



CITY OF FISHERS AGENDA

The public may [stream the meeting online](#).

Members of the public may [submit comments online](#).

BOARD/COMMISSION: Finance Committee Meeting

DATE: 8/4/2023, at 5:00 PM

DIRECTIONS: [Fishers Pavilion](#) Conference Room (the standalone building behind City Hall)

FINANCE COMMITTEE MEETING, 5:00 p.m., Pavilion Conference Room

1. Meeting Called to Order

2. Announcements

3. Consent Agenda

- a. Request to review the previous meeting memoranda: Minutes for September 13, 2023
- b. R100923 - A Resolution authorizing the Common Council Authorizing the City Controller to Transfer Certain Funds

4. Resolution

- a. R100923A - A Resolution of the Common Council of the City of Fishers, Indiana Approving a Lease between the Fishers Town Hall Building Corporation, as Lessor, and the Fishers Redevelopment Commission, as Lessee, with respect to The District South Project and addressing Matters Related Thereto

5. Ordinances

- a. 091823 – A Request to Approve the City of Fishers 2024 Budget - 2nd Reading

- b. 100923 – Ordinance of the Common Council of the City of Fishers, Indiana Authorizing Issuance of Bonds for the Purpose of Providing Funds to be Applied to Pay for Construction of Certain Road Improvements and Incidental Expenses in Connection There with and to Pay for Certain Trail Improvements and the Acquisition of Certain Equipment and Incidental Expenses in Connection Therewith and on Account of the Issuance of the Bonds - 1st Reading
- c. 100923A – Ordinance Authorizing the Issuance of the City of Fishers, Indiana Taxable Economic Development Revenue Bonds, Series 202_ (District South Project), and the lending of the Proceeds Thereof to the Borrower Thereof and Authorizing and Approving other Actions in Respect Thereto - 1st Reading

6. Regular Items - Any other Unfinished / New Business

7. Regular Items - Meeting Adjournment

Finance Committee Meeting September 13, 2023

FINANCE COMMITTEE MEETING, 5:00 p.m., Pavilion Conference Room

1. Meeting Called to Order

- Chairman John Weingardt called the meeting to order at 5:00p.m. Present were Cecilia Coble, David Giffel and Jocelyn Vare. Others present were Deputy Mayor Elliott Hultgren, City Clerk Jennifer Kehl, Lisa Bradford, Jake Reardon-McSoley, Marissa Deckert, Tracy Gaynor, Lindsey Bennett, and Larry Lannan.

2. Announcements: NONE

3. Consent Agenda 5:00 pm - 5:20 pm

- a. Request to review the previous meeting memoranda: [Minutes for September 11, 2023](#)
 - b. **R091823** - A Resolution authorizing the Common Council Authorizing the City Controller to Transfer Certain Funds: [Council Action Form](#) | [Resolution](#) | [Exhibit A](#)
- David Giffel made a motion to approve the Consent Agenda. Cecilia Coble seconded the motion. There was no remonstrance and all members voted yay. The motion passed.

4. 2024 Budget Follow-up Discussion: **PRESENTATION**

- Marissa Deckert went through the parks departments accomplishment for this year. [Click Here for Information.](#)
- Marissa Deckert and Jack Reardon-McSoley answered questions concern the Parks Department Budget for 2024.
 - Cecilia Coble asked Marissa if there will be an adult changing station in the new restrooms at the Agri-Park. Marissa said yes. Cecilia asked if the Parks Department could purchase a water wheelchair for the Geist Waterfront Park. Marissa said she would investigate it. Cecilia also asked if they could work on having special needs youth summer camps.
 - Jocelyn Vare asked about the fee for Geist Waterpark and the water quality at the park. Marissa said they are gathering data then will make suggestions about the fees and they weekly test the water.
- Elliott Hultgren went through the Administration Budget including the Capital Non-Infrastructure/Fleet Loans
- Lisa Bradford went through the Overall Debt Outstanding, Tax Supported Debt by Security, Tax Supported Debt by Payment Source and Debt Comparison Per Capita.

RESOLUTIONS: 5:20 pm – 5:25 pm

5. **R091823A:** A Resolution of the Common Council of the City of Fishers, Indiana Approving Certain Matters in Connection with an Amendment to the Declaratory Resolution for the Consolidated Fishers/I-69 Economic Development Area, the Creation of a New Allocation Area and the Approval of a Plan Amendment for Said Area (DISTRICT SOUTH): [Council Action Form](#) | [Resolution](#)
- David Giffel made a motion to send resolution **R091823A** to the full council for approval. Cecilia Coble seconded the motion. There was no remonstrance and all members voted yay. The motion passed.

ORDINANCES: 5:25 pm – 5:45 pm

6. 091823: A Request to Approve the City of Fishers 2024 Budget - **1st Reading:** [Council Action Form](#) | [Exhibit A](#)

- David Giffel made a motion to send ordinance **091823** onto the full council for the **1st Reading**.

Regular Items 5:45 pm - 5:50 pm

7. Any other Unfinished / New Business

- **NONE**

8. Meeting Adjournment

- A motion was made to adjourn the meeting. The meeting was adjourned at 6:00p.m.

Respectfully Submitted,



Jennifer L. Kehl
Fishers City Clerk

**BUDGET & FINANCE COMMITTEE REPORT
COMMON COUNCIL OF THE CITY OF FISHERS,
HAMILTON COUNTY, INDIANA**

* This is a Report of the Budget & Finance Committee. Minutes of the committee meeting can be found online at www.fishers.in.us/agendacenter

John Weingardt, Chairperson
Cecilia Coble, Committee Member
Jocelyn Vare, Committee Member
David Giffel, Committee Member

Meeting Date: 9/13/2023

- I. **Resolution R091823** - A Resolution authorizing the Common Council Authorizing the City Controller to Transfer Certain Funds.

Committee Recommendation:

- ☒ Passage
☐ Non-Passage
☐ Amendment
☐ No Recommendation

- II. **Resolution R091823A** - A Resolution of the Common Council of the City of Fishers, Indiana Approving Certain Matters in Connection with an Amendment to the Declaratory Resolution for the Consolidated Fishers/I-69 Economic Development Area, the Creation of a New Allocation Area and the Approval of a Plan Amendment for Said Area (DISTRICT SOUTH):

Committee Recommendation:

- ☒ Passage
☐ Non-Passage
☐ Amendment
☐ No Recommendation

ATTEST:


Jennifer L. Kehl, Fishers City Clerk

This instrument was prepared by: Lindsey Bennett, City Attorney, City of Fishers, Hamilton County, Indiana, 1 Municipal Drive, Fishers, Indiana, 46038.

12 CONCERTS

- 4 ticketed – generated additional revenue above costs
- 9 free community concerts

20 LARGE SCALE SPECIAL EVENTS (150 - 5,000)

- GLOW, Monsoon, Blues Fest, Fall Festival, NPT Night Lights, Boo Bash, Family Camping, Cookies w/ Characters, etc.

SPARK! FISHERS – 1 day of events to 5 events throughout the week

30 POP-UPS/PROGRAMS

35 COMMUNITY PARTNER PROGRAMS/EVENTS (events or programs supported by Parks)

FARMERS MARKET - 35 dates

- Saturdays + Wednesdays weekly
- Live music and entertainment
- Kids activities
- Group fitness/ mindfulness classes weekly

MAKER PLAYGROUND

- 96 Classes
- 100+ monthly members
- VA (Whole Health)
- Ivy Tech (Trades + Job Training)
- Central Indiana Woodworkers Association
- HSE

SUMMER CAMP- 2,874 campers (+300 over 2022)

- 6 camp locations

HSE Partnerships- 6,400 students avg. 2-3x per year

- Nature First- 1st grade
- Farm 2 Table- 2nd grade
- Local Government- 3rd grade
- Make 5- 5th grade

AGRIPARK (opened in 2020)

Produce + 190,000 lbs

- 100,000 more than 2022

Attendance + 50,000

- 15,000 more than 2022
- 35,000 (2022)

Seeds -Doubled # seeds started on site

- 112,000 (2023)
- 56,000 (2022)

Animals-25

Doubled # of programs

- 25 in 2023

HSE partnership 2nd grade students- **1,525** -3 visits annually



2024 Departmental Budget Review



BUDGET TIMELINE

2024
Recommended
Budget

8/08

Budget Postcards Delivered to Homeowners



8/18

Media Notice Posted



8/21

**Introduction of Budget to City Council
(No Public Hearing)**



+

Media Day @ 12:30 p.m.



8/23

Finance Committee Discussion



9/07

**Last Day to Post Notice
Budget Hearing**



9/11 &
9/13

**Finance Committee Meetings
Department Budgets**

9/18

**1st Reading of Budget at City Council
+ Public Hearing**

10/9

**Final Reading of Budget at City Council +
Final Adoption of Budget**

DRAFT

Police Department

2024 Budget

Category	2024 Recommend Budget	2023 Approved Budget	Increase/ (Decrease) from Prior Year
Personnel	\$ 21,019,634	\$ 19,085,544	\$1,934,090
Supplies	\$ 567,500	\$ 544,047	\$23,453
Professional Services	\$ 1,292,239	\$ 879,600	\$ 412,639
Total Budget	\$ 22,879,373	\$ 20,509,191	\$ 2,370,182



Priorities

Personnel

- 3 new Police Officers
- 2 new School Resource Officers
- 1 new civilian Forensic Technician
- 5% salary increase for all personnel, increased longevity pay, and equipment to support new hires and replacement of aging assets

Areas of Focus

- Utilize technology to fight and solve crimes
- Equip the City's officers with the best equipment to keep them safe
- Grow the Department's School Resource Unit to have a strong presence in Hamilton Southeastern Schools

Fire & Emergency Services Department

2024 Budget

Category	2024 Recommend Budget	2023 Approved Budget	Increase/ (Decrease) from Prior Year
Personnel	\$23,378,559	\$ 21,398,009	\$1,980,550
Supplies	\$ 1,107,220	\$ 1,039,470	\$ 67,750
Professional Services	\$ 831,807	\$ 671,035	\$ 160,772
Total Budget	\$ 25,317,586	\$ 23,108,514	\$ 2,209,072



Priorities

Personnel

- 3 new Firefighters
- Increase from \$16 to \$20 an hour for ODE (Off Duty Employment)
- Increased longevity pay from 20 years to 25 years
- 5% salary increase for all personnel, and equipment to support new hires and replacement of aging assets

Areas of Focus

- Increase the number of paramedics in the department.
- Modernize the department's management structure.
- Continue to increase the department's partnerships and sustainability.

Public Works Department

2024 Budget

Category	2024 Recommend Budget	2023 Approved Budget	Increase/ (Decrease) from Prior Year
Personnel	\$ 10,279,189	\$ 10,268,945	\$ 10,244
Supplies	\$ 3,869,396	\$ 3,677,181	\$ 192,215
Professional Services	\$ 8,557,538	\$ 7,260,337	\$ 1,297,201
Capital	\$ 700,000	\$ 1,139,900	\$ (439,900)
Total Budget	\$ 23,406,123	\$ 22,346,363	\$ 1,059,760



Priorities

Personnel

- 2 Sidewalk Maintenance/Repair Full Time Hires
- Temporary Position to Full Time Hire in Wastewater
- Several Departmental Promotions (Laborer to Senior, Foreman, etc).
- 5% salary increase for all personnel, and equipment to support new hires and replacement of aging assets

Areas of Focus

- Continuing replacement and repair of sidewalks. YTD in 2023 have replaced 624 sidewalk panels and removed 1,651 trip hazards. Per inventory, 9,471 panels and 22,911 trip hazards to repair/replace.
- Conversions of median and roundabout landscaping from labor intensive grasses to low maintenance and environmentally friendly landscaping.
- Wastewater capital project includes the improvement of a grit removal system.

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Parks Department

2024 Budget

Category	2024 Recommend Budget	2023 Approved Budget	Increase/ (Decrease) from Prior Year
Personnel	\$ 2,554,089	\$ 2,146,117	\$ 407,972
Supplies	\$ 329,500	\$ 266,630	\$ 62,870
Professional Services	\$ 1,446,000	\$ 1,450,000	\$ (4,000)
Capital	\$ -	\$ 50,000	\$ (50,000)
Total Budget	\$ 4,329,589	\$ 3,912,747	\$ 416,842



Priorities

Personnel

- Part Time Position to Full Time at Agri Park
- Community Center Operations Manager – ½ Year Start
- Community Center Membership Position – ½ Year Start
- 5% salary increase for all personnel, and equipment to support new hires and replacement of aging assets

Areas of Focus

- Culture of Health & Wellness – Mental Health, Accessibility, Equity
- Community & Connection – High quality events
- Agripark Additions – restrooms, playground enhancements, aquaponics
- Additional Summer Camp programming and experiences

Health Department

2024 Budget

Category	2024 Budget – Local Funds	2024 Budget- State Funds	2023 Budget (Local Only)	Increase/ (Decrease)
Personnel	\$ 923,199	\$ 635,873	\$ 805,103	\$ 753,969
Supplies	\$ 109,000	\$ 32,650	\$ 132,000	\$ 9,650
Professional Services	\$ 154,810	\$ 200,000	\$ 144,500	\$ 210,310
Capital	\$ 3,000,000	\$ 96,503	\$ -	\$ 3,096,503
Total Budget	\$ 4,187,009	\$ 965,026	\$ 1,081,603	\$ 4,070,432



Priorities

Personnel

- New Full Time Food Inspector
- Community Health Advocate
- Full Time Public Health Nurse
- 5% salary increase for all personnel, and equipment to support new hires and replacement of aging assets

Areas of Focus

- Construction to begin in 2024 on a new health clinic
- Expansion of clinical services and insurance billing capabilities
- Development of school and community partnerships and agency support
- Increased and improved communication and health education
- Excellence in core functions
- Readiness for accreditation

Health Department

2024 Budget – Health First Indiana

Category	Core Services (60-100%)	Regulatory (<40%)
Personnel	\$ 551,555	\$ 84,318
Supplies	\$ 26,150	\$ 6,500
Other Services	\$ 188,000	\$ 12,000
Capital	\$ 64,335	\$ 32,167



Details

- Move Culture of Health position to this funding source
- Add Food Inspector
- Add Public Health Nurse
- Add Finance Manager
- Move portions of grant-funded staff to include; 35% of project manager, 50% of 3 community health advocates, 50% of school liaison, 42% of public health nurse/emergency preparedness employee
- Proportion of supplies moved
- ~\$100,000 of expenses to support lab fees for clinical services, environmental testing, and contractual work
- \$50,000 in community grants to key agencies

Administration Department

2024 Budget

Category	2024 Recommend Budget	2023 Approved Budget	Increase/ (Decrease) from Prior Year
Personnel	\$ 2,081,895	\$ 1,451,190	\$ 211,305
Supplies	\$ 98,250	\$ 72,600	\$ 25,650
Professional Services	\$ 4,243,977	\$ 3,193,585	\$ 1,050,392
Capital	\$ 12,000,000	\$ -	\$ 12,000,000
Total Budget	\$ 18,004,722	\$ 4,717,375	\$ 13,287,347



Priorities

Personnel

- Administration amounts shown include amounts for Mayor's Office, Business Solutions Group, and Customer Service/Employee Engagement
- Personnel includes employee hired in 2023
- \$20,000 of supplies increase is related to employee engagement and retention
- Professional services total includes an estimated budget for non-profit grants, software annual increases, and insurance increases
- 5% salary increase for all personnel

Areas of Focus

- Executing on the \$12,000,000 "Investing In Our Community" Plan
- Municipal Center & Arts Complex completion, Event Center completion, ground breaking of Community Center
- Continued operational excellence

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Engineering Department

2024 Budget

Fund	2024 Capital Budget
Local Road & Streets	\$ 500,000
Wheel Tax	\$ 2,300,000
Park Impact Fees	\$ 140,000
Road Impact Fees	\$ 550,000
2024 One Year GO Bond	\$ 8,100,000
Total Funds	\$ 11,590,000



Priorities

Road & Trail Projects – Under Construction

- 106th & Hoosier Road Roundabout – Est. Completion November 2023
- Nickel Plate Trail from 106th to Hague Rd – Est. Completion November 2023
- Geist Greenway – Est. Completion December 2023
- Resurfacing Packages 1-3 – Est. Completion October 2023 (~27 miles)

Road & Trail Projects – To Be Started

- Cumberland Road Widening – Q4 2024 – Q4 2025
- 136th St Widening (Southeastern to Prairie Baptist) – Q4 2024
- 126th & Southeastern RAB – Summer 2024
- 96th & Allisonville – Q1 2024
- Nickel Plate Trail Bridge over 96th St – Q3/Q4 2024
- Resurfacing Packages 1 & 2 – Q1 2024
- 131st & Howe – Summer 2025
- 96th & Cyntheanne – Summer 2025
- 131st trail gap connection – Q2 2024
- Resurfacing Packages 1-2 – Q1-Q3 2024

Road & Trail Projects – Design Development

- 136th St Widening (Prairie Baptist to Cyntheanne) – Q2 2025

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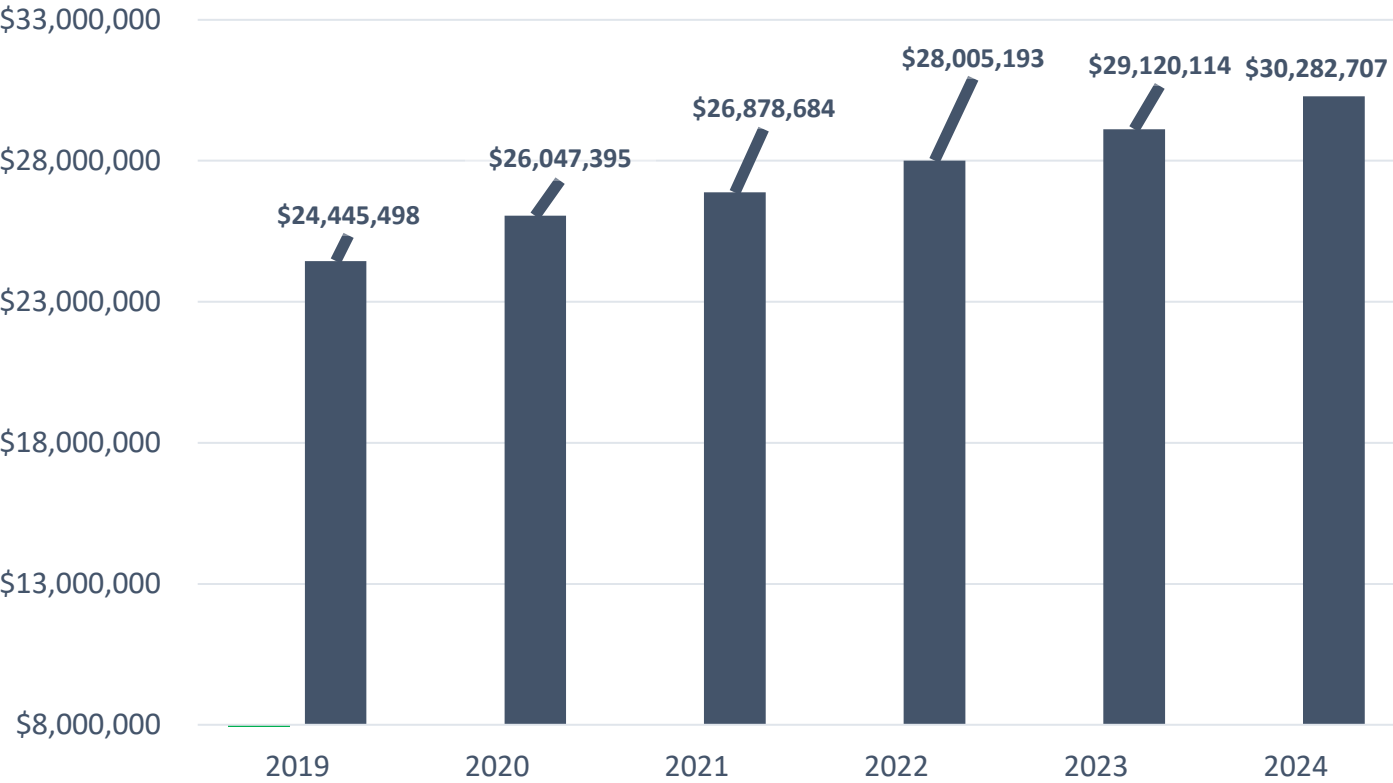
Property Tax

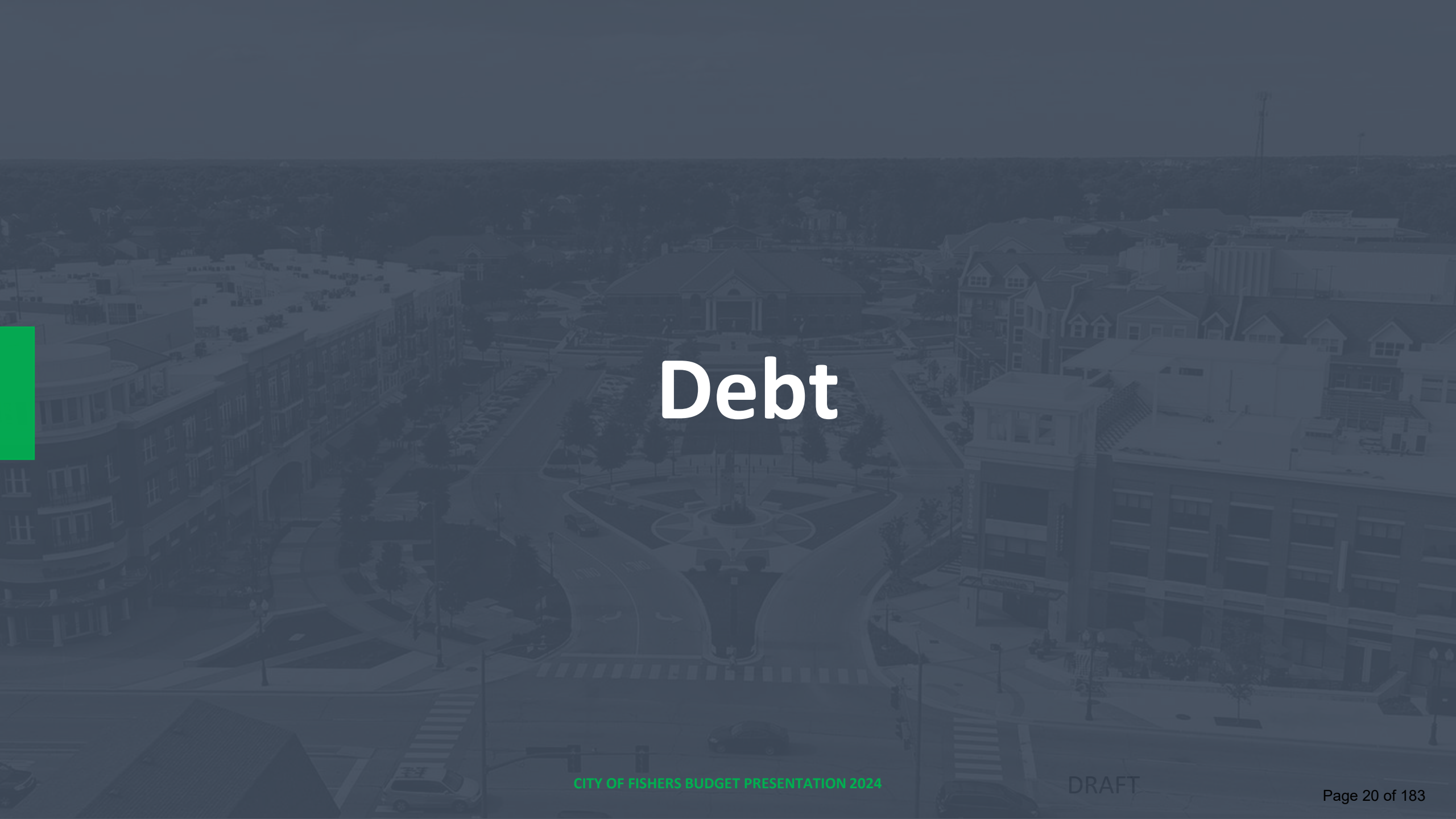


Flat Fork Creek Park

Property Tax

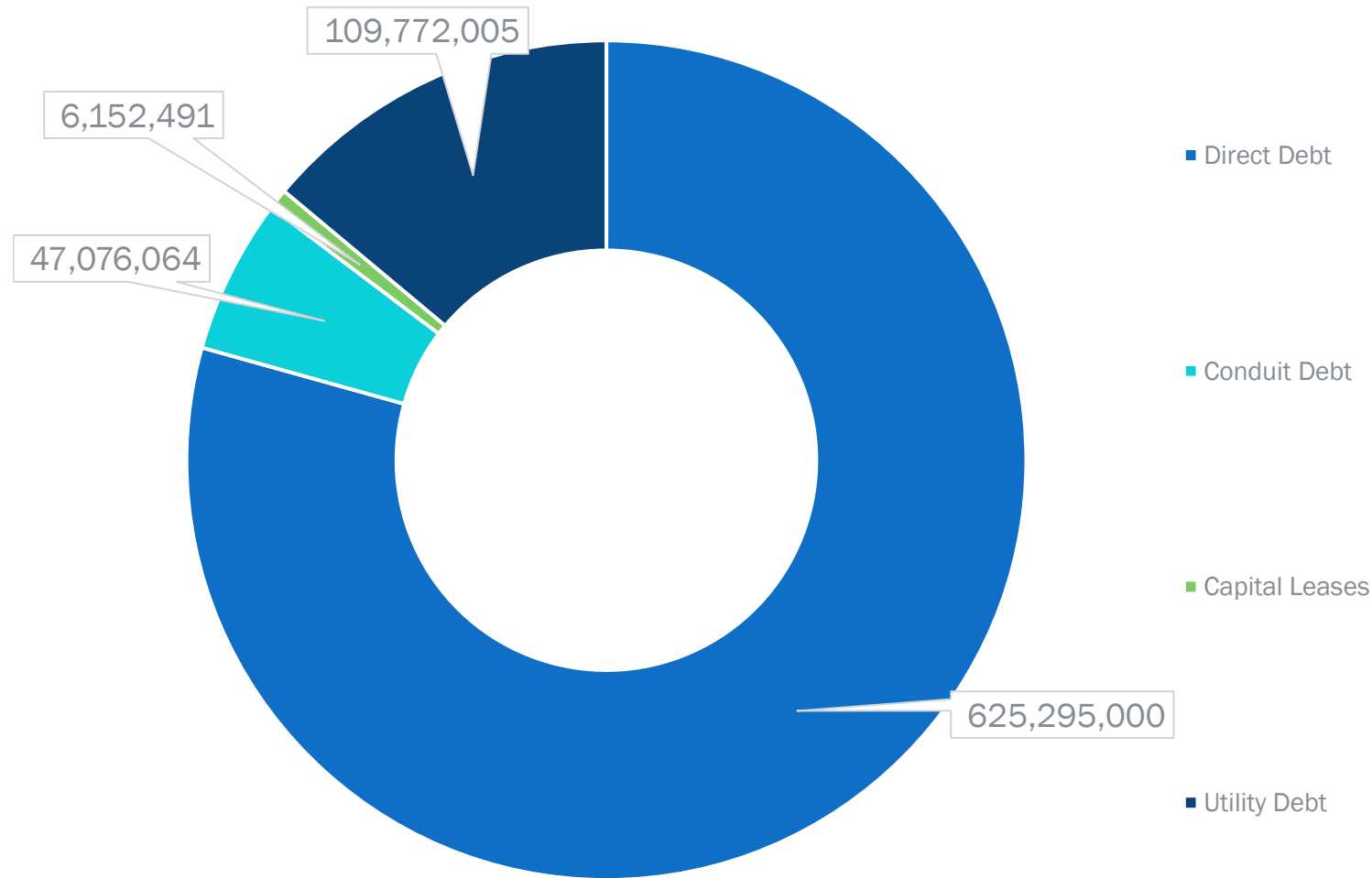
2024 General Fund





Debt

City of Fishers – Overall Debt Outstanding

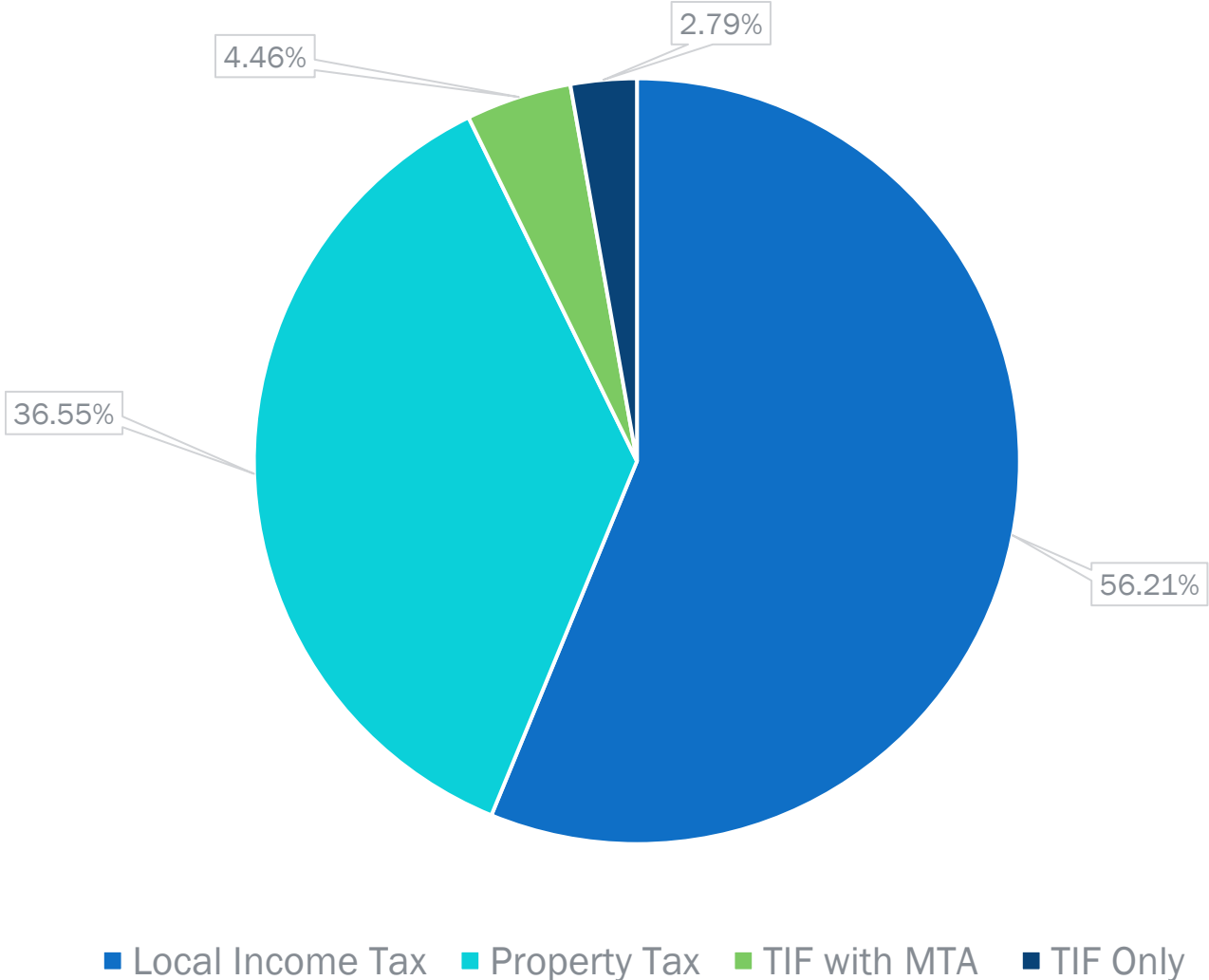


Total Debt (including Conduit Debt): \$788,295,560

Debt outstanding is as of 5/18/2023 and includes the anticipation of the permanent financing of the Event Center and the BAN outstanding for the Event Center which is \$260,000,000 of overall total.

\$162,805,000 (20.65% of total) are BANs

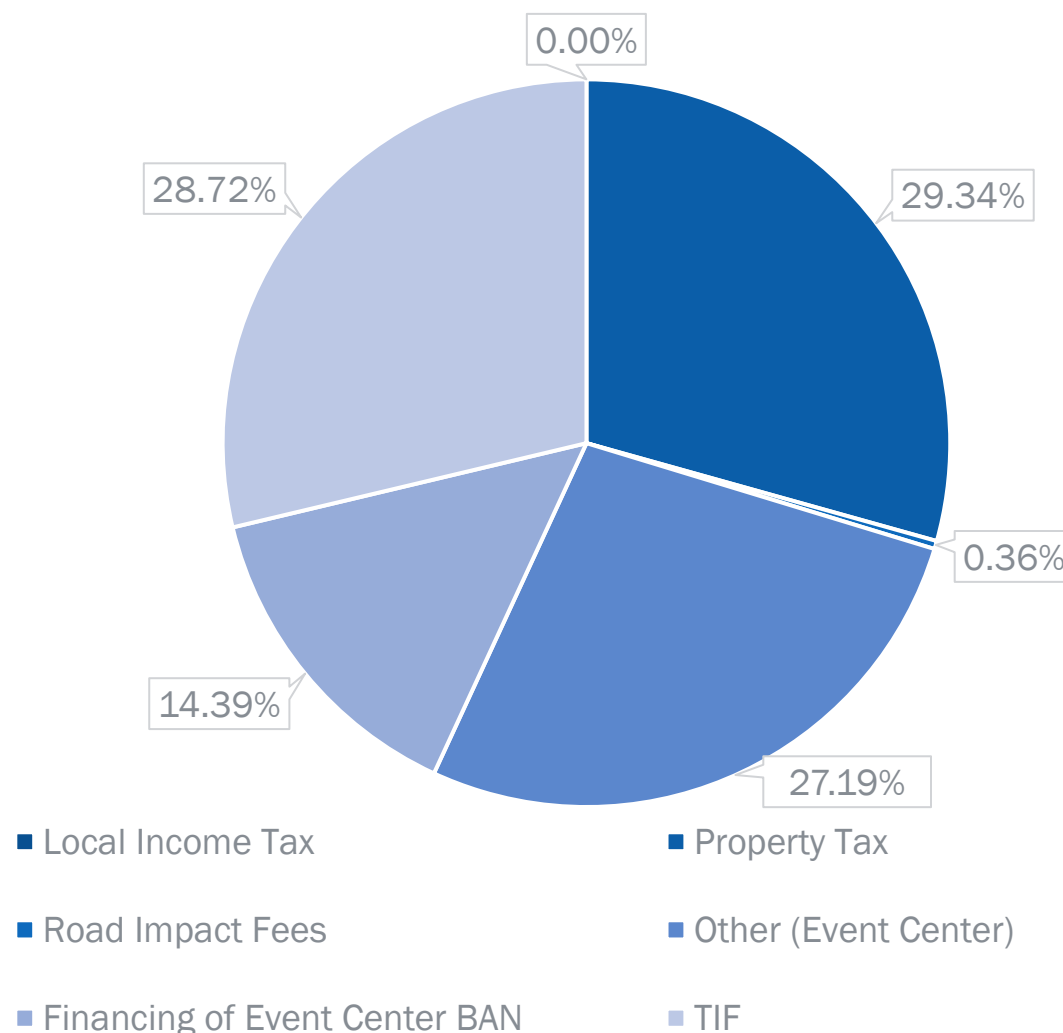
City of Fishers – Tax Supported Debt By Security



Property Tax Backed	228,515,000
LIT Backed	351,455,000
TIF with MTA (A)	27,895,000
TIF-Only Backed	17,430,000
Total	625,295,000

(A) Debt repayment pledged source is TIF with a minimum taxpayer agreement (MTA) in the amount of the debt payment with a property tax backup.

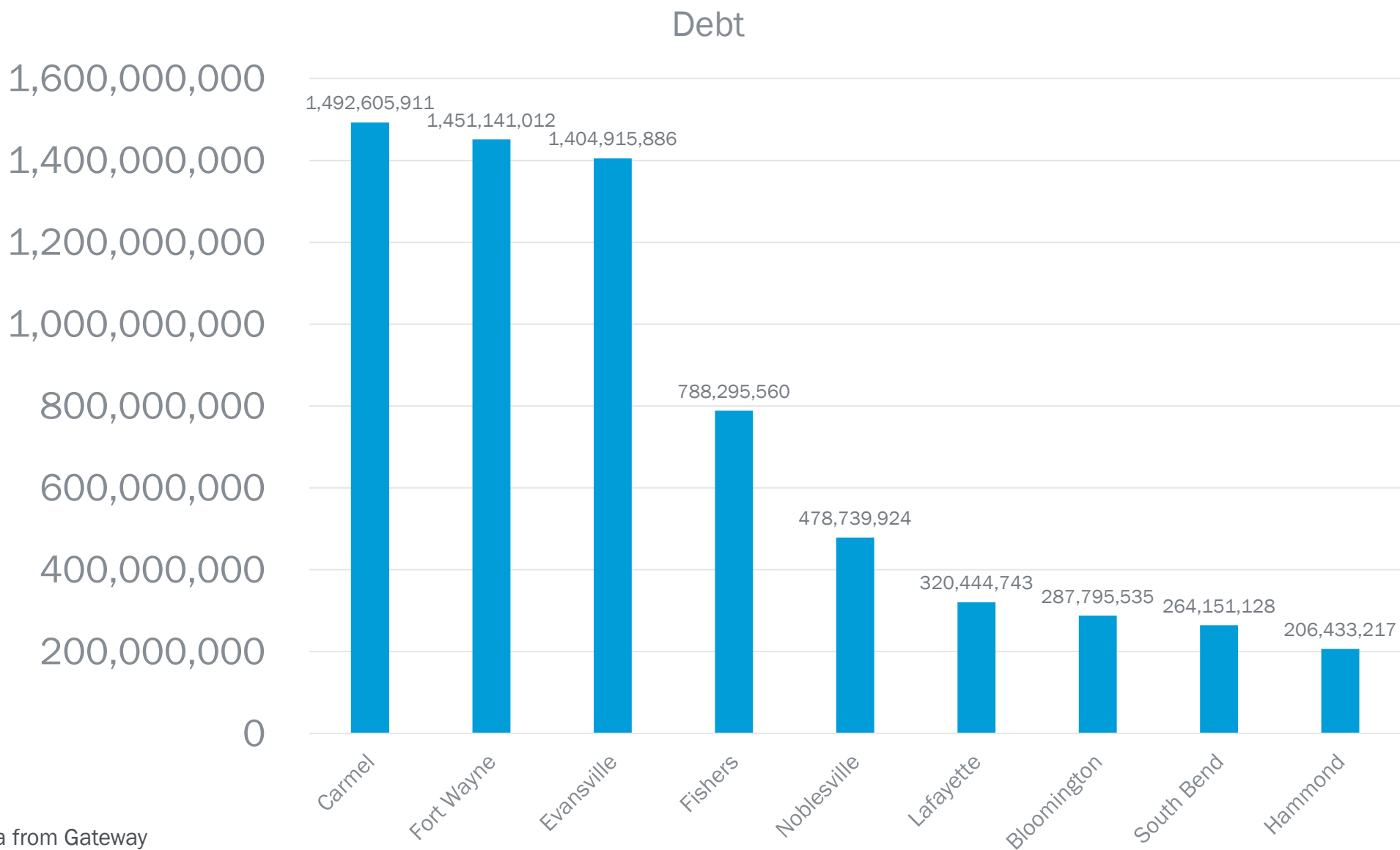
City of Fishers – Tax Supported Debt by Payment Source



Property Tax	183,450,000
LIT	-
Other (A)	170,000,000
TIF	179,585,000
RIF	2,260,000
BAN Redemption	90,000,000
Total	625,295,000

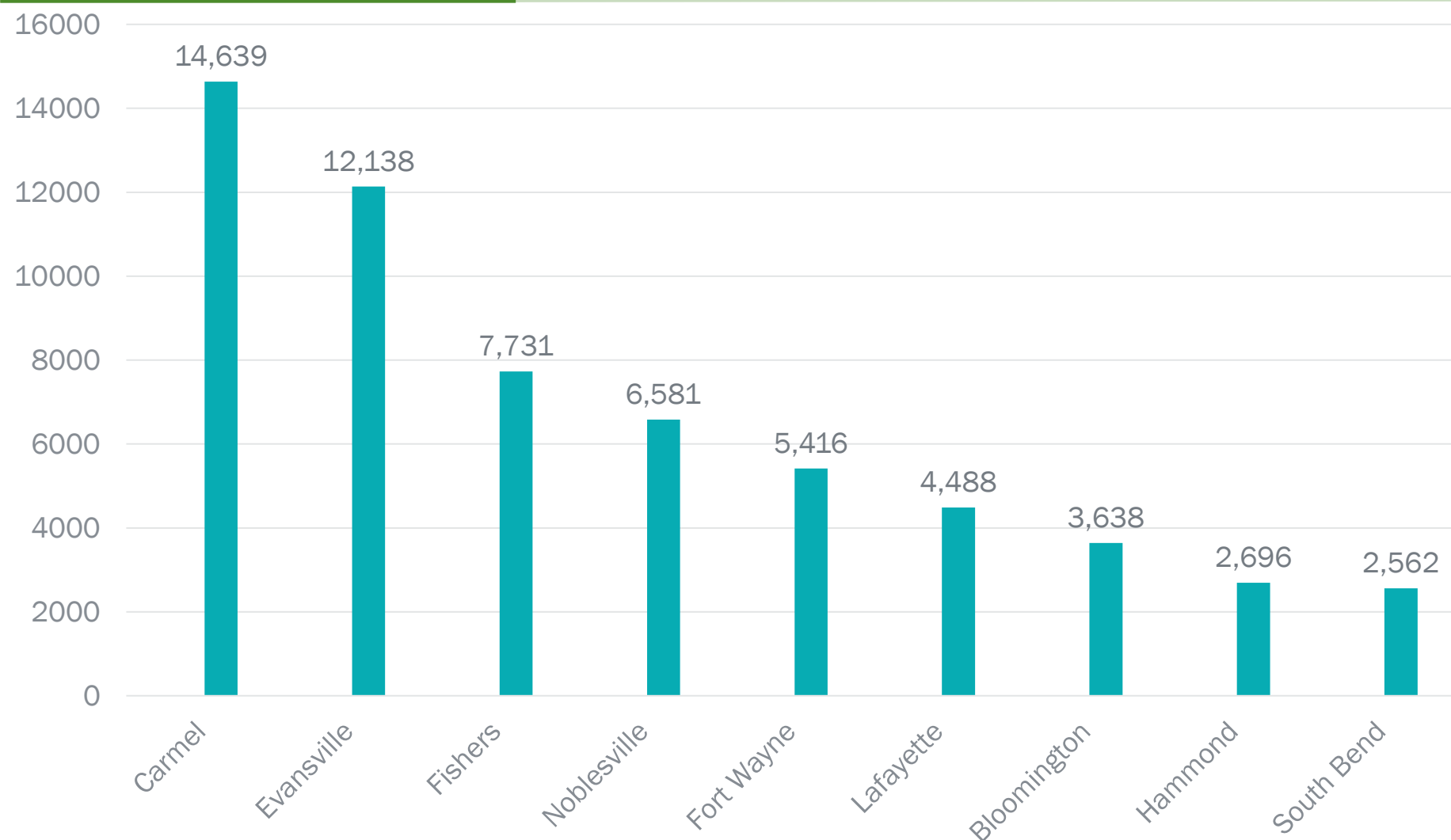
(A) Event Center debt paid by a variety of different revenue sources.

City of Fishers – Debt Comparison

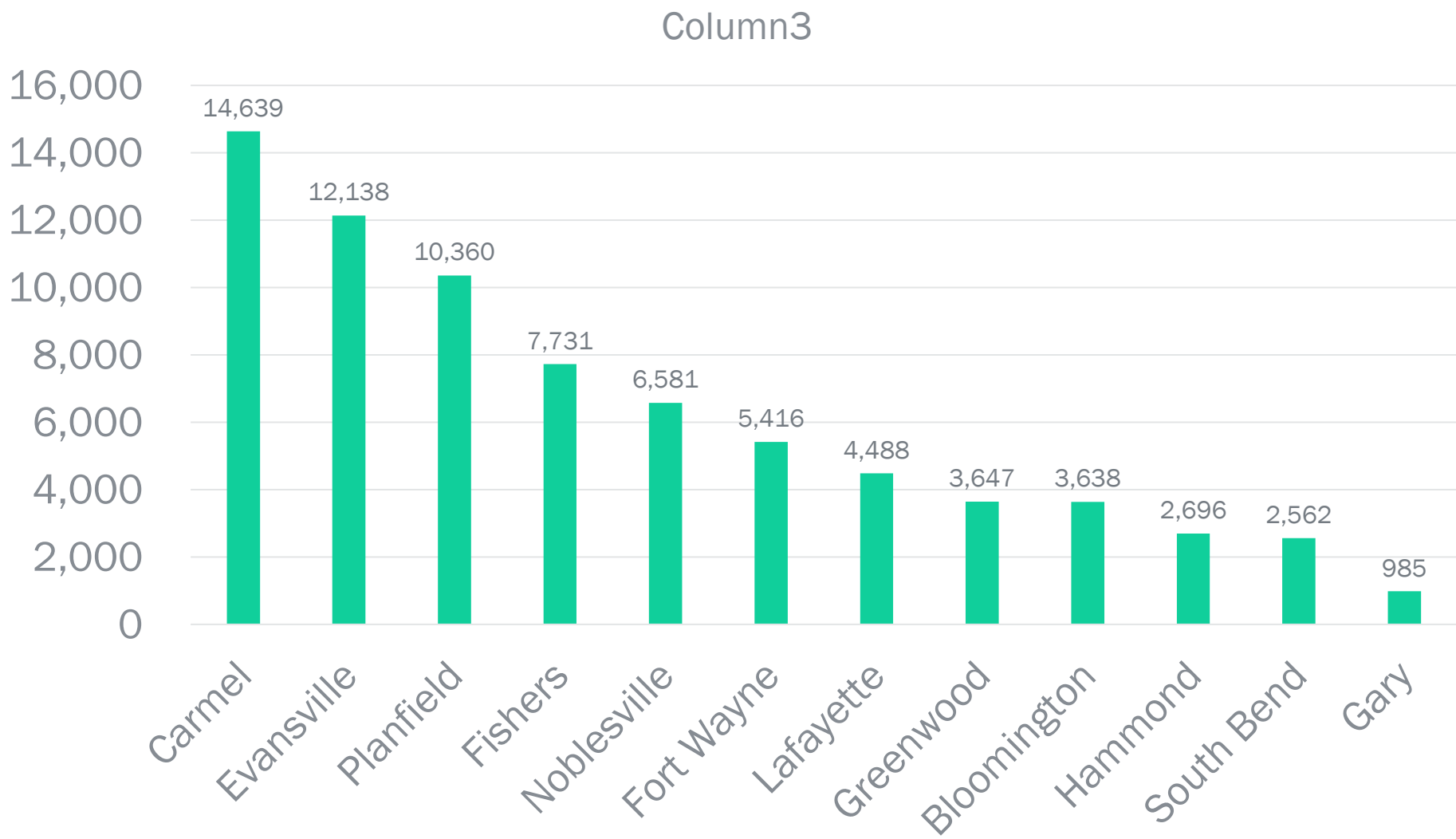


Note: Other City data from Gateway

City of Fishers – Debt Comparison Per Capita

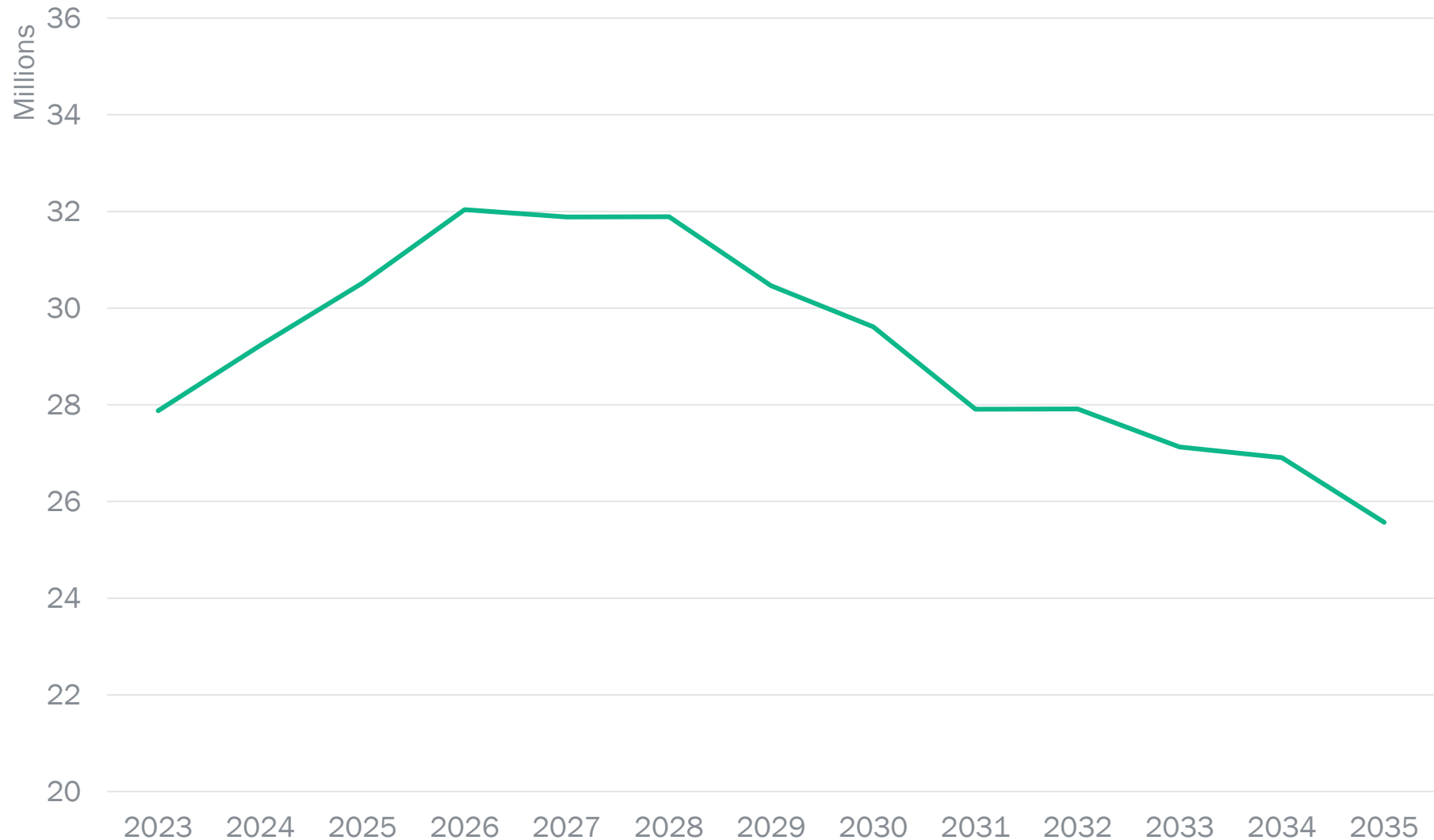


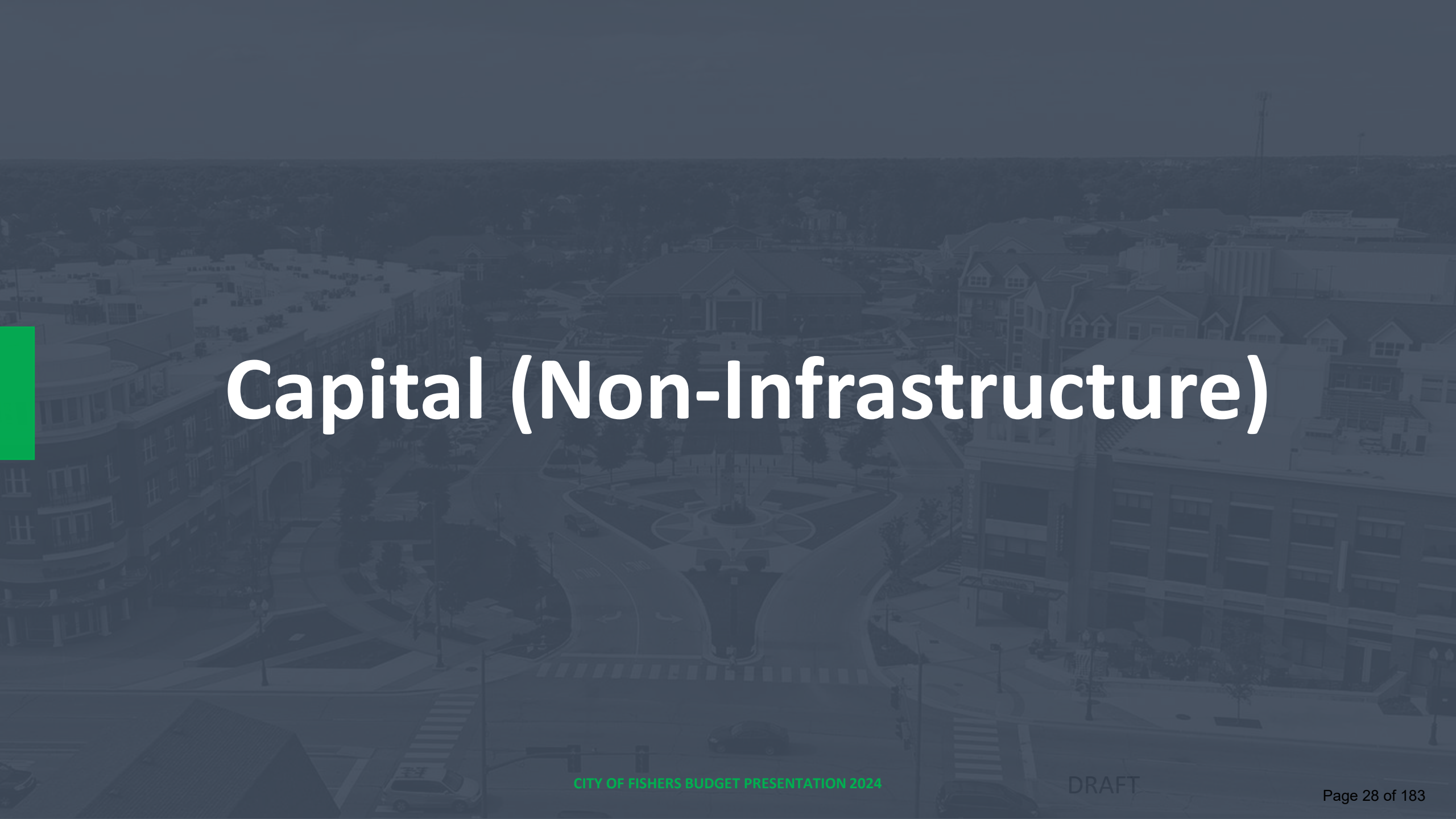
City of Fishers – Debt Comparison Per Capita



Note: All information on outstanding debt taken from City/Town’s most recent official statement on EMMA and Gateway Debt Reporting.

City of Fishers – Property Tax Debt Per Year (Estimated)





Capital (Non-Infrastructure)

2024 Budget

Capital (Non-Infrastructure/Fleet Loan)

Police

- 18 replacement vehicles
- 3 new vehicles (additional officers)

Fire

- Medic (replacement)
- Ladder Truck (1/3 of total cost, replacing L393)
- 2 replacement staff vehicles

Permitting & Inspections

- 1 vehicle (replacement)

Public Works

- Parks Division
 - \$120,000 of mowers (replacement)
- Stormwater Division
 - Streetsweeper (replacement)
 - Mini Skid Steer (replacement)
 - 3 staff trucks (replacement)
- Streets Division
 - 1 Tilt deck trailer (additional asset)
- Wastewater Division
 - 1 Vac Truck (replacement)



BUDGET TIMELINE

2024
Recommended
Budget

8/08

Budget Postcards Delivered to Homeowners



8/18

Media Notice Posted



8/21

**Introduction of Budget to City Council
(No Public Hearing)**



+

Media Day @ 12:30 p.m.



8/23

Finance Committee Discussion



9/07

**Last Day to Post Notice
Budget Hearing**



9/11 &
9/13

**Finance Committee Meetings
Department Budgets**



9/18

**1st Reading of Budget at City Council
+ Public Hearing**

10/9

**Final Reading of Budget at City Council +
Final Adoption of Budget**

DRAFT

RESOLUTION NO. R100923

**A RESOLUTION AUTHORIZING THE CITY CONTROLLER
TO TRANSFER CERTAIN CITY OF FISHERS BUDGET FUNDS
INTO CERTAIN BUDGET CATEGORIES**

WHEREAS, the City of Fishers, Hamilton County, Indiana (“City”) has budgeted certain amounts of funds that are used for general municipal operational purposes of the City;

WHEREAS, the certain funds as described in Exhibit A, which is attached hereto and incorporated herein (“Transfers”) are in need of various transfers in order to continue their intended purposes and operations; and

WHEREAS, the Common Council for the City of Fishers, Hamilton County, Indiana (“City Council”) now desires to authorize the City Controller to transfer said funds into said accounts, all is further described in Exhibit A.

NOW, THEREFORE, BE IT RESOLVED by the Common Council for the City of Fishers, Hamilton County, Indiana meeting in regular session as follows:

Section 1. The Council hereby authorizes the City Controller to make all transfers as described in Exhibit A (“Transfers”) and execute them in a timely and orderly fashion.

Section 2. This Resolution shall be in full force and effect from and upon its passage and in accordance with Indiana law.

ALL OF WHICH IS RESOLVED by the Common Council for the City of Fishers, Hamilton County, Indiana this 9th day of October, 2023.

**COMMON COUNCIL OF THE CITY OF FISHERS,
HAMILTON COUNTY, INDIANA**

YAY

NAY

ABSTAIN

	John Weingardt, President		
	Cecilia Coble Vice President		
	C. Pete Peterson, Member		
	Brad DeReamer, Member		
	Selina Stoller, Member		
	Todd Zimmerman, Member		
	Jocelyn Vare, Member		
	Crystal Neumann, Member		
	David Giffel, Member		

I hereby certify that the foregoing Ordinance/ Resolution was delivered to City of Fishers Mayor Scott Fadness on the _____ day of _____, 2023 at _____ p.m.

ATTEST: _____

Jennifer L. Kehl, Fishers City Clerk

MAYOR'S APPROVAL

Scott A. Fadness, Mayor

DATE

MAYOR'S VETO

Scott A. Fadness, Mayor

DATE



This instrument prepared by: Lindsey M. Bennett, City Attorney, City of Fishers, Hamilton County, Indiana, One Municipal Drive, Fishers, Indiana, 46038

"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law." Lindsey M. Bennett

BUDGET AMENDMENTS JOURNAL ENTRY PROOF

LN	ORG	OBJECT	PROJ	ORG DESCRIPTION	ACCOUNT DESCRIPTION	EFF DATE	PREV BUDGET	BUDGET CHANGE	AMENDED BUDGET	ERR
ACCOUNT					LINE DESCRIPTION					
YEAR-PER	JOURNAL	EFF-DATE	REF 1	REF 2	SRC JNL-DESC	ENTITY AMEND				
2023	10	4 10/10/2023	FDSFTY	R100923	BUA Captl Purc	1 1				
1	10105011	43100		General Fund - Fire Admin	Professional Services		228,627.80	-9,000.00	219,627.80	
	1010.501.51.000.43100.				Capital Purchase		10/10/2023			
2	10105015	42200		General Fund - Safe Training	Operating Supplies		129,326.79	9,000.00	138,326.79	
	1010.501.55.000.42200.				Capital Purchase		10/10/2023			
3	10105014	43200		General Fund - Special Ops	Comms And Transportation		18,000.00	-14,820.00	3,180.00	
	1010.501.54.000.43200.				Capital Purchase		10/10/2023			
4	10105015	42200		General Fund - Safe Training	Operating Supplies		129,326.79	14,820.00	144,146.79	
	1010.501.55.000.42200.				Capital Purchase		10/10/2023			
5	10105015	43200		General Fund - Safe Training	Comms And Transportation		26,950.00	-15,933.00	11,017.00	
	1010.501.55.000.43200.				Capital Purchase		10/10/2023			
6	10105015	42200		General Fund - Safe Training	Operating Supplies		129,326.79	15,933.00	145,259.79	
	1010.501.55.000.42200.				Capital Purchase		10/10/2023			
** JOURNAL TOTAL								0.00		

BUDGET AMENDMENT JOURNAL ENTRY PROOF

CLERK: valois1

YEAR	PER	JNL	SRC	ACCOUNT	EFF	DATE	JNL	DESC	REF	1	REF	2	REF	3	ACCOUNT	DESC	T	OB	DEBIT	CREDIT
2023	10	4																		
BUA	10105011-43100															Professional Services	5			9,000.00
	10/10/2023	Captl	Purc	FDSFTY	R100923										T	Capital Purchase				
BUA	10105015-42200															Operating Supplies	5	9,000.00		
	10/10/2023	Captl	Purc	FDSFTY	R100923										T	Capital Purchase				
BUA	10105014-43200															Comms And Transportation	5			14,820.00
	10/10/2023	Captl	Purc	FDSFTY	R100923										T	Capital Purchase				
BUA	10105015-42200															Operating Supplies	5	14,820.00		
	10/10/2023	Captl	Purc	FDSFTY	R100923										T	Capital Purchase				
BUA	10105015-43200															Comms And Transportation	5			15,933.00
	10/10/2023	Captl	Purc	FDSFTY	R100923										T	Capital Purchase				
BUA	10105015-42200															Operating Supplies	5	15,933.00		
	10/10/2023	Captl	Purc	FDSFTY	R100923										T	Capital Purchase				
															JOURNAL 2023/10/4	TOTAL		.00	.00	

BUDGET AMENDMENT JOURNAL ENTRY PROOF

FUND ACCOUNT	YEAR	PER	JNL	EFF DATE	ACCOUNT DESCRIPTION	DEBIT	CREDIT
FUND TOTAL						.00	.00

** END OF REPORT - Generated by Lorena valois **



Council Action Form

MEETING DATE	October 9, 2023			
TITLE	A Resolution Authorizing the City Controller to Transfer Certain City of Fishers Budget Funds Into Certain Budget Categories			
SUBMITTED BY	Name & Title: Lisa Bradford, City Controller			
	Department:			
MEETING TYPE	☐ Work Session ☐ Executive	☒ Regular	☐ Special	☐ Retreat
AGENDA CLASSIFICATION	☒ Consent	☐ Ordinance	☒ Resolution	☐ Regular
ORDINANCE/RESOLUTION (New ordinances or resolutions are assigned a new number)	☐ 1 st Reading	☐ 2 nd Reading	☐ Public Hearing	☐ 3 rd Reading ☐ Final Reading
	Ordinance #:		Resolution #: R100923	
CONTRACTS (Contracts include other similar documents such as agreements and memorandum of understandings. <u>Check all applicable boxes pertaining to contracts</u>)	☐ Contract required for this item		☐ Signed copy of contract attached	
	☐ Seeking award or other scenario & will provide contract at a later date		☒ No contract for this item	
	☐ Contract over \$50,000 Please mark the box in the other column that pertains to this contract.		☐ Services ☐ Capital Outlay ☐ Debt Services	
HAMILTON COUNTY (Some documents need recorded by the City Clerk)	☐ Document must be recorded with the County Recorder's Office ☐ Wait 31 days prior to filing with the County Recorders' Office		☒ Document does not need recorded with the County Recorder's Office	

APPROVALS/REVIEWS	☒ Assistant/Deputy Department Head	☒ Controller's Office
	☒ Department Head	☒ Finance Committee
	☐ Deputy Mayor	☐ Technical Advisory Committee
	☐ Mayor	☒ Other: Corresponding Department Heads
	☐ Legal Counsel – <i>Name of Reviewer:</i>	
BACKGROUND (Includes description, background, and justification)	A transfer of funds from one appropriation to another means removing monies from one category such as “supplies” and moving it to another such as “contractual services”. Due to various circumstances and reasons sometimes throughout the year budget appropriations in their respective funds need to be transferred to avoid drawing a negative balance. When this occurs, the respective department provides a written and signed transfer request to the Controller's Office. All transfers require Department Head approval before submission to the Controller's Office, whether or not they are between categories (ex. 200's to 300's) in the same department or transfers between departments. Transfers between departments also require City Council approval in addition to Department Head approval. As such, all transfers requiring City Council approval are prepared by the Controller's Office and submitted to the City Council for approval. Upon approval they are processed by the Controller's Office. Money cannot be transferred between funds. Attached is a resolution and its accompanying Exhibit A ("Transfers") requesting authorization for the City Controller to transfer all funds as outlined in the exhibit.	
BUDGETING AND FINANCIAL IMPACT (Includes project costs and funding sources)	Budgeted \$:	N/A
	Expenditure \$:	N/A
	Source of Funds:	See Exhibit A
	Additional Appropriation #:	N/A
	Narrative:	This action does not require an expenditure or receive a revenue, rather it is transferring funds within various City funds. See Exhibit A for all transfers and transfer detail.
OPTIONS (Include <i>Deny Approval</i> Option)	1.	Approve this resolution and authorize the City Controller to make the transfers
	2.	Deny this resolution and request
	3.	Approve selected transfer requests
	4.	Provide alternate direction
PROJECT TIMELINE	All approved transfers will be transferred respectively immediately following approval.	
STAFF RECOMMENDATION (Board reserves the right to accept or deny recommendations)	Staff recommends that the City Council approve this resolution authorizing the City Controller to transfer all funds as outlined in Exhibit A and fully oversee this process and request.	
SUPPLEMENTAL INFORMATION (List all attached documents)	1. Resolution 2. Exhibit A	

RESOLUTION NO. R100923A

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF FISHERS, INDIANA APPROVING A LEASE BETWEEN THE FISHERS TOWN HALL BUILDING CORPORATION, AS LESSOR, AND THE FISHERS REDEVELOPMENT COMMISSION, AS LESSEE, WITH RESPECT TO THE DISTRICT SOUTH PROJECT, AND ADDRESSING MATTERS RELATED THERETO

WHEREAS, to foster economic development, Rebar South Street, LLC (and any affiliate of such entity, the “Developer”), the City of Fishers, Indiana (the “City”), the Fishers Town Hall Building Corporation (the “Corporation”), the City of Fishers Redevelopment Commission (the “Commission”), and the City of Fishers Economic Development Commission, entered into a Project Agreement (the “Project Agreement”), with respect to the acquisition, construction, renovation and equipping of a new mixed-use development, including multi-family residential units and commercial space, and the completion of related improvements and the payment of financing costs, all generally located on the south side of South Street, between Lantern Road on the east and the Nickel Plate Trail on the west (collectively, the “Project”); and

WHEREAS, pursuant to the terms of the Project Agreement, the Economic Development Commission and the Common Council of the City are considering for approval the issuance of the City of Fishers, Indiana Taxable Economic Development Revenue Bonds, Series 202_ (District South Project), in one or more series, in an amount not to exceed Twelve Million Dollars (\$12,000,000) (the “Bonds”) under IC 36-7-12 and the lending of the proceeds of such Bonds to the Corporation for the purpose of financing a portion of the Project and certain costs related to the issuance of the Bonds, including capitalized interest on the Bonds and a reserve fund; and

WHEREAS, to provide for the financing and construction of the Project and the issuance of the Bonds, there has been presented to the Council a Lease, between the Corporation, as lessor, and the Commission, as lessee, with respect to all or a portion of 96th Street, between Lantern Road and Mollenkopf Road, including related improvements and fixtures located thereon (the “Lease”); and

WHEREAS, the lease payments under the Lease will be payable by the Commission from certain tax increment revenues received by the Commission, pursuant to IC 36-7-14-39, from The District South Allocation Area and the Downtown Allocation Area (the “TIF Revenues”) and if necessary from a special tax levied and collected by the Commission on all taxable property within the City of Fishers Redevelopment District, pursuant to IC 36-7-14-27 (the “Special Tax Revenues”); and

WHEREAS, the Commission reasonably expects that the TIF Revenues will be used to pay all lease payments under the Lease when due and that the Special Tax Revenues will not be necessary for the payment of lease payments under the Lease; and

WHEREAS, the Common Council desires to approve the Lease pursuant to IC 36-7-14-25.2, which provides that any lease approved by a resolution of the Commission must also be approved by an ordinance or resolution of the fiscal body of the unit.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF CITY OF FISHERS, INDIANA, as follows:

Section 1. Approval of Lease. Pursuant to IC 36-7-14-25.2, the City Council hereby approves the Lease, with such lease rentals due thereunder in an amount sufficient to pay the debt service on the Bonds and payable from the Special Tax Revenues, on the following conditions: (a) the maximum term of the Lease shall be twenty (20) years, commencing on the date of issuance of the Bonds; (b) the maximum annual lease payment during the term of Lease shall be One Million One Hundred Thousand Dollars (\$1,100,000); (c) the maximum rate of interest on the Bonds shall not exceed seven percent (7.0%) per annum; (d) the Bonds may be subject to redemption prior to maturity on such dates and on such terms as determined at the time of the sale of the Bonds and approved by the City in the purchase agreement for the Bonds, all upon the advice of the financial advisor to the City; and (e) a portion of the proceeds of the Bonds may be applied to pay capitalized interest on the Bonds and to fund a reserve fund for the Bonds if determined to be necessary or appropriate by the City, with the advice the financial advisor to the City.

Section 2. Authorization of Other Actions. Any member of the Common Council and the Controller of the City, and any other officer, employee or agent of the City is hereby authorized and directed, for and on behalf of the City, to execute and deliver any contract, agreement, certificate, instrument or other document and to take any action as such person determines to be necessary or appropriate to accomplish the purposes of this Resolution, such determination to be conclusively evidenced by such person's execution of such contract, agreement, certificate, instrument or other document or such person's taking of such action.

Section 3. Effective Date. This Resolution shall be in full force and effect from and after its adoption by the Common Council and upon compliance with the procedures required by law.

DULY PASSED AND ADOPTED by the Common Council of the City of Fishers on this _____ day of _____, 2023.

**COMMON COUNCIL OF THE CITY OF FISHERS,
HAMILTON COUNTY, INDIANA**

YAY

NAY

ABSTAIN

	John Weingardt President		
	Cecilia C. Coble, Vice President		
	C. Pete Peterson, Member		
	Brad DeReamer, Member		
	Selina Stoller, Member		
	Todd Zimmerman Member		
	Jocelyn Vare, Member		
	Crystal Neumann, Member		
	David Giffel, Member		

I hereby certify that the foregoing Ordinance/ Resolution was delivered to City of Fishers Mayor Scott Fadness on the _____ day of _____ 2023, at _____ p.m.

ATTEST: _____

Jennifer L. Kehl, Fishers City Clerk

MAYOR'S APPROVAL

Scott A. Fadness, Mayor

DATE

MAYOR'S VETO

Scott A. Fadness, Mayor

DATE

This instrument prepared by: Richard J. Hall, Barnes & Thornburg LLP, 11 South Meridian, Indianapolis, IN 46204.

"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law." /s/ Richard J. Hall.

LEASE

by and between

FISHERS TOWN HALL BUILDING CORPORATION, as Lessor

and

FISHERS REDEVELOPMENT COMMISSION, as Lessee

Dated as of _____, 2023

LEASE

THIS LEASE (this “Lease”), entered into as of this ____ day of _____, 2023, by and between the Fishers Town Hall Building Corporation, an Indiana nonprofit corporation (the “Lessor”), and the Fishers Redevelopment Commission (the “Lessee”), the governing body of the City of Fishers Department of Redevelopment, acting for and on behalf of the City of Fishers, Indiana (the “City”);

WITNESSETH:

WHEREAS, the Lessor exists for the purpose, among others, of the financing and leasing of buildings and other capital improvements in the City; and

WHEREAS, the City has created the Lessee to undertake redevelopment and economic development in the City in accordance with Indiana Code 36-7-14 (the “Redevelopment Act”); and

WHEREAS, to foster economic development in the City, the Lessor, and the Lessee desire to provide desire to provide for the acquisition, construction, renovation and equipping of a new mixed-use development, including multi-family residential units and commercial space, and the completion of related improvements and the payment of financing costs, all generally located on the south side of South Street, between Lantern Road on the east and the Nickel Plate Trail on the west (collectively, the “Project”), in accordance with the Project Agreement, between Rebar South Street, LLC (and any affiliate of such entity, the “Developer”), the City, the Lessor, the Lessee, and the City of Fishers Economic Development Commission (the “Project Agreement”); and

WHEREAS, as further described in the Project Agreement, a portion of the costs of the acquisition and construction of the Project will be financed by the proceeds of bonds to be issued by the City in a maximum original issued amount not to exceed Twelve Million Dollars (\$12,000,000) (the “Bonds”), pursuant to IC 36-7-11.9 and 12 (the “EDC Act”) and a Trust Indenture, to be dated as of the first day of the month in which the Bonds are sold (the “Indenture”), between the City and the financial institution selected to serve as bond trustee (the “Trustee”); and

WHEREAS, the proceeds of the Bonds will be loaned by the City to the Lessor pursuant to a Loan Agreement to be dated as of the first day of the month in which the Bonds are sold (the “Loan Agreement”), by and between the City and the Lessor; and

WHEREAS, pursuant to the Project Agreement, the Lessor shall use the proceeds of the Bonds to finance all or a portion of the obligations of the City, the Lessor and the Lessee under the Project Agreement; and

WHEREAS, the Bonds will be payable solely from payments made by the Lessor pursuant to the Loan Agreement; and

WHEREAS, the Lessor's obligations under the Loan Agreement will be payable solely from the annual rentals to be paid by the Lessee under this Lease, and such payments by the Lessee under this Lease will be assigned by the Lessor to the Trustee to pay debt service on and other necessary incidental expenses related to the Bonds; and

WHEREAS, the Lessee has previously adopted and amended resolutions designating a certain area of the City known as the "Consolidated Fishers/I-69 Economic Development Area" (the "Economic Development Area") as an economic development area under Section 41 of the Redevelopment Act and approving an economic development plan for the Economic Development Area; and

WHEREAS, the Lessee has previously adopted and amended resolutions designating portions of the Economic Development Area known as the "District South Allocation Area" and the "Downtown Allocation Area" (the "Allocation Areas") as allocation areas under Section 39 of the Redevelopment Act; and

WHEREAS, the Lessee reasonably expects, but is not legally required, to pay lease payments under this Lease from any revenues legally available to the Lessee, including certain tax increment revenues received by the Lessee, pursuant to Indiana Code 36-7-14-39 from the Allocation Areas; and

WHEREAS, pursuant to Indiana Code 36-7-14-27 the Lessee has the authority to levy a special benefits tax upon all property in the City of Fishers Redevelopment District (the "District"); and

WHEREAS, the Lessor has acquired or will acquire interests in the real estate described in Exhibit A (such real estate, together with any roads or other improvements that, on the date hereof, are located thereon, collectively, the "Leased Premises"), and such interests shall be for a term no less than the term of this Lease; and

WHEREAS, the value of the Leased Premises is estimated to be not less than Twelve Million Dollars (\$12,000,000); and

WHEREAS, the Lessee has determined, after a public hearing held pursuant to the Redevelopment Act and after notice given pursuant to Indiana Code 5-3-1, that the lease rentals provided for in this Lease are fair and reasonable, that the execution of this Lease is necessary and that the service provided by the Project will serve the public purpose of the City and is in the best interests of its residents, and the Council has by ordinance approved this Lease; and

WHEREAS, the Lessor has duly authorized the execution of this Lease.

In consideration of the mutual covenants herein contained, the parties hereto hereby agree as follows:

1. PREMISES, TERM AND WARRANTY 1. .

The Lessor does hereby lease, demise and let to Lessee all of the Lessor's right, title and interests in and to the Leased Premises.

TO HAVE AND TO HOLD the Leased Premises with all rights, privileges, easements and appurtenances thereunto belonging, unto the Lessee, beginning on the date of issuance of the Bonds and ending on the day prior to a date not later than twenty (20) years after the date of issuance of the Bonds. However, the term of this Lease will terminate at the earlier of (a) the exercise by the Lessee of the option to purchase the Leased Premises pursuant to Section 10 and the payment of the option price, or (b) the payment or defeasance of all bonds issued (i) to finance the cost of the Leased Premises, (ii) to refund all or a portion of such bonds, (iii) to refund all or a portion of such refunding bonds, or (iv) to improve the Leased Premises; provided that no bonds or other obligations of the Lessor issued to finance the Leased Premises remain outstanding at the time of such payment or defeasance. The Lessor hereby represents that it is possessed of, or will acquire, the Leased Premises and the Lessor warrants and will defend the Leased Premises against all claims whatsoever not suffered or caused by the acts or omissions of the Lessee or its assigns.

Notwithstanding the foregoing, the Leased Premises may be amended to add additional property to the Leased Premises or remove any portion of the Leased Premises, provided however, following such amendment, the rentals payable under this Lease shall be based on the value of the portion of the Leased Premises which is available for use, and the rental payments due under this Lease shall be in amounts sufficient to pay when due all principal of and interest on all outstanding Bonds. In the event that all or a portion of the Leased Premises shall be unavailable for use by the Lessee, subject to the completion of any process required by law, the Lessor and the Lessee shall amend this Lease to add to and/or replace a portion of the Leased Premises to the extent necessary to provide for available Leased Premises with a value supporting rental payments under this Lease sufficient to pay when due all principal of and interest on outstanding Bonds.

2. LEASE RENTAL. (a) Fixed Rental Payments. The Lessee agrees to pay rental for the Leased Premises at a rate per year during the term of the Lease not to exceed One Million One Hundred Thousand Dollars (\$1,100,000) payable in semi-annual installments. Each such semi-annual installment, payable as hereinafter described, shall be based on the value of the Leased Premises which are available for use and occupancy by the Lessee at the time such semi-annual installment is made. The first rental installment shall be due on a July 15 or January 15, determined on the date of issuance of the Bonds, but not earlier than July 15, 2024. Thereafter, such rental shall be payable in advance in semi-annual installments on January 15 and July 15 of each year. The last semi-annual rental payment due before the expiration of this Lease shall be adjusted to provide for rental at the yearly rate so specified from the date such installment is due to the date of the expiration of this Lease.

After the sale of the Bonds, the annual rental shall be reduced to an amount which is sufficient to pay principal and interest due in each twelve (12) month period commencing each year on July 15 rounded up to the next One Thousand Dollars (\$1,000), plus Five Thousand Dollars (\$5,000) each year, payable in advance in semi-annual installments. In addition, each such reduced semi-annual installment shall be based on the value of the Leased Premises which are available

for use by the Lessee at the time such semi-annual installment is made. Such amount of adjusted rental shall be endorsed on this Lease at the end hereof in the form of Exhibit B attached hereto by the parties hereto as soon as the same can be done after the sale of the Bonds, and such endorsement shall be recorded as an addendum to this Lease.

(b) Additional Rental Payments. (i) The Lessee shall pay as further rental in addition to the rentals paid under Section 2(a) for the Leased Premises (“Additional Rentals”) the amount of all taxes and assessments levied against or on account of the Leased Premises or the receipt of lease rental payments and the amount required to reimburse the Lessor for any insurance payments made by it under Section 6. The Lessee shall pay as additional rental all administrative expenses of the Lessor, including ongoing trustee fees, relating to the Bonds. Any and all such payments shall be made and satisfactory evidence of such payments in the form of receipts shall be furnished to the Lessor by the Lessee, at least three (3) days before the last day upon which such payments must be paid to avoid delinquency. If the Lessee shall in good faith desire to contest the validity of any such tax or assessment, the Lessee shall so notify the Lessor and shall furnish bond with surety to the approval of the Lessor conditioned for the payment of the charges so desired to be contested and all damages or loss resulting to the Lessor from the nonpayment thereof when due, the Lessee shall not be obligated to pay the contested amounts until such contests shall have been determined.

(ii) The Lessee may by resolution pay Additional Rentals to enable the Lessor to redeem or purchase Bonds prior to maturity. Rental payments due under this Section 2 shall be reduced to the extent such payments are allocable to the Bonds redeemed or purchased by the Lessor with such Additional Rentals. The Lessee shall be considered as having an ownership interest in the Leased Premises valued at an amount equal to the amount of the Additional Rentals paid pursuant to this subsection (b)(ii).

(c) Source of Payment of Rentals. The Fixed Annual Rentals and the Additional Rentals shall be payable solely from the revenues of the special benefits tax levied by the Lessee pursuant to Indiana Code 36-7-14-27 upon all property in the District (the “Special Tax Revenues”). The Lessee may pay the Fixed Annual Rentals and the Additional Rentals or any other amounts due hereunder from any other revenues legally available to the Lessee, including certain tax increment revenues received by the Commission, pursuant to IC 36-7-14-39, from the Allocation Areas; provided, however, the Lessee shall be under no obligation to pay any Fixed Annual Rentals or Additional Rentals or any other amounts due hereunder from any moneys or properties of the Lessee except the Special Tax Revenues received by the Lessee.

3. PAYMENT OF RENTALS. All rentals payable under the terms of this Lease shall be paid to the Trustee under the Indenture securing the Bonds. Any successor trustee under the Indenture shall be endorsed on this Lease at the end hereof by the parties hereto as soon as possible after selection, and such endorsement shall be recorded as an addendum to this Lease. All payments so made by the Lessee shall be considered as payment to the Lessor of the rentals payable hereunder.

4. DAMAGE TO PREMISES; ABATEMENT OF RENT. If any part of the Leased Premises is taken under the exercise of the power of eminent domain, so as to render it unfit, in whole or part, for use or occupancy by the Lessee, it shall then be the obligation of the Lessor to restore and rebuild that portion of the Leased Premises as promptly as may be done, unavoidable strikes and other causes beyond the control of the Lessor excepted; provided, however, that the Lessor shall not be obligated to expend on such restoration or rebuilding more than the condemnation proceeds received by the Lessor.

If any part of the Leased Premises shall be partially or totally destroyed, or is taken under the exercise of the power of eminent domain, so as to render it unfit, in whole or part, for use or occupancy by the Lessee, the rent shall be abated for the period during which the Leased Premises or such part thereof is unfit or unavailable for use or occupancy, and the abatement shall be in proportion to the percentage of the Leased Premises which is unfit or unavailable for use or occupancy.

5. OPERATION, MAINTENANCE AND REPAIR. The Lessee may enter into agreements with one or more other parties for the operation, maintenance, repair and alterations of all or any portion of the Leased Premises. Such other parties may assume all responsibility for operation, maintenance, repairs and alterations to the Leased Premises. At the end of the term of this Lease, the Lessee shall deliver the Leased Premises to the Lessor in as good condition as at the beginning of the term, reasonable wear and tear only excepted.

6. INSURANCE . During the full term of this Lease, the Lessee shall, at its own expense, carry combined bodily injury insurance, including accidental death, and property damage insurance with reference to the Leased Premises in an amount not less than One Million Dollars (\$1,000,000) on account of each occurrence with one or more good and responsible insurance companies. Such public liability insurance may be by blanket insurance policy or policies.

The proceeds of the public liability insurance required herein (after payment of expenses incurred in the collection of such proceeds) shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds are paid. Such policies shall be for the benefit of persons having an insurable interest in the Leased Premises, and shall be made payable to the Lessor, the Lessee, and the Trustee and to such other person or persons as the Lessor may designate. Such policies shall be countersigned by an agent of the insurer who is a resident of the State of Indiana and deposited with the Lessor and the Trustee. If, at any time, the Lessee fails to maintain insurance in accordance with this Section, such insurance may be obtained by the Lessor and the amount paid therefor shall be added to the amount of rentals payable by the Lessee under this Lease; provided, however, that the Lessor shall be under no obligation to obtain such insurance and any action or non-action of the Lessor in this regard shall not relieve the Lessee of any consequence of its default in failing to obtain such insurance.

The insurance policies described in this Section 6 may be acquired by another party and shall satisfy this Section as long as the Lessor, the Lessee and the Trustee are named as additional

insureds under such policies. Such coverage may be provided by scheduling it under a blanket insurance policy or policies.

7. EMINENT DOMAIN. If title to or the temporary use of the Leased Premises, or any part thereof, shall be taken under the exercise or the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, any net proceeds received from any award made in such eminent domain proceedings (after payment of expenses incurred in such collection) shall be paid to and held by the Trustee under the Indenture.

Such proceeds shall be applied in one or more of the following ways:

- (a) The restoration of the Leased Premises to substantially the same condition as it existed prior to the exercise of that power of eminent domain, or
- (b) The acquisition, by construction or otherwise, of other improvements suitable for the Lessee's operations on the Leased Premises and which are in furtherance of the purposes of the Redevelopment Act and the EDC Act (the improvements shall be deemed a part of the Leased Premises and available for use and occupancy by the Lessee without the payment of any rent other than as herein provided, to the same extent as if such other improvements were specifically described herein and demised hereby).

Within ninety (90) days from the date of entry of a final order in any eminent domain proceedings granting condemnation, the Lessee shall direct the Lessor and the Trustee in writing as to which of the ways specified in this Section the Lessee elects to have the net proceeds of the condemnation award applied. Any balance of the net proceeds of the award in such eminent domain proceedings not required to be applied for the purposes specified in subsections (a) or (b) above shall be deposited in the sinking fund held by the Trustee under the Indenture and applied to the repayment of the Bonds.

The Lessor shall cooperate fully with the Lessee in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Leased Premises or any part thereof and will to the extent it may lawfully do so permit the Lessee to litigate in any such proceedings in its own name or in the name and on behalf of the Lessor. In no event will the Lessor voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Leased Premises or any part thereof without the written consent of the Lessee, which consent shall not be unreasonably withheld.

8. GENERAL COVENANT. The Lessee shall not assign this Lease or mortgage, pledge or sublet the Leased Premises herein described without the written consent of the Lessor. The Lessee shall contract with the other parties to use and maintain the Leased Premises in accordance with the laws, regulations and ordinances of the United States of America, the State of Indiana, the City and all other proper governmental authorities.

9. OPTION TO RENEW. The Lessor hereby grants to the Lessee the right and option to renew this Lease for a further like or lesser term upon the same or like conditions as herein contained, and applicable to the portion of the premises for which the renewal applies, and the Lessee shall exercise this option by written notice to the Lessor given upon any rental payment date prior to the expiration of this Lease.

10. OPTION TO PURCHASE.

The Lessor hereby grants to the Lessee the right and option, on any date, upon sixty (60) days' written notice to the Lessor, to purchase the Leased Premises, or any portion thereof, at a price equal to the amount required to redeem the Bonds, or such portion thereof corresponding to the portion of the Leased Premises being purchased (including indebtedness incurred for the refunding of the Bonds), including all premiums payable on the redemption thereof and accrued and unpaid interest, and including the proportionate share of the expenses and charges of liquidation, if the Lessor is to be then liquidated.

Upon request of the Lessee, the Lessor agrees to furnish an itemized statement setting forth the amount required to be paid by the Lessee in order to purchase the Leased Premises in accordance with the preceding paragraph. Upon the exercise of the option to purchase granted herein, the Lessor will upon payment of the option price deliver, or cause to be delivered, to the Lessee documents conveying to the Lessee, or any entity (including the City) designated by the Lessee, all of the Lessor's title to the property being purchased, as such property then exists, subject to the following: (i) those liens and encumbrances (if any) to which title to the property was subject when conveyed to the Lessor; (ii) those liens and encumbrances created by the Lessee and to the creation or suffering of which the Lessee consented, and liens for taxes or special assessments not then delinquent; and (iii) those liens and encumbrances on its part contained in this Lease.

In the event of purchase of the Leased Premises by the Lessee or conveyance of the Leased Premises to the Lessee or the Lessee's designee, the Lessee shall procure and pay for all surveys, title searches, abstracts, title policies and legal services that may be required, and shall furnish at the Lessee's expense all documentary stamps or tax payments required for the transfer of title.

Nothing contained herein shall be construed to provide that the Lessee shall be under any obligation to purchase the Leased Premises, or under any obligation respecting the creditors, members or security holders of the Lessor.

11. TRANSFER TO THE LESSEE 2. If the Lessee has not exercised its option to renew in accordance with the provisions of Section 9, and has not exercised its option to purchase the Leased Premises, or any portion thereof, in accordance with the provisions of Section 10, and upon the full discharge and performance by the Lessee of its obligations under this Lease, the Leased Premises, or such portion thereof remaining, shall thereupon become the absolute property of the Lessee, subject to the limitations, if any, on the conveyance of the site for the Leased Premises to the Lessor and, upon the Lessee's request the Lessor shall execute proper

instruments conveying to the Lessee, or to any entity (including the City) designated by the Lessee, all of Lessor's title to the Leased Premises, or such portion thereof.

12. DEFAULTS AND REMEDIES. If the Lessee shall default (a) in the payment of any rentals or other sums payable to the Lessor hereunder, or in the payment of any other sum herein required to be paid for the Lessor; or (b) in the observance of any other covenant, agreement or condition hereof, and such default shall continue for ninety (90) days after written notice to correct such default; then, in any or either of such events, the Lessor may proceed to protect and enforce its rights by suit or suits in equity or at law in any court of competent jurisdiction, whether for specific performance of any covenant or agreement contained herein, or for the enforcement of any other appropriate legal or equitable remedy; or the Lessor, at its option, without further notice, may terminate the estate and interest of the Lessee hereunder, and it shall be lawful for the Lessor forthwith to resume possession of the Leased Premises and the Lessee covenants to surrender the same forthwith upon demand.

The exercise by the Lessor of the above right to terminate this Lease shall not release the Lessee from the performance of any obligation hereof maturing prior to the Lessor's actual entry into possession. No waiver by the Lessor of any right to terminate this Lease upon any default shall operate to waive such right upon the same or other default subsequently occurring.

13. NOTICES 3. Whenever either party shall be required to give notice to the other under this Lease, it shall be sufficient service of such notice to deposit the same in the United States mail, in an envelope duly stamped, registered and addressed to the other party or parties at the following addresses: (a) to Lessor: Fishers Town Hall Building Corporation, Attention: President, One Municipal Drive, Fishers, Indiana 46038; (b) to Lessee: Fishers Redevelopment Commission, Attention: President, One Municipal Drive, Fishers, Indiana 46038.

The Lessor, the Lessee and the Trustee may by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

14. SUCCESSORS OR ASSIGNS. All covenants in this Lease, whether by the Lessor or the Lessee, shall be binding upon the successors and assigns of the respective parties hereto.

15. MISCELLANEOUS. This Lease may be signed in one or more counterparts, each of which shall constitute one and the same instrument. This Lease shall be governed by, and construed in accordance with, the laws of the State of Indiana. All proceedings arising in connection with this Lease shall be tried and litigated only in the state courts in Hamilton County, Indiana, or the federal courts with venue that includes Hamilton County, Indiana. The captions included throughout this Lease are for convenience and reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Lease.

16. CONSTRUCTION OF COVENANTS

. All provisions herein contained shall be construed in accordance with the provisions of the EDC Act and the Redevelopment Act (collectively, the “Act”), and to the extent of inconsistencies, if any, between the covenants and agreements in this Lease and the provisions of the Act, the Act shall be deemed to be controlling and binding upon the Lessor and the Lessee; provided, however, any amendment to the Act after the date hereof shall not have the effect of amending this Lease.

17. TIME. Time is of the essence for this Lease. If the time for performance hereunder falls on a Saturday, Sunday or a day that is recognized as a holiday in the State of Indiana, then such time shall be deemed extended to the next day that is not a Saturday, Sunday or holiday in the State of Indiana.

18. FUTURE AMENDMENTS. No agreement shall be effective to modify this Lease, in whole or in part, unless such agreement is in writing, and is signed by the party against whom enforcement of said change or modification is sought.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed for and on their behalf as of the day and year first hereinabove written.

LESSOR

FISHERS TOWN HALL BUILDING
CORPORATION

By: _____
President

ATTEST:

Secretary

LESSEE

FISHERS REDEVELOPMENT
COMMISSION

By: _____
President

ATTEST:

Secretary

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally to me to be the President and Secretary, respectively, of the Fishers Town Hall Building Corporation, and acknowledged the execution of the foregoing lease for and on behalf of said corporation.

WITNESS my hand and notarial seal this ____ day of _____, 2023.

Written Signature

Printed Signature

NOTARY PUBLIC

My Commission Expires:

My County of Residence is:

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____ personally known to me to be the President and Secretary, respectively, of the Fishers Redevelopment Commission, and acknowledged the execution of the foregoing lease for and on behalf of said commission.

WITNESS my hand and notarial seal this ____day of _____, 2023.

Written Signature

Printed Signature

NOTARY PUBLIC

My Commission Expires:

My County of Residence is:

This instrument prepared by Richard H. Hall, Barnes & Thornburg, 11 South Meridian Street, Indianapolis, IN 46204.

I affirm under penalties of perjury that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. /s/ *Richard J. Hall*

EXHIBIT A

REAL ESTATE DESCRIPTION

The Leased Premises shall consist of the Lessor's interest in 96th Street commencing at the center point of the traffic circle at the intersection of Lantern Road and 96th Street and continuing east on 96th Street for approximately 1.73 miles to the center point of the intersection of 96th Street and Mollenkopf Road together with all appurtenances and other infrastructure and local public improvements located thereon or related thereto, all of which is located within the corporate boundaries of the City of Fishers, Hamilton County, Indiana.

EXHIBIT B

ADDENDUM TO LEASE BETWEEN
FISHERS TOWN HALL BUILDING CORPORATION, LESSOR,
AND FISHERS REDEVELOPMENT COMMISSION, LESSEE

THIS ADDENDUM (this “Addendum”), entered into as of this ____ day of _____, _____, by and between Fishers Town Hall Building Corporation, an Indiana nonprofit corporation (the “Lessor”), and the Fishers Redevelopment Commission, the governing body of the City of Fishers Department of Redevelopment (the “Lessee”);

WITNESSETH:

WHEREAS, the Lessor entered into a Lease with the Lessee, dated as of _____, 2023 (the “Lease”); and

WHEREAS, it is provided in the Lease that there shall be endorsed thereon the adjusted rental.

NOW, THEREFORE, IT IS HEREBY AGREED, CERTIFIED AND STIPULATED by the undersigned as follows:

Section 1. The Annual Rental. The adjusted rental is set forth on Appendix A attached hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Addendum to be executed for and on their behalf as of the day and year first hereinabove written.

LESSOR

FISHERS TOWN HALL BUILDING
CORPORATION

By: _____
President

ATTEST:

Secretary

LESSEE

FISHERS REDEVELOPMENT
COMMISSION

By: _____
President

ATTEST:

Secretary

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally to me to be the President and Secretary, respectively, of the Fishers Town Hall Building Corporation, and acknowledged the execution of the foregoing addendum to lease for and on behalf of said corporation.

WITNESS my hand and notarial seal this ____ day of _____, 2023.

Written Signature

Printed Signature

NOTARY PUBLIC

My Commission Expires:

My County of Residence is:

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____ personally known to me to be the President and Secretary, respectively, of Fishers Redevelopment Commission, and acknowledged the execution of the foregoing addendum to lease for and on behalf of said commission.

WITNESS my hand and notarial seal this ____day of _____, 2023.

Written Signature

Printed Signature

NOTARY PUBLIC

My Commission Expires:

My County of Residence is:

This instrument prepared by Richard J. Hall, Esquire, Barnes & Thornburg, 11 South Meridian Street, Indianapolis, Indiana 46204.

I affirm under penalties of perjury that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. /s/ *Richard J. Hall*

APPENDIX A TO ADDENDUM TO LEASE

RENTAL SCHEDULE

Payment Date

Amount



Council Action Form

MEETING DATE	October 9, 2023			
TITLE	A Resolution of the Common Council of the City of Fishers, Indiana Approving a Lease between the Fishers Town Hall Building Corporation, as Lessor, and the Fishers Redevelopment Commission, as Lessee, with respect to The District South Project and Addressing Matters Related Thereto			
SUBMITTED BY	Name & Title: Lisa Bradford, City Controller Department:			
MEETING TYPE	☐ Work Session ☐ Executive	☒ Regular	☐ Special	☐ Retreat
AGENDA CLASSIFICATION	☐ Consent	☐ Ordinance	☒ Resolution	☐ Regular
ORDINANCE/RESOLUTION (New ordinances or resolutions are assigned a new number)	☒ 1 st Reading	☒ 2 nd Reading	☐ Public Hearing	☒ 3 rd Reading ☐ Final Reading
	Ordinance #:		Resolution #: R100923A	
CONTRACTS (Contracts include other similar documents such as agreements and memorandum of understandings. <u>Check all applicable boxes pertaining to contracts</u>)	☐ Contract required for this item		☐ Signed copy of contract attached	
	☐ Seeking award or other scenario & will provide contract at a later date		☒ No contract for this item	
	☐ Contract over \$50,000 Please mark the box in the other column that pertains to this contract.		☐ Services ☐ Capital Outlay ☐ Debt Services	
HAMILTON COUNTY (Some documents need recorded by the City Clerk)	☐ Document must be recorded with the County Recorder's Office ☐ Wait 31 days prior to filing with the County Recorders' Office		☒ Document does not need recorded with the County Recorder's Office	

APPROVALS/REVIEWS	☐ Assistant/Deputy Department Head	☒ Controller's Office
	☐ Department Head	☒ Finance Committee
	☐ Deputy Mayor	☐ Technical Advisory Committee
	☐ Mayor	☐ Other:
	☒ Legal Counsel – Name of Reviewer: Rick Hall, Barnes and Thornburg, LLP	
BACKGROUND (Includes description, background, and justification)	Resolution approves a Lease between the Fishers Town Hall Building Corporation, as Lessor, and the Fishers Redevelopment Commission, as Lessee, with respect to allow for the financing of The District South Project. The Lease rental payments will be pledged to the payment of Bonds in an amount not to exceed \$12,000,000 issued by the City. Lease rental payments under the Lease are payable from the TIF revenues of the District South Allocation Area and the Downtown Allocation Area and, if necessary, a property tax levied on all taxable property in the City of Fishers Redevelopment District and are anticipated to be paid with TIF revenues from the District South Allocation Area and Downtown Allocation Area without the need for property tax revenues.	
BUDGETING AND FINANCIAL IMPACT (Includes project costs and funding sources)	Budgeted \$:	N/A
	Expenditure \$:	N/A
	Source of Funds:	The lease has a maximum annual lease rental payment of \$1,100,000 and a maximum term of 20 years; lease rentals are anticipated to be paid from TIF revenues, with an additional pledge of property taxes as security.
	Additional Appropriation #:	N/A
	Narrative:	N/A
OPTIONS (Include Deny Approval Option)	1.	Approve Resolution
	2.	Deny Approval of Resolution
	3.	
	4.	
PROJECT TIMELINE	The bonds that will be secured by the lease are anticipated to be issued in December.	
STAFF RECOMMENDATION (Board reserves the right to accept or deny recommendations)	Staff recommends that the Common Council approve the Resolution at this meeting.	
SUPPLEMENTAL INFORMATION (List all attached documents)	1. Resolution 2. Exhibit A - Form of Lease	

ORDINANCE OR RESOLUTION FOR APPROPRIATIONS AND TAX RATES

State Form 55865 (7-15)
Approved by the State Board of Accounts, 2015
Prescribed by the Department of Local Government Finance

Budget Form No. 4
Generated 10/2/2023 9:14:59 AM

Ordinance / Resolution Number: 091823

Be it ordained/resolved by the **City Of Fishers** that for the expenses of **FISHERS CIVIL CITY** for the year ending December 31, **2024** the sums herein specified are hereby appropriated and ordered set apart out of the several funds herein named and for the purposes herein specified, subject to the laws governing the same. Such sums herein appropriated shall be held to include all expenditures authorized to be made during the year, unless otherwise expressly stipulated and provided for by law. In addition, for the purposes of raising revenue to meet the necessary expenses of **FISHERS CIVIL CITY**, the property tax levies and property tax rates as herein specified are included herein. Budget Form 4-B for all funds must be completed and submitted in the manner prescribed by the Department of Local Government Finance.

This ordinance/resolution shall be in full force and effect from and after its passage and approval by the **City Of Fishers**.

Name of Adopting Entity / Fiscal Body	Type of Adopting Entity / Fiscal Body	Date of Adoption
City Of Fishers	Common Council and Mayor	10/09/2023

Funds				
Fund Code	Fund Name	Adopted Budget	Adopted Tax Levy	Adopted Tax Rate
0101	GENERAL	\$93,007,292	\$38,850,615	0.4500
0181	DEBT PAYMENT	\$5,324,424	\$6,475,102	0.0750
0182	BOND #2	\$878,000	\$1,295,020	0.0150
0184	BOND #4	\$22,775,501	\$25,900,410	0.3000
0185	BOND #5	\$455,025	\$431,673	0.0050
0205	COUNTY WHEEL TAX	\$2,379,077	\$0	0.0000
0706	LOCAL ROAD & STREET	\$2,337,500	\$0	0.0000
0708	MOTOR VEHICLE HIGHWAY	\$4,375,845	\$0	0.0000
0801	HEALTH	\$4,187,009	\$1,295,020	0.0150
1151	CONTINUING EDUCATION	\$70,600	\$0	0.0000
2379	CUMULATIVE CAPITAL IMP (CIG TAX)	\$280,000	\$0	0.0000
2391	CUMULATIVE CAPITAL DEVELOPMENT	\$4,573,127	\$5,180,082	0.0500
2402	ECONOMIC DEVELOPMENT	\$8,500,000	\$0	0.0000
		\$149,143,399	\$79,427,922	0.9100

ORDINANCE OR RESOLUTION FOR APPROPRIATIONS AND TAX RATES

State Form 55865 (7-15)
Approved by the State Board of Accounts, 2015
Prescribed by the Department of Local Government Finance

Budget Form No. 4
Generated 10/2/2023 9:14:59 AM

Home-Ruled Funds (Not Reviewed by DLGF)		
Fund Code	Fund Name	Adopted Budget
9500	PARK IMPACT FEES	\$250,000
9501	ROAD IMPACT FEES	\$1,000,000
9502	BRIDGE IMPACT FEES	\$207,000
9503	Certified Tech Park	\$250,000
9504	Forfeiture	\$20,000
9505	COURT RECORD PERPETUATION	\$63,000
9506	COURT DEFERRAL USER FEE	\$50,000
9507	Health Dept - State Funds	\$965,026
		\$2,805,026

ORDINANCE OR RESOLUTION FOR APPROPRIATIONS AND TAX RATES

State Form 55865 (7-15)
 Approved by the State Board of Accounts, 2015
 Prescribed by the Department of Local Government Finance

Budget Form No. 4
 Generated 10/2/2023 9:14:59 AM

Name		Signature
John Weingardt, President	Aye ☐ Nay ☐ Abstain ☐	
Cecilia Coble, Vice President	Aye ☐ Nay ☐ Abstain ☐	
C. Pete Peterson, Member	Aye ☐ Nay ☐ Abstain ☐	
Brad DeReamer, Member	Aye ☐ Nay ☐ Abstain ☐	
Selina Stoller, Member	Aye ☐ Nay ☐ Abstain ☐	
Todd Zimmerman, Member	Aye ☐ Nay ☐ Abstain ☐	
Jocelyn Vare, Member	Aye ☐ Nay ☐ Abstain ☐	
Crystal Neumann, Member	Aye ☐ Nay ☐ Abstain ☐	
David Giffel, Member	Aye ☐ Nay ☐ Abstain ☐	

ATTEST

Name	Title	Signature
Jennifer Kehl	City Clerk	

MAYOR ACTION (For City use only)

Name		Signature	Date
Scott Fadness	Approve ☐ Veto ☐		10/09/2023

In accordance with IC 6-1.1-17-16(k), we state our intent to issue debt after December 1 and before January 1

Yes ☒ No ☐

In accordance with IC 6-1.1-17-16(k), we state our intent to file a shortfall appeal after December 1 and before December 31

Yes ☐ No ☒

NOTICE TO TAXPAYERS

The **Notice to Taxpayers** is available online at www.budgetnotices.in.gov or by calling (888) 739-9826.

Complete details of budget estimates by fund and/or department may be seen by visiting the office of this unit of government at **3 Municipal Drive**.

Notice is hereby given to taxpayers of **FISHERS CIVIL CITY, Hamilton County**, Indiana that the proper officers of **Fishers Civil City** will conduct a public hearing on the year **2024** budget. Following this meeting, any ten or more taxpayers may object to a budget, tax rate, or tax levy by filing an objection petition with the proper officers of **Fishers Civil City** not more than seven days after the hearing. The objection petition must identify the provisions of the budget, tax rate, or tax levy to which taxpayers object. If a petition is filed, **Fishers Civil City** shall adopt with the budget a finding concerning the objections in the petition and testimony presented. Following the aforementioned hearing, the proper officers of **Fishers Civil City** will meet to adopt the following budget:

Public Hearing Date	Monday, September 18, 2023
Public Hearing Time	7:00 PM
Public Hearing Location	Launch Fishers, 12175 Visionary Way

Adoption Meeting Date	Monday, October 9, 2023
Adoption Meeting Time	7:00 PM
Adoption Meeting Location	Launch Fishers, 12175 Visionary Way

Estimated Civil Max Levy	\$37,226,576
Est. Fire Max Levy	\$0
Est. Fire Territory Max Levy	\$0
Est. School Operations Max Levy	\$0
Property Tax Cap Credit Estimate	\$3,393,000

1 Fund Name	2 Budget Estimate	3 Maximum Estimated Funds to be Raised (including appeals and levies exempt from maximum levy limitations)	4 Excessive Levy Appeals	5 Current Tax Levy	6 Levy Percentage Difference (Column 3 / Column 5)
0101-GENERAL	\$93,007,292	\$38,850,615	\$0	\$30,778,320	26.23%
0181-DEBT PAYMENT	\$5,324,424	\$6,475,102	\$0	\$4,662,074	38.89%
0182-BOND #2	\$878,000	\$1,295,020	\$0	\$820,180	57.89%
0184-BOND #4	\$22,775,501	\$25,900,410	\$0	\$19,710,212	31.41%
0185-BOND #5	\$455,025	\$431,673	\$0	\$276,271	56.25%
0205-COUNTY WHEEL TAX	\$2,379,077	\$0	\$0	\$0	
0706-LOCAL ROAD & STREET	\$2,337,500	\$0	\$0	\$0	
0708-MOTOR VEHICLE HIGHWAY	\$4,375,845	\$0	\$0	\$0	
0801-HEALTH	\$4,187,009	\$1,295,020	\$0	\$863,347	50.00%
1151-CONTINUING EDUCATION	\$70,600	\$0	\$0	\$0	
2379-CUMULATIVE CAPITAL IMP (CIG TAX)	\$280,000	\$0	\$0	\$0	
2391-CUMULATIVE CAPITAL DEVELOPMENT	\$4,573,127	\$5,180,082	\$0	\$4,316,735	20.00%
2402-ECONOMIC DEVELOPMENT	\$8,500,000	\$0	\$0	\$0	
9500-PARK IMPACT FEES	\$250,000	\$0	\$0	\$0	
9501-ROAD IMPACT FEES	\$1,000,000	\$0	\$0	\$0	
9502-BRIDGE IMPACT FEES	\$207,000	\$0	\$0	\$0	
9503-Certified Tech Park	\$250,000	\$0	\$0	\$0	
9504-Forfeiture	\$20,000	\$0	\$0	\$0	
9505-COURT RECORD PERPETUATION	\$63,000	\$0	\$0	\$0	
9506-COURT DEFERRAL USER FEE	\$50,000	\$0	\$0	\$0	
9507-Health Dept - State Funds	\$965,026	\$0	\$0	\$0	
Totals	\$151,948,426	\$79,427,922	\$0	\$61,427,139	



Council Action Form

MEETING DATE	October 9, 2023			
TITLE	2024 Budget Ordinance			
SUBMITTED BY	Name & Title: Lisa Bradford, City Controller Department: Controller			
MEETING TYPE	☐ Work Session ☐ Executive	☒ Regular	☐ Special	☐ Retreat
AGENDA CLASSIFICATION	☐ Consent	☒ Ordinance	☐ Resolution	☐ Regular
ORDINANCE/RESOLUTION (New ordinances or resolutions are assigned a new number)	☐ 1 st Reading	☒ 2 nd Reading	☐ Public Hearing	☐ 3 rd Reading ☐ Final Reading
	Ordinance #: 091823		Resolution #:	
CONTRACTS (Contracts include other similar documents such as agreements and memorandum of understandings. <u>Check all applicable boxes pertaining to contracts</u>)	☐ Contract required for this item		☐ Signed copy of contract attached	
	☐ Seeking award or other scenario & will provide contract at a later date		☒ No contract for this item	
	☐ Contract over \$50,000 Please mark the box in the other column that pertains to this contract.		☐ Services ☐ Capital Outlay ☐ Debt Services	
HAMILTON COUNTY (Some documents need recorded by the City Clerk)	☐ Document must be recorded with the County Recorder's Office ☐ Wait 31 days prior to filing with the County Recorders' Office		☒ Document does not need recorded with the County Recorder's Office	

APPROVALS/REVIEWS	☐	Assistant/Deputy Department Head	☒ Controller's Office
	☐	Department Head	☒ Finance Committee
	☒	Deputy Mayor	☐ Technical Advisory Committee
	☒	Mayor	☐ Other: Fiscal Consultant, Mike Reuter
	☐	Legal Counsel – Name of Reviewer:	
BACKGROUND (Includes description, background, and justification)	This is the adoption of the City of Fishers 2024 budget. The public hearing of the 2024 City of Fishers budget was duly advertised under Indiana law and held on September 18, 2023.		
BUDGETING AND FINANCIAL IMPACT (Includes project costs and funding sources)	Budgeted \$:	N/A	
	Expenditure \$:	N/A	
	Source of Funds:	N/A	
	Additional Appropriation #:		
	Narrative:	The 2024 Budget was presented to City Council on September 18th, 2023 for public hearing and first reading. The budget for adoption is the same budget as presented at the public hearing in September and contains no admendments. After having first reading, the 2024 Budget will now be presented at the October 9th, 2023 City Council meeting for 2nd Reading and Adoption. After approval, City will submit the 2024 budget in Gateway.	
OPTIONS (Include Deny Approval Option)	1.	Approve this ordinance as proposed	
	2.	Deny this ordinance	
	3.	Provide alternate direction	
	4.		
PROJECT TIMELINE	Once approved the 2024 budget will be submitted within 5 days to the Department of Local Government Finance (DLGF) for state approval.		
STAFF RECOMMENDATION (Board reserves the right to accept or deny recommendations)	Vote to approve 2024 budget and sign ordinance		
SUPPLEMENTAL INFORMATION (List all attached documents)	1. Exhibit A - 2024 Budget Advertisement		

ORDINANCE NO. 100923

**ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF FISHERS,
INDIANA AUTHORIZING ISSUANCE OF BONDS FOR THE PURPOSE
OF PROVIDING FUNDS TO BE APPLIED TO PAY FOR
CONSTRUCTION OF CERTAIN ROAD IMPROVEMENTS AND
INCIDENTAL EXPENSES IN CONNECTION THEREWITH AND TO PAY
FOR CERTAIN TRAIL IMPROVEMENTS AND THE ACQUISITION OF
CERTAIN EQUIPMENT AND INCIDENTAL EXPENSES IN
CONNECTION THEREWITH AND ON ACCOUNT OF THE ISSUANCE
OF THE BONDS**

WHEREAS, the City of Fishers, Indiana is a governmental unit and political subdivision of the State of Indiana (the “City”); and

WHEREAS, it would be of public utility and benefit and in the best interests of the City and its citizens to undertake the construction of improvements to and repair of roads and neighborhood streets, all in the City (the “Road Projects”) and it would also be of public utility and benefit and in the best interests of the City and its citizens to undertake the construction of certain trail improvements and the acquisition of certain public safety and other equipment, including vehicles, for the use of the City (the “Other Projects”) (the Road Projects and the Other Projects collectively, the “Projects”), including related improvements and incidental expenses in connection therewith and on account of the issuance of bonds therefor, such bonds to be issued as negotiable bonds of the City; and

WHEREAS, the Common Council of the City (the “Common Council”) deems it advisable to issue, pursuant to Indiana Code § 36-4-6-19 and other applicable provisions of the Indiana Code (collectively, the “Act”), the “City of Fishers, Indiana General Obligation Bonds, Series 2023 (the “2023 Bonds”) in an original principal amount not to exceed _____ Dollars (\$_____) (the “Authorized Amount”) for the purpose of providing for the payment of all or any portion of (i) the costs of the Projects, (ii) reimbursement of preliminary expenses related thereto and all incidental expenses incurred in connection therewith, including necessary engineering, legal, design, and related activities (all of which are deemed to be a part of the Projects), and (iii) the costs of selling and issuing the 2023 Bonds; and

WHEREAS, the original principal amount of the 2023 Bonds, together with the outstanding principal amount of previously issued bonds which constitute a debt of the City, is no more than two percent (2%) of one-third (1/3) of the total net assessed valuation of the City; and

WHEREAS, the Road Projects are estimated to cost the City not more than _____ Dollars (\$_____) and the Other Projects are estimated cost the City not more than Three Million Seven Hundred Sixty Thousand Dollars (\$3,760,000) (comprising a project to improve certain trail infrastructure in the City estimated to cost the City no more than One Million One Hundred Forty-Five Thousand Dollars (\$1,145,000) and the acquisition of certain equipment by the City estimated to cost the City no more than Two Million Six Hundred Fifteen Thousand (\$2,615,000)), and so the Projects are estimated to cost the City, including the costs of issuing the 2023 Bonds, not more than _____ Dollars (\$_____) and

WHEREAS, all of the Road Projects are projects for the engineering, land and right-of-way acquisition, construction, resurfacing, maintenance, restoration, and rehabilitation exclusively for or of local roads and street systems including bridges or arterial road and street systems including bridges or any combination thereof in the City as identified in Indiana Code 6-1.1-20-1.1; and

WHEREAS, the Other Projects are each independently estimated to cost the City not more than Six Million One Hundred Thousand Dollars (\$6,100,000) and each is therefore not a “Controlled Project” as defined in Indiana Code 6-1.1-20-1.1; and

WHEREAS, the amount of proceeds of the 2023 Bonds allocated to pay costs of the Projects, together with estimated investment earnings thereon, does not exceed the cost of the Projects as estimated by the Common Council; and

WHEREAS, there are insufficient funds available or provided for in the existing budget and tax levy which may be applied to the cost of the Projects and the issuance of the 2023 Bonds is being authorized to procure the necessary funds and an extraordinary emergency and necessity exists for the making of the additional appropriation set out herein; and

WHEREAS, the City reasonably expects to reimburse expenditures for the Projects with the proceeds of the 2023 Bonds and the Common Council desires to establish such intent pursuant to Treas. Reg. § 1.150-2 and Indiana Code § 5-1-14-6(c); and

WHEREAS, all conditions precedent to the adoption of an ordinance authorizing the issuance of the 2023 Bonds have been complied with in accordance with the applicable provisions of the Act.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FISHERS, INDIANA, AS FOLLOWS:

SECTION 1. Authorization for Bonds.

(a) In order to provide financing for the Projects as described above and the costs of selling and issuing the 2023 Bonds, the City shall borrow money, and shall issue the 2023 Bonds as herein authorized. The City covenants that the proceeds of the 2023 Bonds will not be used for any purpose except as described in this Ordinance. The City hereby declares its official intent to reimburse expenditures paid from the general fund, or any other fund of the City for the Projects with proceeds of the 2023 Bonds received by the City. This Ordinance constitutes a declaration of official intent to reimburse expenditures under Treas. Reg. § 1.150-2(e) and Indiana Code § 5-1-14-6(c).

SECTION 2. General Terms of Bonds.

(a) Issuance of 2023 Bonds. In order to procure said loan for such purposes, the City hereby authorizes the issuance of the 2023 Bonds as described herein. The Controller, as the fiscal officer of the City (the “Controller”), is hereby authorized and directed to have prepared and to issue and sell the 2023 Bonds as negotiable, fully registered bonds of the City in an amount not to exceed the Authorized Amount.

The 2023 Bonds shall be executed in the name of the City by the manual or facsimile signature of the Mayor of the City (the “Mayor”) and attested by the manual or facsimile signature of the Controller, who shall affix the seal of the City to each of the 2023 Bonds manually or shall have the seal imprinted or impressed thereon by facsimile or other means. In case any officer whose signature appears on the 2023 Bonds shall cease to be such officer before the delivery of the 2023 Bonds, such signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in office until delivery thereof. The 2023 Bonds also shall be, and will not be valid or become obligatory for any purpose or entitled to any benefit under this Ordinance unless and until, authenticated by the manual signature of the Registrar (as defined in Section 4 hereof). Subject to the provisions of this Ordinance regarding the registration of the 2023 Bonds, the 2023 Bonds shall be fully negotiable instruments under the laws of the State of Indiana.

The 2023 Bonds shall be numbered consecutively from R-1 up, shall be issued in denominations of Five Thousand Dollars (\$5,000) or any integral multiple thereof, or shall be issued in denominations of One Hundred Thousand Dollars (\$100,000) and integral multiples of One Dollar (\$1) above such amount, as determined by the Mayor and the Controller. The 2023 Bonds shall be originally dated as of the first day of the month in which the 2023 Bonds are sold or the date of issuance, as determined by the Mayor and the Controller, and shall bear interest payable semi-annually on each January 1 and July 1 commencing not later than July 1, 2023, at a rate or rates not exceeding six percent (6.0%) per annum (the exact rate or rates to be determined pursuant to Section 6 of the Ordinance), calculated on the basis of a 360-day year comprised of twelve 30-day months.

The 2023 Bonds shall mature on the dates and shall be issued in the principal amounts, as applicable, as determined by the Controller and Mayor, provided that the original aggregate principal amount does not exceed the Authorized Amount, that the first maturity shall be no earlier than July 1, 2024, and that the final maturity shall be no later than January 1, 2025.

(b) Source of Payment. The 2023 Bonds are as to all the principal thereof, and as to all interest due thereon, general obligations of the City, payable from *ad valorem* property taxes on all taxable property within the City, to be levied for collection beginning in 2023.

(c) Payments. All payments of interest on the 2023 Bonds shall be paid by check or draft mailed one business day prior to the interest payment date, to the registered owners thereof as of the fifteenth (15th) day of the month preceding the month in which interest is payable (the “Record Date”) at the addresses as they appear on the registration and transfer books of the City kept for that purpose by the Registrar (the “Registration Record”) or at such other address as is provided to the Paying Agent (as defined in Section 4 hereof) in writing by such registered owner. Each registered owner of \$100,000 or more in principal amount of 2023 Bonds shall be entitled to receive interest payments by wire transfer by providing written wire instructions to the Paying Agent before the record date for any payment. All payments of the principal of, and premium, if any, on the 2023 Bonds

shall be made upon surrender thereof at the principal office of the Paying Agent in any coin or currency of the United States of America which on the date of such payment shall be legal tender for the payment of public and private debts, or in the case of a registered owner of \$100,000 or more in principal amount of 2023 Bonds, by wire transfer on the due date upon written direction of such owner provided at least fifteen (15) days prior to the maturity date.

Interest on 2023 Bonds shall be payable from the interest payment date to which interest has been paid next preceding the authentication date thereof unless such 2023 Bonds are authenticated after the Record Date for an interest payment and on or before such interest payment date in which case they shall bear interest from such interest payment date, or unless authenticated on or before the Record Date for the first interest payment date, in which case they shall bear interest from the original date, until the principal shall be fully paid.

(d) Transfer and Exchange. Each 2023 Bond shall be transferable or exchangeable only upon the Registration Record, by the registered owner thereof in writing, or by the registered owner's attorney duly authorized in writing, upon surrender of such 2023 Bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner or such attorney, and thereupon a new fully registered bond or bonds in the same aggregate principal amount, and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or the registered owner, as the case may be, in exchange therefor. The costs of such transfer or exchange shall be borne by the City, except for any tax or governmental charge required to be paid in connection therewith, which shall be payable by the owner requesting such transfer or exchange. The City, Registrar and Paying Agent may treat and consider the persons in whose name such 2023 Bonds are registered as the absolute owners thereof for all purposes including for the purpose of receiving payment of, or on account of, the principal thereof and interest due thereon.

(e) Mutilated, Lost, Stolen or Destroyed Bonds. In the event any 2023 Bond is mutilated, lost, stolen or destroyed, the City may execute and the Registrar may authenticate a new bond of like date, maturity and denomination as that mutilated, lost, stolen or destroyed, which new bond shall be marked in a manner to distinguish it from the bond for which it was issued, provided that, in the case of any mutilated bond, such mutilated bond shall first be surrendered to the Registrar, and in the case of any lost, stolen or destroyed bond there shall be first furnished to the Registrar evidence of such loss, theft or destruction satisfactory to the Controller and the Registrar, together with indemnity satisfactory to them. In the event any such bond shall have matured, instead of issuing a duplicate bond, the City and the Registrar may, upon receiving indemnity satisfactory to them, pay the same without surrender thereof. The City and the Registrar may charge the owner of such 2023 Bond with their reasonable fees and expenses in this connection. Any 2023 Bond issued pursuant to this paragraph shall be deemed an original, substitute contractual obligation of the City, whether or not the lost, stolen or destroyed 2023 Bond shall be found at any time, and shall be entitled to all the benefits of this Ordinance, equally and proportionately with any and all other 2023 Bonds issued hereunder.

SECTION 3. Terms of Redemption. The Mayor and the Controller, upon consultation with the City's municipal advisor, may designate maturities of 2023 Bonds (or portion thereof in integral multiples of \$5,000 (or \$1) principal amount each) that shall be subject to optional redemption and/or maturity sinking fund redemption, and the corresponding redemption dates, amounts and prices (including premium, if any). Except as otherwise set forth in this Ordinance, the Mayor and the Controller, upon consultation with the City's municipal advisor, is hereby authorized and directed to determine the terms governing any such redemption.

Notice of redemption shall be mailed by first-class mail or by registered or certified mail to the address of each registered owner of a 2023 Bond to be redeemed as shown on the Registration Record not more than sixty (60) days and not less than thirty (30) days prior to the date fixed for redemption except to the extent such redemption notice is waived by owners of 2023 Bonds redeemed, provided, however, that failure to give such notice by mailing, or any defect therein, with respect to any 2023 Bond shall not affect the validity of any proceedings for the redemption of any other 2023 Bonds. The notice shall specify the date and place of redemption, the redemption price and the CUSIP numbers of the 2023 Bonds called for redemption. The place of redemption may be determined by the Controller. Interest on the 2023 Bonds so called for redemption shall cease on the redemption date fixed in such notice if sufficient funds are available at the place of redemption to pay the redemption price on the date so named, and thereafter, such 2023 Bonds shall no longer be protected by this Ordinance and shall not be deemed to be outstanding hereunder, and the holders thereof shall have the right only to receive the redemption price.

All 2023 Bonds which have been redeemed shall be canceled and shall not be reissued; provided, however, that one or more new registered bonds shall be issued for the unredeemed portion of any 2023 Bond without charge to the holder thereof.

No later than the date fixed for redemption, funds shall be deposited with the Paying Agent or another paying agent to pay, and such agent is hereby authorized and directed to apply such funds to the payment of, the 2023 Bonds or portions thereof called for redemption, including accrued interest thereon to the redemption date. No payment shall be made upon any 2023 Bond or portion thereof called for redemption until such bond shall have been delivered for payment or cancellation or the Registrar shall have received the items required by this Ordinance with respect to any mutilated, lost, stolen or destroyed bond.

SECTION 4. Appointment of Registrar and Paying Agent. The Controller is hereby initially appointed to serve as registrar and paying agent for the 2023 Bonds, but the Controller shall have the option of appointing a successor registrar and paying agent at any time (together with any successor, the "Registrar" or "Paying Agent"). The Registrar is hereby charged with the responsibility of authenticating the 2023 Bonds, and shall keep and maintain the Registration Record at its office. The Mayor and Controller are hereby authorized to enter into such agreements or understandings with any institution hereafter serving in such capacities as will enable the institution to perform the services required of the Registrar and Paying Agent. The Controller is authorized to pay such fees as the institution may charge for the services it provides as Registrar and Paying Agent.

The Registrar and Paying Agent may at any time resign as Registrar and Paying Agent by giving thirty (30) days written notice by first-class mail to the Controller and to each registered

owner of the 2023 Bonds then outstanding, and such resignation will take effect at the end of such thirty (30) days or upon the earlier appointment of a successor Registrar and Paying Agent by the Controller. Such notice to the Controller may be served personally or be sent by registered mail. The Registrar and Paying Agent may be removed at any time as Registrar and Paying Agent by the Controller, in which event the Controller may appoint a successor Registrar and Paying Agent. The Controller shall notify each registered owner of the 2023 Bonds then outstanding by first-class mail of the removal of the Registrar and Paying Agent. Notices to registered owners of the 2023 Bonds shall be deemed to be given when mailed by first-class mail to the addresses of such registered owners as they appear on the Registration Record. Any predecessor Registrar and Paying Agent shall deliver all the 2023 Bonds, cash related thereto in its possession and the Registration Record to the successor Registrar and Paying Agent. At all times, the same entity shall serve as Registrar and as Paying Agent.

SECTION 5. Form of Bonds; Book-Entry Form. (a) The form and tenor of the 2023 Bonds shall be substantially as follows, all blanks to be filled in properly prior to delivery thereof:

(FORM OF BOND)

No. R-____

UNITED STATES OF AMERICA

STATE OF INDIANA

COUNTY OF HAMILTON

CITY OF FISHERS, INDIANA

GENERAL OBLIGATION BOND, SERIES 2023

Interest <u>Rate</u>	Maturity <u>Date</u>	Original <u>Date</u>	Authentication <u>Date</u>
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Registered Owner:

Principal Sum:

The City of Fishers, Indiana (the “City”), for value received, hereby promises to pay to the Registered Owner set forth above, the Principal Sum set forth above on the Maturity Date set forth above (unless this bond is called for redemption prior to maturity as hereafter provided), and to pay interest thereon until the Principal Sum shall be fully paid at the Interest Rate per annum specified above from the interest payment date to which interest has been paid next preceding the Authentication Date of this bond unless this bond is authenticated after the fifteenth day of the month immediately preceding the month in which interest is payable (the “Record Date”) and on or before such interest payment date in which case

interest shall be paid from such interest payment date, or unless this bond is authenticated on or before _____, in which case it shall bear interest from the Original Date, which interest is payable semi-annually on January 1 and July 1 of each year, beginning on _____. Interest shall be calculated on the basis of a 360-day year comprised of twelve 30-day months.

The principal of this bond is payable at the principal corporate trust office of _____ (the “Registrar” or “Paying Agent”), in _____, _____. All payments of interest on this bond shall be paid by check or draft mailed one business day prior to the interest payment date, to the Registered Owner as of the Record Date at the address as it appears on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by the Registered Owner. Each registered owner of \$100,000 or more in principal amount of bonds shall be entitled to receive interest payments by wire transfer by providing written wire instructions to the Paying Agent before the record date for any payment. All payments of principal of and premium, if any, on this bond shall be made upon surrender thereof at the principal office of the Paying Agent in any coin or currency of the United States of America which on the date of such payment shall be legal tender for the payment of public and private debts, or in the case of a Registered Owner of \$100,000 or more in principal amount of bonds, by wire transfer on the due date upon written direction of such owner provided at least fifteen (15) days prior to the maturity date.

This bond is one of an authorized issue of bonds of the City of like original date, tenor and effect, except as to denominations, numbering, interest rates, and dates of maturity, in the total amount of _____ Dollars (\$_____), numbered from R-1 up, issued for the purpose of providing funds to pay the costs of the construction of improvements to and repair of roads and neighborhood streets, the construction of certain trail improvements and the acquisition of certain public safety and other equipment, including vehicles, for the use of the City (the “Project”), including related improvements and incidental expenses in connection therewith and on account of the issuance of bonds therefor, as authorized by Ordinance No. ____ adopted by the Common Council of the City on the _____ day of _____, 2023 (the “Ordinance”), and in strict compliance with Indiana Code § 36-4-6-19 and other applicable provisions of the Indiana Code, as amended (collectively, the “Act”), all as more particularly described in the Ordinance. The owner of this bond, by the acceptance hereof, agrees to all the terms and provisions contained in the Ordinance and the Act.

PURSUANT TO THE PROVISIONS OF THE ACT AND THE ORDINANCE, THE PRINCIPAL OF THIS BOND AND ALL OTHER BONDS OF SAID ISSUE AND THE INTEREST DUE THEREON ARE PAYABLE AS A GENERAL OBLIGATION OF THE CITY, FROM AN AD VALOREM PROPERTY TAX TO BE LEVIED ON ALL TAXABLE PROPERTY WITHIN THE CITY.

[INSERT REDEMPTION TERMS]

[Notice of such redemption shall be mailed by first-class mail or by registered or certified mail not more than sixty (60) days and not less than thirty (30) days prior to the date fixed for redemption to the address of the registered owner of each bond to be redeemed as shown on the registration record of the City except to the extent such redemption notice is waived by owners of the bond or bonds redeemed, provided, however, that failure to give such notice by mailing, or any defect therein, with respect to any bond shall not affect the validity of any proceedings for the redemption of any other bonds. The notice shall specify the date and place of redemption, the redemption price and the CUSIP numbers, if any, of the bonds called for redemption. The place of redemption may be determined by the Controller of the City. Interest on the bonds so called for redemption shall cease on the redemption date fixed in such notice if sufficient funds are available at the place of redemption to pay the redemption price on the date so named, and thereafter, such bonds shall no longer be protected by the Ordinance and shall not be deemed to be outstanding thereunder.]

This bond is subject to defeasance prior to payment as provided in the Ordinance.

If this bond shall not be presented for payment or redemption on the date fixed therefor, the City may deposit in trust with the Paying Agent or another paying agent, an amount sufficient to pay such bond or the redemption price, as the case may be, and thereafter the Registered Owner shall look only to the funds so deposited in trust for payment and the City shall have no further obligation or liability in respect thereto.

This bond is transferable or exchangeable only upon the registration record kept for that purpose at the office of the Registrar by the Registered Owner in person, or by the Registered Owner's attorney duly authorized in writing, upon surrender of this bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the Registered Owner or such attorney duly authorized in writing, and thereupon a new fully registered bond or bonds in the same aggregate principal amount, and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or the Registered Owner, as the case may be, in exchange therefor. The City, any registrar and any paying agent for this bond may treat and consider the person in whose name this bond is registered as the absolute owner hereof for all purposes including for the purpose of receiving payment of, or on account of, the principal hereof and interest due hereon.

The bonds maturing on any maturity date are issuable only in the denomination of [\$5,000 or any integral multiple thereof/One Hundred Thousand Dollars (\$100,000) and integral multiples of One Dollar (\$1) above such amount], not exceeding the aggregate principal amount of the bonds maturing on such date.

It is hereby certified and recited that all acts, conditions and things required to be done precedent to and in the preparation and complete execution, issuance

and delivery of this bond have been done and performed in regular and due form as provided by law.

This bond shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been executed by an authorized representative of the Registrar.

IN WITNESS WHEREOF, the City of Fishers, State of Indiana, has caused this bond to be executed in the name of such City, by the manual or facsimile signature of the Mayor of said City, and attested by manual or facsimile signature by the Controller of said City, and the seal of said City or a facsimile thereof to be affixed, engraved, imprinted or otherwise reproduced hereon.

CITY OF FISHERS, INDIANA

By: _____
Mayor

(SEAL)

ATTEST:

Controller

(Form of Registrar's Certificate of Authentication)

It is hereby certified that this bond is one of the bonds described in the within-mentioned Ordinance duly authenticated by the Registrar.

_____, as Registrar

By _____
Authorized Representative

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

TEN. COM. as tenants in common

TEN. ENT. as tenants by the entireties

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

UNIF. TRANS.
MIN. ACT

_____ Custodian
(Cust.) (Minor)

under Uniform Transfers to Minors Act of

(State)

Additional abbreviations may also be used, although not contained in the
above list.

FOR VALUE RECEIVED the undersigned hereby sells, assigns and
transfers unto _____(Please Print or
Typewrite Name and Address and Social Security or Other Identifying Number)
\$_____principal amount (must be a multiple of \$5,000) of the
within bond and all rights thereunder, and hereby irrevocably constitutes and
appoints _____, attorney to transfer the within bond on
the books kept for the registration thereof with full power of substitution in the
premises.

NOTICE: The signature to this assignment must
correspond with the name as it appears on the face of
the within bond in every particular, without alteration
or enlargement or any change whatsoever.

Signature Guaranteed:

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

(End of Bond Form)

(b) The 2023 Bonds may, in compliance with all applicable laws, initially be issued
and held in book-entry form on the books of the central depository system, The Depository Trust
Company, its successors, or any successor central depository system appointed by the City from
time to time (the "Clearing Agency"), without physical distribution of bonds to the purchasers.
The following provisions of this section apply in such event.

One definitive 2023 Bond of each maturity shall be delivered to the Clearing Agency (or
its agent) and held in its custody. The City and the Registrar and Paying Agent may, in connection

therewith, do or perform or cause to be done or performed any acts or things not adverse to the rights of the holders of the 2023 Bonds as are necessary or appropriate to accomplish or recognize such book-entry form 2023 Bonds.

During any time that the 2023 Bonds remain and are held in book-entry form on the books of a Clearing Agency, (1) any such 2023 Bond may be registered upon the books kept by the Registrar in the name of such Clearing Agency, or any nominee thereof, including Cede & Co., as nominee of The Depository Trust Company; (2) the Clearing Agency in whose name such 2023 Bond is so registered shall be, and the City and the Registrar and Paying Agent may deem and treat such Clearing Agency as, the absolute owner and holder of such 2023 Bond for all purposes of this Ordinance, including, without limitation, the receiving of payment of the principal of and interest on such 2023 Bond, the receiving of notice and giving of consent; (3) neither the City nor the Registrar or Paying Agent shall have any responsibility or obligation hereunder to any direct or indirect participant, within the meaning of Section 17A of the Securities Exchange Act of 1934, as amended, of such Clearing Agency, or any person on behalf of which, or otherwise in respect of which, any such participant holds any interest in any 2023 Bond, including, without limitation, any responsibility or obligation hereunder to maintain accurate records of any interest in any 2023 Bond or any responsibility or obligation hereunder with respect to the receiving of payment of principal of or interest or premium, if any, on any 2023 Bond, the receiving of notice or the giving of consent; and (4) the Clearing Agency is not required to present any 2023 Bond called for partial redemption prior to receiving payment so long as the Registrar and Paying Agent and the Clearing Agency have agreed to the method for noting such partial redemption.

If either the City receives notice from the Clearing Agency which is currently the registered owner of the 2023 Bonds to the effect that such Clearing Agency is unable or unwilling to discharge its responsibility as a Clearing Agency for the 2023 Bonds, or the City elects to discontinue its use of such Clearing Agency as a Clearing Agency for the 2023 Bonds, then the City and Registrar and Paying Agent each shall do or perform or cause to be done or performed all acts or things, not adverse to the rights of the holders of the 2023 Bonds, as are necessary or appropriate to discontinue use of such Clearing Agency as a Clearing Agency for the 2023 Bonds and to transfer the ownership of each of the 2023 Bonds to such person or persons, including any other Clearing Agency, as the holders of the 2023 Bonds may direct in accordance with this Ordinance. Any expenses of such discontinuance and transfer, including expenses of printing new certificates to evidence the 2023 Bonds, shall be paid by the City.

During any time that the 2023 Bonds are held in book-entry form on the books of a Clearing Agency, the Registrar shall be entitled to request and rely upon a certificate or other written representation from the Clearing Agency or any participant or indirect participant with respect to the identity of any beneficial owner of 2023 Bonds as of a record date selected by the Registrar. For purposes of determining whether the consent, advice, direction or demand of a registered owner of a 2023 Bond has been obtained, the Registrar shall be entitled to treat the beneficial owners of the 2023 Bonds as the bondholders and any consent, request, direction, approval, objection or other instrument of such beneficial owner may be obtained in the fashion described in this Ordinance.

During any time that the 2023 Bonds are held in book-entry form on the books of a Clearing Agency, the Mayor, the Controller and/or the Registrar are authorized to execute and deliver a Letter of Representations agreement with the Clearing Agency, or a Blanket Issuer Letter of

Representations, and the provisions of any such Letter of Representations or any successor agreement shall control on the matters set forth therein. The Registrar, by accepting the duties of Registrar under this Ordinance, agrees that it will (i) undertake the duties of agent required thereby and that those duties to be undertaken by either the agent or the issuer shall be the responsibility of the Registrar, and (ii) comply with all requirements of the Clearing Agency, including without limitation same day funds settlement payment procedures. Further, during any time that the 2023 Bonds are held in book-entry form, the provisions of Section 5 of this Ordinance shall control over conflicting provisions in any other section of this Ordinance.

SECTION 6. Sale of Bonds. The Mayor or Controller may determine to sell the 2023 Bonds through a competitive process or private negotiation as either an underwriting or private placement, to a purchaser or purchasers (the “Purchaser”), on such terms they deem desirable, provided that all such terms shall comply with the terms of this Ordinance. The Mayor is hereby authorized and directed to execute and deliver and the Controller is hereby authorized to attest a bond purchase agreement with the Purchaser (the “Bond Purchase Agreement”), to be prepared in a form satisfactory to the Mayor, with the advice of the Municipal Advisor to the City and Barnes & Thornburg LLP, as bond counsel. The Bond Purchase Agreement will be required to name the rate or rates of interest which the 2023 Bonds are to bear, not exceeding the maximum rate hereinbefore fixed, and such interest rate or rates shall be in multiples of 1/8, 1/20 or 1/100 of one percent. The purchase price of the 2023 Bonds shall not be less than ninety-nine and five-tenths percent (99.5%) of the par value of the 2023 Bonds.

After the Bonds have been properly sold and executed, the Controller shall receive from the purchasers payment for the 2023 Bonds and shall provide for delivery of the 2023 Bonds to the purchasers.

The Controller is hereby authorized and directed to have the 2023 Bonds prepared, the Mayor and the Controller are hereby authorized and directed to execute the 2023 Bonds in substantially the form and the manner herein provided. The Controller is hereby authorized and directed to deliver the 2023 Bonds to the purchaser; thereupon, the Controller shall be authorized to receive from the purchaser the purchase price and take the purchaser’s receipt for the 2023 Bonds. The amount to be collected by the Controller shall be the full amount which the purchaser has agreed to pay therefor, which shall be not less than ninety-nine and five-tenths percent (99.5%) of the face value of the 2023 Bonds plus accrued interest to the date of delivery.

The Controller shall report the proceedings related to the sale of the 2023 Bonds to the Common Council.

The Controller is hereby authorized and directed to obtain a legal opinion as to the validity of the 2023 Bonds from Barnes & Thornburg LLP, and to furnish such opinion to the purchasers of the 2023 Bonds or to cause a copy of said legal opinion to be printed on each 2023 Bond. The cost of such opinion shall be paid out of the proceeds of the 2023 Bonds.

If required by the SEC Rule, the Mayor and/or Controller are hereby authorized to deem final an official statement with respect to the 2023 Bonds, as of its date, in accordance with the provisions of the SEC Rule, subject to completion as permitted by the SEC Rule, and the Common Council further authorizes the distribution of the deemed final official statement, and the

execution, delivery and distribution of such document as further modified and amended with the approval of the Mayor and/or Controller in the form of a final official statement.

In order to assist any underwriter of the 2023 Bonds in complying with paragraph (b)(5) of the SEC Rule by undertaking to make available disclosure about the City and the 2023 Bonds to participants in the municipal securities market, the City hereby covenants, agrees and undertakes, in accordance with the SEC Rule, unless excluded from the applicability of the SEC Rule or otherwise exempted from paragraph (b)(5) of the SEC Rule, that it will comply with and carry out all of the provisions of the continuing disclosure contract. "Continuing disclosure contract" shall mean that certain continuing disclosure contract executed by the City and dated the date of issuance of the 2023 Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof. The execution and delivery by the City of the continuing disclosure contract is hereby approved and the performance by the City of its obligations thereunder by or through any employee or agent of the City is hereby approved, and the City shall comply with and carry out the terms thereof.

SECTION 7. Use of Bond Proceeds. Any accrued interest received at the time of delivery of the 2023 Bonds will be applied to payments on the 2023 Bonds on the earliest interest payment dates. The remaining proceeds received from the sale of the 2023 Bonds shall be deposited in the "City of Fishers General Obligation Bonds, Series 2023 Project Fund" (the "Project Fund"). The proceeds deposited in the Project Fund shall be expended only for the purpose of paying expenses incurred in connection with the Projects together with the expenses incidental thereto and on account of the issuance of the 2023 Bonds. The proceeds of the 2023 Bonds may be used to reimburse the City for prior expenditures for the foregoing purposes; provided such reimbursement does not cause the interest on the 2023 Bonds to be taxable for federal income tax purposes. Any balance remaining in the Project Fund after the completion of the Projects which is not required to meet unpaid obligations incurred in connection therewith and on account of the issuance of the 2023 Bonds may be used to pay debt service on the 2023 Bonds or otherwise used as permitted by law.

SECTION 8. Defeasance. If, when the 2023 Bonds or any portion thereof shall have become due and payable in accordance with their terms or shall have been duly called for redemption or irrevocable instructions to call the 2023 Bonds or any portion thereof for redemption have been given, and the whole amount of the principal and the interest so due and payable upon such bonds or any portion thereof then outstanding shall be paid, or (i) cash, or (ii) direct non-callable obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America, and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, the principal of and the interest on which when due without reinvestment will provide sufficient money, or (iii) any combination of the foregoing, shall be held irrevocably in trust for such purpose, and provision shall also be made for paying all fees and expenses for the payment, then and in that case the 2023 Bonds or such designated portion thereof shall no longer be deemed outstanding or secured by this Ordinance.

SECTION 9. Tax Matters. In order to preserve the exclusion of interest on the 2023 Bonds from gross income for federal income tax purposes and as an inducement to purchasers of the 2023 Bonds, the City represents, covenants and agrees that:

(a) The City will not take any action or fail to take any action with respect to the 2023 Bonds that would result in the loss of the exclusion from gross income for federal income tax purposes of interest on the 2023 Bonds pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), and the regulations thereunder as applicable to the 2023 Bonds, including, without limitation, the taking of such action as is necessary to rebate or cause to be rebated arbitrage profits on 2023 Bond proceeds or other monies treated as 2023 Bond proceeds to the federal government as provided in Section 148 of the Code, and will set aside such monies, which may be paid from investment income on funds and accounts notwithstanding anything else to the contrary herein, in trust for such purposes.

(b) The City will file an information report on Form 8038-G with the Internal Revenue Service as required by Section 149 of the Code.

(c) The City will not make any investment or do any other act or thing during the period that any 2023 Bond is outstanding hereunder which would cause any 2023 Bond to be an “arbitrage bond” within the meaning of Section 148 of the Code and the regulations thereunder as applicable to the 2023 Bonds.

Notwithstanding any other provisions of this Ordinance, the foregoing covenants and authorizations (the “Tax Sections”) which are designed to preserve the exclusion of interest on the 2023 Bonds from gross income under federal income tax law (the “Tax Exemption”) need not be complied with if the City receives an opinion of nationally recognized bond counsel that any Tax Section is unnecessary to preserve the Tax Exemption.

SECTION 10. **Amendments.** Subject to the terms and provisions contained in this section, and not otherwise, the owners of not less than sixty-six and two-thirds percent (66-2/3%) in aggregate principal amount of the 2023 Bonds then outstanding shall have the right, from time to time, anything contained in this Ordinance to the contrary notwithstanding, to consent to and approve the adoption by the City of such ordinance or ordinances supplemental hereto as shall be deemed necessary or 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 Ordinance, or in any supplemental ordinance; provided, however, that nothing herein contained shall permit or be construed as permitting without the consent of all affected owners of the 2023 Bonds:

(a) An extension of the maturity of the principal of or interest on any 2023 Bond without the consent of the holder of each 2023 Bond so affected; or

(b) A reduction in the principal amount of any 2023 Bond or the rate of interest thereon or a change in the monetary medium in which such amounts are payable, without the consent of the holder of each 2023 Bond so affected; or

(c) A preference or priority of any 2023 Bond over any other 2023 Bond, without the consent of the holders of all 2023 Bonds then outstanding; or

(d) A reduction in the aggregate principal amount of the 2023 Bonds required for consent to such supplemental ordinance, without the consent of the holders of all 2023 Bonds then outstanding.

If the City shall desire to obtain any such consent, it shall cause the Registrar to mail a notice, postage prepaid, to the addresses appearing on the Registration Record. Such notice shall briefly set forth the nature of the proposed supplemental ordinance and shall state that a copy thereof is on file at the office of the Registrar for inspection by all owners of the 2023 Bonds. The Registrar shall not, however, be subject to any liability to any owners of the 2023 Bonds by reason of its failure to mail such notice, and any such failure shall not affect the validity of such supplemental ordinance when consented to and approved as herein provided.

Whenever at any time within one year after the date of the mailing of such notice, the City shall receive any instrument or instruments purporting to be executed by the owners of the 2023 Bonds of not less than sixty-six and two-thirds per cent (66-2/3%) in aggregate principal amount of the 2023 Bonds then outstanding, which instrument or instruments shall refer to the proposed supplemental ordinance described in such notice, and shall specifically consent to and approve the adoption thereof in substantially the form of the copy thereof referred to in such notice as on file with the Registrar, thereupon, but not otherwise, the City may adopt such supplemental ordinance in substantially such form, without liability or responsibility to any owners of the 2023 Bonds, whether or not such owners shall have consented thereto.

No owner of any 2023 Bond shall have any right to object to the adoption of such supplemental ordinance or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the City or its officers from adopting the same, or from taking any action pursuant to the provisions thereof. Upon the adoption of any supplemental ordinance pursuant to the provisions of this section, this Ordinance shall be, and shall be deemed, modified and amended in accordance therewith, and the respective rights, duties and obligations under this Ordinance of the City and all owners of 2023 Bonds then outstanding shall thereafter be determined, exercised and enforced in accordance with this Ordinance, subject in all respects to such modifications and amendments.

Notwithstanding anything contained in the foregoing provisions of this Ordinance, the rights, duties and obligations of the City and of the owners of the 2023 Bonds, and the terms and provisions of the 2023 Bonds and this Ordinance, or any supplemental ordinance, may be modified or amended in any respect with the consent of the City and the consent of the owners of all the 2023 Bonds then outstanding.

Without notice to or consent of the owners of the 2023 Bonds, the City may, from time to time and at any time, adopt such ordinances supplemental hereto as shall not be inconsistent with the terms and provisions hereof (which supplemental ordinances shall thereafter form a part hereof),

(a) to cure any ambiguity or formal defect or omission in this Ordinance or in any supplemental ordinance; or

(b) to grant to or confer upon the owners of the 2023 Bonds any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the owners of the 2023 Bonds; or to make any change which, in the judgment of the Common Council, is not to the prejudice of the owners of the 2023 Bonds;

(c) To modify, amend or supplement this Ordinance to permit the qualification of the 2023 Bonds for sale under the securities laws of the United States of America or of any of the states of the United States of America, to obtain or maintain bond insurance with respect to payments of principal of and interest on the 2023 Bonds to procure a rating on the 2023 Bonds from a nationally recognized securities rating agency designated in such supplemental ordinance, if such supplemental ordinance will not adversely affect the owners of the 2023 Bonds; or

(d) to provide for the refunding or advance refunding of the 2023 Bonds; or

(e) to make any other change which, in the determination of the Common Council in its sole discretion, is not to the prejudice of the owners of the 2023 Bonds.

SECTION 11. No Conflict. All ordinances, resolutions and orders or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed. After the issuance of the 2023 Bonds authorized by this Ordinance and so long as any of the 2023 Bonds or interest thereon remains unpaid, except as expressly provided herein, this Ordinance shall not be repealed or amended in any respect which will adversely affect the rights of the holders of the 2023 Bonds, nor shall the City adopt any law, ordinance or resolution which in any way adversely affects the rights of such holders.

SECTION 12. Severability. If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 13. Non-Business Days. If the date of making any payment or the last date for performance of any act or the exercising of any right, as provided in this Ordinance, shall be a legal holiday or a day on which banking institutions in the City or the jurisdiction in which the Registrar or Paying Agent is located are typically closed, such payment may be made or act performed or right exercised on the next succeeding day not a legal holiday or a day on which such banking institutions are typically closed, with the same force and effect as if done on the nominal date provided in this Ordinance, and no interest shall accrue for the period after such nominal date.

SECTION 14. Interpretation. Unless the context or laws clearly require otherwise, references herein to statutes or other laws include the same as modified, supplemented or superseded from time to time.

SECTION 15. Other Action. The appropriate officers are hereby authorized to take all actions to obtain a rating, bond insurance or any other form of credit enhancement for the 2023 Bonds if economically feasible and desirable and with the favorable recommendation of the municipal advisors to the City. In addition, the appropriate officers of the City are hereby authorized and directed to take any other action deemed necessary or advisable in order to effectuate the completion of the Projects, the issuance of the 2023 Bonds, or any other purposes of this Ordinance.

SECTION 16. Effectiveness. This Ordinance shall be in full force and effect from and after its passage. Upon payment in full of the principal and interest respecting the 2023 Bonds authorized hereby or upon deposit of an amount sufficient to pay when due such amounts in accord with the defeasance provisions herein, all pledges, covenants and other rights granted by this Ordinance shall cease.

ALL OF WHICH IS SO ORDAINED by the Common Council of the City of Fishers, Indiana,
this __ day of _____, 2023.

**COMMON COUNCIL OF THE CITY OF FISHERS,
HAMILTON COUNTY, INDIANA**

YAY

NAY

ABSTAIN

	John Weingardt President		
	Cecilia C. Coble, Vice President		
	C. Pete Peterson, Member		
	Brad DeReamer, Member		
	Selina Stoller, Member		
	Todd Zimmerman Member		
	Jocelyn Vare, Member		
	Crystal Neumann, Member		
	David Giffel, Member		

I hereby certify that the foregoing Ordinance/ Resolution was delivered to City of Fishers Mayor
Scott Fadness on the _____ day of _____ 2023, at _____ m.

ATTEST: _____

Jennifer L. Kehl, City Clerk

MAYOR'S APPROVAL

Scott A. Fadness, Mayor

DATE

MAYOR'S VETO

Scott A. Fadness, Mayor

DATE

This instrument prepared by: Richard J. Hall, Barnes & Thornburg LLP, 11 South Meridian, Indianapolis, IN 46204

"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document,
unless required by law."

/s/ Richard J. Hall
(Name)



Council Action Form

MEETING DATE	October 9, 2023			
TITLE	Ordinance of the Common Council of the City of Fishers, Indiana Authorizing Issuance of Bonds for the Purpose of Providing Funds to be Applied to Pay for Construction of Certain Road Improvements and Incidental Expenses in Connection Therewith and to Pay for Certain Trail Improvements and the Acquisition of Certain Equipment and Incidental Expenses in Connection Therewith and on Account of the Issuance of the Bonds			
SUBMITTED BY	Name & Title: Lisa Bradford, City Controller Department:			
MEETING TYPE	☐ Work Session ☐ Executive	☒ Regular	☐ Special	☐ Retreat
AGENDA CLASSIFICATION	☐ Consent	☒ Ordinance	☐ Resolution	☐ Regular
ORDINANCE/RESOLUTION (New ordinances or resolutions are assigned a new number)	☒ 1 st Reading	☐ 2 nd Reading	☐ Public Hearing	☐ 3 rd Reading ☐ Final Reading
	Ordinance #: 100923		Resolution #:	
CONTRACTS (Contracts include other similar documents such as agreements and memorandum of understandings. <u>Check all applicable boxes pertaining to contracts</u>)	☒ Contract required for this item		☐ Signed copy of contract attached	
	☐ Seeking award or other scenario & will provide contract at a later date		☐ No contract for this item	
	☒ Contract over \$50,000 Please mark the box in the other column that pertains to this contract.		☐ Services ☐ Capital Outlay ☒ Debt Services	
HAMILTON COUNTY (Some documents need recorded by the City Clerk)	☐ Document must be recorded with the County Recorder's Office		☒ Document does not need recorded with the County Recorder's Office	

	☐ Wait 31 days prior to filing with the County Recorders' Office	
APPROVALS/REVIEWS	☐ Assistant/Deputy Department Head	☒ Controller's Office
	☐ Department Head	☒ Finance Committee
	☐ Deputy Mayor	☐ Technical Advisory Committee
	☐ Mayor	☐ Other:
	☒ Legal Counsel – Name of Reviewer: Rick Hall, Barnes and Thornburg, LLP	
BACKGROUND (Includes description, background, and justification)	This Ordinance approves the issuance of the City's General Obligation Bonds, Series 2023 for the purposes of providing funds for road improvements, trail improvements, and equipment purchases. The Ordinance authorizes all actions necessary to complete the bond issuance and (following the public hearing) appropriates the proceeds of the Bonds in an amount not to exceed \$_____, plus interest earnings thereon. The Bonds are payable from ad valorem property taxes.	
BUDGETING AND FINANCIAL IMPACT (Includes project costs and funding sources)	Budgeted \$:	N/A
	Expenditure \$:	Up to \$_____
	Source of Funds:	Bond Proceeds
	Additional Appropriation #:	\$_____
	Narrative:	Appropriation of proceeds of the General Obligation Bonds for purposes of providing funds for road improvements and paying costs of issuance.
OPTIONS (Include Deny Approval Option)	1.	First Reading Only
	2.	
	3.	
	4.	
PROJECT TIMELINE	The bonds are anticipated to be issued in December.	
STAFF RECOMMENDATION (Board reserves the right to accept or deny recommendations)	Staff recommends that the Common Council consider the Ordinance and hold a Public Hearing at its next meeting after its introduction at this meeting.	
SUPPLEMENTAL INFORMATION (List all attached documents)	1. Ordinance	

ORDINANCE NO. 100923A

ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF FISHERS, INDIANA TAXABLE ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 202_ (DISTRICT SOUTH PROJECT), AND THE LENDING OF THE PROCEEDS THEREOF TO THE BORROWER THEREOF AND AUTHORIZING AND APPROVING OTHER ACTIONS IN RESPECT THERETO

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

WHEREAS, Rebar South Street, LLC (and any affiliate of such entity, the “Developer”), the City, the Fishers Town Hall Building Corporation (the “Borrower”), the Fishers Redevelopment Commission, and the City of Fishers Economic Development Commission (the “Commission”), have entered into a Project Agreement (the “Project Agreement”), which provides for the acquisition, construction, renovation and equipping of a new mixed-use development, including multi-family residential units and commercial space, and the completion of related improvements and the payment of financing costs, all generally located on the south side of South Street, between Lantern Road on the east and the Nickel Plate Trail on the west (collectively, the “Project”); and

WHEREAS, pursuant to the terms of the Project Agreement, Borrower has advised the Commission and the City that it proposes that the City issue its Taxable Economic Development Revenue Bonds, Series 202_ (District South Project), in one or more series, in an amount not to exceed Twelve Million Dollars (\$12,000,000) (the “Bonds”) under the Act and loan the proceeds of such Bonds to the Borrower for the purpose of financing a portion of the Project and certain costs related to the issuance of the Bonds, including, if necessary, capitalized interest on the Bonds and a reserve fund; and

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

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

WHEREAS, the Commission held the Public Hearing on the Project and received uncontroverted evidence that the Project will have no adverse competitive effect on similar facilities already constructed or operating in the City; and

WHEREAS, the Commission has performed all actions required of it by the Act preliminary to the adoption of this Bond Ordinance and has approved and forwarded to the Common Council the forms of: (1) a Loan Agreement, between the City and the Borrower

(including the Borrower's Note) (the "Loan Agreement"); (2) a Trust Indenture, with respect to the Bonds, between the City and a trustee to be selected (the "Trustee") (the "Indenture"); (3) the Bonds; and (4) this Bond Ordinance (the Loan Agreement, the Indenture, the Bonds and this Bond Ordinance, collectively, the "Financing Agreements"); and

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

Section 1. Findings; Public Benefits. The Common 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. Approval of Financing. The proposed financing of a portion of the Project, and the financing of certain costs related to the issuance of the Bonds, including, if necessary, capitalized interest on the Bonds and a reserve fund, as further described in the Financing Agreements, 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. Authorization of the Bonds. The issuance of the Bonds, payable solely from revenues and receipts derived from the Financing Agreements, is hereby authorized.

Section 4. Terms of the Bonds. The Bonds, in one or more series and in the aggregate principal amount not to exceed Twelve Million Dollars (\$12,000,000), shall (i) be executed at or prior to the closing date by the manual or facsimile signatures of the Mayor and the Controller of the City; (ii) be dated as of the date of issuance or the first day of the month in which the Bonds are issued; (iii) mature on a date not later than twenty (20) years after the date of issuance; (iv) bear interest at a rate not to exceed seven half percent (7.0%) per annum, the exact rates as determined through negotiation with the purchaser thereof, with such interest to be payable as provided in the Financing Agreements; (v) be issuable in such denominations as set forth in the Financing Agreements; (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; (x) be subject to optional redemption prior to maturity and subject to redemption as otherwise provided in the Financing Agreements; and (xi) contain such other terms and provisions as may be provided in the Financing Agreements.

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, but shall be special and limited obligations of the City, payable solely from revenues and other amounts derived from the

Financing Agreements. Forms of the Financing Agreements are before this meeting and are by this reference incorporated in this Bond Ordinance, and the Clerk of the City is hereby directed, in the name and on behalf of the City, to insert them into the minutes of the Common Council and to keep them on file.

Section 5. Sale of the Bonds. The Mayor and the Controller of the City are hereby authorized and directed, in the name and on behalf of the City, to sell the Bonds to a purchaser or purchasers selected by such officers (the “Purchaser”) at such prices and on such terms as may be determined at the time of sale and approved by the Mayor and the Controller of the City. The Mayor and the Controller of the City are hereby authorized to approve and execute a bond purchase agreement for the Bonds with the Purchaser, in a form approved by such officers, such approval to be conclusively evidenced by the execution thereof. The Bonds may be sold through either a public offering or a private placement.

Section 6. Official Statement. The Mayor and the Controller of the City are hereby authorized to approve the preparation and distribution of a Preliminary Official Statement for the Bonds. The Mayor and the Controller of the City are hereby authorized to deem and determine the Preliminary Official Statement as the near final Official Statement with respect to the Bonds for purposes of SEC Rule 15c2-12, subject to completion in accordance with such rule and in a manner acceptable to the Mayor and the Controller of the City, and to place the Preliminary Official Statement into final form as the Final Official Statement. The Mayor and the Controller of the City are hereby authorized to sign the Final Official Statement and by such signature approve its distribution.

Section 7. Execution and Delivery of Financing Agreements. The Mayor and the Controller of the City are hereby authorized and directed, in the name and on behalf of the City, to execute or endorse and deliver the Loan Agreement, the Note, the Indenture and the Bonds, submitted to the Common Council, which are hereby approved in all respects. The Mayor and the Controller of the City are hereby authorized and directed, to select a financial institution to serve as the Trustee.

Section 8. Changes in Financing Agreements. The Mayor and the Controller of the City are hereby authorized, in the name and on behalf of the City, without further approval of the Common Council or the Commission, to approve such changes in the Financing Agreements as may be permitted by Act, such approval to be conclusively evidenced by their execution thereof.

Section 9. Public Approval. The Common Council hereby approves the issue of the Bonds and the Project to be financed by the Bonds, which facilities are described in the published notice of the Public Hearing.

Section 10. General. The Mayor and the Controller 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 Agreements,

including, but not limited to, such agreements, documents and instruments as are contemplated under the Project Agreement, and any such execution, endorsement, performance or doing of other things heretofore effected be, and hereby is, ratified and approved.

Section 11. Binding Effect. The provisions of this Bond Ordinance and the Financing Agreements 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 12. Repeal. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 13. Effective Date. This Bond Ordinance shall be in full force and effect immediately upon adoption.

Section 14. Copies of Financing Agreements on File. Two copies of the Financing Agreements incorporated into this Bond Ordinance were duly filed in the office of the Clerk of the City, and are available for public inspection in accordance with I.C. 36-1-5-4.

DULY PASSED AND ADOPTED by the Common Council of the City of Fishers on this _____ day of _____, 2023.

**COMMON COUNCIL OF THE CITY OF FISHERS,
HAMILTON COUNTY, INDIANA**

YAY

NAY

ABSTAIN

	John Weingardt President		
	Cecilia C. Coble, Vice President		
	C. Pete Peterson, Member		
	Brad DeReamer, Member		
	Selina Stoller, Member		
	Todd Zimmerman Member		
	Jocelyn Vare, Member		
	Crystal Neumann, Member		
	David Giffel, Member		

I hereby certify that the foregoing Ordinance/ Resolution was delivered to City of Fishers Mayor Scott Fadness on the _____ day of _____ 2023, at _____ p.m.

ATTEST: _____

Jennifer L. Kehl, Fishers City Clerk

MAYOR'S APPROVAL

Scott A. Fadness, Mayor

DATE

MAYOR'S VETO

Scott A. Fadness, Mayor

DATE

This instrument prepared by: Richard J. Hall, Barnes & Thornburg LLP, 11 South Meridian, Indianapolis, IN 46204.

"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law." /s/ Richard J. Hall.

LOAN AGREEMENT

BETWEEN

FISHERS TOWN HALL BUILDING CORPORATION

AND

CITY OF FISHERS, INDIANA

Dated as of _____ 1, 2023

**Certain of the rights of the Issuer hereunder have been assigned to _____, as Trustee
under a Trust Indenture dated as of the date hereof, from the Issuer.**

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LOAN AGREEMENT

This is a LOAN AGREEMENT, dated as of _____ 1, 2023 (the “Loan Agreement”) between FISHERS TOWN HALL BUILDING CORPORATION, a nonprofit corporation duly organized and validly existing under the laws of the State of Indiana (the “Borrower”), and the CITY OF FISHERS, INDIANA, a municipal corporation duly organized and validly existing under the laws of the State of Indiana (the “Issuer”).

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 and to lend the proceeds therefrom to an individual or an entity for the purpose of financing costs of construction of economic development facilities, for diversification of economic development and promotion of job opportunities in or near such Issuer and vests the Issuer with powers that may be necessary to enable it to accomplish such purposes;

WHEREAS, to foster economic development, the Issuer and the Borrower desire to provide for the acquisition, construction, renovation and equipping of a new mixed-use development, including multi-family residential units and commercial space, and the completion of related improvements and the payment of financing costs, all generally located on the south side of South Street, between Lantern Road on the east and the Nickel Plate Trail on the west (collectively, the “Project”) to be constructed in accordance with the Project Agreement, among Rebar South Street, LLC (and any affiliate of such entity, the “Developer”), the Issuer, the Borrower, the Fishers Redevelopment Commission (the “Redevelopment Commission”), and the Fishers Economic Development Commission (the “Commission”), dated as of _____, 2023 (the “Project Agreement”); and

WHEREAS, pursuant to the Project Agreement, the Issuer has agreed to issue bonds to finance the costs of the construction of a portion of the Project and related improvements; and

WHEREAS, the Issuer, upon finding that the Project and the proposed financing of portions thereof will create additional employment opportunities in the Issuer; will benefit the health, safety, morals, and general welfare of the citizens of the Issuer and the State of Indiana, and will comply with the purposes and provisions of the Act, adopted an ordinance approving the proposed financing of the Project; and

WHEREAS, to assist in the completion of the Project, the Issuer desires to issue its Taxable Economic Development Revenue Bonds, Series 202_ (District South Project) in the aggregate principal amount of \$_____ (the “Series 202_ Bonds”) pursuant to the Indenture, between the Issuer and _____, as trustee (the “Trustee”), dated _____ 1, 2023 (the “Indenture”), and to lend the proceeds of the Series 202_ Bonds pursuant to the provisions of this Loan Agreement for the purpose of paying certain costs of the Project, including capitalized interest; and

WHEREAS, this Loan Agreement provides for the repayment by the Borrower of the loan of the proceeds of the Series 202_ Bonds and further provides for the Borrower’s repayment

obligation to be evidenced by the Borrower's Note, Series 202_ (the "Series 202_ Note") in substantially the form attached hereto as Exhibit A;

WHEREAS, pursuant to the Indenture, the Issuer will pledge and assign the Series 202_ Note and assign certain of its rights under this Loan Agreement to the Trustee as security for the Series 202_ Bonds;

WHEREAS, the Bonds issued under the Indenture will be payable solely out of (i) the payments to be made by the Borrower on the Series 202_ Note and any other Notes issued hereunder (collectively, the "Notes"); (ii) Bond proceeds, or (iii) investment earnings on each of the foregoing funds;

WHEREAS, to provide for the financing and construction of portions of the Project, the Borrower has entered into a Lease, between the Borrower, as lessor, and the Redevelopment Commission, as lessee, dated as of _____, 2023, as amended, with respect to the portion of with respect to all or a portion of 96th Street, between Lantern Road and Mollenkopf Road, including related improvements and fixtures located thereon, in the Issuer (the "Lease"); and

WHEREAS, pursuant to such IC 36-7-14-25.5, the lease rentals under the Lease are payable Special Tax Revenues (as defined herein), or at the Redevelopment Commission's option, any other revenues legally available to the Redevelopment Commission, including from the TIF Revenues (as defined herein); and

WHEREAS, the Notes issued under this Loan Agreement will be payable from the lease rentals received by the Borrower from the Redevelopment Commission under the Lease (the "Lease Rental Payments").

PRELIMINARY STATEMENT AND GRANTING CLAUSES

In consideration of the premises, the loan of the proceeds of the Series 202_ Bonds to be made by the Issuer, the acceptance of the Series 202_ Note by the Issuer, and of other good and valuable consideration, the receipt of which is hereby acknowledged, the Borrower has executed and delivered this Loan Agreement.

This Loan Agreement is executed upon the express condition that if the Borrower shall pay or cause to be paid all indebtedness hereunder and shall keep, perform and observe all and singular the covenants and promises expressed in the Notes and this Loan Agreement to be kept, performed and observed by the Borrower, then this Loan Agreement and the rights hereby granted shall cease, determine and be void; otherwise to remain in full force and effect.

In consideration of the premises, the loan of the proceeds of the Series 202_ Bonds to be made by the Issuer, the acceptance of the Series 202_ Note by the Issuer, and of other good and valuable consideration, the receipt whereof is hereby acknowledged, and in order to secure the payment of the principal of, premium, if any, and interest payable on the Notes and the performance of all the covenants of the Borrower contained herein, the Borrower has executed and delivered this Loan Agreement and by these presents does assign, grant, mortgage and warrant,

and grant a security interest in, to the Issuer and its successors and assigns forever, all of the following described property:

- (i) All moneys and securities from time to time held by the Issuer or the Trustee under the terms of this Loan Agreement or the Indenture; and
- (ii) All right, title and interest of the Borrower in the Lease, including the Lease Rental Payments; and
- (iii) All other properties and moneys hereafter pledged to the Trustee by the Borrower to the extent of that pledge.

TO HAVE AND TO HOLD all and singular, the above described property (the "Security"), whether now owned or hereafter acquired, unto the Issuer, its successors and assigns forever; provided, however, that this Loan Agreement is executed upon the express condition that if the Borrower shall pay or cause to be paid all indebtedness secured hereby and shall keep, perform and observe all and singular the covenants and promises expressed in the Notes and this Loan Agreement to be kept, performed and observed by the Borrower, then this Loan Agreement and the rights hereby granted shall cease, determine and be void; otherwise to remain in full force and effect.

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

ARTICLE I.

DEFINITIONS AND EXHIBITS

Section 1.1. Terms Defined . As used in this Loan 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.

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

“Annual Fees” means the annual fees charged by the Trustee for services provided as the trustee and paying agent under the Indenture.

“Authorized Borrower Representative” means the Mayor or the Controller of the Issuer, or such other individuals designated by a resolution of the Borrower.

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

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

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

“Bonds” means the Series 202_ Bonds, the Additional Bonds and any other bonds issued under the Indenture.

“Borrower” means Fishers Town Hall Building Corporation, a nonprofit corporation duly organized and validly existing under the laws of the State of Indiana and qualified to do business in the State of Indiana, and its successors or assigns hereunder.

“Commission” means the City of Fishers Economic Development Commission.

“Construction Fund” means the Construction Fund established in Section 4.3 of the Indenture.

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

“Developer” means Rebar South Street, LLC and any affiliates or successors and assigns of such entity under the Project Agreement.

“Financed Project Costs” shall have the meaning assigned in the Indenture.

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

“Indenture” means the Trust Indenture dated as of _____ 1, 2023, between the Issuer and the Trustee and all amendments and supplements thereto.

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

“Lease” means the Lease, dated as of _____, 2023, between the Borrower, as lessor, and the Redevelopment Commission, as lessee, and all amendments and supplements thereto.

“Lease Rental Payments” means lease rental payments made by the Redevelopment Commission as a lessee under the Lease.

“Leased Premises” means the Leased Premises as such term is defined in the Lease.

“Loan” means the loan by the Issuer to the Borrower of the proceeds of the sale of the Series 202_ Bonds.

“Note” or “Notes” means the Series 202_ Note, and any notes issued in exchange therefor pursuant to Section 3.6 hereof.

“Outstanding,” with reference to Bonds, means all Bonds theretofore issued and not yet paid and discharged under the terms of the Indenture and with reference to Notes, means all notes theretofore issued and not yet paid and discharged under the terms of this Loan Agreement.

“Project” means certain economic development facilities, consisting of the acquisition, construction, renovation and equipping of a new mixed-use development, including multi-family residential units and commercial space, and the completion of related improvements and the payment of financing costs, all generally located on the south side of South Street, between Lantern Road on the east and the Nickel Plate Trail on the west, as further described in the Project Agreement.

“Project Agreement” means the Project Agreement, among the Developer, the Issuer, the Borrower, the Redevelopment Commission, and the Commission, dated as of _____, 2023, and all supplements or amendments thereto.

“Qualified Investments” means to the extent permitted by the laws of the State (i) Government Obligations; (ii) bonds, debentures, participation certificates or notes issued by any of the following: Federal Farm Credit Banks, Federal Financing Bank, Federal Home Loan Banks, Federal National Mortgage Association or Federal Home Loan Mortgage Corporation; (iii) certificates of deposit, time deposits and other interest-bearing deposit accounts with any banking institution, including the Trustee, which are insured by the Federal Deposit Insurance Corporation and for any amounts above the insurance limits of the Federal Deposit Insurance Corporation, are collateralized by obligations described in (i) hereof; (iv) any money market fund, sweep account, mutual fund or trust, including those for which the Trustee or an affiliate performs services for a fee, whether as custodian, transfer agent, investment advisor or otherwise Trustee or Paying Agent, and shall invest solely in a portfolio of obligations described in (i) or (ii) above or money market funds rated in the highest category by Moody’s or S&P, including those for which the Trustee or an affiliate performs services for a fee, whether as custodian, transfer agent, investment advisor or otherwise; (v) repurchase agreements with the Trustee or any of its affiliated banks or any other bank having a net worth of at least \$100,000,000 secured by a pledge and physical delivery (except in the case of securities issued in book-entry form, which shall be registered in the name of the Trustee) to the Trustee of obligations described in (i) or (ii) hereof; (vi) municipal obligations the

interest on which would be excluded from the gross income of the owners thereof for federal tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended, if (a) rated in one of the three highest rating categories of either Moody's or S&P, or, (b) if fully secured by securities guaranteed as to principal and interest by the United States of America; and (vii) stock of a Qualified Regulated Investment Company which invests solely in obligations described in (vi) above.

"Redevelopment Commission" means the Fishers Redevelopment Commission.

"Series 202_ Bonds" means the City of Fishers, Indiana Taxable Economic Development Revenue Bonds, Series 202_ (District South Project).

"Special Tax Revenues" means revenues received from a special tax levied and collected by the Redevelopment Commission on all taxable property within the geographical boundaries of the City of Fishers Redevelopment District pursuant to Indiana Code 36-7-14-27.

"TIF Revenues" means the revenues received by the Redevelopment Commission pursuant to Indiana Code 36-7-14-39 from the District South Allocation Area and the Downtown Allocation Area each of which are within the Consolidated Fishers/I-69 Economic Development Area.

"Trustee" means the trustee and/or co-trustee at the time serving as such under the Indenture, and shall initially mean _____, with a designated corporate trust office in _____.

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

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

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

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

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

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

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

Section 1.3. Exhibit . The following Exhibit is attached to and by reference made a part of this Loan Agreement.

Exhibit A. Form of Series 202_ Note.

(End of Article I)

ARTICLE II.

REPRESENTATIONS; LOAN OF SERIES 202_ BOND PROCEEDS

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

(a) Issuer is a municipal corporation organized and existing under the laws of the State of Indiana. Under the provisions of the Act, the Issuer is authorized to enter into the transactions contemplated by this Loan Agreement and to carry out its obligations hereunder. Issuer has been duly authorized to execute and deliver this Loan Agreement. 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) Issuer agrees to provide funds from the issuance of the Series 202_ Bonds to loan to the Borrower for financing of the Financed Project Costs for the benefit of the holders of the Bonds, to create additional employment opportunities in the Issuer and to benefit the health, safety, morals and general welfare of the citizens of the Issuer and the State of Indiana, and to secure the Bonds by pledging certain of its rights and interest in this Loan Agreement and the Series 202_ Note to the Trustee.

(c) The Issuer represents that the Lease Rental Payments under the Lease are payable from the Special Tax Revenues, or at the Redevelopment Commission's option, any other revenues legally available to the Redevelopment Commission, including TIF Revenues.

(d) The Issuer represents that the Series 202_ Note will be assigned to the Trustee pursuant to the Indenture, and that no further assignment is contemplated by the Issuer, since the Issuer recognizes that the Series 202_ Note has not been registered under the Securities Act of 1933.

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

(a) The Borrower is a nonprofit corporation duly organized and validly existing under the laws of the State of Indiana and authorized to do business in the State of Indiana, is not in violation of any laws in any manner material to its ability to perform its obligations under this Loan Agreement and the Series 202_ Note, has full power to enter into and perform its obligations under this Agreement and the Series 202_ Note, and by proper action has duly authorized the execution and delivery of this Loan Agreement and the issuance of the Series 202_ Note.

(b) All of the proceeds from the Series 202_ Bonds (including any income earned on the investment of such proceeds) will be used for Financed Project Costs.

(c) Pursuant to the terms of the Project Agreement, the Project will be operated as an economic development facility under the Act, until the expiration or termination of this Loan Agreement.

(d) Neither the execution and delivery of this Loan Agreement, the consummation of the transactions contemplated hereby including execution and delivery of the Series 202_ Note nor the fulfillment of or compliance with the terms and conditions of this Loan Agreement, will contravene the Borrower's articles of incorporation or bylaws or any law or any governmental rule, regulation or order currently binding on the Borrower or conflicts with or results in a breach of the terms, conditions or provisions of any agreement or instrument to which Borrower is now a party or by which it is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any liens, charges, or encumbrances whatsoever upon any of the property or assets of Borrower under the terms of any instrument or agreement.

(e) The execution, delivery and performance by the Borrower of this Loan Agreement and the Series 202_ Note do not require the consent or approval of, the giving of notice to, the registration with, or the taking of any other action in respect of, any federal, state or other governmental authority or agency, not previously obtained or performed.

(f) This Loan Agreement and the Series 202_ Note have been duly executed and delivered by the Borrower and constitute the legal, valid and binding agreements of the Borrower, enforceable against the Borrower in accordance with their respective terms, except as may be limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights in general. The enforceability of the Borrower's obligations under said documents 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 the Borrower, threatened, before any court, administrative agency or arbitrator which, individually or in the aggregate, might result in any material adverse change in the financial condition of the Borrower or might impair the ability of the Borrower to perform its obligations under this Loan Agreement or the Series 202_ Note.

(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 under this Loan Agreement or the Series 202_ Note.

Section 2.3. Loan of Series 202_ Bond Proceeds by Issuer . Concurrently with the execution and delivery hereof, the Issuer is issuing the Series 202_ Bonds and is lending the proceeds from the sale thereof to the Borrower by making the deposits and payments specified in Section 3.1 of the Indenture. Such Loan is being evidenced by the execution and delivery by the Borrower of the Series 202_ Note substantially in the form attached hereto as Exhibit A.

(End of Article II)

ARTICLE III.

PARTICULAR COVENANTS OF THE BORROWER

Section 3.1. Consent to Assignments to Trustee . The Borrower acknowledges and consents to the pledge and assignment of the Series 202_ Note and the assignment of the Issuer's rights hereunder to the Trustee pursuant to the Indenture and agrees that the Trustee may enforce the rights, remedies and privileges granted to the Issuer hereunder, to receive payments under Sections 3.2, 3.6 and 3.8 hereof, and to execute and deliver supplements and amendments to this Loan Agreement pursuant to Section 7.1 hereof.

Section 3.2. Payment of Principal, Premium and Interest; Payments Pledged
. (a) The Borrower will duly and punctually pay the principal of, premium, if any, and interest on the Notes at the rates and the places and in the manner mentioned in the Notes and this Loan Agreement, according to the true intent and meaning thereof and hereof as follows: on or before any Interest Payment Date for the Bonds or any other date that any payment of interest, premium, if any, or principal is required to be made in respect of the Bonds pursuant to the Indenture, until the principal of, premium, if any, and interest on the Bonds shall have been fully paid or provision for the payment thereof shall have been made in accordance with the Indenture, it will pay in immediately available funds, a sum which, together with any moneys available for such payment in the Bond Fund and the Capitalized Interest Account, will enable the Trustee to pay the amount payable on such date as principal of (whether at maturity or upon redemption, or acceleration or otherwise), premium, if any, and interest on the Bonds as provided in the Indenture; provided however, notwithstanding any other provision in this Loan Agreement, the Borrower's obligation to make payments on the Notes shall be payable solely from the Lease Rental Payments received by the Borrower under the Lease. Section 4.5 of the Indenture provides that the Issuer shall deposit in the Bond Fund on or before each January 15 and July 15, beginning on July 15, 2024, the Lease Rental Payments assigned to the Trustee pursuant to this Loan Agreement, for the payment of the Series 202_ Bonds. Such transfers shall be a credit against and serve to reduce the Borrower's obligations to make payments under the Notes and this Loan Agreement.

(b) The Borrower also agrees to pay directly to the Trustee so long as there are Bonds outstanding (i) all fees and charges of the Trustee incurred under the Indenture, including Annual Fees, as and when the same become due; (ii) all costs incident to the payment of the principal of, premium, if any, and interest on the Bonds as the same become due and payable, including all costs and expenses in connection with the call, redemption, and payment of Bonds; (iii) all expenses incurred in connection with the enforcement of any rights under the Loan Agreement or the Indenture by the Issuer, the Trustee or the Bondholders; and (iv) all other payments of whatever nature which the Borrower has agreed to pay or assume under the provisions of this Loan Agreement; provided, however, that the Borrower may, without creating a default under this Loan Agreement, contest in good faith the necessity for any such extraordinary services and extraordinary expenses and the reasonableness of any such fees, charges or expenses.

(c) The Borrower covenants and agrees with and for the express benefit of the Issuer, the Trustee and the owners of the Bonds that all payments required to be made by Borrower pursuant hereto and to the Notes shall be made by the Borrower on or before the date the same

become due, and the Borrower shall perform all of its other obligations, covenants and agreements hereunder, without notice or demand (except as provided herein), and without abatement, deduction, reduction, diminution, waiver, abrogation, set-off, counterclaim, recoupment, defense or other modification or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising.

(d) It is understood and agreed that all payments made by Borrower pursuant to this Section 3.2 and the Notes are pledged to Trustee pursuant to the granting clauses of the Indenture. Borrower assents to such pledge, and hereby agrees that, as to Trustee, its obligation to make such payments shall be absolute and shall not be subject to any defense or any right of set-off, counterclaim or recoupment arising out of any breach by Issuer or Trustee of any obligation to Borrower, whether hereunder or otherwise, or out of any indebtedness or liability at any time owing to Borrower by Issuer. Issuer hereby directs Borrower and Borrower hereby agrees to pay to the Paying Agent at its principal office all amounts payable by Borrower pursuant to this Section 3.2 and the Notes.

(e) Notwithstanding any provision to the contrary in the Loan Agreement, any and all obligations of the Borrower to make payments on the Notes or under this Loan Agreement shall be payable solely from the Lease Rental Payments received by the Borrower pursuant to the terms of the Lease.

Section 3.3. Insurance. The Borrower covenants that it will maintain, or cause to be maintained pursuant to the terms of the Lease, combined bodily injury insurance, including accidental death, and property damage insurance with reference to the Leased Premises in an amount not less than One Million Dollars (\$1,000,000) on account of each occurrence with one or more good and responsible insurance companies.

Such insurance policies shall be maintained in good and responsible commercial insurance companies, and shall be countersigned by an agent of the insurer who is a resident of the State of Indiana (notwithstanding anything contained herein or in the Lease, the Trustee shall not be required to ascertain residency of any insurance agent), and shall be for the benefit, as their interests shall appear, of the Trustee, the Borrower and other persons having an insurable interest in the insured property. The policies described in this Sections 3.3 shall clearly indicate that any proceeds under the policies relative to the Leased Premises shall be payable to the Trustee, and the Trustee is hereby authorized to demand, collect and receipt for and recover any and all insurance moneys which may become due and payable under any of said policies of insurance and to prosecute all necessary actions in the courts to recover any such insurance moneys; provided, however, that the Trustee may require, as a condition of demanding, collecting, receiving and recovering any insurance moneys or presenting such actions, full indemnification against the expense thereof and payment of the means therefor.

Section 3.4. Reconstruction or Substitution of Leased Premises.

If all or a portion of the Leased Premises shall be subject to condemnation, the Borrower shall have certain rights and obligations to reconstruct or substitute other property for such Leased Premises, pursuant to and subject to the terms and conditions set forth in the Lease.

Section 3.5. Issuance of Substitute Notes . Upon the surrender of any Note, the Borrower will execute and deliver to the holder thereof a new Note dated the date of the Note being surrendered but with appropriate notations thereon to reflect payments of principal and interest thereon; provided, however, that there shall never be outstanding at any one time more than one Note of any one series.

Section 3.6. Payment of Reasonable Expenses of Issuance of Series 202_ Bonds . Pursuant to Section 4.3(c) of the Indenture, a portion of the proceeds of the Series 202_ Bonds will be used to pay fees and expenses incurred or to be incurred by or on behalf of the Issuer, the Borrower, the Redevelopment Commission, the Trustee and the Paying Agent in connection with or as an incident to the issuance and sale of the Series 202_ Bonds.

Section 3.7. Funding of Indenture Funds; Investments . The Issuer shall deposit with the Trustee all proceeds from the sale of the Series 202_ Bonds in the manner specified in Section 3.1 of the Indenture, and the Trustee shall deposit such proceeds in the manner specified in Section 3.1 of the Indenture. The Borrower and the Issuer agree that all moneys in any Fund established by the Indenture may, at the written direction of the Borrower, be invested in Qualified Investments. The Trustee is hereby authorized to trade with itself in the purchase and sale of securities for such investments. The Trustee shall not be liable or responsible for any loss resulting from any such investment. All such investments shall be held by or under the control of the Trustee and any income resulting therefrom shall be applied in the manner specified in the Indenture.

Section 3.8. Other Amounts Payable by the Borrower . To the extent the Borrower receives Lease Rental Payments under the Lease, the Borrower covenants and agrees to pay the following:

(a) All fees, charges and expenses, including Annual Fees and agent and counsel fees and expenses, of the Trustee incurred under the Indenture, as and when the same become due.

(b) All costs incident to the payment of the principal of, premium, if any, and interest on the Series 202_ Bonds as the same become due and payable, including all costs and expenses in connection with the call, redemption, and payment of Series 202_ Bonds.

(c) An amount sufficient to reimburse the Issuer for all expenses incurred by the Issuer under this Loan Agreement and in connection with the performance of its obligations under this Loan Agreement or the Indenture.

(d) All expenses incurred in connection with the enforcement of any rights under this Loan Agreement or the Indenture by the Issuer, the Trustee or the Bondholders.

(e) All other payments of whatever nature which the Borrower has agreed to pay or assume under the provisions of the Loan Agreement.

Section 3.9. Credits on Notes . Notwithstanding any provision contained in this Loan Agreement or in the Indenture to the contrary, in addition to any credits on the Notes resulting from the payment or prepayment thereof from other sources:

(a) subject to the provisions of Article IV with respect to partial prepayment of the Note, any moneys deposited by the Trustee in the Bond Fund for payment on the Bonds (including without limitation any bond proceeds to be used for Capitalized Interest Costs and any Lease Rental Payments) shall be credited against the obligation of the Borrower to pay the principal, premium, if any, and interest on the Notes as the same become due; and

(b) The principal amount of Bonds of any series and maturity acquired by the Borrower and delivered to the Paying Agent, or acquired by the Paying Agent and canceled, shall be credited against the obligation of the Borrower to pay the principal of the Note evidencing the loan made by the Issuer with the proceeds of the sale of Bonds of such series maturing on the maturity date of the Bonds so acquired and delivered or canceled, including in connection with any mandatory sinking fund payment for any series of Bonds subject to a mandatory sinking fund requirement.

(End of Article III)

ARTICLE IV.

PREPAYMENT OF SERIES 202_ NOTE; INSURANCE

Section 4.1. Optional Prepayment (a) . The Series 202_ Note may be prepaid, in whole or in part, without premium, plus in each case accrued interest to the date fixed for redemption, on such dates and in such amounts as correspond to the optional redemption of the Series 202_ Bonds pursuant to Section 5.1(a) of the Indenture.

To exercise such option to prepay the Series 202_ Note, in whole or in part, the Borrower must deposit or cause funds to be deposited with the Trustee sufficient to pay the principal of, premium, if any, and accrued interest on the portion of the Series 202_ Note to be prepaid and the corollary redemption of the Series 202_ Bonds. Any amount so paid which is less than the full unpaid principal amount of the Series 202_ Bonds shall be credited against the installment or installments of principal due on the Series 202_ Note corresponding to the maturity of the Series 202_ Bonds being redeemed, and shall also be a credit against any mandatory sinking fund obligation and the corresponding Series 202_ Note obligation with respect thereto .

The Borrower shall give the Trustee not less than forty-five (45) days prior written notice of any prepayment of the Series 202_ Note pursuant to this Section 4.1, which notice shall designate the date of prepayment and the amount thereof, indicate the section or subsection pursuant to which prepayment shall occur, and direct the redemption of the Series 202_ Bonds in the amounts corresponding to the Series 202_ Note to be prepaid.

Section 4.2. Mandatory Prepayment Upon Extraordinary Mandatory Redemption. In the event the Trustee calls the Series 202_ Bonds for extraordinary mandatory redemption pursuant to Section 5.1(b) of the Indenture, the Borrower shall deliver to the Trustee any condemnation proceeds related to the condemnation of all or any portion of the Leased Premises. The extraordinary mandatory redemption of Series 202_ Bonds with such proceeds shall be deemed prepayment of the Notes in the same amount as Series 202_ Bonds redeemed.

(End of Article IV)

ARTICLE V.

EVENTS OF DEFAULT AND REMEDIES THEREFOR

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

(i) failure of the Borrower to make any payment required to be made by it under Section 3.2 hereof, within ten (10) days after the noticed due date;

(ii) failure of the Borrower to deliver to the Trustee, or cause to be delivered on its behalf, the moneys needed to redeem any outstanding Bonds in the manner and upon the date as provided in Article IV of this Agreement;

(iii) failure of the Borrower to observe and perform any other agreement, term or condition contained in this Agreement, and the continuation of such failure for a period of 30 days after notice thereof shall have been given to the Borrower by the Issuer or the Trustee, or for such longer period as the Issuer may agree to in writing; provided, that if the failure is other than the payment of money and is of such nature that it can be corrected but not within the applicable period, that failure shall not constitute an Event of Default so long as the Borrower institutes curative action within the applicable period and diligently pursues that action to completion;

(iv) the entry of a decree or order for relief by a court having jurisdiction in the premises in respect of the Borrower in an involuntary case under any applicable bankruptcy, insolvency or similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) of the Borrower or for any substantial part of its property, or ordering the windup or liquidation of its affairs and the same is not dismissed within sixty (60) days after entry; or the filing and pendency for sixty (60) days without dismissal of a petition initiating an involuntary case under any other bankruptcy, insolvency or similar law; or

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

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

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

(c) Upon the occurrence of an event of default described in this Section 5.1:

(i) Acceleration. If acceleration of the principal amount of the Bonds has been declared pursuant to Section 7.2 of the Indenture, the Trustee, upon receipt of indemnity satisfactory to the Trustee, shall declare all Loan Payments to be immediately due and payable, whereupon the same shall become immediately due and payable. Notwithstanding anything in the Notes, the Indenture, or this Loan Agreement to the contrary, the Redevelopment Commission's obligation to pay Lease Rental Payments shall not be subject to acceleration.

(ii) Right to Bring Suit, Etc. The Trustee, with or without entry, personally or by attorney, may in its discretion, upon receipt of indemnity satisfactory to the Trustee, proceed to protect and enforce its rights by a suit or suits in equity or at law, whether for damages or for the specific performance of any covenant or agreement contained in the Notes, this Loan Agreement or in aid of the execution of any power herein granted, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy, as the Trustee shall deem most effectual to protect and enforce any of its rights or duties hereunder; provided, however that all costs incurred by the Trustee and the Issuer under this Article shall be paid to the Issuer and the Trustee by the Borrower on demand.

(iii) Waiver of Events of Default. If after any event of default occurs and prior to the Trustee exercising any of the remedies provided in this Loan Agreement, the Borrower will have completely cured such default, then in every case such default will be waived, rescinded and annulled by the Trustee by written notice given to the Borrower. In addition, if the acceleration of the maturity of the Bonds will have been annulled and rescinded in accordance with the provisions of the Indenture, then the acceleration of all loan payments and any other outstanding indebtedness under this Loan Agreement will likewise be annulled and rescinded. No such waiver, annulment or rescission will affect any subsequent default or impair any right or remedy consequent thereon.

Section 5.2. Trustee May Enforce Demand . In case the Borrower shall have failed to pay such principal and interest and other amounts upon notice and/or demand, the Trustee, in its own name, may upon receipt of indemnity satisfactory to the Trustee institute such actions or proceedings at law or in equity for the collection of the amounts so due and unpaid, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against the Borrower and collect the moneys adjudged or decreed to be payable out of the property of the Borrower wherever situated, in the manner provided by law.

The Trustee shall, if permitted by law, be entitled to recover judgment as aforesaid either before or after or during the pendency of any proceedings for the enforcement of the lien of this Loan Agreement; and the right of the Trustee, to recover such judgment shall not be affected by the exercise of any other right, power or remedy for the enforcement of the provisions of this Loan Agreement.

Any moneys thus collected by the Trustee under this Section shall be applied by the Trustee as follows:

FIRST: to the payment of all reasonable advances by the Issuer or by the Trustee with interest at the prime rate of interest charged by the Trustee from time to time, and all reasonable expenses and disbursements by the Trustee.

SECOND: to the payment of the amounts then due and unpaid upon the Notes in respect of which such money shall have been collected, ratably and without preference or priority of any kind, according to the amounts due and payable upon the Notes, upon presentation of the Notes and the notation thereon of such payment, if partly paid, and upon surrender thereon if fully paid.

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

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

Section 5.5. Waiver of Extension, Appraisement or Stay Laws . To the extent permitted by law, the Borrower will not during the continuance of any event of default hereunder insist upon, or plead, or in any manner whatever claim or take any benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants and terms of performance of this Loan Agreement; and the Borrower hereby expressly waives all benefits or advantage of any such law or laws and covenants not to hinder, delay or impede the execution of any power herein granted or delegated to the Trustee, but to suffer and permit the execution of every power as though no such law or laws had been made or enacted.

Section 5.6. Remedies Subject to Provisions of Law . All rights, remedies and powers provided by this Article may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that they will not render this Loan Agreement invalid or unenforceable under the provisions of any applicable law.

(End of Article V)

ARTICLE VI.

IMMUNITY

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

(End of Article VI)

ARTICLE VII.

SUPPLEMENTS AND AMENDMENTS TO THIS LOAN AGREEMENT

Section 7.1. Supplements and Amendments to this Loan Agreement . Subject to the provisions of Article X of the Indenture, the Borrower and the Issuer may from time to time enter into such supplements and amendments to this Loan Agreement as to them may seem necessary or desirable to effectuate the purposes or intent hereof.

(End of Article VII)

ARTICLE VIII.

DEFEASANCE

Section 8.1. Defeasance . If the Borrower shall pay and discharge or provide for the payment and discharge of the whole amount of the Notes at the time outstanding, and shall pay or cause to be paid all other sums payable hereunder, or shall make arrangements satisfactory to nationally recognized bond counsel for such payment and discharge, and if provision shall have been made for the satisfaction and discharge of the Indenture as provided therein, then and in that case, all property, rights and interest hereby conveyed or assigned or pledged shall revert to the Borrower, and the estate, right, title and interest of the Trustee therein shall thereupon cease, terminate and become void; and this Loan Agreement, and the covenants of the Borrower contained herein, shall be discharged and the Trustee in such case on written demand of the Borrower and at its cost and expense, shall execute and deliver to the Borrower a proper instrument or proper instruments acknowledging the satisfaction and termination of this Loan Agreement, and shall convey, assign and transfer or cause to be conveyed, assigned or transferred, and shall deliver or cause to be delivered, to the Borrower, all property, including money, then held by the Trustee together with the Notes marked paid or cancelled.

(End of Article VIII)

ARTICLE IX.

MISCELLANEOUS PROVISIONS

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

Section 9.2. Severability . In case any one or more of the provisions contained in this Loan Agreement or in the Notes shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby.

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

Section 9.4. Addresses for Notice and Demands . All notices, demands, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, postage prepaid, with proper address as indicated below. The Issuer, the Borrower, the Trustee and the Paying Agent 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 Loan Agreement. Until otherwise provided by the respective parties, all notices, demands, certificates and communications to each of them shall be addressed as follows:

To the Issuer:	City of Fishers, Indiana One Municipal Drive Fishers, Indiana 46038 Attn: Controller
----------------	---

To the Borrower: Fishers Town Hall Building Corporation
One Municipal Drive
Fishers, Indiana 46038
Attn: Controller

To the Trustee: _____

Attn: Corporate Trust and Escrow Services

Section 9.5. Successors and Assigns. Whenever in this Loan 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 Loan Agreement contained by or on behalf of the Borrower, or by or on behalf of the Issuer, shall bind and inure to the benefit of the respective successors and assigns, whether so expressed or not.

Section 9.6. Counterparts. This Loan 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 Loan Agreement is to be deemed an original hereof and all counterparts collectively are to be deemed but one instrument.

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

Section 9.8. Indenture Provisions. The Indenture provisions concerning the Bonds and other matters therein are an integral part of the terms and conditions of the loan made by the Issuer to the Borrower pursuant to this Loan Agreement and the execution of this Loan Agreement shall constitute conclusive evidence of approval of the Indenture by the Borrower to the extent it relates to the Borrower. Additionally, the Borrower agrees that, whenever the Bond Indenture by its terms imposes a duty or obligation upon the Borrower, such duty or obligation shall be binding upon the Borrower to the same extent as if the Borrower were an express party to the Indenture, and the Borrower hereby agrees to carry out and perform all of its obligations under the Indenture as fully as if the Borrower were a party to the Indenture.

Section 9.9. Trustee Section 9.10. . In connection with acting hereunder the Trustee shall be entitled to the protections provided in Article X of the Indenture.

(End of Article IX)

IN WITNESS WHEREOF, the Issuer and the Borrower have caused this Loan Agreement to be executed in their respective names and attested by their duly authorized officers, all as of the date first above written.

FISHERS TOWN HALL BUILDING
CORPORATION

By: _____
Jay Bangert, President

Attest:

Josh Richardson, Secretary-Treasurer

CITY OF FISHERS, INDIANA

By: _____
Scott Fadness, Mayor

Attest:

Lisa Bradford, Controller

[Signature Page of Loan Agreement]

EXHIBIT A

FISHERS TOWN HALL BUILDING CORPORATION

NOTE, SERIES 202_

FOR VALUE RECEIVED, the undersigned, Fishers Town Hall Building Corporation (“Borrower”), a nonprofit corporation organized and existing under the laws of the State of Indiana, hereby promises to pay to the order of the City of Fishers, Indiana (“Issuer”), in immediately available funds, the principal sum of \$_____, and interest thereon, during the term of the Loan Agreement (the “Loan Agreement”) dated as of _____, 2023 between Issuer and Borrower, commencing one business day prior to August 1, 202_, and on one business day prior to each February 1 and August 1 thereafter, a sum which will equal the principal and interest which will become due on the next day on the Series 202_ Bonds (as hereinafter defined), all subject to the credits described in the Loan Agreement and to the presence of other available money for such installment in the Bond Fund under the Trust Indenture (including without limitation any Lease Rental Payments) dated as of _____, 2023, between the Issuer and _____, as Trustee (the “Trustee”).

Payments of both principal and interest are to be endorsed to the Trustee, and are to be made directly to the Trustee for the account of the Issuer pursuant to such endorsement. Such endorsement is to be made as security for the payment of the bonds designated “City of Fishers, Indiana Taxable Economic Development Revenue Bonds, Series 202_ (District South Project)” (the “Series 202_ Bonds”). All of the terms, conditions and provisions of the Indenture are, by this reference thereto, incorporated herein as a part of this Note.

This Note is issued pursuant to the Loan Agreement, and is entitled to the benefits, and is subject to the conditions thereof. The obligations of Borrower to make the payments required hereunder shall be absolute and unconditional without any defense or right of set-off, counterclaim or recoupment by reason of any default by Issuer under the Loan Agreement or under any other agreement between Borrower and Issuer or out of any indebtedness or liability at any time owing to the Borrower by the Issuer or for any other reason.

The principal of and interest on this Note is a limited obligation of the Borrower payable solely from the Lease Rental Payments.

The principal of this Note is subject to prepayment prior to maturity in the manner stated in the Loan Agreement.

In certain events and in the manner set forth in the Loan Agreement, the entire principal amount of this Note and the interest accrued thereon may be declared to be due and payable. In certain events and in the manner set forth in the Loan Agreement, the Borrower shall be obligated to pay additional amounts.

The Borrower hereby unconditionally waives diligence, presentment, protest, notice of dishonor and notice of default of the payment of any amount at any time payable to the Issuer under or in connection with this Note. All amounts payable hereunder are payable with reasonable attorneys fees and costs of collection and without relief from valuation and appraisal laws.

In any case where the date of payment hereunder shall be in Indianapolis, Indiana, a Saturday, Sunday or a legal holiday or a day on which banking institutions are authorized by law to close, then such payment shall be made on the next preceding business day with the same force and effect as if made on the date of payment hereunder.

All terms used in this Note which are defined in the Loan Agreement shall have the meanings assigned to them in the Loan Agreement.

IN WITNESS WHEREOF, the Borrower has caused this Note to be duly executed and attested by its duly authorized officer all as of _____, 2023.

Issue Date: _____, 2023

FISHERS TOWN HALL BUILDING
CORPORATION

By: _____

Printed: _____

Title: _____

ENDORSEMENT

Pay, without recourse, to _____, as Trustee under the Trust Indenture dated as of _____, 2023, from the undersigned.

CITY OF FISHERS, INDIANA

By: _____
Mayor

Attest:

Controller

TRUST INDENTURE

BETWEEN

CITY OF FISHERS, INDIANA

AND

_____,
_____, _____
As Trustee

\$_____

**CITY OF FISHERS, INDIANA
TAXABLE ECONOMIC DEVELOPMENT REVENUE BONDS,
SERIES 202_ (DISTRICT SOUTH PROJECT)**

Dated as of _____ 1, 2023

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TRUST INDENTURE

THIS TRUST INDENTURE dated as of the first day of _____ 1, 2023 (this “Indenture”), by and between the CITY OF FISHERS, INDIANA (“Issuer”), a municipal corporation duly organized and existing under the laws of the State of Indiana (the “State”) and _____, a _____, with a corporate trust office in _____, _____, as Trustee (“Trustee”);

WITNESSETH:

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 and to lend the proceeds therefrom to an individual or an entity for the purpose of financing the costs of construction of economic development facilities, for diversification of economic development and promotion of job opportunities in or near such Issuer and vests the Issuer with powers that may be necessary to enable it to accomplish such purposes; and

WHEREAS, to foster economic development, the Issuer and Fishers Town Hall Building Corporation (the “Borrower”) desire to provide for the acquisition, construction, renovation and equipping of a new mixed-use development, including multi-family residential units and commercial space, and the completion of related improvements and the payment of financing costs, all generally located on the on the south side of South Street, between Lantern Road on the east and the Nickel Plate Trail on the west (collectively, the “Project”), in accordance with the Project Agreement, dated as of _____, 2023 (the “Project Agreement”), among the City, the Borrower, the City of Fishers Redevelopment Commission (the “Redevelopment Commission”), the City of Fishers Economic Development Commission (the “Economic Development Commission”) and Rebar South Street, LLC ; and

WHEREAS, to satisfy its obligations under the Project Agreement, the Issuer has agreed to issue bonds to finance the costs of all or a portion of the Project; and

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

WHEREAS, to assist in the completion of the Project, the Issuer desires to issue its Taxable Economic Development Revenue Bonds, Series 202_ (District South Project) in the aggregate principal amount of \$_____ (the “Series 202_ Bonds”) pursuant to this Indenture, and to lend the proceeds of the Series 202_ Bonds pursuant to the provisions of the Loan Agreement, dated as of _____ 1, 2023, between the Issuer and the Borrower (“Loan Agreement”) for the purpose of paying certain costs of the Project, including capitalized interest; and

WHEREAS, the Issuer, upon finding that the Project and the proposed financing of portions thereof will create additional employment opportunities in the Issuer, will benefit the health, safety, morals, and general welfare of the citizens of the Issuer and the State of Indiana, and will comply with the purposes and provisions of the Act, adopted an ordinance approving the proposed financing, the Indenture, and the Series 202_ Bonds; and

WHEREAS, the execution and delivery of this Indenture and the issuance of the Series 202_ Bonds hereunder have been in all respects duly and validly authorized by an ordinance duly passed and approved by the Issuer; and

WHEREAS, the Loan Agreement provides for the repayment by the Borrower of the loan of the proceeds of the Series 202_ Bonds and further provides for the Borrower's repayment obligation to be evidenced by the Borrower's Note, Series 202_ ("Series 202_ Note") in substantially the form attached thereto as Exhibit A; and

WHEREAS, pursuant to this Indenture, the Issuer will endorse the Series 202_ Note without recourse and assign certain of its rights under the Loan Agreement as security for the Series 202_ Bonds which are payable solely and only out of the payments to be made by the Borrower with respect to the Series 202_ Note, and any other Notes issued under the Loan Agreement (collectively, the "Notes") except to the extent paid out of Bond proceeds; and

WHEREAS, to provide for the financing and construction of portions of the Project, the Borrower has entered into a Lease, dated as of _____, 2023, between the Borrower, as lessor, and the Redevelopment Commission, as lessee (the "Lease"), with respect to all or a portion of 96th Street between Lantern Road and Mollenkopf Road, including related improvements and fixtures located thereon, including any related improvements and fixtures located thereon; and

WHEREAS, pursuant to IC 36-7-14-25.5, the lease rentals under the Lease are payable from a special tax levied and collected by the Commission on all taxable property within the City of Fishers Redevelopment District, pursuant to IC 36-7-14-27 or at the Redevelopment Commission's option, any other revenues legally available to the Redevelopment Commission, certain tax increment revenues received by the Redevelopment Commission pursuant to IC 36-7-14-39 from the District South Allocation Area and the Downtown Allocation Area each of which is within the Consolidated Fishers/I-69 Economic Development Area; and

WHEREAS, the Notes issued under the Loan Agreement will be payable from the lease rentals received by the Borrower from the Redevelopment Commission under the Lease (the "Lease Rental Payments"); and

WHEREAS, the Series 202_ Bonds and the Trustee's certificate of authentication to be endorsed thereon are all to be in substantially the following forms, and any Additional Bonds and Trustee's certificate of authentication are also to be in substantially the following forms (except as to redemption, sinking fund and other provisions peculiar to such Additional Bonds), with necessary and appropriate variations, omissions and insertions as permitted or required by this Indenture, to-wit:

(Form of Series 202_ Bond)

R-____

UNITED STATES OF AMERICA

STATE OF INDIANA

COUNTY OF HAMILTON

CITY OF FISHERS, INDIANA
TAXABLE ECONOMIC DEVELOPMENT REVENUE BOND,
SERIES 202_ (DISTRICT SOUTH PROJECT)

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

REGISTERED OWNER:

PRINCIPAL AMOUNT: _____ DOLLARS (\$_____)

The City of Fishers, Indiana (“Issuer”), a municipal corporation duly organized and existing under the laws of the State of Indiana, for value received, hereby promises to pay in lawful money of the United States of America to the Registered Owner listed above, but solely from the payments on the Series 202_ Note and Lease Rental Payments hereinafter referred to pledged and assigned for the payment hereof, the Principal Amount set forth above on the Maturity Date set forth above (unless this bond is subject to and is called for redemption prior to maturity as provided for herein), and to pay interest hereon at the Interest Rate stated above from the interest payment date to which interest has been paid next preceding the date of authentication of this bond unless this bond is authenticated after the fifteenth day of the immediately prior month in which interest is payable in which case it shall bear interest from such interest payment date, or unless this bond is authenticated on or before _____ 15, 202__ in which case it shall bear interest from the Original Date, until the principal shall be fully paid, which interest is payable on February 1 and August 1 of each year, beginning on _____ 1, 202__. Interest shall be calculated on the basis of a 360-day year consisting of twelve 30-day months.

Interest on this bond is payable by check or draft mailed one business day prior to the interest payment date, or by wire transfer of immediately available funds on the interest payment date to a registered owner of One Million Dollars (\$1,000,000) or more in aggregate principal amount who requests the same in writing to the Trustee at least five (5) business days prior to the applicable interest payment date, to the person in whose name this bond is registered on the first day of the month of such interest payment date. Principal of and premium, if any, on this bond is payable in lawful money of the United States of America at the corporate trust operations office of _____, in _____, _____ (the “Registrar” and the “Paying Agent”) or by wire transfer of immediately available funds on the interest payment date to a registered owner of One Million Dollars (\$1,000,000) or more in aggregate principal amount who requests the same in writing to the Trustee at least five (5) business days prior to the applicable interest payment date, to the person in whose name this bond is registered on the first day of the month of such interest payment date. This bond shall not need to be presented for payment except upon final maturity or redemption in full.

This bond is the only one of an authorized issue of bonds of the Issuer, all of like date, tenor and effect (except as to numbering, interest rates, and dates of maturity), in the aggregate principal amount of _____ Dollars (\$_____) (the “Series 202_ Bonds”), issued under and in accordance with, and all equally and ratably entitled to the benefits of, and ratably secured

by, a Trust Indenture (the “Trust Indenture”), dated as of _____ 1, 2023, between the Issuer and _____ as trustee (the “Trustee”), to which reference is hereby made for a description of the property securing the Series 202_ Bonds and any additional parity Bonds issued thereunder (the “Additional Bonds”) (the Series 202_ Bonds and any Additional Bonds, collectively, the “Bonds”), the rights under the Trust Indenture of the Issuer, the registered owners of the Bonds and the Trustee, to all of which the registered owners hereof, by the acceptance of this bond, agree.

The Series 202_ Bonds are being issued for the purpose of providing funds to finance the acquisition, construction, renovation and equipping of a new mixed-use development, including multi-family residential units and commercial space, and the completion of related improvements and the payment of financing costs, by lending such funds to the Fishers Town Hall Building Corporation (the “Borrower”) pursuant to the Loan Agreement dated as of _____ 1, 2023 (“Loan Agreement”) between the Borrower and the Issuer. The Loan Agreement prescribes the terms and conditions under which the Borrower shall repay such loan and pursuant to which the Borrower will execute and deliver to the Issuer its Note, Series 202_ (“Series 202_ Note”) in a principal amount equal to the principal amount of such Series 202_ Bonds in order to evidence such loan.

The Bonds are special and limited obligations of the Issuer payable solely from and secured exclusively by the Series 202_ Note, the Lease Rental Payments (as defined in the Trust Indenture), and other moneys assigned by the Trust Indenture. The Trust Indenture permits the issuance of Additional Bonds under the conditions set out in Section 2.8 thereof and allows the Issuer to terminate the security of the Trust Indenture for Bonds by establishing a trust fund under the conditions set out in Section 11.2 thereof. Reference is made to the Trust Indenture and to all indentures supplemental thereto and to the Loan Agreement for a description of the nature and extent of the security, the rights, duties and obligations of the Issuer and the Trustee, the rights of the holders of the Bonds, the terms on which the Bonds are being issued and secured, and to all the provisions of which the holder hereof by the acceptance of this 202_ Bond assents.

The Series 202_ Bonds are issuable in registered form without coupons in the denominations of [integers of Five Thousand Dollars/One Hundred Thousand Dollars (\$100,000) or One Thousand Dollar (\$1,000) integers above such amount]. This Bond is transferable by the registered owner hereof at the corporate trust office of the Registrar, upon surrender and cancellation of this bond and on presentation of a duly executed written instrument of transfer and thereupon a new Bond or Bonds of the same aggregate principal amount and maturity and in authorized denominations will be issued to the transferee or transferees in exchange therefor. This Bond may be exchanged upon surrender hereof at the corporate trust office of the Registrar, or at such office or offices as the Registrar may designate in writing to the registered owner, duly endorsed by the registered owner for the same aggregate principal amount of Bonds of the same maturity in authorized denominations as the registered owner may request.

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

The Series 202_ Bonds may be redeemed prior to maturity at the option of the Issuer, in whole or in part, in inverse order of maturity or maturities or mandatory sinking fund redemption date selected by the Issuer and by lot within any maturity, on any date not earlier than _____ 1, 20__, from any moneys made available for that purpose, at face value plus interest accrued to the date fixed for redemption and without any premium.

The Series 202_ Bonds are subject to mandatory sinking fund redemption prior to maturity on the dates shown below, plus accrued interest and without premium:

<u>Date</u>	<u>Amount</u>	<u>Date</u>	<u>Amount</u>
-------------	---------------	-------------	---------------

* Final Maturity

The Trustee shall credit against the mandatory sinking fund requirement for any of the Series 202_ Bonds maturing on _____ 1, 20__ (the "Term Bonds"), and corresponding mandatory sinking fund redemption obligation, in inverse order of maturity or mandatory sinking fund redemption date, any such Term Bonds which have previously been redeemed (otherwise than as a result of a previous mandatory sinking fund redemption requirement) or delivered to the Trustee, the Registrar or the Paying Agent for cancellation or purchased for cancellation by the Trustee and not theretofore applied as a credit against any redemption obligation. Each Term Bond so delivered or canceled shall be credited by the Trustee at 100% of the principal amount thereof against the mandatory sinking fund obligation on such mandatory sinking fund redemption date, and any excess of such amount shall be credited on future redemption obligations in inverse order of maturity or mandatory sinking fund redemption date, and the principal amount of Term Bonds to be redeemed by operation of the mandatory sinking fund requirement shall be accordingly reduced; provided, however, the Trustee, the Registrar or the Paying Agent shall only credit such Term Bonds to the extent received on or before forty-five (45) days preceding the applicable mandatory sinking fund redemption date stated above.

The Series 202_ Bonds are subject to extraordinary redemption prior to maturity, without premium, from proceeds of insurance or a condemnation award received in certain circumstances relating to damage, destruction or condemnation of certain property owned by the Borrower and leased in exchange for the Lease Rental Payments.

If any of the Series 202_ Bonds are called for redemption as aforesaid, unless waived by the Registered Owners, notice thereof identifying the Series 202_ Bonds to be redeemed will be given by mailing a copy of the redemption notice by first class mail not less than thirty (30) days nor more than sixty (60) days prior to the date fixed for redemption to the Registered Owner of the Series 202_ Bonds to be redeemed at the address shown on the registration books; provided, however, that failure to give such notice by mailing, or any defect therein with respect to any registered Series 202_ Bond, shall not affect the validity of any proceedings for the redemption of other Series 202_ Bonds.

All Series 202_ 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 Trust Indenture and shall not be deemed to be outstanding under the provisions of the Trust Indenture.

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

The holder of this Series 202_ Bond shall have no right to enforce the provisions of the Trust Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Trust Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Trust Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Trust Indenture, the principal of all the Bonds issued under the Trust Indenture and then outstanding may become or may be declared due and payable before the stated maturity thereof, together with interest accrued thereon. Modifications or alterations of the Trust Indenture, or of any supplements thereto, may be made to the extent and in the circumstances permitted by the Trust Indenture. The Series 202_ Note and the obligation to pay Lease Rental Payments shall not be subject to acceleration.

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

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

IN WITNESS WHEREOF, the City of Fishers, Indiana, in Hamilton County, has caused this Series 202_ Bond to be executed in its name and on its behalf by the manual or facsimile signature of the Mayor of the City Council and its corporate seal to be hereunto affixed manually or by facsimile and attested to by the manual or facsimile signature of its Controller all as of _____, 202_.

CITY OF FISHERS, INDIANA

By: _____
Mayor

(SEAL)

Attest:

Controller

(FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION)

This Series 202_ Bond is one of the Series 202_ Bonds described in the within mentioned Trust Indenture.

REGIONS BANK, as Trustee

By: _____
Authorized Officer

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ (Please Print or Typewrite Name and Address) the within Series 202_ Bond and all rights, title and interest thereon, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Series 202_ Bond on the books kept for registration thereof, with full power of substitution in the premises.

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

GRANTING CLAUSE

DIVISION I

The Series 202_ Note, which has been endorsed by the Issuer to the order of the Trustee and pledged by the Issuer to the Trustee, and all sums payable in respect of the indebtedness evidenced thereby;

DIVISION II

All right, title, and interest of the Issuer in and to the Loan Agreement (except the rights reserved to the Issuer), including the all right, title, and interest of the Issuer in the Lease Rental Payments; and

DIVISION III

All moneys and the Qualified Investments held by the Trustee from time to time in the Funds and Accounts created hereunder;

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

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

ARTICLE I.

DEFINITIONS

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

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

“Annual Fees” means the annual fees charged by the Trustee for services provided as the trustee and paying agent under this Indenture.

“Authorized Issuer Representative” means any of the Mayor or Controller of the Issuer.

“Authorized Borrower Representative” means any of the Mayor or Controller of the Issuer, or such other individuals designated by a resolution of the Borrower.

“Bond Fund” means the fund established by the Issuer as set forth in Section 4.2 of this Indenture.

“Bonds” means any Bonds issued pursuant to this Indenture, including the Series 202_ Bonds.

“Borrower” means the Fishers Town Hall Building Corporation, an Indiana nonprofit corporation, and its permitted successors and assigns under the Loan Agreement.

“Capitalized Interest Account” means the account created by the Issuer as set forth in Section 4.3 of this Indenture.

“Commission” means the City of Fishers Economic Development Commission.

“Construction Account” means the account created by the Issuer as set forth in Section 4.3 of this Indenture.

“Construction Fund” means the fund established by the Issuer as set forth in Section 4.3 of this Indenture.

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

“Financed Project Costs” means the following categorical costs of providing for an “economic development project” as defined and set forth in the Act:

(a) the “Bond Issuance Costs”, namely the costs, fees and expenses incurred or to be incurred by the Issuer and the Borrower in connection with the issuance and sale of the Series 202_ Bonds, including placement or other financing fees (including applicable counsel fees), the fees and disbursements of Bond Counsel, fees of the Issuer’s financial advisor, the acceptance fee of the Trustee and the first year of the Trustee’s fees hereunder, application fees and expenses, publication costs, the filing and recording fees in connection with any filings or recording necessary under the Indenture or to perfect the lien thereof, the out-of-pocket costs of the Issuer, the fees and disbursements of counsel to the Borrower, the fees and disbursements of the Borrower’s accountants, the fees and disbursements of counsel to the Issuer, the costs of preparing or printing the Series 202_ Bonds and the documentation supporting the issuance of the Series 202_ Bonds, the costs of reproducing documents, and any other costs of a similar nature reasonably incurred;

(b) the “Capitalized Interest Costs”, namely all of the interest accruing on the 202_ Bonds through and including _____ 1, 20__;

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

(d) all costs and expenses which Issuer or Borrower shall be required to pay, or advance under the terms of any contract or contracts (including the architectural and engineering, development, and legal services with respect thereto), for the construction of the Project, including the amounts required under the Project Agreement to be deposited under the Funding Agreement and disbursed for the payment of the costs pursuant to the Funding Agreement; and

(e) any sums required to reimburse the Issuer or Borrower for advances made by either of them subsequent to the date of inducement by the Issuer for any of the above items or for any other costs incurred and for work done by either of them which are properly chargeable to the Project.

“Funding Agreement” shall have the meaning assigned in the Project Agreement.

“Funds and Accounts” shall mean the funds and accounts established in Article IV of this Indenture.

“Government Obligations” shall have the meaning assigned in the Loan Agreement.

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

“Interest Payment Date” on the Series 202_ Bonds means each February 1 and August 1 (whether or not a business day), commencing _____ 1, 202_.

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

“Leased Premises” means, collectively, the Leased Premises as set forth in the Lease.

“Lease” means, means the Lease, dated as of _____, 2023, between the Borrower, as lessor, and the Redevelopment Commission, as lessee, and all amendments and supplements thereto.

“Lease Rental Payments” means lease rental payments made by the Redevelopment Commission as a lessee under the Lease.

“Loan Agreement” means the Loan Agreement, dated as of _____ 1, 2023, between the Borrower and the Issuer and all amendments and supplements thereto.

“Note” or “Notes” shall have the meaning assigned in the Loan Agreement.

“Operation Fund” means the fund established by the Issuer as set forth in Section 4.6 of this Indenture.

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

“Original Issue Date” means _____, 2023.

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

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

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

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

“Paying Agent” means the Trustee and any successor paying agent or co-paying agent.

[“Placement Agent” means _____ pursuant to a Placement Agent Agreement between the Issuer and _____ dated as of _____, 2023.]

“Project” means the acquisition, construction, renovation and equipping of a new mixed-use development, including multi-family residential units and commercial space, and the completion of related improvements and the payment of financing costs, all generally located on the south side of South Street, between Lantern Road on the east and the Nickel Plate Trail on the west.

“Project Agreement” means the Project Agreement, dated _____, 2023, among the Issuer, the Borrower, the Redevelopment Commission, the Commission and Rebar South Street, LLC.

“Qualified Investments” shall have the meaning assigned in the Loan Agreement.

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

“Redevelopment Commission” means the City of Fishers Redevelopment Commission.

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

“Series 202_ Bonds” means the City of Fishers, Indiana Taxable Economic Development Revenue Bonds, Series 202_ (District South Project) in the aggregate principal amount of \$_____

“Series 202_ Note” shall have the meaning assigned in the Loan Agreement.

“Trust Estate” means the funds and accounts, the Series 202_ Note, the Lease Rental Payments, and the other assets described in the Granting Clauses of this Indenture.

“Trustee” means _____, a _____, the party of the second part hereto, and any successor trustee or co-trustee.

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

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

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

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

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

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

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

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

Exhibit A: Construction Account Disbursement Request

(End of Article I)

ARTICLE II.

THE BONDS

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

Section 2.2. Issuance of Series 202_ Bonds . The Series 202_ Bonds shall be designated “City of Fishers, Indiana Taxable Economic Development Revenue Bonds, Series 202_ (District South Project).” The Series 202_ Bonds shall be originally issuable as fully registered Bonds without coupons in denominations of [intergrals of Five Thousand Dollars/One Hundred Thousand Dollars (\$100,000) or One Thousand Dollar (\$1,000) integrals above such amount], and shall be lettered and numbered R-1 and upward. Interest on the Series 202_ 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 notwithstanding the cancellation of any such Bonds upon any exchange or transfer thereof subsequent to the Record Date and prior to such Interest Payment Date, except that, if and to the extent that there shall be a default in the payment of the interest due on such interest payment date, such defaulted interest shall be paid to the owners in whose name any such Bonds (or any Bond issued upon transfer or exchange thereof) are registered at the close of business of the Special Record Date next preceding the date of payment of such defaulted interest. The Special Record Date shall be the date established by the Trustee for the payment of defaulted interest. The Series 202_ Bonds shall be dated as of the date of their delivery. Interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. Interest on the Series 202_ Bonds shall be payable on each February 1 and August 1, commencing on _____ 1, 202_.

The Series 202_ Bonds shall mature on _____ 1, 20__ and bear interest at the rate of _____ percent (____%) per annum.

The Series 202_ Bonds maturing on _____ 1, 20__, shall be the “Term Bonds” and the Term Bonds shall be subject to mandatory sinking fund redemption as set forth in Section 5.1(c).

The Series 202_ Bonds shall bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless such date of authentication shall be subsequent to a Record Date in which case they shall bear interest from the Interest Payment Date with respect to such Record Date, provided, however that if, as shown by the records of the Trustee, interest on the Series 202_ Bonds shall be in default, Series 202_ Bonds issued in exchange for Series 202_ Bonds surrendered for transfer or exchange shall bear interest from the date to which interest has been paid in full on the Series 202_ Bonds or, if no interest has been paid on the Series 202_ Bonds, from the date of issuance and delivery of the Series 202_ Bonds. Series 202_ Bonds authenticated on or prior to January 15, 2023 shall bear interest from the date of delivery of the Series 202_ Bonds.

Section 2.3. Payment on Bonds . The interest on the Series 202_ Bonds shall be payable by check or draft mailed one business day prior to the interest payment date, or by wire transfer of immediately available funds on the interest payment date to a registered owner of One Million Dollars (\$1,000,000) or more in aggregate principal amount who requests the same in writing to the Paying Agent at least five (5) business days prior to the applicable interest payment date, to the person in whose name each Series 202_ Bond is registered on the first day of the month of such interest payment date. The principal of the Series 202_ Bonds shall be payable in lawful money of the United States of America, at the corporate trust operations office of the Paying Agent in _____, _____ or by wire transfer of immediately available funds to a registered owner of One Million Dollars (\$1,000,000) or more in aggregate principal amount who requests the same in writing to the Trustee at least five (5) business days prior to the applicable principal payment date. The Series 202_ Bonds shall not need to be presented for payment except upon final maturity or redemption in full.

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

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

Section 2.5. Authentication . No Series 202_ Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Indenture unless and until the certificate of authentication on such Series 202_ Bond substantially in the form hereinabove set forth shall have been duly executed by the Trustee, and such executed certificate of the Trustee upon any such Bond shall be conclusive evidence that such Series 202_ Bond has been authenticated and delivered under this Indenture. The Trustee's certificate of authentication on any Series 202_ Bond shall be deemed to have been executed by it if signed by an authorized signatory of the Trustee, but it shall not be necessary that the same person sign the certificate of authentication on all of the Series 202_ Bonds issued hereunder.

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

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

- (a) A copy, duly certified by the Clerk of the Issuer, of the ordinance adopted and approved by the Issuer authorizing the execution and delivery of the Loan Agreement and this Indenture and the issuance of the Series 202_ Bonds.
- (b) Executed counterparts of the Loan Agreement, the Indenture, and the Lease.
- (c) The Series 202_ Note in the same principal amount as the principal amount of the Series 202_ Bonds, duly executed by the Borrower and endorsed by the Issuer to the order of the Trustee.
- (d) A written request of the Issuer to the Trustee requesting the Trustee to authenticate, or cause to be authenticated, and deliver the Series 202_ Bonds in the principal amount of _____ to the purchasers thereof.

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

Section 2.8. Issuance of Additional Bonds . One or more series of Bonds in addition to the Series 202_ Bonds ("Additional Bonds"), may be authenticated and delivered from time to time for one or more of the purposes of (i) refunding all or a portion of one or more series of Bonds outstanding hereunder, if such Bonds may otherwise be refunded, and (ii) financing the cost or estimated cost of completing the Project or of acquiring and/or constructing additional improvements to the Project, and, in each case, obtaining additional funds to pay the costs to be incurred in connection with the issuance of such Additional Bonds, to establish reserves with respect thereto and to pay interest during the estimated construction period of completing the additional improvements, if any. Each series of Additional Bonds issued hereunder shall be equal in aggregate principal amount to the principal amount of the additional Note being then currently issued.

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

- (a) A supplement to this Indenture executed by the Issuer and the Trustee authorizing the issuance of such Additional Bonds, specifying the terms thereof, pledging and assigning the Additional Note being then currently issued as security therefor and providing for the disposition of the proceeds of the sale thereof.
- (b) The supplement or amendment to the Loan Agreement and the other instruments, documents, certificates, and opinions referred to in Section 7.1 of the Loan Agreement.
- (c) The Additional Note being then concurrently issued, made payable to the order of the Issuer, duly executed by the Borrower and endorsed by the Issuer to the order of the Trustee.
- (d) If necessary, a supplement or amendment to the Lease.
- (e) A report or a certificate prepared by an independent certified public accountant or an independent financial advisor selected by the Issuer supported by appropriate calculations, stating that the Additional Bonds can be amortized, along with the Series 202_ Bonds, from Lease Rental Payments pursuant to the Lease.
- (f) A copy, duly certified by the Clerk of the Issuer, of the Bond Ordinance theretofore adopted and approved by the Issuer authorizing the execution and delivery of such supplemental indenture and such supplement to the Loan Agreement and the issuance of such Additional Bonds.
- (g) A written request of the Issuer to the Trustee to authenticate and deliver such Additional Bonds.
- (h) An opinion of bond counsel to the effect that (i) such supplement to this Indenture has been duly executed by the Issuer and constitutes the valid and binding obligation of the Issuer enforceable against the Issuer in accordance with its terms; and (ii) the Additional Bonds have been duly and validly authorized and issued by the Issuer and constitute the valid and binding limited obligations of the Issuer enforceable against the Issuer in accordance with their terms. The opinion of bond counsel may be qualified as to such matters as are acceptable to the Issuer and the Trustee, and include, without limitation, customary exceptions as to bankruptcy, insolvency and other laws affecting creditors' rights generally and customary exceptions as to principles of equity.
- (i) An opinion of an independent public accountant, supported by appropriate calculations, stating that the Additional Bonds can be amortized, along with the 202_ Bonds from lease rental payments pursuant to the Lease.

Any Additional Bonds issued in accordance with the terms of this Section 2.8 shall be secured by this Indenture and shall be equally and ratably payable from all Notes issued under the Loan Agreement, but such Additional Bonds may bear such date or dates, such interest rate or rates, and with such maturities, redemption dates and premiums as may be agreed upon by the Issuer, at the direction of the Borrower, and the purchaser of such Additional Bonds.

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

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

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

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

(End of Article II)

ARTICLE III.

APPLICATION OF SERIES 202_ BONDS PROCEEDS

Section 3.1. Deposit of Funds . The Issuer shall deposit with the Trustee in the Construction Fund all proceeds from the sale of the Series 202_ Bonds in an amount equal to \$_____, as follows: (i) funds in the amount of \$_____ shall be deposited in the Capitalized Interest Account; and (iii) funds in the amount of \$_____ shall be deposited in the Construction Account.

(End of Article III)

ARTICLE IV.

REVENUE AND FUNDS

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

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

In addition, there shall be deposited in the Bond Fund, as and when received, (i) all payments received pursuant to the Notes, including the required deposits of Lease Rental Payments pursuant to Section 4.5 hereof; (ii) all payments specified in Section 3.2 of the Loan Agreement; (iii) any amount remaining in the Construction Fund to be transferred to the Bond Fund pursuant to the Indenture upon acceleration of the maturity of the Series 202_ Bonds; (iv) all interest and other income derived from investments of Bond Fund moneys as provided herein; and (vi) all other moneys received by the Trustee under and pursuant to any of the provisions of the Loan Agreement which are required or which are accompanied by directions that such moneys are to be paid into the Bond Fund. The Issuer hereby covenants and agrees that so long as any of the Bonds issued hereunder are outstanding it will deposit, or cause to be paid to Trustee for deposit in the Bond Fund for its account, sufficient sums from revenues and receipts derived from the Notes and the Loan Agreement, including the Lease Rental Payments, promptly to meet and pay the principal of, premium, if any, and interest on the Bonds as the same become due and payable. Nothing herein should be construed as requiring Issuer to deposit or cause to be paid to Trustee for deposit in the Bond Fund, funds from any source other than receipts derived from the Notes, the Loan Agreement, and the Lease Rental Payments.

The Borrower shall immediately upon receipt transfer the Lease Rental Payments to the Trustee as set forth in Section 4.5. The Trustee is hereby directed to deposit into the Bond Fund from each Lease Rental Payment, an amount equal to the lesser of the following: (a) all of such rental payment; or (b) an amount which equals the sum of the principal and interest on the Bonds due on, before or within twenty (20) days after the date such Lease Rental Payment becomes due. Any portion of a rental payment remaining after such deposit shall be deposited by the Trustee in the Operation Fund.

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

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

(a) The Trustee shall, without other or further authority than is hereby given, use all of the proceeds of the Series 202_ Bonds from the Capitalized Interest Account, or if the Capitalized Interest Account is not sufficient, then from the Construction Account, to pay all of interest accruing on the Series 202_ Bonds through and including _____ 1, 202_. Once all funds are paid out of the Capitalized Interest Account, the Capitalized Interest Account shall be closed.

(b) Moneys on deposit in the Construction Account shall be paid out from time to time by the Trustee to or upon the order of the Borrower to pay for the Financed Project Costs. Upon receipt by the Trustee of a written request in the form attached hereto as Exhibit A signed by an Authorized Borrower Representative:

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

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

(3) stating a recap of payees and the amount paid; and

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

Once all funds are paid out of the Construction Account, the Construction Account shall be closed.

Section 4.4. [RESERVED] Section 4.5. .

Section 4.5. Lease Rental Payments. On or before each January 15 and July 15, commencing on _____, 202_, the Borrower shall transfer the Lease Rental Payments received by the Borrower on or before such January 15 or July 15 to the Trustee, who shall deposit such Lease Rental Payments in the Bond Fund for the payment of the Series 202_ Bonds on the next Interest Payment Date. The transfers to the Bond Fund shall serve as a credit against the Borrower's obligations under the Series 202_ Note and the Loan Agreement with respect to the Series 202_ Bonds.

Section 4.6. Operation Fund. There is hereby established and created a fund designated as the Operation Fund. The Operation Fund shall be used only to pay necessary incidental expenses of the Issuer (e.g. Trustee's fees, including Annual Fees, required audits, attorney's fees,

appraisals, meetings, expenses incurred in connection with any continuing disclosure obligations of the Issuer or the Borrower in relation to the Bonds), the payment of principal of and interest on the Bonds upon redemption as authorized in Article V hereof or the purchase price of Bonds purchased as authorized by Section 4.7 hereof, and if the amount in the Bond Fund at any time is less than the required amount, the Trustee shall, without any further authorization, transfer funds from the Operation Fund to the Bond Fund in an amount sufficient to raise the amount in the Bond Fund to the required amount. Such action by the Trustee shall not constitute a waiver of any other right or remedy the Trustee may have under this Indenture. Incidental expenses shall be paid by the Trustee upon the presentation of an affidavit executed by an Authorized Issuer Representative stating the character of the expenditure, the amount thereof and to whom due, together with the statement of the creditor as to the amount owing, except for the payment of Trustee's fees which requires no such affidavit from an Authorized Issuer Representative.

Notwithstanding anything herein to the contrary, upon receipt by the Trustee of a Request for Release of Funds, as defined below, the Trustee shall in a commercial reasonable amount of time release to the Issuer funds in the Operation Fund in accord with such Request for Release of Funds. For these purposes, a "Request for Release of Funds" means a written request made by the Issuer which (i) is signed by an Authorized Issuer Representative, (ii) sets forth the amount requested to be released from the Operation Fund to the Issuer, and (iii) includes a statement, accompanied by supporting schedules prepared by an accountant or firm of accountants which verify the statement, that the balance to be held in the Operation Fund immediately after such amount is released to the Issuer is expected to be sufficient to meet the known and anticipated payments and transfers to be satisfied from the Operation Fund in the then next succeeding eighteen months. The supporting schedules shall identify with particularity the anticipated sources and applications of funds. The statement and supporting schedules required by clause (iii) above shall not include anticipated investment earnings based on assumptions about reinvestment rates, but may include known investment earnings scheduled to be received on then current investments, and shall include any known or anticipated gain or loss from the disposition of investments. Notwithstanding the foregoing provisions of this paragraph, the Trustee shall not so release funds from the Operation Fund to the Issuer during any time that there exists an uncured or unwaived event of default hereunder (as defined in Article VII), or an event which with notice or lapse of time or both would become such an event of default, or if the Trustee determines, which determination may be in reliance upon an Opinion of Counsel, that the information set forth in the Request for Release of Funds (including the supporting schedules) is not reasonably consistent with the books and records of the Trustee or is otherwise not accurate or appropriate.

Section 4.7. Redemption and Purchase of Bonds . Whenever the amounts contained in the Bond Fund and Operation Fund are sufficient, together with any other funds deposited with the Trustee by the Issuer, to redeem, upon the next redemption date, all Bonds secured thereby then outstanding, the Trustee shall apply the amounts in such Funds to the redemption of such Bonds pursuant to Article V hereof. At the written request of an Authorized Issuer Representative delivered to the Trustee, the Trustee may remove funds from the Operation Fund to be used for the redemption of Bonds, or for the purchase of Bonds.

Section 4.8. Trust Funds . All moneys and securities received by the Trustee under the provisions of this Indenture, shall be trust funds under the terms hereof and shall not be

subject to lien or attachment of any creditor of the Issuer or of the Borrower. Such moneys shall be held in trust and applied in accordance with the provisions of this Indenture.

Section 4.9. Investment . Moneys on deposit in the Funds established in this Article IV hereof shall be invested as provided in Section 6.8 hereof.

(End of Article IV)

ARTICLE V.

REDEMPTION OF SERIES 202_ BONDS BEFORE MATURITY

Section 5.1. Redemption Dates and Prices (a) . (a) The Issuer shall have the right, at its option, to redeem, according to the procedure hereinafter provided, the Series 202_ Bonds, in whole or in part, in inverse order of maturity or mandatory sinking fund redemption date, on any date not earlier than _____ 1, 20__, at face value, plus interest accrued to the date fixed for redemption and without premium.

(b) The Series 202_ Bonds are subject to extraordinary redemption prior to maturity, without premium, from proceeds of condemnation in certain circumstances as described in Section 6.9 and 6.10 hereof.

(c) From moneys held in the Bond Fund, the Series 202_ Bonds maturing on _____ 1, 20__, are subject to mandatory sinking fund redemption prior to maturity on the dates shown below, plus accrued interest to the redemption date and without premium:

<u>Date</u>	<u>Amount</u>	<u>Date</u>	<u>Amount</u>
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* Final Maturity

(d) The Trustee shall credit against the mandatory sinking fund requirement for any Term Bonds, and corresponding mandatory sinking fund redemption obligation, in inverse order of maturity or mandatory sinking fund redemption date, any such Term Bonds which have previously been redeemed (otherwise than as a result of a previous mandatory sinking fund redemption requirement) or delivered to the Trustee, the Registrar or the Paying Agent for cancellation or purchased for cancellation by the Trustee and not theretofore applied as a credit against any redemption obligation. Each Term Bond so delivered or canceled shall be credited by the Trustee at 100% of the principal amount thereof against the mandatory sinking fund obligation on such mandatory sinking fund redemption date, and any excess of such amount shall be credited on future redemption obligations in inverse order of maturity or mandatory sinking fund redemption date, and the principal amount of Term Bonds to be redeemed by operation of the mandatory sinking fund requirement shall be accordingly reduced; provided, however, the Trustee, the Registrar or the Paying Agent shall only credit such Term Bonds to the extent received on or before forty-five (45) days preceding the applicable mandatory sinking fund redemption date stated above.

Section 5.2. Notice to Trustee . To evidence its intention to exercise the right of redemption of any Series 202_ Bonds, the Issuer shall, not less than forty-five (45) days prior to the date selected for redemption, file with the Trustee written notice of its intention to redeem, designating the date fixed for redemption, and if less than all of the outstanding Series 202_ Bonds are to be redeemed stating the aggregate principal amount of Bonds which the Issuer desires to

redeem. No failure or defect in such notice by the Issuer to the Trustee shall affect the validity of the redemption of any Series 202_ Bonds.

Section 5.3. Notice to Bondholders . In the case of redemption of Series 202_ Bonds pursuant to Section 5.1 hereof, unless waived by the Registered Owners of the Series 202_ Bonds to be redeemed, notice of the call for any such redemption identifying the Series 202_ Bonds, or portions of fully registered Series 202_ Bonds, to be redeemed shall be given by mailing a copy of the redemption notice by first class mail not less than thirty (30) days nor more than sixty (60) days prior to the date fixed for redemption to the registered Owner of each Series 202_ Bond to be redeemed at the address shown on the registration books. Such notice of redemption shall specify the redemption date, redemption price, interest rate, maturity date and the name and address of the Trustee and the Paying Agent and in the event of a partial redemption, the Series 202_ Bond numbers and called amounts of each Series 202_ Bond; provided, however, that failure to give such notice by mailing, or any defect therein, with respect to any such registered Series 202_ Bond shall not affect the validity of any proceedings for the redemption of other Series 202_ Bonds.

On and after the redemption date specified in the aforesaid notice, such Series 202_ Bonds, or portions thereof, thus called shall not bear interest, 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 to receive only the redemption price thereof plus accrued interest thereon to the date fixed for redemption.

Section 5.4. Cancellation . All Series 202_ Bonds which have been redeemed in whole shall be canceled and cremated or otherwise destroyed by the Trustee and shall not be reissued in accordance with the Trustee's destruction policy then in effect.

Section 5.5. Redemption Payments . Prior to the date fixed for redemption in whole, funds shall be deposited with Trustee to pay, and Trustee is hereby authorized and directed to apply such funds to the payment of the Series 202_ Bonds or portions thereof called, together with accrued interest thereon to the redemption date. Upon the giving of notice and the deposit of funds for redemption, interest on the Series 202_ Bonds thus called shall no longer accrue after the date fixed for redemption. No payment shall be made by the Paying Agent upon any Series 202_ Bond until such Series 202_ Bond shall have been delivered for payment or cancellation or the Trustee shall have received the items required by Section 2.9 hereof with respect to any mutilated, lost, stolen or destroyed Series 202_ Bond.

Section 5.6. Partial Redemption of Bonds . If fewer than all of the Series 202_ Bonds at the time outstanding are to be called for redemption, such partial redemption shall be applied in inverse order of maturity or sinking fund redemption date. If fewer than all of the Series 202_ Bonds within a maturity are to be redeemed, the Series 202_ Bonds shall be redeemed in inverse order of maturity or mandatory sinking fund redemption date. The Trustee shall call for redemption in accordance with the foregoing provisions as many Series 202_ Bonds or portions thereof as will, as nearly as practicable, exhaust the moneys available therefor. Particular Series 202_ Bonds or portions thereof shall be redeemed only in the minimum principal amount of \$5,000 or integral multiples thereof.

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

(End of Article V)

ARTICLE VI.

GENERAL COVENANTS

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

Section 6.2. Performance of Covenants . The Issuer covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Bond executed, authenticated and delivered hereunder and in all proceedings of its members pertaining thereto. The Issuer represents that it is duly authorized under the constitution and laws of the State of Indiana to issue the Bonds authorized hereby and to execute this Indenture, and to pledge and assign the Series 202_ Note, pledge and assign the Lease Rental Payments, and assign the Loan Agreement in the manner and to the extent herein set forth; that all action on its part for the issuance of the Bonds and the execution and delivery of this Indenture has been duly and effectively taken, and that the Bonds in the hands of the holders and owners thereof are and will be valid and enforceable obligations of the Issuer according to the import thereof, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws, judicial decisions and principles of equity relating to or affecting creditors'

rights generally and subject to the valid exercise of the constitutional powers of the Issuer, the State of Indiana and the United States of America.

Section 6.3. Ownership; Instruments of Further Assurance . The Issuer represents that at the time of the pledge and assignment thereof it will lawfully own the Series 202_ Note and that such pledge and assignment and the assignment of the Loan Agreement to the Trustee hereby made will be valid and lawful. The Issuer covenants that it will defend the title to the Series 202_ Note and its interest in the Loan Agreement to the Trustee, for the benefit of the holders and owners of the Bonds against the claims and demands of all persons whomsoever. The Issuer covenants that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such indentures supplemental hereto and such further acts, instruments and transfers as the Trustee may reasonably require for the better assuring, transferring, mortgaging, conveying, pledging, assigning and confirming unto the Trustee, the Series 202_ Note, the Loan Agreement and all payments thereon and thereunder pledged hereby to the payment of the principal of, premium, if any, and interest on the Bonds.

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

Section 6.5. Leased Premises . The Issuer covenants that it will cause the Borrower to maintain, or cause to be maintained, the Leased Premises in good working condition for the uses for which the Leased Premises are intended.

Section 6.6. List of Bondholders . The Trustee will keep on file at the designated corporate trust 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 Borrower or by holders and/or owners (or a designated representative thereof) of 25% or more in principal amount of Bonds then outstanding, such ownership and the authority of any such designated representative to be evidenced to the satisfaction of the Trustee.

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

Section 6.8. Investment of Funds . Moneys in the Funds established hereunder may be invested in Qualified Investments to the extent and in the manner provided for in Section 3.7 of the Loan Agreement. The Trustee shall not be liable or responsible for any loss resulting

from any such investment. The interest accruing thereon and any profit realized from such investments shall be credited, and any loss resulting from such investments shall be charged to the fund in which the money was deposited. In the absence of written direction from the Issuer, the Trustee shall invest funds in Fidelity Government Money Market Class III Fund #657 (CUSIP #316175603), which is hereby deemed to be a Qualified Investment.

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

Any moneys so deposited with and held by the Paying Agent not so applied to the payment of Bonds within five (5) years after the date on which the same shall escheat in accordance with State of Indiana law.

Section 6.10. Insurance on Leased Premises . Pursuant to Section 3.3 of the Loan Agreement, the Borrower covenants that it will maintain or cause to be maintained certain insurance with respect to the Leased Premises. In case the Borrower at any time refuses, neglects, or fails to obtain certificates of insurance or to effect the insurance as set forth above, the Trustee may, in its discretion, procure such certificates or insurance, and all moneys paid by the Trustee for such certificates or insurance, together with interest thereon at the highest rate of interest on any of the Bonds when sold, whether or not then outstanding, shall be repaid by the Borrower upon demand, and shall constitute an additional indebtedness of the Borrower secured by the lien of this Indenture, prior and paramount to the lien hereunder of said Bonds and interest thereon. The Trustee may require, as a condition of procuring such insurance full indemnification against the expense thereof and full payment of the means therefor.

Section 6.11. Condemnation . (a) In the event all or part of the Leased Premises is taken by exercise of the power of eminent domain, the Borrower shall apply the net proceeds of any condemnation award to the replacement or reconstruction of the Leased Premises.

(b) In the event the Borrower does not commence to replace or reconstruct the Leased Premises as contemplated by the Lease, within ninety (90) days from the date of entry of a final order in any eminent domain proceeding, or the Borrower, having commenced such work of replacement or reconstruction, abandons or fails diligently to prosecute the same, the Trustee may, if provided indemnification satisfactory to the Trustee together with the written direction from the Requisite Bondholders, make or complete such repairs, replacements or reconstructions, and if it shall elect to do so, may enter upon said premises to any extent necessary for the accomplishment of such purposes, provided, nothing contained herein shall obligate the Trustee to make or complete any such replacements or reconstructions, and provided further, the Trustee may not make or complete such replacements or reconstructions if the Issuer has instructed the Borrower not to undertake such work in accordance with the Lease.

(c) In case the Borrower fails or refuses to proceed forthwith in good faith with the replacement or reconstruction of the Leased Premises which has been taken by eminent domain, and such negligence, failure or refusal continues for one hundred twenty (120) days, upon receipt of the eminent domain award proceeds, the Trustee shall (unless the Trustee proceeds to make the replacements or reconstructions as above provided) apply such proceeds in the following manner:

(i) If the proceeds are sufficient to redeem all of the then outstanding Bonds, the Trustee shall apply the proceeds to the redemption of such Bonds at any time, in the manner provided in Article IV of this Indenture but without premium or penalty and without regard to whether the Bonds are then subject to optional redemption, and with the same force and effect as if such redemption had been made at the option of the Borrower.

(ii) If the proceeds are not sufficient to redeem all of the then outstanding Bonds, the Trustee shall apply the proceeds to the partial redemption of outstanding Bonds at any time, without premium or penalty and without regard to whether the Bonds are then subject to optional redemption.

Any redemption of the Bonds shall be accomplished such that the Lease Rental Payments received from the remaining Leased Premises which have not been so taken by eminent domain shall be sufficient to pay the principal of and interest on the Bonds which have not been redeemed pursuant to this Section 6.11(c), as certified in writing to the Trustee by an Authorized Issuer Representative and Authorized Borrower Representative.

(End of Article VI)

ARTICLE VII.

DEFAULTS AND REMEDIES

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

(a) payment of any principal or interest payable on the Bonds shall not be made when the same is due and payable, whether at the stated maturity thereof, or upon proceedings for the redemption thereof, or upon the maturity thereof by acceleration as hereinafter provided; or

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

(c) the Issuer shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bonds or in this Indenture or any agreement supplemental hereof on the part of the Issuer to be performed, and such default shall continue for sixty (60) days after written notice specifying such default and requiring the same to be remedied shall have been given to the Issuer and the Borrower 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

(d) the Issuer shall fail to apply collected Lease Rental Payments as required by Article IV of this Indenture.

Section 7.2. Acceleration . Upon the happening of any event of default specified in Section 7.1 and the continuance of the same for the period, if any, specified in that Section, the Trustee, by notice in writing delivered to the Issuer and the Borrower, shall declare the entire unpaid principal amount of the Bonds then outstanding, and the interest accrued thereon, to be immediately due and payable. The Redevelopment Commission’s obligation to pay Lease Rental Payments shall not be subject to acceleration.

Section 7.3. Remedies; Rights of Bondholders .

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

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

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

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

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

Section 7.4. Right of Bondholders to Direct Proceedings . Anything in this Indenture to the contrary notwithstanding, 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 this Indenture, and provided that the Trustee is obligated to pursue its remedies under the provisions of Section 7.2 hereof before any other remedies are sought.

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

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

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

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

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

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

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

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

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

Section 7.7. Rights and Remedies of Bondholders . No holder of any Bond shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust thereof or for the appointment of a receiver or any other remedy hereunder, unless a default has occurred of which the Trustee has been notified as provided in subsection (g) of Section 8.1, or of which by said subsection it is deemed to have notice, nor unless also such default shall have become an event of default and 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 Issuer to pay the principal of and interest on each of the Bonds issued hereunder to the respective holders thereof at the time, place, from the source and in the manner in said Bonds expressed.

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

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

(End of Article VII)

ARTICLE VIII.

THE TRUSTEE AND PAYING AGENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 8.2. Fees, Charges and Expenses of Trustee and Paying Agent . The Trustee and Paying Agent shall be entitled to payment and/or reimbursement for fees for its services rendered hereunder and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by the Trustee or Paying Agent in connection with such services as provided herein and in the Loan Agreement. Upon an event of default, but only upon an event of default, the Trustee shall have a right of payment prior to payment on account of interest or principal of, or premium, if any, on any Bond for the foregoing advances, fees, costs and expenses incurred. In the event of bankruptcy of the Issuer, any fees and expenses of the Trustee shall constitute administrative expenses.

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

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

Section 8.5. Successor Trustee . Any corporation or association into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or

transfer to which it is a party, ipso facto, shall be and become successor Trustee hereunder and vested with all of the title to the whole property or trust estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

Section 8.6. Resignation by the Trustee. The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving thirty (30) days' written notice to the Issuer and the Borrower 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 designated corporate trust office of the Trustee, and such resignation shall take effect at the end of such thirty (30) days, or upon the earlier appointment of a successor Trustee by the Bondholders or by the Issuer. Such notice to the Issuer and the Borrower may be served personally or sent by registered or certified mail.

Section 8.7. Removal of the Trustee. The Trustee may be removed at any time by an instrument or concurrent instruments in writing delivered to the Trustee signed by (i) the Issuer if no event of default has occurred and is continuing unremedied or unwaived; or (ii) the Requisite Bondholders. All fees and expenses of the Trustee shall be paid prior to its removal becoming effective.

Section 8.8. Appointment of Successor Trustee by the Bondholders; Temporary Trustee. In case the Trustee hereunder shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by the owners of a majority in aggregate principal amount of Bonds then outstanding, by an instrument or concurrent instruments in writing signed by such owners, or by their attorneys-in-fact, duly authorized; provided, nevertheless, that in case of such vacancy, the Issuer, by an instrument executed by one of its duly authorized officers, may appoint a temporary Trustee to fill such vacancy until a successor Trustee shall be appointed by the Bondholders in the manner above provided; and any such temporary Trustee so appointed by the Issuer shall immediately and without further act be superseded by the Trustee so appointed by such Bondholders. If a successor Trustee has not been appointed within thirty (30) days of the notice of resignation or removal of the Trustee, the Trustee may appoint a successor or may petition a court of competent jurisdiction for the appointment of a successor, and any such action of a court shall be binding upon the parties. Every such Trustee appointed pursuant to the provisions of this Section shall be a trust company or bank, having a reported capital and surplus of not less than One Hundred Million Dollars (\$100,000,000) if there be such an institution willing, qualified and able to accept the trust upon reasonable or customary terms.

Section 8.9. Concerning Any Successor Trustees. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Issuer and the Borrower an instrument in writing accepting such appointment hereunder, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor; but such predecessor shall, nevertheless, on the written request of the Issuer, or of its successor, execute and deliver an instrument transferring to such successor Trustee all the estates, properties,

rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its successor. Should any instrument in writing from the Issuer be required by any successor Trustee for more fully and certainly vesting in such successor the estate, rights, powers and duties hereby vested or intended to be vested in the predecessor any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article shall be filed by the successor Trustee in each office, if any, where the Indenture shall have been filed.

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

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

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

Section 8.12. Indemnification Section 8.13. . To the extent permitted by law, the Issuer hereby agrees to indemnify and save harmless the Trustee from all losses, liabilities, costs, and expenses, including attorney fees and expenses, which may be incurred by it as a result of its acceptance of or arising from the performance of its duties hereunder, unless such losses, liabilities, costs, and expenses shall have been finally adjudicated to have resulted from the bad faith or gross negligence of the Trustee, and such indemnification shall survive its resignation or removal of the Trustee or the defeasance of this Indenture.

(End of Article VIII)

ARTICLE IX.

SUPPLEMENTAL INDENTURES

Section 9.1. Supplemental Indentures Not Requiring Consent of Bondholders .

The Issuer and the Trustee may without the consent of, or notice to, any of the Bondholders, enter into an indenture or indentures supplemental to this Indenture, as shall not be inconsistent with the terms and provisions hereof, for any one or more of the following purposes:

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

Section 9.2. Supplemental Indentures Requiring Consent of Bondholders .

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

of the holders of all the Bonds at the time outstanding which would be affected by the action to be taken, or (e) a modification of the rights, duties or immunities of the Trustee, without the written consent of the Trustee, or (f) a privilege or priority of any Bond over any other Bonds, or (g) a derivation of the Owners of any Series 202_ Bonds then Outstanding of the lien thereby created.

Anything herein to the contrary notwithstanding, a supplemental indenture under this Article which materially affects any rights of the Borrower shall not become effective unless and until the Borrower 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 Borrower at least fifteen (15) days prior to the proposed date of execution and delivery of any such supplemental indenture.

Section 9.3. Opinion of Counsel Section 9.4. . The Trustee shall receive prior to its entry into any supplemental indenture under this Article IX, and shall be fully protected in relying upon, the opinion of any counsel approved by it who may be counsel for the Issuer, as conclusive evidence that any such proposed supplemental indenture complies with the provisions of this Indenture, and that it is proper for the Trustee, under the provisions of this Article IX, to join in the execution of such supplemental indenture.

(End of Article IX)

ARTICLE X.

AMENDMENTS TO THE LOAN AGREEMENT

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

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

Section 10.3. No Amendment May Alter Notes . Under no circumstances shall any amendment to the Loan Agreement alter the Notes or the payments of principal and interest thereon, without the consent of the holders of all the Bonds at the time outstanding.

Section 10.4. Opinion of Counsel Section 10.5. . The Trustee shall receive prior to its consent to any amendment to the Loan Agreement under this Article X, and shall be fully protected in relying upon, the opinion of any counsel approved by it, who may be counsel for the Issuer, as conclusive evidence that any such proposed amendment to the Loan Agreement complies with the provisions of this Indenture, and that it is proper for the Trustee, under the provisions of this Article X, to consent to such Loan Agreement amendment.

(End of Article X)

ARTICLE XI.

MISCELLANEOUS

Section 11.1. Satisfaction and Discharge . All rights and obligations of the Issuer and the Borrower under the Loan Agreement, the Notes and this Indenture shall terminate, and such instruments shall cease to be of further effect, and the Trustee shall cancel the Notes and deliver them to the Borrower, shall execute and deliver all appropriate instruments evidencing and acknowledging the satisfaction of this Indenture, and shall assign and deliver to the Borrower any moneys and investments in all Funds established hereunder (except moneys or investments held by the Trustee for the payment of principal of, interest on, or premium, if any, on the Bonds) when

- (a) all fees and expenses of the Trustee and the Paying Agent shall have been paid;
- (b) the Issuer and the Borrower shall have performed all of their covenants and promises in the Loan Agreement, the Notes and in this Indenture; and
- (c) all Bonds theretofore authenticated and delivered (i) have become due and payable, or (ii) are to be retired or called for redemption under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee at the expense of the Borrower, 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.

Provided, however, none of the Bonds may be advance refunded if such advance refunding is not permitted by the laws of the State of Indiana.

Section 11.2. Defeasance of Bonds . Any Bond shall be deemed to be paid and no longer Outstanding within the meaning of this Article and for all purposes of this Indenture when (a) payment of the principal and interest of and premium, if any, on such Bond either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by irrevocably depositing with the Trustee in trust and irrevocably set aside exclusively for such payment, (1) cash sufficient to make such payment, (2) Government Obligations, maturing as to principal and interest in such amounts and at such times as will insure the availability of sufficient moneys to make such payment, or (3) a combination of cash and such Government Obligations, and (b) all necessary and proper fees, compensation, indemnities and expenses of the Trustee and the Issuer pertaining to the Bonds with respect to which such deposit is made shall have been paid or the payment thereof provided for. At such time as a Bond shall be deemed to be paid hereunder, as aforesaid, such Bond shall no longer be secured by or entitled to the benefits of this Indenture, except for the purposes of any such payment from such moneys or Government Obligations.

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

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

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

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

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

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

Section 11.4. Application of Trust Money . All money or investments deposited with or held by the Trustee pursuant to Section 11.1 shall be held in trust for the holders of the Bonds, and applied by it, in accordance with the provisions of the Bonds and this Indenture, to the payment, either directly or through the Paying Agent, to the persons entitled thereto, of the

principal (and premium, if any) and interest for whose payment such money has been deposited with the Trustee; but such money or obligations need not be segregated from other funds except to the extent required by law.

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

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

(b) The fact of the holding by any person of Bonds transferable by delivery and the amounts and numbers of such Bonds, and the date of the holding of the same, may be proved by a certificate executed by any trust Borrower, bank or bankers, wherever situated, stating that at the date thereof the party named therein did exhibit to an officer of such trust Borrower 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 Borrower, before taking any action based on such ownership. In lieu of the foregoing, the Trustee may accept other proofs of the foregoing as it shall deem appropriate.

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

Section 11.6. Limitation of Rights . With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture, or the Bonds is intended or shall be construed to give to any person other than the parties hereto, and the Borrower, 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 Borrower and the holders of the Bonds as herein provided.

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

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

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

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

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

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

Section 11.13. Reconstruction or Substitution of Leased Premises . If all or a portion of the Leased Premises shall be damaged or destroyed or subject to condemnation, the Borrower, shall have certain rights and obligations to reconstruct or substitute other property for such Leased Premises, pursuant to and subject to the terms and conditions set forth in the Lease.

(End of Article XI)

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

CITY OF FISHERS, INDIANA

By: _____
Mayor

(SEAL)

Attest:

Controller

_____, as Trustee

By: _____
(Written Signature)

(Printed Signature)

Attest:

(Written Signature)

(Printed Signature)

[Signature Page of Trust Indenture]

EXHIBIT A

CONSTRUCTION ACCOUNT DISBURSEMENT REQUEST

CITY OF FISHERS, INDIANA
TAXABLE ECONOMIC DEVELOPMENT REVENUE BOND,
SERIES 202_ (DISTRICT SOUTH PROJECT)

Request for Disbursement from Construction Account

Request No. ____

Attn: Corporate Trust Services

THE UNDERSIGNED hereby certifies that he/she is an Authorized Borrower Representative within the respective meanings of the Trust Indenture, dated as of _____ 1, 2023 (the "Trust Indenture"), between the City of Fishers, Indiana and _____, as trustee (the "Trustee"). Terms used in this Request and not defined in this Request are used with the meanings ascribed to such terms in the Trust Indenture.

Pursuant to Section 4.3(c) of the Trust Indenture, the Borrower hereby orders the Trustee to pay the Financed Project Costs, as described on Schedule 1 to this Request.

IN SUPPORT OF THIS REQUEST, the undersigned Authorized Borrower Representative of the Borrower certifies as follows:

1. The aggregate costs or obligations set forth in this Request (a) have been made or incurred, (b) were necessary for the construction of the Project, and (c)(i) were made or incurred in accordance with the effective construction contracts, plans and specifications or purchase contracts or (ii) are for otherwise allowable Financed Project Costs;
2. The amount(s) paid or to be paid is(are) reasonable and represent(s) a part of the amount(s) payable for the Financed Project Costs; and such payment(s) was(were) made in accordance with the terms of any contracts applicable thereto and in accordance with usual and customary practice under existing conditions;
3. No part of such costs or obligations was included in any written request previously filed with the Trustee under the provisions of the Trust Indenture;
4. Exhibit A to this Request is a "recap" of the vendors and the respective amounts paid or to be paid pursuant to this Request; and

5. Such costs are appropriate for the expenditure of proceeds of the Bonds under the Act.

Date: _____

FISHERS TOWN HALL BUILDING
CORPORATION

By: _____

Printed: _____

Title: _____

EXHIBIT A

<u>Payee</u>	<u>Purpose</u>	<u>Amount</u>



Council Action Form

MEETING DATE	October 9, 2023			
TITLE	Ordinance Authorizing the Issuance of the City of Fishers, Indiana Taxable Economic Development Revenue Bonds, Series 202_ (District South Project), and the Lending of the Proceeds Thereof to the Borrower Thereof and Authorizing and Approving other Actions in Respect Thereto			
SUBMITTED BY	Name & Title: Lisa Bradford, City Controller Department:			
MEETING TYPE	☐ Work Session ☐ Executive	☒ Regular	☐ Special	☐ Retreat
AGENDA CLASSIFICATION	☐ Consent	☒ Ordinance	☐ Resolution	☐ Regular
ORDINANCE/RESOLUTION (New ordinances or resolutions are assigned a new number)	☒ 1 st Reading	☐ 2 nd Reading	☐ Public Hearing	☐ 3 rd Reading ☐ Final Reading
	Ordinance #: 100923A		Resolution #:	
CONTRACTS (Contracts include other similar documents such as agreements and memorandum of understandings. <u>Check all applicable boxes pertaining to contracts</u>)	☐ Contract required for this item		☐ Signed copy of contract attached	
	☐ Seeking award or other scenario & will provide contract at a later date		☒ No contract for this item	
	☐ Contract over \$50,000 Please mark the box in the other column that pertains to this contract.		☐ Services ☐ Capital Outlay ☐ Debt Services	
HAMILTON COUNTY (Some documents need recorded by the City Clerk)	☐ Document must be recorded with the County Recorder's Office ☐ Wait 31 days prior to filing with the County Recorders' Office		☒ Document does not need recorded with the County Recorder's Office	

APPROVALS/REVIEWS	☐ Assistant/Deputy Department Head	☒ Controller's Office
	☐ Department Head	☒ Finance Committee
	☐ Deputy Mayor	☐ Technical Advisory Committee
	☐ Mayor	☐ Other:
	☒ Legal Counsel – Name of Reviewer: Rick Hall, Barnes and Thornburg, LLP	
BACKGROUND (Includes description, background, and justification)	Ordinance approves the issuance of Taxable Economic Development Revenue Bonds of the City in an amount not to exceed \$12,000,000 and the lending of the proceeds thereof to the Town Hall Building Corporation for the purpose of financing the acquisition, construction, renovation and equipping of a new mixed-use development, including multi-family residential units and commercial space, and the completion of related improvements and the payment of financing costs (the "Project"). The maximum term of the Bonds is 20 years, and the debt service will be payable from loan payments of the Town Hall Building Corporation, secured by lease rentals received by the Town Hall Building Corporation pursuant to a lease with the Redevelopment Commission, which lease is payable from TIF revenues and, if necessary, from property taxes (such lease is recommended for approval by the Common Council through a separate resolution). the Town Hall Building Corporation will also consider the terms of the lease as presented to the Common Council; the Redevelopment Commission will approve the lease, following a public hearing, at its October 30, 2023 meeting; and the EDC will hold a public hearing on the Bonds after which the EDC may give their approval the Bonds.	
BUDGETING AND FINANCIAL IMPACT (Includes project costs and funding sources)	Budgeted \$:	N/A
	Expenditure \$:	N/A
	Source of Funds:	Taxable Economic Development Revenue Bonds of the City in an amount not to exceed \$12,000,000.
	Additional Appropriation #:	N/A
	Narrative:	N/A
OPTIONS (Include Deny Approval Option)	1.	Hold first reading of the Ordinance
	2.	
	3.	
	4.	
PROJECT TIMELINE	The Bonds are anticipated to be issued in December	
STAFF RECOMMENDATION (Board reserves the right to accept or deny recommendations)	Staff recommends that the Common Council holds its first reading of the Ordinance at this meeting.	
SUPPLEMENTAL INFORMATION (List all attached documents)	1. Ordinance 2.Exhibit A - Form of Trust Indenture (approved within Ordinance) 3.Exhibit B - Form of Loan Agreement (approved within Ordinance)	

