

AGENDA
REGULAR MEETING OF CITY COUNCIL
MAY 4, 2023, at 6:00 P.M.

1. Mayor Smith calls the meeting to order

2. Roll Call:

Linda Allen
Linda Burke
Brenda Combs

Maryan Harrison
Bill Madison
Rolin Spicer

3. Pledge of Allegiance

4. Guests:

5. Floor open to the public

6. New Business: Emergency Resolution 2023-22 authorizing an amendment to the agreement with Dress Company for waterline improvements on Zoar Road

Authorization of Invoices

Approval of Meeting Minutes:
Regular Meeting – April 20, 2023

7. Old Business: Ordinance 2023-09, Third Reading, establishing no parking regulations on the west side of High Street between Forest and Broadway Streets

Ordinance 2023-11, Second Reading, establishing no parking regulations on the south side of Morrow Rd. between Valley View Dr. and Shawhan Road

8. Discussion of Zoar Road Street Lighting request from Wynstead HOA

9. Communications and reports from City Officials and Committees:

- | | |
|------------------------|--------------------|
| a. Mayor | e. Solicitor |
| b. Fiscal Officer | f. Sergeant |
| c. Administrator | g. Council Members |
| d. Asst. Administrator | |

10. Executive Session

11. Adjournment



City of South Lebanon
10 N. High Street, South Lebanon, Ohio 45065
513-494-2296 fax: 513-494-1656
www.southlebanonohio.org

MEMORANDUM

To: Mayor & City Council

From: Jerry Haddix, City Administrator

Date: May 2, 2023

Subject: Drees Agreement Amendment #1

In September of last year, the Council adopted resolution 2022-40 which was an agreement with Drees whereby they installed the new water master meter with Warren County on Zoar Road and the City would give them credit for water service tap fees. The estimate for the work was \$70,555.76. Subsequently, some additional work was required to complete the project including a small section of water line, additional restoration & additional time & material due to the size of the meter vault. The final cost of the work was \$88,471.76. At \$5,600 per house, this equates to just under 16 houses.

I am recommending that this resolution be adopted as an emergency so that we can close this project out and invoice Drees for any outstanding tap fees in the Highmeadow subdivision.

Let me know if you have any questions or need additional information.

**CITY OF SOUTH LEBANON, OHIO
RESOLUTION NO. 2023-22**

**A RESOLUTION APPROVING AND AUTHORIZING MAYOR AND FISCAL
OFFICER TO EXECUTE AMENDMENT NO. 1 TO AN AGREEMENT FOR
WATERLINE IMPROVEMENTS ON ZOAR ROAD WITH THE DREES COMPANY,
AND DECLARING AN EMERGENCY**

WHEREAS, per Resolutions No. 2021-10, the South Lebanon then-Village Council entered into an agreement with the Warren County Board of Commissioners to purchase water from the Warren County Water and Sewer Department to serve various areas with the City including areas along Zoar Road; and,

WHEREAS, on September 15, 2022, authorized by Resolution No. 2022-40, the City entered into an agreement with the Drees Company to construct the water service connection with the Warren County Water & Sewer Department on Zoar Road, per the agreement with the Warren County Board of Commissioners; and,

WHEREAS, additional work was required to properly complete the connection to and installation of a master water meter as well as additional water main along Zoar Road was required, and,

WHEREAS, the Drees Company has provided the costs for the additional work in addition to the amount provided with the September 15, 2022, Agreement in the attached agreement amendment; and,

WHEREAS, immediate action is required to close out the Project and invoice Dress for the remaining water connection fees due at this time, and such action is necessary in order to preserve the public peace, health, safety or welfare of the City.

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

Section 1. That the Council approves and authorizes the Mayor and Fiscal Officer to execute Amendment No. 1 to an Agreement relating to Highmeadow Subdivision with the Drees Company, a copy of which is attached hereto.

Section 2. That the recitals contained within the Whereas Clauses set forth above are incorporated by reference herein.

Resolution No. 2023-22

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Section 3. 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.

Section 4. That it is found and determined that all formal actions of the Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of Council in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Adopted this 4th day of May, 2023.

Attest: _____
Petrina D. Williams, Fiscal Officer/Clerk James D. Smith, Mayor

Rules Suspended: / /2023 (if applicable)	Effective Date – / /2023
Vote - ____ Yeas ____ Nays	
First Reading – / /2023	Effective Date – / /2023
Second Reading – / /2023	
Third Reading– / /2023	
Vote - ____ Yeas ____ Nays	

Prepared by and approved as to form:

ANDREW P. MEIER
CITY SOLICITOR
SOUTH LEBANON, OHIO

By: _____
Date: ____ / ____ /2023

AMENDMENT NO. 1 TO AGREEMENT

Amendment No. 1

Date of Amendment: May 4, 2023

Original Agreement: Zoar Road Master Meter Project

Original Agreement Date: September 15, 2022

Per the Agreement date September 15, 2022, between the City of South Lebanon ("City") and the Drees Company ("the Developer"), additional work was required by the Developer for the proper completion of the Project. The Developer has provided a list of the additional costs (Exhibit "A") and the City hereby approves the additional costs associated with this work.

All condition of the original agreement shall apply in full to conditions of the amendment unless designated otherwise.

THE DREES COMPANY

SIGNATURE: _____

NAME: _____

TITLE: _____

DATE: _____

CITY OF SOUTH LEBANON:

James D. Smith, Mayor

DATE: _____

Petrina D. Williams, Fiscal Officer

DATE: _____

APPROVED AS TO FORM:

ANDREW P. MEIER

CITY SOLICITOR

SOUTH LEBANON, OHIO

By: _____

Date: _____



3800 Turtlecreek Rd.
Lebanon Ohio, 45036
Phone: 513.229.0295
Fax: 513.229.7396

Proposal for:

Date: 3/31/2023

Drees Homes

Attn: Matt Mains

Description

2022.05.H.3 - Initial Zoar Road Waterline CO	\$	70,555.76
2022.05.H.3.Z.1 - Additional 8" Waterline and Driveway Restoration	\$	8,876.00
2022.05.H.3.Z.2 - Additional Excavator and Material	\$	9,040.00

Grand Total		\$88,471.76
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Notes:

Mark Brackman
Project Manager
Cell: 513.444.6834



3800 Turtlecreek Road
 Lebanon, Ohio
 45036
 O: 513.229.0295
 F: 513.229.7396

To:	Drees Homes	Contact:	Matt Mains
Address:	211 Grandview Drive Ft. Mitchell, KY 41017	Phone:	(859) 578-4200
Project Name:	High Meadow Zoar Road Waterline	Fax:	
Project Location:	Zoar Road, South Lebanon, OH	Bid Number:	2022.1963
		Bid Date:	

Item Description	Estimated Quantity	Unit
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Site Preparation

Clearing & Grubbing & Fence Removal	1.00	LS
Locate Existing Utilities	1.00	LS
Duke Pole Hold	1.00	LS
Maintenance Of Traffic - Waterline	1.00	LS
Traffic Control - Waterline	1.00	LS
Finish Grading And Seeding	889.00	SY

Total Price for above Site Preparation Items: **\$15,682.27**

Waterline

Connect To Existing - Remove Temp Hydrant	1.00	EACH
8" Waterline (DIP CL-52)	181.00	LF
8" Valve & Box	3.00	EACH
Fire Hydrant Assembly	2.00	EACH
Set Large Domestic Meter Pit	1.00	EACH

Total Price for above Waterline Items: **\$54,873.49**

Total Bid Price: **\$70,555.76**

Notes:

- Proposal based on plans from MSP and received by SiteWORX on 4.13.2022
- In any unforeseen conditions or objects are discovered during construction, it will be the owners responsibility to remove. (Ex. Tanks, wells, bury pits)
- All work to be complete on one mobilization
- All compaction testing or geotechnical engineering services to paid for by owner. Siteworx, LLC will coordinate geotechnical services contractor.
- All layout or services of a Civil Engineer or Professional Surveyor required by the execution of this contract to be paid for by owner
- All terms and conditions of this bid are an integral part of the contract. Any contract entered into between the parties must contain all terms and conditions of this proposal.
- Precast Meterpit and All Material inside of pit to be provided by Others (City of South Lebanon). Please note that upon SiteWORX review of the provided pit material quote, material being provided and pit detail shown on drawings do not match.
- Bid is based on standard labor rates. Prevailing Wage (if applicable) is excluded
- Fence replacement and landscape restoration is excluded
- SiteWORX is not responsible for damage to any underground utilities not disclosed or located before construction.
- Inspection and permit fees are excluded.

Payment Terms:

This is a unit price proposal. Invoicing will be based on monthly units complete. Any amounts due after 30 days will be subject to maximum interest allowed by law

ACCEPTED:

The above prices, specifications and conditions are satisfactory and are hereby accepted.

Buyer: _____**Signature:** _____**Date of Acceptance:** _____**CONFIRMED:****SiteWORX, LLC****Authorized Signature:** _____**Estimator:** Mark Brackman

513-444-6834 markb@swxohio.com



3800 Turtlecreek Road
 Lebanon, Ohio
 45036
 O: 513.229.0295
 F: 513.229.7396

To: Drees Homes	Contact: Matt Mains
Address: 211 Grandview Drive Ft. Mitchell, KY 41017	Phone: (859) 578-4200
	Fax:
Project Name: High Meadow Zoar Road Waterline 2022.05.H.3.Z.1	Bid Number: 2022.1963
Project Location: Zoar Road, South Lebanon, OH	Bid Date: 10/13/2022

Item Description	Estimated Quantity	Unit
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Waterline

8" Waterline (DIP CL-52)

80.00 LF

Total Price for above Waterline Items: \$6,176.00

Total Bid Price: \$6,176.00

Driveway Restoration

Driveway Restoration

1.00 LS

Total Price for above Driveway Restoration Items: \$2,700.00

Notes:

- No inspection or Permit Fees are included
- Driveway restoration is assumed to be 4" thick concrete 8' wide 20' long

Payment Terms:

This is a unit price proposal. Invoicing will be based on monthly units complete. Any amounts due after 30 days will be subject to maximum interest allowed by law

ACCEPTED: The above prices, specifications and conditions are satisfactory and are hereby accepted. Buyer: _____ Signature: _____ Date of Acceptance: _____	CONFIRMED: SiteWORX, LLC Authorized Signature: _____ Estimator: Mark Brackman 513-444-6834 markb@swxohio.com
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3800 Turtlecreek Road
 Lebanon, Ohio
 45036
 O: 513.229.0295
 F: 513.229.7396

To:	Drees Homes	Contact:	Matt Mains
Address:	211 Grandview Drive Ft. Mitchell, KY 41017	Phone:	(859) 578-4200
Project Name:	High Meadow Zoar Road Waterline 2022.05.H.3.Z.2 - Add Efforts	Fax:	
Project Location:	Zoar Road, South Lebanon, OH	Bid Number:	
		Bid Date:	3/14/2023

Item Description	Estimated Quantity	Unit	Unit Price	Total Price
Additional Excavator And Plates Required Due To Pit Weight	1.00	LS	\$4,225.00	\$4,225.00
Additional Material Required For Meter Pit	1.00	LS	\$4,815.00	\$4,815.00

Total Bid Price: \$9,040.00

Payment Terms:

This is a unit price proposal. Invoicing will be based on monthly units complete. Any amounts due after 30 days will be subject to maximum interest allowed by law

ACCEPTED:

The above prices, specifications and conditions are satisfactory and are hereby accepted.

Buyer: _____

Signature: _____

Date of Acceptance: _____

CONFIRMED:

SiteWORX, LLC

Authorized Signature: _____

Estimator: Mark Brackman
 513-444-6834 markb@swxohio.com

OLD BUSINESS

**CITY OF SOUTH LEBANON, OHIO
ORDINANCE NO. 2023-09**

**AN ORDINANCE ESTABLISHING NO PARKING REGULATION AND
AUTHORIZING NO PARKING SIGNAGE ON THE WEST SIDE OF HIGH
STREET BETWEEN FOREST AND BROADWAY STREETS**

WHEREAS, Ohio Rev. Code § 4511.07(A)(1) permits local municipalities to create laws “[r]egulating the stopping, standing, or parking of vehicles, trackless trolleys, and streetcars”; and,

WHEREAS, the City previously established parking violations upon the adoption of the Ohio Basic Code in Ordinance No. 2023-04, specifically Ohio Basic Code § 76.04. Said Ordinance enforces parking violations as criminal offenses; and,

WHEREAS, due to the removal of off-street parking and the installation of a new curb on the west side of High Street at the new playground, the roadway is not wide enough for parking on both sides of the street, so no parking signs need to be installed on the west side of High Street between Forest Avenue and Broadway Street; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of South Lebanon, at a majority of all members elected thereto concurring:

Section 1. The City Council does hereby establish a no parking regulation on the west side of High Street between Forest Avenue and Broadway Streets as delineated on the attached map:

Section 2. That the City Council authorizes City employees to install no parking signage on the west side of High Street between Forest Avenue and Broadway Street, and that said regulation shall be enforced pursuant to Ordinance 2023-04 and Ohio Basic Code § 76.04.

Section 3. The owner of a vehicle shall be entitled to establish nonliability for prosecution for violation of this Ordinance by proving the vehicle was in the care, custody, or control of a person other than the owner at the time of the violation pursuant to a written rental or lease agreement or affidavit providing that except for such agreement, no other business relationship with respect to the vehicle in question exists between the operator and owner. Proof that the vehicle was in the care, custody, or control of a person other than the owner shall be established by sending a copy of such written rental or lease agreement or affidavit to the

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Section 5. That the recitals contained within the Whereas Clauses set forth above are incorporated by reference herein.

Adopted this day of , 2023.

Rules Suspended: / /2023 (if applicable)	Effective Date – / /2023
Vote - ____ Yeas ____ Nays	
First Reading – / /2023	Effective Date – / /2023
Second Reading – / /2023	
Third Reading– / /2023	
Vote - ____ Yeas ____ Nays	

Ordinance 2023-09

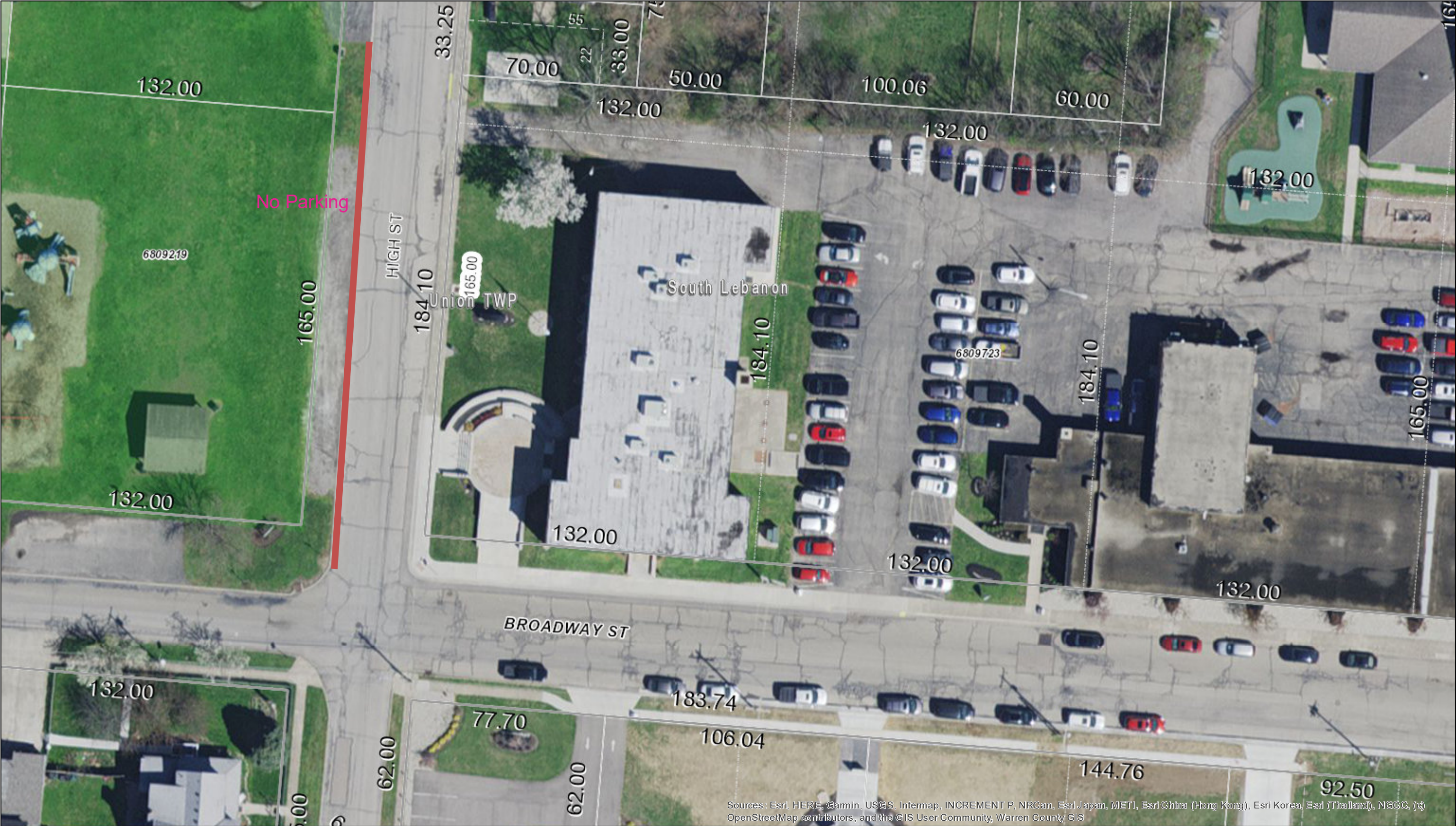
Page 3

Prepared by and approved as to form:

ANDREW P. MEIER
CITY SOLICITOR
SOUTH LEBANON, OHIO

By: _____

Date: ____/____/2023



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NCCG, (c) OpenStreetMap contributors, and the GIS User Community, Warren County GIS

Cadastral Lines	Corporate Line	Parcel Line	Hardware
	<all other values>	County Line	ROW Unknown Width Line
Line Type	Farm Lot Line	Road ROW	Township and Range Line
	Auditors Tract Line	Overpass Line	School Line
	Civil Township Line	Subdivision Limit Line	Section Line
			VMS Line
			Vacated Road Line

1 inch = 47 feet

Warren County Map

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Date: 3/31/2023

CITY OF SOUTH LEBANON, OHIO
ORDINANCE NO. 2023-11

**AN ORDINANCE ESTABLISHING NO PARKING REGULATION AND
AUTHORIZING NO PARKING SIGNAGE ON THE SOUTH SIDE OF MORROW
ROAD BETWEEN VALLEY VIEW DRIVE AND SHAWHAN ROAD**

WHEREAS, Ohio Rev. Code § 4511.07(A)(1) permits local municipalities to create laws “[r]egulating the stopping, standing, or parking of vehicles, trackless trolleys, and streetcars”; and,

WHEREAS, the City previously established parking violations upon the adoption of the Ohio Basic Code in Ordinance No. 2023-04, specifically Ohio Basic Code § 76.04. Said Ordinance enforces parking violations as criminal offenses; and,

WHEREAS, due to the limited visibility and misalignment of the Morrow Road-Shawhan Road intersection, on-street parking on Morrow Road between Valley View Drive and Shawhan Road poses a safety issue; and,

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of South Lebanon, at a majority of all members elected thereto concurring:

Section 1. The City Council does hereby establish a no parking regulation on the south side of Morrow Road between Valley View Drive and Shawhan Road as delineated on the attached map:

Section 2. That the City Council authorizes City employees to install no parking signage on the south side of Morrow Road between Valley View Drive and Shawhan Road, and that said regulation shall be enforced pursuant to Ordinance 2023-04 and Ohio Basic Code § 76.04.

Section 3. The owner of a vehicle shall be entitled to establish nonliability for prosecution for violation of this Ordinance by proving the vehicle was in the care, custody, or control of a person other than the owner at the time of the violation pursuant to a written rental or lease agreement or affidavit providing that except for such agreement, no other business relationship with respect to the vehicle in question exists between the operator and owner. Proof that the vehicle was in the care, custody, or control of a person other than the owner shall be established by sending a copy of such written rental or lease agreement or affidavit to the

Ordinance 2023-11

Page 2

prosecuting authority within thirty days from the date of receipt by the owner of the notice of violation. The furnishing of a copy of a written rental or lease agreement or affidavit shall be prima-facie evidence that a vehicle was in the care, custody, or control of a person other than the owner.

Section 5. That the recitals contained within the Whereas Clauses set forth above are incorporated by reference herein.

Section 6. That it is found and determined that all formal actions of the Council concerning and relating to passing this Ordinance were adopted in an open meeting of Council in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Adopted this day of , 2023.

Attest: _____
Petrina D. Williams, Fiscal Officer/Clerk James D. Smith, Mayor

Rules Suspended: / /2023 (if applicable)	Effective Date – / /2023
Vote - ____ Yeas ____ Nays	
First Reading – / /2023	Effective Date – / /2023
Second Reading – / /2023	
Third Reading– / /2023	
Vote - ____ Yeas ____ Nays	

Ordinance 2023-11

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Prepared by and approved as to form:

ANDREW P. MEIER
CITY SOLICITOR
SOUTH LEBANON, OHIO

By: _____

Date: ____/____/2023



City of South Lebanon
10 N. High Street, South Lebanon, Ohio 45065
513-494-2296 fax: 513-494-1656
www.southlebanonohio.org

MEMORANDUM

To: Mayor & City Council

From: Jerry Haddix, City Administrator

Date: May 1, 2023

Subject: Zoar Road Street Lighting

Back in March, I received a request from the Brian Payne, the Wynstead HOA Proesident, for a request to install street lighting along Zoar Road near the Wynstead & Grants Frederick entrances. Upon receiving the request, I contacted Duke to look into the feasibility & cost of lights.

For the three (3) lights shown on the plan, the one-time installation cost is \$3,895.97 with a monthly charge of \$12.54. We can discuss this in further detail on Thursday night.

Let me know if you have any questions or need additional information.



Jerry Haddix
City Administrator
10 N. High St.
South Lebanon, Ohio 45065

RE: Lighting Concerns at Emerald Dr. and Zoar Rd.

Mr. Haddix,

Wynstead HOA recently held our annual meeting on March 13, 2023. During this meeting, several residents brought up concerns about lighting at the intersection of Emerald Dr. at Zoar Rd. The residents listed road contour, increased traffic volume, excessive speeds, and additional neighborhoods on Zoar Rd. as the basis for their concerns.

The first street light in the area on Emerald Dr. is past the first house and does not cast any light into the intersection. The intersection of Grants Fredrick, which is just east, similarly lacks lighting at the intersection and makes it difficult to observe vehicles exiting Grants Fredrick or cresting the hill traveling toward Emerald Dr. The hazard similarly exists for Wynstead residents exiting Emerald Dr. and traveling down the hill toward Grants Fredrick.

On behalf of the Wynstead HOA Board, I request the City of South Lebanon evaluate the addition of street lighting in this area.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Brian Payne".

Brian Payne

Board President, Wynstead HOA

By: USPS
email



OH01 LIGHTING SERVICE AGREEMENT

Customer Information:

CITY OF SOUTH LEBANON

NARMSTRONG@SOUTHLEBANONOHIO.COM

..

Project Information:

CITY OF SOUTH LEBANON

SOUTH LEBANON Ohio 45036-9272

Account Number:

9101 1725 7910

Work Order Number:

48973622

Duke Energy Representative Contact Info:

Andrew Manning

This Lighting Service Agreement is hereby entered into this 12th day of April, 2023, between Duke Energy (hereinafter called the "Company") and CITY OF SOUTH LEBANON (hereinafter referred to as the "Customer") for lighting service at the above location(s). The Customer agrees to receive and pay for lighting service from the Company in accordance with the rates, terms and provisions of the Company's Rate Schedule LED and Service Regulations, or its successor, as the same is on file with the Ohio Public Service Commission (PUBLIC UTILITY COMMISSION OF OHIO) and as may be amended and subsequently filed with the PUBLIC UTILITY COMMISSION OF OHIO.

To the extent there is any conflict between this Agreement and the Lighting Service Rate Schedule, the Lighting Service Rate Schedule shall control. In the event of termination by the Customer during the initial term of this agreement under this rate schedule or upon early termination of service under this schedule, the customer agrees to pay remaining terms of this agreement as delegated by the PUBLIC UTILITY COMMISSION OF OHIO.

The date of *initiation* of service shall be defined as the date the first light(s) is energized or billing is transferred and shall continue hereafter until terminated *by either party upon written notice 11 days prior to termination*. It is further agreed that Duke Energy reserves the right to discontinue service and remove any Duke Energy-owned facilities from the Customers premise if the Customer violates any of the terms of the Service Regulations, Rate Schedule or this Agreement.

Customer Signature _____

Date Signed _____

Duke Energy Representative _____

Date Signed _____

Summary of Estimated Charges				
Minimum Service Term	Initial Monthly Cost	Total One Time Charges	Total Cost for Initial term	Ongoing Monthly Charge post Term
0 Years () Months	12.54	3895.97	3895.97	12.54
1 Years (12) Months	352.06	0.00	4224.72	12.54
3 Years (36) Months	124.00	0.00	4464.00	12.54
5 Years (60) Months	85.39	0.00	5123.40	12.54
7 Years (84) Months	68.97	0.00	5793.48	12.54
10 Years (120) Months	56.18	0.00	6741.60	12.54

Monthly Base Charges							
Service Required	Quantity	Product Description Fixtures and Poles	Equipment Rental**	Maintenance	Energy	Unit Total	Sub-Total
I	003	LFIX-RW-LED-110-GRAY-III-3000K-M	0.00	3.90	0.28	4.18	12.54
		Rental, Maintenance, F&E Totals:	\$0	\$11.70	\$0.84		
		Estimated Change to Base Monthly Charge Total					\$12.54

THIS IS NOT A BILL. PLEASE DO NOT SEND A PAYMENT IN RESPONSE TO THIS COMMUNICATION.

PROPOSALS ARE VALID FOR 90 DAYS FROM THE DATE POSTED ON THE LIGHTING SERVICE AGREEMENT PAGE AND THE AGREEMENT MUST BE SIGNED AND RETURNED BEFORE THE PROPOSAL EXPIRATION DATE.

After the Initial Term expires, the monthly equipment charges will no longer be reflected on the monthly bill, though and energy and maintenance charges continue for the life of the lighting system covered by this agreement.

See Section I, below for further lighting equipment and cost detail. Requests for changes in number of lights and poles, pole locations, equipment or other requests will result in a recalculation of the amounts above. Please see attached drawing or Exhibit 'A' for the proposed placement of lighting equipment.

IN WITNESS WHEREOF, the parties hereto have caused two copies of this Agreement to be executed by a duly authorized representative(s), effective the Current Date first written above. This Lighting Service Agreement ("Agreement") is made and entered into by the subsidiary of Duke Energy Corporation, a Delaware corporation, named above (hereafter, "Company"). Neither Duke Energy Corp. nor any of its other affiliated companies are parties to this Agreement.

WITNESSETH:

WHEREAS, Customer desires to have: a Company-owned outdoor lighting system ("System"), on designated property; and

WHEREAS, Company has the ability to own, install, operate and maintain an outdoor lighting system.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

SECTION I. – EQUIPMENT AND INSTALLATION

- 1.1 In accordance with conditions set forth herein, Company agrees to install for Customer all necessary equipment to provide, operate and maintain an outdoor lighting system. The cost of any additional electrical distribution facilities required to provide energy to the System may or may not be included in the monthly terms of this Agreement according to Company discretion.
- 1.2 Tariff riders and sales tax are not included, which may cause the amounts quoted to fluctuate

A. ENERGY USAGE – BASED ON UTILITY REGULATORY COMMISSION APPROVED RATE

****CALCULATION FOR ESTIMATING UNMETERED ENERGY USAGE**

Impact Watts = the energy used by the lamp watts plus ballast watts.

- | | |
|---|--|
| • Impact watts times estimated Annual Burn Hours as shown in lines above equal annual watt hours. | • Annual kWh divided by twelve (12) months equals monthly kWh. |
| • Annual watt hours divided by 1000 hours equals annual kilowatt hours (kWh). | • Monthly kWh times current rate per kWh equals the monthly dollar amount for each item. |

LIGHTING LAYOUT DESIGN DISCLAIMER

Company will install the System in accordance with Customer's specifications concerning the design and layout (including pole locations, number, and types of lights). Customer is responsible for all aspects of the design and layout of the System. Customer understands that its design and layout of the System may not be in accordance with minimum foot-candle and lighting uniformity standards. Therefore, Customer agrees to release, indemnify, hold harmless, and defend Company (including Company's parent, subsidiary and affiliate companies and all of their respective employees, officers, directors and agents) from and against any and all claims, demands, causes of action, liabilities, losses, damages, and/or expenses resulting from (or alleged to result from) the design and/or layout of the System, including damage to or destruction of personal property, personal injuries including death, and reasonable attorneys' fees.

SECTION II. – CUSTOMER OPTIONS FOR SYSTEM OPERATING HOURS

- 2.1 HOURS OF OPERATION are the typical dusk-to-dawn photoelectric cell automatically operated System or as prescribed by a schedule agreed upon by the company and the customer. Lights turn on approximately 1/2 hour after sunset and shut-off 1/2 hour before sunrise. This may be a monthly estimated energy usage based on luminaire impact wattage and lamp source equally over twelve months (See Section I - B, above) or metered using actual energy usage plus a monthly meter charge or based upon a calculation related to an agreed upon schedule of usage and the luminaire impact wattage.

SECTION III. – ENERGY USAGE COST CALCULATION - See Section I

- 3.1 Except as otherwise provided in this Agreement, Customer shall pay Company the monthly energy charges. Monthly charges are based on estimated unmetered charges using the calculation methods shown on Section I of this Agreement and adding any energy tariff riders and applicable sales tax. Both unmetered and metered outdoor lighting energy usage charges are based on the per kilowatt hour amount approved by the appropriate State Utility Commission.
- 3.2 The “Schedule of Rates, Classifications, Rules and Regulations for Electric Service”, and/or General Terms and Conditions of the Company, and all amendments thereto, are filed with and approved by the appropriate State regulatory entity, (the “Commission”) and shall be deemed a part of this Agreement as if fully set forth herein.

SECTION IV. – SYSTEM MAINTENANCE

- 4.1 Normal maintenance includes the replacement or repair of any item included in the System except seasonal outlets. Maintenance is performed after notification from the Customer that a problem exists and/or during a Company scheduled maintenance cycle. Company will stock only the most common equipment; acquisition of some repair parts could cause a delay in permanent repair.
- 4.2 Normal maintenance covers ordinary wear and tear with proper use of the System. Repairs or replacements requested as a result Customer caused damage will be performed on a time and material cost basis, in which instance an estimate of costs will be provided to the Customer before the work begins. Company reserves the right to charge Customer for repair costs incurred due to vandalism.
- 4.3 Maintenance does not include partial or full System replacement or major repairs due to System age. Different types of lighting equipment have different life spans. Lighting equipment suppliers may also discontinue manufacture of certain equipment. End of life for a System will be determined by the Company.
- 4.4 Company reserves the right to update or modify the monthly maintenance charges to reflect changes in Company costs for materials and labor no more often than every three years on a Company assigned schedule, which may not coincide with the term of this Agreement.
- 4.5 Company reserves the right to charge a fee equal to a minimum of one-hour labor and transportation costs for trips to disconnect and reconnect lights in a Company-owned lighting System when requested to do so more times than the Company deems necessary.

SECTION V. – PAYMENT

- 5.1 Customer hereby agrees to pay Company the monthly costs set forth in accordance with the applicable tariff rate for the energy provided for the term of this Agreement. The estimated monthly amount due are summarized on Page 3 of this agreement and are current at the time the Agreement is initiated. A monthly bill will be rendered and due each month in accordance with the applicable tariff rate and payment rules. Any Customer charge that is not paid in full on or before its due date, shall incur a late fee.
- 5.2 Should any change in the energy usage monthly charges be ordered by the Commission, then payments by Customer to Company for this service shall thereafter be made upon the basis of such new rates as changed and approved by the Commission.

SECTION VI. – TERM OF AGREEMENT

- 6.1 Service under this Agreement shall commence as soon as practicable after the System is installed and operational. The Company shall notify Customer in writing as to the date on which service will begin.

THIS IS NOT A BILL. PLEASE DO NOT SEND A PAYMENT IN RESPONSE TO THIS COMMUNICATION.

- 6.2 The initial term of this Agreement shall be in accordance with the Option indicated on Page 3 of this Agreement ("Initial Term"). After the Initial Term, this Agreement shall continue in force and effective in successive automatic one-year extensions unless terminated by either party upon sixty (60) days written notice.

SECTION VII. – OTHER TERMS AND CONDITIONS

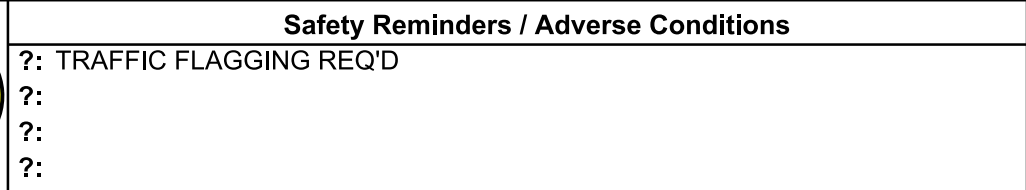
- 7.1 Other Terms and Conditions set forth in Exhibit "B" hereof are incorporated herein by reference and made a part of this Agreement
- 7.2 This Agreement constitutes the final written expression between the parties. It is a complete and exclusive statement and supersedes all prior negotiations, representations, or agreements, either written or oral, with respect to the System. However, nothing herein shall preclude either party from commencing an action for unpaid bills, other damages, or breach of prior agreements during the time they were in effect.
- 7.3 This Agreement, the construction of this Agreement, all rights and obligations between the parties to this Agreement, and any and all claims arising out of or related to the subject matter of this Agreement (including tort claims), shall be governed by the laws of the State in which the service is rendered without regard to its conflict of laws provisions

EXHIBIT 'B' - OTHER TERMS AND CONDITIONS

- 1 All System facilities installed by Company under this Agreement are and shall remain the property of Company. The termination of this Agreement for any reason whatsoever shall not in any way affect such ownership by Company, deprive Company of the right either to remove any or all property comprising the System or any part thereof or to use the same in or in connection with the rendering of other service by Company.
 - 2 If Customer requests part or all of the System's removal before the end of the System's useful life, including by reason of termination of this Agreement, Customer must pay Company's unrecovered costs of the System, to be determined at the sole discretion Company, plus System removal costs.
 - 3 The obligations of Customer to pay the monthly invoice and any applicable late fees or any amount due and owing to Company as a result of this Agreement or in connection with the rights and privileges granted hereby, are independent of the liabilities or obligations of Company hereunder. Customer shall make all such payments due to Company without any deductions, setoffs or counterclaims against such payments on account of any alleged breach or default by, or claims against, the Company pursuant to this Agreement or otherwise or on account of any claims against or default by any third party.
 - 4 Service under this rate schedule shall be for a minimum initial term of ten (10) years from the commencement of service and shall continue until terminated by either party by sixty (60) days written notice. Upon early termination of service under this schedule, the customer shall pay an amount equal to the remaining monthly lease amount for the term of contract, applicable Customer Charges and removal cost of the facilities.
 - 5 Company's installation of the System is contingent upon obtaining adequate easements and rights-of-way, if necessary, and Customer agrees to assist the Company when necessary in obtaining easements or rights-of-way which shall include permission to install and maintain service lines and facilities required for serving and providing the System.
 - 6 Company is an independent contractor and not an agent or employee of Customer and nothing contained in this Agreement shall be so construed as to justify a finding of the existence of any relationship between Company and Customer inconsistent with that status. Company shall have exclusive control of and responsibility for its labor relations.
 - 7 Company does not warrant nor guarantee the safety of Customer or any third party, nor does it warrant or guarantee the security of Customer's property or any third-party property, lighting levels, or uniformity of lighting as a result of Customer's use of the System. Company is not liable for any injury to Customer, or any persons or property arising out of the System use other than that arising from the sole negligence of the company. COMPANY EXPLICITLY DISCLAIMS WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, EITHER EXPRESSED OR IMPLIED, OR ARISING FROM COURSE OF DEALING OR USAGE OF TRADE.
 - 8 If a breach or default occurs, the non-breaching party shall provide the breaching party with a thirty (30) day written notice to cure such default or breach, or if the defect cannot be cured within thirty (30) days, the breaching party shall nonetheless commence to cure such defect and shall, in good faith, complete such cure in as timely and expeditious manner as is feasible in the circumstances. If the breaching party fails to cure or
- THIS IS NOT A BILL. PLEASE DO NOT SEND A PAYMENT IN RESPONSE TO THIS COMMUNICATION.

to commence the cure of the defect within the prescribed time frame set forth herein, the non-breaching party, at its sole discretion, shall provide notice to the breaching party of the immediate termination of this Agreement. Events beyond Company's control, including but not limited to acts of nature, electricity outages, and inability to obtain needed replacement parts, shall not constitute breaches of this Agreement.

- 9 Customer desiring a Company-installed System on a public rights-of-way or on other property not under customer's jurisdiction must provide the Company with written permission from the entity with legal jurisdiction over that right-of-way or property before installation will begin. Customer must reimburse Company for costs associated with obtaining easements.
- 10 Company reserves the right to refuse to install Company equipment on another's property, however, any Company agreement to install System luminaires or other Company facilities on poles or structures owned by a third entity is contingent upon receiving written consent for such installation from that entity. Customer will be required to reimburse the Company for monthly fees charged for pole contacts for System attachments on poles or structures not owned by the Company, (i.e., owned by other utilities or entities). This fee will be imposed only when contacting or modifying existing poles to allow for clearances required for the System equipment.
- 11 Company shall not be liable for any claims, demands, cause of action, liabilities, loss, damage or expense of whatever kind or nature, including attorney fees, incurred by Customer for actions involving a structure not Company-owned on which the Company has placed Company-owned equipment at Customer request. Additionally, the Company will not be responsible for any repairs needed by the structure that is not owned by Company. If the structure becomes unsuitable, or unsafe to support Company-owned equipment the Company retains the right to remove the equipment from the structure. If Company equipment is removed under these conditions Customer will owe Company a pro-rated amount for the removed equipment plus removal costs minus salvage value.
- 12 When changes are requested by Customer at any time after the System is installed and before the normal end of System life, Company will evaluate and estimate the costs of the changes. The changes will be made after the Customer pays the agreed upon amount if any to make changes. Changes include such matters as relocating poles, changing luminaire styles (post top, cobrahead, floodlight), their locations, wattage, and lamp source (e.g., metal halide, high pressure sodium, light emitting diode). Any such agreed upon changes will be documented either by a new or an amended Agreement. New equipment added to the System will require a new Agreement.
- 13 If any part, term, or provision of this Agreement is adjudged by a court of competent jurisdiction to be contrary to the law governing this Agreement, the validity of the remaining parts, terms, and provisions shall not be affected thereby.
- 14 This Agreement, and all the terms and provisions hereof, shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors, personal representatives, and/or permitted assigns.
- 15 Each party to this Agreement represents that it is sophisticated and capable of understanding all of the terms of this Agreement, that it has had an opportunity to review this Agreement with its counsel, and that it enters this Agreement with full knowledge of the terms of the Agreement.
- 16 No delay of or omission in the exercise of any right, power or remedy accruing to any party under this Agreement shall impair any such right, power or remedy, nor shall it be construed as a waiver of any future exercise of any right, power or remedy.
- 17 Neither party shall assign this Agreement without the prior written consent of the other party, which consent, if given shall not relieve the party of making such assignment from full responsibility for the fulfillment of its obligations under this Agreement. PROVIDED, THAT the Company may assign this Agreement to its parent or any subsidiary entity or to an affiliate.



POLE - 27W-246
I - 110W LED ROADWAY, 3000K
I - 6' LIGHT BRACKET

POLE - 27W-247

GRANTS FREDERICK

POLE - 27W-245
I - 110W LED ROADWAY, 3000K
I - 6' LIGHT BRACKET

POLE - 27W-244
I - 110W LED ROADWAY, 3000K
I - 6' LIGHT BRACKET

POLE - 27W-9

ZOAR RD

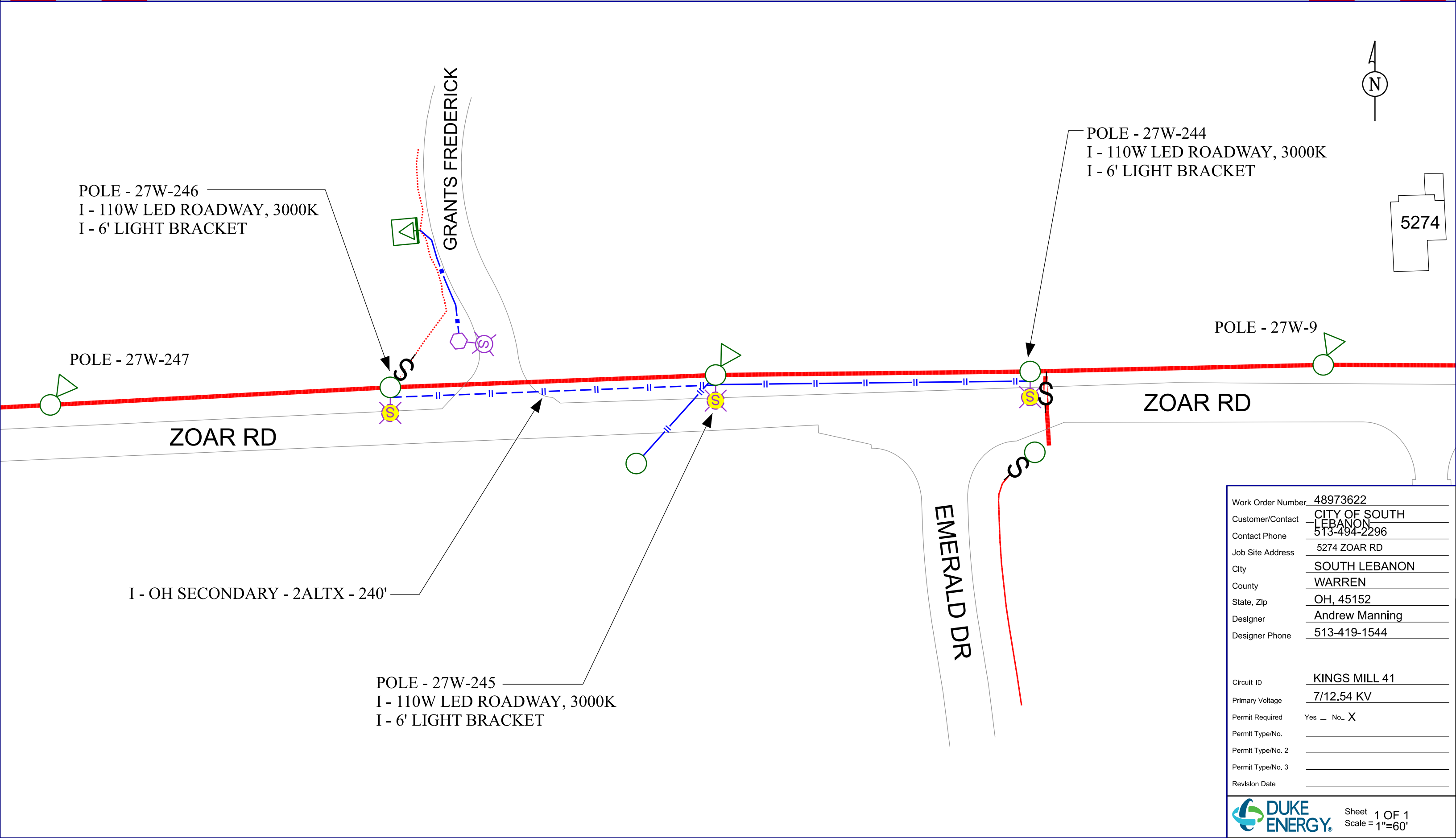
EMERALD DR

I - OH SECONDARY - 2ALTX - 240'

Work Order Number	48973622
Customer/Contact	CITY OF SOUTH LEBANON
Contact Phone	513-494-2296
Job Site Address	5274 ZOAR RD
City	SOUTH LEBANON
County	WARREN
State, Zip	OH, 45152
Designer	Andrew Manning
Designer Phone	513-419-1544
Circuit ID	KINGS MILL 41
Primary Voltage	7/12.54 KV
Permit Required	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Permit Type/No.	
Permit Type/No. 2	
Permit Type/No. 3	
Revision Date	

DUKE ENERGY

Sheet 1 OF 1
Scale = 1"=60'



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