

RESOLUTION NO. 2022-04

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF LEBANON, INDIANA
APPROVING THE EXCHANGE OF REAL PROPERTY**

WHEREAS, the City of Lebanon (the “City”) is a duly formed municipal corporation within the State of Indiana, governed by its duly elected Mayor and Common Council (the “Council”); and

WHEREAS, the City is the owner of real property identified as Landlocked 11-18-1W and consisting of approximately 8.475 acres, as legally described and depicted on Exhibit A, attached hereto and incorporated herein by reference (the “City Property”); and

WHEREAS, NewCold Indianapolis, LLC has proposed exchanging 10.052 acres of its property identified as 904 Edwards Drive, Lebanon, IN 46052, as legally described and depicted on Exhibit B, attached hereto and incorporated herein by reference (the “NewCold Property”), for the City Property; and

WHEREAS, on January 10, 2022, the Lebanon Board of Public Works and Safety (“Board”) approved the exchange of the City Property for the NewCold Property (the “Exchange”) by the adoption of Resolution No. 2022-01, a copy of which is attached hereto as Exhibit C; and

WHEREAS, pursuant to Indiana Code §§ 36-1-11-3 and 7, the Board can exchange property to a non-governmental entity after advertisement following as nearly as practical the procedures prescribed by Indiana Code § 36-1-11-4, and prior approval of the City’s legislative body (as the body designated by the Mayor of the City in accordance with Indiana Code § 36-1-11-3(b)); and

WHEREAS, on January 13, 2022, the Council caused to be published in the *Lebanon Reporter* notice of the Exchange in accordance with Indiana Code § 36-1-11-7 (the “Notice”), which Notice also gave notice of a public hearing (the “Public Hearing”) on the proposed Exchange to be considered by the Council and the opportunity to have remonstrances and objections heard by the Council; and

WHEREAS, on this date, the Council conducted the Public Hearing at which the Council heard all persons interested in the proceedings and considered all written remonstrances and objections that were filed, if any; and

WHEREAS, the Council has determined that it is in the best interest of the City and its citizens to recommend approval of the Exchange to the Mayor of the City.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Lebanon, Indiana meeting in session as follows:

Section 1. The foregoing Recitals are fully incorporated herein by this reference.

Section 2. The Council, after full consideration, has reviewed the materials and information presented and hereby recommends approval of the Exchange to the Mayor of the City in accordance with Indiana Code § 36-1-11-3(b).

Section 3. Upon the execution of this Resolution, the Council hereby directs the Board to proceed with the Exchange pursuant to the requirements of Indiana Code § 36-1-11-7.

Section 4. This Resolution shall be in full force and effect immediately upon its adoption.

* * * * *

ALL OF WHICH IS ADOPTED this 24th day of January, 2022 by the Common Council of the City of Lebanon, Indiana.

Voting For

Voting Against

Abstain

Keith Campbell

Keith Campbell

Keith Campbell

John Copeland

John Copeland

John Copeland

Morris Jones

Morris Jones

Morris Jones

Mike Kincaid

Mike Kincaid

Mike Kincaid

Sierra Messenger

Sierra Messenger

Sierra Messenger

Dick Robertson

Dick Robertson

Dick Robertson

Brent Wheat

Brent Wheat

Brent Wheat

ATTEST:

Tonya Thayer, Clerk-Treasurer

I hereby certify that Resolution No. 2022-04 was delivered to the Mayor of Lebanon on the ____ day of January, 2021, at ____:____.m.

Tonya Thayer, Clerk-Treasurer

I hereby APPROVE RESOLUTION 2022-04 this ____ day of January, 2022, at ____:____.m.

I hereby VETO RESOLUTION 2022-04 this ____ day of January, 2022, at ____:____.m.

Matthew T. Gentry, Mayor

Matthew T. Gentry, Mayor

ATTEST:

Tonya Thayer, Clerk-Treasurer

This document prepared by:

Robert S. Schein, Esq.
KRIEG DEVAULT, LLP
(317) 238-6276

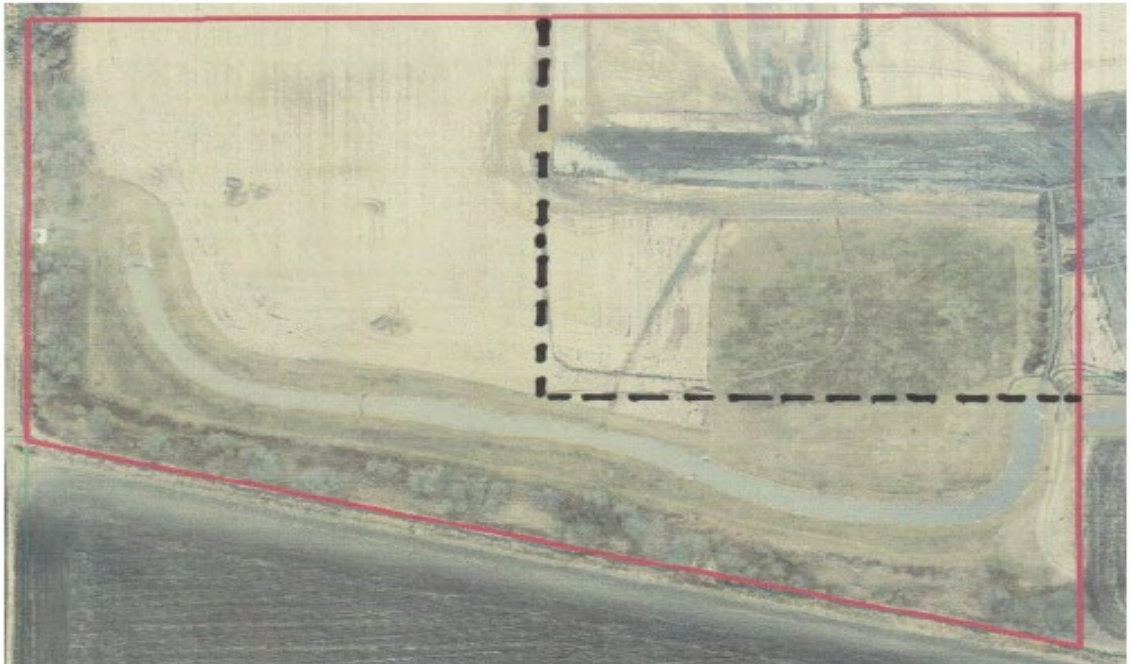
EXHIBIT A

CITY PROPERTY

Legal Description

A PART OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 18 NORTH, RANGE 1 WEST OF THE 2ND PRINCIPAL MERIDIAN, BOONE COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT A STONE FOUND AT THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 11;
THENCE NORTH 00 DEGREES 13 MINUTES 05 SECONDS WEST, A DISTANCE OF 661.56 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION;
THENCE SOUTH 00 DEGREES 13 MINUTES 05 SECONDS EAST, A DISTANCE OF 563.04 FEET;
THENCE ALONG A LINE PARALLEL TO THE SOUTH LINE OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 11, NORTH 89 DEGREES 55 MINUTES 40 SECONDS WEST, A DISTANCE OF 658.39 FEET;
THENCE NORTH 00 DEGREES 03 MINUTES 40 SECONDS WEST, A DISTANCE OF 559.71 FEET TO A POINT BEING SOUTH 89 DEGREES 45 MINUTES 55 SECONDS WEST, A DISTANCE OF 656.85 FEET FROM THE POINT OF BEGINNING;
THENCE NORTH 89 DEGREES 46 MINUTES 55 SECONDS EAST, A DISTANCE OF 656.85 FEET TO THE POINT OF BEGINNING, CONTAINING 8.475 ACRES, MORE OR LESS.
THE BEARINGS IN THIS DESCRIPTION ARE BASED UPON THE INDIANA STATE PLANE COORDINATE SYSTEM WEST ZONE (NAD83)

Depiction



Landlocked 11-18-1W

Aerial shows the approximate property boundaries for the tract of land that is the subject of this appraisal. The land area of the property totals 25 acres, with the dashed line in the northeast portion of the site representing the dividing line between the 8.475 acres that the City of Lebanon has requested a value of, and potentially intends to swap for a 10.052 acre tract on the adjoining property to the north. The remaining land south and west of the dashed lines contains 16.525 acres. The subject is identified by the Boone County Assessor as tax identification number 06-06-11-000-003.001-002. The Boone County Assessor currently shows the owner of this property as City of Lebanon Indiana. The 25 acres was sold to City of Lebanon on December 30, 2015.

EXHIBIT B
NEWCOLD PROPERTY

Legal Description

A PART OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 18 NORTH, RANGE 1 WEST OF THE 2ND PRINCIPAL MERIDIAN, BOONE COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT A STONE FOUND AT THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 11;
THENCE NORTH 00 DEGREES 13 MINUTES 05 SECONDS WEST, A DISTANCE OF 661.56 FEET;
THENCE SOUTH 89 DEGREES 46 MINUTES 55 SECONDS WEST, A DISTANCE OF 656.85 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION;
THENCE CONTINUING SOUTH 89 DEGREES 46 MINUTES 55 SECONDS WEST, A DISTANCE OF 661.43 FEET TO THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 11;
THENCE ALONG SAID WEST LINE, NORTH 00 DEGREES 02 MINUTES 11 SECONDS WEST, A DISTANCE OF 663.77 FEET TO THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 11;
THENCE ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 11, SOUTH 89 DEGREES 55 MINUTES 58 SECONDS EAST, A DISTANCE OF 661.14 FEET TO A POINT BEING NORTH 00 DEGREES 03 MINUTES 40 SECONDS WEST FROM THE POINT OF BEGINNING;
THENCE SOUTH 00 DEGREES 03 MINUTES 40 SECONDS EAST, A DISTANCE OF 660.48 FEET TO THE POINT OF BEGINNING, CONTAINING 10.052 ACRES, MORE OR LESS.
THE BEARINGS IN THIS DESCRIPTION ARE BASED UPON THE INDIANA STATE PLANE COORDINATE SYSTEM WEST ZONE (NA083)

Depiction



904 Edwards Drive

Aerial shows the approximate property boundaries for the tract of land that is the subject of this appraisal. The land area of the property totals 57.162 acres, with the dashed line in the northwest portion of the site representing the dividing line between the 10.052 acres that the City of Lebanon has requested a value of, and potentially intends to swap for an 8.475 acre tract on the adjoining property to the south. The remaining land east of the dashed lines contains 47.110 acres. The subject is identified by the Boone County Assessor as tax identification number 06-06-11-000-003.000-002. The Boone County Assessor currently shows the owner of this property as Newcold Indianapolis, LLC. The 57.162 acres was sold to Newcold Indianapolis, LLC on November 4, 2020.

EXHIBIT C

RESOLUTION NO. 2022-01

**A RESOLUTION OF THE BOARD OF PUBLIC WORKS AND SAFETY OF THE CITY
OF LEBANON, INDIANA APPROVING THE EXCHANGE OF REAL PROPERTY**

(Attached)

RESOLUTION NO. 2022-01

A RESOLUTION OF THE BOARD OF PUBLIC WORKS AND SAFETY OF THE CITY OF LEBANON, INDIANA APPROVING THE EXCHANGE OF REAL PROPERTY

WHEREAS, the City of Lebanon (the "City") is a duly formed municipal corporation within the State of Indiana, governed by its duly elected Mayor and Common Council (the "Council"); and

WHEREAS, the Lebanon Board of Public Works and Safety ("Board") was created pursuant to Indiana Code § 36-4-9-5; and

WHEREAS, pursuant to Indiana Code § 36-9-6-3, the Board has custody of all real property of the City; and

WHEREAS, the City is the owner of real property identified as Landlocked 11-18-1W and consisting of approximately 8.475 acres, as legally described and depicted on Exhibit A, attached hereto and incorporated herein by reference (the "City Property"); and

WHEREAS, NewCold Indianapolis, LLC has proposed exchanging 10.052 acres of its property identified as 904 Edwards Drive, Lebanon, IN 46052, as legally described and depicted on Exhibit B, attached hereto and incorporated herein by reference (the "NewCold Property"), for the City Property; and

WHEREAS, the Board has determined that the NewCold Property is more useful to the City in order to fulfill the City's long term plans for the City and that the Board is willing to exchange the City Property for the NewCold Property (the "Exchange"); and

WHEREAS, pursuant to Indiana Code §§ 36-1-11-3 and 7, the Board can exchange property to a non-governmental entity after advertisement following as nearly as practical the procedures prescribed by Indiana Code § 36-1-11-4, and prior approval of the City's legislative body (as the body designated by the Mayor of the City in accordance with Indiana Code § 36-1-11-3(b)); and

WHEREAS, the City has obtained two appraisals for the City Property and NewCold Property (the "Appraisals"); and

WHEREAS, the City and NewCold agree that no money shall be paid by either party for the Exchange; and

WHEREAS, the Board believes that the Exchange will be to the benefit of the public health and welfare, and in the best interest of the City and its citizens.

NOW, THEREFORE, BE IT RESOLVED by the Lebanon Board of Public Works and Safety of the City of Lebanon, Indiana meeting in session as follows:

Section 1. The foregoing Recitals are fully incorporated herein by this reference.

- Section 2. The exchange of title to the City Property by the City for the NewCold Property is hereby approved pursuant to Indiana Code § 36-1-11-7, subject to the Common Council's approval in accordance with Indiana Code § 36-1-11-3.
- Section 3. The Mayor of the City is authorized to execute and deliver all of the agreements, instruments, certificates, and other documents contemplated by this Resolution to be executed and delivered by the City. The Mayor of the City is further authorized to take all other lawful actions necessary in connection with the Exchange and any other matters contemplated by this Resolution.
- Section 4. Each agreement, instrument, certificate, and other document contemplated by this Resolution to be executed and delivered by the Mayor of the City on behalf of the City shall be in a form approved by, and satisfactory to, the Mayor, upon the advice of counsel, which approval and satisfaction shall be conclusively evidenced by the execution and delivery thereof by the Mayor.
- Section 5. This Resolution shall be in full force and effect immediately upon its adoption.

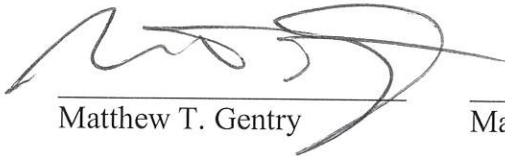
* * * * *

ALL OF WHICH IS ADOPTED this 10th day of January, 2022 by the Lebanon Board of Public Works and Safety.

Voting For

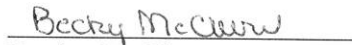
Voting Against

Abstain


Matthew T. Gentry

Matthew T. Gentry

Matthew T. Gentry


Becky McClure

Becky McClure

Becky McClure


Allen Milburn

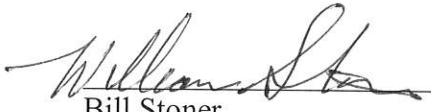
Allen Milburn

Allen Milburn


Dick Robertson

Dick Robertson

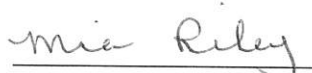
Dick Robertson


Bill Stoner

Bill Stoner

Bill Stoner

ATTEST:


Tonya Thayer, Clerk-Treasurer
Mia Riley, 1st Deputy Clerk-Treasurer

This document prepared by:

Robert S. Schein, Esq.
KRIEG DEVAULT, LLP
(317) 238-6276

**NOTICE OF PUBLIC HEARING CONCERNING
THE EXCHANGE OF REAL PROPERTY**

Notice is hereby given that the Lebanon Board of Public Works and Safety (the “Board”) of the City of Lebanon, Indiana (the “City”) on January 10, 2022 adopted Resolution No. 2022-01 authorizing the exchange of approximately 8.475 acres of part of a 25 acre parcel generally located along Middle Jamestown Road and West 200 South, Lebanon, Indiana and identified in the Boone County, Indiana property records as Parcel Number 015-01240-01 (the “City Property”) for approximately 10.052 acres of part of a 57.162 acre parcel know as 904 Edwards Drive, Lebanon, Indiana and identified in the Boone County, Indiana property records as Parcel Number 015-01240-00 (the “NewCold Property”). Based on appraisals prepared by Terzo & Bologna, Inc. and Hazeltine & Associates, Inc., the average of the appraised value of the City Property and the NewCold Property is \$301,250 and \$619,150, respectively. The Board has determined that it is in the best interest of the City and its citizens to exchange the City Property for the NewCold Property (the “Exchange”). The Board and NewCold Indianapolis, LLC have agreed that no money shall be paid by either party for the Exchange.

Notice is further given that the Common Council (the “Council”) of the City will conduct a public hearing on Monday, January 24, 2022, at 7:15 p.m. (local time) at the City of Lebanon Municipal Building located at 401 S. Meridian Street, Lebanon, Indiana 46052, to receive and hear remonstrances and objections from persons interested in or affected by the proceedings pertaining to the Exchange in accordance with Indiana Code § 36-1-11-3. At the public hearing, or at any time prior thereto, any person interested in the proceedings may file a written remonstrance with the Secretary of the Commission in the office of the Clerk-Treasurer, 401 S. Meridian Street, Lebanon, Indiana 46052.

At the public hearing, which may be adjourned from time to time, the Council will hear all persons interested in the proceedings and all remonstrance that have been filed. After considering this evidence, the Council will take final action determining whether the Mayor of the City should approve the Exchange.

Dated: January 11, 2022

LEBANON COMMON COUNCIL

[Please insert the date of publication at end of notice. To the extent you maintain an internet website, please also post on the website on the same date as publication in the newspaper.]

[Publish no earlier than January 11, 2022 and no later than January 14, 2022]