

**ORDINANCE NO. \_\_\_\_\_**

**ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF LEBANON, INDIANA, APPROVING A LEASE BETWEEN THE CITY OF LEBANON BUILDING CORPORATION AND THE LEBANON REDEVELOPMENT COMMISSION, PLEDGING CERTAIN LOCAL INCOME TAX REVENUES TO THE PAYMENT OF LEASE RENTAL ON SUCH LEASE AND APPROVING OTHER MATTERS RELATED THERETO**

**(Fieldhouse Project)**

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

WHEREAS, the Lebanon Public Building Corporation (the “Building Corporation”) was incorporated as an Indiana nonprofit corporation operating pursuant to Indiana Code 23-17 for the purpose of, among other things, financing buildings and other capital improvements in the City and assisting the City with redevelopment and economic development projects; and

WHEREAS, to foster continued economic development in the City, the Commission, the Building Corporation and the City 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, 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 (the “Public Infrastructure Project”), by Card Associates Athletic Facilities, LLC (the “Developer”), to be generally located at the southeast corner of I-65 and SR39; and

WHEREAS, the Developer has requested certain incentives for the Fieldhouse Project, including the issuance of economic development lease rental revenue bonds, and in connection therewith, the Common Council of the City (the “City Council”) will consider the issuance of its Taxable Economic Development Lease Rental Bonds (Fieldhouse Project), in one or more series, in an aggregate principal amount not to exceed Thirty-Five Million Dollars (\$35,000,000) (the “Fieldhouse Bonds”) to finance, through the loan of the proceeds thereof to the Building Corporation, all or a portion of the costs of the Fieldhouse Project, including capitalized interest on the Fieldhouse Bonds, a debt service reserve funded from proceeds of the Fieldhouse Bonds or a debt service reserve surety, and costs of the issuance of the Fieldhouse Bonds; and

WHEREAS, the payment of debt service on the proposed Fieldhouse Bonds will be provided by lease rental payments under a lease between the Building Corporation, as lessor, and the Commission, as lessee, the form of which is attached hereto as Exhibit A and incorporated

herein by reference (the “Lease), pursuant to which Lease the Building Corporation will lease certain roads located in the City (the “Roads”) to the Commission; and

WHEREAS, the Commission preliminarily approved a proposed form of Lease on May 9, 2022 and the date of public hearing on the proposed Lease has been set for May 31, 2022, at which the Commission will determine, (i) whether or not the lease rentals provided for under the Lease to be paid to the Building Corporation are fair and reasonable rentals, (ii) whether the service to be provided throughout the term of the Lease will serve the public purpose of the City and is in the best interest of its residents, and (iii) whether the execution of the Lease is necessary and wise, and if so found, will authorize the execution of the Lease; and

WHEREAS, the Boone County Income Tax Council has imposed a county option income tax pursuant to Indiana Code 6-3.5-6 (repealed) on the adjusted gross income of Boone County, Indiana (the “County”) taxpayers, which now has been codified at Indiana Code 6-3.6 (the “LIT Statute”) and reclassified as the certified shares component of additional revenue derived from the expenditure rate tax under the LIT Statute (the “LIT”); and

WHEREAS, Indiana Code 6-3.6-9, provides that the revenue derived from the imposition of the LIT shall be distributed monthly to the County and, upon receipt by the County, shall be distributed to the appropriate entities in accordance with the LIT Statute and the allocation ordinances adopted by each adopting body; and

WHEREAS, pursuant to Indiana Code 36-7-14-25.5, the City Council is authorized to pledge its monthly distribution of LIT received by the County (the “LIT Revenues”) to pay bonds issued under Indiana Code 36-7-14-25.1 or to pay lease rental payments on leases entered into under Indiana Code 36-7-14-25.2; and

WHEREAS, the City issued the Lebanon Public Building Corporation Lease Rental Refunding Revenue Bonds, Series 2013, dated August 13, 2013, currently outstanding in the aggregate principal amount of \$905,000, payable from lease rentals secured by a pledge of LIT Revenues (the “Prior LIT Obligation”); and

WHEREAS, the Lease provides that the rentals payable thereunder will be payable solely from LIT Revenues, but Lessee may pay the lease rentals from any other revenues legally available to the Commission as described in the Lease; and

WHEREAS, the City Council now desires to pledge the LIT Revenues to the lease rental payments due under the Lease on a parity with the Prior LIT Obligation; and

WHEREAS, the terms of the Prior LIT Obligation permit the issuance of additional obligations payable from a pledge of LIT Revenues ranking on a parity with the Prior LIT Obligation so long as certain conditions have been met; and

WHEREAS, the City, based on the advice of its financial advisor, has determined that such conditions will be met upon the issuance of the Bonds and that the Lease can therefore be issued on a parity with the Prior LIT Obligation; and

WHEREAS, the City Council has determined that it will be of public utility and benefit to pledge the LIT Revenues to secure the payment of the Lease, on a parity with the Prior LIT Obligation; and

WHEREAS, pursuant to Indiana Code 36-7-14-25.2, any lease approved by the Commission must also be approved by the City Council; and

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

Section 1. Findings; Public Benefits. The City Council hereby finds and determines that the Fieldhouse Project to be financed through the Lease will be of public utility and benefit in promoting economic development opportunities in the City.

Section 2. Approval of Lease. In accordance with 36-7-14-25.2, the City Council hereby approves the Lease attached hereto as Exhibit A, with such lease rentals due thereunder in an amount sufficient to pay the debt service on the Fieldhouse Bonds, on the following conditions: (a) the maximum term of the Lease shall be twenty-six (26) years; (b) the maximum annual lease payment during the term of the Lease shall be Three Million Seven Hundred Thousand Dollars (\$3,700,000); (c) the maximum rate of interest on the Fieldhouse Bonds to finance the Lease shall not exceed seven and five-tenths percent (7.5%) per annum; (d) the Fieldhouse Bonds may be subject to mandatory sinking fund redemption and subject to optional redemption no sooner than five (5) years after their date of issuance as established by the City, with the advice of the City's financial advisor; (e) the proceeds of the Fieldhouse Bonds will be used to fund construction of the Fieldhouse Project, capitalized interest during construction, if any, fund a debt service reserve or a debt service reserve surety, if necessary, and costs of issuance of the Bonds.

Section 3. Pledge of LIT Revenues. Pursuant to Indiana Code 36-7-14-25.5, the City hereby pledges the LIT Revenues to the payment of the Lease, on a parity with the Prior LIT Obligation. Except for the pledge of LIT, no other funds of the City are pledged to pay the Lease, and neither the full faith and credit nor the general taxing power of the City is so pledged.

Section 4. Issuance of Parity Obligations. The City reserves the right to authorize and issue bonds or incur additional lease or other obligations entitled to the pledge of LIT Revenues on a parity with the Lease and the Prior LIT Obligation and in accordance with the requirements set forth below (collectively, the "Parity Obligations"). The authorization and issuance of Parity Obligations shall be subject to the following conditions precedent:

(a) All rental payments due under the Lease and the Prior LIT Obligations and all payments on any Parity Obligations payable from LIT Revenues and junior obligations payable from LIT Revenues shall be current to date in accordance with the terms thereof, with no payment in arrears.

(b) The City shall have received a certificate prepared by an independent, qualified accountant or feasibility consultant certifying the amount of the LIT Revenues estimated to be received in each succeeding year shall be at least equal to one hundred twenty-five percent (125%)

of the lease rental and debt service requirements with respect to the Lease, the Prior LIT Obligation and the proposed Parity Obligation for each respective year during the term of the Lease, the Prior LIT Obligation and the Parity Obligations. The City shall approve and confirm the figures and estimates set forth in the above-described certificate in any resolution or ordinance authorizing the Parity Obligations.

(c) The City may issue obligations payable from LIT Revenues on a junior basis to the Lease, the Prior LIT Obligations and the Parity Obligations.

(d) Payments of any Parity Obligations or junior obligations payable from LIT Revenues (including principal maturities, mandatory sinking fund payments, lease rental payments or otherwise) shall be payable semiannually on February 1 and August 1.

(e) Except as provided in this Lease, the terms and conditions of any Parity Obligations shall be set forth in the resolution authorizing such Parity Obligations.

Section 5. Transfer of Roads. The City hereby approves of the transfer of its interest in the Roads to the Building Corporation. The Mayor and the Clerk-Treasurer are hereby authorized to take all such actions and execute and deliver any contract, agreement, certificate, instrument or other document, including a quitclaim deed, and to take any action as such person determines necessary or appropriate upon advice of counsel to accomplish transfer of the Roads to the Building Corporation.

Section 6. Effective Date. This ordinance shall be in full force and effect from and after its passage and execution by the Mayor.

[Remainder of page intentionally left blank.]

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2022.

LEBANON COMMON COUNCIL

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Keith Campbell

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Keith Campbell

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John Copeland

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Dick Robertson

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Brent Wheat

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Brent Wheat

ATTEST:

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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

EXHIBIT A

Lease