



Monday, May 18, 2020 at 06:30 PM

BOARD OR COMMISSION: Redevelopment Commission (RDC)

MEETING DATE: Monday, May 18, 2020 at 06:30 PM

MEETING PLACE:

This meeting will be online viewable at:
<https://www.youtube.com/user/CityofWestfieldIN>

AGENDA

Declaration of quorum and opening of meeting

Approval Economic Development Commission December 11, 2019 Meeting Minutes
Documents: [EDC Minutes - December 11, 2019](#)

Public Hearing – Spring Mill Centre Project

Resolution 20-01 – Spring Mill Centre Project
Documents: [EDC Resolution 20-01](#) | [EDC form of Financing Agreement - Spring Mill Centre Project](#) | [EDC form of Ordinance - Authorizing Economic Development Revenue Bonds Spring Mill Centre Project](#) | [EDC form of Trust Indenture - Spring Mill Centre Project](#)

Additional business before the Commission

Adjourn

MINUTES

**Westfield Economic Development
Commission (EDC)**

Minutes of the December 11, 2019 EDC Meeting

Presented for approval:

The Westfield Economic Development Commission (the “Commission”) held a meeting on December 11, 2019 at the Westfield City Hall located at 130 Penn Street, Westfield, Indiana 46074. Notice of the time and place thereof having been duly given in accordance with the Indiana Open Door Law, Indiana Code 5-14-1.5 et seq. The Commission members were present or absent as indicated.

OPENING OF MEETING

Opening of Meeting: 5:30 p.m.

DECLARATION OF QUORUM

PRESENT: Chuck Lehman, President; Joseph Plankis, Secretary;

ABSENT: Chuck Watson.

Others in attendance: Brian Zaiger and Jim Crawford, Attorneys with Krieg DeVault and John Rogers, Director of Enterprise Development – City of Westfield.

President Lehman noted the presence of a quorum.

Items of Business:

EDC Resolution 19-02 – 12-09-19 – Resolution Making Certain Findings Related to the Financing of Certain Economic Development Facilities, Approving Such Facilities and Forms of the Documents Related Thereto

Jim Crawford presented legal status

Justin Moffet explain the need and use of the bond dollars

Jim Crawford noted the bonds are Developer-backed.

Opened Public Hearing at 5:40

No Public Comments

Closed Public Hearing at 5:41

EDC Resolution 19-02 – 12-09-19 – Resolution Making Certain Findings Related to the Financing of Certain Economic Development Facilities, Approving Such Facilities and Forms of the Documents Related Thereto

	<u>Motion</u>	<u>Aye</u>	<u>Nay</u>	Abstain
Chuck Lehman	2nd	X		
Joe Plankis	1st	X		
Chuck Watson	-	-	-	-

Approve the Report and Send the Report to the APC.

	<u>Motion</u>	<u>Aye</u>	<u>Nay</u>	Abstain
Chuck Lehman	2nd	X		
Joe Plankis	1st	X		
Chuck Watson	-	-	-	-

Adjournment:

	<u>Motion</u>	<u>Aye</u>	<u>Nay</u>	Abstain
Chuck Lehman	2nd	X		
Joe Plankis	1st	X		
Chuck Watson	-	-	-	-

Adjournment **6:05 PM**

Chuck Lehman, President

Date

A RESOLUTION OF THE WESTFIELD
ECONOMIC DEVELOPMENT COMMISSION
MAKING CERTAIN FINDINGS RELATING TO THE
FINANCING OF CERTAIN ECONOMIC DEVELOPMENT
FACILITIES, APPROVING SUCH FINANCING AND
FORMS OF THE DOCUMENTS RELATED THERETO

WHEREAS, relieving conditions of unemployment and underemployment, and encouraging economic development and redevelopment of the City of Westfield (“City”) to reduce the negative effects associated with unemployment and underemployment are essential to the health, safety and welfare of the City and its citizens; and

WHEREAS, the City is authorized by Indiana Code 36-7-11.9 and -12 (collectively, “Act”) to issue revenue bonds for the purpose of financing, reimbursing or refinancing the costs of acquisition, construction, 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 or near the City;

WHEREAS, Haehl Group, LLC, or any affiliate or designee thereof (collectively, “Developer”) has informed the City that it will be developing the site located at 17701 Spring Mill Road in the City, including the demolition of existing structures, utility relocation and connection, on-site clearing or grading, erosion control, on-site stormwater drainage, removal of aboveground and underground storage tanks, environmental remediation, and general site work and preparation, all to support future mixed-use development consisting of commercial, retail and light industrial (collectively, “Project”);

WHEREAS, the Project will be located in the Spring Mill Centre Allocation Area (“Allocation Area”) within the Grand Junction Economic Development Area, as established by the Westfield Redevelopment Commission (“Redevelopment Commission”);

WHEREAS, the Developer has requested the City issue, pursuant to the Act, its “Taxable Economic Development Revenue Bonds, Series 20__ (Spring Mill Centre Project)” (to be completed with such further or different designation as may be necessary or appropriate, including such designation to indicate the year in which issued) (“Bonds”) under the Act, in an aggregate principal amount not to exceed One Million Five Hundred Twenty-Five Thousand Dollars (\$1,525,000), for the purpose of making proceeds of the Bonds available to the Developer for (i) paying or reimbursing all or a portion of the costs of the Project, including capitalized interest, if any, and (ii) paying all incidental expenses incurred on account of the issuance of the Bonds;

WHEREAS, the Commission has studied the Project and the proposed financing by the City of all or a portion of the Project and its effect on the health and general welfare of the City and its citizens; and

WHEREAS, the completion of the Project will result in the diversification of industry, the creation and retention of jobs, the creation and retention of business opportunities in the City, and will be of public benefit to the health, safety and general welfare of the City and its citizens;

WHEREAS, on April 20, 2020 the Redevelopment Commission approved a form of Economic Development Agreement for the Project and established the Spring Mill Centre Allocation Area (“Spring Mill Centre Allocation Area”) which will permit the City to derive incremental real property tax revenues from the Project to be developed by the Developer within the Spring Mill Centre Allocation Area (“Spring Mill Centre TIF Revenues”), and such Spring Mill Centre TIF Revenues are estimated to be sufficient 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;

WHEREAS, prior to the issuance of the Bonds, the Redevelopment Commission will pledge the Spring Mill Centre TIF Revenues to the payment of the Bonds;

WHEREAS, there has been submitted to the Commission for its approval forms of the Trust Indenture, the Financing Agreement and the form of proposed Ordinance of the City with respect to the Project and the Bonds (“Ordinance”);

WHEREAS, pursuant to the Act and Indiana Code 5-3-1, as amended, the Commission published notice of a public hearing (“Public Hearing”) on the proposed issuance of the Bonds to finance a portion of the Project, and on the date hereof the Commission held the Public Hearing; and

WHEREAS, no member of the Commission 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 Commission and no such member has voted on any such matter, all in accordance with the provisions of Indiana Code 36-7-12-16;

NOW, THEREFORE, BE IT RESOLVED BY THE WESTFIELD ECONOMIC DEVELOPMENT COMMISSION AS FOLLOWS:

SECTION 1. The Commission has conducted a public hearing and considered any and all evidence and comments provided, and the Commission hereby finds, determines, ratifies and confirms that the financing of the economic development facilities referred to in the Financing Documents (as defined below) consisting of the Project, located in the Spring Mill Centre Allocation Area, the issuance and sale of the Bonds, and the use of the net proceeds of the Bonds to finance and reimburse all or a portion of the costs of the Project (i) will result in the diversification of industry, the creation and retention of business opportunities and the creation or retention of opportunities for gainful employment within the jurisdiction of the City, (ii) will serve a public purpose, and will be of benefit to the health and general welfare of the City, (iii) complies 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 and 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, and (iv) will not have a material adverse competitive effect on any similar facilities already constructed or operating in or near the City.

SECTION 2. The Commission hereby approves the report with respect to the Project presented at this meeting. The Secretary of the Commission shall submit such report to the executive director or chair of the plan commission of the City.

SECTION 3. The Economic Development Commission hereby approves the terms of the following documents in the form presented at this meeting: (i) a form of the Trust Indenture with respect to the Bonds between the City and the Bond Trustee to be selected (including a form of the Bonds); (ii) a form of Financing Agreement between the City and Developer with respect to the Project and the Bonds (clauses (i) and (ii), collectively, "Financing Documents"); and (iii) the form of Ordinance to be presented to the Common Council of the City ("Ordinance") authorizing the issuance of the Bonds and providing for the terms thereof. The forms of Financing Documents and the Ordinance presented herewith are hereby approved, with any and all such changes as may be deemed necessary, desirable or appropriate by the Mayor, the Clerk-Treasurer or any other officer of the City.

SECTION 4. The Commission hereby approves and recommends the City issue its Bonds with a maximum aggregate principal amount not to exceed One Million Five Hundred Twenty-Five Dollars (\$1,525,000), with a maximum term not to exceed twenty-five (25) years from the date of issuance and with a maximum interest rate not to exceed six percent (6.0%) per annum, for the purpose of procuring funds to (i) to pay for all or a portion of the costs associated with the Project, including capitalized interest, if any, by making a portion of the proceeds of the Bonds available to the Developer and (ii) pay all costs of issuance of the Bonds, which Bonds will be payable as to principal and interest, as described in the Financing Agreement, solely from the Spring Mill Centre TIF Revenues, upon such terms and conditions as otherwise provided in the Financing Documents and the Ordinance. The Bonds shall never constitute a general obligation of, an indebtedness of, or charge against the general credit of the City.

SECTION 5. 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 or her necessary or desirable in order to carry out and comply with the intent, conditions and purpose of this resolution (including the preambles hereto and the documents mentioned herein), the Project, the issuance and sale of the Bonds, and any such execution, performance, approval or doing of other things heretofore effected be, and hereby is, ratified and approved.

SECTION 6. The Secretary of the Commission shall transmit a copy of this resolution, together with two (2) copies of the forms of the Financing Documents and the Ordinance approved by this resolution, to the Clerk-Treasurer of the City for presentation to the Common Council of the City with the recommendation that the Common Council of the City adopt the

proposed form of Ordinance approving the issuance of the Bonds the Financing Documents in their substantially final forms as hereby recommended.

SECTION 7. This resolution shall be in full force and effect upon adoption.

Adopted this 18th day of May, 2020.

WESTFIELD ECONOMIC
DEVELOPMENT COMMISSION

President

Secretary

Member

REPORT OF THE WESTFIELD ECONOMIC DEVELOPMENT COMMISSION
CONCERNING THE PROPOSED FINANCING OF ECONOMIC DEVELOPMENT
FACILITIES BY HAEHL GROUP, LLC

The Westfield Economic Development Commission (“Commission”) proposes to recommend to the Common Council of the City of Westfield, Indiana (“Council”), that the City of Westfield, Indiana (“City”) make available proceeds of revenue bonds to pay or reimburse costs of the acquisition, construction and installation of economic development facilities by Haehl Group, LLC, or any affiliate or designee thereof (collectively, “Developer”).

In connection therewith, the Commission hereby reports as follows:

- A. The proposed economic development facilities will consist of the development of land located 17701 Spring Mill Road in the City, including demolition of existing structures, utility relocation and connection, on-site clearing or grading, erosion control, removal of aboveground and underground storage tanks, environmental remediation, and general site work and preparation, all to support a future mixed-use development consisting of commercial, retail and light industrial, (collectively, “Project”), in the Spring Mill Centre Allocation Area.
- B. No public facilities, other than the Project to be funded with proceeds of the bonds described herein, to be paid for by government will be made necessary on account of the proposed facilities.
- C. The Commission estimates that the total costs of financing the Project will be approximately \$1,525,000, including capitalized interest, if any, and the costs of issuance of economic development revenue bonds.
- D. The Commission estimates that the Project will create approximately 71 part-time jobs and 192 full-time jobs with an total estimated annual payroll of approximately \$6,676,481.
- E. The Commission finds that the Project will not have a material adverse competitive effect on similar facilities already constructed or operating in the City.

* * * *

Adopted this 18th day of May, 2020.

President, City of Westfield
Economic Development Commission

Attest:

Secretary, City of Westfield
Economic Development Commission

KD_(10809384.1).doc

**FORM
OF
FINANCING AGREEMENT**

AMONG

HAEHL GROUP, LLC

AND

CITY OF WESTFIELD, INDIANA

Dated as of _____ 1, 20 ____

TABLE OF CONTENTS

ARTICLE I	DEFINITIONS AND EXHIBITS	2
Section 1.1	Terms Defined.	2
Section 1.2	Rules of Interpretation.	4
ARTICLE II	REPRESENTATIONS; USE OF BOND PROCEEDS	5
Section 2.1	Representations by Issuer	5
Section 2.2	Representations by Developer. Developer represents and warrants that:	5
ARTICLE III	PARTICULAR COVENANTS OF THE ISSUER AND DEVELOPER.....	7
Section 3.1	Payment of Principal and Interest on Bonds; Payment of Spring Mill Centre TIF Revenues.....	7
Section 3.2	Maintenance of Existence.....	7
Section 3.3	Event of Default; Notice; Termination.....	7
Section 3.4	Payment of Expenses of Issuance of Bonds	8
Section 3.5	Completion and Use of the Project.....	8
Section 3.6	Fees and Expenses of Developer	8
ARTICLE IV	IMMUNITY	9
Section 4.1	Extent of Covenants of the Issuer; No Personal Liability.	9
Section 4.2	Liability of Issuer	9
ARTICLE V	AMENDMENTS TO THIS FINANCING AGREEMENT	10
Section 5.1	Amendments to this Financing Agreement	10
ARTICLE VI	MISCELLANEOUS PROVISIONS	11
Section 6.1	Financing Agreement for Benefit of Parties Hereto	11
Section 6.2	Severability	11
Section 6.3	Addresses for Notice and Demands.	11
Section 6.4	Successors and Assigns.	11
Section 6.5	Counterparts	12
Section 6.6	Governing Law.....	12

FINANCING AGREEMENT

This FINANCING AGREEMENT, dated as of _____ 1, 20____ (the “Financing Agreement”) among HAEHL GROUP, LLC, an Indiana limited liability company (the “Developer”), and the CITY OF WESTFIELD, INDIANA (the “Issuer” or “City”), a municipal corporation duly organized and validly existing under the laws of the State of Indiana (the “State”).

PRELIMINARY STATEMENT

WHEREAS, the Indiana Code, Title 36, Article 7, Chapters 11.9 and 12, as supplemented and amended (collectively, the “Act”), authorizes and empowers the Issuer to issue revenue bonds to provide the proceeds therefrom for the purpose of financing and reimbursing the cost of economic development facilities and vests the Issuer with powers that may be necessary to enable it to accomplish such purposes;

WHEREAS, after giving notice in accordance with the Act and Indiana Code 5-3-1, the Westfield Economic Development Commission held a public hearing and the Issuer, upon finding that the Project (as defined herein) and the proposed financing of a portion of the acquisition, rehabilitation and equipping thereof (i) will create or retain employment opportunities in the City, (ii) will benefit the health and general welfare of the citizens of the City and the State, and (iii) will comply with the purposes and provisions of the Act, adopted a resolution approving the proposed financing of a portion of the Project;

WHEREAS, the Issuer intends to issue its “Taxable Economic Development Revenue Bonds, Series 20__ (Spring Mill Centre Project)”, to be completed with such designation as determined necessary (including the year in which issued), in the aggregate principal amount not to exceed One Million Five Hundred Twenty-Five Thousand Dollars (\$1,525,000) (the “Bonds”), of which the net amount after costs of issuance will be made available to the Developer for paying or reimbursement of Project costs, including capitalized interest, if any, during the term of the Bonds, pursuant to a Trust Indenture to be dated as of the first day of the month in which the Bonds are issued (the “Bond Indenture”), between the Issuer and a corporate trustee to be selected by the Issuer, and intends to use the proceeds thereof, net of costs of issuance, to support the development of the Project;

WHEREAS, this Financing Agreement provides for the use of the financing by Developer through the issuance of the Bonds by the Issuer;

WHEREAS, the Bonds issued under the Bond Indenture will be payable solely from a pledge of Spring Mill Centre TIF Revenues;

In consideration of the premises, the representations, warranties and commitments given by Developer to the Issuer, and other good and valuable consideration, the receipt of which is hereby acknowledged, Developer and the Issuer hereby further covenant and agree as follows:

ARTICLE I

DEFINITIONS [AND EXHIBITS]

Section 1.1 Terms Defined.

Capitalized terms used in this Financing Agreement that are not otherwise defined herein, shall have the meanings provided for such terms in the Bond Indenture. As used in this Financing Agreement, the following terms shall have the following meanings unless the context clearly otherwise requires:

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

“Affiliate” means, solely with respect to the Project, an entity which directly or indirectly controls, is controlled by or is under common control with, 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.

“Bonds” means the City’s Taxable Economic Development Revenue Bonds, Series 20__ (Spring Mill Centre Project) (to be completed with the year in which issued and such further series designation as determined by the City necessary) authorized by the Ordinance to be issuance in a principal amount not to exceed One Million Five Hundred Twenty-Five Thousand Dollars (\$1,525,000), for the purpose of supporting the financing of the Project, including capitalized interest, if any, of which a net amount of proceeds of the Bonds after taking into account costs of issuance will be made available to the Developer to pay for or reimburse Project costs during the term of the Bonds.

“City” or “Issuer” means City of Westfield, Indiana, a municipal corporation duly organized and validly existing under the laws of the State.

“City Parties” means (a) (i) the City of Westfield, the City of Westfield Economic Development Commission and the Commission, (ii) the municipal advisor or municipal advisors to any City Party, (iii) the owners of the Bonds (beneficial or other), and (iv) the Trustee; (b) their respective legal counsel; and (c) their successors and assigns.

“Code” means the Internal Revenue Code of 1986, as amended, and the regulations applicable thereto and including any successor code.

“Developer” means, collectively, the Haehl Group, LLC, and/or any respective successors or assigns thereto permitted under Section 6.4 hereof.

“Developer Parties” means, with respect to the Project or any portion thereof or this Financing Agreement: (a) (i) the Affiliates, (ii) developers working under contract with Developer or any Affiliate; (iii) joint owners of the Project or any portion thereof, (iv) joint (or other) ventures with Developer or any Affiliate, (v) lessees of property in the Spring Mill Centre Allocation Area from Developer or any Affiliate, and (vi) trusts (business or other) established with or for the

benefit of Developer or any Affiliate of the Project or any portion thereof, and (b) their successors and assigns.

“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 instrumentality thereof when such obligations are backed by the full faith and credit of the United States of America.

“Ordinance” means Ordinance No. _____ adopted by the Common Council of the City on _____, 20____, authorizing and approving the issuance and sale of the Bonds, approving the Financing Agreement, this Indenture and related matters.

“Project” means collectively, _____, as more particularly described in Exhibit A attached hereto and a part hereof to be funded with proceeds of the Bonds.

“Project Fund” means the Project Fund for the Bonds established by Section 4.3 of the Bond Indenture.

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

“Spring Mill Centre Allocation Area” or “Allocation Area” means the Spring Mill Centre Allocation Area within the Grand Junction Economic Development Area as established by the Redevelopment Commission pursuant to its Resolution No. _____ adopted on _____, 2020, as confirmed by the Redevelopment Commission pursuant to its Resolution No. _____ adopted on _____, 2020, and as thereafter amended from time to time, all in accordance with Indiana Code 36-7-14, for the purposes of capturing incremental ad valorem real property taxes levied and collected in such allocation area.

“Spring Mill Centre Allocation Fund” or “Allocation Fund” means the Spring Mill Centre Allocation Area Allocation Fund established under Indiana Code 36-7-14 for the Spring Mill Centre TIF Revenues collected in the Spring Mill Centre Allocation Area.

“Spring Mill Centre TIF Revenues” means the property tax proceeds from the assessed valuation of real property in the Spring Mill Centre Allocation Area in excess of the assessed valuation described in IC 36-7-14-39(b) allocated and deposited in the Spring Mill Centre Allocation Fund pursuant to the provisions of Indiana Code 36-7-14-39, and pledged to the payment of principal of and interest on the Bonds, pursuant to the TIF Pledge Resolution.

“State” means the State of Indiana.

“TIF Pledge Resolution” means Resolution No. _____ adopted by the Redevelopment Commission on _____, 20____, pledging the Spring Mill Centre TIF Revenues, less annual fees, in connection with the issuance of the Bonds, to the repayment of principal of and interest on the Bonds.

“Trustee” means the trustee at the time serving as such under the Bond Indenture.

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

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

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

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

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

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

(f) The terms defined elsewhere in this Financing Agreement 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

REPRESENTATIONS; USE OF BOND PROCEEDS

Section 2.1 Representations by Issuer

Issuer represents and warrants that:

(a) Issuer is a municipal corporation organized and existing under the laws of the State. Under the provisions of the Act the Issuer is authorized to enter into the transactions contemplated by this Financing Agreement and to carry out its obligations hereunder. The Issuer has been duly authorized to execute and deliver this Financing Agreement. The Issuer 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) The Issuer shall issue its Bonds in the amount not to exceed One Million Five Hundred Twenty-Five Thousand Dollars (\$1,525,000), to fund costs of the Project, of which a net amount after taking into account costs of issuance, will be made available to during the term of the Bonds to the Developer to pay for or reimburse costs associated with the Project, as approved by the Issuer in order to create and retain employment opportunities in the City and to benefit the health and general welfare of the citizens of the City and the State.

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

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

(b) The Project is of the type authorized and permitted by the Act. Developer assents to the deposit and disposition of the proceeds of the Bonds in the manner specified in the Bond Indenture.

(c) The provision of financial assistance to be made available to it under this Financing Agreement from the proceeds of the Bonds and the commitments therefor made by the Issuer have induced Developer to undertake the Project, and such Project, will preserve and create and retain jobs and employment opportunities within the boundaries of the City. Further, Developer intends to operate the Project, as an economic development facility under the Act, until the expiration or earlier termination of this Financing Agreement as provided herein.

(d) Neither the execution and delivery of this Financing Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Financing Agreement, conflicts with or results in a breach of the terms, conditions or provisions of Developer's Articles of Incorporation, By-Laws, Articles of Organization, Operating Agreement or other organizational document, as the case may be, or any restriction or any agreement or instrument to which the Developer 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 Developer to perform its obligations hereunder) of any statute, order, rule or regulation of any court or governmental agency or body having jurisdiction over Developer 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 Developer under the terms of any instrument or agreement, except as set forth in this Financing Agreement.

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

(f) This Financing Agreement has been duly executed and delivered by Developer and constitutes the legal, valid and binding agreement of Developer, enforceable against Developer in accordance with its terms, except as may be limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights in general. The enforceability of this Financing Agreement is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity).

(g) There are no actions, suits or proceedings pending, or, to the knowledge of Developer, threatened, before any court, administrative agency or arbitrator which, individually or in the aggregate, might result in any material adverse change in the financial condition of Developer or might adversely affect this Financing Agreement.

(h) No event has occurred and is continuing which with the lapse of time or the giving of notice would constitute an event of default by Developer under this Financing Agreement. are conditioned on such dates.

(i) All representations, warranties and covenants and any obligations of Developer in this Agreement, shall be joint and several in all respects whatsoever, and shall expire upon repayment of the Bonds.

(End of Article II)

ARTICLE III

PARTICULAR COVENANTS OF THE ISSUER AND DEVELOPER

Section 3.1 Payment of Principal and Interest on Bonds; Payment of Spring Mill Centre TIF Revenues.

In accordance with the Bond Indenture, the Bonds will be payable solely and only from a pledge of the Spring Mill Centre TIF Revenues. In accordance with Section 4.2 of the Bond Indenture, the Issuer shall transfer to the Trustee for deposit in the Bond Fund, on or before each January 31 and July 31, the Spring Mill Centre TIF Revenues in an amount sufficient to pay the principal of and interest due on the Bonds on the next February 1 or August 1 together with Trustee fees as described in the Bond Indenture.

The Issuer covenants to collect and apply the Spring Mill TIF Revenues in the manner required by Article IV of the Bond Indenture. [So long as the Bonds are outstanding, the City covenants not to issue additional obligations payable from Spring Mill TIF Revenues.] Excess Spring Mill Centre TIF Revenues may be used pursuant to the Pledge Resolution by the Commission to pay: (a) first, unpaid principal and interest due and payable on the Bonds, (b) second, to redeem outstanding Bonds, (c) third, debt service coming due on the Bonds plus Annual Fees (as defined in the Bond Indenture) during the following six (6) month period, and (d) fourth, by the Commission for any other purpose permitted by law.

Section 3.2 Maintenance of Existence. Developer agrees that it will maintain its existence as a limited liability company, will not dissolve or otherwise dispose of all or substantially all of its assets, and will not consolidate with or merge into another corporation, or permit one or more other corporations to consolidate or merge with it; provided, however, that the foregoing provisions of this Section shall not apply and Developer shall not have any such obligations in the event of: (a)(i) the sale or transfer of all of the ownership interests in Developer or of all or substantially all of the assets of Developer for which the costs of construction or equipping are being financed in part with the proceeds of the sale of the Bonds, (ii) a merger, consolidation, reorganization or spin-off involving Developer or such assets, either alone or in conjunction with other assets; if the surviving, resulting or transferee entity, as the case may be, assumes in writing all of the obligations of Developer under this Financing Agreement or (iii) the City having provided Developer with its prior written consent to any such proposed transaction, which consent shall not be unreasonably withheld; or (b) the occurrence of any transaction described in Section 6.4(b) of this Financing Agreement.

Section 3.3 Event of Default; Notice; Termination.

Developer agrees to perform all material matters provided by this Agreement to be performed by Developer and to comply with all material provisions of this Agreement applicable to Developer, in each case to the extent that a failure to so perform or comply is expressly provided to be an "Event of Default" by Developer or, with the passage of time or the giving of notice, or both, would constitute an "Event of Default" on the part of Developer under this Agreement. Upon an Event of Default, the City shall provide Developer with notice of such Event of Default and Developer shall have thirty (30) days to cure such Event of Default. Should Developer fail to

remedy an Event of Default that is satisfactory to the City, the City may terminate this Agreement and direct the Trustee under the Bond Indenture to withhold any payments to the Developer under the Bonds and the Bond Indenture or take such other action as provided within the Trust Indenture.

Section 3.4 Payment of Expenses of Issuance of Bonds. The Issuer shall pay from the proceeds of the Bonds, as necessary, the costs of issuance of the Bonds. The Developer shall reimburse the City for any and all costs associated with the Project subject, however, to the Developer's right to be reimbursed from the proceeds of the Bonds.

Section 3.5 Completion and Use of the Project. Developer agrees that it will, within [18] months of the closing of the Bonds, make, execute, acknowledge and deliver 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 (as certified by Developer) of the acquisition, rehabilitation, expansion, equipping and improvement of the Project and, upon subsequent completion of the Project, Developer will operate and maintain the Project, in such manner as reasonably within Developer's power so as to conform with all applicable material zoning, planning, building, environmental and other applicable governmental regulations and so as to be consistent with the Act.

Developer hereby acknowledges receipt of a copy of the form of Bond Indenture.

Section 3.6 Fees and Expenses of Developer. Developer hereby covenants and agrees to pay any and all fees, charges and expenses, including legal counsel and municipal advisory fees, of the City incurred in connection with this Financing Agreement and the Bonds. The Developer shall pay the Annual Fees, to the extent Spring Mill Centre TIF Revenues are insufficient to pay such fees; except, the City shall provide Developer with reasonable documentation of the Annual Fees, and if the Annual Fees exceed \$10,000, the Developer shall have the right to object to the Annual Fees and to seek a review of the Annual Fees.

(End of Article III)

ARTICLE IV

IMMUNITY

Section 4.1 Extent of Covenants of the Issuer; No Personal Liability. No recourse shall be had for the payment of the principal of or interest on any of the Bonds, when issued, or for any claim based thereon or upon any obligation, covenant or agreement contained in the Bonds or the Bond Indenture, when executed, or this Financing Agreement against any past, present or future member, director, officer, agent, attorney or employee of the Issuer, or any incorporator, member, director, officer, employee, agent, attorney or trustee of any successor thereto, as such, either directly or through the Issuer or any successor thereto, 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, member, director, officer, employee, agent, attorney or trustee as such is hereby expressly waived and released as a condition of and consideration for the execution of the Bond Indenture, when executed, and this Financing Agreement (and any other agreement entered into by the Issuer with respect thereto) and the issuance of the Bonds.

Section 4.2 Liability of Issuer. Any and all obligations of the Issuer under this Financing Agreement are special, limited obligations of the Issuer, payable solely out of the Spring Mill Centre TIF Revenues, as provided under this Financing Agreement and the Bond Indenture. The obligations of the Issuer hereunder shall not be deemed to constitute an indebtedness or an obligation of the Issuer, the State or any political subdivision or taxing authority thereof within the purview of any constitutional limitation or provision, or a pledge of the faith and credit or a charge against the credit or general taxing powers, if any, of the Issuer, the State or any political subdivision or taxing authority thereof.

(End of Article IV)

ARTICLE V

AMENDMENTS TO THIS FINANCING AGREEMENT

Section 5.1 Amendments to this Financing Agreement. Developer and the Issuer may from time to time enter into such written and duly executed amendments to this Financing Agreement as to them may seem necessary or desirable to effectuate the purposes or intent hereof. The Issuer will not limit in any way its ability to exercise its right to amend this Financing Agreement without the prior written consent of Developer.

(End of Article V)

With a copy to:

Section 6.4 Successors and Assigns.

(a) Subject to Section 6.1 hereof, whenever in this Financing Agreement any of the parties hereto is named or referred to, the successors and assigns of such party shall be deemed to be included and all the covenants, promises and agreements in this Financing Agreement contained by or on behalf of Developer, or by or on behalf of the Issuer, shall bind and inure to the benefit of the respective successors and assigns, whether so expressed or not.

(b) Developer may assign this Financing Agreement or any of its rights or obligations under this Financing Agreement (i) to one or more of Developer Parties, (ii) to their successor and assigns, (iii) to one or more entities acquiring all of the ownership interests of Developer or (either alone or as part of the acquisition of other assets of Developer) all or substantially all of the assets for which the costs of construction or equipping are being financed with the proceeds of the sale of the Bonds, or (iv) in connection with a merger, consolidation, reorganization or spin-off involving Developer or such assets, either alone or in connection with other assets; provided, however, that, in each such case, the assignee undertakes to assume severally, but not jointly and severally, all of Developer' rights under this Financing Agreement.

Section 6.5 Counterparts. This Financing Agreement is being executed in any number of counterparts, each of which is an original and all of which are identical. Each counterpart of this Financing Agreement is to be deemed an original hereof and all counterparts collectively are to be deemed but one instrument.

Section 6.6 Governing Law. It is the intention of the parties hereto that this Financing Agreement and the rights and obligations of the parties hereunder shall be governed by and construed and enforced in accordance with, the laws of Indiana.

(End of Article VI)

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

“DEVELOPER”

HAEHL GROUP, LLC,
an Indiana limited liability company,

By: _____

Printed: _____

Title: _____

“ISSUER”

CITY OF WESTFIELD, INDIANA

Mayor

Attest:

Clerk-Treasurer

FORM OF ORDINANCE NO. 20-

AN ORDINANCE AUTHORIZING THE CITY OF WESTFIELD, INDIANA
TO ISSUE ITS ECONOMIC DEVELOPMENT REVENUE BONDS (SPRING
MILL CENTRE PROJECT) AND AUTHORIZING AND APPROVING OTHER
ACTIONS IN CONNECTION THEREWITH

WHEREAS, the City of Westfield, Indiana (the “City”) is a municipal corporation and political subdivision of the State of Indiana and by virtue of Indiana Code 36-7-11.9 and Indiana Code 36-7-12 (collectively, the “Act”), is authorized and empowered to adopt this ordinance (the “Bond Ordinance”) and to carry out its provisions; and

WHEREAS, the Westfield Redevelopment Commission (“Redevelopment Commission”) has previously created the Grand Junction Economic Development Area (the “Grand Junction Area”), has designated a portion of the Grand Junction Area as the Spring Mill Centre Allocation Area (the “Spring Mill Centre Allocation Area”) and has created the Spring Mill Centre Allocation Fund (the “Spring Mill Centre Allocation Fund”) pursuant to IC 36-7-14-39; and

WHEREAS, Haehl Group, LLC, or any affiliate or designee thereof (collectively, the “Developer”) has advised the Westfield Economic Development Commission (the “Commission”) and the City that it proposes that the City issue its “Taxable Economic Development Revenue Bonds, Series 20__ (Spring Mill Centre Project)” (with such further or different series designation as may be necessary or appropriate, including such designation to indicate the year in which the bonds are issued), in an amount not to exceed One Million Five Hundred Twenty-Five Thousand Dollars (\$1,525,000) (the “Bonds”) under the Act, for the purpose of financing or reimbursing all or a portion of the costs of developing the site located at 17701 Spring Mill Road in the City, including the demolition of existing structures, utility relocation and connection, on-site clearing or grading, erosion control, on-site stormwater drainage, removal of aboveground and underground storage tanks, environmental remediation, and general site work and preparation, all to support future mixed-use development consisting of commercial, retail and light industrial, including capitalized interest, if any, and costs related to the issuance of the Bonds (collectively, the “Project”); and

WHEREAS, the principal and interest on the Bonds shall be payable solely from the incremental real property taxes generated and collected in the Spring Mill Centre Allocation Area within the Grand Junction Area minus Annual Fees (as defined in the Trust Indenture) (the “Spring Mill Centre TIF Revenues”), as pledged by the Redevelopment Commission for such purpose; and

WHEREAS, the financing of all or a portion of the Project results in the diversification of industry, the creation and retention of jobs, the creation and retention of business opportunities in the City, and will be of public benefit to the health, safety and general welfare of the City and its citizens; and

WHEREAS, on May 18, 2020, the Commission conducted a public hearing in accordance with the Act and Indiana Code 5-3-1, and adopted its resolution finding that the financing of all or

a portion of the Project complies with the purposes and provisions of the Act and that such financing will be of benefit to the health and general welfare of the City; and

WHEREAS, the Economic Development Commission has heretofore approved and recommended the adoption of this form of ordinance by this Council, has considered the issue of adverse competitive effect and has approved the forms of and has transmitted for approval by the Council, the forms of (i) a Financing Agreement, between the City and the Developer (the “Financing Agreement”), (ii) a Trust Indenture, between the City and a Trustee to be selected by the Clerk-Treasurer of the City (the “Indenture”) and (iii) this Bond Ordinance (the Financing Agreement, the Indenture and the Bond Ordinance, collectively, the “Financing Documents”); and

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

Section 1. The Council hereby finds and determines that the Project involves the acquisition, construction and equipping of an “economic development facility” as that phrase is used in the Act; that the Project will create employment opportunities and diversification of economic development in the City, will improve and promote the economic stability, development and welfare in the City, will encourage and promote the expansion of industry, trade and commerce in the City and the location of other new industries in the City; that the public benefits to be accomplished by this Bond Ordinance, intending to overcome insufficient employment opportunities and insufficient diversification of industry, are greater than the cost of public services (as that phrase is used in the Act) which will be required by the Project; and, therefore, that the financing of the Project by the issue of the Bonds under the Act: (i) will be of benefit to the health and general welfare of the City and (ii) complies with the Act.

Section 2. The proposed financing of all or a portion of the costs of the Project, and the financing of certain costs related to the issuance of the Bonds, as further described in the Financing Documents, by the issuance of the Bonds, in one or more series, under the Act, in the form that such financing was approved by the Commission, is hereby approved.

Section 3. Forms of the Financing Documents before this meeting are hereby approved and are by this reference incorporated in this Bond Ordinance, and the Clerk-Treasurer of the City is hereby directed, in the name and on behalf of the City, to insert them into the minutes of the Council and to keep them on file. The Mayor and the Clerk-Treasurer of the City are hereby authorized and directed, in the name and on behalf of the City, to execute or endorse and deliver the Financing Documents. In accordance with provisions of Indiana Code § 36-1-5-4, two (2) copies of the Financing Documents incorporated into this Bond Ordinance are on file in the office of the Clerk-Treasurer for public inspection.

Section 4. The Bonds, in one or more series (with such further or different series designation as may be necessary or appropriate, including such series designation to indicate the year in which the bonds are issued), in the aggregate principal amount not to exceed One Million Five Hundred Twenty-Five Thousand Dollars (\$1,525,000), shall (i) be executed at or prior to the closing date by the manual or facsimile signatures of the Mayor and the Clerk-Treasurer of the City; (ii) be dated as of the date of issuance; (iii) mature on a date not later than twenty-five (25)

years after the date of issuance; (iv) bear interest at a rate not to exceed six percent (6.0%), with such interest to be payable as provided in the Financing Documents; (v) be issuable in such denominations as set forth in the Financing Documents; (vi) be issuable only in fully registered form; (vii) be subject to registration on the bond register as provided in the Indenture; (viii) be payable in lawful money of the United States of America; (ix) be payable at an office of the Trustee as provided in the Indenture or at such other place designated by the City in the Financing Documents; (x) be subject to optional redemption prior to maturity, and may be subject to mandatory sinking fund redemption, and as otherwise provided in the Financing Documents; and (xi) contain such other terms and provisions as may be provided in the Financing Documents. The Bonds shall be payable solely from the Spring Mill Centre TIF Revenues, upon such terms and conditions as otherwise provided in the Financing Documents and this Bond Ordinance. The Bonds and the interest thereon do not and shall never constitute an indebtedness of, or a charge against the general credit or taxing power of, the City, or payable in any manner from revenues raised by taxation, except for the Spring Mill Centre TIF Revenues. The Bonds shall be purchased by the Developer or the Developer's bank. The Bonds may be purchased by the bond purchaser in installments and drawn down in installments. If the Bonds are purchased by the Developer's bank, the Mayor and Clerk-Treasurer are authorized and directed to sell the Bonds to the Developer's bank at a price not less than the par value thereof and to approve and execute a bond purchase agreement for the Bonds with Developer's bank in a form approved by such officers, such approval to be conclusively evidenced by the execution thereof.

Section 5. The Mayor and the Clerk-Treasurer of the City, and each of them, are hereby authorized and directed, in the name and on behalf of the City, to execute or endorse any and all agreements, documents and instruments, perform any and all acts, approve any and all matters, and do any and all other things deemed by them, or either of them, to be necessary or desirable in order to carry out and comply with the intent, conditions and purposes of this Bond Ordinance (including the preambles hereto and the documents mentioned herein), the Project, the issuance and sale of the Bonds, and the securing of the Bonds under the Financing Documents, and any such execution, endorsement, performance or doing of other things heretofore effected be, and hereby is, ratified and approved.

Section 6. The Mayor and the Clerk-Treasurer of the City are hereby authorized, in the name and on behalf of the City, without further approval of the Council or the Commission, to approve such changes in the Financing Documents as may be permitted by the Act, such approval to be conclusively evidenced by their execution thereof, if such changes do not affect terms set forth in Section 27(a)(1) through and including (a)(10) of the Act.

Section 7. The provisions of this Bond Ordinance and the Financing Agreement shall constitute a binding contract between the City and the holders of the Bonds, and after issuance of the Bonds this Bond Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of the holders of the Bonds as long as the Bonds or interest thereon remains unpaid.

Section 9. All ordinance or parts of ordinances in conflict herewith are hereby repealed.

Section 10. This Bond Ordinance shall be in full force and effect immediately upon adoption.

ADOPTED AND PASSED THIS ____ DAY OF MAY, 2020, BY THE WESTFIELD COMMON COUNCIL, HAMILTON COUNTY, INDIANA.

WESTFIELD COMMON COUNCIL

Voting For

Voting Against

Abstain

Scott Willis

Scott Willis

Scott Willis

Jake Gilbert

Jake Gilbert

Jake Gilbert

Joe Edwards

Joe Edwards

Joe Edwards

Scott Frei

Scott Frei

Scott Frei

Mike Johns

Mike Johns

Mike Johns

Troy Patton

Troy Patton

Troy Patton

Cindy L. Spoljaric

Cindy L. Spoljaric

Cindy L. Spoljaric

ATTEST:

Cindy J. Gossard, Clerk-Treasurer
City of Westfield, Indiana

I hereby certify that ORDINANCE 20- was delivered to the Mayor of Westfield on the ____ day of _____, 2020, at ____:____.m.

Cindy J. Gossard, Clerk-Treasurer

I hereby APPROVE Ordinance 20-__
this ____ day of _____, 2020
at ____:____.m.

J. Andrew Cook, Mayor

I hereby VETO Ordinance 20-__
this ____ day of _____, 2020
at ____:____.m.

J. Andrew Cook, Mayor

**FORM
OF
TRUST INDENTURE
BETWEEN
CITY OF WESTFIELD, INDIANA**

AND

_____,
as Trustee

\$ _____

**CITY OF WESTFIELD, INDIANA
TAXABLE ECONOMIC DEVELOPMENT REVENUE BONDS, [SERIES 20____]
(SPRING MILL CENTRE PROJECT)**

Dated as of _____ 1, 20____

Table of Contents

ARTICLE I. DEFINITIONS	4
Section 1.1. Terms Defined.....	4
Section 1.2. Rules of Interpretation	7
Section 1.3. Exhibits	8
ARTICLE II. THE BONDS.....	9
Section 2.1. Authorized Amount of Bonds	9
Section 2.2. Issuance of the Bonds	9
Section 2.3. Payment on the Bonds.....	9
Section 2.4. Execution: Limited Obligation.....	10
Section 2.5. Authentication.....	10
Section 2.6. Form of the Bonds.....	11
Section 2.7. Delivery of Bonds	15
Section 2.8. Mutilated, Lost, Stolen or Destroyed Bonds.....	15
Section 2.9. Registration and Exchange of Bonds: Persons Treated as Owners	16
ARTICLE III. APPLICATION OF THE BOND PROCEEDS.....	17
Section 3.1. Deposit of Bond Funds	17
ARTICLE IV. REVENUE AND FUNDS	18
Section 4.1. Source of Payment of the Bonds.....	18
Section 4.2. Bond Fund.....	18
Section 4.3. Project Fund	19
Section 4.4. Spring Mill Centre TIF Revenues.....	Error! Bookmark not defined.
Section 4.5. Reserved.....	20
Section 4.6. Trust Funds	20
Section 4.7. Investment.....	20
ARTICLE V. REDEMPTION OF BONDS BEFORE MATURITY	21
Section 5.1. Redemption Dates and Prices - Optional Redemption.....	21
Section 5.2. Notice of Redemption	21
Section 5.3. Cancellation	22
Section 5.4. Redemption Payments.....	22
Section 5.5. Partial Redemption of Bonds	22
ARTICLE VI. GENERAL COVENANTS.....	23
Section 6.1. Payment of Principal and Interest	23
Section 6.2. Performance of Covenants	23
Section 6.3. Filing of Indenture and Security Instruments	23
Section 6.4. List of Bondholders.....	24
Section 6.5. Rights Under Financing Agreement	24
Section 6.6. Investment of Funds.....	24
Section 6.7. Non-presentment of Bonds	25

ARTICLE VII. DEFAULTS AND REMEDIES	26
Section 7.1. Events of Default	26
Section 7.2. Remedies: Rights of Bondholders.....	26
Section 7.3. Right of Bondholders to Direct Proceedings	27
Section 7.4. Application of Moneys.....	27
Section 7.5. Remedies Vested In Trustee	28
Section 7.6. Rights and Remedies of Bondholders	28
Section 7.7. Termination of Proceedings	28
Section 7.8. Waivers of Events of Default.....	28
ARTICLE VIII. THE TRUSTEE	30
Section 8.1. Acceptance of the Trusts	30
Section 8.2. Fees, Charges and Expenses of the Trustee	32
Section 8.3. Notice to Bondholders if Default Occurs.....	32
Section 8.4. Intervention by Trustee	32
Section 8.5. Successor Trustee.....	32
Section 8.6. Resignation by the Trustee.....	33
Section 8.7. Removal of the Trustee	33
Section 8.8. Appointment of Successor Trustee by the Bondholders; Temporary Trustee.....	33
Section 8.9. Concerning Any Successor Trustees.....	33
Section 8.10. Trustee Protected in Relying Upon Resolutions, etc	34
ARTICLE IX. SUPPLEMENTAL INDENTURES	35
Section 9.1. Supplemental Indentures Not Requiring Consent of Bondholders	35
Section 9.2. Supplemental Indentures Requiring Consent of Bondholders.....	35
Section 9.3. Opinion with Respect to Supplemental Indentures.....	36
ARTICLE X. AMENDMENTS TO THE FINANCING AGREEMENT.....	37
Section 10.1. Amendments etc., to Financing Agreement Not Requiring Consent of Bondholders.....	37
Section 10.2. Amendments etc., to Financing Agreement Requiring Consent of Bondholders.....	37
Section 10.3. Section 10.3. Opinion with Respect to Amendments to Financing Agreement.....	37
ARTICLE XI. MISCELLANEOUS	38
Section 11.1. Satisfaction and Discharge.....	38
Section 11.2. Application of Trust Money.....	38
Section 11.3. Consents, etc., of Bondholders.....	38
Section 11.4. Limitation of Rights	39
Section 11.5. Severability	39
Section 11.6. Notices	39
Section 11.7. Counterparts	40
Section 11.8. Applicable Law	40
Section 11.9. Immunity of Officers and Directors.....	40

Section 11.10. Holidays40

EXHIBIT ADISBURSEMENT REQUEST FORM A-1

TRUST INDENTURE

THIS TRUST INDENTURE dated as of the 1st day of _____, 2020, by and between the CITY OF WESTFIELD, INDIANA (the “City”), a municipal corporation organized and existing under the laws of the State of Indiana and _____, a national bank association duly organized under the laws of the United States and authorized to accept and execute trusts of the character herein, having a corporate trust office in the city of Westfield, Indiana, as trustee (the “Trustee”);

WITNESSETH:

WHEREAS, Indiana Code 36-7-11.9 and 12, as supplemented and amended (the “Act”), authorizes and empowers the City to issue revenue bonds and to use the proceeds therefrom for the purpose of financing economic development facilities and vests such City with powers that may be necessary to enable it to accomplish such purposes;

WHEREAS, to enable Haehl Group, LLC, and/or one or more affiliates and/or designees (collectively, the “Company”), to proceed with the Project, the Company has asked the City to provide financial assistance, by issuing its Taxable Economic Development Revenue Bonds, Series 20__ (Spring Mill Centre Project) in the aggregate principal amount not to exceed \$1,525,000 (the “Bonds”), pursuant to and in accordance with this Trust Indenture and the Act, and to provide the proceeds thereof to reimburse the Company or provide funds thereto pursuant to the Financing Agreement of even date herewith (the “Financing Agreement”) as approved by the City for the purpose of reimbursing the Company or providing funds for paying the costs of the Project (as defined herein), including capitalized interest, if any, and the costs of issuing the Bonds;

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 City;

WHEREAS, after giving notice in accordance with the Act and Indiana Code 5-3-1-4, the Westfield Economic Development Commission held a public hearing on behalf of the City, and upon finding that the Project and the proposed financing thereof (i) will create or retain employment opportunities in and near the City of Westfield, Indiana; (ii) will benefit the health and general welfare of the citizens of the City of Westfield, Indiana, and the State of Indiana; and (iii) will comply with the purposes and provisions of the Act, adopted a resolution approving the proposed financing;

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

WHEREAS, the Financing Agreement provides for the use of the proceeds of the Bonds by the Company to complete the Project, and, pursuant to this Indenture, the City will assign certain of its rights under the Financing Agreement to the Trustee, upon consent of the Company pursuant to Section 6.1 of the Financing Agreement;

WHEREAS, pursuant to this Indenture and the TIF Pledge Resolution (as defined herein), the Bonds shall be payable solely from the pledge of Spring Mill Centre TIF Revenues (as defined herein) and proceeds from the Bonds;

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

WHEREAS, Indiana Code 36-7-14 provides that a redevelopment commission of a consolidated City may pledge certain incremental property taxes to pay, in whole or in part, amounts due on the Bonds;

WHEREAS, the Westfield Redevelopment Commission (the “Redevelopment Commission,” has, by resolution, dedicated and pledged to the City the Spring Mill Centre TIF Revenues to the repayment of the Bonds;

WHEREAS, the 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 City 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 City in and to the Financing Agreement (except the rights reserved to the City therein);

DIVISION II

All right, title and interest of the City in and to the Spring Mill Centre TIF Revenues deposited with the Trustee hereunder (such pledge to be effective as set forth in Indiana Code 5-1-14-4 and Indiana Code 36-7-14-39 without filing or recording of this Indenture or any other instrument);

DIVISION III

All moneys and securities from time to time held by the Trustee under the terms of this Indenture (except Qualified Investments deposited with the Trustee pursuant to Section 11.1 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 City or by anyone in 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, solely with respect to the Project, an entity which directly or indirectly controls, is controlled by or is under common control with, 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.

“Annual Fees” means annual Trustee Fees and annual fees related to monitoring Spring Mill TIF Revenues.

“Authorized Representative” means, (i) with respect to the City, the Mayor, the Clerk-Treasurer or an appointee of the Mayor (or such other officer as the City shall notify the Company and the Trustee in writing as being an Authorized Representative, with evidence of such authority); and (ii) with respect to the Company, _____ (or such other officer as the Company shall notify the City and the Trustee in writing as being an Authorized Representative, with evidence of such authority).

“Bondholders” means registered owners of the Bonds, initially being Haehl Group, LLC, or an affiliate or designee thereof.

“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 City on _____, 2020, authorizing and approving the issuance and sale of the Bonds, and approving the Financing Agreement, this Indenture and related matters.

“Bonds” means the City of Westfield, Indiana, Taxable Economic Development Revenue Bonds, Series 201__ (Spring Mill Centre Project) in the aggregate principal amount of \$ _____.

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

“Company” means Haehl Group, LLC, or any affiliate or successor thereto under the Financing Agreement.

“Economic Development Commission” means the Westfield Economic Development Commission.

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

“Financing Agreement” means the Financing Agreement, dated as of _____ 1, 20____, from the Company to the City and all amendments and supplements thereto.

“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 instrument as originally executed or as it may from time to time be amended or supplemented pursuant to Article IX.

“Interest Payment Date” on the Bonds means each February 1 and August 1, commencing _____ 1, 20_____.

“Redevelopment Commission” means the Westfield Redevelopment Commission of the City, the governing body of the redevelopment district of the City.

“Project Fund” means the Project Fund for the Bonds established in Section 4.3 of this Indenture.

“Project” means, collectively, development of the site located at 17701 Spring Mill Road in the City, including the demolition of existing structures, utility relocation and connection, on-site clearing or grading, erosion control, removal of aboveground and underground storage tanks, environmental remediation, and general site work and preparation, all to support future mixed-use development consisting of commercial, retail and light industrial, including capitalized interest, if any, and costs related to the issuance of the Bonds

“Project Site” means the location of the Project, all as described in the Financing Agreement.

“Qualified Investments” shall mean any of the following to the extent permitted by law: (i) Government Obligations; (ii) money market funds, which may be funds of the Trustee, the assets of which are obligations of or guaranteed by the United States of America and which funds are rated at the time of purchase “AAAm-G or higher by Standard & Poor’s Ratings Service, Inc. and/or “Aaa” by Moody’s Investors Service, Inc.; (iii) bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies: Export-Import Bank, Farmers Home Administration, Federal Financing Bank, Federal Housing Administration, Government National Mortgage Association, Maritime Administration and Farm Credit Banks; (iv) certificates of deposit, savings accounts, deposit accounts or depository receipts of a bank, savings and loan associations and mutual savings banks, including the Trustee, each fully insured by the Federal Deposit Insurance Corporation; (v) bankers’

acceptances or certificates of deposit of commercial banks or savings and loan associations, including the Trustee, which mature not more than one year after the date of purchase; provided the banks or savings and loan associations (as opposed to their holding companies) are rated for unsecured debt at the time of purchase of the investments in the single highest full classification established by Moody's Investors Service, Inc. and Standard & Poor's Ratings Service, Inc.; (vi) commercial paper rated at the time of purchase in the single highest full classification by Moody's Investors Service, Inc. and Standard & Poor's Ratings Service, Inc. and which matures not more than 270 days after the date of purchase (including the Trustee and its affiliates); (vii) any guaranteed investment contract or investment agreement of a financial institution which is rated in one of the two highest rating categories by Standard & Poor's Ratings Services; (viii) or U.S. dollar denominated deposits constituting an obligation of a bank, as defined by the Indiana Banking Act (including the Trustee and its affiliates), whose outstanding unsecured long-term City rating is rated at the time of such deposit in any of the three highest rating categories by any Rating Agency (Ratings on holding companies are considered as the rating of the bank). and (ix) repurchase agreements with any bank or trust company organized under the laws of any state of the United States of America or any national banking association (including the Trustee) or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in clauses (i), (iii) or (iv) above; provided, underlying securities are required by the repurchase agreement to be continuously maintained at a market value not less than the amount so invested.

“Record Date” means the fifteenth day immediately preceding any Interest Payment Date.

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

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

“Responsible Officer” means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

“Spring Mill Centre Allocation Area” or “Allocation Area” means the Spring Mill Centre Allocation Area within the Near Eastside Redevelopment Project Area as established by the Redevelopment Commission pursuant to its Resolution No. _____ adopted on _____, 20____, as confirmed by the Redevelopment Commission pursuant to its Resolution No. _____ adopted on _____, 20____, and as thereafter amended from time to time, all in accordance with Indiana Code 36-7-14, for the purposes of capturing incremental ad valorem real property taxes levied and collected in such allocation area.

“Spring Mill Centre Allocation Fund” or “Allocation Fund” means the Spring Mill Centre Allocation Area Allocation Fund established under Indiana Code 36-7-14 for the Spring Mill Centre TIF Revenues collected in the Spring Mill Centre Allocation Area.

“Spring Mill Centre TIF Revenues” means the property tax proceeds from the assessed valuation of real property in the Spring Mill Centre Allocation Area in excess of the assessed valuation described in IC 36-7-14-39(b) allocated and deposited in the Spring Mill Centre Allocation Fund pursuant to the provisions of Indiana Code 36-7-14-39, pledged to the payment of principal of and interest on the Bonds, pursuant to the TIF Pledge Resolution.

“State” means the State of Indiana.

“TIF Pledge Resolution” means Resolution No. _____ adopted by the Redevelopment Commission on _____, 20_____, pledging the Spring Mill Centre TIF Revenues, less Annual Fees, to the repayment of principal of and interest on the Bonds.

“Trustee” means _____, authorized to accept and execute trusts of the character herein, having a corporate trust office in the city of Westfield, Indiana, as trustee, 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:

(1) “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.

(2) 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.

(3) 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.

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

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

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

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

Exhibit A: Disbursement Request Form

(End of Article I)

ARTICLE II.

THE BONDS

Section 2.1. Authorized Amount of Bonds. No Bonds may be issued under the provisions of this Indenture except in accordance with this Article. The principal amount of the Bonds (other than Bonds issued in substitution therefor pursuant to Section 2.9 hereof) that may be issued is hereby expressly limited to \$1,525,000 (the “Authorized Amount”).

Section 2.2. Issuance of the Bonds. The Bonds shall be designated “City of Westfield, Indiana, Taxable Economic Development Tax Revenue Bonds, Series 20___ (Spring Mill Centre Project),” and lettered and numbered R-1 and upward. The Bonds shall be originally issuable as fully registered Bonds without coupons in denominations of \$1,000 or integral multiples thereof. Interest on Bonds shall be paid to the owners of such Bonds determined as of the close of business of the Record Date next preceding each Interest Payment Date at the registered addresses of such owners as they shall appear on the registration books of the Trustee, as registrar for the Bonds, notwithstanding the cancellation of any such Bonds upon any exchange or transfer thereof subsequent to the Record Date and prior to such Interest Payment Date. Payment of interest to the holders of all Bonds shall be by check mailed to such holder of the Bonds on each Interest Payment Date. The 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 Bonds shall be payable on each February 1 and August 1, commencing ____ 1, 20__.

The Bonds shall bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless such date of authentication shall be subsequent to a Record Date in which case they shall bear interest from the Interest Payment Date with respect to such Record Date.

[The Bonds shall mature on _____ 1, 20__ as a term bond to be redeemed on the following dates in the following amounts and at the per annum interest rate of _____ percent (_____.0%) which interest shall begin to accrue on _____ 1, 20__:

<u>Date</u>	<u>Amount</u>	<u>Date</u>	<u>Amount</u>
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Section 2.3. Payment on the Bonds. The principal of and interest on the Bonds shall be payable in any coin or currency of the United States of America which, at the respective dates of

payment thereof, is legal tender for the payment of public and private debts. The principal of the Bonds shall be payable at the principal corporate trust office of the Trustee. All payments of interest on the Bonds shall be made to the person appearing on the Bond registration books of the Trustee as the registered owner of the Bonds by check mailed to the Registered Owner thereof as shown on the registration books of the Trustee, as registrar for the Bonds. Each registered owner of \$500,000 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 at least thirty (30) days before the Record Date for such payment. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day.

Section 2.4. Execution: Limited Obligation. The Bonds shall be executed on behalf of the City with the manual or facsimile signature of its Mayor and attested with the manual or the facsimile signature of its Clerk, and shall have impressed or printed thereon the corporate seal of the City. Such facsimiles shall have the same force and effect as if such officer had manually signed each of said Bonds. In case any officer whose signature or facsimile signature shall appear on the Bonds shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile shall, nevertheless, be valid and sufficient for all purposes, the same as if he had remained in office until delivery.

The Bonds, and the interest payable thereon, do not and shall not represent or constitute a debt of the City, 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 City, 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 City, the State of Indiana, or of any political subdivision or taxing authority thereof, but are a special limited obligation of the City and are payable solely and only from the Spring Mill Centre TIF Revenues pledged and assigned for their payment in accordance with the Indenture. Neither the faith and credit nor the taxing power of the City, 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 City, 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 City 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 Economic Development Commission, the Redevelopment Commission or the City 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 City executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance of the Bonds.

Section 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. Form of the 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:

(Form of Bond)

UNITED STATES OF AMERICA

R-1

CITY OF WESTFIELD, INDIANA
 ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 20____
 (SPRING MILL CENTRE PROJECT)

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>ORIGINAL DATE</u>	<u>AUTHENTICATION DATE</u>
_____%	_____, 20____	_____, 20____	_____, 20____

PRINCIPAL AMOUNT: \$ _____

REGISTERED OWNER: [HAEHL GROUP, LLC]

The City of Westfield, Indiana (the “City”), 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, but solely from the payments of Spring Mill Centre TIF Revenues hereinafter referred to pledged and assigned for the payment hereof, the Principal Amount set forth above[, or so much of the Principal Amount as shall have been advanced as set forth on Exhibit B attached hereto,] on February 1 and August 1 on the dates and in the amounts set forth in Exhibit A attached hereto, unless this Bond 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 _____ 1, 20____, and on each February 1 and August 1 thereafter (each an “Interest Payment Date”) until the Principal Amount is paid in full. Interest on this Bond shall be payable from the Interest Payment Date next preceding the date of authentication thereof (the “Interest Date”), except that: (i) if this Bond is authenticated on or prior to _____ 15, 20____, the Interest Date shall be _____ 15, 20____; (ii) if this Bond is authenticated on or after the fifteenth day immediately preceding an Interest Payment Date (the “Record Date”), the Interest Date shall be such Interest Payment Date; and (iii) 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 proceeds of this Bond or credits related thereto may be advanced from time to time at the request of Haehl Group, LLC (the “Developer”) or an Affiliate (as defined in the below described Indenture) thereof. As advances are made or credits given in the form of approved expenditures on the Project, the unpaid principal amount of this Bond shall be the total amounts advanced or credited by the Registered Owner from time to time, less any prior redemption of the principal amount due, as set forth on Exhibit A hereto. The aggregate amount of advances made under this Bond may not exceed \$ _____. The principal amounts deemed advanced shall be evidenced by the execution of Disbursement Requests as set forth in Section 4.3 of the hereinafter defined Indenture.]

Pursuant to its Resolution No. _____, the Westfield Redevelopment Commission (“Redevelopment Commission”), as the governing body of the Westfield Redevelopment District, has irrevocably pledged to the

payment of the Bonds the Spring Mill Centre TIF Revenue (as defined in the hereinafter defined Indenture) collected within the Spring Mill Centre Allocation Area, as established by the Redevelopment Commission and more particularly described in the Indenture.

The principal of this Bond is payable at the corporate trust office of _____, as trustee (the "Trustee"), in _____, _____, or at the principal corporate trust office of any successor trustee. All payments of interest hereon will be made by the Trustee by check mailed on each Interest Payment Date to the Registered Owner hereof at the address shown on the registration books of the Trustee as maintained by the Trustee, as registrar, determined on the Record Date next preceding such Interest Payment Date. Each registered owner of \$500,000 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 for such payment.

This Bond is [one of] [the only one] of the City's Economic Development Revenue Bonds, Series 20____ (Spring Mill Centre Project) (hereinbefore and hereinafter the "Bonds") which are being issued under the hereinafter described Indenture in the aggregate principal amount of \$_____. The Bonds are being issued for the purpose of providing funds to finance the _____, which is located within the Spring Mill Centre Allocation Area as established by the Redevelopment Commission by providing such funds to the Company pursuant to the Financing Agreement, dated as of _____ 1, 20____ (the "Financing Agreement") between the Company and the City, which prescribes the terms and conditions under which the Company shall use such proceeds for the Project.

The Bonds are issued under and entitled to the security of a Trust Indenture dated as of _____ 1, 2020 (hereinafter referred to as the "Indenture") duly executed and delivered by the City to _____, as trustee (the term "Trustee" where used herein referring to said Trustee or its successors), pursuant to which Indenture, the Spring Mill Centre TIF Revenues are pledged and assigned by the City 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 City 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.

The Bonds are issuable in registered form without coupons in the denominations of \$1,000 or integral multiples thereof. This Bond is transferable by the registered holder hereof in person or by his attorney duly authorized in writing at the corporate trust 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 City 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 City nor the Trustee shall be affected by any notice to the contrary.

The Bonds are redeemable at the option of the City at the direction of the Company on any date, upon fifteen (15) days' notice, in whole or in part, in order of maturity determined by City and by lot within maturities, at face value, plus accrued interest to the date fixed for redemption.

[The Bonds maturing on _____ 1, 20____ are subject to mandatory sinking fund redemption prior to maturity at a redemption price equal to the principal amount thereof plus accrued interest, on the dates and in the amounts set forth below:

<u>Date</u>	<u>Amount</u>	<u>Date</u>	<u>Amount]</u>
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Date Amount Date Amount]

If fewer than all of the Bonds at the time outstanding are to be called for redemption, the maturities of Bonds or portions thereof to be redeemed shall be selected by the Trustee at the direction of the City. If fewer than all of the 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 Bonds held by the respective owners of the Bonds within such maturity that shall be redeemed.]

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 fifteen (15) days nor more than thirty (30) 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 City, 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 City, 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 City, the State of Indiana, or of any political subdivision or taxing authority thereof, but are a special limited obligation of the City and are payable solely and only from the Spring Mill Centre TIF Revenues pledged and assigned for their payment in accordance with the Indenture. Neither the faith and credit nor the taxing power of the City, 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 City, 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 City 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 the Westfield Economic Development Commission, the Redevelopment Commission, the City or of any member, director, officer, agent, attorney or employee of the Westfield Economic Development Commission, the Redevelopment Commission or the City in his or her individual capacity, and neither the Westfield Economic Development Commission, the Redevelopment Commission, the City nor any member, director, officer, agent, attorney or employee of the Westfield Economic Development Commission, the Redevelopment Commission, or the City executing the Bonds shall be liable personally for the Bonds or be subject to any personal liability or accountability by reason of the issuance of 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 City.

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 Westfield, 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 WESTFIELD, INDIANA

By: _____
_____, Mayor

(Seal)

Attest:

_____, Clerk-Treasurer

(FORM OF TRUSTEE’S CERTIFICATE OF AUTHENTICATION)

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

as Trustee

By _____
Authorized Officer

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____
_____ (Please Print or Typewrite Name and Address) the within Series ____ 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 correspond with the name of the registered owner as it appears upon the face of the within the Bonds in every particular, without alteration or enlargement or any change whatever.

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

UNIF TRAN MIN ACT -- _____ Custodian _____
(Cust) (Minor)

under Uniform Transfers to Minors Act

(State)

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

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

EXHIBIT A

Date Amount

[EXHIBIT B]

Schedule of Advances

(End of Bond Form)

Section 2.7. Delivery of Bonds. The Trustee shall authenticate the Bonds and deliver them to the purchasers thereof upon receipt of a copy, duly certified by the Clerk-Treasurer of the City, of the Bond Ordinance authorizing the execution and delivery of the Financing Agreement and this Indenture and the issuance of the Bonds, and delivery of the following.

- (1) An executed counterpart of the Financing Agreement and this Indenture.
- (2) A written request of the City to the Trustee requesting the Trustee to authenticate, or cause to be authenticated, and deliver the Bonds in the Authorized Amount to the purchasers thereof.
- (3) A copy of the Pledge Resolution and such other documents as the Trustee shall be notified in writing by bond counsel or the City to be required to be delivered to the Trustee.

The proceeds of the Bonds shall be paid over to the Trustee and deposited to the Project Fund as hereinafter provided under Section 3.1 hereof.

Section 2.8. Mutilated, Lost, Stolen or Destroyed Bonds. In the event any Bond is mutilated, lost, stolen or destroyed, then, in the absence of notice to the Trustee that such Certificate has been acquired by a bona fide purchaser, the City, through the Trustee, may execute and the Trustee may authenticate a new Bond of like date, maturity 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 City, 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 City 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 their reasonable fees and expenses in this connection. Any Bond issued pursuant to this Section 2.8 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 City.

Section 2.9. Registration and Exchange of Bonds: Persons Treated as Owners. The City 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 City. Upon surrender for transfer of any fully registered Bond at the corporate trust office of the Trustee, duly endorsed by, or accompanied by a written instrument or instruments of transfer in form satisfactory to the Trustee and duly executed by the registered owner or his attorney duly authorized in writing, the City 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 City 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 City. 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 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 THE BOND PROCEEDS

Section 3.1. Deposit of Bond Funds. [The City shall deposit with the Trustee in the Bond Fund \$_____ from the sale of the Bonds, to pay [capitalized interest on the Bonds through _____, 20____.] The City shall deposit [all][\$ _____] proceeds from the sale of the Bonds to the Project Fund. Disbursements from the Project Fund will be used to pay for costs of the Project, and are to be made in accordance with the provisions of Article IV of this Indenture.

(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 City hereunder are not general obligations of the City but are limited obligations payable solely from the Spring Mill Centre TIF Revenues pledged and assigned for their payment in accordance with the Indenture, the Pledge Resolution and the Financing Agreement. 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 City in his or her individual capacity, and no member, director, officer, agent, attorney, or employee of the City 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 Spring Mill Centre TIF Revenues to the payment of the Bonds pursuant to the TIF Pledge Resolution.

Section 4.2. Bond Fund.

(a) The Trustee shall establish and maintain, so long as any of the Bonds are outstanding, a separate fund to be known as the “City of Westfield, Indiana—Spring Mill Centre Bond Fund” (the “Bond Fund”). Money in the Bond Fund shall be applied as provided in this Section 4.2.

(b) On or before each January 31 and July 31, following the issuance of the Bonds, but in no event later than _____ 30, 20_____, there shall be deposited in the Bond Fund, as and when received, pledged Spring Mill Centre TIF Revenues in an amount sufficient to first (i) pay any interest currently due and outstanding, plus Trustee fees coming due within the next six (6) months with respect to the Bonds and (ii) pay as much principal as possible due on the Bonds on the next February 1 or August 1. The City hereby covenants and agrees that so long as any of the Bonds issued hereunder are outstanding it will deposit, or cause to be paid to Trustee for deposit in the Bond Fund for its account, up to, but not in excess of, the revenues and receipts derived from the Spring Mill Centre TIF Revenues, promptly to meet and pay the principal of and interest on the Bonds as the same become due and payable together with such Trustee fees. Nothing herein should be construed as requiring the City to deposit or cause to be paid to Trustee for deposit in the Bond Fund funds from any source other than receipts derived from the Spring Mill Centre TIF Revenues.

(c) The Clerk-Treasurer of the City shall set aside immediately upon receipt the Spring Mill Centre TIF Revenues into the Allocation Fund and transfer Spring Mill Centre TIF Revenues in the amount thereof specified in subsection (b) above to the Trustee for application in accordance with this Indenture. The Trustee is hereby directed to deposit such Spring Mill Centre TIF Revenues into the Bond Fund in the manner prescribed in this Section 4.2 and in Section 4.4. Moneys in the Bond Fund shall be used by the Trustee to pay the interest on and principal of the Bonds as the same becomes due together with the Trustee fees described in

subsection (a). Any amounts of principal and interest on the Bonds not paid due to insufficient Spring Mill Centre TIF Revenues shall not be deemed an Event of Default.

Section 4.3. Project Fund. The City shall maintain the Project Fund in the custody of the Trustee, to the credit of which deposits are to be made as required by the provisions of Section 3.1 hereof.

(a) Moneys held in the Project Fund representing proceeds of the sale of the Bonds shall be disbursed by the Trustee in accordance with the provisions of this Section 4.3 to pay the costs of the Project. Subject to the provisions below and to any applicable representations, warranties and covenants contained in the Indenture or the Financing Agreement, disbursements from the Project Fund shall be made only to pay (or to reimburse the Company for payment of) costs of the Project, as the case may be, as follows:

(1) Costs incurred directly or indirectly for or in connection with the issuance of the Bonds and the acquisition, rehabilitation, expansion, equipping, installation or improvement of the Project, as the case may be, including: costs incurred with respect to preliminary planning and studies; architectural, legal, engineering, accounting, consulting, supervisory, trustee fees, publication costs, and other services; labor, services and materials; and recording of documents and title work;

(2) Capitalized interest costs, namely a portion of the interest on the Bonds from the date of their original delivery through and including _____, 20____;

(3) 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 Project, as the case may be; and

(4) Any other incidental and necessary costs, expenses, fees and charges relating to the acquisition, rehabilitation, expansion, equipping, installation or improvement of the Project, as the case may be.

Any further disbursements from the Project Fund described above to pay such fees, costs or expenses or to reimburse the Company for the payment of such fees, costs or expenses, other than the costs of issuance of the Bonds, shall be made by the Trustee only upon the written order of the Company. Each such written order shall be in the form of the disbursement request attached hereto as Exhibit A and shall be consecutively numbered and accompanied by invoices or other documentation supporting the payments or reimbursements requested (“Disbursement Request”). Each Disbursement Request shall be submitted to the Authorized Representative of the City for review and approval prior to submitting to the Trustee for disbursement from the Project Fund. Approval of or a request for additional information regarding a Disbursement Request shall be provided by the City within ten (10) business days or it shall be deemed approved by the City. If a Disbursement Request is so deemed to be approved by the City in accordance with the immediately preceding sentence, the Company shall provide the Trustee with a written certification to that effect, at the time the Company submits any such Disbursement Request to the Trustee; and, the Trustee shall be fully protected in relying on any such certification in the disbursing of any such requested amounts and shall have no duty or

obligation to confirm that the City received such Disbursement Request as required hereunder. The City may, at its option, disapprove of specific reimbursements requested by the Company which shall not be reimbursable from the Project Fund by the Trustee and shall specify in writing to the Company and Trustee the reason for disapproving a reimbursement item of a Disbursement Request. The Trustee has no duty or obligation to determine the appropriateness of any such objection and shall be fully protected in withholding any payments not approved by the City.

The Trustee shall cause to be kept and maintained accurate records pertaining to the Project Fund and all disbursements therefrom. If requested by the Company or the City, the Trustee shall file copies of the records pertaining to the Project Fund and all disbursements from such fund with the City and the Company.

If, after payment of all costs of the Project requested by the Company, there shall remain any balance of moneys in the Project Fund, the City shall transfer all moneys then in such Project Fund to the Bond Fund. The Company shall provide the Trustee with written notice when all costs of the Project payable from the Project Fund have been paid.

Section 4.4. Spring Mill Centre TIF Revenues. On or before each January 31 and July 31, following the issuance of the Bonds, but in no event later than ___30, 20___, the Trustee shall deposit to the Bond Fund Spring Mill Centre TIF Revenues deposited with it by the City pursuant to Section 4.2(b) and (c) hereof for the payment of the principal of and interest on the Bonds on the immediately succeeding February 1 or August 1 (taking into consideration any amounts currently deposited therein) together with Trustee fees coming due within the next six (6) months (“Annual Fees”).

Section 4.5. Reserved.

Section 4.6. Trust Funds. All moneys and securities received by the Trustee under the provisions of this Indenture, shall be trust funds under the terms hereof and shall not be subject to lien or attachment of any creditor of the City or of the Company. Such moneys shall be held in trust and applied in accordance with the provisions of this Indenture.

Section 4.7. Investment. Moneys on deposit in the Funds established in this Article IV hereof shall be invested as provided in Section 6.6 hereof.

(End of Article IV)

ARTICLE V.

REDEMPTION OF BONDS BEFORE MATURITY

Section 5.1. [Redemption Dates and Prices - Optional Redemption]. The Bonds are redeemable at the option of the City at the direction of the Company on any date, upon fifteen (15) days' notice, in whole or in part, in order of maturity determined by City and by lot within maturities, at face value, plus accrued interest to the date fixed for redemption.

If fewer than all of the Bonds at the time outstanding are to be called for redemption, the maturities of Bonds or portions thereof to be redeemed shall be selected by the Trustee at the direction of the City. If fewer than all of the 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 Bonds held by the respective owners of the Bonds within such maturity that shall be redeemed.]

[The Bonds maturing on _____ 1, 20____ are subject to mandatory sinking fund redemption prior to maturity as set forth in Section 2.2 hereof.]

Section 5.2. Notice of Redemption. In the case of redemption of Bonds pursuant to Section 5.1 hereof, notice of the call for any such redemption identifying the Bonds, or portions of fully registered Bonds, to be redeemed shall be given by mailing a copy of the redemption notice by first class mail not less than fifteen (15) days nor more than thirty (30) 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. Such notice of redemption shall specify, in the event of a partial redemption, the Bond numbers and called amounts of each Bond, the redemption date, redemption price, interest rate, maturity date and the name and address of the Trustee; 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 Bonds. With respect to any notice provided in accordance with this Section 5.2, such notice may state that such redemption shall be conditional upon the receipt by the Trustee, on or prior to the date fixed for such redemption, of moneys sufficient to pay the principal of, and premium, if any, and interest on, such Bonds to be redeemed, and that if such moneys shall not have been so received said notice shall be of no further force and effect and the City shall not be required to redeem such Bonds. In the event that such notice of redemption contains such a condition and such moneys are not so received, the redemption shall not be made and the Trustee shall promptly thereafter give notice to such holders, in the manner in which the notice of redemption was given, that such moneys were not so received.

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

Section 5.3. Cancellation. All 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, upon request, be furnished by the Trustee to the City.

Section 5.4. Redemption Payments. Prior to the date fixed for redemption in whole, funds shall be deposited with Trustee to pay, and Trustee is hereby authorized and directed to apply such funds to the payment of the 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 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 2.8 hereof with respect to any mutilated, lost, stolen or destroyed Bond.

Section 5.5. Partial Redemption of Bonds. If fewer than all of the Bonds at the time outstanding are to be called for redemption, the maturities of Bonds or portions thereof to be redeemed shall be selected by the Trustee at the direction of the City. If fewer than all of the 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 Bonds held by the respective owners of the Bonds within such maturity that shall be redeemed. The Trustee shall call for redemption in accordance with the foregoing provisions as many Bonds or portions thereof as will, as nearly as practicable; exhaust the moneys available therefor.

If less than the entire principal amount of any registered Bond then outstanding is called for redemption, then upon notice of redemption given as provided in Section 5.2 hereof, the owner of such registered 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 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 City 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 Spring Mill Centre TIF Revenues, which payments are specifically pledged and assigned to the payment thereof in the manner and to the extent herein specified, and nothing in the Bonds or in this Indenture should be considered as pledging any other funds or assets of the City. The Bonds, and the interest payable thereon, do not and shall not represent or constitute a debt of the City, 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 City, 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 City, the State of Indiana, or of any political subdivision or taxing authority thereof, but are special limited obligations of the City and are payable solely and only from the Spring Mill Centre TIF Revenues pledged and assigned for their payment in accordance with the Indenture. Neither the faith and credit nor the taxing power of the City, 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 City, 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 City has no taxing power with respect to the Bonds. No covenant or agreement contained in the Bonds, Company Notes or the 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 City 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 City executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance of the Bonds.

Section 6.2. Performance of Covenants. The City 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 City 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, pledge the Spring Mill Centre TIF Revenues in the manner and to the extent herein set forth; that all action on its part for the issuance of the Bonds and the execution and delivery of this Indenture has been duly and effectively taken, and that the Bonds in the hands of the holders and owners thereof are and will be valid and enforceable obligations of the City according to the import thereof.

Section 6.3. Filing of Indenture and Security Instruments. The City 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.

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 holders of all Bonds. 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. Rights Under Financing Agreement. The City agrees that the Trustee in its name or in the name of the City may enforce all rights of the City and all obligations of the Company under and pursuant to the Financing Agreement (except the rights reserved to the City therein) for and on behalf of the Bondholders, whether or not the City is in default hereunder.

Section 6.6. Investment of Funds. With respect to any moneys held by the Trustee under any Fund established hereunder, the Company and the City agree that all moneys in the Project Fund established by this Indenture may, at the written direction of the Company with the approval of the Clerk-Treasurer of the City, be invested in Qualified Investments, and all moneys in any other Fund established by this Indenture may, at the written direction of the City, be invested in Qualified Investments to the extent permitted by law. In the absence of such direction from the Company or City, as the case may be, the Trustee shall hold such amounts uninvested in cash, with no liability for interest. The Trustee may conclusively rely upon the Company's or the City's, as the case may be, written instructions as to both the suitability and legality of the directed investments and such written direction shall be deemed to be a certification that such directed investments constitute Qualified Investments. The Trustee has no investment discretion. Ratings of Qualified Investments shall be determined at the time of initial purchase of such Qualified Investments and without regard to ratings subcategories and the Trustee shall have no shall have no responsibility to monitor the ratings of Qualified Investments after the initial purchase of such Qualified Investments, including at the time of reinvestment of earnings thereof. With respect to any moneys held by the City under any Fund established by this Indenture, the City may invest such moneys in Qualified Investments as it deems appropriate. Investments of moneys in the Bond Fund shall mature or be redeemable at the option of the Trustee at the times and in the amounts necessary to provide moneys to pay the principal of and interest on the Bonds by redemption or otherwise. All income derived from the investment of moneys on deposit in such Fund shall be deposited in or credited to and any loss resulting from such investment will be charged to the corresponding Fund from which such investment was made.

The Trustee is hereby authorized to trade with itself in the purchase and sale of securities for investments. Neither the Trustee nor the City 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 City, as applicable, and any income resulting therefrom shall be applied in the manner specified in this Indenture.

Although the Company and the City each recognize that they may obtain a broker confirmation or written statement containing comparable information at no additional cost, the Company and the City each hereby agree that confirmations of investments are not required to be issued by the Trustee for each month in which a monthly statement is rendered. Unless otherwise requested by the Company or the City, as the case may be, no statement need be rendered for any fund or account if no activity occurred in such fund or account during such month

The Trustee may elect, but shall not be obligated, to credit the funds and accounts held by it with moneys representing income or principal payments due on, or sales proceeds due in respect of, Qualified Investments in such funds and accounts, or to credit to Qualified Investments intended to be purchased with such moneys, in each case before actually receiving the requisite moneys from the payment source, or to otherwise advance funds for account transactions. The Company and the City each acknowledge that the legal obligation to pay the purchase price of any Qualified Investments arises immediately at the time of the purchase. Notwithstanding anything else in this Indenture, (i) any such crediting of funds or assets shall be provisional in nature, and the Trustee shall be authorized to reverse any such transactions or advances of funds in the event that it does not receive good funds with respect thereto, and (ii) nothing in this Indenture shall constitute a waiver of any of the Trustee's rights as a securities intermediary under Uniform Commercial Code §9-206.

Section 6.7. 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 Trustee for the benefit of the holder or holders thereof, all liability of City 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 Trustee to hold such funds for four (4) 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 four (4) years after the date on which the same shall become due shall be repaid by Trustee to the City and thereafter Bondholders shall be entitled to look only to the City for payment, and then only to the extent of the amount so repaid.

(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

(i) payment of any amount payable on the Bonds from Spring Mill Centre TIF Revenues available shall not be made when the same is due and payable, provided that the Bonds are only payable from the portion of the Spring Mill Centre TIF Revenues specified in Section 4.2(b) hereof; provided however, in the event such Spring Mill Centre TIF Revenues are insufficient to make any or all of the payment due on the Bonds, it shall not be an event of default; or

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

(iii) the City shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bonds or in this Indenture or any agreement supplemental hereof on the part of the City to be performed, and such default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall have been given to the City and the Company by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of the holders of all of the Bonds then outstanding hereunder; or

(iv) the City shall fail to apply collected Spring Mill Centre TIF Revenues as required by Article 4 of this Indenture.

Section 7.2. Remedies: Rights of Bondholders.

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

(ii) 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 obliged 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.

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

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

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

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

Section 7.3. 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 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. All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article and any other moneys held as part of the Trust Estate shall, after payment of the cost and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Trustee or the City, and the creation of a reasonable reserve for anticipated fees, costs and expenses, be deposited in the Bond Fund and all moneys in the Bond Fund shall be applied as follows:

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; and

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.

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

Whenever moneys are to be applied pursuant to the provisions of this Section, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an interest payment date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue. The Trustee

shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date and shall not be required to make payment to the holder of any Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

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

Section 7.6. 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 (g) of Section 8.1, or of which by said subsection it is deemed to have notice, nor unless also such default shall have become an event of default and the 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 holders of the Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by its, his or their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the holders of all Bonds then outstanding. Nothing in this Indenture contained shall, however, affect or impair the right of any Bondholder to enforce the covenants of the City 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 City, the Company 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, arrears of interest, with interest (to the extent permitted by law) at the rate borne by the Bonds in respect of which such default shall have occurred on overdue installments of interest or all arrears of payments of principal when due, as the case may be, and all expenses of the Trustee in connection with such default (including extraordinary services) 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 City, 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 such duties and only such duties as are specifically set forth in this Indenture and no implied covenants or obligation shall be read into this Indenture against the Trustee. If any event of default under this Indenture shall have occurred and be continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture and shall use the same degree of care as a prudent person would exercise or use in the circumstance in the conduct of such person's own affairs.

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

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

(c) The Trustee shall not be accountable for the use of any Bonds authenticated by it or 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 upon Bonds issued in exchange therefor or in place thereof.

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

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 (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust) and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by the Trustee in connection with such services and, in the event that it should become necessary for the Trustee to perform extraordinary services, the Trustee shall be entitled to reasonable additional compensation therefor and to reimbursement for reasonable and necessary extraordinary expenses in connection therewith (including without limitation attorney's fees and expenses); provided that if such extraordinary services or extraordinary expenses are occasioned by the gross negligence or willful misconduct of the Trustee it shall not be entitled to compensation or reimbursement therefor. Upon an event of default, but only upon an event of default, the Trustee shall have a right of payment prior to payment on account of interest on or principal of any Bond for the foregoing advances, fees, costs and expenses incurred.

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

Section 8.4. Intervention by Trustee. In any judicial proceeding to which the City is a party and which in the reasonable judgment of the Trustee and its counsel has a substantial bearing on the interests of holders of the Bonds, the Trustee may intervene on behalf of Bondholders and, subject to the provisions of Section 8.1(k), 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 municipal corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, ipso facto, shall be and become successor Trustee hereunder and vested with all of the title to the whole property or trust estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the

execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

Section 8.6. Resignation by the Trustee. The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving thirty days' written notice to the City and the Company and by registered or certified mail to each registered owner of Bonds then outstanding and to each holder of Bonds as shown by the list of Bondholders required by this Indenture to be kept at the office of the Trustee, and such resignation shall take effect at the end of such thirty (30) days, or upon the earlier appointment of a successor Trustee by the Bondholders or by the City. Such notice to the City and the Company may be served personally or sent by registered or certified mail.

Section 8.7. Removal of the Trustee. The Trustee may be removed at any time upon thirty days' written notice by an instrument or concurrent instruments in writing delivered to the Trustee and to the City 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 City, 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 City shall immediately and without further act be superseded by the Trustee so appointed by such Bondholders. Every such Trustee appointed pursuant to the provisions of this Section shall be a trust company or Bank, having a reported capital and surplus of not less than 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 City and the Company an instrument in writing accepting such appointment hereunder, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor; but such predecessor shall, nevertheless, on the written request of the City, 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 City 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 City. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other

instruments provided for in this Article shall be filed by the successor Trustee in each office, if any, where the Indenture shall have been filed.

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

(End of Article VIII)

ARTICLE IX.

SUPPLEMENTAL INDENTURES

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

- (a) To cure any ambiguity or formal defect or omission in this Indenture;
- (b) To grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Bondholders or the Trustee or any of them;
- (c) To subject to this Indenture additional revenues, properties or collateral;
- (d) To make any other change in this Indenture which is not to the prejudice of the City or the holders of the Bonds or, in the judgment of the Trustee, is not to the prejudice of the Trustee;
- (e) To modify, amend or supplement the Indenture in such manner as required to permit the qualification thereof under the Trust Indenture Act of 1939, as amended, or any similar Federal statute hereafter in effect, and, if they so determine, to add to the Indenture such other terms, conditions and provisions as may be required by said Trust Indenture Act of 1939, as amended, or similar federal statute; or
- (f) To 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 City and the Trustee of such other indenture or indentures supplemental hereto as shall be deemed necessary and desirable by the City for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any supplemental indenture; provided however, that nothing in this section contained shall permit or be construed as permitting (except as otherwise permitted in this Indenture) (a) an extension of the stated maturity or reduction in the principal amount of, or reduction in the rate or extension of the time of paying of interest on, any Bonds, without the consent of the holder of such Bond, or (b) a reduction in the amount or extension of the time of any payment required by any sinking fund applicable to any Bonds without the consent of the holders of all the Bonds which would be affected by the action to be taken, or (c) a reduction in the aforesaid aggregate principal amount of Bonds the holders of which are required to consent to any such supplemental indenture, without the consent of the holders of all the Bonds at the time outstanding which would be affected by the action to be taken, or (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) deprive the owners of any Bonds then outstanding of the lien thereby created.

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

Section 9.3. Opinion with Respect to Supplemental Indentures. The Trustee shall be provided with, and shall be fully protected in relying upon, the opinion of any counsel approved by it who may be counsel for the Company, as conclusive evidence that any proposed supplemental indenture complies with the provisions of this Indenture, and that it is proper for the Trustee, under the provisions of this Article, to join in the execution of such supplemental indenture.

(End of Article IX)

ARTICLE X.

AMENDMENTS TO THE FINANCING AGREEMENT

Section 10.1. Amendments etc., to Financing Agreement Not Requiring Consent of Bondholders. The City and the Company, and in accordance with Section 5.1 of the Financing Agreement, shall, without the consent of or notice to the Bondholders consent to any amendment, change or modification of the Financing Agreement as may be required (i) by the provisions of the Financing Agreement and this Indenture, or (ii) for the purpose of curing any ambiguity or formal defect or omission therein, or (iii) in connection with any other change therein which is not to the prejudice of the City or the holders of the Bonds; or, in the judgment of the Trustee, is not to the prejudice of the Trustee.

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

Section 10.3. Section 10.3. Opinion with Respect to Amendments to Financing Agreement. The Trustee shall be provided with, and shall be fully protected in relying upon, the opinion of any counsel approved by it who may be counsel for the Company, as conclusive evidence that any such proposed amendment complies with the provisions of this Indenture and Financing Agreement, and that it is proper for the Trustee, under the provisions of this Article, to join in the execution of such amendment.

(End of Article X)

ARTICLE XI.

MISCELLANEOUS

Section 11.1. Satisfaction and Discharge. All rights and obligations of the City and the Company 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 Company any moneys and investments in the Project Fund and shall assign and deliver to the City any moneys and investments held in any other Fund under this Indenture when:

- (a) all fees and expenses of the Trustee shall have been paid;
- (b) the City 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 City, or (iii) have been delivered to the Trustee canceled or for cancellation; and, in the case of (i) and (ii) above, there shall have been deposited with the Trustee either cash in an amount which shall be sufficient, or investments (but only to the extent that the full faith and credit of the United States of America are pledged to the timely payment thereof) the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Trustee, shall be sufficient, to pay when due the principal 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 11.2. Application of Trust Money. All money or investments deposited with or held by the Trustee pursuant to Section 11.1 shall be held in trust for the holders of the Bonds, and applied by it, in accordance with the provisions of the Bonds and this Indenture, to the payment, either directly or through the 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 11.3. 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 City 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 11.4. Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture, or the Bonds is intended or shall be construed to give to any person other than the parties hereto, and the Company, and the holders of the Bonds, any legal or equitable right, remedy or claim under or in respect to this Indenture or any covenants, conditions and provisions herein contained, this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the Company and the holders of the Bonds as herein provided.

Section 11.5. Severability. If any provision of this Indenture shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever.

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

Section 11.6. 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 City, the Company, and the Trustee may, by written notice given by each to the others, designate any address or

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

To the Company: Haehl Group, LLC

To the City: City of Westfield, Indiana

Attention: _____

To the Trustee: _____

Section 11.7. Counterparts. This Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.8. Applicable Law. This Indenture shall be governed exclusively by the applicable laws of the State of Indiana.

Section 11.9. 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 City, or any incorporator, member, officer, director, agents, attorneys, employees or trustee of any successor corporation, as such, either directly or through the City or any successor corporation, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such incorporator, members, officers, directors, agents, attorneys; employees or trustees as such is hereby expressly waived and released as a condition of and consideration for the execution of this Indenture and issuance of such Bonds.

Section 11.10. Holidays. If any date for the payment of principal or interest on the Bonds is not a business day then such payment shall be due on the first business day thereafter.

(End of Article XI)

IN WITNESS WHEREOF, the City of Westfield, Indiana, has caused these presents to be signed in its name and behalf by its Mayor and its corporate seal to be hereunto affixed and attested by its Clerk-Treasurer, and to evidence its acceptance of the trusts hereby created, _____ has caused these presents to be signed in its name and behalf by, and the same to be attested by, its duly authorized officers, all as of the day and year first above written.

CITY OF WESTFIELD, INDIANA

By: _____
Mayor

Attest:

Clerk-Treasurer

SEAL:

_____,
as Trustee

By: _____

Printed: _____

Title: _____

Attest:

By: _____

Printed: _____

Title: _____

[SIGNATURE PAGE OF THE TRUST INDENTURE]

EXHIBIT A

STATEMENT NO. ____ REQUESTING DISBURSEMENT OF FUNDS FROM PROJECT FUND PURSUANT TO SECTION 4.3 OF THE TRUST INDENTURE BETWEEN THE CITY OF WESTFIELD, INDIANA AND [TRUSTEE NAME], AND THE FINANCING AGREEMENT BETWEEN THE CITY OF WESTFIELD, INDIANA. AND HAEHL GROUP, LLC

Pursuant to Section 4.3 of the Trust Indenture (the “Indenture”) dated as of _____ 1, 2020, between the City of Westfield, Indiana (the “City”) and _____ (the “Trustee”) and the Financing Agreement (the “Agreement”) between the City and HaeHL Group, LLC (the “Company”), dated as of _____ 1, 2020, the undersigned, as the Authorized Representative (as defined in the Indenture) of the Company, hereby requests and authorizes the Trustee, as depository of the Project Fund created by and as defined in the Indenture to pay to the Company or to the person(s) listed on the Disbursement Schedule attached hereto out of the moneys on deposit in the Project Fund the aggregate sum of \$ _____, to pay such person(s) or to reimburse the Company in full, as indicated in the Disbursement Schedule, for advances, payments and expenditures made by it in connection with the items listed in the Disbursement Schedule.

In connection with the foregoing request and authorization, the undersigned hereby certifies that:

(a) Each item for which disbursement is requested hereunder is properly payable out of the Project Fund in accordance with the terms and conditions of the Indenture and the Agreement and none of those items has formed the basis for any disbursement heretofore made from the Project Fund;

(b) Each such item is or was necessary in connection with the acquisition, rehabilitation, equipping, installation or improvement of the property comprising the Project, as defined in the Indenture;

(c) This statement and all exhibits hereto, including the Disbursement Schedule, shall be conclusive evidence of the facts and statements set forth herein and shall constitute full warrant, protection and authority to the Trustee for its actions taken pursuant hereto; and

(d) This statement constitutes the approval of the Company of each disbursement hereby requested and authorized.

IN WITNESS WHEREOF, the authorized representative of the Company has set his hand as of the _____ day of _____, 20_____.

HAEHL GROUP, LLC,
an Indiana limited liability company,

By: _____

Printed: _____

Title: _____

AUTHORIZED AND APPROVED:

City of Westfield, Indiana

Authorized Representative