

ZIONSVILLE ECONOMIC DEVELOPMENT COMMISSION  
NOTICE OF PUBLIC HEARING

The Zionsville ("Town") Economic Development Commission ("Commission") will hold a public hearing ("Hearing") at 5:30 p.m. on April 26, 2021, at the Zionsville Town Hall Council Chamber, Room 105, 1100 West Oak Street, Zionsville, IN and virtually by Zoom, as described below, regarding a proposed financing of the cost of all or a portion of the design, construction and equipping of certain improvements, including but not limited to, 3,582 lineal feet of sanitary sewer line; 5,471 linear feet of storm sewer line, 7 BMP structures and various storm sewer drains; 2,750 linear feet of domestic water mains/hydrants/valves; improved roadway system, lead roads and out lot access road; improvements to Michigan Road and 146th Street (decel and turn lanes with associated bypass lanes) per the A&F traffic study; install of public sidewalks and multi-purpose pathways internally and along development roadways and Project perimeter; and cut/fill site and establish Eastern Pond, providing regional drainage solution, together with all necessary appurtenances and related improvements and equipment and costs of issuance (collectively, "Project"), in or physically connected to the 146th Street Economic Development Area ("Area"); (ii) the issuance of its Taxable Economic Development Revenue Bonds of 2021 (Appaloosa Crossing Project) ("Bonds") in the aggregate, collective, principal amount not to exceed Three Million Six Hundred Twenty-six Thousand Dollars (\$3,626,000) to finance the Project; and (iii) to consider whether this financing will have an adverse competitive effect on any similar facilities already constructed or operating in the Town.

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

Proceeds of the economic development financing will be used for the construction of the Project to be located at the southeast corner of South US 421 and CR 300S in the Town of Zionsville, Indiana.

The public hearing is being held pursuant to IC 36-7-12-24. The public is invited to attend and comment on any of the matters herein noted. Written comments may also be submitted electronically to [rkilmer@zionsville-in.gov](mailto:rkilmer@zionsville-in.gov) or to the Secretary of the Commission until April 26, 2021, by delivering such comments to the Office of Finance & Records, 1100 W Oak Street, Zionsville, Indiana.

**The Commission will conduct the public hearing in person and electronically, via Zoom videoconference, as allowed by various executive orders of the Governor of Indiana, to receive and hear remonstrances from persons interested in or affected by the proceedings described above. The meeting instructions are available on the Town's website: <https://www.zionsville-in.gov/>.**

**PLEASE NOTE: THE TOWN IS MAKING EVERY EFFORT TO FOLLOW THE SPIRIT AND INTENT OF ALL APPLICABLE LAWS REGULATING THE CONDUCT OF PUBLIC HEARINGS, IN ORDER TO MAXIMIZE TRANSPARENCY AND PUBLIC ACCESS DESPITE THE ONGOING PUBLIC HEALTH EMERGENCY.**

Dated: April 15, 2021.

ZIONSVILLE ECONOMIC DEVELOPMENT  
COMMISSION



**MEETING OF THE  
ZIONSVILLE ECONOMIC DEVELOPMENT COMMISSION (“EDC”)**

**Monday, April 26, 2021  
5:30 p.m.**

**The Commission will conduct the public hearing in person and electronically, via Zoom videoconference, as allowed by various executive orders of the Governor of Indiana, to receive and hear remonstrance from persons interested in or affected by the proceedings described below.**

**Please click the following link to join the Zoom webinar:**

**<https://us02web.zoom.us/j/87281821630?pwd=RmROSVNEMWpnNVVwVkJOUmZnUG42UT09>**

**Passcode: 150282**

**Webinar ID: 872 8182 1630**

**AGENDA**

1. Call to Order
2. Recognition of Attendees who request to be noted.
3. Election of Officers
4. New Business
  - A. Public hearing and consideration of resolution approving the Appaloosa Crossing EDC financing and the substantially final form of related bond documents
5. Other Business
6. Adjourn

TOWN OF ZIONSVILLE, INDIANA  
TAXABLE ECONOMIC DEVELOPMENT REVENUE BONDS  
TIMETABLE

<u>Date</u>	<u>Activity</u>
March 15, 2021	Developer presents at 1:00 p.m. Special RDC meeting <b>DONE</b>
By March 15, 2021	Term sheet finalized <b>DONE</b>
Week of March 29, 2021	Ice Miller distributes draft EDC resolution, project report, bond ordinance, financing agreement and trust indenture to working group for review and comment <b>DONE</b>
By April 12, 2021	<u>Deliver</u> notice of Economic Development Commission public hearing on bonds to newspaper ( <b>BY NOON</b> ) <b>DONE</b>
April 15, 2021	Notice of EDC public hearing published in <i>The Lebanon Reporter</i> <b>DONE</b>
April 19, 2021	Town Council <i>introduces</i> bond ordinance (approves substantially final forms of trust indenture, financing agreement and other documents)
April 26, 2021	Redevelopment Commission adopts resolution pledging TIF to EDC bonds
April 26, 2021	Economic Development Commission: (i) adopts project report and holds public hearing to adopt the final action resolution which approves the substantially final form of documents; and (ii) recommends that Town Council pass the bond ordinance
April 27, 2021	Economic Development Commission delivers Project Report to Director of Plan Commission
May 3, 2021	Town Council adopts bond ordinance
May 4, 2021	Bond sale negotiated; purchase agreement signed
May 18, 2021	Closing

**Assumptions:**

- All bodies comply with Indiana Open Door Law
- Bonds payable solely from tax increment
- Developer purchasing bonds
- Redevelopment Commission meets 4th Monday of the month
- Economic Development Commission meets as needed

- Town Council meets 1st Monday of the month @ 7:00 p.m.
- *The Lebanon Reporter* published Tuesday, Thursday and Saturday: DEADLINE: 3 business days prior **by noon**; E-MAIL: [jaim.e.hensley@indianamedia.group.com](mailto:jaim.e.hensley@indianamedia.group.com)
- Assumes no special meetings and no suspension of the rules
- Structured as a draw

*© Ice Miller LLP*  
*April 20, 2021*  
*009986.10002*

ZIONSVILLE TOWN COUNCIL

ORDINANCE NO. 2021-\_\_\_\_

ORDINANCE AUTHORIZING THE TOWN OF ZIONSVILLE, INDIANA TO ISSUE ITS "TAXABLE ECONOMIC DEVELOPMENT REVENUE BONDS OF 2021 (APPALOOSA CROSSING PROJECT)" AND APPROVING OTHER ACTIONS IN RESPECT THERETO

WHEREAS, the Zionsville ("Town") Economic Development Commission ("Commission") has rendered its Project Report regarding the financing of proposed economic development facilities for Harris FLP ("Company") and the Project Report will be submitted to the Zionsville Plan Commission within which the hereinafter defined Project is located for comment thereon; and

WHEREAS, the Commission conducted a public hearing on April 26, 2021 and adopted a resolution and Project Report, which resolution and Project Report have been transmitted hereto, finding that the financing of certain economic development facilities, including the all or a portion of the design, construction and equipping of certain improvements, including but not limited to, 3,582 lineal feet of sanitary sewer line; 5,471 linear feet of storm sewer line, 7 BMP structures and various storm sewer drains; 2,750 linear feet of domestic water mains/hydrants/valves; improved roadway system, lead roads and out lot access road; improvements to Michigan Road and 146th Street (decel and turn lanes with associated bypass lanes) per the A&F traffic study; install of public sidewalks and multi-purpose pathways internally and along development roadways and Project perimeter; and cut/fill site and establish Eastern Pond, providing regional drainage solution, together with all necessary appurtenances and related improvements (collectively, "Project"), complies with the purposes and provisions of IC 36-7-11.9 and -12 and that such financing will be of benefit to the health and welfare of the Town and its citizens and the Project is anticipated to result in of approximately \$27,500,000 in improvements in the 146th Street Economic Development Area; and

WHEREAS, the Commission has heretofore approved and recommended the adoption of this form of ordinance by this Town Council, has considered the issue of adverse competitive effect and has approved the forms of and has transmitted for approval by the Town Council the Financing and Covenant Agreement, the Bond Purchase Agreement and the Trust Indenture;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ZIONSVILLE, INDIANA, THAT:

Section 1. It is hereby found that: (i) the financing of the economic development facilities, including the Project, in or physically connected to the 146th Street Economic Development Area referred to in the Financing Agreement approved by the Commission and presented to this Town Council; (ii) the issuance and sale of the Town's Taxable Economic Development Revenue Bonds of 2021 (Appaloosa Crossing Project) ("Bonds"); (iii) providing the proceeds of the Bonds to the Company for the construction of the Project; (iv) the payment of the Bonds from TIF Revenues (as defined in the Trust Indenture) and (v) the securing of the Bonds under the Trust Indenture 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 Town and its citizens. The proceeds of the Bonds will be used for the financing of the construction of the Project and the costs of issuance of the Bonds. The Town Council further finds, determines, ratifies and confirms that the promotion of economic development, creation of new job opportunities and increased investment in the Town, is desirable to preserve the health, safety and general welfare of the citizens of the Town; 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, creation of job opportunities, diversification of industry and increased investment in the Town.

Section 2. At the public hearing held before the Commission, the Commission considered whether the Project would have an adverse competitive effect on any similar facilities

located in or near the Town, and subsequently found, based on findings of fact set forth in the Resolution transmitted hereto, that the Project would not have an adverse competitive effect. This Town Council hereby confirms the findings set forth in the Commission's Resolution, and concludes that the Project will not have an adverse competitive effect on any other similar facilities in or near the Town, and the Project will be of benefit to the health and welfare of the citizens of the Town.

Section 3. The substantially final forms of the Financing and Covenant Agreement, the Bond Purchase Agreement and the Trust Indenture approved by the Commission are hereby approved (herein collectively referred to as the "Financing Agreement" referred to in IC 36-7-11.9 and -12), and the Financing Agreement shall be incorporated herein by reference and shall be inserted in the minutes of the Town Council and kept on file by the Clerk-Treasurer. In accordance with the provisions of IC 36-1-5-4, two (2) copies of the Financing Agreement are on file in the office of the Clerk-Treasurer for public inspection.

Section 4. The Town shall issue its Bonds in the total, collective, principal amount not to exceed \$3,626,000 and maturing no later than twenty-five (25) years from their date of issuance. The Bonds may be issued in one or more series for the purpose of procuring funds to pay the costs of the construction of the Project, as more particularly set out in the Trust Indenture and Financing and Covenant Agreement, incorporated herein by reference, which Bonds will be payable as to principal annually on February 1 and as to interest semiannually on February 1 and August 1 from TIF Revenues, and as otherwise provided in the Trust Indenture. The Bonds shall be issued in fully registered form in minimum denominations of \$1.00 and integral multiples thereof or as otherwise provided in the Trust Indenture, and shall be subject to optional redemption prior to maturity at the option of the Town, upon thirty (30) days' notice, at face value, plus in each case accrued interest to the date fixed for redemption, with no premium. The Bonds may be issued as term bonds subject to mandatory sinking fund redemption. Payments of principal and interest are payable in lawful money

of the United States of America by check mailed or delivered to the registered owners as provided in the Trust Indenture. The Bonds shall never constitute a general obligation of, an indebtedness of, or a charge against the general credit of the Town nor are the Bonds payable in any manner from revenues raised by taxation except for TIF Revenues. The Town 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 5. The Mayor and the Clerk-Treasurer are authorized and directed to sell the Bonds to the Company, or its designee, at a price of not less than the par value thereof. The Bonds shall bear interest at a rate not to exceed 4% per annum.

Section 6. The Mayor and the Clerk-Treasurer are authorized and directed to execute and attest, manually or electronically, and to affix or imprint by any means the Town seal to, the documents constituting the Financing Agreement approved herein on behalf of the Town and any other document which may be necessary or desirable prior to, on or after the date hereof to consummate or facilitate the transaction, including the Bonds authorized herein. The Mayor and the Clerk-Treasurer are hereby expressly authorized to approve any modifications or additions to the documents constituting the Financing Agreement which take place after the date of this ordinance with the review and advice of counsel to the Town; it being the express understanding of this Town Council that the Financing Agreement is in substantially final form as of the date of this ordinance. The approval of these modifications or additions shall be conclusively evidenced by the execution and attestation thereof and the affixing of the seal thereto or the imprinting of the seal thereon; provided, however, that no such modification or addition shall change the maximum principal amount of, interest rate on or term of the Bonds as approved by the Town Council by this ordinance



without further consideration by the Town Council. The signatures of the Mayor and the Clerk-Treasurer on the Bonds may be either manual or facsimile signatures. The Clerk-Treasurer is authorized to arrange for delivery of such Bonds to a to be determined trustee ("Trustee"), and payment for the Bonds will be made to the Trustee and after such payment, the Bonds will be delivered by the Trustee to the purchaser thereof. The Bonds shall be originally dated the date of issuance and delivery thereof.

Section 7. The provisions of this ordinance and the Trust Indenture securing the Bonds shall constitute a contract binding between the Town and the holders of the Bonds, and after the issuance of the Bonds, this ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holders so long as the Bonds or the interest thereon remains unpaid.

Section 8. This ordinance shall constitute "official action" for purposes of compliance with state laws requiring governmental action as authorization for future reimbursement from the proceeds of bonds.

Section 9. This ordinance shall be in full force and effect from and after its passage.

Introduced and filed on the \_\_\_\_\_ day of April, 2021. A motion to consider on First Reading was sustained by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ opposed, pursuant to Indiana Code § 36-5-2-9.8.

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ORDINANCE NO: 2021-\_\_

**DULY PASSED AND ADOPTED** this \_\_\_\_ day of May, 2021, by the Town Council of the Town of Zionsville, Boone County, Indiana, having been passed by a vote of \_\_\_\_\_ in favor and \_\_\_\_ opposed.

**TOWN COUNCIL OF THE TOWN OF ZIONSVILLE,  
BOONE COUNTY, INDIANA**

	YEA Signature	NAY Signature
Josh Garrett, President		
Bryan Traylor, Vice-President		
Brad Burk Member		
Alexander Choi, Member		
Joe Culp, Member		
Craig Melton, Member		
Jason Plunkett, Member		

I hereby certify that the foregoing Resolution was delivered to the Town of Zionsville Mayor Emily Styron on the \_\_\_\_ day of \_\_\_\_\_, 2021, at \_\_\_\_\_ .m.

ATTEST: \_\_\_\_\_  
Amelia Anne Lacy,  
Municipal Relations Coordinator

**MAYOR'S APPROVAL**

\_\_\_\_\_  
Emily Styron, Mayor

\_\_\_\_\_  
Date

**MAYOR'S VETO**

\_\_\_\_\_  
Emily Styron, Mayor

\_\_\_\_\_  
Date

ORDINANCE NO: 2021-\_\_

This instrument was prepared by: Heather James, Partner, Ice Miller LLP, One American, Square, Indianapolis, Indiana 46282; (317) 236-2199

This Ordinance contains no Social Security Numbers. As required by Ind. Code § 36-2-11-15, 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.

ORDINANCE NO: 2021-\_\_

**NOTARY**

STATE OF INDIANA                    )  
  ) SS:  
COUNTY OF BOONE                 )

Before me, a Notary Public, in and for said County and State, personally appeared

\_\_\_\_\_,  
\_\_\_\_\_,  
\_\_\_\_\_,  
\_\_\_\_\_,  
\_\_\_\_\_,  
\_\_\_\_\_

who acknowledged the execution of the foregoing document.

WITNESS my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public – Signature

\_\_\_\_\_  
Notary Public – Printed

My Commission Expires: \_\_\_\_\_

County of Residence: \_\_\_\_\_

ORDINANCE NO: 2021-\_\_\_\_\_

EXECUTED AND DELIVERED in my presence:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

## BOND PURCHASE AGREEMENT

BOND PURCHASE AGREEMENT, dated as of the 4<sup>th</sup> day of May, 2021, by and between the Town of Zionsville, Indiana, a municipal corporation organized and existing under the laws of the State of Indiana ("Town") and Harris FLP, and/or its assigns ("Company" or "Purchaser").

### WITNESSETH:

WHEREAS, the Town has duly authorized the issuance of its bonds designated "Taxable Economic Development Revenue Bonds of 2021 (Appaloosa Crossing Project)" ("2021 Bonds"), in the aggregate principal amount of \$3,626,000 by the adoption of its Bond Ordinance on May 3, 2021, a true and correct copy of which is incorporated herein by reference ("Bond Ordinance"), and as described in the Trust Indenture, dated as of May 1, 2021 ("Indenture"), between the Town, as issuer, and Old National Wealth Management, as trustee ("Trustee"); and

WHEREAS, the Purchaser has authorized the purchase of the 2021 Bonds;

NOW, THEREFORE, THE COMPANY, AS THE PURCHASER, AND THE TOWN AGREE AS FOLLOWS:

1. Purchase and Sale of the Bonds. (a) The Purchaser hereby agrees to purchase the 2021 Bonds and the Town hereby agrees to issue the 2021 Bonds and to sell the 2021 Bonds to the Purchaser, at par. The Bonds shall be paid for in installments, and the first installment shall be in the amount of \$3,626,000. The 2021 Bonds shall be dated their date of issuance and shall bear interest at the rate of 4.0% per annum, payable semiannually on February 1 and August 1, beginning August 1, 2023. The 2021 Bonds shall mature on February 1, 2046, and be subject to optional and mandatory sinking fund redemption as set forth on Exhibit A attached hereto and made a part hereof. The other terms of the 2021 Bonds are set forth in the form of the 2021 Bonds and in the Indenture. The 2021 Bonds shall constitute a contract between the Town and the Company, as the owner of the 2021 Bonds.

(b) The Town has taken or will take prior to closing all actions required by law to enable it to issue the 2021 Bonds.

(c) Prior to delivery of the 2021 Bonds by the Town, the Purchaser will provide an investment letter to the Town to the effect that by acceptance of the 2021 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 and Covenant Agreement, dated as of May 1, 2021 ("Financing Agreement"), and will represent that:

(1) It is a sophisticated investor and it is familiar with securities such as the 2021 Bonds.

(2) It is familiar with the Town, the Zionsville Redevelopment Commission ("Commission") and the Zionsville Redevelopment District ("District"); it has received such information concerning the Town, the 2021 Bonds, the Indenture, the TIF Revenues (as defined in the Indenture), as it deems to be necessary in connection with investment in the 2021 Bonds. It has received, read and had an opportunity to comment upon and has

consented to the provisions of the Indenture, the 2021 Bonds and the Financing Agreement. Prior to the purchase of the 2021 Bonds, it has been provided with the opportunity to ask questions of and receive answers from the representatives of the Town concerning the terms and conditions of the 2021 Bonds, the tax status of the 2021 Bonds, legal opinions and enforceability of remedies, the security therefor, and property tax reform (including the hereinafter defined Circuit Breaker), and to obtain any additional information needed in order to verify the accuracy of the information obtained to the extent that the Town possesses such information or can acquire it without unreasonable effort or expense. It is not relying on Ice Miller LLP or Whitsitt Noonung & Kruse, P.C. for information concerning the financial status of the Town, the Commission or the District, or the ability of the Town or the Commission to honor their financial obligations or other covenants under the 2021 Bonds, the Indenture or the Financing Agreement. It understands that the projection of TIF Revenues (as defined in the Indenture) prepared by Crowe LLP in connection with the issuance of the 2021 Bonds has been based on estimates of the investment in real property provided by the Company.

(3) It understands that the Town'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 ("Circuit Breaker"). The Town may not increase its property tax levy or borrow money to make up any shortfalls due to the application of this tax credit. It further understands that neither the Town nor the Commission has the authority to levy a tax to pay principal of or interest on the 2021 Bonds.

(4) It is acquiring the 2021 Bonds for its own account with no present intent to resell; and it will not sell, convey, pledge or otherwise transfer the 2021 Bonds without prior compliance with applicable registration and disclosure requirements of state and federal securities laws.

(5) It understands that the Bonds have not been registered under the 1933 Act and, unless so registered, may not be sold without registration under the 1933 Act or an exemption therefrom. It is aware that it may transfer or sell the Bonds only if the Trustee shall first have received: (i) a satisfactory opinion of counsel that the sale or transfer will not violate the 1933 Act, the Securities Exchange Act of 1934 and the Investment Company Act of 1940 and regulations issued pursuant to such Acts; or (ii) a no-action letter of the staff of the Securities and Exchange Commission that the staff will recommend that no action be taken with respect to such sale or transfer; or (iii) a certificate stating that they reasonably believe that the transferee is a "Qualified Institutional Buyer" within the meaning of Section (a) of Rule 144A ("Rule 144A") promulgated by the Securities and Exchange Commission pursuant to the 1933 Act and has informed the transferee of the transfer restrictions applicable to the Bonds and that the transferor may be relying upon Rule 144A with respect to the transfer of the Bonds.

(6) It has investigated the security for the 2021 Bonds, including the availability of TIF Revenues, to its satisfaction, and it understands that the 2021 Bonds are payable solely from TIF Revenues, subject to any rescission provisions of the Financing Agreement.

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

(8) It understands that the Town has no continuing disclosure obligations with regard to the 2021 Bonds.

(9) It understands that on March 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 Town 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 Town and its ability to fund debt obligations, including the bonds in accordance with its terms. The Town is not able to predict and makes no representations as to the economic impact of the COVID-19 pandemic on the Town or its financial position.

(10) It understands the 2021 Bonds are being issued on a taxable basis.

(d) Simultaneously with the delivery to, or at the direction of, the Purchaser of the 2021 Bonds, which 2021 Bonds shall be substantially in the form set forth in the Indenture and registered as directed by the Purchaser, the Town shall furnish to the Purchaser the transcript of proceedings and the opinion of Ice Miller LLP, bond counsel, addressed to the Town, Trustee and Purchaser as to, among other things, the validity of the 2021 Bonds and opinion of Whitsitt Noonung & Kruse, P.C., as counsel to the Town addressed to the Purchaser as to validity and enforceability of the Financing Agreement, Indenture and the Commission's resolution pledging TIF Revenues to the 2021 Bonds.

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.

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 Company and the Town 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.



4. No waiver by either the Purchaser or the Town of any term or condition of this Purchase Agreement shall be deemed to be or construed to be 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.

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

*[Remainder of page intentionally left blank.]*

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

TOWN OF ZIONSVILLE, INDIANA

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

SEAL

ATTEST

\_\_\_\_\_  
Clerk-Treasurer

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

HARRIS FLP

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

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

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

**EXHIBIT A**

**Maturity Schedule**

<b><u>Date</u></b>	<b><u>Amount</u></b>
February 1, 2046	\$3,626,000

**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 Town 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 Bonds maturing on February 1, 2046, are subject to mandatory sinking fund redemption prior to maturity, at a redemption price equal to the principal amount thereof plus accrued interest, on the dates and in the amounts set forth below:

<b><u>2046 Term Bond</u></b>			
<b><u>Date</u></b>	<b><u>Amount</u></b>	<b><u>Date</u></b>	<b><u>Amount</u></b>
2/1/2024	\$99,000	2/1/2036	\$159,000
2/1/2025	103,000	2/1/2037	165,000
2/1/2026	107,000	2/1/2038	171,000
2/1/2027	111,000	2/1/2039	178,000
2/1/2028	116,000	2/1/2040	185,000
2/1/2029	120,000	2/1/2041	193,000
2/1/2030	125,000	2/1/2042	201,000
2/1/2031	130,000	2/1/2043	209,000
2/1/2032	136,000	2/1/2044	217,000
2/1/2033	141,000	2/1/2045	226,000
2/1/2034	147,000	2/1/2046*	235,000
2/1/2035	152,000		

\*Final Maturity

FINANCING AND COVENANT AGREEMENT

BETWEEN

HARRIS FLP

AND

TOWN OF ZIONSVILLE, INDIANA

\$3,626,000

TAXABLE ECONOMIC DEVELOPMENT  
REVENUE BONDS OF 2021  
(APPALOOSA CROSSING PROJECT)

Dated as of May 1, 2021

The rights of the Issuer hereunder have been assigned to Old National Wealth Management, Evansville, Indiana, as Trustee under a Trust Indenture dated as of the date hereof, from the Issuer.

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## FINANCING AND COVENANT AGREEMENT

This is a FINANCING AND COVENANT AGREEMENT, dated as of May 1, 2021 ("Financing Agreement") between HARRIS FLP, a limited partnership duly organized and validly existing under the laws of the State of Indiana ("Company"), and the TOWN OF ZIONSVILLE, INDIANA, a municipal corporation duly organized and validly existing under the laws of the State of Indiana ("Issuer" and "Town").

Indiana Code, Title 36, Article 7, Chapters 11.9, 12, 14 and 25 as supplemented and amended (collectively, "Act"), authorizes and empowers the Issuer to issue revenue bonds and to provide the proceeds therefrom for the purpose of financing costs of economic development facilities and infrastructure for diversification of economic development and promotion of job opportunities in or near such Issuer and vests the Issuer with powers that may be necessary to enable it to accomplish such purposes;

The Zionsville Redevelopment Commission ("Redevelopment Commission") did on August 28, 2017, adopt a declaratory resolution ("Declaratory Resolution") establishing the 146th Street Economic Development Area ("Area") located in the Town and, following a public hearing, the Declaratory Resolution was confirmed by a confirmatory resolution adopted on October 23, 2017;

The Declaratory Resolution approved the economic development plan ("Plan") for the Area which Plan contained specific recommendations for economic development in the Area, and the Declaratory Resolution established an allocation area ("146th Street Allocation Area"), as an allocation area in accordance with IC 36-7-14-39 for the purpose of capturing property taxes generated from the incremental assessed value of real property located in the 146th Street Allocation Area;

The Issuer, upon finding that the Project (as hereinafter defined) and the proposed financing of the construction thereof will lead to the creation of employment opportunities in the Town and furtherance of private investment; will benefit the health, safety, morals, and general welfare of the citizens of the Town 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 of 2021 (Appaloosa Crossing Project) in the aggregate principal amount of \$3,626,000 ("Series 2021 Bonds"), pursuant to the Trust Indenture dated as of May 1, 2021 ("Indenture") from the Issuer to Old National Wealth Management, Evansville, Indiana, as Trustee ("Trustee"), and to provide the proceeds of the Series 2021 Bonds pursuant to the provisions of this Financing Agreement to the Company to finance the Project and Costs of Construction (each as hereinafter defined);

This Financing Agreement provides for the payment by the Issuer of the Series 2021 Bonds from the TIF Revenues (as defined herein);

The Series 2021 Bonds issued under the Indenture will be payable solely out of TIF Revenues (as defined herein) or Bond proceeds.



## PRELIMINARY STATEMENT

In consideration of the premises, the use of the proceeds of the Series 2021 Bonds and of other good and valuable consideration, the receipt of which is hereby acknowledged, the Company and the Town have 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.

The Company and the Issuer hereby further covenant and agree as follows:

## ARTICLE I.

### DEFINITIONS AND EXHIBITS

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

"Act" means, collectively, Indiana Code 36-7-11.9, -12, -14 and -25.

"Additional Bonds" means the additional parity bonds authorized to be issued by the Issuer pursuant to Section 2.8 of the Indenture including any bonds issued in substitution or replacement therefor.

"Allocation Area" means the 146th Street Allocation Area as established in the Declaratory Resolution.

"Annual Fees" means annual Trustee Fees and annual fees related to monitoring Tax Increment, in an amount not to exceed \$10,000.

"Area" means the 146th Street Economic Development Area.

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

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

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

"Bonds" mean the Series 2021 Bonds, the Additional Bonds and any other bonds issued under the Indenture.

"Company" means Harris FLP, a limited partnership, and/or its assigns, duly organized and validly existing under the laws of the State of Indiana and qualified to do business in the State of Indiana, or any successors thereto permitted under Section 3.3 hereof.

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

"Costs of Construction" means the following 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 2021 Bonds, the fees and disbursements of Bond Counsel, fees of the Issuer's municipal advisor, the acceptance fee and first annual payment 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 Series 2021 Bonds, the costs of preparing or printing the Series 2021 Bonds and the documentation supporting the issuance of the Series 2021 Bonds, the costs of reproducing documents, and any other costs of a similar nature reasonably incurred;

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

(iii) all costs and expenses of construction, renovation, acquisition of equipment, acquisition of land and right-of-way interests, site preparation, environmental remediation and abatement, engineering services, including the costs of Issuer or Company for test borings, surveys, estimates, plans and specifications and preliminary investigation therefor, and for supervising construction, as well as for the performance of all other duties required by or consequent upon the proper construction and equipping 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 or other professional 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.

"Counsel" means an attorney duly admitted to practice law before the highest court of any state and, without limitation, may include legal counsel for either the Issuer or the Company.

"Facilities" means all property in the Area owned or leased by the Company, its affiliates and subsidiaries, or entities that are not affiliated with the Company.

"Government Obligations" means (a) direct obligations of the United States of America for the payment of which the full faith and credit of the United States of America is pledged, (b) obligations issued by a person controlled or supervised by and acting as an instrumentality of the United States of America, the payment of the principal of and premium, if any, and interest on which is fully guaranteed as a full faith and credit obligation of the United States of America (including any securities described in (a) or (b) issued or held in book-entry form on the books of the Department of Treasury of the United States of America or Federal Reserve Bank), (c) certificates or receipts representing direct ownership interests in obligations or specified portions (such as principal or interest) of obligations described in (a) or (b), which obligations are held by a custodian in safekeeping on behalf of such certificates or receipts, or (d) senior, unsubordinated obligations of the Federal National Mortgage Association of Federal Home Loan Mortgage Corporation; provided that with respect to obligations of the sort described in clause (d), (i) such obligations are rated in the highest rating category for such obligation by any of Moody's, S&P or Fitch and (ii) in the event that any bonds are defeased with such obligations in whole or in part

those Bonds shall be concurrently rated in the highest rating category for such obligations by any of Moody's, S&P or Fitch.

"Indenture" means the Trust Indenture dated as of May 1, 2021, between the Issuer and the Trustee and all amendments and supplements thereto.

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

"Outstanding," with reference to Bonds, means all Bonds theretofore issued and not yet paid and discharged under the terms of the Indenture.

"Paying Agent" means Old National Wealth Management, Evansville, Indiana, and any successor paying agent or co-paying agent.

"Project" means the all or a portion of the design, construction and equipping of certain improvements, including but not limited to, 3,582 lineal feet of sanitary sewer line; 5,471 linear feet of storm sewer line, 7 BMP structures and various storm sewer drains; 2,750 linear feet of domestic water mains/hydrants/valves; improved roadway system, lead roads and out lot access road; improvements to Michigan Road and 146th Street (decel and turn lanes with associated bypass lanes) per the A&F traffic study; install of public sidewalks and multi-purpose pathways internally and along development roadways and Project perimeter; and cut/fill site and establish Eastern Pond, providing regional drainage solution, together with all necessary appurtenances and related improvements, which infrastructure is located in the Town and in or physically connected to the Area and will be financed with proceeds of the Series 2021 Bonds.

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

"Redevelopment Commission" means the Zionsville Redevelopment Commission.

"Registrar" means the registrar and/or co-registrar at the time serving as such under the Indenture, and shall initially mean Old National Wealth Management, Evansville, Indiana.

"Series 2021 Bonds" means the Town of Zionsville, Indiana Taxable Economic Development Revenue Bonds of 2021 (Appaloosa Crossing Project).

"Tax Increment" means all real property tax proceeds attributable to the assessed valuation within the Allocation Area, as of each assessment date in excess of the base assessed value as described in IC 36-7-14-39(b)(1). The incremental assessed value is multiplied by the then current property tax rate (per \$100 assessed value).

"TIF Revenues" means 100% of the Tax Increment collected from Parcel Nos. 06-08-23-000-003.002-029, 06-08-24-000-006.000-029 and 06-08-23-000-002.000-029 received by the Redevelopment Commission and pledged to the Issuer pursuant to a resolution adopted on April 26, 2021, generated in the Allocation Area, minus Annual Fees, for a term not to exceed the date on which the Bonds are fully paid and no longer outstanding.

"Town" means the Town of Zionsville, Indiana.

"Trustee" means the trustee and/or co-trustee at the time serving as such under the Indenture, and shall initially mean Old National Wealth Management, Evansville, Indiana.

"Trustee Fees" means the acceptance fee and the annual fees and expenses of the Trustee as set forth in Exhibit 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; USE OF BOND PROCEEDS

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

(a) Issuer is a municipal corporation organized and existing under the laws of the State of Indiana. 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.

(b) Issuer agrees to provide funds from the issuance of the Series 2021 Bonds for financing the construction of the Project for the benefit of the holders of the Bonds, to retain existing employment opportunities in the Town and to benefit the health, safety, morals and general welfare of the citizens of the Town and the State of Indiana, and to secure the Bonds by pledging certain of its rights and interest in this Financing Agreement.

(c) This Financing Agreement has been duly executed and delivered by the Issuer and, assuming due execution by the Company, constitutes the legal, valid and binding agreement of the Issuer, enforceable against the Issuer 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.

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

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

(b) The Project is of the type authorized and permitted by the Act.

(c) All of the proceeds from the Series 2021 Bonds (including any income earned on the investment of such proceeds) will be used 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.

(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 formation or governing documents 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 the 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 the 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) This Financing Agreement has been duly executed and delivered by the Company and, assuming due execution by the Issuer, 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 reasonably anticipates that the estimated cost of the Project is 27,500,000 a portion of which will be paid using proceeds of the Series 2021 Bonds and the estimated new full time jobs that may be created is 65 with an estimated annual payroll of \$3,000,000.

(k) The Company acknowledges that draws for Costs of Construction, other than costs of issuance, up to \$2,500,000 will be allowed; however, no draws above that amount will be approved for reimbursement to the Company for Costs of Construction unless and until construction of the sanitary sewer extension, north of 146th Street ("Extension") is complete. The Company shall provide a certificate of completion once the Extension is complete and sufficient completion of the Extension shall be approved in the sole discretion of the Issuer, with such approval to not be unreasonably withheld. The Issuer shall advise the Trustee when the Extension is complete so that further draws may be made by the Company.

Section 2.3. Use of Series 2021 Bond Proceeds by Issuer. Concurrently with the execution and delivery hereof, the Issuer is issuing the Series 2021 Bonds and is providing the proceeds from the sale thereof to the Company by making the deposits and payments specified in Section 3.1 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 pledge and 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, to receive payments under Sections 3.4, 3.6 and 3.8 hereof and to execute and deliver supplements and amendments to this Financing Agreement pursuant to Section 7.1 hereof.

Section 3.2. Payment of Principal, Premium and Interest; Payments Pledged. (a) To the extent that the TIF Revenues received by the Issuer are insufficient to pay such amounts, the Company agrees to pay the Annual Fees; provided, however, that the Company may, without creating a default under the Financing Agreement, contest in good faith the necessity for any such extraordinary services and extraordinary expenses and the reasonableness of any such fees, charges or expenses.

(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 act of God, contingency, event or cause whatsoever, and irrespective (without limitation) of whether the Project or the Company's title to the Facilities or any part thereof is defective or nonexistent, or whether the Company's revenues are sufficient to make such payments, and notwithstanding any damage to, or loss, theft or destruction of, the Project or Facilities or any part thereof, expiration of this Financing Agreement, 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 or Facilities, 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 of Indiana, 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 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. Nothing in this Financing Agreement shall be construed as a waiver by the Company of any rights or claims the Company may have against the Issuer under this Financing Agreement or otherwise, but any recovery upon such rights and claims shall be had from the Issuer separately, it being the intent of this Financing Agreement that the Company shall be unconditionally and absolutely obligated without right of set-off or abatement, to perform fully all of its obligations, agreements and covenants under this Financing Agreement for the benefit of the holders of the Bonds.

(c) As long as the Bonds are outstanding, the Company covenants to pay all property tax bills for the Facilities before the tax bills are delinquent; provided however, nothing contained

herein shall prevent Company from exercising any right to appeal any tax assessments in accordance with Indiana law.

(d) The obligations of the Company to perform and observe the other agreements on its part shall be absolute and unconditional, irrespective of any defense or any rights of set-off, recoupment or counterclaim it might otherwise have against the Issuer, and the Company shall pay absolutely during the term of this Financing Agreement all payments required thereunder free of any deductions and without abatement, diminution or set-off; and until such time as the principal of and interest on the Series 2021 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 or the Facilities, commercial frustration of purpose, any change in the tax laws of the United States of America or of the State of Indiana 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. Maintenance of Corporate Existence. 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 of Indiana, 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 limited partnership 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 limited liability company or entity all or substantially all of its assets as an entirety and thereafter dissolve, provided the surviving, resulting or transferee entity (such limited liability company being hereinafter called the "Surviving Entity") (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 Entity had originally executed this Financing Agreement, and the Surviving Entity 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.

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

Section 3.4. Reserved.

Section 3.5. Indemnity. The Company will pay, and protect, indemnify and save the Issuer (including members, directors, officials, officers, agents, attorneys and employees thereof), the Bondholders, the Trustee and the Paying Agent harmless from and against, all liabilities, losses, damages, costs, expenses (including attorneys' fees and expenses of the Issuer, the Trustee and the

Paying Agent), causes of actions, suits, claims, demands and judgments of any nature arising from or relating to:

(a) The acceptance or administration of the Indenture and Financing Agreement by the Trustee thereunder or the performance of the Issuer's duties thereunder, except that if liability arises from such Trustee's gross negligence or willful misconduct in connection with such action taken such indemnification shall not extend to the Trustee;

(b) Violation of any agreement or condition of this Financing Agreement or the Indenture, except by the Issuer or the Trustee;

(c) Violation of any contract, agreement or restriction by the Company relating to the Project or the Facilities, or a part thereof;

(d) Violation of any law, ordinance or regulation arising out of the ownership, occupancy or use of the Project or the Facilities, or a part thereof;

(e) Undertaking construction of the Project, or the failure to undertake the construction of the Project;

(f) Any act, failure to act, or misrepresentation by the Company, or any of the Company's agents, contractors, servants, employees or licensees;

(g) Any act, omitted act, or misrepresentation by the Issuer in connection with or in the performance of any obligation related to the issuance, sale, delivery of (or failure to issue, sell or deliver) the Series 2021 Bonds under this Financing Agreement or the Indenture, or any other agreement executed by or on behalf of the Issuer (provided that nothing in this clause should be construed to indemnify or release the Issuer from any liability which it would otherwise have had arising from the intentional misrepresentation, gross negligence or willful misconduct on the part of the Issuer other than as contemplated in this Financing Agreement); and

(h) The authorization, issuance, sale, trading, redemption, or servicing of the Series 2021 Bonds and the provision of any information or certification furnished by the Company in connection therewith, concerning the Series 2021 Bonds and the Project.

The indemnity provided by this Section 3.5 shall survive the resignation or removal of the Trustee and the termination of the Indenture and this Financing Agreement.

Section 3.6. Payment of Expenses of Issuance of Series 2021 Bonds. Pursuant to Section 3.1 and Section 4.4 of the Indenture, the Issuer has authorized the use of certain proceeds of the Series 2021 Bonds to pay all of the Issuer's costs of issuing of the Series 2021 Bonds, and the Company shall have no liability to pay such costs of the Issuer.

Section 3.7. Funding of Indenture Funds; Investments. The Issuer shall deposit with the Trustee all proceeds from the sale of the Series 2021 Bonds in the manner specified in Article 3.1 of the Indenture, and the Trustee shall deposit such proceeds in the manner specified in Article 3.1 of the Indenture.

The Company and the Issuer agree that all moneys in any fund established by the Indenture may, 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. The Trustee shall not be liable or responsible for any loss resulting from any such investment. 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.

Section 3.8. Reserved.

Section 3.9. Completion of Project. (a) The Company agrees to complete the construction of the Project on or before May 31, 2022.

The Issuer does not make any warranty, either express or implied, that the moneys, which will be paid into the Construction Fund and which under the provisions of this Financing Agreement will be available for payment of the costs of the construction of the Project, will be sufficient to pay all the costs which will be incurred in that connection. The Company agrees that if after exhaustion of the moneys in the Construction Fund, including the proceeds of the Series 2021 Bonds, the Company should elect, in its sole discretion, to pay pursuant hereto any portion of the Costs of Construction of the Project, it 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 the Indenture, authorized and directed Trustee to make payments from the Construction Fund to pay the Costs of Construction, or to reimburse Company for any Costs of Construction paid by it. The Company agrees to direct such requisitions to Trustee as may be necessary to effect payments out of the Construction Fund in accordance with this Section 3.9.

Section 3.10. Sale, Substitution, or Lease of Project. The sale, transfer or other disposition of the Project shall not relieve the Company from liability from all payments due under this Financing Agreement and the performance of all of the other obligations of this Financing Agreement without the express written consent of the Bondholders, except as permitted by Section 3.3 hereof.

Section 3.11. Reserved.

(End of Article III)

## ARTICLE IV.

### APPLICATION OF BOND PROCEEDS

Section 4.1. Use of 2021 Bond Proceeds by Issuer. Concurrently with the execution and delivery hereof, the Issuer is issuing the Series 2021 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 Sections 3.1 and 4.4 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. The purchaser of the Series 2021 Bonds shall deposit subsequent advances with the Trustee from time to time as needed and the advances shall be recorded in the records of the Trustee.

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

(a) Upon payment of the Bond Issuance Costs pursuant to Section 3.1 and Section 4.4(a) of the Indenture and upon receipt of the Written Request of the Company pursuant to Section 3.1 and Section 4.4(b) of the Indenture, 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 Three Million Six Hundred Twenty-six Thousand Dollars (\$3,626,000) with respect to the Series 2021 Bonds. All of the foregoing is for the benefit of the holders of the Series 2021 Bonds, to the end that industry and the economy may be diversified and job opportunities promoted and retained, and to secure the Series 2021 Bonds by pledging the TIF Revenues to the Trustee.

(b) The Issuer covenants that, to the extent collected, it will pay the TIF Revenues to the Trustee as provided in Section 4.5 of the Indenture, provided that the Issuer shall have no other obligation to make payments of principal of or interest on the Series 2021 Bonds. Under no circumstances shall the Company be liable to make payments of principal or interest on the Series 2021 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.

## ARTICLE V.

### EVENTS OF DEFAULT AND REMEDIES THEREFOR

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

(i) failure of the Company to observe and perform any covenant, condition or provision hereof and to remedy such default within 30 days after written notice thereof from the Trustee to the Company, unless the Requisite Bondholders shall have consented thereto;

(ii) 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 thirty days without dismissal of a petition initiating an involuntary case under any other bankruptcy, insolvency or similar law; or

(iii) 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 of it by 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; or

(iv) Any event of default under Section 7.1 of the Indenture.

(b) During the occurrence and continuance of any event of default hereunder, the Trustee, as assignee of the Issuer pursuant to the Indenture, shall have the rights and remedies hereinafter set forth, in addition to any other remedies herein or provided by law.

(c) Upon the occurrence of an event of default described in this Section 5.1 (except an event of default under Section 5.1(a)(iv) which results from an event of default under Section 7.1(b) of the Indenture):

(i) Right to Bring Suit, Etc. The Trustee shall, upon written direction by the Requisite Bondholders and upon receipt of indemnity in accordance with the Indenture, with or without entry, personally or by attorney, proceed to protect and enforce its rights by a suit or suits in equity or at law as directed in writing by the Requisite Bondholders, whether 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, and enforce any of its rights or duties hereunder; provided, however that all costs incurred by

the Trustee and the Issuer under this Article shall be paid to the Issuer and the Trustee by the Company on demand.

(ii) Waiver of Events of Default. If after any event of default occurs and prior to the Trustee exercising any of the remedies provided in this Financing Agreement, the Company will have completely cured such default, then in every case such default will be waived, rescinded and annulled by the Trustee by written notice given to the Company.

Section 5.2. Remedies Cumulative. No remedy here in 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 5.3. 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 5.4. Waiver of Extension, Appraisement 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 5.5. Remedies Subject to Provisions of Law. All rights, remedies and powers provided by this Article may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that they will not render this Financing Agreement invalid or unenforceable under the provisions of any applicable law.

(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 Redevelopment Commission or of any officer or employee of the Issuer, the Redevelopment Commission or their legislative and fiscal bodies in his or her individual capacity, and neither the members of the Issuer, the Redevelopment 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 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, 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 Company: Harris FLP  
Attn: Robert Harris, General Partner  
P.O. Box 37  
Zionsville, IN 46077

With a copy to: Dentons Bingham Greenebaum LLP  
c/o Matthew M. Price  
10 W. Market Street  
2700 Market Tower  
Indianapolis, IN 46204

To the Trustee: Old National Wealth Management  
One Main Street  
Evansville, IN 47708  
Attn: Corporate Trust Department

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. Provided, however, the Company may not assign its rights or obligations under this Financing Agreement without the consent of the Bondholders, which may be withheld in their absolute discretion, unless Section 3.3 of this Financing Agreement has been complied with.

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 of Indiana.

(End of Article IX)

IN WITNESS WHEREOF, the Issuer and the Company have caused this Financing Agreement to be executed in their respective names, and the Issuer has caused its corporate seal to be hereunto affixed and attested by its duly authorized officers, all as of the date first above written.

HARRIS FLP

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

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

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

TOWN OF ZIONSVILLE, INDIANA

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

(SEAL)

Attest:

\_\_\_\_\_  
Clerk-Treasurer

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

TRUST INDENTURE

BETWEEN

TOWN OF ZIONSVILLE, INDIANA

AND

OLD NATIONAL WEALTH MANAGEMENT  
Evansville, Indiana

As Trustee

\$3,626,000

TOWN OF ZIONSVILLE, INDIANA  
TAXABLE ECONOMIC DEVELOPMENT REVENUE BONDS OF 2021  
(APPALOOSA CROSSING PROJECT)

Dated as of May 1, 2021

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## TRUST INDENTURE

THIS TRUST INDENTURE dated as of the first day of May, 2021, by and between the TOWN OF ZIONSVILLE, INDIANA ("Issuer" and "Town"), a municipal corporation duly organized and existing under the laws of the State of Indiana and Old National Wealth Management, a national banking association duly organized and existing under the laws of the United States of America, with its principal corporate trust office in the City of Evansville, Indiana, as Trustee ("Trustee");

### WITNESSETH:

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

WHEREAS, in accordance with the provisions of the Act, the Issuer has induced Harris FLP ("Company"), to proceed with all or a portion of the design, construction and equipping of certain improvements, including but not limited to, 3,582 lineal feet of sanitary sewer line; 5,471 linear feet of storm sewer line, 7 BMP structures and various storm sewer drains; 2,750 linear feet of domestic water mains/hydrants/valves; improved roadway system, lead roads and out lot access road; improvements to Michigan Road and 146th Street (decel and turn lanes with associated bypass lanes) per the A&F traffic study; install of public sidewalks and multi-purpose pathways internally and along development roadways and Project perimeter; and cut/fill site and establish Eastern Pond, providing regional drainage solution, together with all necessary appurtenances and related improvements and costs of issuance (collectively, "Project") in or physically connected to the 146th Street Economic Development Area ("Area"), by offering to issue its Taxable Economic Development Revenue Bonds of 2021 (Appaloosa Crossing Project) in the aggregate principal amount of Three Million Six Hundred Twenty-six Thousand Dollars \$3,626,000 ("Series 2021 Bonds") pursuant to this Trust Indenture and to provide the proceeds thereof to the Company pursuant to the Financing and Covenant Agreement, dated as of May 1, 2021 ("Financing Agreement") for the purpose of paying and/or reimbursing costs of the Project and issuance expenses; and

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

WHEREAS, after giving notice in accordance with the Act and IC 5-3-1-4, the Issuer held a public hearing, and upon finding that the Project and the proposed financing thereof will create additional employment opportunities in the Town; 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 2021 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 town may pledge certain incremental property taxes to pay, in whole or in part, amounts due on the Series 2021 Bonds; and

WHEREAS, the Zionsville Redevelopment Commission ("Redevelopment Commission") adopted a declaratory resolution on August 28, 2017 ("Declaratory Resolution"), as confirmed by a confirmatory resolution adopted on October 23, 2017, establishing the boundaries of the Area; and

WHEREAS, the Redevelopment Commission has, by resolution, irrevocably dedicated and pledged to the Issuer the TIF Revenues (as hereinafter defined); and

WHEREAS, pursuant to the Financing Agreement and this Indenture, the Series 2021 Bonds shall be payable solely from TIF Revenues and Bond proceeds; and

WHEREAS, the Series 2021 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 2021 Bond)

UNITED STATES OF AMERICA

NO. R-\_\_

STATE OF INDIANA

COUNTY OF BOONE

TOWN OF ZIONSVILLE, INDIANA  
TAXABLE ECONOMIC DEVELOPMENT REVENUE BOND OF 2021  
(APPALOOSA CROSSING PROJECT)

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

REGISTERED OWNER: HARRIS FLP

PRINCIPAL AMOUNT: THREE MILLION SIX HUNDRED TWENTY-SIX  
THOUSAND DOLLARS (\$3,626,000)

The Town of Zionsville, 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 (as defined in the hereinafter defined Indenture) hereinafter referred to, pledged and assigned for the payment hereof, the Principal Amount set forth above, or so much of the Principal Amount as shall have been advanced, on the Maturity Date set forth above, unless this Series 2021 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 from the date of each advance, but solely from those payments, at the Interest Rate specified above per annum payable on February 1, 2024, and on each February 1 and August 1 thereafter ("Interest Payment Dates") until the Principal Amount advanced is paid in full. Interest on this Series 2021 Bond shall be payable from the Interest Payment Date next preceding the date of authentication thereof ("Interest Date"), except that: (i) if this Series 2021 Bond is authenticated on or prior to January 15, 2024, the Interest Date shall be the Original Date specified above; (ii) if this Series 2021 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 2021 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 begin to accrue with respect to the Principal Amount advanced from the date of each respective date of such advancement. The schedule of advances is shown on Exhibit A attached hereto.

The principal of this Series 2021 Bonds is payable at the [designated] corporate trust office of \_\_\_\_\_, as Trustee, in the City of \_\_\_\_\_, Indiana, or at the principal office of any successor trustee or paying agent[, or by wire transfer of immediately available funds on the payment date 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]. Principal payments in connection with mandatory sinking fund redemption hereunder shall not require presentation of the Series 2021 Bonds for payment except upon final maturity or redemption in full. 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[, or by wire transfer of immediately available funds on the Interest Payment Date, 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. 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 Bond is the only one of an authorized issue of the Issuer's Taxable Economic Development Revenue Bonds of 2021 (Appaloosa Crossing Project) (hereinbefore and hereinafter the, "Series 2021 Bonds") which are being issued under the hereinafter described Indenture in the aggregate principal amount of \$3,626,000. The Series 2021 Bonds are being issued for the purpose of providing funds to finance all or a portion of the design, construction and equipping of certain

improvements, including but not limited to, 3,582 lineal feet of sanitary sewer line; 5,471 linear feet of storm sewer line, 7 BMP structures and various storm sewer drains; 2,750 linear feet of domestic water mains/hydrants/valves; improved roadway system, lead roads and out lot access road; improvements to Michigan Road and 146th Street (decel and turn lanes with associated bypass lanes) per the A&F traffic study; install of public sidewalks and multi-purpose pathways internally and along development roadways and Project perimeter; and cut/fill site and establish Eastern Pond, providing regional drainage solution, together with all necessary appurtenances and related improvements, in or physically connected to the 146th Street Economic Development Area (collectively, "Project"), to be constructed by Harris FLP ("Company"), and costs of issuance, by providing such funds to the Company pursuant to the Financing and Covenant Agreement dated as of April 1, 2021 ("Financing Agreement") between the Company and the Issuer.

The Series 2021 Bonds are issued under and entitled to the security of a Trust Indenture dated as of April 1, 2021 ("Indenture") duly executed and delivered by the Issuer to Old National Wealth Management, Evansville, Indiana, as Trustee (the term "Trustee" where used herein referring to the Trustee or its successors), pursuant to which Indenture, the TIF Revenues and all rights of the Issuer under the Financing Agreement, except certain rights to payment for expenses, indemnity rights and rights to perform certain discretionary acts as set forth in the Financing Agreement, are pledged and assigned by the Issuer to the Trustee as security for the Series 2021 Bonds. THE OWNER OF THIS BOND, BY ACCEPTANCE OF THIS SERIES 2021 BOND, HEREBY AGREES TO ALL OF THE TERMS AND PROVISIONS IN THE INDENTURE AND THIS SERIES 2021 BOND AS TO THE PLEDGE OF TIF REVENUES, AND ACKNOWLEDGES THAT:

(1) It is a sophisticated investor and it is familiar with securities such as the Series 2021 Bonds.

(2) It is familiar with the Town, the Zionsville Redevelopment Commission ("Commission") and the Zionsville Redevelopment District ("District"); it has received such information concerning the Town, the Series 2021 Bonds, the Indenture, the TIF Revenues (as defined in the Indenture), as it deems to be necessary in connection with investment in the Series 2021 Bonds. It has received, read and had an opportunity to comment upon and has consented to the provisions of the Indenture, the Series 2021 Bonds and the Financing Agreement. Prior to the purchase of the Series 2021 Bonds, it has been provided with the opportunity to ask questions of and receive answers from the representatives of the Town concerning the terms and conditions of the Series 2021 Bonds, the tax status of the Series 2021 Bonds, legal opinions and enforceability of remedies, the security therefor, and property tax reform (including the hereinafter defined Circuit Breaker), and to obtain any additional information needed in order to verify the accuracy of the information obtained to the extent that the Town possesses such information or can acquire it without unreasonable effort or expense. It is not relying on Ice Miller LLP or Whitsitt Nooning & Kruse, P.C. for information concerning the financial status of the Town, the Commission or the District, or the ability of the Town or the Commission to honor their financial obligations or other covenants under the Series 2021 Bonds, the Indenture or the Financing Agreement. It understands that the projection of TIF Revenues (as defined in the Indenture) prepared by Crowe LLP in connection with the issuance of

the Series 2021 Bonds has been based on estimates of the investment in real property provided by the Company.

(3) It understands that the Town'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 ("Circuit Breaker"). The Town may not increase its property tax levy or borrow money to make up any shortfalls due to the application of this tax credit. It further understands that neither the Town nor the Commission has the authority to levy a tax to pay principal of or interest on the Series 2021 Bonds.

(4) It is acquiring the Series 2021 Bonds for its own account with no present intent to resell; and it will not sell, convey, pledge or otherwise transfer the Series 2021 Bonds without prior compliance with applicable registration and disclosure requirements of state and federal securities laws.

(5) It understands that the Bonds have not been registered under the 1933 Act and, unless so registered, may not be sold without registration under the 1933 Act or an exemption therefrom. It is aware that it may transfer or sell the Bonds only if the Trustee shall first have received: (i) a satisfactory opinion of counsel that the sale or transfer will not violate the 1933 Act, the Securities Exchange Act of 1934 and the Investment Company Act of 1940 and regulations issued pursuant to such Acts; or (ii) a no-action letter of the staff of the Securities and Exchange Commission that the staff will recommend that no action be taken with respect to such sale or transfer; or (iii) a certificate stating that they reasonably believe that the transferee is a "Qualified Institutional Buyer" within the meaning of Section (a) of Rule 144A ("Rule 144A") promulgated by the Securities and Exchange Commission pursuant to the 1933 Act and has informed the transferee of the transfer restrictions applicable to the Bonds and that the transferor may be relying upon Rule 144A with respect to the transfer of the Bonds.

(6) It has investigated the security for the Series 2021 Bonds, including the availability of TIF Revenues, to its satisfaction, and it understands that the Series 2021 Bonds are payable solely from TIF Revenues, subject to any rescission provisions of the Financing Agreement.

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

(8) It understands that the Town has no continuing disclosure obligations with regard to the Series 2021 Bonds.

(9) It understands that on March 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 Town 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 Town and its ability to fund debt obligations, including the bonds in accordance with its terms. The Town is not able to predict and makes no representations as to the economic impact of the COVID-19 pandemic on the Town or its financial position.

(10) It understands the Series 2021 Bonds are issued on a taxable basis.

It is provided in the Indenture that the Issuer may hereafter issue Additional Bonds (as defined in the Indenture) from time to time under certain terms and conditions contained therein. (Such Additional Bonds and the Series 2021 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 2021 Bond assents.

The Series 2021 Bonds are issuable in registered form in denominations of \$1.00 and integral multiples thereof. This Series 2021 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 2021 Bond. Upon such transfer a new registered bond will be issued to the transferee in exchange therefor.

The Issuer, the Trustee and the Paying Agent may deem and treat the Registered Owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and premium, if any, hereon and interest due 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.

The Series 2021 Bonds shall be subject to optional redemption prior to maturity at the option of the Issuer, on any date, upon thirty (30) days' notice, in whole or in part, in such order of maturity as the Issuer shall direct the Trustee in writing 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 2021 Bonds maturing on February 1, 2046 are subject to mandatory sinking fund redemption prior to maturity, at a redemption price equal to the principal amount thereof plus accrued interest on February 1 and August 1 on the dates and in the amounts set forth below:



2046 Term Bond

<u>Date</u>	<u>Amount</u>	<u>Date</u>	<u>Amount</u>
2/1/2024	\$99,000	2/1/2036	\$159,000
2/1/2025	103,000	2/1/2037	165,000
2/1/2026	107,000	2/1/2038	171,000
2/1/2027	111,000	2/1/2039	178,000
2/1/2028	116,000	2/1/2040	185,000
2/1/2029	120,000	2/1/2041	193,000
2/1/2030	125,000	2/1/2042	201,000
2/1/2031	130,000	2/1/2043	209,000
2/1/2032	136,000	2/1/2044	217,000
2/1/2033	141,000	2/1/2045	226,000
2/1/2034	147,000	2/1/2046*	235,000
2/1/2035	152,000		

\*Final Maturity

Each Five Thousand Dollar (\$5,000) 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 2021 Bonds are called for redemption as aforesaid, notice thereof identifying the Series 2021 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 and not more than forty-five (45) days prior to the date fixed for redemption to the Registered Owner of the Series 2021 Bonds to be redeemed at the address shown on the registration books; provided, however, that failure to give such notice by mailing, any defect therein with respect to any registered Series 2021 Bond, shall not affect the validity of any proceedings for the redemption of other Series 2021 Bonds.

All Series 2021 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 2021 Bond is transferable by the Registered Owner hereof at the corporate trust operations office of the Trustee upon surrender and cancellation of this Series 2021 Bond and on presentation of a duly executed written instrument of transfer and thereupon a new Series 2021 Bond in authorized denominations will be issued to the transferee or transferees in exchange therefor, subject to all of the terms herein.

The Series 2021 Bonds, and the interest payable thereon, do not and shall not represent or constitute a debt of the Issuer within the meaning of the provisions of the constitution or statutes of the State of Indiana or a pledge of the faith and credit of the Issuer. The Series 2021 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 payable solely and only from the trust estate consisting of funds and accounts held under the Indenture, the TIF Revenues pledged and assigned for their payment in accordance with the Indenture ("Trust Estate"). Neither the faith and credit nor the taxing power of the Issuer, the State of Indiana or any political subdivision or taxing authority thereof is pledged to the payment of the principal of, premium, if any, or the interest on this Series 2021 Bond. The Series 2021 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, premium, if any, or interest on the Series 2021 Bonds. No covenant or agreement contained in the Series 2021 Bonds or the Indenture shall be deemed to be a covenant or agreement of the Zionsville Redevelopment Commission ("Redevelopment Commission"), the Zionsville 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 2021 Bonds shall be liable personally on the Series 2021 Bonds or be subject to any personal liability or accountability by reason of the issuance of the Series 2021 Bonds.

The holder of this Series 2021 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 2021 Bond, exist, have happened and have been performed, and that the issuance, authentication and delivery of this Series 2021 Bond have been duly authorized by the Issuer.

This Series 2021 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 Town of Zionsville, Indiana, in Boone County, has caused this Series 2021 Bond to be executed in its name and on its behalf by the manual or facsimile signature of its Mayor, its corporate seal to be hereunto affixed manually or by facsimile and attested to by the manual or facsimile signature of its Clerk-Treasurer all as of \_\_\_\_\_, 2021.

TOWN OF ZIONSVILLE, INDIANA

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

(Seal)

Attest:

\_\_\_\_\_  
Clerk-Treasurer

(FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION)

This Series 2021 Bond is one of the Series 2021 Bonds described in the within mentioned Indenture.

\_\_\_\_\_, 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 2021 Bond and all rights, title and interest thereon, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Series 2021 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 of the registered owner as it appears upon the face of the within Series 2021 Bond in every particular, without alteration or enlargement or any change whatever.

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

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

UNIF TRANS MIN ACT. \_\_\_\_\_ Custodian \_\_\_\_\_  
(Cust) (Minor)  
under Uniform Transfers to Minors Act

\_\_\_\_\_  
(State)

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

[EXHIBIT A

Schedule of Advances]

(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 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 the 146<sup>th</sup> Street Allocation Area as established in the Declaratory Resolution.

"Annual Fees" means annual Trustee Fees and annual fees related to monitoring Tax Increment in an amount not to exceed \$10,000.

"Area" means the 146th Street Economic Development Area.

"Authorized Representative" means, as to the Company, any officer of the Company or any other person certified in writing to the Trustee by an officer of the Company to be such; and as to the Issuer, any person so designated by resolution of the Town Council provided to the Trustee. The Trustee shall be provided with incumbency certificates for each Authorized Representative.

"Bond Counsel" means nationally recognized bond counsel.

"Bond Purchase Agreement" means the Bond Purchase Agreement, dated May 4, 2021, between and among the Issuer, the Company and the Bond Purchaser.

"Bond Purchaser" means Harris FLP.

"Bondholders" means registered owners of the Bonds issued pursuant to this Indenture, including the Series 2021 Bonds.

"Bonds" means any Bonds issued pursuant to this Indenture, including the Series 2021 Bonds.

"Company" means Harris FLP.

"Costs of Construction" means the following 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 2021 Bonds, the fees and disbursements of Bond Counsel, fees of the Issuer's municipal advisor, the acceptance fee and first annual payment 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 2021 Bonds and the documentation supporting the issuance of the Series 2021 Bonds, the costs of reproducing documents, and any other costs of a similar nature reasonably incurred;

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

(iii) all costs and expenses of construction, renovation, acquisition of equipment, acquisition of land and right-of-way interests, site preparation, environmental remediation and abatement, engineering services, including the costs of Issuer or Company for test borings, surveys, estimates, plans and specifications and preliminary investigation therefor, and for supervising construction, as well as for the performance of all other duties required by or consequent upon the proper construction and equipping 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 or other professional 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.

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

"Facilities" means all property in the Area owned or leased by the Company, its affiliates and subsidiaries, or entities which are not affiliated with the Company.

"Financing Agreement" means the Financing and Covenant Agreement, dated as of April 1, 2021, from the Company to the Issuer and all amendments and supplements thereto.

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

"Interest Payment Date" on the Series 2021 Bonds means each February 1 and August 1, commencing February 1, 2024.

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

"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 maturity or upon redemption prior to maturity;

(a) 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

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

"Paying Agent" means Old National Wealth Management and any successor paying agent or co-paying agent.

"Project" means all or a portion of the design, construction and equipping of certain improvements, including but not limited to, 3,582 lineal feet of sanitary sewer line; 5,471 linear feet of storm sewer line, 7 BMP structures and various storm sewer drains; 2,750 linear feet of domestic water mains/hydrants/valves; improved roadway system, lead roads and out lot access road; improvements to Michigan Road and 146th Street (decel and turn lanes with associated bypass lanes) per the A&F traffic study; install of public sidewalks and multi-purpose pathways internally and along development roadways and Project perimeter; and cut/fill site and establish Eastern Pond, providing regional drainage solution, together with all necessary appurtenances and related improvements, which infrastructure is located in the Town and in or physically connected to the Area and will be financed with proceeds of the Bonds.

"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.

"Redevelopment Commission" means the Zionsville Redevelopment Commission.

"Registered Owner" means the registered owner of the Bonds issued pursuant to this Indenture.

"Registrar" means Old National Wealth Management and any successor paying agent or co-paying agent.

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

"Series 2021 Bonds" means the Town of Zionsville, Indiana Taxable Economic Development Revenue Bonds of 2021 (Appaloosa Crossing Project) in the aggregate principal amount of \$3,626,000.

"Tax Increment" means all real property tax proceeds attributable to the assessed valuation within the Allocation Area, as of each assessment date in excess of the base assessed value as



described in IC 36-7-14-39(b)(1). The incremental assessed value is multiplied by the then current property tax rate (per \$100 assessed value).

"TIF Revenues" means 100% of the Tax Increment collected from Parcel Nos. 06-08-23-000-003.002-029, 06-08-24-000-006.000-029 and 06-08-23-000-002.000-029 received by the Redevelopment Commission and pledged to the Issuer pursuant to a resolution adopted on April 26, 2021, generated in the Allocation Area, minus Annual Fees, for a term not to exceed the date on which the Bonds are fully paid and no longer outstanding.

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

"Trustee" means Old National Wealth Management, Evansville, Indiana, the party of the second part hereto, and any successor trustee or co-trustee.

"Trustee Fees" means the acceptance fee, annual fees and expenses of the Trustee as set forth in Exhibit D.

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: Description of Project

Exhibit B: Bond Issuance Costs

Exhibit C: Written Request

Exhibit D: Trustee Fees

(End of Article I)

## ARTICLE II.

### THE BONDS

Section 2.1. Authorized Amount of Series 2021 Bonds. No Bonds may be issued under the provisions of this Indenture except in accordance with this Article. The principal amount of the Series 2021 Bonds (other than Bonds issued in substitution therefor pursuant to Section 2.9 hereof) that may be issued is hereby expressly limited to \$3,626,000. Additional Bonds may be issued as provided in Section 2.8 hereof.

Section 2.2. Issuance of Series 2021 Bonds. The Series 2021 Bonds shall be designated "Town of Zionsville, Indiana Economic Development Revenue Bonds of 2021 (Appaloosa Crossing Project)." The Series 2021 Bonds shall be originally issuable as fully registered Bonds in denominations of \$1.00 and integral multiples thereof and shall be lettered and numbered R-1 and upward. The Series 2021 Bonds shall bear interest on the balance drawn from the date of each draw 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 Series 2021 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 Series 2021 Bonds (or any Bond issued upon transfer or exchange thereof) are registered at the close of business of the Record Date next preceding the date of payment of such defaulted interest. Payment of interest to all Bondholders shall be by check drawn on the designated office of the Paying Agent and mailed to such Bondholder one business day prior to each Interest Payment Date. The Series 2021 Bonds shall be dated as of the date of their delivery and shall accrue interest on each advance from the date of that advance. The outstanding principal amount of the Series 2021 Bonds shall bear interest at the annual rate of 4.0% and shall be computed on the basis of a 360 day year consisting of twelve 30-day months. The interest on the Series 2021 Bonds shall be payable semiannually on each February 1 and August 1, commencing on August 1, 2023.

Proceeds of the Series 2021 Bonds shall be advanced from time to time as provided in Section 4.4.

The Series 2021 Bonds, or so much as shall have been advanced from time to time, shall bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless such date of authentication shall be subsequent to a Record Date in which case they shall bear interest from the Interest Payment Date with respect to such Record Date, provided, however that if, as shown by the records of the Trustee, interest on the Series 2021 Bonds shall be in default, Series 2021 Bonds issued in exchange for Series 2021 Bonds surrendered for transfer or exchange shall bear interest from the date to which interest has been paid in full on the Series 2021 Bonds or, if no interest has been paid on the Series 2021 Bonds, from the date of issuance and delivery of the Series 2021 Bonds. Series 2021 Bonds authenticated on or prior to January 15, 2021 shall bear interest from the date of delivery of the Series 2021 Bonds. The Series 2021 Bonds shall mature on February 1, 2046.

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 at the designated office of the Trustee without presentation of the Bonds, provided however, presentation of the Bonds is required for payment of the final maturity. All payments on the Series 2021 Bonds shall be made to the person appearing on the Bond registration books of the Trustee as the registered owner of the Series 2021 Bonds by check mailed to the Registered Owner thereof as shown on the registration books of the Trustee, or by such other method acceptable to the Trustee, requested by and at the risk of the Bondholder, [including by wire transfer as a registered owner of the aggregate amount of \$1,000,000 or more of the principal amount of the Bonds, upon the written request of the Bondholder to the Trustee on or prior to the Record Date, which direction shall remain in effect until revoked in writing by the Bondholder, or, if payment is made to a depository, by wire transfer of immediately available funds on the interest payment date. 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 be instructed to wire transfer payments by 1:00 p.m. (New York City time) so that such payments are received at the depository by 2:30 p.m. (New York City time).] Notwithstanding anything contained herein, the Series 2021 Bonds shall not need to be presented for payment except upon final maturity or redemption in full.

Section 2.4. Execution; Limited Obligation. The Series 2021 Bonds shall be executed on behalf of the Issuer with the manual or facsimile signature of its Mayor and attested with the manual or the facsimile signature of its Clerk-Treasurer 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 2021 Bonds. If any officer whose signature or facsimile signature shall appear on the Series 2021 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 2021 Bonds, and the interest payable thereon, do not and shall not represent or constitute a debt of the Issuer, the State of Indiana or any political subdivision or taxing authority thereof within the meaning of the provisions of the constitution or statutes of the State of Indiana or a pledge of the faith and credit of the Issuer, the State of Indiana or any political subdivision or taxing authority thereof. The Series 2021 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 the trust estate consisting of funds and accounts held under the Indenture, the TIF Revenues pledged and assigned for their payment in accordance with the Indenture ("Trust Estate"). Neither the faith and credit nor the taxing power of the Issuer, the State of Indiana or any political subdivision or taxing authority thereof is pledged to the payment of the principal of, premium, if any, or the interest on the Series 2021 Bonds. The Series 2021 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, premium, if any, or interest on the Series 2021 Bonds. No covenant or agreement contained in the Series 2021 Bonds or the Indenture shall be deemed to be a covenant or agreement of the Redevelopment Commission, the Zionsville Economic Development Commission ("Commission"), 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 2021 Bonds shall be liable personally on the Series 2021 Bonds or be subject to any personal liability or accountability by reason of the issuance of the Series 2021 Bonds.

Section 2.5. Authentication. No Series 2021 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 2021 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 2021 Bond has been authenticated and delivered under this Indenture. The Trustee's certificate of authentication on any Series 2021 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 2021 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 2021 Bonds. Upon the execution and delivery of this Indenture, the Issuer shall execute and deliver to the Trustee the Series 2021 Bonds in the aggregate principal amount of \$3,626,000. The Trustee shall authenticate such Bonds and deliver them to the Bond Purchaser thereof upon receipt of:

- (i) A copy, duly certified by the Clerk-Treasurer 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 2021 Bonds.
- (ii) A copy, duly certified by the Secretary of the Redevelopment Commission, of the resolution adopted and approved by the Redevelopment Commission pledging the TIF Revenues to the payment of the Series 2021 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 2021 Bonds to the Bond Purchaser as draw down bonds in the maximum principal amount of \$3,626,000 and reflecting the initial principal advance of \$\_\_\_\_\_.
- (v) Such other documents as shall be required by the Bond Purchaser.

The proceeds of the Series 2021 Bonds shall be paid over to the Trustee and deposited to the credit of various Funds as hereinafter provided under Section 3.1 hereof.

The Series 2021 Bonds initially issued and authenticated hereunder shall be registered in the name of the Bond Purchaser and the provisions of Section 2.11 hereto shall not apply thereto.

Section 2.8. Issuance of Additional Bonds. One or more series of Bonds in addition to the Series 2021 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 of Construction 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. Each series of Additional Bonds issued hereunder shall be issued on a parity with the Series 2021 Bonds.

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-Treasurer 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) In the case of Additional Bonds, a certificate showing the requirements for such Additional Bonds contained in the resolution pledging 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 2021 Bond is mutilated, lost, stolen or destroyed, the Issuer may execute and the Trustee may authenticate, upon the written direction of the Issuer, a new Series 2021 Bond of like date, maturity and denomination

as that mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Series 2021 Bond, such mutilated Series 2021 Bond shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Series 2021 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 2021 Bond shall have matured, instead of issuing a duplicate Series 2021 Bond the Issuer may pay the same without surrender thereof; provided, however, that in the case of a lost, stolen or destroyed Series 2021 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 2021 Bond with their fees and expenses in this connection. Any Series 2021 Bond issued pursuant to this Section 2.9 shall be deemed part of the original series of Series 2021 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 2021 Bonds; Persons Treated as Owners. The Issuer shall cause books for the registration and for the transfer of the Series 2021 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 2021 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 2021 Bond or Series 2021 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 2021 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 2021 Bond. The Trustee shall not be required to transfer or exchange any fully registered Series 2021 Bond during the period between the Record Date and any interest payment date of such Series 2021 Bond, nor to transfer or exchange any Series 2021 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 2021 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.

Section 2.11. Book-Entry System. The Issuer has determined that the Bonds may in the future be held by a central depository system pursuant to an agreement between the Issuer and The Depository Trust Company, and have transfers of the Bonds effected by book-entry on the books of the central depository system. Such Bonds shall be initially issued in the form of a separate single authenticated fully registered Bond for the aggregate principal amount of each separate maturity of the Bonds.

With respect to the Bonds registered in the register kept by the Paying Agent in the name of CEDE & CO., as nominee of The Depository Trust Company, the Issuer and the Paying Agent shall have no responsibility or obligation to any other holders or owners (including any beneficial owner ("Beneficial Owner"), of the Bonds with respect to (i) the accuracy of the records of The Depository Trust Company, CEDE & CO., or any Beneficial Owner with respect to ownership questions, (ii) the delivery to any bondholder (including any Beneficial Owner) or any other person, other than The Depository Trust Company, of any notice with respect to the Bonds including any notice of redemption, or (iii) the payment to any Bondholder (including any Beneficial Owner) or any other person, other than The Depository Trust Company, of any amount with respect to the principal of, or premium, if any, or interest on the Bonds except as otherwise provided herein.

At any time that the Bonds are issued in the name of The Depository Trust Company or CEDE & CO., the Issuer and the Registrar and Paying Agent may treat as and deem The Depository Trust Company or CEDE & CO. to be the absolute bondholder of each of the Bonds for the purpose of (i) payment of the principal of and premium, if any, and interest on such Bonds; (ii) giving notices of redemption and other notices permitted to be given to Bondholders with respect to such Bonds; (iii) registering transfers with respect to such Bonds; (iv) obtaining any consent or other action required or permitted to be taken of or by Bondholders; (v) voting; and (vi) for all other purposes whatsoever. The Paying Agent shall pay all principal of and premium, if any, and interest on the Bonds only to or upon the order of The Depository Trust Company, and all such payments shall be valid and effective fully to satisfy and discharge the Issuer's and the Paying Agent's obligations with respect to principal of and premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. Upon delivery by The Depository Trust Company to the Issuer of written notice to the effect that The Depository Trust Company has determined to substitute a new nominee in place of CEDE & CO., and subject to the provisions herein with respect to consents, the words "CEDE & CO." in this Indenture shall refer to such new nominee of The Depository Trust Company. Notwithstanding any other provision hereof to the contrary, so long as any Bond is registered in the name of CEDE & CO. as nominee of The Depository Trust Company, all payments with respect to the principal of and premium, if any, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, to The Depository Trust Company as provided in a representation letter from the Issuer to The Depository Trust Company.

Upon receipt by the Issuer of written notice from The Depository Trust Company to the effect that The Depository Trust Company is unable or unwilling to discharge its responsibilities and no substitute depository willing to undertake the functions of The Depository Trust Company hereunder can be found which is willing and able to undertake such functions upon reasonable and customary terms, then the Bonds shall no longer be restricted to being registered in the register of the Issuer kept by the Registrar in the name of CEDE & CO., as nominee of The Depository Trust Company, but may be registered in whatever name or names the Bondholders transferring or exchanging Bonds shall designate, in accordance with the provisions of the Indenture.

If the Issuer determines that it is in the best interest of the Bondholders that they be able to obtain certificates for the fully registered Bonds, the Issuer may notify The Depository Trust Company and the Registrar, whereupon The Depository Trust Company will notify the Beneficial Owners of the availability through The Depository Trust Company of certificates for the Bonds.



In such event, the Registrar shall prepare, authenticate, transfer and exchange certificates for the Bonds as requested by The Depository Trust Company and any Beneficial Owners in appropriate amounts, and whenever The Depository Trust Company requests the Issuer and the Registrar to do so, the Registrar and the Issuer will cooperate with The Depository Trust Company by taking appropriate action after reasonable notice (i) to make available one or more separate certificates evidencing the fully registered Bonds of any Beneficial Owner's Depository Trust Company account or (ii) to arrange for another securities depository to maintain custody of certificates for and evidencing the Bonds.

If the Bonds shall no longer be restricted to being registered in the name of a depository trust company, the Registrar shall cause the Bonds to be printed in blank in such number as the Registrar shall determine to be necessary or customary; provided, however, that the Registrar shall not be required to have such Bonds printed until it shall have received from the Issuer indemnification for all costs and expenses associated with such printing.

In connection with any notice or other communication to be provided to Bondholders by the Issuer or the Registrar with respect to any consent or other action to be taken by Bondholders, the Issuer or the Registrar, as the case may be, shall establish a record date for such consent or other action and give The Depository Trust Company notice of such record date not less than fifteen (15) calendar days in advance of such record date to the extent possible.

So long as the Bonds are registered in the name of The Depository Trust Company or CEDE & CO. or any substitute nominee, the Issuer, the Trustee and the Registrar and Paying Agent shall be entitled to request and to rely upon a certificate or other written representation from the Beneficial Owners of the Bonds or from The Depository Trust Company on behalf of such Beneficial Owners stating the amount of their respective beneficial ownership interests in the Bonds and setting forth the consent, advice, direction, demand or vote of the Beneficial Owners as of a record date selected by the Registrar and The Depository Trust Company, to the same extent as if such consent, advice, direction, demand or vote were made by the Bondholders for purposes of this Indenture and the Issuer, the Trustee and the Registrar and Paying Agent shall for such purposes treat the Beneficial Owners as the Bondholders. Along with any such certificate or representation, the Registrar may request The Depository Trust Company to deliver, or cause to be delivered, to the Registrar a list of all Beneficial Owners of the Bonds, together with the dollar amount of each Beneficial Owner's interest in the Bonds and the current addresses of such Beneficial Owners.

If the Book Entry System is no longer in effect, registered owners of Bonds may, upon surrender thereof at the designated corporate trust office of the Trustee with a written instrument of transfer satisfactory to the Trustee, exchange a Bond or Bonds for a Bond or Bonds of equal aggregate principal amount of the same maturity and interest rate of any authorized denominations. For every exchange or transfer of Bonds, the Trustee may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. The cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Trustee incurred in connection therewith (except any applicable tax, fee or other governmental charge)

shall be paid by the Issuer. The Trustee shall not be obliged to make any transfer or exchange of any Bond called for redemption within thirty days of the redemption date.

(End of Article II)

ARTICLE III.

APPLICATION OF SERIES 2021 BOND PROCEEDS

Section 3.1. Deposit of Funds. The Issuer shall deposit with Trustee in the Construction Fund \$\_\_\_\_\_ of the proceeds from the sale of the Series 2021 Bonds as the initial draw. \$\_\_\_\_\_ of the proceeds from the sale of the Series 2021 Bonds, shall be deposited in the Bond Issuance Expense Account of the Construction Fund and used to pay Bond Issuance Costs pursuant to Section 4.4(b) of the Indenture. \$\_\_\_\_\_ of the proceeds from the sale of the Series 2021 Bonds shall be deposited in the Construction Account of the Construction Fund. The proceeds of the Series 2021 Bonds shall be paid out from time to time upon submission to the Trustee of a written request for funds by the Authorized Representative of the Company. Such requisition shall be substantially in the form attached as Exhibit C.

(End of Article III)

## ARTICLE IV.

### REVENUE AND FUNDS

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

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

There shall be deposited in the Bond Fund, as and when received by the Trustee: (a) TIF Revenues as provided in Section 4.6; (b) any amount remaining in the Construction Fund to be transferred to the Bond Fund pursuant to the Indenture upon completion of the Project; (c) all interest and other income derived from investments of Bond Fund moneys as provided herein; and (d) 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 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 sums of the TIF Revenues promptly to meet and pay the principal of and interest on the Bonds as the same become due and payable. Nothing herein should be construed as requiring Issuer to deposit or cause to be paid to Trustee for deposit in the Bond Fund, funds from any source other than receipts derived from the TIF Revenues.

Moneys in the Bond Fund shall be used by the Trustee to pay interest and principal on the Bonds as they become due upon each Interest Payment Date, at maturity, upon redemption or upon acceleration and to pay Annual Fees. The Trustee shall transmit such funds to the Paying Agent for the Series 2021 Bonds in sufficient time to insure that such interest will be paid as it becomes due. If TIF Revenues on deposit in the Bond Fund are not sufficient to pay the principal and interest then due, TIF Revenues shall be applied first to pay unpaid interest and then to unpaid and due principal; provided, however, that no interest shall be due or paid on any unpaid interest.

#### Section 4.3. RESERVED

Section 4.4. Construction Fund. The Issuer shall establish with the Trustee a separate fund to be known as the Construction Fund, 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. The Issuer shall deposit in the

Construction Account a total sum of \$\_\_\_\_\_ from the initial advance of the proceeds of the 2021 Bonds, which initial draw on the 2021 Bonds consists of \$\_\_\_\_\_, less the portion of the initial advance of the proceeds of the 2021 Bonds deposited in the Bond Issuance Expense Account of the Construction Fund (\$\_\_\_\_\_). The purchaser of the 2021 Bonds shall deposit subsequent advances with the Trustee from time to time as needed and the advances shall be recorded in the records of the Trustee.

(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 B shall be wire transferred at closing to the entities listed as authorized by the Mayor and the Clerk-Treasurer, the authorization evidenced by the execution of this Indenture. Other costs of issuance shall be paid by the Trustee upon submission of an affidavit signed by the Mayor and the Clerk-Treasurer. On \_\_\_\_\_, 20\_\_\_\_, 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 subparagraph (a) and (c) of this Section 4.3, moneys on deposit in the Construction Account shall be paid out from time to time by the Trustee upon the order of the Issuer in pay, or as reimbursement to the Company for payment made, for the Costs of Construction of the Project upon receipt by the Trustee of an invoice showing the amount paid, or to be paid, and to whom payment is owed and a written request signed by an Authorized Representative of the Company in substantially the form of Exhibit C and approved by the Issuer:

- (i) stating that the costs of an aggregate amount set forth in such written request has 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 or Costs of Construction;
- (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 or the Costs of Construction 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 the 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

;provided, however, that draws for Construction Costs, other than costs of issuance, up to \$2,500,000 will be allowed; however, no draws above that amount will be approved for reimbursement to the Company unless and until construction of the sanitary sewer extension, north of 146th Street (“Extension”) is complete. The Company shall provide a certificate of completion once the Extension is complete and sufficient completion of the Extension shall be approved in the sole discretion of the Issuer, with such approval to not be unreasonably withheld. *The Issuer shall advise the Trustee when the Extension is complete so that further draws may be made by the Company.*

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

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

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

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 subparagraph (c) of this Section 4.4 and after receipt by the Trustee of the completion certificate mentioned in subparagraph (d) of this Section 4.4, there shall remain any balance of moneys in the Construction Fund, the Trustee shall, transfer all moneys then in the corresponding account (except moneys reserved to pay any disputed claims described in the completion certificate required in Section 4.4(d) hereof) to the Bond Fund and the Construction Fund shall be closed. The Trustee, as directed in writing by the Company, shall use any amount transferred to the Bond Fund from the Construction Fund, to redeem the 2021 Bonds pursuant to Section 5.1(a) and (b) hereof at the earliest redemption date.

Section 4.5. Reserved.

Section 4.6. TIF Revenues. The Clerk-Treasurer of the Issuer shall set aside immediately upon receipt the TIF Revenues into the Issuer's Allocation Fund as created by IC 36-7-14. On or before each February 1 and August 1 commencing with August 1, 2023, the Issuer shall transfer from the Issuer's allocation funds referenced in this Section to the Trustee, all TIF Revenues received. The Trustee is hereby directed to transfer to the Bond Fund on each February 1 and

August 1 all TIF Revenues received, and shall use such amounts deposited to the Bond Fund in accordance with Section 4.2 hereof. Any amount of the TIF Revenues remaining after the deposits to the Bond Fund shall be used to optionally redeem, on such February 1 or August 1, the outstanding Bonds in accordance with Section 5.1 hereof, or by the Issuer for such other lawful purposes for which the Issuer receives the prior written consent of the Company.

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

Section 4.8. Investment. Moneys on deposit in the Funds established in this Article IV hereof shall be invested as provided in Section 6.7 hereof.

(End of Article IV)

ARTICLE V.

REDEMPTION OF SERIES 2021 BONDS BEFORE MATURITY

Section 5.1. Redemption Dates and Prices. (a) The Series 2021 Bonds are subject to optional redemption at the option of the Issuer, prior to maturity on any date, upon thirty (30) days' notice to the Trustee, in whole or in part, in inverse order of maturity and by lot within maturities, at face value, without premium, plus in each case accrued interest to the date fixed for redemption.

(b) Mandatory Sinking Fund Redemption.

The Series 2021 Bonds maturing on February 1, 2046 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:

<u>2046 Term Bond</u>			
<u>Date</u>	<u>Amount</u>	<u>Date</u>	<u>Amount</u>
2/1/2024	\$99,000	2/1/2036	\$159,000
2/1/2025	103,000	2/1/2037	165,000
2/1/2026	107,000	2/1/2038	171,000
2/1/2027	111,000	2/1/2039	178,000
2/1/2028	116,000	2/1/2040	185,000
2/1/2029	120,000	2/1/2041	193,000
2/1/2030	125,000	2/1/2042	201,000
2/1/2031	130,000	2/1/2043	209,000
2/1/2032	136,000	2/1/2044	217,000
2/1/2033	141,000	2/1/2045	226,000
2/1/2034	147,000	2/1/2046*	235,000
2/1/2035	152,000		

\*Final Maturity

Section 5.2. Notice of Redemption. In the case of redemption of Series 2021 Bonds pursuant to Section 5.1 hereof, notice of the call for any such redemption identifying the Series 2021 Bonds, or portions of fully registered Series 2021 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 forty-five (45) days prior to the date fixed for redemption to the registered owner of each Series 2021 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 2021 Bond numbers and called amounts of each Series 2021 Bond, the redemption date, redemption price, interest rate, 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 2021 Bond shall not affect the validity of any proceedings for the redemption of other Series 2021 Bonds.

On and after the redemption date specified in the aforesaid notice, such Series 2021 Bonds, or portions thereof, thus called shall not bear interest, shall no longer be protected by this Indenture



and shall not be deemed to be outstanding under the provisions of this Indenture, and the holders thereof shall have the right only to receive the redemption price thereof plus accrued interest thereon to the date fixed for redemption.

Section 5.3. Cancellation. All Series 2021 Bonds which have been redeemed in whole shall be canceled and destroyed by the Trustee in accordance with its destruction policy in effect and shall not be reissued and a certificate of destruction shall be furnished, upon written request, by the Trustee to the Issuer and the Company.

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 2021 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 2021 Bonds thus called shall no longer accrue from and after the date fixed for redemption. No payment shall be made by the Paying Agent upon any Series 2021 Bond until such Series 2021 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 2021 Bond.

Section 5.5. Partial Redemption of Bonds. If fewer than all of the Series 2021 Bonds at the time outstanding are to be called for redemption, the maturities of Series 2021 Bonds or portions thereof to be redeemed shall be selected by the Trustee at the direction of the Company. If fewer than all of the Series 2021 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 2021 Bonds or portions of Series 2021 Bonds within such maturity that shall be redeemed. The Trustee shall call for redemption in accordance with the foregoing provisions as many Series 2021 Bonds or portions thereof as will, as nearly as practicable, exhaust the moneys available therefor. Particular Series 2021 Bonds or portions thereof shall be redeemed in part in \$1,000 denominations and integral multiples thereof until the Series 2021 Bonds are paid in full.

If less than the entire principal amount of any registered Series 2021 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 2021 Bond shall forthwith surrender such Series 2021 Bond to the Paying Agent in exchange for (a) payment of the redemption price of, plus accrued interest on the principal amount called for redemption and (b) a new Series 2021 Bond or Series 2021 Bonds of like series in an aggregate principal amount equal to the unredeemed balance of the principal amount of such registered Series 2021 Bond, which shall be issued without charge therefor.

(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, 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, interest and premium, if any, on the Bonds are payable solely and only from the TIF Revenues 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. 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, or the 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, premium, if any, or interest on the Bonds. The Issuer has no taxing power with respect to the Bonds. No covenant or agreement contained in the Bonds or this Indenture shall be deemed to be a covenant or agreement of 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 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.

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 in Qualified Investments to the extent and in the manner provided for in Section 3.7 of the Financing Agreement. In the absence of direction the Trustee shall invest funds in the [Fidelity Investments Money Market Fund Government Portfolio], which is hereby deemed to constitute a Qualified Investment. 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. Ratings of permitted investments shall be determined at the time of purchase of such permitted investments and without regard to ratings subcategories. The Trustee may make any and all such investments through its own investment department or that of its affiliates or subsidiaries, and may charge its ordinary and customary fees for such trades, including investment maintenance fees.

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 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, 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 escheat to the State of Indiana, in accordance with applicable Indiana law.

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 the Trustee shall be directed in writing by the Requisite Bondholders.

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) any event of default as defined in Sections 5.1(a)(i), (a)(ii), (a)(iii) or (a)(iv) of the Financing Agreement shall occur and be continuing; or

(b) 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, which may give such notice in its discretion and shall give such notice at the written request of the holders of all of the Bonds then outstanding hereunder.

(c) The insufficiency of TIF Revenues to pay debt service due on the Series 2021 Bonds shall not constitute an event of default hereunder.

Section 7.2. RESERVED.

Section 7.3. Remedies; Rights of Bondholders.

- (i) If an event of default occurs, the Trustee may pursue any available remedy by suit at law or in equity to enforce the payment of the principal of, premium, if any, and interest on the Bonds then outstanding, to enforce any obligations of the Issuer hereunder, and of the Company under the Financing Agreement.
- (ii) 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 shall be directed in writing to exercise by the Requisite Bondholders.
- (iii) No remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the Bondholders) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Bondholders hereunder or now or hereafter existing at law or in equity or by statute.
- (iv) No delay or omission to exercise any right or power accruing upon any event of default shall impair any such right or power or shall be construed to be a waiver of any event of default or acquiescence therein, and every such right and power may be exercised from time to time as may be deemed expedient.

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

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

Section 7.5. Application of Moneys. All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of the cost and expenses of the proceedings resulting in the collection of such moneys and of the fees, expenses, liabilities and advances incurred or made by the Trustee or the Issuer, 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 and interest then due and unpaid upon the Bonds, without preference or priority of principal over interest or

of interest over any other installment of interest, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or privilege.

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

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

Section 7.6. Remedies Vested In Trustee. All rights of action (including the right to file proof of claims) under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any holders of the Bonds, and any recovery of judgment shall, subject to the provisions of Section 7.5 hereof, be for the equal benefit of the holders of the outstanding Bonds.

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

the equal benefit of the holders of all Bonds then outstanding. Nothing in this Indenture contained shall, however, affect or impair the right of any Bondholder to enforce the covenants of the Issuer to pay the principal of and interest on each of the Bonds issued hereunder to the respective holders thereof at the time, place, from the source and in the manner in 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 and interest on the Bonds, and shall do so upon the written request of the holders of (1) all the Bonds then outstanding in respect of which default in the payment of principal and/or premium, if any, and/or interest exists, or (2) all Bonds then outstanding in the case of any other default; provided, however, that there shall not be waived (a) any event of default in the payment of the principal of any outstanding Bonds at the date of maturity specified therein, or (b) any default in the payment when due of the interest on any such Bonds unless prior to such waiver or rescission, arrears of interest, with interest (to the extent permitted by law) at the rate borne by the Bonds in respect of which such default shall have occurred on overdue installments of interest or all arrears of payments of principal and premium, if any, when due, as the case may be, and all expenses of the Trustee in connection with such default shall have been paid or provided for, and in case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the Issuer, the Trustee and the Bondholders shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon.

(End of Article VII)



## ARTICLE VIII.

### THE TRUSTEE AND PAYING AGENT

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

(a) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or if appointed through attorneys, agents, receivers or employees but shall not be answerable for the conduct of the same in accordance with the standard specified above, 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. The Trustee may become the owner of Bonds secured hereby with the same rights which it would have if not Trustee.

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

(e) As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a certificate signed on behalf of the Issuer or the 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 in connection with the performance of its duties hereunder.

(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 designated corporate trust office of the Trustee, and in the absence of such notice so delivered, the Trustee may conclusively assume there is no default except as aforesaid.

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

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

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

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

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

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

(n) 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 as it shall be directed to in writing by the Requisite Bondholders.

(o) 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.

(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, except for any information provided by the Trustee, and shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds. Under no circumstances does the Trustee assume any responsibility or liability for the issuance of the Bonds as obligations the interest on which is excludable from gross income for purposes of federal income taxation or for the maintenance of such tax-exempt status subsequent to the date of issuance of the Bonds.

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

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 fees for its services rendered hereunder and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by the Trustee or Paying Agent in connection with such services. Upon an event of default, but only upon an event of default, the Trustee shall have a right of payment prior to payment on account of interest or principal of, or premium, if any, on any Bond for the foregoing advances, fees, costs and expenses incurred. In the event of a bankruptcy, the fees and expenses of the Trustee shall constitute administrative expenses.

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, the Trustee shall intervene on behalf of Bondholders subject to the provisions of Section 8.1(l), upon being directed in writing by the owners of at least twenty-five percent (25%) in aggregate principal amount of all Bonds then outstanding to intervene in such proceeding. The rights and obligations of the Trustee under this Section are subject to the approval of a court of competent jurisdiction.

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

Section 8.6. Resignation by the Trustee. The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving thirty days' written notice to the Issuer and the 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. The fees and expenses of the Trustee shall be paid prior to the effectiveness of any removal.

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. The Trustee is hereby appointed as "Registrar" and "Paying Agent" under this Indenture. Any Registrar and Paying Agent may at any time resign and be discharged of the duties and obligations created by this instrument and any supplemental indenture by giving at least 60 days' written notice to the Issuer, the Company and the Trustee. Any Registrar and Paying Agent may be removed at any time by an instrument, filed with such Registrar, Paying Agent and the Trustee and signed by the Issuer and the Company. Any successor Registrar and 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; or
- (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; or
- (c) To subject to this Indenture additional security, revenues, properties or collateral;  
or
- (d) To make any other change in this Indenture which, in the judgment of the Issuer, in its sole discretion, is not to the material prejudice of the Company or the holders of the Bonds;  
or
- (e) To modify, amend or supplement the Indenture in such manner as required to permit the qualification thereof under the Trust Indenture Act of 1939, as amended, or any similar Federal statute hereafter in effect, and, if they so determine, to add to the Indenture such other terms, conditions and provisions as may be required by said Trust Indenture Act of 1939, as amended, or similar federal statute; or
- (f) To issue Additional Bonds in accordance with the provisions of Section 2.8 hereof.

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

holders of all the Bonds at the time outstanding which would be affected by the action to be taken, or (e) a modification of the rights, duties or immunities of the Trustee, without the written consent of the Trustee, or (f) a privilege or priority of any Bond over any other Bonds, or (g) the deprivation of the Owners of any Series 2021 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. Legal Opinion. In connection with a supplemental indenture being entered into pursuant to the provisions of this Article IX, the Trustee shall receive an opinion of Bond Counsel to the effect that said supplemental indenture is authorized and permitted by the terms of this Indenture in compliance with all conditions precedent, that it is proper for the Trustee to join in the execution of such supplemental indenture and that the Trustee may conclusively rely on such opinion. The Trustee may conclusively rely on the written determination of the Issuer with respect to a supplemental indenture entered into pursuant to Section 9.1(d).

Section 9.4. Supplemental Indenture Effectiveness Upon Trustee. The Trustee need not enter into or consent to any supplemental indenture which it determines to be materially prejudiced to it.

(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, in the judgment of the Issuer, in its sole discretion, is not to the prejudice of 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. Legal Opinion. In connection with an amendment, change or modification to the Financing Agreement being consented to pursuant to the provisions of this Article X, the Trustee shall receive an opinion of Bond Counsel to the effect that said consent to the amendment, change or modification in question is authorized and permitted by the terms of this Indenture in compliance with all conditions precedent, and that it is proper for the Trustee to join in such amendment, change or modification and that the Trustee may conclusively rely on such opinion.

Section 10.4. Amendments, etc.; Consent of Trustee. The Trustee need not consent to any amendment, change or modification of the Financing Agreement which it determines to be materially prejudiced to it.

(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, upon direction of the Issuer, 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 and interest on the Bonds and except for any TIF Revenues which shall be delivered to the Issuer) when:

- (a) all fees and expenses of the Trustee and the Paying Agent shall have been paid;
- (b) the Issuer and the 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 and interest of 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) direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America, the principal of and the interest on which when due will provide sufficient moneys, and (b) all necessary and proper fees, compensation, indemnities and expenses of the Trustee and the Issuer pertaining to the Bonds with respect to which such deposit is made shall have been paid or the payment thereof provided for. At such time, and prior to the effectiveness of such defeasance, the Trustee shall be provided with a defeasance opinion by nationally recognized bond counsel. 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 Governmental 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 Owners of the Bonds, that the deposit required by the preceding paragraph has been made with the Trustee and that the Bonds are deemed to have been paid in accordance with this Section 11.2 and stating the maturity or redemption date upon which moneys are to be available for the payment of the principal of and the applicable redemption premium, if any, on said Bonds, plus interest thereon to the due date thereof; or (b) the maturity of the 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 Governmental Obligations, maturing in the amounts and at the times as hereinbefore set forth, and all income from all Governmental 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 Governmental 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 Governmental Obligations have been so set aside in trust.

Anything in Article IX hereof to the contrary notwithstanding, if moneys or Governmental 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.

In determining the sufficiency of the moneys and/or Government Obligations deposited pursuant to this Section 11.2, the Trustee shall receive, at the expense of the Company, and may rely on a verification report of a firm of nationally recognized independent certified public accountants.

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

Section 11.3. Cancellation of Series 2021 Bonds. If the Bondholders of any Series 2021 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 2021 Bond and the Bondholder shall have no further claim against the Trust Estate, the Issuer or the Company with respect to that Series 2021 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. 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.

Notwithstanding the foregoing, the Trustee shall have the right to accept and act upon instructions, including funds transfer instructions ("Instructions") given pursuant to this Indenture and the Financing Agreement and delivered using Electronic Means; provided, however, that the Issuer and the Company, as the case may be, 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 by the Issuer and the Company, as the case may be, whenever a person is to be added or deleted from the listing. If the Issuer and the Company, as the case may be, elects to give the Trustee Instructions using Electronic Means and the Trustee in its discretion elects to act upon such Instructions, the Trustee's understanding of such Instructions shall be deemed controlling. The Issuer and the Company each 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 directions 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, as the case may be, shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Trustee and that the Issuer and the Company, as the case may be, and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Issuer and the Company, as the case may be. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The Issuer and the Company each agrees: (i) to assume all risks arising out of

the use of Electronic Means to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Issuer and the Company, as the case may be; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures.

"Electronic Means" shall mean the following communications methods: S.W.I.F.T., 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 11.9. Counterparts. This Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

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

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

Section 11.12. Holidays. If any date for the payment of principal or interest on the Bonds is not a business day then such payment shall be due on the first business day thereafter with the same force and effect as if made on such date.

Section 11.13. Shortfall of TIF Revenues. Notwithstanding any other provision of this Indenture, any portion of the principal or interest due on the Series 2021 Bonds that remains unpaid due to a shortfall in TIF Revenues shall not be deemed defeased or otherwise satisfied, shall not be considered paid, and shall continue to be due and owing until the earlier of: (i) full payment by the Issuer; or (ii) the maturity date of the Series 2021 Bonds. Interest shall not continue to accrue on the interest that remains unpaid beyond the applicable debt service payment date. Unpaid principal of the Series 2021 Bonds shall continue to accrue interest at the stated interest rate on

such series of the Bonds until the earlier of: (i) full payment by the Issuer; or (ii) the maturity date of the Series 2021 Bonds.

(End of Article XI)

IN WITNESS WHEREOF, the Town of Zionsville, Indiana, has caused these presents to be signed in its name and behalf by its Mayor, and its corporate seal to be hereunto affixed and attested by its Clerk-Treasurer, and to evidence its acceptance of the trusts hereby created, Old National Wealth Management located in Evansville, Indiana, has caused these presents to be signed in its name and behalf by, its official seal to be hereunto affixed, and the same to be attested by, its duly authorized officers, all as of the day and year first above written.

TOWN OF ZIONSVILLE, INDIANA

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

Attest:

\_\_\_\_\_  
Clerk-Treasurer

SEAL



OLD NATIONAL WEALTH MANAGEMENT  
as Trustee

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

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

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

## EXHIBIT A

### Project Description

The Project includes financing of all or a portion of the design, construction and equipping of certain improvements, including but not limited to, 3,582 lineal feet of sanitary sewer line; 5,471 linear feet of storm sewer line, 7 BMP structures and various storm sewer drains; 2,750 linear feet of domestic water mains/hydrants/valves; improved roadway system, lead roads and out lot access road; improvements to Michigan Road and 146th Street (decel and turn lanes with associated bypass lanes) per the A&F traffic study; install of public sidewalks and multi-purpose pathways internally and along development roadways and Project perimeter; and cut/fill site and establish Eastern Pond, providing regional drainage solution, together with all necessary appurtenances and related improvements.

EXHIBIT B

Bond Issuance Costs

Ice Miller LLP	\$
Crowe LLP	
Whitsitt Noonung & Kruse, P.C.	
Old National Wealth Management, as Trustee	
Acceptance Fee	
Annual Fee (1st annual payment)	_____.
TOTAL	\$ _____.

## EXHIBIT C

### Written Request

Old National Wealth Management  
One Main Street  
Evansville, IN 47708  
Attention: Corporate Trust Department

This written request ("Written Request") is submitted pursuant to the provisions of Section 4.4(b) of that certain Trust Indenture dated as of April 1, 2021 ("Indenture"), between the Town of Zionsville, Indiana ("Issuer") and \_\_\_\_\_, as Trustee, as trustee ("Trustee"). The terms used herein have the same meanings as when used in the Indenture except where the context otherwise requires.

Harris FLP, an Indiana limited partnership ("Company"), hereby requests that on \_\_\_\_\_, 20\_\_, the Trustee pay from funds held in the Construction Account 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 construction or equipping of the Project and were made or incurred in accordance with the construction contracts, plans and specifications, or purchase contracts therefor now in effect;
- (d) The costs referred to in paragraph (b) were incurred to pay Costs of Construction of the Project relating to **[list the various components of the Project to which such costs relate; briefly describe the nature of such costs; indicate the aggregate amount that will have been paid from Bond proceeds for each component of the Project after payment 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 said Construction Costs was included in any Written Request previously filed with the Trustee under the provisions of Section 4.4(b) of the Indenture;

(g) The costs referred to in paragraph (b) above are appropriate for the expenditure of proceeds of the Bonds under the Act; and

(h) The 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, are attached hereto on Schedule A.

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

**[Draws for Costs of Construction, other than costs of issuance, up to \$2,500,000 will be allowed; however, no draws above that amount will be approved for reimbursement to the Company for Costs of Construction unless and until construction of the sanitary sewer extension, north of 146th Street (“Extension”) is complete. The Company shall provide a certificate of completion once the Extension is complete and sufficient completion of the Extension shall be approved in the sole discretion of the Issuer, with such approval to not be unreasonably withheld.]**

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

HARRIS FLP, as Company

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

Its: \_\_\_\_\_

APPROVED

ZIONSVILLE REDEVELOPMENT  
COMMISSION

\_\_\_\_\_  
President

cc: Town of Zionsville, 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>	<u>[Vendor TIN]</u>
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[Attach copies of invoices paid and/or to be paid with copies of checks used for any previously made payment]

EXHIBIT D

Trustee Fees

Old National Wealth Management, as Trustee

Acceptance Fee

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

Annual Fee (1st annual payment)

\_\_\_\_\_