issuer and the Company 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 Company may be served personally or sent by registered or certified mail.

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 Company 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. U.S. Bank Trust Company, National Association 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 30 days' written notice to the Issuer, the Company 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 Company. Any successor Paying Agent shall be appointed by the Issuer at the direction of the Company 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.

(End of Article VIII)

## ARTICLE IX.

### SUPPLEMENTAL INDENTURES

Section 9.1. Supplemental Indentures Not Requiring Consent of Bondholders. 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;
- (d) To make any other change in this Indenture which is not to the material prejudice of the Trustee (in the judgment of the Trustee), the Company, the Issuer or the Holders of the Bonds;
- (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; or
- (g) For a reduction in the Reserve Requirement.

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) the deprivation of the Owners of any Series 2022 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 Company shall not become effective unless and until the Company 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 Company at least fifteen (15) days prior to the proposed date of execution and delivery of any such supplemental indenture.

Section 9.3. Opinion of Counsel. Prior to executing any amendment or supplement to this Indenture, the Trustee shall be entitled to receive and conclusively rely upon an Opinion of Counsel to the effect that such amendment or supplement is authorized or permitted pursuant to the terms of this Indenture.

(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 Company 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 (i) by 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 is not to the prejudice of the Trustee (in the judgment of the Trustee), the Issuer or the Bondholders.

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.

Section 10.3. Opinion of Counsel. Prior to consenting to any amendment, change or modification to the Financing Agreement, the Trustee shall be entitled to receive and conclusively rely upon an Opinion of Counsel to the effect that such amendment, change or modification is authorized or permitted pursuant to the terms of this Indenture.

(End of Article X)

## ARTICLE XI.

### MISCELLANEOUS

Section 11.1. Satisfaction and Discharge. All rights and obligations of the Issuer and the Company 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 Company any moneys and investments in all Funds established hereunder (except moneys or investments held by the Trustee for the payment of principal of 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 including reasonable attorney's fees, costs and expenses, if any;

(b) the Issuer and the Company 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 Company, 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 the interest on 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 and interest due and to become due on the Bonds and 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 of and interest 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 in such amounts and at such times as will insure the availability of sufficient moneys to make such payment, together with either (A) a verification report of an independent certified public accountant to the effect that such securities and/or cash, together with earnings thereon, will be sufficient to pay principal (and applicable premium, if any) on the Bonds to redemption or maturity or (B) an opinion of Counsel satisfactory to the Trustee to the effect that all conditions precedent to the defeasance of the Bonds have been complied with; provided however, that no such verification report or opinion shall be necessary in the event of a gross defeasance (where the cash deposited alone is sufficient to pay the debt service on the Bonds) or a current refunding (where the Bonds are to be redeemed within ninety (90) days of

the funding of the escrow) 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 including reasonable attorney's fees, costs and expenses, if any. 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.

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 Company shall have given the Trustee in form satisfactory to the Trustee irrevocable instructions to notify, as soon as practicable, the Bondholders, 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 interest and the applicable redemption premium, if any, on the Bonds; 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 Company, 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 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 Series 2022 Bonds. If the Bondholders of any Series 2022 Bonds presents that Bond to the Trustee with an instrument satisfactory to the Trustee waiving all claims for payment of that Bond, the Trustee shall cancel that Series 2022 Bond and the

Bondholder shall have no further claim against the Trust Estate, the Issuer or the Company with respect to that Series 2022 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 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, any of its members, the Company, or the directors, trustees, officers or members of the Company. 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 delivery 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 Company, 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 Company 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 or certified mail, postage prepaid, with proper address as indicated below; however, notices to the Trustee shall be deemed given upon receipt by the Trustee. The Issuer, the Company, 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. All notices, approvals, consents, requests and any communications to the Trustee hereunder must be in writing in English and must be in the form of a document that is signed manually or by way of an electronic signature (including electronic images of handwritten signatures and digital signatures provided by DocuSign, Orbit, Adobe Sign or any other electronic signature provider acceptable to the Trustee). Electronic signatures believed by the Trustee to comply with the E-SIGN ACT of 2000 or other applicable law shall be deemed original signatures for all purposes. If the Issuer or the Company chooses to use electronic signatures to sign documents delivered to the Trustee, the Issuer and the Company each agrees to assume all risks arising out of its use of electronic signatures, including without limitation the risk of the Trustee acting on an unauthorized document and the risk of interception or misuse by third parties. Notwithstanding the foregoing, the Trustee may in any instance and in its sole discretion require that an original document bearing a manual signature be delivered to the Trustee in lieu of, or in addition to, any document signed via electronic signature.

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 without regard to conflict of law principles.

Section 11.11. Immunity of Officers and Directors. No recourse shall be had for the payment of the principal of or premium 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.

(End of Article XI)

IN WITNESS WHEREOF, City of Fort Wayne, Indiana, has caused these presents to be signed in its name and behalf by its Mayor, countersigned by its Controller, and its corporate seal to be hereunto affixed and attested by its Clerk, and to evidence its acceptance of the trusts hereby created, U.S. Bank Trust Company, National Association has caused these presents to be signed in its name and behalf by, and the same to be attested by, its duly authorized officers, all as of the day and year first above written.

CITY OF FORT WAYNE, INDIANA

\_\_\_\_\_  
Mayor

COUNTERSIGNED:

\_\_\_\_\_  
Controller

Attest:

\_\_\_\_\_  
Clerk

SEAL

U.S. BANK TRUST COMPANY, NATIONAL  
ASSOCIATION, as Trustee

By \_\_\_\_\_  
(Written Signature)

\_\_\_\_\_  
(Printed Signature)

This instrument prepared by Heather R. James, Ice Miller LLP, One American Square, Suite 2900, Indianapolis, Indiana 46282.

EXHIBIT A

Costs of Issuance Paid at Closing

|   |          |          |
|---|----------|----------|
| Ice Miller LLP  |          | \$ _____ |
| Baker Tilly Municipal Advisors, LLC                       |          | _____    |
| U.S. Bank Trust Company, National Association, as Trustee |          |          |
| Acceptance fee  | \$ _____ |          |
| Annual upfront fee  | \$ _____ | _____    |

EXHIBIT B

WRITTEN REQUEST

U.S. Bank Trust Company, National Association  
Attention: Corporate Trust Department  
10 West Market Street, Suite 830  
Indianapolis, IN 46204

Re: City of Fort Wayne, Indiana  
Taxable Economic Development Revenue Bonds, Series 2022 (Village Premier  
Project) ("Bonds")

This written request ("Written Request") is submitted pursuant to the provisions of Section 4.3(c) of the Trust Indenture dated as of [October] 1, 2022 ("Indenture"), between City of Fort Wayne, Indiana ("Issuer") and U.S. Bank Trust Company, National Association, as trustee ("Trustee"). The terms used herein have the same meanings as when used in the Indenture except where the context otherwise requires.

House Investments, LLP, a limited liability partnership duly organized under the laws of and existing and authorized to do business under the laws of the State of Indiana ("Company"), hereby requests that on \_\_\_\_\_, 20\_\_, the Trustee pay from funds held in the Construction Fund the amount specified in paragraph (b) below. In support of this Written Request, the Company states as follows:

- (a) This Written Request is requisition number \_\_\_\_\_ (\_\_\_\_\_);
- (b) The aggregate amount of costs to be paid or reimbursed is \$\_\_\_\_\_;
- (c) The costs referred to in paragraph (b) above have been paid or incurred and were necessary for the State of Indiana of the Project (as defined in the Indenture) and were made or incurred in accordance with the contracts therefor now in effect;
- (d) The costs referred to in paragraph (b) were incurred to pay allowable Costs of Construction of the Project (as defined in the Indenture) relating to [list the various components of the Project to which such costs relate; briefly describe the nature of such costs; indicate the person(s), firm(s) or corporation(s) to whom payment is due or was paid and the amount due or paid to such person(s), firm(s) or corporation(s)];
- (e) The amount paid or to be paid, as set forth in paragraph (b) above, is reasonable and represents a part of the amount payable for the costs of equipping the Project, all in accordance with the cost budget, and 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;
- (f) No part of the Costs of Construction was included in any Written Request previously filed with the Trustee under the provisions of Section 4.3(c) of the Indenture;

(g) The costs referred to in paragraph (b) above are appropriate for the expenditure of proceeds of the Bonds under Indiana Code, Title 36, Article 7, Chapters 11.9 and -12; and

(h) The amount paid or to be paid, as set forth in paragraph (b) above, is reasonable and represents a part of the amount payable for the costs of equipping the Project, all in accordance with the cost budget, and 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;

The approval of the Redevelopment Commission President is required to draw down funds.

In accordance with the provisions of the Indenture, the Company has caused this Written Request to be signed on its behalf this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

HOUSE INVESTMENTS, LLP, as Company

By: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED:

FORT WAYNE REDEVELOPMENT COMMISSION

\_\_\_\_\_  
President

cc: City of Fort Wayne, Indiana

SCHEDULE A

Amounts set forth herein have been paid by the Company for Costs of Construction.

| <u>Vendors</u> | <u>Amount Paid/to be Paid</u> |
|----------------|-------------------------------|
|                |                               |
|                |                               |
|                |                               |
|                |                               |
|                |                               |
|                |                               |
|                |                               |
|                |                               |
|                |                               |
|                |                               |
|                |                               |
|                |                               |
|                |                               |
|                |                               |
|                |                               |
|                |                               |
|                |                               |
|                |                               |
|                |                               |
|                |                               |

[Attach copies of invoices paid and/or to be paid with copies of checks used for any previously made payment]

## BOND PURCHASE AGREEMENT

BOND PURCHASE AGREEMENT, dated as of the \_\_\_\_ day of \_\_\_\_\_, 2022, by and among the City of Fort Wayne, Indiana ("City" or "Issuer"), a municipal corporation duly organized and existing under the laws of the State of Indiana, House Investments, LLP ("Company") and \_\_\_\_\_ ("Purchaser").

WITNESSETH:

WHEREAS, the City has duly authorized the issuance of its bonds designated "Taxable Economic Development Revenue Bonds, Series 2022 (Village Premier Project)" ("Series 2022 Bonds") in the aggregate principal amount of \$\_\_\_\_\_ by the adoption of its Bond Ordinance on \_\_\_\_\_, 2022, a correct copy of which is incorporated herein by reference ("Bond Ordinance") and as described in the Trust Indenture, dated as of \_\_\_\_\_ 1, 2022 ("Indenture") between the City and U.S. Bank Trust Company, National Association, as trustee ("Trustee"); and

WHEREAS, the Purchaser has authorized the purchase of the Series 2022 Bonds;

NOW, THEREFORE, THE PURCHASER AND THE CITY AGREE:

Section 1. Purchase and Sale of the Series 2022 Bonds. (a) The Purchaser hereby agrees to purchase the Series 2022 Bonds and the City hereby agrees to use its best efforts to issue the Series 2022 Bonds and to sell the Series 2022 Bonds to the Purchaser at their face value (\$\_\_\_\_\_). The Series 2022 Bonds shall be dated their date of issuance and shall bear interest at the rate of \_\_\_\_% per annum, shall mature semiannually on February 1 and August 1 on the dates and in such amounts as set forth in Exhibit A attached hereto, and shall be subject to optional and mandatory sinking fund redemption as set forth on Exhibit A. The Series 2022 Bonds shall constitute a contract between the City and the Purchaser, as the owner of the Series 2022 Bonds.

(b) The City has taken or will take prior to closing all actions required by law to enable it to issue the Series 2022 Bonds.

(c) Prior to delivery of the Series 2022 Bonds by the City, the Purchaser will provide an investment letter to the effect that by acceptance of the Series 2022 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 (as defined in the Indenture) and will represent that:

- (a) It is a sophisticated investor and is familiar with securities such as the Series 2022 Bonds.
- (b) It is familiar with the Issuer, the Fort Wayne Redevelopment Commission ("Redevelopment Commission") and the Fort Wayne Redevelopment District ("District"); it has received such information concerning the Issuer, the Redevelopment Commission, the District, the Series 2022 Bonds, the TIF Revenues and Taxpayer Payments as it deems to be necessary in connection with investment in the Series 2022 Bonds. It has received, read and had an opportunity

to comment upon the Indenture, the Series 2022 Bonds, the TIF Pledge Resolution ("TIF Resolution") and the Financing Agreement. Prior to the purchase of the Series 2022 Bonds, it has been provided with the opportunity to ask questions of and receive answers from the representatives of the Issuer and the Redevelopment Commission concerning the terms and conditions of the Series 2022 Bonds, the tax status of the Series 2022 Bonds, legal opinions and enforceability of remedies, the security therefor, and property tax reform, and to obtain any additional information needed in order to verify the accuracy of the information obtained to the extent that the Issuer possesses such information or can acquire it without unreasonable effort or expense. It is not relying on Ice Miller LLP or Baker Tilly Municipal Advisors, LLC for information concerning the financial status of the Issuer or the Redevelopment Commission or the ability of the Issuer or the Redevelopment Commission to honor their financial obligations or other covenants under the Series 2022 Bonds, the Indenture or the Financing Agreement. It is understood that the projection of TIF Revenues (as defined in the TIF Resolution) prepared by Baker Tilly Municipal Advisors, LLC in connection with the issuance of the Series 2022 Bonds has been based on estimates of the investment in real property provided by the Company.

- (c) It understands that the Issuer's collection of the TIF Revenues 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. It further understands that the neither the Issuer nor the Redevelopment Commission may levy a property tax or borrow money to make up any shortfall due to the application of this credit.
- (d) It is acquiring the Series 2022 Bonds for its own account with no present intent to resell; and will not sell, convey, pledge or otherwise transfer the Series 2022 Bonds without prior compliance with applicable registration and disclosure requirements of state and federal securities law.
- (e) It has investigated the security for the Series 2022 Bonds, including the availability of TIF Revenues, to its satisfaction, and it understands that the Series 2022 Bonds are payable from TIF Revenues and Taxpayer Payments.
- (f) It recognizes that the opinions it has received express the professional judgment of the attorneys participating in the transaction as to the legal issues addressed herein. It also recognizes that by rendering such opinions, the attorneys do not become insurers or guarantors of that expression of professional judgment, of the transaction opined upon, or of the future performance of parties to such transaction. Nor does the rendering of the opinions guarantee the outcome of any legal dispute that may arise out of the transaction.
- (g) It understands that the Issuer has no continuing disclosure obligations with regard to the Series 2022 Bonds.

- (i) It understands that interest on the Series 2022 Bonds is taxable for federal income tax purposes.
- (h) It understands that on June 11, 2020, the World Health Organization proclaimed the Coronavirus (COVID-19) to be a pandemic. In an effort to lessen the risk of transmission of COVID-19, the United States government, state governments, local governments and private industries have taken measures to limit social interactions in an effort to limit the spread of COVID-19, affecting business activities and impacting global, state and local commerce and financial markets. The emergence of COVID-19 and the spread thereof is an emerging and evolving issue. As the Issuer continues its efforts to contain and limit the spread COVID-19 disease, future tax and other revenue collections may deviate from anticipated and historical collections and may have an adverse impact on the financial position and operations of the Issuer and its ability to fund debt obligations, including the bonds in accordance with its terms. The Issuer is not able to predict and makes no representations as to the economic impact of the COVID-19 pandemic on the Issuer or its financial position.

(d) Simultaneously with the delivery to, or at the direction of, the Purchaser of the Series 2022 Bonds, which 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 and the Purchaser as to, among other things, the validity of the Series 2022 Bonds and the tax-exempt status of interest on the Series 2022 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 among the Purchaser, the Company 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 FORT WAYNE, INDIANA

\_\_\_\_\_  
Mayor

COUNTERSIGNED:

\_\_\_\_\_  
Controller

Attest:

\_\_\_\_\_  
Clerk

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

HOUSE INVESTMENTS, LLP, as Company

By: \_\_\_\_\_  
[Managing Partner]

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

\_\_\_\_\_, as Purchaser

By: \_\_\_\_\_

Title: \_\_\_\_\_

EXHIBIT A

Maturity Date: \_\_\_\_\_ 1, 20\_\_

Optional Redemption

The 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 2022 Bonds 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>20__</u>   | <u>Term Bond</u> | <u>Amount</u> |
|-------------|---------------|------------------|---------------|
|             | <u>Amount</u> | <u>Date</u>      |               |

\*

\*Final Maturity

## TAXPAYER AGREEMENT

This TAXPAYER AGREEMENT ("Taxpayer Agreement" or "Agreement") is made as of this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between the CITY OF FORT WAYNE, INDIANA ("City"), the Fort Wayne Redevelopment Commission ("Commission") and House Investments, LLP, an Indiana limited liability partnership, or its affiliates, successors and permitted assigns ("Taxpayer") (collectively, "Parties"); provided, however, that this Taxpayer Agreement shall not become effective unless and until the hereinafter defined Bonds are issued.

WHEREAS, the Commission, being the governing body of the Redevelopment District of the City pursuant to the provisions of IC 36-7-14 and IC 36-7-25 (collectively, "Act"), established the Posterity Heights Urban Renewal Area and the Tillman-Anthony Economic Development Area as economic development areas (collectively, "Area") and designated the Tillman-Anthony Allocation Area and Posterity Heights Allocation Area, respectively (collectively, "Allocation Areas") as allocation areas in accordance with IC 36-7-14-39;1

WHEREAS, prior to the issuance of the Bonds, the Taxpayer will own the real estate and will hold title to the long-term assets on the improved real estate as set forth in the legal description attached hereto as Exhibit A ("Real Estate");

WHEREAS, the Real Estate is in the Area;

WHEREAS, to provide financing for the Project (as set forth in Exhibit B attached hereto), the Common Council of the City ("Council") adopted Ordinance No. R-22-07-44 on August 9, 2022 ("Bond Ordinance"), and anticipates the issuance of City of Fort Wayne, Indiana, Taxable Economic Development Revenue Bonds, Series 2022 (Village Premier Project) ("Bonds") pursuant to the provisions of the Bond Ordinance and a Trust Indenture anticipated to be dated as of October 1, 2022, between the City and U.S. Bank Trust Company, National Association;

WHEREAS, the Bonds will be paid from a pledge of all real property tax proceeds attributable to: (i) the assessed valuation of real property in the Tillman-Anthony Allocation Area, and (ii) the assessed valuation of the Real Estate in the Posterity Heights Allocation Area, in excess of the assessed valuation described in IC 36-7-14-39(b)(1), as such statutory provision exists on the date of issuance of the Bonds ("Base"), minus Annual Fees and offset by payments made by the Taxpayer, for so long as the Bonds remain outstanding ("TIF Revenues");

WHEREAS, bonds payable from TIF Revenues may be issued in the future as provided in the bond documents and approvals related to the Bonds;

WHEREAS, to induce the City to issue the Bonds to fund the Project by providing additional security for the payment of debt service on the Bonds, the Taxpayer is willing to pay the hereinafter defined Deficiency Amount;

WHEREAS, the resolutions and ordinances of the Commission and the Act authorize the City and the Commission to enter into this Agreement; and

WHEREAS, the Taxpayer has the authority to enter into this Agreement;

WHEREAS, the Taxpayer acknowledges that holders of bonds or other obligations payable from TIF Revenues or from leases, payable from TIF Revenues (such bonds or other obligations, "Bonds" and such holders, "Bondholders") will receive a copy of this Taxpayer Agreement; provided, however, that any additional obligations payable from TIF Revenues or pledge of the TIF Revenues shall be junior and subordinate to the Bonds.

NOW, THEREFORE, in consideration of the foregoing recitals and the agreements contained below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City, the Commission and the Taxpayer agree as follows:

Section 1. Determination of Deficiency Amount, If Any. Beginning with the January 1, 2024, assessment for taxes payable in 2025, to the extent the allocated property tax proceeds that are: (a) generated from ad valorem real property taxes levied or imposed on or against the Real Estate; and (b) attributable to the assessment of the Real Estate above the Base, including such taxes attributable to an increased assessed value resulting from the construction of the Project; which allocated property tax proceeds are to be on deposit in an allocation fund pursuant to IC §36-7-14-39(b) distributable to the Commission (excluding any special assessment fees and charges, penalties or interest, and property taxes paid that are applicable to a tax levy applied as a result of a successful referendum project) ("Property Increment") is less than One Hundred Seventy Thousand Five Hundred Seventy Dollars (\$170,570)<sup>1</sup>, then the Taxpayer shall make a supplemental payment of such amount ("Deficiency Amount(s)") to the Redevelopment Commission by wire transfer or other immediately available funds ("Supplemental Payment"). The Supplemental Payment shall be due in two equal installments in the applicable year, the first of which shall be due on January 15, and the second of which shall be due on July 15. If the Property Increment for a given year equals or exceeds \$170,570, then there is no Deficiency Amount and, thus, no Supplemental Payment shall be due and payable for such year. The City and the Commission, shall determine and calculate the Deficiency Amount and may consult with their municipal advisor, Baker Tilly Municipal Advisors, LLC. If a Deficiency Amount is calculated, the City and the Commission shall notify the Controller and the Taxpayer on or before the next January 5 or July 5, as the case may be, of the Deficiency Amount. The Taxpayer shall be liable for and pay the entire amount of each and every Deficiency Amount until payment in full of all Deficiency Amounts in accordance with Section 2 and the other provisions of this Agreement. The notice shall be in the form set forth in Exhibit C.

Section 2. Payment of Deficiency Amount, If Any. Upon receipt of the notice described in Section 1, the Taxpayer shall pay the Supplemental Payment in the Deficiency Amount to the Controller by the next January 10 or July 10, respectively; provided, however, that, if notice is not received by January 5 or July 5, respectively, the Supplemental Payment in the Deficiency Amount shall be due within ten (10) business days of receipt. The obligation of the Taxpayer to pay the Supplemental Payment in the Deficiency Amounts shall be absolute and unconditional and shall not be subject to diminution by setoff, counterclaim, abatement or otherwise.

---

<sup>1</sup> As referenced in the Special Purpose Report to be prepared by Baker Tilly Municipal Advisors, LLC.

Section 3. City and Commission Representations. (a) The City and the Commission have the full legal right, power, and authority to execute, deliver and perform this Taxpayer Agreement.

(b) The City and the Commission agree to follow the provisions of the bond documents related to the Bonds and this Taxpayer Agreement.

(c) This Agreement does not and will not conflict with or create a breach or default under any existing law, regulation, order, document or agreement to which the City or the Commission is subject or by which it is bound

Section 4. Taxpayer Covenants, Warranties and Representations. (a) the Taxpayer is a corporation or a limited liability company, as applicable, in either case duly qualified to do business in the State of Indiana and has the authority to execute, deliver and perform this Agreement.

(b) This Agreement is duly authorized, has been validly executed and delivered, and is legal, valid, binding and enforceable against the Taxpayer in accordance with its terms.

(c) The Taxpayer will pay all property tax bills for the real property in the Allocation Areas owned by the Taxpayer, its affiliates and its subsidiaries before the tax bills are delinquent except as may otherwise be provided in this Agreement.

(d) The Taxpayer expressly acknowledges that this Taxpayer Agreement touches and concerns the Real Estate and that this Taxpayer Agreement is intended to be and shall be a covenant running with the Real Estate, binding upon and enforceable against the Taxpayer, its successors and assigns and all persons claiming under or through Taxpayer so long as the Bonds are outstanding and subject to the termination provisions of Section 5 hereof.

(e) Taxpayer acknowledges that Bondholders will rely on these covenants, warranties and representations.

(f) The Taxpayer expressly agrees that its obligation to pay each Deficiency Amount under this Taxpayer Agreement includes its obligations to pay interest on delinquent payments and costs of collection, including all expenses which may be paid or incurred by or on behalf of the Commission in connection with the foreclosure of any lien for unpaid property taxes, such as reasonable attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs of procuring all title searches, policies and examinations and similar data and assurances with respect to title as the Commission reasonably may deem necessary to prosecute such suit. As permitted by IC 36-7-25-6, any Deficiency Amount shall constitute a lien against the Real Estate in the same priority as the real estate property tax lien and shall be treated in the same manner as property taxes for purposes of IC 6-1.1-22-13.

Section 5. Termination. The Taxpayer's limitations and obligations under this Taxpayer Agreement shall terminate and be deemed fully performed and all liability hereunder shall cease after the first to occur of: (a) payment in full of the Bonds (excluding payment of the Bonds, in whole or in part, by the issuance of refunding bonds); (b) final maturity of the Bonds; (c) mutual written agreement of the Parties; or (d) a period of twenty (20) years ("Maximum

Term"), beginning on the date of issuance of the Bonds. Until as provided above, this Taxpayer Agreement shall run with the Real Estate; accordingly, the limitations and obligations under this Taxpayer Agreement shall continue and remain enforceable against subsequent owners or ground lessees of the Real Estate if the Taxpayer sells or otherwise conveys all or any portion of the Real Estate.

Section 6. Defaults and Remedies. The Taxpayer's failure to comply with the covenants herein and/or failure to pay when due any Deficiency Amount that the Taxpayer is obligated to pay hereunder after proper notice, shall constitute an event of default by the Taxpayer under this Taxpayer Agreement. The Commission and the City may pursue any available remedy at law or in equity to enforce this Agreement and to enforce payment of such Deficiency Amount.

(a) The Commission may place a property tax lien in the amount of any unpaid Deficiency Amount on the Real Estate to the extent permitted by law.

(b) If any Deficiency Amount owed by the Taxpayer is not paid in full by the Taxpayer when due, any unpaid amount shall bear interest at the rate of five percent (5%) per annum from its due date until paid.

(c) The remedies of the Commission under this Taxpayer Agreement are cumulative and the exercise of any one or more of the remedies shall not be construed as a waiver of any of the other remedies of such party unless specifically so provided.

(d) All payments due by the Taxpayer hereunder shall be due without relief from valuation and appraisal laws and subject to collection fees and reasonable attorneys' fees and expenses in the event of default.

(e) The Taxpayer waives presentment for payment, protest, notice of protest and notice of nonpayment of the Deficiency Amount due under this Agreement.

Section 7. Amendment. This Taxpayer Agreement may be amended only after the adoption of a resolution of the Commission and the Council of the City approving the amendment, as provided by law, and upon the execution of the amendment by the Parties or their successors in interest.

Section 8. No Other Agreements. Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations and discussions relative to the subject matter of this Agreement and is a full integration of the agreement of the Parties.

Section 9. Mutual Assistance. The Parties agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications, as may be necessary or appropriate to carry out the terms, provisions and intent of this Agreement. The Parties have entered into this Agreement in reliance upon their respective representations and agreements herein, the performance by the Parties of their respective obligations hereunder, as of the date hereof and as of the date of issuance of the Bonds (the "Bond Closing"), and the opinions of counsel to the City, the Commission and the Taxpayer.

Section 10. Closing Requirements. Prior to the Bond Closing, the City shall receive the following documents, in each case satisfactory in form and substance to it and its counsel ("Redevelopment Counsel"):

(i) the opinion of the Redevelopment Counsel, addressed to the Commission, as to the enforceability of this Agreement against the Commission in accordance with its terms;

(ii) the opinion of Counsel to the Taxpayer as to the enforceability of this Agreement against the Taxpayer, addressed to the City, in form and substance satisfactory to the City Attorney;

(iii) a certificate of the City and the Commission as to due authorization, validity, binding nature and enforceability of this Agreement against the City and the Commission;

(iv) a certificate of the Taxpayer as to due authorization, validity, binding nature and enforceability of this Agreement against the Taxpayer;

(v) an executed copy of this Agreement; and

(vi) such additional legal opinions, certificates, proceedings, instruments and other documents as Bond Counsel, Redevelopment Counsel or Counsel to the Taxpayer, may reasonably request to evidence compliance by the City, the Commission or the Taxpayer with legal requirements, the truth and accuracy, as of the time of execution, of the representations contained herein and the due performance or satisfaction by the City, the Commission or the Taxpayer, at or prior to such time, of all agreements then to be performed and all conditions then to be satisfied.

Section 11. Disclaimer. Nothing contained in this Agreement nor any act of the City or Commission shall be deemed or construed by any of the Parties, or by third persons, to create any relationship of third party beneficiary, of principal or agent, of limited or general partnership, of joint venture, or of any association or relationship involving the City or the Commission.

Section 12. Notices. All notices, certificates, approvals, consents or other communications desired or required to be given under this Agreement shall be in writing and shall be sufficiently given on the day of personal delivery by messenger or courier service, or on the second day following the day on which the same shall have been mailed by registered or certified mail, postage and fees prepaid, return receipt requested addressed as follows:

If to the City: City of Fort Wayne, Indiana  
200 East Berry Street, Suite 470  
Fort Wayne, IN 46802  
Attention: Controller

With a copy to City Attorney: Malak Heiny  
200 East Berry Street, Suite 430  
Fort Wayne, IN 46802

If to the Commission: Fort Wayne Redevelopment Commission  
200 East Berry Street, Suite 320  
Fort Wayne, IN 46802  
Attention: Executive Director

With a copy to Redevelopment Counsel: Rothberg Logan & Warsco, LLP  
505 East Washington Boulevard  
P.O. Box 11647  
Fort Wayne, IN 46859  
Attn: Thomas B. Trent

If to the Taxpayer: House Investments, LLP  
Attn: Matthew S. Gadus, CPA  
11590 N. Meridian Street, Suite 500  
Carmel, IN 46032

With a copy to: Carson LLP  
Attn: Andrew Boxberger  
301 W. Jefferson Blvd.  
Fort Wayne, IN 46802

The Parties by notice given under this Agreement, may designate any further or different addresses to which subsequent notices, certificates, approvals, consents or other communications shall be sent.

Section 13. Paragraph Headings. The paragraph headings and references are for the convenience of the Parties and are not intended to limit, vary, define or expand the terms and provisions contained in this Agreement and shall not be used to interpret or construe the terms and provisions of this Agreement.

Section 14. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

Section 15. Successors and Assignees. The terms and conditions of this Agreement are to apply to and bind the successors and assigns of the City and the Commission and the successors and assigns of the Taxpayer. However, neither the City nor the Commission may assign this Agreement to any party without the prior written consent of the Taxpayer, and the Taxpayer may not assign this Agreement to any party without the prior written consent of the City and the

Commission; provided that: (a) the foregoing is not intended to limit the ability of Taxpayer to sell or otherwise convey the Real Estate to another party; and (b) no assignment of this Agreement shall be deemed to have occurred if the Taxpayer sells or otherwise conveys the Real Estate to another party, notwithstanding that the party acquiring the Real Estate will be bound by the terms and conditions of this Agreement by virtue of the fact that this Agreement runs with the Real Estate.

Section 16. Severability. If any provision of this Agreement, or any paragraph, sentence, clause, phrase or word, or the application thereof, in any circumstance, is held invalid, the remainder of the Agreement shall be construed as if such invalid part were never included herein and the Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

Section 17. Applicable Law and Venue. This Agreement shall be governed by the laws of the State of Indiana. Any action to enforce or remedy a breach of this Agreement shall be brought in or venued to a court of competent jurisdiction in the State of Indiana, and the Parties, on their behalf and on behalf of their successors and assigns, consent to personal jurisdiction in the State of Indiana.

*[Remainder of page intentionally left blank.]*

IN WITNESS WHEREOF, the City, the Commission and the Taxpayer have caused this Agreement to be executed as of the day and year first written above.

HOUSE INVESTMENTS, LLP

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

FORT WAYNE REDEVELOPMENT  
COMMISSION

---

President

ATTEST:

---

Secretary

CITY OF FORT WAYNE, INDIANA

---

Mayor

ATTEST:

---

Controller

STATE OF [INDIANA]     )  
  ) SS:  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public in and for this County and State, personally appeared \_\_\_\_\_, \_\_\_\_\_ of House Investments, LLP, who executed this Agreement on behalf of said company.

Witness my hand and Notarial Seal this \_\_\_\_ day of \_\_\_\_\_, 2022.

Signature: \_\_\_\_\_

Printed: \_\_\_\_\_

NOTARY PUBLIC

My Commission Expires:

\_\_\_\_\_

My County of Residence:

\_\_\_\_\_

Commission Number:

\_\_\_\_\_

STATE OF [INDIANA]     )  
  ) SS:  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public in and for this County and State, personally appeared \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_, who executed this Agreement on behalf of said company.

Witness my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Signature: \_\_\_\_\_

Printed: \_\_\_\_\_

NOTARY PUBLIC

My Commission Expires:

\_\_\_\_\_

My County of Residence:

\_\_\_\_\_

Commission Number:

\_\_\_\_\_

STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF ALLEN        )

Before me, a Notary Public in and for this County and State, personally appeared \_\_\_\_\_, President of the Fort Wayne Redevelopment Commission, who executed this Agreement and \_\_\_\_\_, the Secretary of the Fort Wayne Redevelopment Commission, who acknowledged the execution of the foregoing Agreement on behalf of said Commission.

Witness my hand and Notarial Seal this \_\_\_\_ day of \_\_\_\_\_, 2022.

Signature: \_\_\_\_\_

Printed: \_\_\_\_\_  
                  NOTARY PUBLIC

My Commission Expires:

My County of Residence:

\_\_\_\_\_

\_\_\_\_\_

Commission Number:

\_\_\_\_\_

STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF ALLEN        )

Before me, a Notary Public in and for this County and State, personally appeared Tom Henry, Mayor of the City of Fort Wayne, Indiana, who executed this Agreement and Garry Morr, the Controller of the City of Fort Wayne, Indiana, who acknowledged the execution of the foregoing Agreement on behalf of said City.

Witness my hand and Notarial Seal this \_\_\_\_ day of \_\_\_\_\_, 2022.

Signature: \_\_\_\_\_

Printed: \_\_\_\_\_

NOTARY PUBLIC

My Commission Expires:

My County of Residence:

\_\_\_\_\_

\_\_\_\_\_

Commission Number:

\_\_\_\_\_

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law. *Heather R. James*

This instrument was prepared by Heather R. James, Attorney at Law, Ice Miller LLP, One American Square, Suite 2900, Indianapolis, Indiana 46282.

EXHIBIT A

Description of Real Estate

## EXHIBIT B

### Project Description

The Project consists of the construction and equipping of certain improvements, including but not limited to, the construction of a multi-use complex consisting of a total of approximately 208 affordable housing units together with all necessary on- and off-site infrastructure, appurtenances, related improvements and equipment, and costs of issuance, including capitalized interest and funding a debt service reserve.

EXHIBIT C

Notice of Deficiency Amount Due

To: City of Fort Wayne, Indiana Controller  
House Investments, LLP, or its affiliates

From: City of Fort Wayne, Indiana; Fort Wayne Redevelopment Commission

Attached hereto is the calculation that a Deficiency Amount of \$\_\_\_\_\_ is due on \_\_\_\_\_, 20\_\_\_\_ under the terms of the Taxpayer Agreement ("Taxpayer Agreement"), by and between the City of Fort Wayne, Indiana, the Fort Wayne Redevelopment Commission and House Investments, LLP, or its affiliates ("Taxpayer"). The calculation of the Deficiency Amount is attached.

Under the terms of the Taxpayer Agreement the Taxpayer is required to pay the Deficiency Amount to the Fort Wayne Controller on or before on \_\_\_\_\_, 20\_\_\_\_.

Capitalized terms not defined herein shall have the meanings set forth in the Taxpayer Agreement.

FORT WAYNE REDEVELOPMENT  
COMMISSION

\_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

CITY OF FORT WAYNE, INDIANA

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Controller

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

EXHIBIT A-1

Calculation of Deficiency Amount

**[To be provided]**

## **DIGEST SHEET**

**TITLE OF RESOLUTION.** An Ordinance Authorizing the City of Fort Wayne, Indiana to issue its “Taxable Economic Development Revenue Bonds, Series 2022 (Village Premier Project)” and approving other actions in respect thereto

**DEPARTMENT REQUESTING RESOLUTION.** Redevelopment Commission.

**SYNOPSIS OF RESOLUTION.** This past July, the Redevelopment Commission approved an Economic Development Agreement (EDA) for Phase 1 of the Village Premier project, which includes the construction of 208 units of affordable housing and a minimum of 9 units of for sale single-family housing. The Redevelopment Commission also approved a pledge of tax increment from the Tillman- Anthony and Posterity Heights TIF districts towards bond payments in an amount sufficient to generate \$3.3 Million in bond proceeds to the developer, House Investments, to construct Phase 1 of the Village Premier project. Subsequently, on July 21, the Economic Development Commission approved a similar inducement resolution in support of the issuance of the economic development revenue bonds, and the Common Council provided approval of the bond inducement resolution in August. If approved, this resolution would provide final authorization from the Common Council to issue the economic development revenue bond as described herein for the completion of the Village Premier Phase I project.

**EFFECT OF PASSAGE.** Approval would provide final authorization from the Common Council to issue the economic development revenue bonds with an estimated amount of proceeds available to the developer of \$3.3 Million, and maximum aggregate principal of \$4.5 Million (including all bond issuance costs), using TIF revenue from Posterity Heights and the Tillman-Anthony TIF districts as the sole source of repayment, to induce the construction of Phase 1 of the Village Premier project.

**EFFECT OF NON-PASSAGE.** Non-passage would delay the commencement of construction activity for Village Premier Phase 1 indefinitely, including 208 units of affordable housing, until an alternative source of local funding could be identified.

**MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS).** Council would be approving the issuance of bonds in a maximum aggregate principal amount of not to exceed \$4.5 Million (including all bond issuance costs) to be repaid exclusively through the pledge of TIF funds by the Redevelopment Commission.

**ASSIGNED TO COMMITTEE (PRESIDENT).** \_\_\_\_\_

**REPORT OF COMMITTEE ON FINANCE**

**October 4, 2022**

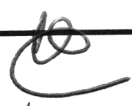

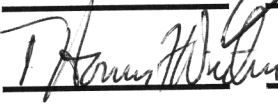

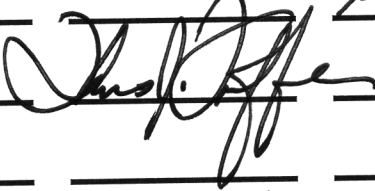
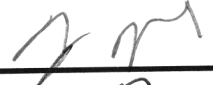


***Russ Jehl Chair***

***Sharon Tucker Co-Chair***

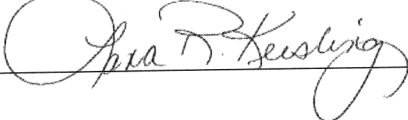
***All Council Members***

A Resolution of the Common Council of the City of Fort Wayne, Indiana, approving the preliminary findings of the City of Fort Wayne Economic Development Commission with respect to the issuance of Taxable Economic Development Revenue Bonds for the financing of certain Economic Development Facilities to be undertaken by House Investments, LLP, And authorizing and committing the City of Fort Wayne, Indiana, to proceed with such financing, subject to final action by this Common Council with respect to the terms and conditions of such financing

**COMMITTEE ON REGULATIONS HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance**

| <u>COUNCIL MEMBER</u> | <u>DO PASS</u>  | <u>DO NOT PASS</u>   | <u>ABSTAIN</u> |
|-----------------------|---|--|----------------|
| ARP                   |  |  |                |
| CHAMBERS              |   |  |                |
| DIDIER                |  |  |                |
| ENSLEY                |   |  |                |
| FREISTROFFER          |  |  |                |
| HINES                 |   |  |                |
| JEHL                  |  |  |                |
| PADDOCK               |  |  |                |
| TUCKER                |  |  |                |

**LANA R. KEESLING  
CITY CLERK**



Public Hearing Date: N/A

Read the first time in full and on motion by Councilperson Jehl.

Read the second time by title and referred to the Finance Committee.

Read the third time in full and on motion by Councilperson Jehl, placed on passage by the following vote:

| <u>TOTAL VOTES</u> | <u>AYES</u>                         | <u>NAYS</u>                         | <u>ABSTAINED</u>         | <u>ABSENT</u>            |
|--------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|
| ARP                | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| CHAMBERS           | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| DIDIER             | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| ENSLEY             | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| FREISTROFFER       | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| HINES              | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| JEHL               | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| PADDOCK            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| TUCKER             | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |


DATED: October 11, 2022

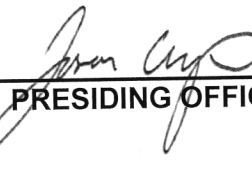
  
 \_\_\_\_\_  
 LANA R. KEESLING, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as


Resolution No. R-22-09-22 on the 11th day of October, 2022

ATTEST:

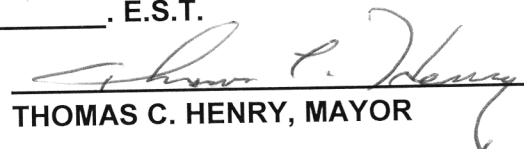
  
 \_\_\_\_\_  
 LANA R. KEESLING  
 CITY CLERK

  
 \_\_\_\_\_  
 PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th of October 2022, at the hour of 10:35 o'clock A.M. E.S.T.

  
 \_\_\_\_\_  
 LANA R. KEESLING, CITY CLERK

Approved and signed by me this 12<sup>TH</sup> day of OCTOBER 2022, at the hour of 11:30 o'clock AM E.S.T.

  
 \_\_\_\_\_  
 THOMAS C. HENRY, MAYOR

