

JAN 17 2025

## SPECIAL ORDINANCE NO. 2, 2025

CITY CLERK

**ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF TERRE HAUTE,  
INDIANA AUTHORIZING ONE OR MORE SERIES OF ECONOMIC  
DEVELOPMENT REVENUE BONDS OF THE CITY OF TERRE HAUTE, INDIANA  
AND LENDING THE PROCEEDINGS THEREOF TO THE BORROWER THEREOF  
AND APPROVING AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO**

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

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

WHEREAS, Terminal Hotel Partners, LLC, an Indiana limited liability company, and/or one or more subsidiaries, affiliates, designees, joint ventures, or related entity thereof (collectively, the "Developer"), desires to develop or cause the construction and development of a new 114-room hotel facility including parking facilities and a skybridge over 7<sup>th</sup> Street in the City as well as certain related facilities and amenities (collectively, the "Project"); and

WHEREAS the Project will benefit and serve the Downtown Hotel Allocation Area (the "Downtown Hotel Allocation Area") located within the 2020 Consolidated Economic Development Area; and

WHEREAS, the City desires to finance all or a portion of the costs of the Project; and

WHEREAS, the Developer has advised the City, the City of Terre Haute Economic Development Commission (the "Economic Development Commission") and the City of Terre Haute Redevelopment Commission (the "Redevelopment Commission") concerning the Project, and has requested that the City issue economic development revenue bonds of the City under the Act in one or more series, to be used to finance a portion of the costs of the Project and to be designated as the "City of Terre Haute, Indiana, Taxable Economic Development Tax Increment Revenue Bonds, Series 20\_\_ (Downtown Hotel Project)" (with such further or other designation as determined to be necessary or appropriate), in an aggregate principal amount not to exceed Six Million Nine Hundred Thousand Dollars (\$6,900,000) (the "Bonds"), under the Act, and make the net proceeds of the Bonds available to the Developer for the purpose of financing a portion of the costs of the Project; and

WHEREAS, the Economic Development Commission has rendered a report concerning the proposed financing or refinancing of economic development facilities for the Developer, and the Plan Commission of the City and the Superintendent of the School Corporation, if applicable, in which the Project is located have been given the opportunity to comment thereon; and

WHEREAS, following a public hearing, pursuant to Section 24 of the Act, the Economic Development Commission found that the financing of the Project complies with the purposes and provisions of the Act and that such financing will be of benefit to the health and public welfare of the City; and

WHEREAS, the Economic Development Commission has considered whether the financing will have an adverse competitive effect or impact on any similar facility or facility of the same kind already constructed or operating in the corporate boundaries of the City; and

WHEREAS, pursuant to and in accordance with the Act, the City desires to provide funds necessary to finance a portion of the Project by issuing the Bonds; and

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

WHEREAS, the City intends to issue the Bonds consistent with the terms of this Ordinance and pursuant to a Trust Indenture, dated as of the date of issuance of the Bonds (the "Indenture"), by and between the City and a corporate trustee to be selected by the City (the "Trustee"), in order to secure funds necessary to provide for the financing of a portion of the costs of the Project in accordance with the terms of an Economic Project and Loan Agreement, to be dated as of the date of issuance of the Bonds (the "Loan Agreement," which term shall include the Term Note incorporated therein), by and between the City and the Developer.

WHEREAS, the Redevelopment Commission has pledged (or will pledge) to the City the tax increment revenues generated in the Downtown Hotel Allocation Area (the "Pledged Downtown Hotel Tax Increment Revenues") to pay principal of and interest on the Bonds as the same become due and payable, and to pay administrative expenses in connection with the Bonds, provided, however, the Redevelopment Commission may use any legally available revenues of the Redevelopment Commission to pay principal of an interest on the Bonds, as further described herein; and

WHEREAS, no member of the Common Council of the City (the "Common Council") has any pecuniary interest in any employment, financing agreement or other contract made under the provisions of the Act and related to the Bonds authorized herein, which pecuniary interest has not been fully disclosed to the Common Council, and no such member has voted on any such matter, all in accordance with the provisions of Indiana Code 36-7-12-16, as amended; and

WHEREAS, the forms of the Bonds, the Indenture, and the Loan Agreement (collectively, the "Financing Documents"), and a form of this proposed Ordinance were submitted to, and approved by, the Economic Development Commission, which documents were incorporated by reference into the resolution heretofore adopted by the Economic Development Commission, which resolution has been transmitted to the Common Council in accordance with the Act;

NOW THEREFORE, BE IT ORDAINED by the Common Council of City of Terre Haute, Indiana, as follows:



SECTION 1. Based upon the resolution adopted by the Economic Development Commission pertaining to the Project, the Common Council hereby finds and determines that the funding approved by the Economic Development Commission for all or a portion of the Project will be of benefit to the health and general welfare of the citizens of the City and complies with the provisions of the Act, and that the amount necessary to finance all or a portion of the Project will require the issuance, sale and delivery of the Bonds in an aggregate principal amount not to exceed Six Million Nine Hundred Thousand Dollars (\$6,900,000).

SECTION 2. It is hereby found, determined, ratified and confirmed that the financing of the economic development facilities referred to in the Financing Documents consisting of the Project the issuance and sale of the Bonds, and the loan of the net proceeds thereof to the Developer to finance a portion of the Project will: (i) result in the diversification of industry, the creation or retention of business opportunities and the creation or retention of opportunities for gainful employment within the jurisdiction of the City; (ii) serve a public purpose, and will be of benefit to the health and general welfare of the City; and (iii) comply with the purposes and provisions of the Act, and it is in the public interest that the City take such lawful action as determined to be necessary or desirable to encourage the diversification of industry, the creation or retention of business opportunities, and the creation or retention of opportunities for gainful employment within the jurisdiction of the City.

SECTION 3. The forms of the Financing Documents presented herewith are hereby approved, and all such documents shall be kept on file by the Clerk of the City (the "City Clerk"). Two (2) copies of the Financing Documents shall be kept on file in the office of the City Clerk for public inspection.

SECTION 4. The City is authorized to issue the Bonds in the maximum aggregate principal amount not to exceed Six Million Nine Hundred Thousand Dollars (\$6,900,000). Principal and interest on the Bonds shall be payable on February 1 and August 1 of each year, beginning not sooner than August 1, 2025 or on such other dates as the Controller of the City (the "Controller") may determine prior to the issuance of the Bonds. The Bonds shall have a maximum term ending not later than ten (10) years after the date of issuance thereof. The maximum interest rate on the Bonds shall not exceed seven percent (7.0%) per annum. The Bonds of a series may be issued as serial bonds and/or term bonds subject to mandatory sinking fund redemption, or as principal installment bonds, as negotiated with the purchaser thereof. The Bonds of a series may be subject to optional redemption prior to maturity as determined by negotiations with the purchaser thereof. The Bonds of a series shall be issued in minimum denominations of One Hundred Thousand Dollars (\$100,000) or integral multiples of One Thousand Dollars (\$1,000) in excess thereof, or such different minimum denominations as the Controller shall determine prior to the sale of the Bonds of a series. The Bonds shall be issued for the purpose of procuring funds to (a) pay a portion of the cost of acquisition, design, construction, renovation, improvement and equipping of the Project, (b) pay capitalized interest on the applicable series of Bonds (if necessary), and (c) pay all incidental expenses on account of the issuance of the respective series of the Bonds and acquiring any credit enhancement with respect thereto. The Bonds shall be sold by private negotiation to a financial institution selected by the Controller (the "Purchaser"). The Bonds shall be special and limited obligations of the City, payable solely from the trust estate created and established under the Indenture for the Bonds (the "Trust Estate"). The Trust Estate



shall consist of certain funds and accounts created under the Indenture, together with a pledge by the Redevelopment Commission of the Pledged Downtown Hotel Tax Increment Revenues, upon such terms and conditions as provided in the applicable Financing Documents and this Ordinance.

SECTION 5. The Mayor of the City (the "Mayor") and the Controller are authorized and directed to sell the Bonds to the Purchaser, at a price of par, at a rate of interest not to exceed seven percent (7.0%), and with a final maturity no later than ten (10) years after the date of issuance thereof. The form of a Bond Purchase Agreement (the "Purchase Agreement") between the City and the Purchaser is hereby authorized and approved in a form and substance acceptable to the Controller with the advice of counsel. The Mayor and the Controller are hereby authorized and directed to execute and deliver the Purchase Agreement in form and substance acceptable to them and consistent with the terms and conditions set forth in this Ordinance, with such acceptance of the form and substance thereof to be conclusively evidenced by their execution thereof.

SECTION 6. Each of the Mayor and the Clerk and any other officer of the City are authorized and directed to execute the Financing Documents, such other documents approved or authorized herein, and any other document which may be necessary, appropriate or desirable to consummate the transaction contemplated by the Financing Documents and this Ordinance, and their execution is hereby confirmed on behalf of the City. The signatures of the Mayor and the Clerk and any other officer of the City on the Bonds which may be necessary or desirable to consummate the transaction, and their execution is hereby confirmed on behalf of the City. The signatures of the Mayor and the Clerk and any other officer of the City on the Bonds may be facsimile signatures. The Mayor and the Controller and any other officer of the City are authorized to arrange for the delivery of the Bonds to the Purchaser, payment for which will be made in the manner set forth in the Financing Documents. The Mayor and the Clerk and any other officer of the City may, by their execution of the Financing Documents requiring their signatures and imprinting of their facsimile signatures thereon, approve any and all such changes therein and also in those Financing Documents which do not require the signature of the Mayor, the Clerk or any other officer of the City without further approval of this Common Council or the Economic Development Commission if such changes do not affect terms set forth in Sections 27(a)(1) through and including (a)(10) of the Act.

SECTION 7. The provisions of this Ordinance and the applicable Financing Documents shall constitute a contract binding between the City and the Purchaser, and after the issuance of said Bonds, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holder or holders of the Bonds so long as said Bonds or the interest thereon remains unpaid.

SECTION 8. No recourse under or upon any obligation, covenant, acceptance or agreement contained in this Ordinance or the Financing Documents or under any judgment obtained against the City, including without limitation its Economic Development Commission, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, under or independent of the Loan Agreement, shall be had against any member, director, or officer or attorney, as such, past, present, or future, of the City, including without limitation its Economic Development Commission, either directly or through the City, or otherwise, for the payment for or to the City or any receiver thereof



or for or to any holder of the Bonds secured thereby, or otherwise, of any sum that may remain due and unpaid by the City upon any of such Bonds. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such member, director, or officer or attorney, as such, to respond by reason of any act or omission on his or her part or otherwise for, directly or indirectly, the payment for or to the City or any receiver thereof, or for or to any owner or holder of the Bonds, or otherwise, of any sum that may remain due and unpaid upon the Bonds hereby secured or any of them, shall be expressly waived and released as a condition of and consideration for the execution and delivery of the Loan Agreement and the issuance, sale and delivery of the Bonds.

SECTION 9. If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 10. All ordinances, resolutions and orders or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

SECTION 11. It is hereby determined that all formal actions of the Common Council relating to the adoption of this Ordinance were taken in one or more open meetings of the Common Council, that all deliberations of the Common Council and of its committees, if any, which resulted in formal action, were in meetings open to the public, and that all such meetings were convened, held and conducted in compliance with applicable legal requirements, including Indiana Code 5-14-1.5, as amended.

SECTION 12. The Mayor and the Clerk and any other officer of the City are hereby authorized and directed, in the name and on behalf of the City, to execute, attest and deliver such further instruments and documents, and to take such further actions, in the name of the City as in their judgment shall be necessary or advisable in order fully to consummate the transactions described herein and carry out the purposes of this Ordinance, and any such documents heretofore executed and delivered and any such actions heretofore taken, be, and hereby are, ratified and approved.

SECTION 13. This Ordinance shall be in full force and effect from and after its passage.

Introduced by: Cheryl Loudermilk  
Cheryl Loudermilk, Councilmember

Passed in open Council this 13<sup>th</sup> day of February 2025.

Todd Nation  
Todd Nation, City Council President

ATTEST:

Michelle L Edwards  
Michelle Edwards, City Clerk

Presented by me to the Mayor this 18<sup>th</sup> day of February 2025, at 9 : 35A.m.

Michelle L Edwards  
Michelle Edwards, City Clerk

Approved by me, the Mayor, this 18<sup>th</sup> day of February 2025.

Brandon Sakbun  
Brandon Sakbun, Mayor

ATTEST:

Michelle L Edwards  
Michelle Edwards, City Clerk



**TRUST INDENTURE**

**Between**

**CITY OF TERRE HAUTE, INDIANA**

**And**

\_\_\_\_\_,  
**as Trustee**

**Dated as of \_\_\_\_\_, 202\_**

**Re:**

**§ \_\_\_\_\_  
CITY OF TERRE HAUTE, INDIANA,  
TAXABLE ECONOMIC DEVELOPMENT TAX INCREMENT REVENUE BONDS,  
SERIES 2025 (DOWNTOWN HOTEL PROJECT)**

## TRUST INDENTURE

THIS TRUST INDENTURE dated as of the \_\_\_ day of \_\_\_\_\_, 202\_, by and between the CITY OF TERRE HAUTE, INDIANA (the "Issuer" or "City"), a municipal corporation organized and existing under the laws of the State of Indiana, and \_\_\_\_\_, a \_\_\_\_\_ banking association duly organized and authorized to accept and execute trusts of the character herein, having a corporate trust office in the City of \_\_\_\_\_, Indiana, as trustee (the "Trustee");

### WITNESSETH:

WHEREAS, IC 36-7-11.9 and 12, as supplemented and amended, authorize and empower the Issuer to issue revenue bonds and to use 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 Terminal Hotel Partners, LLC (the "Developer"), to proceed with the Development (as defined herein) in the jurisdiction of the Issuer by offering to issue one or more series of the Issuer's taxable economic development tax increment revenue bonds and to provide a portion of the proceeds thereof to the Developer, pursuant to the terms of an Economic Project and Loan Agreement, among the Issuer, the City of Terre Haute Redevelopment Commission and the Developer (the "Loan Agreement"), in order to pay for a portion of the costs of the Development; and

WHEREAS, pursuant to this Indenture and the Loan Agreement and in accordance with the Act, the Issuer is issuing its City of Terre Haute, Indiana, Taxable Economic Development Tax Increment Revenue Bonds, (Downtown Hotel Project), in one or more series, in the aggregate principal amount of \$\_\_\_\_\_ (the "Series 2025 Bonds"), for the purpose of providing funds to (a) finance a portion of the costs of the Development (as defined herein), and (b) pay costs of issuance related to the Series 2025 Bonds; 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 Economic Development Commission held a public hearing on behalf of the Issuer, and upon finding that the Development and the proposed financing of a portion of the costs thereof (i) will create or retain employment opportunities in and near the City; (ii) will benefit the health and general welfare of the citizens of the City and the State of Indiana; and (iii) will comply with the purposes and provisions of the Act, adopted a resolution approving the proposed financing; and

WHEREAS, the Act provides that the Series 2025 Bonds may be secured by a trust indenture between the Issuer and a corporate trustee; and

WHEREAS, pursuant to this Indenture, the Series 2025 Bonds shall be payable solely from payments derived from Tax Increment Revenues and proceeds from the Series 2025 Bonds; and



WHEREAS, the execution and delivery of this Trust Indenture, and the issuance of the Series 2025 Bonds hereunder, have been in all respects duly and validly authorized by an ordinance duly passed and approved by the Issuer; and

WHEREAS, IC 36-7-14 provides that a redevelopment commission of an issuer may pledge certain incremental property taxes (defined herein as "Tax Increment Revenues") to pay, in whole or in part, amounts due on the Series 2025 Bonds; and

WHEREAS, the Redevelopment Commission has, by agreement, dedicated and pledged to the Issuer, the Tax Increment Revenues to be applied to the repayment of the Series 2025 Bonds; and

WHEREAS, the Series 2025 Bonds and the Trustee's certificate of authentication to be endorsed thereon are all to be substantially in the form provided in this Indenture;

NOW, THEREFORE, THIS INDENTURE WITNESSETH: That in order to secure the payment of the principal of and interest 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 said 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, real and personal hereinafter described (the "Trust Estate"):

## GRANTING CLAUSES

### DIVISION I

All right, title and interest of the Issuer in and to the Tax Increment 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) provided, however, that such pledge shall be subordinate basis to all current and future bond issuances payable from the Tax Increment Revenues;

### DIVISION II

All moneys and securities from time to time held by the Trustee under the terms of this Indenture (except moneys or Government Obligations deposited with the Trustee pursuant to Section 10.1 hereof) and any and all other real or personal property of every name and nature from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned, or transferred as and for additional security hereunder by the Issuer or by anyone on its behalf, or with their written consent to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof;

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 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 equal and ratable benefit and security of all and singular the holders of all Bonds issued hereunder, without preference, priority or distinction as to lien or otherwise, except as otherwise hereinafter provided, of any one Bond or as between principal and interest, 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, 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:

“Act” means, collectively, Indiana Code 36-7-11.9 and 36-7-12.

“Affiliate” means an entity or business which directly or indirectly controls, is controlled by or is under common control with, the Developer. For purposes of this provision, “control” (including the terms “controls”, “controlled by” and “under common control with”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities, by contract, or otherwise.

“Allocation Area” means collectively the 2020 Consolidated Allocation Area and the Downtown Hotel Allocation Area previously established by the Redevelopment Commission in accordance with IC 36-7-14-39 for the purposes of capturing incremental *ad valorem* property taxes levied and collected on all taxable property in such allocation area.

“Allocation Fund” means collectively the 2020 Consolidated Allocation Fund of the 2020 Consolidated Allocation Area and the Downtown Hotel Allocation Fund of the Downtown Hotel Allocation Area established under IC 36-7-14 for the purpose of allocating and depositing the Tax Increment Revenues collected in the Allocation Area.

“Annual Fees” means all of the Issuer’s expenses in carrying out and administering the Bonds issued pursuant to this Indenture and shall include, without limiting the generality of the foregoing, legal, accounting, management, consulting and banking services and expenses, fees and expenses of the Trustee and the Registrar and Paying Agent, costs of verifications required hereunder, and any other costs permitted under the Act, all to the extent properly allocable to the Bonds.

“Authorized Representative” means (i) with respect to the Issuer, the Mayor, City Clerk or the City Controller (or such other officer as the Issuer shall notify the Developer and the Trustee in writing as being an Authorized Representative, with evidence of such authority); and (ii) with respect to the Developer, the President (or such other person as the Developer shall notify the Issuer and the Trustee in writing as being an Authorized Representative, with evidence of such authority).

“Bondholders” means registered owners of the Bonds.

“Bonds” means any Bonds issued pursuant to this Indenture, including the Series 2025 Bonds.

“Bond Counsel” means Counsel that is nationally recognized in the area of municipal law and matters relating to the exclusion of interest on municipal bonds from gross income under federal tax law.

“Bond Fund” means the Bond Fund established by Section 4.2 of this Indenture.

“Bond Ordinance” means Ordinance No. \_\_\_\_\_, adopted by the Common Council of the Issuer on February \_\_, 2025, authorizing and approving the issuance and sale of the Series 2025 Bonds, and approving the forms of the Loan Agreement, this Indenture and related matters.

“City” means the City of Terre Haute, Indiana, a municipal corporation organized and validly existing under the laws of the State.

“Clerk” means the Clerk of the Issuer.

“Code” means the Internal Revenue Code of 1986, as amended

“Controller” means the Controller of the Issuer.

“Construction Fund” means the Construction Fund created and established pursuant to Section 4.4 hereof.

“Counsel” means an attorney duly admitted to practice law before the highest court of any state and approved by the Issuer.

“Developer” means, Terminal Hotel Partners, LLC, and any related party and their successors and assigns under the Loan Agreement.

“Developer Parties” means, with respect to the Development or any portion thereof, the Loan Agreement or this Indenture: (a)(i) the Affiliates of the Developer, (ii) developers working under contract with the Developer or any Affiliate of the Developer, (iii) joint owners of the Development or any portion thereof, (iv) joint (or other) venturers with the Developer or any Affiliate of the Developer, (v) lessees of property in the Allocation Area from the Developer or any Affiliate of the Developer, (vi) lessors of property in the Allocation Area to the Developer or any Affiliate of the Developer, and (vii) trusts (business or other) established with or for the benefit of the Developer or any Affiliate of the Developer or the Development or any portion thereof, and (b) their successors and assigns.

“Development” means (a) the construction, renovation, improvement and equipping of the Project, and (b) all acquisition, construction, renovation, improvement and equipping projects related to the projects described in clauses (a), together with any costs related thereto. The Development will be located in an area of the corporate boundaries of the Issuer within or adjacent to the existing Economic Development Area, and is, or will be, located in or physically connected to the Allocation Area.

“District” means the City of Terre Haute Redevelopment District.



“Economic Development Area” means the 2020 Consolidated Economic Development Area, an economic development area within the District previously established by the Redevelopment Commission in accordance with IC 36-7-14.

“Economic Development Commission” means the City of Terre Haute Economic Development Commission.

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

“Government Obligations” means bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the timely payment of the principal of and the interest on which are fully and unconditionally guaranteed by, the United States of America or any agency or instrumentally thereof when such obligations are backed by the full faith and credit of the United States of America.

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

“Interest Payment Date” means, with respect to any Series 2025 Bonds, \_\_\_\_\_.

“Issuer” means the City of Terre Haute, Indiana, a municipal corporation organized and validly existing under the laws of the State or any successor to its rights and obligations under the Loan Agreement, the Loan Agreement and this Indenture.

“Loan Agreement” means the Economic Project and Loan Agreement, dated \_\_\_\_\_, 2025, by and among the Issuer, the Redevelopment Commission, and the Developer concerning the construction and financing of the Development and the loan of the proceeds of the Series 2025 Bonds to the Developer and all amendments and supplements thereto.

“Opinion of Bond Counsel” means a written opinion of Bond Counsel which opinion is acceptable to the Issuer and the Trustee.

“Paying Agent” means any bank or trust company at which principal of and interest on the Bonds is payable, which initially is \_\_\_\_\_, in \_\_\_\_\_, Indiana.

“Project” means the acquisition, construction, renovation and equipping of a new 114-room hotel facility including parking facilities and a skybridge over 7<sup>th</sup> Street in the City as well as certain related facilities and amenities all to be located in the Allocation Area.

“Purchaser” means \_\_\_\_\_.

“Record Date” means \_\_\_\_\_.

“Redevelopment Commission” means the City of Terre Haute Redevelopment Commission, governing body of the District.

“Registrar” means initially \_\_\_\_\_, in \_\_\_\_\_, Indiana, a \_\_\_\_\_ banking association organized and existing under the laws of the State of Indiana or any successor thereto.

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

“Series 2025 Bonds” means collectively, the Series 2025A Bonds, the Series 2025B Bonds, and the Series 2025C Bonds.

“Series 2025A Bonds” means the City of Terre Haute, Indiana, Taxable Economic Development Tax Increment Revenue Bonds, (Downtown Hotel Project), Series 2025A dated \_\_\_\_\_, 202\_, issued in the aggregate principal amount of \$ \_\_\_\_\_, authorized pursuant to Section 2.1 hereof.

“Series 2025B Bonds” means the City of Terre Haute, Indiana, Taxable Economic Development Tax Increment Revenue Bonds, (Downtown Hotel Project), Series 2025B dated \_\_\_\_\_, 202\_, issued in the aggregate principal amount of \$ \_\_\_\_\_, authorized pursuant to Section 2.1 hereof.

“Series 2025C Bonds” means the City of Terre Haute, Indiana, Taxable Economic Development Tax Increment Revenue Bonds, (Downtown Hotel Project), Series 2025C dated \_\_\_\_\_, 202\_, issued in the aggregate principal amount of \$ \_\_\_\_\_, authorized pursuant to Section 2.1 hereof.

“Series of Bonds” or “Bonds of a Series” or “Series” or words of similar meaning means any Series of Bonds authorized by this Indenture or by a Supplemental Indenture.

“State” means the State of Indiana.

“Tax Increment Revenues” means the property tax proceeds received by the Redevelopment Commission and pledged to the Issuer pursuant to the TIF Pledge Resolution, which proceeds are derived from the assessed valuation of property in the Allocation Area in excess of the assessed valuation described in IC 36-7-14-39(b)(1), as such statutory provision exists on the date of execution of this Indenture.

“TIF Pledge Resolution” means Resolution No. \_\_\_\_\_, adopted by the Redevelopment Commission on \_\_\_\_\_, 2025, pledging the Tax Increment Revenues to the payment of the Bonds on a subordinate basis to all current and future pledges of the Tax Increment Revenues.

“Trustee” means \_\_\_\_\_, in \_\_\_\_\_, Indiana, a \_\_\_\_\_ banking association with a designated trust office in the City of \_\_\_\_\_, Indiana, and any successor trustee or co-trustee.

“Trust Estate” shall have the meaning ascribed to such term in the Granting Clauses of this Indenture.



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 Loan Agreement shall have the same meaning herein.
- (f) The terms defined elsewhere in this Indenture shall have the meanings therein prescribed for them.
- (g) The word “including” and any variation thereof means “including, without limitation” and must not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.
- (h) Where a term is defined, another part of speech or grammatical form of that term shall have a corresponding meaning.

(End of Article I)

**ARTICLE II.**

**THE SERIES 2025 BONDS**

Section 2.1. Authorized Amount of Series 2025 Bonds. No Bonds may be issued under the provisions of this Indenture except in accordance with this Article. The principal amount of the Series 2025 Bonds (other than Bonds issued in substitution therefor pursuant to Section 2.7 hereof) that may be issued is hereby expressly limited to \$ \_\_\_\_\_.

Section 2.2. Issuance of the Series 2025 Bonds. The Series 2025 Bonds shall be issued in three series including Series 2025A Bonds, Series 2025B Bonds, and Series 2025C Bonds.

(a) Series 2025A Bonds

(i) The Series 2025A Bonds shall be designated “City of Terre Haute, Indiana, Taxable Economic Development Tax Increment Revenue Bonds, Series 2025A (Downtown Hotel Project),” and shall have such terms, conditions and characteristics as specified in the form of the Series 2025 Bonds attached as Exhibit A hereto and made a part hereof. The Series 2025A Bonds shall be numbered from 25AR-1 upwards; provided however, the Series 2025A Bonds may be numbered in any other manner acceptable to the Trustee and the Issuer.

(ii) The Series 2025A Bonds shall be originally issuable as fully registered Bonds without coupons in denominations of \$100,000 or any multiple of \$1,000 in excess thereof.

(iii) The Series 2025A Bonds shall be dated as of the date of their delivery. Interest shall be computed on the basis of a three hundred sixty (360) day year consisting of twelve (12) thirty (30) day months. The interest on the Series 2025A Bonds shall be payable on \_\_\_\_\_ (the “Interest Payment Date”).

(iv) The Series 2025A Bonds shall mature on the following date in the following amount and at the following per annum interest rate, set forth below:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
_____	\$ _____	_____ %

(b) Series 2025B Bonds

(i) The Series 2025B Bonds shall be designated “City of Terre Haute, Indiana, Taxable Economic Development Tax Increment Revenue Bonds, Series 2025B (Downtown Hotel Project),” and shall have such terms, conditions and characteristics as specified in the form of the Series 2025 Bonds attached as Exhibit A hereto and made a part hereof. The Series 2025B Bonds shall be numbered from 25BR-1 upwards; provided however, the Series 2025B Bonds may be numbered in any other manner acceptable to the Trustee and the Issuer.



(ii) The Series 2025B Bonds shall be originally issuable as fully registered Bonds without coupons in denominations of \$100,000 or any multiple of \$1,000 in excess thereof.

(iii) The Series 2025B Bonds shall be dated as of the date of their delivery. Interest shall be computed on the basis of a three hundred sixty (360) day year consisting of twelve (12) thirty (30) day months. The interest on the Series 2025B Bonds shall be payable on \_\_\_\_\_ (the "Interest Payment Date").

(iv) The Series 2025B Bonds shall mature on the following date in the following amount and at the following per annum interest rate, set forth below:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
_____	\$ _____	_____ %

(c) Series 2025C Bonds

(i) The Series 2025C Bonds shall be designated "City of Terre Haute, Indiana, Taxable Economic Development Tax Increment Revenue Bonds, Series 2025C (Downtown Hotel Project)," and shall have such terms, conditions and characteristics as specified in the form of the Series 2025 Bonds attached as Exhibit A hereto and made a part hereof. The Series 2025C Bonds shall be numbered from 25CR-1 upwards; provided however, the Series 2025C Bonds may be numbered in any other manner acceptable to the Trustee and the Issuer.

(ii) The Series 2025C Bonds shall be originally issuable as fully registered Bonds without coupons in denominations of \$100,000 or any multiple of \$1,000 in excess thereof.

(iii) The Series 2025C Bonds shall be dated as of the date of their delivery. Interest shall be computed on the basis of a three hundred sixty (360) day year consisting of twelve (12) thirty (30) day months. The interest on the Series 2025C Bonds shall be payable on \_\_\_\_\_ (the "Interest Payment Date").

(iv) The Series 2025C Bonds shall mature on the following date in the following amount and at the following per annum interest rate, set forth below:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
_____	\$ _____	_____ %

(d) Each of the Series 2025A Bonds, the Series 2025B Bonds, and the 2025C Bonds shall be issued on a parity basis with each other series of the 2025A Bonds and on a subordinate basis to all other bonds of the Redevelopment Commission payable from a pledge of the Tax Increment Revenues.

Section 2.3. Payment of Principal and Interest on the Series 2025 Bonds. The interest on the Series 2025 Bonds shall be payable by check or draft mailed one Business Day prior to the Interest Payment Date to the person in whose name each Bond is registered as of the Record Date for such Interest Payment Date at each address as it appears on the registration and transfer books maintained by the Registrar or at such other address as is provided to the Trustee, the Registrar and the Paying Agent in writing by such registered owner. Each registered owner of \$100,000 or more in principal amount of Series 2025 Bonds shall be entitled to receive interest payments by wire transfer by providing written wire instructions to the Trustee, the Registrar and the Paying Agent before the Record Date for such payment. The principal of, and premium, if any, on the Series 2025 Bonds shall be payable upon surrender thereof in lawful money of the United States of America, at the designated corporate trust office of the Paying Agent, initially in Terre Haute, Indiana.

Section 2.4. Execution; Limited Obligation. The Series 2025 Bonds shall be executed on behalf of the Issuer with the manual or facsimile signature of the Mayor of the City and attested with the manual or the facsimile signature of its Clerk and shall have impressed or printed thereon the corporate seal of the Issuer. Such facsimiles shall have the same force and effect as if such officer had manually signed each of said Series 2025 Bonds. In case any officer whose signature or facsimile signature shall appear on the Series 2025 Bonds shall cease to be such officer before the delivery of such Series 2025 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 2025 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 2025 Bonds, as to both principal and interest, are not an obligation or liability of the Issuer, 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 pledged and assigned for their payment in accordance with this Indenture. Neither the faith and credit nor the taxing power of the Issuer, the State of Indiana or any political subdivision or taxing authority thereof is pledged to the payment of the principal of or the interest on the Series 2025 Bonds. The Series 2025 Bonds do not grant the owners or holders thereof any right to have the Issuer, the State of Indiana or its General Assembly, or any political subdivision or taxing authority of the State of Indiana, levy any taxes or appropriate any funds for the payment of the principal of or interest on the Series 2025 Bonds. The Issuer has no taxing power with respect to the Series 2025 Bonds. No covenant or agreement contained in the Series 2025 Bonds or this Indenture shall be deemed to be a covenant or agreement of any member, director, officer, agent, attorney or employee of the Economic Development Commission, the Redevelopment Commission or the Issuer in his or her individual capacity, and no member, director, officer, agent, attorney or employee of the Economic Development Commission, the Redevelopment Commission, or the Issuer executing the Series 2025 Bonds shall be liable personally on the Series 2025 Bonds or be subject to any personal liability or accountability by reason of the issuance of the Series 2025 Bonds. Under no circumstances shall the Developer or any of the Developer Parties or any other taxpayer in the Allocation Area be liable for making any payments due under this Indenture or on the Series 2025 Bonds, including any payment of principal of, premium, if any, or interest on the Series 2025 Bonds.



Section 2.5. Authentication. No 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 Bond substantially in the form hereinafter 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 Bond has been authenticated and delivered under this Indenture. The Trustee's certificate of authentication on any 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 Bonds issued hereunder.

Section 2.6. Delivery of Series 2025 Bonds. Upon the execution and delivery of this Indenture, the Issuer shall execute and deliver the Series 2025 Bonds to the Trustee in the aggregate principal amount authorized in Section 2.1 hereof. The Trustee shall authenticate such Series 2025 Bonds and deliver them to the Purchaser thereof upon receipt of:

- (a) A copy of the Bond Ordinance, duly certified by the Clerk.
- (b) A copy of the TIF Pledge Resolution, duly certified by the Secretary of the Redevelopment Commission.
- (c) Executed counterparts of the Loan Agreement and this Indenture.
- (d) A written request of the Issuer to the Trustee requesting the Trustee to authenticate, or cause to be authenticated, and deliver the Series 2025 Bonds to the purchasers thereof in the aggregate principal amount authorized in Section 2.1 hereof.
- (e) Such other documents as shall be required by Bond Counsel or the Issuer.

The proceeds of the Series 2025 Bonds shall be paid over to the Trustee and deposited to the credit of various Funds as hereinafter provided under Article III hereof.

Section 2.7. Mutilated, Lost, Stolen or Destroyed Bonds. In the event any Bond is mutilated, lost, stolen or destroyed, the Issuer, through the Trustee, may execute and the Trustee may authenticate a new Bond of like date, maturity, series and denomination as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Issuer, and in the case of any lost, stolen or destroyed 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.

In the event any such Bond shall have matured, instead of issuing a duplicate Bond the Issuer may pay the same without surrender thereof; provided, however, that in the case of a lost, stolen or destroyed 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 Bond with its reasonable fees and expenses in this connection. Any Bond issued pursuant to this Section 2.7 shall be deemed part of the original series of Bonds in respect of which it was issued and an original additional contractual obligation of the Issuer.

Section 2.8. Registration and Exchange of Bonds: Persons Treated as Owners. The Issuer shall cause books for the registration and for the transfer of the 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 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 or her 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 Bond or Bonds of the same series and the same maturity for a like aggregate principal amount. The execution by the Issuer of any fully registered 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 Bond. The costs of such transfer or exchange shall be borne by the Issuer. The Trustee shall not be required to transfer or exchange any fully registered Bond during the period between the Record Date and any interest payment date of such Bond, nor to transfer or exchange any Bond after the mailing of notice calling such Bond for redemption has been made, nor during a period of fifteen (15) days next preceding mailing of a notice of redemption of any Series 2025 Bonds.

As to any fully registered Bond without coupons, 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 his legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

(End of Article II)



## ARTICLE III.

### APPLICATION OF BOND PROCEEDS AND OTHER FUNDS

Section 3.1. Deposit of Bond Proceeds. The Issuer shall deposit with the Trustee the net proceeds from the sale of each series of the Series 2025 Bonds on the date of issuance of each such series, which consists of the amount, collectively, of \$\_\_\_\_\_. The Trustee shall deposit the net proceeds into the Construction Fund for the purposes described in Section 4.4 hereof.

(End of Article III)

## ARTICLE IV.

### REVENUE AND FUNDS

Section 4.1. Source of Payment of the 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 Tax Increment Revenues pledged and assigned for their payment in accordance with this Indenture. No covenant or agreement contained in the Bonds or this Indenture shall be deemed to be a covenant or agreement of any member, director, officer, agent, attorney or employee of the Issuer in his or her individual capacity, and no 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. The Redevelopment Commission has pledged the Tax Increment Revenues to the payment of the Bonds.

Section 4.2. Bond Fund.

(a) The Trustee shall establish and maintain, so long as any of the Series 2025 Bonds are outstanding, a separate fund to be known as the "City of Terre Haute, Indiana, Downtown Hotel Project Bond Fund" (the "Bond Fund"). Money in the Bond Fund shall be applied as provided in this Section 4.2.

(b) There shall be deposited into the Bond Fund, at such times prescribed by Section 4.2(c) hereof, the Tax Increment Revenues in an amount equal to the payments due on the Series 2025 Bonds on the next Interest Payment Date, together with all Annual Fees coming due within the next six (6) months with respect to the Series 2025 Bonds.

(c) The Issuer hereby covenants and agrees that so long as any of the Series 2025 Bonds issued hereunder are outstanding, it will deposit, or cause to be paid to Trustee for deposit into the Bond Fund for its account, prior to 10:00 a.m., Eastern time, at least three (3) business days immediately preceding each Interest Payment Date, sufficient sums from revenues and receipts derived from the Tax Increment Revenues promptly to meet and pay the amounts required under Section 4.2(b) hereof. Nothing herein should be construed as requiring the Issuer to deposit or cause to be paid to Trustee for deposit into the Bond Fund, funds from any source other than receipts derived from the Tax Increment Revenues.

(d) The Controller, as the fiscal officer of the Redevelopment Commission, shall set aside the Tax Increment Revenues (in the amounts described in Section 4.3 hereof) deposited into the Allocation Fund and transfer such Tax Increment Revenues to the Trustee, no later than three (3) business days prior to \_\_\_\_\_, for application in accordance with this Indenture. The Trustee is hereby directed to deposit any Tax Increment Revenues received into the Bond Fund in the manner prescribed in this Section 4.2 and in Section 4.3 hereof. Moneys in the Bond Fund shall be used by the Trustee to pay the interest on and principal of the Series 2025 Bonds as the same becomes due, together with the Annual Fees described in subsection (b), in that sequence or order of priority.



(e) Moneys in the Bond Fund shall be used by the Trustee to pay principal of, premium, if any, and interest on the Series 2025 Bonds as they become due at maturity, upon redemption or upon acceleration. If necessary, the Trustee shall transmit such funds to the Paying Agent for any series of Bonds in sufficient time to ensure that such interest will be paid as it becomes due.

Section 4.3. Deposit of Tax Increment Revenues.

(a) On or before one (1) business day before the Interest Payment Date, the Trustee shall deposit the Tax Increment Revenues (as received from the Redevelopment Commission in accordance with the TIF Pledge Resolution) into the Bond Fund, but no more than shall be necessary for the payment of the principal of and interest on the Series 2025 Bonds on the immediately succeeding Interest Payment Date (taking into consideration any amounts currently deposited therein), together with Annual Fees coming due within the next six (6) months.

(b) Any amounts remaining from deposits described in Section 4.3(a) shall be applied by the Trustee as follows: (a) *first*, to pay any overdue principal and interest on outstanding Series 2025 Bonds, with interest continuing to accrue on such overdue amounts at the stated rate on such Series 2025 Bonds until paid, and (b) *second*, to redeem outstanding Series 2025 Bonds in accordance with Section 5.1 hereof, as directed by the Issuer, or to be released and returned to the Issuer and used for any other purpose permitted by the Act.

Section 4.4. Construction Fund.

(a) The Construction Fund (the "Construction Fund") is hereby created, and all amounts therein shall be maintained and held by the Trustee in accordance with the terms of this Indenture. Upon the written request of the Issuer, the Trustee shall establish and maintain hereunder such additional accounts or subaccounts within the Construction Fund as the Issuer may specify from time to time to the extent that in the judgment of the Trustee the establishment of such account or subaccount is not to the material prejudice of the Trustee or the holders of the Series 2025 Bonds.

(b) Moneys held in Construction Fund shall be disbursed by the Trustee in accordance with the provisions of this Section 4.4 to pay costs of issuance of the Series 2025 Bonds (including, without limitation, those costs set forth in Exhibit B hereto, which shall be deemed to be hereby approved without further approval of the Issuer or the Developer or such other costs as certified to the Trustee by the City Controller), and to pay the costs of completing the Development approved by the Issuer in accordance with the terms and conditions set forth in the Loan Agreement. Subject to the limitations below and any applicable conditions precedent, limitations, restrictions, representations, warranties and covenants contained in the Loan Agreement, the Loan Agreement, or this Indenture, disbursements from Construction Fund shall be made only to pay (or to reimburse the Developer or its designee for payment of) the Annual Fees and costs of the Development approved by the Issuer, as follows:

(1) Costs incurred directly or indirectly for or in connection with the acquisition, construction, expansion, equipping, installation, or improvement of the Development, as the case may be, including: [costs incurred with respect to preliminary

planning and studies; architectural, legal, engineering, accounting, consulting, supervisory and other services; demolition; labor, services and materials; and recording of documents and title work];

(2) Costs incurred directly or indirectly in seeking to enforce any remedy against any contractor or subcontractor in respect of any actual or claimed default under any contract relating to the Development, as the case may be;

(3) Any financial, legal and accounting charges and expenses or other incidental and necessary costs, expenses, fees and charges approved by the Issuer relating to the acquisition, construction, expansion, equipping, installation, or improvement of the Development, as the case may be.

Any disbursements from the Construction Fund described above to pay such fees, costs or expenses (or to reimburse the Developer for the payment of such fees, costs or expenses) shall be made by the Trustee only upon the written request of an Authorized Representative for the Developer, with the prior written approval of the Issuer. Each such written request shall be in the form of the disbursement request attached as Exhibit C hereto and shall be consecutively numbered and accompanied by invoices or other appropriate documentation supporting the payments or reimbursements requested. The Trustee shall not make any disbursements from the Construction Fund without the prior written approval of the Issuer.

(c) In making disbursements from the Construction Fund or any accounts thereof, the Trustee may rely upon such invoices or other appropriate documentation supporting the payments or reimbursements, without further investigation. The Trustee shall not be bound to make an investigation into the facts or matters stated in any written request. The Trustee shall not be responsible for determining whether the funds on hand in the Project Fund are sufficient to complete the Project. The Trustee shall have no responsibility whatsoever to disburse or transfer funds absent written instructions from the Issuer, and the Trustee shall have no responsibility whatsoever with respect to the Loan Agreement.

Section 4.5. Trust Funds. All moneys and securities received by the Trustee under the provisions of this Indenture shall be trust funds under the terms hereof and shall not be subject to lien or attachment of any creditor of the Issuer or of the Developer. Such moneys shall be held in trust and applied in accordance with the provisions of this Indenture. For the avoidance of doubt, notwithstanding anything else contained in this Indenture, the obligations of the Developer under the Loan Agreement shall not be assignable to the Trustee nor shall any payments made under the Loan Agreement constitute security for the Bonds.

Section 4.6. Investment. Moneys on deposit in the Funds established in this Article IV hereof shall be invested as provided in Section 6.5 hereof.

(End of Article IV)



## ARTICLE V.

### REDEMPTION OF SERIES 2025 BONDS PRIOR TO MATURITY

Section 5.1. Redemption Dates and Prices. The Series 2025 Bonds are subject to redemption at the option of the Issuer on any date, in whole or in part (in authorized denominations), in order of maturity determined by Issuer and by lot within maturities, at face value, plus accrued interest to the date fixed for redemption and without premium.

Section 5.2. Notice to Trustee of Intent to Redeem. To evidence its intention to exercise the right of redemption of any Series 2025 Bonds, the Issuer shall, not less than [seven (7)] days prior to the date selected for redemption, file with the Trustee written notice of its intention to redeem, designating the date fixed for redemption and, if less than all of the outstanding Series 2025 Bonds are to be redeemed, stating the aggregate principal amount of Series 2025 Bonds which the Issuer desires to redeem. No failure or defect in such notice by the Issuer to the Trustee shall affect the validity of the redemption of any Series 2025 Bonds.

Section 5.3. Notice to Bondholders of Redemption. In the case of redemption of Series 2025 Bonds pursuant to Section 5.1 hereof, unless waived by the registered owners of the Series 2025 Bonds to be redeemed, notice of the call for any such redemption identifying the Series 2025 Bonds, or portions of fully registered Series 2025 Bonds, to be redeemed shall be given by mailing a copy of the redemption notice by first-class mail not less than [seven (7)] days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books. Any notice of redemption required under this Section shall identify the Series 2025 Bonds to be redeemed, including the complete name of the Series 2025 Bonds, the interest rate, the issue date, the maturity date, the respective CUSIP numbers (if any) and certificate numbers (and, in the case of a partial redemption, the respective principal amounts to be called) and shall state (i) the date fixed for redemption, (ii) the redemption price, (iii) that the Series 2025 Bonds called for redemption must be surrendered to collect the redemption price, (iv) the address of the corporate trust office of the Trustee at which the Series 2025 Bonds must be surrendered together with the name and telephone number of a person to contact from the office of the Trustee, (v) any condition precedent to such redemption, (vi) that on the date fixed for redemption, and upon the satisfaction of any condition precedent described in the notice, the redemption price will be due and payable upon each such Bond or portion thereof and that interest on the Bonds called for redemption ceases to accrue on the date fixed for redemption, and (vii) that if such condition precedent is not satisfied, such notice of redemption is rescinded and of no force and effect, and the principal and premium, if any, shall continue to bear interest on and after the date fixed for redemption at the interest rate borne by the Bond; provided, however, that failure to give such notice by mailing, or any defect therein, with respect to any such registered Bond shall not affect the validity of any proceedings for the redemption of other Series 2025 Bonds.

On and after the redemption date specified in the aforesaid notice, such Series 2025 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.

Notice of any redemption hereunder required to be given to the owners with respect to the Series 2025 Bonds held under a book-entry system shall be given by the Trustee only to the relevant depository, or its nominee, as the holder of such Series 2025 Bonds.

Section 5.4. Cancellation. All Series 2025 Bonds which have been redeemed in whole shall be canceled and cremated or otherwise destroyed by the Trustee and shall not be reissued, and a counterpart of the certificate of cremation or other destruction evidencing such cremation or other destruction shall be furnished by the Trustee to the Issuer.

Section 5.5. 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 2025 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 2025 Bonds thus called shall no longer accrue after the date fixed for redemption. No payment shall be made by the Trustee upon any Bond until such Bond shall have been delivered for payment or cancellation or the Trustee shall have received the items required by Section 2.7 hereof with respect to any mutilated, lost, stolen or destroyed Bond.

Section 5.6. Partial Redemption of Series 2025 Bonds. If fewer than all of the Series 2025 Bonds at the time outstanding are to be called for redemption, the maturities of Series 2025 Bonds or portions thereof to be redeemed shall be selected by the Trustee at the direction of the Issuer. If fewer than all of the Series 2025 Bonds within a maturity are to be redeemed, the Trustee shall apply moneys available for redemption on a pro rata basis, based on the respective portion of the principal amount of Series 2025 Bonds held by the respective owners of the Series 2025 Bonds within such maturity that shall be redeemed. The Trustee shall call for redemption in accordance with the foregoing provisions as many Series 2025 Bonds or portions thereof as will, as nearly as practicable, exhaust the moneys available therefor. Particular Series 2025 Bonds or portions thereof shall be redeemed only in the minimum principal amount of \$100,000 or integral multiples of \$1,000 in excess thereof.

If less than the entire principal amount of any registered Bond then outstanding is called for redemption, then upon notice of redemption given as provided in Section 5.3 hereof, the owner of such registered Bond shall forthwith surrender such Bond to the Trustee in exchange for (a) payment of the redemption price of, plus accrued interest on the principal amount called for redemption, and (b) a new Bond or Series 2025 Bonds of like series in an aggregate principal amount equal to the unredeemed balance of the principal amount of such registered Bond, which shall be issued without charge therefor.

(End of Article V)



## ARTICLE VI.

### GENERAL COVENANTS

Section 6.1. Payment of Principal and Interest. The Issuer covenants that it will promptly pay the principal of and interest on every Bond issued under this Indenture at the place, on the dates and in the manner provided herein and in said Bonds according to the true intent and meaning thereof. The principal of and interest on the Bonds are payable solely and only from the Trust Estate, consisting of funds and accounts held under this Indenture and the Tax Increment Revenues, which revenues are specifically pledged and assigned to the payment of the Bonds 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, 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 Bonds, as to both principal and interest, are not an obligation or liability of the Issuer, the State of Indiana, or of any political subdivision or taxing authority thereof, but are special limited obligations of the Issuer and are payable solely and only from the Trust Estate, consisting of funds and accounts held under this Indenture and the Tax Increment Revenues pledged and assigned for payment of the Bonds in accordance with this Indenture. Neither the faith and credit nor the taxing power of the Issuer, the State of Indiana or any political subdivision or taxing authority thereof is pledged to the payment of the principal of or 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 or interest on the Bonds. The Issuer has no taxing power with respect to the Bonds. No covenant or agreement contained in the Bonds, the Loan Agreement, the Loan Agreement or this Indenture shall be deemed to be a covenant or agreement of any member, director, officer, agent, attorney or employee of the Economic Development Commission, the Redevelopment Commission or the Issuer in his or her individual capacity, and no member, director, officer, agent, attorney or employee of the Economic Development Commission, the Redevelopment 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. Under no circumstances shall the Developer or any of the Developer Parties or any other taxpayer in the Allocation Area be liable for making any payments due under this Indenture or on Bonds, including any payment of principal of, premium, if any, or interest on 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, to pledge and assign the Tax Increment 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 and Security Instruments. The Issuer shall cause this Indenture 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 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 the consent of the debtor parties thereto.

Section 6.4. List of Bondholders. The Trustee will keep on file at the principal office of the Trustee a list of names and addresses of the Bondholders. At reasonable times and under reasonable regulations established by the Trustee, said list may be inspected and copied by the 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 6.5. Investment of Funds. All moneys held by the Trustee in any Fund established by this Indenture may, at the written direction of the Issuer, be invested in Government Obligations to the extent permitted by law. For so long as the Trustee is in compliance with the provisions of this Section, the Trustee shall not be liable for any investment losses. All such investments shall at all times be a part of the fund or account in which the moneys used to acquire such investments have been deposited, and all income derived from the investment of moneys on deposit in such fund shall be deposited into or credited to, and any loss resulting from such investment will be charged to the corresponding Fund from which such investment was made. Investments of moneys in the respective funds or accounts must be made so as to ensure preservation of principal. Moneys in any fund or account shall be invested in Government Obligations with a maturity date, or a redemption date determined by the Issuer at the Issuer's option, which shall coincide as nearly as practicable with times at which moneys in such funds or accounts will be required for the purposes thereof. The Trustee shall sell and reduce to cash a sufficient amount of such investments in the respective fund or account whenever the cash balance therein is insufficient to pay the amounts contemplated to be paid therefrom at the time those amounts are to be paid. The Trustee is hereby authorized to trade with itself in the purchase and sale of securities for investments. Neither the Trustee nor the Issuer shall be liable or responsible for any loss resulting from any investment. All such investments shall be held by or under the control of the Trustee or the Issuer, as applicable, and any income resulting therefrom shall be applied in the manner specified in this Indenture. Neither the Developer nor any Developer Parties shall be authorized or entitled to direct, or obligated to make, investments of Bond proceeds or any other funds held under this Indenture. Although the Issuer recognizes that it may obtain a broker confirmation at no additional cost, the Issuer hereby agrees 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 6.6. Non-presentment of Bonds. In the event 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 the Trustee for the benefit of the holder or holders thereof, all liability of the 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 the Trustee 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 Trustee not so applied to the payment of Bonds within five (5) years after the date on which the same shall become due shall be repaid by the Trustee to the Issuer, and thereafter Bondholders shall be entitled to look only to the Issuer for payment, and then only to the extent of the amount so repaid.

Section 6.7. Destruction of Bonds. Whenever any outstanding Bond shall be delivered to the Trustee, for cancellation pursuant to this Indenture, or upon payment of the principal amount or interest represented thereby, or for replacement pursuant to Section 2.7, such Bond shall be cancelled and destroyed by the Trustee, and a counterpart of a certificate of destruction evidencing such destruction shall be furnished by the Trustee to the Issuer.

(End of Article VI)

## ARTICLE VII.

### DEFAULTS AND REMEDIES

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

(a) payment of any principal or interest payable on the Bonds shall not be made when the same is due and payable, whether at the stated maturity thereof, or upon proceedings for the redemption thereof; 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 hereto on the part of the Issuer to be performed, and such default shall continue for sixty (60) days after written notice specifying such default and requiring the same to be remedied shall have been given to the Issuer by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of the Bondholders then outstanding hereunder; or

(c) the Issuer shall fail to apply collected Tax Increment Revenues as required by Article IV of this Indenture.

Section 7.2. Remedies: Rights of Bondholders.

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

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

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

(d) No delay or omission to exercise any right or power accruing upon any event of default shall impair any such right or power or shall be construed to be a waiver of any event of default or acquiescence therein, and every such right and power may be exercised from time to time as may be deemed expedient.

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



Section 7.3. Right of Bondholders to Direct Proceedings. The Requisite Bondholders 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 the 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.

Section 7.4. Application of Moneys.

(a) All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of the cost and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Trustee or the Issuer, be deposited into the Bond Fund, and all moneys in the Bond Fund shall be applied as follows:

(1) Unless the principal of all the Bonds shall have become 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 thereof, without any discriminations or privilege;

SECOND: To the payment to the persons entitled thereto of the unpaid principal 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; and

THIRD: To the payment of the balance, if any, to the Issuer or to whosoever may be lawfully entitled to receive the same upon its written request, or as any court of competent jurisdiction may direct.

(2) If the principal of all the Bonds shall have become due, 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 principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or privilege.

(b) Whenever moneys are to be applied pursuant to the provisions of this Section 7.4, 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.

(c) Whenever all principal of and interest on all Bonds have been paid under the provisions of this Section 7.4 and all expenses and charges of the Trustee have been paid, any balance remaining in the Bond Fund shall be paid as provided in Article IV hereof.

**Section 7.5. 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 Bondholders, and any recovery of judgment shall, subject to the provisions of Section 7.4 hereof, be for the equal benefit of the holders of the outstanding Bonds.

**Section 7.6. 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 (k) of Section 8.1, or of which pursuant to subsection (g) of Section 8.1 it is deemed to have notice, nor unless also such default shall have become an event of default and the Requisite Bondholders 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 Bondholders 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 7.7. 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 and the Trustee shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 7.8. 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 or interest exists, or (2) all Bonds then outstanding in the case of any other default; provided, however, that there shall not be waived without the consent of all Bondholders (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, arrear 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 arrear of payments of principal 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

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 Developer). The Trustee shall not be responsible for any loss or damage resulting from any action or non-action in good faith in reliance upon such opinion or advice.

(b) The Trustee shall not be responsible for any recital herein or in the Bonds (except in respect to the certificate of the Trustee endorsed on the Bonds), or for insuring the property herein conveyed or collecting any insurance moneys, or for the validity of the execution by the Issuer of this Indenture or of any supplements thereto or instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby, or for the value or title of the property herein conveyed or otherwise as to the maintenance of the security hereof; but the Trustee may require of the Issuer 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 Loan 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 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 Bonds, shall be conclusive and binding upon all future owners of the same Bond and 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 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 pursuant to said subsection it is deemed to have notice, the Trustee 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 in 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 under its seal to the effect that an ordinance or resolution in the form therein set forth has been adopted by the Issuer as conclusive evidence that such ordinance or resolution has been duly adopted and is in full force and effect.

(f) The duties and obligations of the Trustee shall be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee.

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

(h) 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 Project and to take such memoranda from and in regard thereto as may be desired.

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

(j) 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.

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



(l) All moneys received by the Trustee 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. The Trustee shall not be under any liability for interest on any moneys received hereunder except such as may be agreed upon.

(m) If any event of default under this Indenture shall have occurred and be continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture and shall use the same degree of care as a prudent man would exercise or use in the circumstances in the conduct of his own affairs.

(n) The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent by unsecured e-mail, facsimile transmission, or other similar unsecured electronic methods; provided, however, that the Issuer shall provide to the Trustee an incumbency certificate listing designated persons authorized to provide such instructions, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. The Issuer shall follow up any unsecured e-mail, facsimile transmission, or other similar unsecured electronic methods, by immediately mailing the original documents to the Trustee. If the Issuer elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reasonable reliance upon and compliance with such instructions notwithstanding that such instructions conflict with or are inconsistent with a subsequent written instruction. The Issuer agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions 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.

Section 8.2. Fees, Charges and Expenses of the Trustee. The Trustee shall be entitled to payment and/or reimbursement for reasonable fees for its services rendered hereunder and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by the Trustee 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 for the foregoing advances, fees, costs, and expenses incurred prior to payment on account of interest on or principal of any Bond. If the Trustee renders any service hereunder not provided for in this Indenture, or if the Trustee is made a party to or intervenes in any litigation pertaining to this Indenture or institutes interpleader proceedings relative hereto, the Trustee shall be compensated reasonably by the Issuer for such extraordinary services and reimbursed for any and all claims, liabilities, losses, damages, fines, penalties, and expenses, including out-of-pocket and incidental expenses and legal fees occasioned thereby.

Section 8.3. Notice to Bondholders if Default Occurs. If an event of default occurs of which the Trustee is pursuant to 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 as shown by the list of Bondholders required by the terms of this Indenture to be kept at the office of the Trustee.



Section 8.4. Intervention by Trustee. In any judicial proceeding to which the Issuer is a party and which in the reasonable judgment of the Trustee and its counsel has a substantial bearing on the interests of the Bondholders, the Trustee may intervene on behalf of Bondholders and, subject to the provisions of subsection (k) of Section 8.1, shall do so if requested in writing by the Requisite Bondholders. The rights and obligations of the Trustee under this Section are subject to the approval of a court of competent jurisdiction.

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

Section 8.6. Resignation by the Trustee. The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving thirty (30) days' written notice to the Issuer and 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 may be served personally or sent by registered or certified mail.

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

Section 8.8. Appointment of Successor Trustee by the Bondholders; Temporary Trustee. In case the Trustee hereunder shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by the owners of a majority in aggregate principal amount of Bonds then outstanding, by an instrument or concurrent instruments in writing signed by such owners, or by their attorneys-in-fact, duly authorized; provided, nevertheless, that in case of such vacancy, the Issuer, by an instrument executed by one of its duly authorized officers, may appoint a temporary Trustee to fill such vacancy until a successor Trustee shall be appointed by the Bondholders in the manner above provided; and any such temporary Trustee so appointed by the Issuer shall immediately and without further act be superseded by the Trustee so appointed by such Bondholders. Every such Trustee appointed pursuant to the provisions of this Section 8.8 shall be a trust company or bank, having a reported capital and surplus of not less than Fifty Million Dollars (\$50,000,000) 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 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 this 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.

(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, which shall not be inconsistent with the terms and provisions hereof, for any one or more of the following purposes:

- (a) To cure any ambiguity or formal defect or omission in this Indenture;
- (b) To grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Bondholders or the Trustee or any of them;
- (c) To subject to this Indenture additional revenues, properties or collateral;
- (d) To make any other change in this Indenture which, in the judgment of the Trustee, is not to the prejudice of the Trustee, the Issuer, the Developer or the Bondholders;
- (e) To modify, amend or supplement this 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 this Indenture such other terms, conditions and provisions as may be required by said Trust Indenture Act of 1939, as amended, or similar federal statute;
- (f) To achieve compliance with this Indenture with any applicable federal securities or tax law.

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 interest, or extension of the time of paying of interest, on 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 Bondholders which would be affected by the action to be taken, or (c) 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 Bondholders at the time outstanding which would be affected by the action to be taken, or (d) a modification of the rights, duties or immunities of the Trustee, without the written consent of the Trustee, or (e) a privilege or priority

of any Bond over any other Bonds, or (f) depriving the owners of any Bonds then outstanding of the lien thereby created.

Anything herein to the contrary notwithstanding, a supplemental indenture under this Article which may affect the amount or availability of the Bond proceeds to pay costs of the Project approved by the Issuer shall not become effective unless and until the Developer shall have consented in writing to the execution and delivery of such supplemental indenture. In this regard, the Trustee shall cause notice of the proposed execution and delivery of any such supplemental indenture together with a copy of the proposed supplemental indenture to be mailed by certified or registered mail to the Developer at least thirty (30) days prior to the proposed date of execution and delivery of any such supplemental indenture.

(End of Article IX)



## ARTICLE X.

### MISCELLANEOUS

Section 10.1. Satisfaction and Discharge. All rights and obligations of the Issuer under this Indenture shall terminate, and such instruments shall cease to be of further effect, and the Trustee shall execute and deliver all appropriate instruments evidencing and acknowledging the satisfaction of this Indenture, and shall assign and deliver to the Issuer any moneys and investments held in any Funds under this Indenture when:

- (a) all fees and expenses of the Trustee shall have been paid;
  - (b) the Issuer shall have performed all of its covenants and promises 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 Issuer, 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 Government Obligations, 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 or redemption price, if applicable, 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.

Section 10.2. Defeasance of Bonds. Any Bond shall be deemed to be paid and no longer Outstanding within the meaning of this Article X and for all purposes of this Indenture when (a) payment of the principal and interest of and premium, if any, on such Bond either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by irrevocably depositing with the Trustee in trust and have been irrevocably set aside exclusively for such payment, (1) cash sufficient to make such payment, (2) Government Obligations, maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make such payment, or (3) a combination of cash and such Government Obligations, (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, and (c) an Opinion of Bond Counsel to the effect that the Bonds are no longer outstanding under this Indenture. At such time as a Bond shall be deemed to be paid hereunder, as aforesaid, such Bond shall no longer be secured by or entitled to the benefits of this Indenture, except for the purposes of any such payment from such moneys or Government Obligations.

Notwithstanding the foregoing, no deposit under clause (a)(ii) of the immediately preceding paragraph shall be deemed payment of such Bonds as aforesaid until (a) proper notice of redemption of such Bonds shall have been previously given in accordance with Section 5.3 of this Indenture, or if the Bonds are not by their terms subject to redemption within the next succeeding sixty (60) days, until the Issuer 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 10.2 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 such Bonds.

All moneys so deposited with the Trustee as provided in this Section 10.2 may also be invested and reinvested, at the written direction of the Issuer, in Government Obligations, maturing in the amounts and at the times as hereinbefore set forth, and all income from all Government Obligations in the hands of the Trustee pursuant to this Section 10.2 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 into the Bond Fund as and when realized and collected for use and application as are other moneys deposited into the Bond Fund.

Notwithstanding any provision of any other Article of this Indenture which may be contrary to the provisions of this Section 10.2, all moneys or Government Obligations set aside and held in trust pursuant to the provisions of this Section 10.2 for the payment of Bonds (including premium thereon, if any) shall be applied to and used solely for the payment of the particular Bonds (including the premium thereon, if any) with respect to which such moneys or Government Obligations have been so set aside in trust.

Anything in Article IX hereof to the contrary notwithstanding, if moneys or Government Obligations have been deposited or set aside with the Trustee pursuant to this Section 10.2 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 10.2 shall be made without the consent of the Owner of each Bond affected thereby.

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

**Section 10.3. Application of Trust Money.** All money or investments deposited with or held by the Trustee pursuant to Section 10.1 or Section 10.2 shall be held in trust for the Bondholders, and applied by it, in accordance with the provisions of the Bonds and this Indenture, to the payment, either directly or through the Trustee, to the persons entitled thereto, of the principal 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 10.4. 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 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 Issuer shall not be deemed to be outstanding hereunder for the purpose of determining whether such requirement has been met. 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 Bonds until the Trustee shall have received notice in writing to the contrary.

Section 10.5. 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, the Developer and the Bondholders, any legal or equitable right, remedy or claim under or with 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, the Developer and the Bondholders as herein provided.

Section 10.6. 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 10.7. 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 Developer and the Trustee may, by written notice given by each to the others, designate any address or

addresses to which notices, demands, certificates or other communications to them shall be sent when required as contemplated by this Indenture. Until otherwise provided by the respective parties, all notices, demands, certificates and communications to each of them shall be addressed as follows:

To the Developer: Terminal Hotel Partners, LLC  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_

To the Issuer: City of Terre Haute, Indiana  
900 Wabash Avenue, Suite 201  
Terre Haute, IN 47807  
Attn: Executive Director

To the Trustee: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, Indiana \_\_\_\_\_  
Attn: Trust Department

Section 10.8. 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 10.9. Applicable Law. This Indenture shall be governed exclusively by the applicable laws of the State of Indiana.

Section 10.10. Immunity of Officers and Directors. No recourse shall be had for the payment of the principal of 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 as consideration for the execution of this Indenture and the issuance of such Bonds.

Section 10.11. Payments or Performance Due on Saturdays, Sundays, and Holidays. Except as specifically provided herein, if the last day for making any payment of principal of, redemption price or interest on any Bonds or taking any action, including, without limitation, exercising any remedy, under this Indenture shall be a Saturday, Sunday, or a legal holiday or a day on which banking institutions are authorized by law to close, then such payment may be made, or such action may be taken, on the next succeeding business day, and, if so made or taken, shall have the same force and effect as if made or taken on the date fixed for payment, redemption or



performance or if made on the date otherwise required by this Indenture. The amount of any payment due under this Indenture shall not be affected because payment is made on a date other than the date specified in this Indenture pursuant to this Section.

(End of Article X)

IN WITNESS WHEREOF, the CITY OF TERRE HAUTE, INDIANA, has caused this Indenture to be signed in its name and on its behalf by the Mayor and attested by its Controller, and to evidence its acceptance of the trusts hereby created, \_\_\_\_\_ has caused this Indenture to be signed in its name and on its behalf by, and the same to be attested by, its duly authorized officers, all as of the day and year first above written.

CITY OF TERRE HAUTE, INDIANA

By:

\_\_\_\_\_  
Brandon Sakbun, Mayor

Attest:

\_\_\_\_\_  
Jessica Thome, Controller

\_\_\_\_\_, as Trustee

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

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

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

Attest:

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

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

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

*[Signature page of Trust Indenture]*



**EXHIBIT A**

**Form of Bonds**

The Bonds issued under this Indenture shall be substantially in the form set forth below with such appropriate variations, omissions, and insertions as are permitted or required by this Indenture or deemed necessary by the Trustee:

**No. 25[A/B/C]R-1**

**UNITED STATES OF AMERICA**

**STATE OF INDIANA**

**VIGO COUNTY**

**CITY OF TERRE HAUTE, INDIANA**

**TAXABLE ECONOMIC DEVELOPMENT TAX INCREMENT REVENUE BOND,  
SERIES 2025[A/B/C]  
(DOWNTOWN HOTEL PROJECT)**

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Original Date</u>	<u>Authentication Date</u>
_____ %	_____, 202_	_____, 202_	_____, 202_

Registered Owner: \_\_\_\_\_

Principal Amount: \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_)

The City of Terre Haute, Indiana (the "Issuer"), a municipal corporation 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 or registered assigns, upon surrender at the final maturity date hereof, but solely from the Trust Estate (as defined in the hereinafter described Indenture) pledged and assigned for the payment hereof, the Principal Amount set forth above, unless this Bond (as hereinafter defined) shall have previously been called for redemption and payment of the redemption price made or provided for, and to pay interest on the unpaid principal amount hereof, in like money, but solely from said payments, at the Interest Rate specified above per annum payable on \_\_\_\_\_ (the "Interest Payment Date"). Interest on this Bond shall be payable from the Original Date specified above (the "Interest Date"), except that if interest on this Bond is in default, the Interest Date shall be the day after the date to which interest hereon has been paid in full. Interest shall be calculated on the basis of a 360-day year consisting of twelve 30-day months.

The principal of this Bond is payable at the office of \_\_\_\_\_, as trustee (the "Trustee", "Registrar" or "Paying Agent"), in Terre Haute, Indiana, or at the principal office of any successor trustee. All payments of interest hereon will be made by the Trustee by check mailed one business day prior to the 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"). Each registered owner of \$100,000 or more in principal amount of Bonds shall be entitled to receive interest payments by wire transfer by providing written wire instructions to the Trustee before the Record Date.

This bond is one of an authorized series of bonds of the Issuer, all of like date, tenor and effect (except as to numbering, interest rates, and date of maturity), designated as the City of Terre Haute, Indiana, Taxable Economic Development Tax Increment Revenue Bonds, Series 2025[A/B/C] (Downtown Hotel Project), dated \_\_\_\_\_, 202\_ (the "Bonds"), issued under and secured by a Trust Indenture, dated as of \_\_\_\_\_, 202\_ (the "Indenture"), duly executed and delivered by the Issuer to the Trustee, to which reference is hereby made for a description of the property securing the Bonds, and the rights under the Indenture of the Issuer, the registered owners of the Bonds and the Trustee. The Bonds are limited in aggregate principal amount to \$ \_\_\_\_\_. Each of the Bonds are being issued on a parity basis with the other series of City of Terre Haute, Indiana, Taxable Economic Development Tax Increment Revenue Bonds, Series 2025 (Downtown Hotel Project) and are being issued on a junior basis to all other bonds of the Issuer secured by a pledge and assignment of the Tax Increment Revenues (as defined in the Indenture). The Bonds are being issued for the purpose of providing funds to (a) finance a portion of the cost of the Development (as defined in the Indenture), and (b) pay costs incurred in connection with and on account of the issuance of the Bonds. The Issuer has agreed to issue the Bonds and to provide a portion of proceeds thereof to Terminal Hotel Partners, LLC (the "Developer"), pursuant to the terms of a Loan Agreement, dated as of \_\_\_\_\_, 202\_ (the "Loan Agreement"), which prescribes certain terms and conditions under which such proceeds and other funds will be used by the Developer.

The Bonds are all equally and ratably secured by and entitled to the protection of the Indenture. The Indenture permits the Issuer to terminate the security of the Indenture for Bonds by establishing a trust fund under the conditions set out in Section 10.2 thereof. Pursuant to the Indenture, the Trust Estate (as created and defined in the Indenture), consisting of the funds and accounts of the Indenture and a pledge and assignment of the Tax Increment Revenues, is pledged and assigned by the Issuer to the Trustee as security for the Bonds. The Bonds are issued pursuant to and in full compliance with the Constitution and laws of the State of Indiana, particularly Indiana Code, Title 36, Article 7, Chapters 11.9 and 12 (the "Act"), and by appropriate action duly taken by the Issuer which authorizes the execution and delivery of the Indenture. The Bonds have been issued in conformity with the provisions, restrictions and limitations of the Act. Copies of the Indenture are on file at the principal corporate trust office of the Trustee. BY ACCEPTANCE OF THIS BOND, THE OWNER OF THIS BOND HEREBY ACCEPTS ALL THE PROVISIONS OF THE INDENTURE.

The City of Terre Haute Redevelopment Commission (the "Redevelopment Commission"), has, pursuant to a Pledge Agreement, dated \_\_\_\_\_, 202\_, between the Issuer and the Redevelopment Commission (the "Pledge Agreement"), pledged the Tax Increment



Revenues to the payment of the Bonds on a junior basis to the pledge thereof to any currently outstanding or future obligations payable from the Tax Increment Revenues.

The Bonds are issuable in registered form without coupons in the denominations of \$100,000 or any multiple of \$1,000 in excess thereof. This Bond is transferable by the registered holder hereof in person or by his 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 Bond. Upon such transfer, a new registered Bond will be issued to the transferee in exchange therefor.

The Issuer and the Trustee 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 interest due hereon and for all other purposes, and neither the Issuer nor the Trustee shall be affected by any notice to the contrary.

The Bonds are subject to redemption at the option of the Issuer on any date, in whole or in part, at face value, plus accrued interest to the date fixed for redemption and without premium.

In the event any of the Bonds are called for redemption as aforesaid, notice thereof identifying the Bonds to be redeemed will be given by mailing a copy of the redemption notice by first class mail not less than [seven (7)] days prior to the date fixed for redemption to the Registered Owner of the Bonds to be redeemed at the address shown on the registration books; provided, however, that failure to give such notice by mailing, or any defect therein with respect to any registered Bond, shall not affect the validity of any proceedings for the redemption of other Bonds.

All 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.

The 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 Bonds, as to both principal and interest, are not an obligation or liability of the Issuer, the State of Indiana, or of any political subdivision or taxing authority thereof, but are a special limited obligation of the Issuer and are payable solely and only from the Trust Estate, consisting of funds and accounts held under the Indenture and the Tax Increment Revenues pledged and assigned for payment of the Bonds in accordance with the Indenture. Neither the faith and credit nor the taxing power of the Issuer, the State of Indiana or any political subdivision or taxing authority thereof is pledged to the payment of the principal of or the interest on this Bond. The Bonds do not grant the owners or holders thereof any right to have the Issuer, the State of Indiana or its General Assembly, or any political subdivision or taxing authority of the State of Indiana, levy any taxes or appropriate any funds for the payment of the principal of or interest on the Bonds. The Issuer has no taxing power with respect to the Bonds. No covenant or agreement contained in the Bonds or the Indenture shall be deemed to be a covenant or agreement

of any member, director, officer, agent, attorney or employee of the City of Terre Haute Economic Development Commission (the "Economic Development Commission"), the Redevelopment Commission or the Issuer in his or her individual capacity, and no member, director, officer, agent, attorney or employee of the Economic Development Commission, the Redevelopment Commission or the Issuer shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance of the Bonds. Under no circumstances shall the Developer or any of the Developer Parties (each as defined in the Loan Agreement), or any other taxpayer in the Allocation Area be liable for making any payments due under the Indenture or on the Bonds, including any payment of principal of, premium, if any, or interest on the Bonds.

The holder of this 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. 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.

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

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the certificate of authentication hereon shall have been duly executed by the Trustee.

\*\*\*\*\*



IN WITNESS WHEREOF, the City of Terre Haute, Indiana, in Vigo County, Indiana, has caused this Bond to be executed in its name and on its behalf by the manual or facsimile signature of the Mayor and its corporate seal to be hereunto affixed manually or by facsimile and attested to by the manual or facsimile signature of its Clerk.

CITY OF TERRE HAUTE, INDIANA

By:

\_\_\_\_\_  
Brandon Sakbun, Mayor

(SEAL)

Attest:

\_\_\_\_\_  
Michelle Edwards, Clerk

CERTIFICATE OF AUTHENTICATION

This bond is one of the Bonds described in the within-mentioned Indenture.

\_\_\_\_\_, as Registrar

By:

\_\_\_\_\_  
Authorized Officer

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ (Please Print or Typewrite Name and Address) the within Bond and all rights, title and interest thereon, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within 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 of a recognized signature guarantee program.

NOTICE: The signature to this assignment must corresponds with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

ABBREVIATIONS

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

UNIF TRAN MIN ACT -- \_\_\_\_\_ Custodian \_\_\_\_\_  
(Cust) (Minor)

under Uniform Transfers to Minors Act

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

TEN COM -- as tenants in common

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

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



**EXHIBIT B**

COSTS OF ISSUANCE

**EXHIBIT C**

Construction Fund Disbursement Request

NO. \_

\_\_\_\_\_  
Attention: Corporate Trust Department  
\_\_\_\_\_  
\_\_\_\_\_

Re: City of Terre Haute, Indiana, Taxable Economic  
Development Tax Increment Revenue Bonds, Series  
2025[A/B/C] (Downtown Hotel Project) (“Bonds”)

Dear Corporate Trust Department:

This request for disbursement is submitted to you pursuant to Section 4.4 of the Trust Indenture, dated \_\_\_\_\_, 202\_ (“Indenture”) between the City of Terre Haute, Indiana (“Issuer”) and \_\_\_\_\_ (“Bond Trustee”). You are hereby requested to make the following disbursements in the aggregate amount of \$ \_\_\_\_\_ from the Construction Fund for the payment of Project Costs (as defined in the Indenture) in the individual amounts stated on Schedule A attached hereto.

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

- i) The Project Costs of an aggregate amount set forth in this written request have been made or incurred and were necessary for the construction or equipping of the Project;
- ii) The amount paid or to be paid, as set forth in this written request, is reasonable and represents a part of the amount payable for the Project Costs 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) No part of such cost was included in any written request previously filed with the Bond Trustee under the provisions of the Indenture;
- iv) Such costs are appropriate for the expenditure of proceeds of the Series 2025 Bonds under the Act (as defined in the Indenture); and



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

TERMINAL HOTEL PARTNERS, LLC

\_\_\_\_\_  
\_\_\_\_\_, President

APPROVED BY THE CITY OF TERRE HAUTE, INDIANA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 202\_\_.

\_\_\_\_\_  
Controller

SCHEDULE A

Payment To

Amount

\_\_\_\_\_

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



RESOLUTION NO. EDC 2025-1

**A RESOLUTION APPROVING AND AUTHORIZING CERTAIN  
ACTIONS AND PROCEEDINGS WITH RESPECT TO CERTAIN  
PROPOSED ECONOMIC DEVELOPMENT REVENUE BONDS  
FOR THE DOWNTOWN HOTEL PROJECT**

WHEREAS, the City of Terre Haute, Indiana (the “City”) is authorized by I.C. 36-7-11.9 and I.C. 36-7-12 (collectively, the “Act”) to issue revenue bonds for the financing of economic development facilities, and loan the proceeds of the revenue bond issue to another entity to finance or refinance the acquisition, construction, renovation, installation and equipping of said facilities; and

WHEREAS, Terminal Hotel Partners, LLC (together with any affiliate(s) thereof (the “Company”), the City, and the Terre Haute Redevelopment Commission (the “Redevelopment Commission”) are anticipated to enter into an Economic Project and Loan Agreement (the “Project Agreement”), which provides for the acquisition, construction, renovation and equipping of a new 114-room hotel facility including parking facilities and a skybridge over 7th Street in the City as well as certain related facilities and amenities, to be located in the Downtown Hotel Allocation Area within the City’s 2020 Consolidated Economic Development Area (collectively, the “Project”); and

WHEREAS, pursuant to the terms of the Project Agreement, the Redevelopment Commission has advised the Commission and the City that it proposes that the City issue its Taxable Economic Development Tax Increment Revenue Bonds, Series 2025 (Downtown Hotel Project), in one or more series, in an amount not to exceed Six Million Nine Hundred Thousand Dollars (\$6,900,000) (the “Bonds”) under the Act and loan the proceeds of such Bonds to the Company for the purpose of financing a portion of the Project and certain costs related to the issuance of the Bonds, including capitalized interest on the Bonds; and

WHEREAS, the Commission has studied the Project and the proposed financing of the Project and their effect on the health and general welfare of the City and its citizens; and

WHEREAS, the financing of the Project results in the diversification of industry, the creation or retention of jobs, and the creation of business opportunities in the City; and

WHEREAS, pursuant to I.C. § 36-7-12-24, the Commission published notice of a public hearing (the “Public Hearing”) on the proposed issuance of the Bonds to finance all or a portion of the Project; and

WHEREAS, on the date hereof the Commission held the public hearing on the Project and received uncontroverted evidence that the Project will not have an adverse competitive effect on any similar facilities already constructed or operating in or near the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF TERRE HAUTE ECONOMIC DEVELOPMENT COMMISSION AS FOLLOWS:

SECTION 1. The Commission hereby finds, determines, ratifies and confirms that the diversification of industry, the creation of business opportunities, and the creation of opportunities for gainful employment within the jurisdiction of the City is desirable, serves a public purpose, and is of benefit to the health and general welfare of the City; and that it is in the public interest that the City take such action as it lawfully may to encourage the diversification of industry, the creation of business opportunities, and the creation of opportunities for gainful employment within the jurisdiction of the City.

SECTION 2. The Commission hereby determines that the Project will not have an adverse competitive effect on any similar facilities already constructed or operating in or near the City.

SECTION 3. The Commission hereby approves the report with respect to the Project presented at this meeting. The Secretary of this Commission shall submit such report to the executive director or chairman of the plan commission of the City and, if required by statute, the superintendent of the school corporation in which the Project are located.

SECTION 4. The Commission finds, determines, ratifies and confirms that the issuance and sale of the Bonds, in one or more series, in an amount not to exceed Six Million Nine Hundred Thousand Dollars (\$6,900,000) and the loan of the proceeds of the Bonds to the Company for the financing of the Project will be of benefit to the health and general welfare of the City, will serve the public purposes referred to above in accordance with the Act, and fully comply with the Act.

SECTION 5. The financing of all or a portion of the Project and certain costs related to the issuance of the Bonds, including capitalized interest on the Bonds, in one or more series and in an amount not to exceed Six Million Nine Hundred Thousand Dollars (\$6,900,000), is hereby approved.

SECTION 6. The Commission hereby approves the terms of the following documents in the form presented at this meeting: (1) the Project Agreement, with respect to the Bonds, between the City and the Developer (including the Developer's Note); (2) a Trust Indenture, with respect to the Bonds, between the City and a trustee to be selected; (3) the Bonds; and (4) the Ordinance of the Common Council of the City regarding the Bonds. The President of the Commission is hereby authorized and directed to approve such changes to the terms of such documents as deemed by him or her to be necessary or desirable in order to carry out and comply with intent, conditions, and purposes of this resolution.

SECTION 7. Any officer of the Commission is hereby authorized and directed, in the name and on behalf of the Commission, to execute any and all other agreements, documents and instruments, perform any and all acts, approve any and all matters, and do any and all other things deemed by him to be necessary or desirable in order to carry out and comply with the intent, conditions and purposes of this resolution (including the preambles hereto and the documents mentioned herein), the Project and the issuance and sale of the Bonds, including, and any such execution, performance, approval or doing of other things heretofore effected be, and hereby is, ratified and approved.



SECTION 8. The Secretary of this Commission shall transmit this resolution, together with the forms of the documents approved by this resolution, to the Common Council of the City.

SECTION 9. This resolution shall be in full force and effect upon adoption.

Adopted this 7th day of February, 2025.

CITY OF TERRE HAUTE ECONOMIC  
DEVELOPMENT COMMISSION



Member



Member



Member

**REPORT OF THE CITY OF TERRE HAUTE  
ECONOMIC DEVELOPMENT COMMISSION CONCERNING  
THE PROPOSED FINANCING OF ECONOMIC DEVELOPMENT  
FACILITIES FOR TERMINAL HOTEL PARTNERS, LLC**

**DOWNTOWN HOTEL PROJECT**

The City of Terre Haute Economic Development Commission (the "Commission") proposes to recommend to the Common Council of the City of Terre Haute, Indiana (the "City"), that it loan the proceeds of one or more series of certain economic development revenue bonds (the "Bonds") to Terminal Hotel Partners, LLC (together with any affiliate(s) thereof, the "Company") for the financing of certain economic development facilities in the City.

In connection therewith, the Commission hereby reports as follows:

A. The proposed economic development facilities consist of the acquisition, construction, renovation and equipping of a new 114-room hotel facility including parking facilities and a skybridge over 7th Street in the City as well as certain related facilities and amenities, to be located in the Downtown Hotel Allocation Area within the City's 2020 Consolidated Economic Development Area (collectively, the "Project").

B. The Commission estimates that no public works or services, including public ways, schools, water, sewer, street lights and fire protection, will be made necessary or desirable by the Project, because any such works or services already exist or will be provided by the Project itself or by the Company, or other parties.

C. The Commission estimates that the total cost of the Project will be \$33,000,000, of which the City's portion to be financed with the proceeds of the Bonds to be issued is in an aggregate principal amount not to exceed \$6,900,000.

D. The Commission estimates that the Project will create or retain approximately 30 jobs in the City with an annual payroll of approximately \$750,000 per year, and the Project will result in the expansion of further business opportunities in the City.

E. Based on the uncontroverted evidence received at the public hearing held by the Commission on the date hereof, the Project will have no adverse competitive effect on similar facilities already constructed or operating in the City of Terre Haute, Indiana.



Adopted this 7th day of February, 2025.



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President, City of Terre Haute  
Economic Development Commission

Attest:



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Secretary, City of Terre Haute  
Economic Development Commission

## ECONOMIC PROJECT AND LOAN AGREEMENT

### (TERMINAL HOTEL PARTNERS, LLC)

THIS ECONOMIC PROJECT AGREEMENT (the “**Agreement**”) is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 202\_\_, by and among the City of Terre Haute, Indiana (the “**City**”), the City of Terre Haute Redevelopment Commission (the “**Redevelopment Commission**”), and Terminal Hotel Partners, LLC, an Indiana limited liability company (the “**Company**”). For the purpose of this Agreement, “**Affiliate**” shall mean any business entity or corporation, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the Company,

#### W I T N E S S E T H:

**WHEREAS**, the City and the Redevelopment Commission desire to foster economic development within the City; and

**WHEREAS**, the Company has approached the City regarding the construction and equipping of a new hotel facility, as more particularly described in Exhibit A attached hereto (collectively, the “**Project**”); and

**WHEREAS**, as part of the Project, the Company intends to undertake the development of the Project on certain parcels of real property located within the City (the “**Property**”) (see Exhibit B attached hereto for a legal description and a depiction detailing the location of the Property); and

**WHEREAS**, the Company has requested certain economic development assistance from the City; and

**WHEREAS**, the City and the Redevelopment Commission have determined that the completion of the Project is in the best interests of the citizens of the City of Terre Haute, and, therefore, the City and the Redevelopment Commission desire to take certain steps in order to induce the Company to complete the Project; and

**WHEREAS**, to stimulate and induce the development of the Property and the completion of the Project, the Redevelopment Commission has agreed, subject to further proceedings as required by law, to provide the economic development incentives described herein.

**NOW, THEREFORE**, in consideration of the foregoing and of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:



## **ARTICLE I. RECITALS**

1.01 Recitals Part of Agreement. The representations, covenants and recitations set forth in the foregoing recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this Section 1.01.

## **ARTICLE II. REPRESENTATIONS**

2.01 Representations by Issuer. The City represents and warrants that:

(a) The City is a municipal corporation organized and existing under the laws of the State. Under the provisions of Indiana Code Title 36, Article 7, Chapters 11.9 and 12, as supplemented and amended (the “Act”), the City and the Redevelopment Commission are authorized to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. Each of the City and the Redevelopment Commission has been duly authorized to execute and deliver this Agreement. The City and the Redevelopment Commission agrees that it will do or cause to be done all things within its control and necessary to preserve and keep in full force and effect its existence.

(b) Subject to the terms of this Agreement, the City shall issue the Series 2025 Bonds in the aggregate principal amount of \$\_\_\_\_\_, in order to pay a portion of the costs of the Project approved by the Issuer, and to pay the costs of issuance incurred in connection therewith, all for the purpose of creating or retaining employment opportunities in the City and benefiting the health and general welfare of the citizens of the City and the State.

2.02 Representations by Company. The Company represents and warrants that:

(a) It is authorized to transact business in the State, is not in violation of any laws in any manner material to its ability to perform its obligations under this Agreement, and has full power to enter into this Agreement.

(b) The provision of financial assistance to be made available to it under this Agreement from the Bond Proceeds, and the commitments thereof made by the City and the Redevelopment Commission, have induced the Company to undertake the Project, and such Project is expected to create jobs and employment opportunities within the boundaries of the City.

(c) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Company is now a party or by which it is bound or to which any of its property or assets is subject or (except in such manner as will not materially impair the ability of the Company to perform its obligations hereunder) any statute, order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or its property, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Company under the terms of any instrument or agreement, except as may be set forth in this Agreement.

(d) 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 Agreement.

2.03 Completion and Use of Facilities.

(a) The Company agrees that it will make, execute, acknowledge and deliver (or cause to be made, executed, acknowledged and delivered) any contracts, orders, receipts, writings and instructions with any other persons, firms or corporations and in general do all things reasonably within its power which may be requisite or proper for the Substantial Completion of the acquisition, demolition, construction, expansion, equipping and improvement of the Project, and, upon subsequent completion of the Project, the Company will operate and maintain the Project in such manner as reasonably within Company's power so as to conform with all applicable and material zoning, planning, building, environmental and other applicable governmental regulations and so as to be consistent with the Act.

(b) The City shall deposit all proceeds from the sale of the Bonds in the manner specified in Article III of the Trust Indenture between the City and \_\_\_\_\_, as Trustee, dated as of \_\_\_\_\_, 2025 (the "**Indenture**"), and the City shall maintain such proceeds and funds in the manner specified in Article IV of the Indenture. Under the Indenture, the Trustee, on behalf of the Issuer, is authorized and directed to make payments from the Construction Fund (as defined in the Indenture) to pay for costs of the Project, or to reimburse the Company for any costs of the Project, with any such disbursements to be made in accordance with the terms and conditions of the Indenture and this Agreement.

(c) The Company hereby acknowledges receipt of a copy of the Indenture.

2.04 Fees and Expenses of Company. The Company hereby covenants and agrees to pay any and all fees, charges and expenses, including legal counsel and financial advisory fees, incurred by the Company in connection with this Agreement.

### **ARTICLE III. INCENTIVES**

3.01 Loan of bond proceeds to Company through the issuance of Economic Development Revenue Bonds. The Redevelopment Commission shall, subject to further proceedings required by law (including, without limitation, if so determined by the Redevelopment Commission, establishing a separate tax increment financing allocation area consisting of the parcel(s) where the Company's project will be located, and obtaining the approval of the bond issue by the Terre Haute Common Council), issue one or more series of economic development revenue bonds in an amount sufficient to generate net, distributable proceeds of Six Million Seven Hundred Thousand Dollars (\$6,700,000) (the "**Bonds**"). The net proceeds from the bond issuance will be loaned to the Company pursuant to the terms of this Agreement and the Term Note attached hereto as Exhibit C (the "**Term Note**").

3.02 City Representative. The City agrees to provide to the Company a representative to be a personal guide to any need or service from the City, including such matters as required governmental procedures, gathering and providing needed information to the Company, and similar services with the goal of fostering the Company's success.

#### **ARTICLE IV. MUTUAL ASSISTANCE**

4.01 Mutual Assistance. The parties agree, subject to further proceedings required by law, to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications (and, in the case of the City and the Redevelopment Commission, the adoption of such ordinances and resolutions), as may be necessary or appropriate, from time to time, to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out said terms, provisions and intent.

#### **ARTICLE V. PROJECT DEVELOPMENT AND ADDITIONAL COMPANY COMMITMENTS**

5.01 Project Description and Development. The Project shall consist of the acquisition, construction, renovation, and equipping of a new 114-room hotel facility including parking facilities and skybridges (2 total) over 7<sup>th</sup> Street and Wabash Ave. in the City as well as certain related facilities and amenities, to be located in the Downtown Hotel Allocation Area within the City's 2020 Consolidated Economic Development Area, as more fully described in Exhibit A attached hereto.

5.02 Company Investment. The Company will make a property purchase and a real property investment including land acquisition, site improvements, and construction of the Project, with construction to begin in 2025 and anticipated placement of the Project into service in the first quarter of 2028 (collectively the "**Project Investment**"). The amount of the initial Project Investment is \$ \_\_\_\_\_. The City and the Company reasonably expect, based upon the Company's proposal to the City transmitted on June 12, 2024, that the Project will include infrastructure to facilitate the future construction of a second hotel facility in relation to the Project, though this should not be construed as a commitment by Company to construct a second hotel facility in relation to the Project.

5.03. Repayment Obligation. In order to repay the Bond proceeds loaned to Company by the Redevelopment Commission, the Company agrees to make the loan payments described in this Section 5.03 (the "**Loan Payments**", and each, a "**Loan Payment**") pursuant to the terms of the Term Note. The Loan Payments shall be made on the dates and in the amounts identified in the notional amortization schedule set forth in Schedule 1 to the Term Note (each a "**Payment Date**") provided, however, that Company's obligation to make a Loan Payment shall be forgiven in accordance with the terms of the Term Note. In the event the Company fails, at any time, to make any payment required hereunder on or before the date such payment is due, the remaining unpaid balance of all of the payments set forth in the notional amortization schedule set forth in Schedule 1 to the Term Note, plus all accrued interest and other amounts due hereunder, shall become immediately due and payable to Redevelopment Commission. Any amounts due hereunder and not paid when due shall accrue interest from and after the due date until paid in full at the per annum rate of five percent (5%). The Redevelopment Commission may, in its sole discretion, pay



off the Bonds sooner than the end of the notional amortization schedule set forth in Schedule 1 to the Term Note. In such case, the Company's obligation to make the Company Payments shall not cease and shall continue under Section 5 of this Agreement as if the Bonds had not been paid off.

5.04 Permitted Delays. Whenever performance is required of any party hereunder, such party shall use all due diligence and take all necessary measures in good faith to perform; provided, however, that if completion of performance shall be delayed at any time by reason of acts of God, war, civil commotion, riots, strikes, picketing, or other labor disputes, unavailability of labor or materials, or damage to work in progress by reason of fire or other casualty or similar causes beyond the reasonable control of a party (other than financial reasons), then the time for performance as herein specified shall be appropriately extended by the time of the delay actually caused by such circumstances. If (i) there should arise any permitted delay for which the Company or the Redevelopment Commission is entitled to delay its performance under this Agreement and (ii) the Company or the Redevelopment Commission anticipates that such permitted delay will cause a delay in its performance under this Agreement, then the Company or the Redevelopment Commission, as the case may be, agrees to provide written notice to the other parties to this Agreement of the nature and the anticipated length of such delay.

## **ARTICLE VI. AUTHORITY**

6.01 Actions. The City and the Redevelopment Commission represent and warrant that they have taken or will take (subject to further proceedings required by law and the Company's performance of its agreements and obligations hereunder) such action(s) as may be required and necessary to enable the City and Redevelopment Commission to execute this Agreement and to carry out fully and perform the terms, covenants, duties and obligations on their part to be kept and performed as provided by the terms and provisions hereof.

6.02 Powers. The City and the Redevelopment Commission represent and warrant that they have full constitutional and lawful right, power and authority, under currently applicable law, to execute and deliver and perform their respective obligations under this Agreement.

## **ARTICLE VII. GENERAL PROVISIONS**

7.01 Indemnity; No Joint Venture or Partnership. The Company covenants and agrees at its expense to pay and to indemnify and save the City and the Redevelopment Commission, and their officers and agents (the "**Indemnitees**") harmless of, from and against, any and all claims, damages, demands, expenses and liabilities relating to bodily injury or property damage resulting directly or indirectly from the Company's (and/or any affiliate's thereof) development activities with respect to the Project unless such claims, damages, demands, expenses or liabilities arise by reason of the negligent act or omission of the City or the Redevelopment Commission, or other Indemnitees, or the work pertaining to the Utility Extensions and Utility Relocation. However, nothing contained in this Agreement shall be construed as creating either a joint venture or partnership relationship between the City or the Redevelopment Commission and the Company or any affiliate thereof.

7.02 Time of Essence. Time is of the essence of this Agreement. The parties shall make every reasonable effort to expedite the subject matters hereof (subject to any time limitations

described herein) and acknowledge that the successful performance of this Agreement requires their continued cooperation.

7.03 Breach. Before any failure of any party of this Agreement to perform its obligations under this Agreement shall be deemed to be a breach of this Agreement, the party claiming such failure shall notify, in writing, the party alleged to have failed to perform such obligation and shall demand performance. No breach of this Agreement may be found to have occurred if performance has commenced and is continuously and diligently being pursued to the reasonable satisfaction of the complaining party within thirty (30) days of the receipt of such notice. If after said notice, the breaching party fails to cure the breach, the non-breaching party may seek any remedy available at law or equity. If any suit or action is instituted by any party for the enforcement of this Agreement, the prevailing party or parties in such suit or action shall be entitled to recover reasonable attorneys' fees and expenses from the non-prevailing party or parties, in addition to any other amounts to which it may be entitled.

7.04 Amendment. This Agreement, and any exhibits attached hereto, may be amended only by the mutual consent of the parties, by the adoption of a resolution of the Redevelopment Commission approving said amendment, as provided by law, and by the execution of said amendment by the parties or their successors in interest.

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

7.06 Severability. If any provision, covenant, agreement or portion of this Agreement or its application to any person, entity or property, is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants, agreements or portions of this Agreement and, to that end, any provisions, covenants, agreements or portions of this Agreement are declared to be severable.

7.07 Indiana Law. This Agreement shall be construed in accordance with the laws of the State of Indiana.

7.08 Notices. All notices and requests required pursuant to this Agreement shall be deemed sufficiently made if delivered, as follows:

To the Company: Terminal Hotel Partners, LLC.  
c/o Timothy J. Dora  
10734 Sky Prairie Street  
Fishers, IN 46038

With a copy to: Brian Kooistra  
3200 E. Haythorne Avenue  
Terre Haute, IN 47805

To the City or  
To the Redevelopment

Commission

City of Terre Haute, Indiana  
17 Harding Avenue  
Terre Haute, IN 47807  
Attn: Controller

or at such other addresses as the parties may indicate in writing to the other either by personal delivery, courier, or by registered mail, return receipt requested, with proof of delivery thereof. Mailed notices shall be deemed effective on the third day after mailing; all other notices shall be effective when delivered.

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

7.10 Assignment. The rights and obligations contained in this Agreement may not be assigned by the Company or any affiliate thereof without the express prior written consent of the Redevelopment Commission; provided, however, that the Company may transfer all or a portion of its rights and obligations hereunder to an affiliate of the Company upon notice to but without the consent of the Redevelopment Commission, but any such transfer to an affiliate of the Company shall not have the effect of releasing the Company from its obligations hereunder.

7.11 No Third Party Beneficiaries. This Agreement shall be deemed to be for the benefit solely of the parties hereto and shall not be deemed to be for the benefit of any third party.

7.12 Effective Date. Notwithstanding anything herein to the contrary, this Agreement shall not be effective until all parties hereto have executed this Agreement and each of the City and the Redevelopment Commission has approved or ratified this Agreement at public meetings.

*[Signatures on following page]*



IN WITNESS WHEREOF, the parties have duly executed this Agreement pursuant to all requisite authorizations as of the date first above written.

CITY OF TERRE HAUTE, INDIANA

By: \_\_\_\_\_  
Brandon Sakbun, Mayor

CITY OF TERRE HAUTE  
REDEVELOPMENT COMMISSION

By: \_\_\_\_\_  
\_\_\_\_\_, President

TERMINAL HOTEL PARTNERS, LLC

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

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

## **EXHIBIT A**

### **DESCRIPTION OF PROJECT**

The acquisition, construction, renovation, and equipping of a new 114-room hotel facility including parking facilities and skybridges (2 total) over 7<sup>th</sup> Street and Wabash Ave. in the City as well as certain related facilities and amenities, to be located in the Downtown Hotel Allocation Area within the City's 2020 Consolidated Economic Development Area.

**EXHIBIT B**

**LEGAL DESCRIPTION AND DEPICTION OF THE PROPERTY**



**EXHIBIT C**

**FORM OF TERM NOTE**

TERM NOTE

\$ \_\_\_\_\_, 202\_

FOR VALUE RECEIVED, the undersigned, TERMINAL HOTEL PARTNERS, LLC, an Indiana limited liability company (“Borrower”) promises to pay to the order of the City of Terre Haute Redevelopment Commission (“Lender”), in lawful money of the United States of America and in immediately available funds, the principal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), with interest thereon as set forth herein, with attorneys’ fees and costs of collection and without relief from valuation and appraisal laws.

1. NO INTEREST:

The outstanding principal balance of this Note shall not bear interest except as provided in 5.03 of the Economic Project and Loan Agreement dated as of \_\_\_\_\_ 202\_ between the City of Terre Haute, Indiana, the Lender, and the Borrower (the “Loan Agreement”).

2. REPAYMENT:

(a) Repayment. Principal shall be due on the dates set forth in Schedule 1 hereto.

3. FORGIVABILITY.

(a) Repayments shall be forgiven if, on any principal payment date, the Borrower shall certify that either the construction of the Project (as defined in the Loan Agreement) is proceeding with due diligence, or the Project continues to be operational.

3. MISCELLANEOUS:

(a) Governing Law. This Note shall be governed by and construed in accordance with the laws of the State of Indiana.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned has executed this Note as of \_\_\_\_\_, 202\_.

TERMINAL HOTEL PARTNERS, LLC

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

Printed:

\_\_\_\_\_

Title:

\_\_\_\_\_

WITNESS:

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Witness Name (must be typed / printed)

SCHEDULE 1

CITY OF TERRE HAUTE

\$ \_\_\_\_\_ OF NOTIONAL AMORTIZATION SCHEDULE

Date

Principal Amount Due