

ORDINANCE NO. 2022-__

**ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF
LEBANON, INDIANA, AUTHORIZING THE CITY OF LEBANON,
INDIANA TO ISSUE CERTAIN ECONOMIC DEVELOPMENT LEASE
RENTAL BONDS AND AUTHORIZING AND APPROVING OTHER
ACTIONS IN CONNECTION THEREWITH**

(Fieldhouse Project and Public Infrastructure Project)

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

WHEREAS, the Lebanon Public Building Corporation (the “Building Corporation”) was established as a nonprofit corporation for the purpose, among others, of financing and leasing of buildings and other capital improvements in the City; and

WHEREAS, to foster economic development, the City, the Lebanon Redevelopment Commission (the “Redevelopment Commission”), the Building Corporation and Card Associates Athletic Facilities, LLC or its affiliates or designees (collectively, the “Developer”) desire to provide for the acquisition, construction, installation and equipping of an approximate 190,000 square foot indoor sports complex featuring eight (8) basketball/volleyball courts, two fields to support football soccer, rugby, lacrosse, baseball and softball and include mezzanine space, weight facilities, concession space, classroom space, tenant space, and pitching and hitting tunnels, as well as ancillary uses such as conventions and wholesales (the “Fieldhouse Project”), together with public infrastructure improvements consisting of roads, a lift station, water mains, drainage and related improvements including, but not limited to, a primary road, SR39 intersection signal improvements, single and dual lane roundabouts, local lift station, drainage and 8"/12" water mains (the “Public Infrastructure Project”), to be constructed by the Developer at or near the southeast corner of I-65 and SR39 in the City; and

WHEREAS, to induce Developer to complete the Fieldhouse Project and the Public Infrastructure Project (collectively, the “Projects”), the City desires to issue its (i) Taxable Economic Development Lease Rental Bonds, Series 2022A (Fieldhouse Project), in one or more series, in an aggregate principal amount not to exceed Thirty-Five Million Dollars (\$35,000,000) (the “Series A Bonds”), and lend the proceeds of the Series A Bonds to the Building Corporation for the purpose of paying all or a portion of the costs of the Fieldhouse Project, capitalized interest on the Series A Bonds, a debt service reserve funded from proceeds of the Series A Bonds or by purchase of a surety policy, if necessary, and costs of issuance of the Series A Bonds and (ii) Economic Development Lease Rental Bonds, Series 2022B (Public Infrastructure Project), in one or more series, in an aggregate principal amount not to exceed Sixteen Million Dollars (\$16,000,000) (the “Series B Bonds”) (Public Infrastructure Project), and lend the proceeds of the Series B Bonds to the Building Corporation for the purpose of paying all or a portion of the costs of the Public Infrastructure Project, capitalized interest on the Series B Bonds, a debt service

reserve funded from proceeds of the Series B Bonds or by the purchase of a reserve surety policy, if necessary, and costs of issuance of the Series B Bonds; and

WHEREAS, the Series A Bonds will be payable from note payments made by the Building Corporation under a loan agreement, between the City and the Building Corporation, and the lease payments made by the Redevelopment Commission, as lessee, under a certain lease agreement with the Building Corporation, as lessor (the “Fieldhouse Lease Obligation”), will enable the Building Corporation to make such note payments to pay debt service on the Series A Bonds; and

WHEREAS, the City is the recipient of local income taxes imposed under Indiana Code 6-3.6 (the “LIT Statute”), classified as the certified shares component of additional revenue derived from the expenditure tax rate under the LIT Statute and distributed monthly to the City pursuant to Indiana Code 6-3.6-9 (the “LIT”); and

WHEREAS, on May 23, 2022, in accordance with Section 25.5 of the Act, the Common Council of the City (“City Council”) adopted an ordinance pledging its monthly distributive share of LIT to the payment of lease rentals due under the Fieldhouse Lease Obligation (the “Pledged LIT Revenues”), on a parity with its pledge of LIT to the payment of lease rentals for the Lebanon Public Building Corporation Lease Rental Refunding Revenue Bonds, Series 2013, dated August 13, 2012 (the “Prior LIT Obligation”);

WHEREAS, the Series B Bonds will be payable from note payments made by the Building Corporation under a loan agreement, between the City and the Building Corporation, and the lease payments made by the Redevelopment Commission, as lessee, under a certain lease agreement with the Building Corporation, as lessor, will enable the Building Corporation to make such note payments to pay debt service on the Series B Bonds; and

WHEREAS, on May 31, 2022, the Lebanon Economic Development Commission (the “Economic Development Commission”) conducted a public hearing in accordance with the Act and Indiana Code 5-3-1, and adopted its resolution finding that the financing of the Fieldhouse Project and Public Infrastructure Project (collectively, the “Projects”) comply with the purposes and provisions of the Act and that such financing will be of benefit to the health and general welfare of the City; and

WHEREAS, the Economic Development Commission has heretofore approved and recommended the adoption of this form of Bond Ordinance by this Council, has considered the issue of adverse competitive effect and has approved the forms of and has transmitted for approval by the Council, the forms of (i) a Series A Bonds Loan Agreement, between the City and the Building Corporation (including a form of Note); (ii) a Series A Bonds Trust Indenture (the “Series A Indenture”), between the City and a trustee to be selected by the City (the “Trustee”); (iii) a Series B Bonds Loan Agreement, between the City and the Building Corporation (including a form of Note); (iv) a Series B Bonds Trust Indenture (the “Series B Indenture”), between the City and the Trustee, and (v) this Bond Ordinance of the Common Council of the City (clauses (i) through (iv) and the Bond Ordinance, collectively, the “Financing Documents”);

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

Section 1. The Council hereby finds and determines that the Projects involve the acquisition, construction and equipping of “economic development facilities” as that phrase is used in the Act; that the Projects 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 Projects; and, therefore, that the financing of the Fieldhouse Project by the issue of the Series A Bonds and the Public Infrastructure Project by the issue of the Series B Bonds under the Act: (i) will be of benefit to the health and general welfare of the City and (ii) complies with the Act.

Section 2. The proposed financing of the Projects, and the financing of certain costs related to the issuance of the Series A Bonds and the Series B Bonds (collectively, the “Bonds”), capitalized interest on the Bonds, if any, and one or more reserves funded from proceeds of the Bonds or by a purchase of a surety policy, as further described in the Financing Documents, by the issuance of the Bonds, in one or more series under the Act, in the form that such financing was approved by the Economic Development Commission, is hereby approved.

Section 3. The issuance of the Bonds, payable solely from the revenues and receipts derived from the Financing Documents, is hereby authorized.

Section 4. (a) The Series A Bonds, in one or more series, in the aggregate principal amount not to exceed Thirty-Five Million Dollars (\$35,000,000), and the Series B Bonds, in one or more series, in the aggregate principal amount not to exceed Sixteen Million Dollars (\$16,000,000), shall (i) be executed at or prior to the closing date by the manual or facsimile signatures of the Mayor and the Clerk-Treasurer of the City (the “Clerk-Treasurer”); (ii) be dated as of the date of issuance; (iii) mature on a date not later than twenty-five (25) years after the date of issuance; (iv) bear interest at a rate not to exceed six and five-tenths (6.5%) if tax-exempt and not to exceed seven and five-tenths (7.5%) if taxable, with such interest to be payable as provided in the Financing Documents; (v) be issuable in such denominations as set forth in the Financing Documents; (vi) be issuable only in fully registered form; (vii) be subject to registration on the bond register as provided in each of the Series A Indenture and Series B 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 each of the Series A Indenture and Series B Indenture or at such other place designated by the City in the Financing Documents; (x) be subject to optional redemption prior to maturity, and subject to redemption as otherwise provided in the Financing Documents, including mandatory sinking fund redemption, and (xi) contain such other terms and provisions as may be provided in the Financing Documents.

(b) The Council hereby declares its intent to reimburse expenditures of the Projects with proceeds of the Bonds.

(c) Upon the advice of the City's municipal advisor, to enhance the marketability of the Bonds, bond insurance may be purchased from proceeds of the Bonds.

(d) 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 the revenues and other amounts derived from the Financing Documents. Forms of the Financing Documents are before this meeting and are by this reference incorporated in this Bond Ordinance, and the Clerk-Treasurer is hereby directed, in the name and on behalf of the City, to insert them into the minutes of the Council and to keep them on file.

Section 5. To provide for the payment of the Fieldhouse Lease Obligation over the term of the Fieldhouse Lease Obligation, there is hereby established a Fieldhouse Lease Account. On day prior to each February 1 and August 1, there shall be deposited in the Fieldhouse Lease Account an amount of Pledged LIT Revenues sufficient to pay the lease rentals on the Fieldhouse Lease Obligation over the term of the Fieldhouse Lease Obligation.

Section 6. The Mayor and Clerk-Treasurer are authorized and directed 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 the sale and approved by the Mayor and the Clerk-Treasurer. The Mayor and Clerk-Treasurer are hereby authorized to approve and execute a bond purchase agreement, if applicable, 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 7. The Mayor and the Clerk-Treasurer are hereby authorized to approve the preparation and distribution of a Preliminary Official Statement for the Bonds. The Mayor and the Clerk-Treasurer 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 Clerk-Treasurer, and to place the Preliminary Official Statement into final form as the Final Official Statement. The Mayor and the Clerk-Treasurer are hereby authorized to sign the Final Official Statement and by such signature approve its distribution.

Section 8. The Mayor and the Clerk-Treasurer are hereby authorized and directed, in the name and on behalf of the City, to execute or endorse and deliver the Financing Documents, submitted to the Council, which are hereby approved in all respects. The Clerk-Treasurer is hereby authorized and directed to select a financial institution to serve as the Trustee.

Section 9. The Mayor and the Clerk-Treasurer are hereby authorized, in the name and on behalf of the City, without further approval of the Council, to approve such changes in the Financing Documents as may be permitted by the Act, such approval to be conclusively evidenced by their execution thereof; provided, however, that no such changes shall increase the maximum issuance amount of, interest rate on or term of the Bonds as approved by the Council under this Bond Ordinance without further consideration by the Council.

Section 10. The Mayor and the Clerk-Treasurer of the City, and each of them, are hereby authorized and directed, in the name and on behalf of the City, to execute or endorse any and all agreements, documents and instruments, perform any and all acts, approve any and all matters, and do any and all other things deemed by them, or either of them, to be necessary or desirable in order to carry out and comply with the intent, conditions and purposes of this Bond Ordinance (including the preambles hereto and the documents mentioned herein), the Projects, the issuance and sale of the Bonds, and the securing of the Bonds under the Financing Documents, and any such execution, endorsement, performance or doing of other things heretofore effected be, and hereby is, ratified and approved.

Section 11. The provisions of this Bond Ordinance, the Series A Indenture securing the Series A Bonds and the Series B Indenture securing the Series B Bonds 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. All other ordinance or resolutions or parts of resolutions or ordinances in conflict herewith are hereby repealed.

Section 13. This Bond Ordinance shall be in full force and effect from and after its passage and execution by the Mayor.

Section 14. Two copies of the Financing Documents incorporated into this Bond Ordinance were duly filed in the office of the Clerk-Treasurer of the City, and are available for public inspection in accordance with Indiana Code 36-1-5-4.

* * * *

ADOPTED this _____ day of June, 2022.

LEBANON COMMON COUNCIL

Keith Campbell

Keith Campbell

Keith Campbell

John Copeland

John Copeland

John Copeland

Sierra Messenger

Sierra Messenger

Sierra Messenger

Morris Jones

Morris Jones

Morris Jones

Mike Kincaid

Mike Kincaid

Mike Kincaid

Dick Robertson

Dick Robertson

Dick Robertson

Brent Wheat

Brent Wheat

Brent Wheat

ATTEST:

Tonya Thayer, Clerk-Treasurer

I hereby certify that ORDINANCE 2022-__ was delivered to the Mayor of Lebanon on the ____ day of _____, 2022, at ____:____.m.

Tonya Thayer, Clerk-Treasurer

I hereby APPROVE ORDINANCE 2022-__
this ____ day of _____, 2022

I hereby VETO ORDINANCE 2022-__
this ____ day of _____, 2022

Matthew T. Gentry, Mayor

Matthew T. Gentry, Mayor