

**ORDINANCE NO. 041123**

**AN ORDINANCE OF THE TOWN OF MCCORDSVILLE, INDIANA,  
APPROVING MATTERS RELATED TO LEASE FINANCING  
OF A NEW POLICE STATION PROJECT**

WHEREAS, a petition (the "Petition") in five (5) counterparts, signed by at least fifty (50) taxpayers of the Town of McCordsville, Indiana (the "Town"), has been filed with the Town Council of the Town (the "Council") requesting (i) the acquisition, construction, improvement, equipping, financing and leasing of a new police station in the Town by the McCordsville Municipal Facilities Building Corporation (the "Building Corporation"), and all necessary and related improvements (collectively, the "Project"); (ii) the leasing by the Town of the Project from the Building Corporation for the purpose of financing the Project; and (iii) the issuance of bonds by the Building Corporation to pay certain costs of the Project; and

WHEREAS, the Petition has been carefully considered and investigations have been conducted by the Council, both before and after the filing of said Petition; and

WHEREAS, the Council now finds that a need exists for the financing of the proposed Project, and that the Town cannot provide the necessary funds to pay the costs of the Project required to meet such need; and

WHEREAS, a detailed summary of the Project has been presented to the Council, together with plans, specifications and cost estimates of the Project; and

WHEREAS, a proposed lease (the "Lease") for the Project between the Building Corporation, as lessor, and the Town, as lessee, has been submitted to the Council; and

WHEREAS, it is deemed desirable to proceed with the necessary negotiations and all other steps necessary for the financing of the Project by the Building Corporation and the lease of the Project to the Town; and

WHEREAS, notice of a hearing on the Lease pursuant to the provisions of Indiana Code 36-1-10-13 and 5-3-1 has been duly published in the *Daily Reporter* and a hearing was held on the Lease on May 9, 2023 to determine the necessity for the execution of the Lease and whether the Lease rental provided is fair and reasonable rental for the Project; and

WHEREAS, Hancock County, Indiana is a recipient of a certified share of revenues under Indiana Code 6-3.6, as amended (the "LIT Statute"), and a portion of its certified share is now designated as the Town's certified shares; and

WHEREAS, the LIT Statute, specifically Indiana Code 6-3.6-6-18, permits lease payments payable from the Town's certified shares as set forth in Indiana Code 6-3.6-6-4(3) (the "LIT Certified Shares") to be made for any of the purposes of the Town as described in Indiana Code 6-3.6-6-17; and

WHEREAS, to facilitate the Project and the sale of bonds ("Bonds"), and if necessary bond anticipation notes ("BANs"), to be issued by the Building Corporation to finance the Project, the Council finds that it should pledge to the payment of lease rentals under the Lease, the LIT Certified Shares, provided that such pledge shall be on a parity with the pledge of the LIT Certified Shares to the payment of lease rentals due pursuant to the Sublease Agreement dated as of June 14, 2022, as amended on August 9, 2022, between Rebar McCord Square, LLC, as lessor and the Town, as lessee (the "2022 Lease"), and that such pledge shall be binding and effective pursuant to Indiana Code 5-1-14-4; and

WHEREAS, in the event the Building Corporation determines to issue BANs to provide interim financing for the Project, the Council finds that it should support the payment of interest on such BANs through the payment thereof from the LIT Certified Shares, on a parity with the payment of the rentals due under the 2022 Lease;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of McCordsville, Indiana, as follows:

Section 1. The Petition heretofore filed with the Council is hereby approved.

Section 2. A need exists for the financing of the costs of the Project and the Project cannot be completely financed from funds available to the Town. The Council hereby authorizes the President of the Council, the Town Manager, the Clerk-Treasurer, the Town's municipal advisor, LWG CPAs and Advisors, LLC, and the Town's bond counsel, Bose McKinney & Evans LLP, to take such steps as may be necessary to secure the acquisition, financing and leasing of the Project as provided by Indiana Code 5-23, 6-3.6 and 36-1-10, each as amended (collectively, the "Act").

Section 3. Providing for the acquisition, financing and construction of the Project by the Building Corporation and the leasing of the same to the Town is in the public interest of the citizens of the Town and is a proper public purpose for which the Council agrees to cooperate with the Building Corporation and to assist it in complying with all requirements of the Act and other applicable laws.

Section 4. The Council hereby agrees upon and approves the form of the Lease attached hereto as Exhibit A and incorporated herein by reference. The Council finds that the service and improvements to be provided throughout the term of the Lease will serve the public purposes of the Town and are in the best interests of the Town's residents. The rental provided under the Lease is fair and reasonable, and the execution of the Lease is necessary and wise. The President of the Council and the Clerk-Treasurer are hereby authorized and directed to execute the Lease on behalf of the Town.

Section 5. The Clerk-Treasurer is hereby authorized to publish notice of the execution of the Lease as soon as possible after the Lease is executed in accordance with Indiana Code 36-1-10-13 and Indiana Code 5-3-1.

Section 6. The detailed summary of and plans, specifications and cost estimates for the Project as presented at this meeting, which is to be leased by the Town from the Building Corporation, are hereby approved. The costs of the Project payable from proceeds of the Bonds, and if necessary, BANs shall not exceed \$12,000,000 without further authorization of the Council.

Section 7. The Council hereby approves the issuance by the Building Corporation of Bonds, and if necessary BANs, in the aggregate principal amount not to exceed \$12,000,000 to finance the costs of the Project, including but not limited to, the costs of acquiring the real property upon which the Project will be constructed and related financing costs. Any costs of the Project in excess of the proceeds generated from the sale of the Bonds, and if necessary, BANs will be funded from available funds on hand of the Town appropriated by the Council for such purpose.

Section 8. The Council hereby irrevocably pledges the LIT Certified Shares to the rentals due under the Lease, on a parity with the pledge of the LIT Certified Shares to the 2022 Lease, which pledge shall be valid and binding in accordance with Indiana Code 5-1-14-4. Other than its pledge to the rentals due under the 2022 Lease, the Town has not pledged or otherwise encumbered the LIT Certified Shares, and there are no prior liens, encumbrances or other restrictions on the LIT Certified Shares or on the Town's ability to pledge the LIT Certified Shares to the rentals due under the Lease.

Section 9. The Council further covenants that it will take no action to rescind or repeal the LIT Certified Shares or to take any action that would result in the Town receiving a smaller distributive share of the LIT Certified Shares than the distributive share of the LIT Certified Shares to which it was entitled on the effective date of this ordinance. The Council further covenants that it will take no action to rescind the LIT Certified Shares or reduce the LIT Certified Shares as long as the Lease remains effective or the BANs, if issued, remain outstanding.

Section 10. The Town reserves the right to enter into bonds, leases or other obligations entitled to the pledge of LIT Certified Shares on a parity with the pledge of LIT Certified Shares to pay rentals under the Lease, interest on the BANs and the 2022 Lease, in accordance with the requirements set forth below ("LIT Parity Obligations") for the purpose of raising money for future projects of the Town. The authorization and issuance of LIT Parity Obligations shall be subject to the following conditions precedent:

(a) All rental payments due under the Lease, the 2022 Lease, all payments of interest on the BANs and all payments on any LIT Parity Obligations shall be current to date in accordance with the terms thereof, with no payment in arrears;

(b) For LIT Parity Obligations the Town shall have received a certificate prepared by an independent, qualified accountant or feasibility consultant ("Certifier") certifying that the amount of the LIT Certified Shares in the most recent certified distribution for the Town from the Indiana Department of Local Government Finance (or its successor agency for such matters) shall be at least equal to one hundred thirty-five

percent (135%) of the rental requirements with respect to the Lease and the 2022 Lease, the interest requirements with respect to the BANs, any outstanding LIT Parity Obligations and the proposed LIT Parity Obligations, for each respective year during the term of the Lease, the 2022 Lease, the BANs, any outstanding LIT Parity Obligations and the proposed LIT Parity Obligations, for each respective year during the term of the Lease, the 2022 Lease, the BANs, any outstanding LIT Parity Obligations and the proposed LIT Parity Obligations. In calculating this coverage, the Certifier may take into account any increase in the LIT Certified Shares which has been approved by the Town, but which has not yet been collected or distributed to the Town. The Town shall approve and confirm the figures and estimates set forth in the above-described certificate in any resolution or ordinance authorizing the LIT Parity Obligations;

(c) Payments of any LIT Parity Obligations or junior obligations shall be payable semiannually on January 15 and July 15. The terms and conditions of any LIT Parity Obligations shall be set forth in the resolution or ordinance authorizing such LIT Parity Obligations; and

(d) So long as the BANs are outstanding and if the Indiana Bond Bank shall be the registered owner of the BANs, the Town shall have received the written consent of the Indiana Bond Bank.

Section 11. In the event the Building Corporation issues BANs to provide interim financing for the Project, the Council hereby approves and pledges to the payment of interest on the BANs the LIT Certified Shares, on a parity with the payment of the rentals due under the 2022 Lease. The pledge of the LIT Certified Shares to the payment of interest on the BANs shall be valid and binding in accordance with Indiana Code 5-1-14-4.

Section 12. The President of the Council, the Town Manager and the Clerk-Treasurer, together and/or individually, are hereby authorized and directed to execute such documents, agreements, applications and instruments as may be necessary for (i) the issuance of the Bonds and, if necessary, BANs by the Building Corporation to finance the Project, (ii) the acquisition, construction, improvement and equipping of the Project, (iii) the lease of the Project from the Building Corporation by the Town pursuant to the Lease, and (iv) the completing of all other actions necessary to carry out and effectuate the intent of this ordinance.

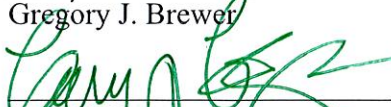
Section 13. The Council hereby declares its official intent, pursuant to Treasury Regulation §1.150-2 and Indiana Code 5-1-14-6(c), to reimburse the Town for costs incurred in connection with the Project prior to the issuance of the Bonds and, if necessary, BANs by the Building Corporation to finance the costs thereof.

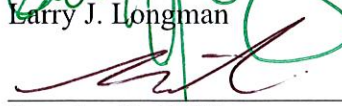
Section 14. This ordinance shall be in full force and effect from and after its passage.

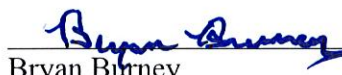
Duly ordained and passed this 9<sup>th</sup> day of May, 2023 by the Town Council of the Town of McCordsville, Hancock County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

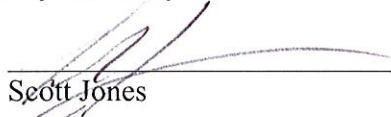
Voting Affirmative:

  
\_\_\_\_\_  
Gregory J. Brewer

  
\_\_\_\_\_  
Larry J. Longman

  
\_\_\_\_\_  
Branden D. Williams

  
\_\_\_\_\_  
Bryan Burney

  
\_\_\_\_\_  
Scott Jones

Voting Opposed:

\_\_\_\_\_  
Gregory J. Brewer

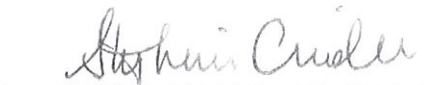
\_\_\_\_\_  
Larry J. Longman

\_\_\_\_\_  
Branden D. Williams

\_\_\_\_\_  
Bryan Burney

\_\_\_\_\_  
Scott Jones

ATTEST

  
\_\_\_\_\_  
Stephanie Crider, Clerk-Treasurer

**EXHIBIT A**

*Form of Lease*

LEASE AGREEMENT

Between

MCCORDSVILLE MUNICIPAL FACILITIES BUILDING CORPORATION  
LESSOR

and

TOWN OF MCCORDSVILLE, INDIANA  
LESSEE

Executed this 9<sup>th</sup> day of May, 2023

## LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease") entered into this 9<sup>th</sup> day of May, 2023, between the McCordsville Municipal Facilities Building Corporation, an Indiana nonprofit corporation (the "Lessor"), and the Town of McCordsville, Indiana, a political subdivision existing under the laws of the State of Indiana (the "Lessee" or "Town"), WITNESSETH THAT:

1. Premises, Term and Warranty. The Lessor does hereby lease, demise and let to Lessee the real estate in the Town of McCordsville, Indiana, more particularly described in Exhibit A attached hereto and made a part hereof, consisting of a police station to be acquired, constructed, installed and equipped by Lessor according to plans and specifications prepared by the architects and/or engineers or other parties employed by the Lessor for such purpose (the "Leased Premises"). The Lessor will issue its bond anticipation notes (the "BANs") and then its lease rental revenue bonds to finance the costs of the acquisition, construction, installation and equipping of the Leased Premises (the "bonds"). The proceeds of the bonds will also be used to refinance the BANs.

The above-mentioned plans and specifications may be changed, additional construction work may be performed and equipment may be acquired by Lessor, but only with the approval of Lessee, and only if such changes or modifications or additional construction work or equipment do not alter the character of the Leased Premises or reduce the value thereof. Any such additional construction work or equipment shall be part of the property covered by this Lease. The above mentioned plans and specifications have been filed with and approved by Lessee.

TO HAVE AND TO HOLD the Leased Premises with all rights privileges, easements and appurtenances thereunto belonging, unto Lessee, for a term of twenty-two (22) years, beginning on the later of the date on which the Leased Premises are ready for use or the issuance



of the bonds, and ending on the day prior to such date twenty-two (22) years thereafter. 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 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 such bonds; (iii) to refund such refunding bonds; or (iv) to improve the Leased Premises. The date the Leased Premises are completed and ready for use shall be endorsed on this Lease at the end hereof by the parties hereto as soon as the same can be done after such completion and acquisition, and such endorsement shall be recorded as an addendum to the Lease. The Lessor hereby represents that it is possessed of, or will acquire, a good and indefeasible estate in fee simple to the above described real estate, and Lessor warrants and will defend the same against all claims whatsoever not suffered or caused by the acts or omissions of 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 rental 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.

2. Rental Payments. The Lessee agrees to pay rental for the use and occupancy of the Leased Premises at the rate of \$980,000 per year during the term of the Lease. The first rental installment shall be due no earlier than either the first January 15 or July 15 of the year following the issuance of the bonds. Thereafter, rental shall be payable in advance in semiannual installments of \$490,000 on January 15 and July 15 of each year. The last semiannual rental payment due before the expiration of this Lease shall be adjusted to provide for rental at the

annual rate specified above from the date such installment is due to the date of the expiration of this Lease. Payment of rentals shall be subject to the condition precedent that the Leased Premises are available for use and occupancy by the Lessee.

All rentals payable under the terms of this Lease shall be paid by the Lessee to the bank selected as Trustee (the "Trustee") under the Trust Indenture between it and the Lessor (the "Indenture") or to such other bank or trust company as may from time to time succeed such bank as Trustee under the Indenture securing the bonds to be issued by the Lessor to finance the acquisition, renovation and construction of the Leased Premises and refinance the BANs. All payments so made by the Lessee shall be considered as payment to the Lessor of the rentals payable hereunder. The bank selected as Trustee shall be endorsed on this Lease at the end hereof by the parties hereto as soon as the same can be done after selection, and such endorsement shall be recorded as an addendum to this Lease. The date the Leased Premises are ready for use shall be endorsed on this Lease at the end hereof by the parties hereto as soon as the same can be done after such completion, and such endorsement shall be recorded as an addendum to this Lease.

After the sale of the bonds issued to finance the acquisition, renovation and construction of the Leased Premises and refinance the BANs, the annual rental amount provided for in the first paragraph of this Section 2 shall be reduced to an amount equal to the multiple of \$1,000 next higher than the sum of principal and interest due on such bonds in each twelve-month period ending on January 15 plus Five Thousand Dollars (\$5,000), payable in semiannual installments. Such amount of reduced annual rental shall be endorsed on this Lease at the end hereof by the parties hereto as soon as the same can be done after the sale of said bonds and such endorsement shall be recorded as an addendum to this Lease.

The fixed annual rentals described in this Section 2 (the "Fixed Annual Rentals") and the additional rentals described in Section 3 (the "Additional Rentals") shall be payable solely from the Town's certified share of local income tax revenues in accordance with Indiana Code 6-3.6-6-4(3) (the "LIT Certified Shares"). 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; 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 LIT Certified Shares received by the Lessee. The pledge of the LIT Certified Shares ranks on a parity with pledge of the LIT Certified Shares to the Sublease Agreement dated as of June 14, 2022, as amended on August 9, 2022, between Rebar McCord Square, LLC, as lessor and the Town, as lessee (the "2022 Lease").

3. Additional Rental Payments. The Lessee shall pay as further rental for the Leased Premises all taxes and assessments levied against or on account of the Leased Premises and/or the receipt of lease rental payments. 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 the same must be paid to avoid delinquency. In case the Lessee shall in good faith desire to contest the validity of any such tax or assessment, and 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 same until such contests shall have been determined. The Lessee shall pay as further rental the amount calculated by or for Lessor as the amount required to be rebated or paid as a penalty in lieu of rebate to the United States Treasury, after taking into

account other available moneys, to prevent the bonds issued to finance the acquisition, renovation and construction of the Leased Premises from becoming arbitrage obligations under Section 148 of the Internal Revenue Code of 1986, as amended.

4. Abatement of Rent. In the event the Leased Premises shall be partially or totally destroyed, whether by fire or any other casualty, or are taken under the exercise of the power of eminent domain, so as render them unfit, in whole or part, for use by the Lessee, it shall then be the obligation of the Lessor to restore and rebuild 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 amount of the proceeds received by the Lessor from the insurance provided for in Section 6 hereof or the condemnation proceeds received by the Lessor, whichever is applicable.

If there is in force on the date of partial or total destruction or taking insurance on the Leased Premises and the rental value thereof, in accordance with the provisions of Section 6 hereof, the rent shall be abated for the period during which the Leased Premises or any part thereof are unfit or unavailable for use and shall be in proportion to the percentage of floor area which is unfit or unavailable for use.

Notwithstanding anything in the Lease to the contrary, in the event of partial or total destruction of the Leased Premises, on a best efforts basis, leasable property and improvements of substantially equal value to the Leased Premises destroyed shall be transferred to the Lessor by the Town in substitute thereof, and the Fixed Annual Rentals and Additional Rentals provided for herein shall continue to be paid as provided by the Lease without interruption or abatement. In the event of such substitution, the substituted property shall become part of the Leased Premises under the Lease for all purposes hereof.

5. Maintenance, Alterations and Repairs. The Lessee assumes all responsibility for maintenance, repairs and alterations to the Leased Premises. At the end of the term, Lessee shall deliver the Leased Premises to Lessor in as good condition as at the beginning of the term, reasonable wear and tear only excepted. Equipment or other personal property which becomes worn out or obsolete may be discarded or sold by Lessee. The proceeds of the sale of any personal property shall be paid to the Trustee. Lessee may trade in any obsolete or worn out personal property on replacement property which replacement property will belong to Lessee upon payment to the Trustee of an amount equal to the trade-in value of such property. Lessee need not replace worn out or obsolete personal property, but may replace such property at its own expense, and the replacement property shall belong to Lessee.

6. Insurance. Lessee, at its own expense, will, during the full term of the Lease, keep the Leased Premises insured against physical loss or damage, however caused, with such exceptions as are ordinarily required by insurers of buildings or facilities of a similar type, with good and responsible insurance companies acceptable to Lessor. Such insurance shall be in an amount equal to one hundred percent (100%) of the full replacement cost of the Leased Premises as certified by a registered architect, registered engineer or professional appraisal engineers, selected by the Lessor, on the effective date of this Lease and on or before the first day of April of each year thereafter. Such appraisal may be based upon a recognized index of conversion factors. During the full term of this Lease, Lessee will also, at its own expense, maintain rent or rental value insurance in amount equal to the full rental value of the Leased Premises for a period of two (2) years against physical loss or damage of the type insured against pursuant to the preceding requirements of this clause. During the full term of this Lease, Lessee will also, at its own expense, carry combined bodily injury insurance, including accidental death, and property

damage with reference to the Leased Premises in an amount not less than Three Million Dollars (\$3,000,000) on account of each occurrence with one or more good and responsible insurance companies. The public liability insurance required herein 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 or 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 such policies (or certificates of insurance for each policy) and the certificate of the architect or engineer hereinbefore referred to shall be deposited with the Lessor. 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 rental 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, including its obligation to continue the rental payments in case of total or partial destruction of the Leased Premises as provided in Section 4 hereof.

7. Eminent Domain. If title to or the temporary use of the Leased Premises, or any part thereof, shall be taken under the exercise of 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 Lessor.

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 said 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 Indiana Code, Title 36, Article 1, Chapter 10 (which improvements shall be deemed a part of the Leased Premises and available for use 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 Lessor 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 by Lessor in the Sinking Fund held by the Trustee under the Indenture.

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 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 Covenants. The Lessee shall not assign this Lease or sublet the Leased Premises herein described without the written consent of Lessor. Lessee shall use and maintain the Leased Premises in accordance with the laws and ordinances of the United States of America, the State of Indiana, and all other proper governmental authorities. The Lessee covenants that in any contracts entered into by the Lessee providing for the use of the Leased Premises, which involve the conduct of a separate trade or business, (a) the Leased Premises would be used only (i) by a Governmental Unit within the meaning of Section 141 of the Internal Revenue Code of 1986 or (ii) by non-Governmental Units on the same basis as other members of the general public or (b) would not in the aggregate result in payments to the Lessee in an amount in excess of 5% of the principal of and interest on the bonds issued under the Indenture.

9. Option to Renew. Lessor hereby grants to 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 Lessee shall exercise this option by written notice to Lessor given upon any rental payment date prior to the expiration of this Lease.

10. Option to Purchase. Lessor hereby grants to Lessee the right and option, on any rental payment date, upon sixty (60) days' written notice to Lessor, to purchase the Leased Premises at a price equal to the amount required to enable Lessor to liquidate by paying all indebtedness, including all premiums payable on the redemption thereof and accrued and unpaid interest and by paying the expenses and charges of liquidation. In no event, however, shall such purchase price exceed the capital actually invested in such property by Lessor represented by



outstanding securities or existing indebtedness plus the cost of transferring the property and liquidating the Lessor. The phrase "capital actually invested" as used herein shall be construed to include, but not by way of limitation, the following amounts expended by the Lessor: organization and incorporation expenses, financing costs, carry charges, legal fees, architects' fees and reasonable costs and expenses incidental thereto.

Upon request of the Lessee made not less than sixty (60) days prior thereto, the Lessor agrees to furnish an itemized statement setting forth the amount required to be paid by the Lessee on the next rental payment date in order to purchase the Leased Premises in accordance with the preceding paragraph. Upon the exercise of the option to purchase granted herein, Lessor will upon payment of the option price deliver, or cause to be delivered, to the Lessee documents conveying to 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 said property was subject when conveyed to Lessor; (ii) those liens and encumbrances created by the Lessee or 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 same to the Lessee, 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 Lessee shall be under any obligation to purchase the Leased Premises, or under any obligation in respect to the creditors, members, or security holders of the Lessor.

11. Transfer to Lessee. In the event the Lessee has not exercised its option to renew in accordance with the provisions of Section 9 hereof, and has not exercised its option to purchase the Leased Premises in accordance with the provisions of Section 10 hereof, and upon the full discharge and performance by the Lessee of its obligations under this Lease, the Leased Premises shall thereupon become the absolute property of the Lessee and upon the Lessee's request, Lessor shall execute proper instruments conveying to the Lessee all of Lessor's title thereto.

12. Defaults. 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 sixty (60) days after written notice to correct the same; 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. Additional Obligations Payable from LIT Certified Shares. The Lessee has reserved the right to issue bonds, enter into leases or other obligations payable from the LIT Certified Shares on a parity with the payment of the Fixed Annual Rentals and Additional Rentals due under this Lease and the pledge of the LIT Certified Shares to the payments due under the 2022 Lease, as provided in Ordinance No. \_\_\_\_\_ of the Town adopted May 9, 2023 and entitled "AN ORDINANCE OF THE TOWN OF MCCORDSVILLE, INDIANA, APPROVING MATTERS RELATED TO LEASE FINANCING OF A NEW POLICE STATION PROJECT."

14. Notices. 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: McCordsville Municipal Facilities Building Corporation, Attention: President, 6280 W 800 N McCordsville, IN 46055; (b) to Lessee: Town of McCordsville, Indiana, Attention: Clerk-Treasurer, 6280 W 800 N McCordsville, IN 46055; (c) to Trustee: at the address shown on the Addendum referred to in the first paragraph of Section 2 hereof. Lessor and Lessee may by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

15. Successors or Assigns. All covenants of this Lease, whether by Lessor or Lessee, shall be binding upon the successors and assigns of the respective parties hereto.

16. Construction of Covenants. Lessor was organized for the purpose of acquiring a site or sites appropriate for town facilities, erecting, building, or constructing thereon suitable town facilities (including the necessary equipment and appurtenances), acquiring land and an

existing building or buildings and renovating, improving or expanding the same, financing the costs related thereto, and leasing such facilities to the Lessee under the provisions of Indiana Code, Title 36, Article 1, Chapter 10. All provisions herein contained shall be construed in accordance with the provisions of said statutes, and to the extent of inconsistencies, if any, between the covenants and agreements in this Lease and the provisions of said statutes, said statutes shall be deemed to be controlling and binding upon Lessor and Lessee.

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

MCCORDSVILLE MUNICIPAL FACILITIES  
BUILDING CORPORATION

By: \_\_\_\_\_  
Bryan Burney, President

Attest:

\_\_\_\_\_  
Donna Price, Secretary

LESSEE

TOWN OF MCCORDSVILLE, INDIANA

By: \_\_\_\_\_  
Gregory J. Brewer, Town Council President

(Seal)

Attest:

\_\_\_\_\_  
Stephanie Crider, Clerk-Treasurer

STATE OF INDIANA       )  
                                  ) SS:  
COUNTY OF HANCOCK    )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Bryan Burney and Donna Price, personally known to me to be the President and Secretary, respectively, of the McCordsville Municipal Facilities 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 May, 2023.

\_\_\_\_\_  
(Written Signature)

\_\_\_\_\_  
(Printed Name)

(Seal)

Notary Public

My Commission Expires:    My County of Residence:

\_\_\_\_\_

STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF HANCOCK    )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Gregory J. Brewer and Stephanie Crider, personally known to me to be the Town Council President and the Clerk-Treasurer, respectively, of the Town of McCordsville, Indiana, and acknowledged the execution of the foregoing Lease for and on behalf of said County.

WITNESS my hand and notarial seal this \_\_\_\_\_ day of May, 2023.

\_\_\_\_\_  
(Written Signature)

\_\_\_\_\_  
(Printed Name)

(Seal)

Notary Public

My Commission Expires:     My County of Residence:

\_\_\_\_\_

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/ **Dennis H. Otten**

This instrument was prepared by Dennis H. Otten, Bose McKinney & Evans LLP, 111 Monument Circle, Suite 2700, Indianapolis, Indiana 46204.

EXHIBIT A

*Description of Real Estate*

Lot 4 of the McCord Square Subdivision in the Town of McCordsville, Indiana, which is approximately 2.8 acres.



ADDENDUM TO LEASE

Between McCordsville Municipal Facilities Building Corporation  
and  
Town of McCordsville, Indiana  
Executed on May 9, 2023

WHEREAS, the McCordsville Municipal Facilities Building Corporation (the "Corporation"), an Indiana nonprofit corporation, entered into a lease with the Town of McCordsville, Indiana, dated May 9, 2023; and

WHEREAS, it is provided in said lease that there shall be endorsed thereon the name of the financial institution selected to serve as Trustee under the Trust Indenture between it and the Corporation; and

WHEREAS, it is provided in said lease that there shall be endorsed thereon the reduced rental; now therefor;

IT IS HEREBY CERTIFIED AND STIPULATED by all of the undersigned that the financial institution selected by the Corporation to be the Trustee under the Trust Indenture between it and the Corporation is \_\_\_\_\_, and its address for notices is Attention: Corporate Trust Department, \_\_\_\_\_.

IT IS HEREBY FURTHER CERTIFIED AND STIPULATED by all of the undersigned that the sum of principal and interest due in each calendar year, the reduced annual rental, and the semiannual installments are attached as Exhibit A.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

MCCORDSVILLE MUNICIPAL  
FACILITIES BUILDING CORPORATION

By: \_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
Secretary

TOWN OF MCCORDSVILLE, INDIANA

By: \_\_\_\_\_  
Town Council President

(Seal)

Attest:

\_\_\_\_\_  
Clerk-Treasurer

STATE OF INDIANA       )  
                                  ) SS:  
COUNTY OF HANCOCK    )

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 McCordsville Municipal Facilities 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 \_\_\_\_\_, 202\_\_.

\_\_\_\_\_  
(Written Signature)

\_\_\_\_\_  
(Printed Name)

(Seal)

Notary Public

My Commission Expires:    My County of Residence:

\_\_\_\_\_

STATE OF INDIANA       )  
                                  ) SS:  
COUNTY OF HANCOCK    )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and \_\_\_\_\_, personally known to me to be the Town Council President and the Clerk-Treasurer, respectively, of the Town of McCordsville, Indiana, and acknowledged the execution of the foregoing Addendum to Lease for and on behalf of said Town.

WITNESS my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

\_\_\_\_\_  
(Written Signature)

\_\_\_\_\_  
(Printed Name)

(Seal)

Notary Public

My Commission Expires:     My County of Residence:

\_\_\_\_\_

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/ **Dennis H. Otten**

This instrument was prepared by Dennis H. Otten, Bose McKinney & Evans LLP, 111 Monument Circle, Suite 2700, Indianapolis, Indiana 46204.

EXHIBIT A

(See attached Lease Rental Schedule)

ADDENDUM TO LEASE

Between McCordsville Municipal Facilities Building Corporation  
and  
Town of McCordsville, Indiana  
Executed on May 9, 2023

WHEREAS, the McCordsville Municipal Facilities Building Corporation, an Indiana corporation, entered into a lease with the Town of McCordsville, Indiana, dated May 9, 2023, which lease was recorded on \_\_\_\_\_, 2023, in the Office of the Recorder of Hancock County, Indiana, as Document Number \_\_\_\_\_; and

WHEREAS, it is provided in Section 1 of the lease that the date the Leased Premises is completed and ready for use shall be endorsed thereon by the parties thereto; now therefore;

IT IS HEREBY FURTHER CERTIFIED AND STIPULATED by all of the undersigned that the Leased Premises is completed and ready for use on this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

Executed this \_\_\_\_ day of \_\_\_\_\_, 202\_\_.

MCCORDSVILLE MUNICIPAL  
FACILITIES BUILDING CORPORATION

By: \_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
Secretary

TOWN OF MCCORDSVILLE, INDIANA

By: \_\_\_\_\_  
Town Council President

(Seal)

Attest:

\_\_\_\_\_  
Clerk-Treasurer



STATE OF INDIANA       )  
                                      ) SS:  
COUNTY OF HANCOCK    )

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 McCordsville Municipal Facilities 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 \_\_\_\_\_, 202\_\_.

\_\_\_\_\_  
(Written Signature)

\_\_\_\_\_  
(Printed Name)

(Seal)

Notary Public

My Commission Expires:    My County of Residence:

\_\_\_\_\_

STATE OF INDIANA        )  
                                      ) SS:  
COUNTY OF HACKCOK    )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ and \_\_\_\_\_, personally known to me to be the Town Council President and the Clerk-Treasurer, respectively, of the Town of McCordsville, Indiana, and acknowledged the execution of the foregoing Addendum to Lease for and on behalf of said Town.

WITNESS my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
(Written Signature)

\_\_\_\_\_  
(Printed Name)

(Seal)

Notary Public

My Commission Expires:     My County of Residence:

\_\_\_\_\_

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/ **Dennis H. Otten**

This instrument was prepared by Dennis H. Otten, Bose McKinney & Evans LLP, 111 Monument Circle, Suite 2700, Indianapolis, Indiana 46204.