

ORDINANCE NO. 2023-35
(LEAP Phase 9 Annexation)

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF LEBANON, BOONE COUNTY, INDIANA ANNEXING CERTAIN TERRITORY TO THE CITY OF LEBANON, BOONE COUNTY, INDIANA

WHEREAS, the owner of approximately 3.31 acres of land located in unincorporated Boone County but contiguous to the City (the “LEAP Phase 9 Annexation Area”) has petitioned to have its land voluntarily annexed into the City of Lebanon (“City”); and,

WHEREAS, the Common Council of the City (the “Council”) is legally authorized to annex lands that qualify for annexation as defined in Indiana Code § 36-4-3 and is desirous of approving the annexation of the LEAP Phase 9 Annexation Area; and

WHEREAS, the LEAP Phase 9 Annexation Area is part of a transformational economic development opportunity for the State of Indiana, Boone County, and the City and the Council support the proposed development and use of the LEAP Phase 9 Annexation Area in order to attract and support new business investment, with a focus on attracting advanced manufacturing, agri-science, bioscience, and other “economy-of-the-future” businesses that will yield a diversified tax base and high paying job opportunities for local residents; and,

WHEREAS, the LEAP Phase 9 Annexation Area consists of one (1) parcel containing a total of approximately 3.31 acres owned by one (1) landowner, not including the adjacent public roadways. The LEAP Phase 9 Annexation Area is identified more particularly in **Exhibit A** and **Exhibit B**; and,

WHEREAS, the Council finds that one hundred percent (100%) of the landowners comprising the LEAP Phase 9 Annexation Area have signed and filed a voluntary annexation petition with the Council under Indiana Code § 36-4-3-5.1; and,

WHEREAS, the LEAP Phase 9 Annexation Area does not include any parcel of land for which its owner(s) have not filed an express written consent to this annexation; and,

WHEREAS, as authorized by Section 1.8(B) of the City’s Unified Development Ordinance, the Council has received and considered a Development Proposal/Concept Plan which provides sufficient information about the intended development and use of the LEAP Phase 9 Annexation Area to justify the assignment of the LEAP Lebanon Innovation Planned Unit Development District zoning classification to the annexed area; and,

WHEREAS, the City of Lebanon Advisory Plan Commission held a duly and timely noticed public hearing regarding a recommended zoning classification for the proposed annexation area at its regularly scheduled meeting on September 18, 2023 and forwarded Docket 23-68 to the Council with a favorable recommendation to assign the LEAP Lebanon Innovation Planned Unit Development District zoning classification for the LEAP Phase 9 Annexation Area; and,

WHEREAS, in accordance with Indiana Code § 36-4-3-5.1(e), on September 25, 2023, the Council held a daily and timely noticed public hearing regarding the petition for annexation of the LEAP Phase 9 Annexation Area; and,

WHEREAS, the Council has adopted a fiscal plan for the annexation of the LEAP Phase 9 Annexation Area in accordance with Indiana Code § 36-4-3-3.1 (Resolution _____); and,

WHEREAS, the Council has determined, after due consideration, that this annexation satisfies the contiguity requirements of Indiana Code § 36-4-3-1.5, as shown more particularly in **Exhibit C**, attached and incorporated here by reference; and,

WHEREAS, parts of the LEAP Phase 9 Annexation Area are contiguous to public roadways and rights-of-ways, and under Indiana Code § 36-4-3-1.5(b), those portions of such roadways and rights-of-way are to be annexed into the City; and

WHEREAS, the Council has considered the statutory criteria for annexation and finds that the legal process and requirements for this super-voluntary annexation have been satisfied; and,

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Lebanon, Boone County, Indiana, meeting in regular session, as follows:

Section 1. Incorporation. The foregoing recitals are found to be accurate and are incorporated herein by reference.

Section 2. Annexed Area. The LEAP Phase 9 Annexation Area, generally located on the west side of Interstate 65, located east of N CR 500 W, and bordered on the south by State Road 32, as depicted on Exhibit A and more particularly described in Exhibit B, is eligible for annexation into the City and is hereby declared annexed into and part of the City of Lebanon, Indiana.

Section 3. Contiguity. The LEAP Phase 9 Annexation Area meets the contiguity requirements for annexation under Indiana Code 36-4-3-1.5(a). At least one-eighth (1/8th) of the external boundaries of the LEAP Phase 9 Annexation Area coincides with and adjoins existing City boundaries. See the contiguity calculation on the attached Exhibit A and certification on Exhibit C, incorporated herein by reference. Further, the LEAP Phase 9 Annexation area forms a single, unified territory. The LEAP Phase 9 Annexation Area is to further include the contiguous public highways and rights-of-way of the public highways which are adjacent to the LEAP Phase 9 Annexation Area per Indiana Code 36-4-3-2.5 and 36-4-3-1.5(b).

Section 4. Council District. The LEAP Annexation Area is hereby assigned to Council District 3 and shall become a part thereof immediately upon the effective date of this Ordinance.

Section 5. Zoning. Upon the recommendation of the Plan Commission, the LEAP Lebanon Innovation Planned Unit Development District zoning classification is assigned for the LEAP Phase 9 Annexation Area.

Section 6. Effective Date. This Ordinance shall be in full force and effect upon its passage by the Council, required publication and filings, and upon the expiration of the applicable thirty (30) day waiting period, all as provided by the laws of the State of Indiana. All ordinances or parts thereof in conflict herewith are hereby repealed. Any portion of the Ordinance later to be found void or invalid shall not affect the remaining portions of this Ordinance.

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PASSED AND ADOPTED ON SECOND READING THIS ___ DAY OF _____,
2023.

LEBANON COMMON COUNCIL

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 ORDINANCE 2023-35 was delivered to the Mayor of Lebanon on the ___ day of _____, 2023, at ___:___ a.m./p.m.

Tonya Thayer, Clerk-Treasurer

I hereby APPROVE ORDINANCE 2023-35
this ___ day of _____, 2023.

Matthew T. Gentry, Mayor

I hereby VETO ORDINANCE 2023-35
this ___ day of _____, 2023.

Matthew T. Gentry, Mayor

ATTEST:

Tonya Thayer, Clerk-Treasurer

EXHIBIT A

Annexation Area Depiction

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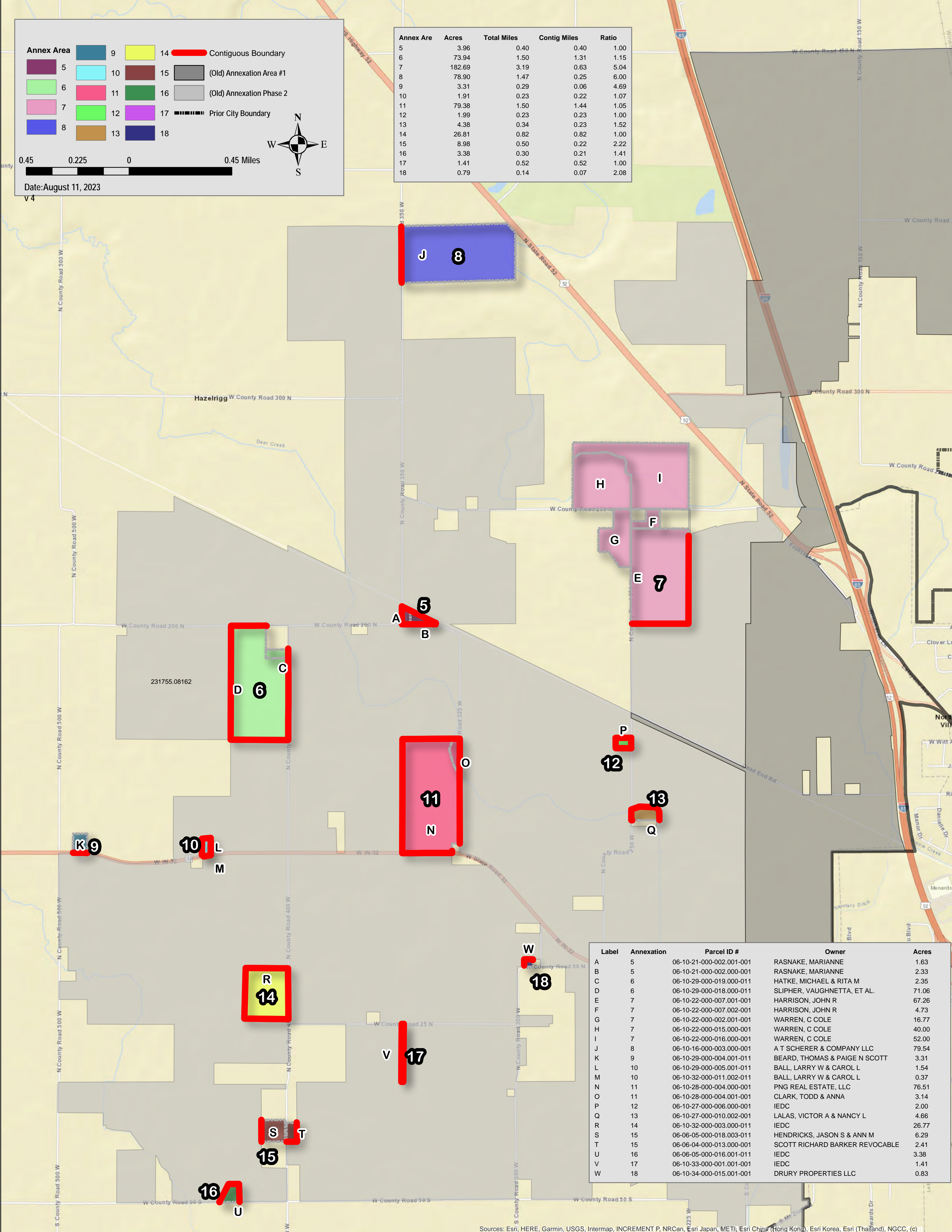
Annex Area

9	14	Contiguous Boundary
5	10	(Old) Annexation Area #1
6	11	(Old) Annexation Phase 2
7	12	Prior City Boundary
8	13	
	15	
	16	
	17	
	18	

0.45 0.225 0 0.45 Miles

Date: August 11, 2023

Annex Area	Acres	Total Miles	Contig Miles	Ratio
5	3.96	0.40	0.40	1.00
6	73.94	1.50	1.31	1.15
7	182.69	3.19	0.63	5.04
8	78.90	1.47	0.25	6.00
9	3.31	0.29	0.06	4.69
10	1.91	0.23	0.22	1.07
11	79.38	1.50	1.44	1.05
12	1.99	0.23	0.23	1.00
13	4.38	0.34	0.23	1.52
14	26.81	0.82	0.82	1.00
15	8.98	0.50	0.22	2.22
16	3.38	0.30	0.21	1.41
17	1.41	0.52	0.52	1.00
18	0.79	0.14	0.07	2.08



Label	Annexation	Parcel ID #	Owner	Acres
A	5	06-10-21-000-002.001-001	RASNAKE, MARIANNE	1.63
B	5	06-10-21-000-002.000-001	RASNAKE, MARIANNE	2.33
C	6	06-10-29-000-019.000-011	HATKE, MICHAEL & RITA M	2.35
D	6	06-10-29-000-018.000-011	SLIPHER, VAUGHNETTA, ET AL.	71.06
E	7	06-10-22-000-007.001-001	HARRISON, JOHN R	67.26
F	7	06-10-22-000-007.002-001	HARRISON, JOHN R	4.73
G	7	06-10-22-000-002.001-001	WARREN, C COLE	16.77
H	7	06-10-22-000-015.000-001	WARREN, C COLE	40.00
I	7	06-10-22-000-016.000-001	WARREN, C COLE	52.00
J	8	06-10-16-000-003.000-001	A T SCHERER & COMPANY LLC	79.54
K	9	06-10-29-000-004.001-011	BEARD, THOMAS & PAIGE N SCOTT	3.31
L	10	06-10-29-000-005.001-011	BALL, LARRY W & CAROL L	1.54
M	10	06-10-32-000-011.002-011	BALL, LARRY W & CAROL L	0.37
N	11	06-10-28-000-004.000-001	PNG REAL ESTATE, LLC	76.51
O	11	06-10-28-000-004.001-001	CLARK, TODD & ANNA	3.14
P	12	06-10-27-000-006.000-001	IEDC	2.00
Q	13	06-10-27-000-010.002-001	LALAS, VICTOR A & NANCY L	4.66
R	14	06-10-32-000-003.000-011	IEDC	26.77
S	15	06-06-05-000-018.003-011	HENDRICKS, JASON S & ANN M	6.29
T	15	06-06-04-000-013.000-001	SCOTT RICHARD BARKER REVOCABLE	2.41
U	16	06-06-05-000-016.001-011	IEDC	3.38
V	17	06-10-33-000-001.001-001	IEDC	1.41
W	18	06-10-34-000-015.001-001	DRURY PROPERTIES LLC	0.83

EXHIBIT B

Legal Description

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PHASE 9 ANNEXATION DESCRIPTION

A PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 19 NORTH, RANGE 1 WEST, JEFFERSON TOWNSHIP, BOONE COUNTY, INDIANA, MORE FULLY DESCRIBED BY: COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 29; THENCE NORTH 89°55'16" EAST, ALONG THE SECTION LINE AND THE APPROXIMATE CENTERLINE OF STATE ROAD 32, A DISTANCE OF 330.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°05'00" EAST, ALONG THE EAST DESCRIBED LINE OF THE MILLER PROPERTY, AS RECORDED BY DEED RECORD 239, PAGE 114, A DISTANCE OF 440.00 FEET; THENCE NORTH 89°55'16" EAST, A DISTANCE OF 160.00 FEET; THENCE SOUTH 00°05'00" WEST, A DISTANCE OF 440.00 FEET; THENCE SOUTH 89°55'16" WEST, ALONG THE SECTION LINE AND THE APPROXIMATE CENTERLINE OF STATE ROAD 32, A DISTANCE OF 160.00 FEET TO THE POINT OF BEGINNING, CONTAINING 1.6162 ACRES, BEING SUBJECT TO THE RIGHT OF WAY OF STATE ROAD 32, OVER AND ACROSS THE ENTIRE SOUTH BOUNDARY. AND A PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 19 NORTH, RANGE 1 WEST, JEFFERSON TOWNSHIP, BOONE COUNTY, INDIANA, MORE FULLY DESCRIBED BY: COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 29; THENCE NORTH 89°55'16" EAST, ALONG THE SECTION LINE AND THE APPROXIMATE CENTERLINE OF STATE ROAD 32, A DISTANCE OF 490.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°05'00" EAST, FOR A DISTANCE OF 440.00 FEET; THENCE NORTH 89°55'16" EAST, FOR A DISTANCE OF 167.58 FEET; THENCE SOUTH 00°05'00" WEST, A DISTANCE OF 440.00 FEET; THENCE SOUTH 89°55'16" WEST, ALONG THE SECTION LINE AND THE APPROXIMATE CENTERLINE OF STATE ROAD 32, A DISTANCE OF 167.58 FEET TO THE POINT OF BEGINNING, CONTAINING 1.6927 ACRES, SUBJECT TO THE RIGHT OF WAY OF STATE ROAD 32, ON AND ALONG THE ENTIRE SOUTH BOUNDARY.

EXHIBIT C

Surveyor's Certification of Contiguity

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AMERICAN
STRUCTUREPOINT
INC.

9025 RIVER ROAD, SUITE 200
INDIANAPOLIS, INDIANA 46240
TEL 317.547.5580
FAX 317.543.0270

August 21, 2023

Per request of the Indiana Economic Development Corporation ("IEDC"), American Structurepoint, Inc., has reviewed the information provided by, and available from, the City of Lebanon, Indiana (the "City") and the law firm of Taft, Stettinius and Hollister ("Taft") to determine whether the parcels identified in the attached map, if annexed into the City of Lebanon, would comply with the contiguity requirements set forth in IC§ 36-4-3-1.5(a).

Based upon the information available, reviewed, and provided (which is commonly relied upon in the industry), at least one-eighth (1/8) of the external boundaries of the proposed territory to be annexed ("Territory") coincides with the existing boundaries of the City, thereby satisfying the contiguity requirement of IC§ 36-4-3-1.5(a) to support the voluntary annexation of such parcels into the City.

We are available at your convenience to answer any questions or further discuss this matter.

Sincerely,
American Structurepoint, Inc.

Matthew D. Moore, PE, PMP
Vice President