RESOLUTION NO. 2014-30

A RESOLUTION DECLARING THE INTENT OF THE VILLAGE OF SOUTH LEBANON, OHIO TO REIMBURSE THE COSTS OF CONSTRUCTION, IMPROVEMENT, EQUIPPING, INSTALLATION, DEVELOPMENT AND FINANCING OF PUBLIC IMPROVEMENTS IN SUPPORT OF THE RETAIL DEVELOPMENT OF A SITE IN THE VILLAGE OF SOUTH LEBANON, OHIO, AND DECLARING AN EMERGENCY

WHEREAS, the assistance of the Village of South Lebanon, Ohio ("Village") has been requested by Rivers Crossing Power, LLC, an Ohio limited liability company ("Developer") in connection with the construction, improvement, equipping, installation and development (collectively, "construction") of a public improvement project ("Project"), including the public improvements described generally in Exhibit A hereto, in support of the continued development ("Development") of an approximately 90-acre site generally located at the east and west sides of State Route 48 between Mason-Morrow-Millgrove Rd. and the crossing of I-71 within the Village (the "Site"); and,

WHEREAS, the Developer has requested that the Village assist it in meeting the public infrastructure needs of the Development, including through the construction of the Project on or about the Site ("Project Site"), and the financing of the public improvements; and,

WHEREAS, the Village has declared, 100% of the improvements (as defined in applicable provisions of Revised Code Chapter 5709, which provisions are referred to herein as the "TIF Act") to the Site to be a public purpose, exempt from real estate taxes for a period of up to 30 years, subject to the condition that the owner of the Site pay, as a covenant running with the land, service payments in lieu of the exempted real estate taxes pursuant to the TIF Act ("Service Payments"); and,

WHEREAS, the Village is authorized to issue tax increment revenue bonds or notes that may be issued in anticipation of the issuance of such tax increment revenue bonds (collectively, "Bonds"), payable from the Service Payments to be made by the Developer or other owner or owners of the Site; and,

WHEREAS, United States Treasury Regulations Section 1.150-2 ("Reimbursement Regulations") prescribes conditions under which proceeds of bonds, notes or other obligations used to reimburse advances made for certain expenditures paid before the issuance of such obligations will be deemed to be expended (or properly allocated to expenditures) for purposes of Sections 103 and 141-150 of the Internal

Revenue Code of 1986, as amended ("Code") so that upon such reimbursement the proceeds so used will not further be subject to requirements or restrictions under those sections of the Code; and, certain provisions of the Reimbursement Regulations require (i) that there be a Declaration of Official Intent not later than 60 days following payment of the expenditure expected to be reimbursed from proceeds of such obligations, and (ii) that the reimbursement occur within prescribed time periods after the expenditure is paid or after the property is placed in service, and (iii) the Village wishes to take steps to comply with those Reimbursement Regulations in connection with the Project and to take other preliminary actions in connection with the proposed issuance of the Bonds; and,

WHEREAS, immediate action is required to permit the Developer to proceed with the immediate continued construction of certain public improvements and timely pay commitments and obligations relating thereto, and such action is necessary in order to preserve the public peace, health, safety or welfare of the Village.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Village of South Lebanon, at least two-thirds of all members elected thereto concurring:

Section 1. This Council hereby finds and determines, based upon information provided by the Developer, that: (i) the Project constitutes or will constitute "Public Improvements" as defined in the TIF Act, (ii) the construction, operation, maintenance and financing of the Project by the Village will assist in inducing the Developer to continue the Development on the Development Site, which is consistent with and will promote the purposes of Section 13 of Article VIII, Ohio Constitution, and will create or preserve jobs and employment opportunities and improve the economic welfare of the people of the State, and (iii) the Village is authorized to participate in the Project in the manner contemplated hereby.

Section 2. This Council hereby declares that the Village reasonably expects that capital and other expenditures relating to the Project made by the Village, the Developer or others will be reimbursed from the proceeds of the Bonds as defined in Section 150 of the Code and that the maximum principal amount of Bonds expected to be issued for the Project shall equal $5,535,000. This Resolution constitutes a Declaration of Official Intent under the Reimbursement Regulations.

Section 3. That the Council is acting in its administrative capacity in adopting this Resolution.

Section 4. That the recitals contained within the Whereas Clauses set forth above are incorporated by reference herein.

Section 5. This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this resolution were taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 6. That this Resolution is hereby declared to be an emergency measure in accordance with Ohio Rev. Code § 731.30 for the immediate preservation of the public peace, health, safety and general welfare; and, this Resolution shall be in full force and effective immediately upon its passage.

Adopted this 4th day of December, 2014.

Attest: Sharon Louallen
Sharon Louallen, Fiscal Officer/Clerk

Lionel Harold Lawhorn, Mayor

Rules Suspended: 12/4/2014 (if applicable) Effective Date – / /2014

Vote - 5 Yeas
____ Nays

First Reading – / /2014 Effective Date – / /2014
Second Reading – n/a
Third Reading – n/a

Vote - ____ Yeas
____ Nays

Approved as to form:

BRUCE A. McGARY
VILLAGE SOLICITOR
SOUTH LEBANON, OHIO

By: Bruce A. McGary
Date: 12/04/2014

CERTIFICATE OF POSTING

I, Sharon Louallen, Fiscal Officer of the Village of South Lebanon, Ohio do hereby certify that I have posted a true and accurate copy of this ordinance or resolution, summary of ordinance or resolution, or statement, order, proclamation, notice or report at five public places within the Village as authorized by Section 731.25 of the Ohio Revised Code and Ordinance 98-08 of Village of South Lebanon, Ohio.

12-5-14
Date

Sharon Louallen
Fiscal Officer
Village of South Lebanon, Ohio