

AGENDA
REGULAR MEETING OF CITY COUNCIL
JUNE 1, 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: First Reading-Ordinance 2023-12, Approving Tax Increment Refunding Bonds relative to the Riverside Project

Emergency Ordinance 2023-13, Acceptance of the HuDawn Annexation of 7.0165 acres of property located in Union Township

Emergency Resolution 2023-23, Enter into agreement with Choice One Engineering relative to the FY23 Hobart Street CDBG Project

Emergency Resolution 2023-24, Approve Amendment No. One relative to the Agreement with Choice One Engineering for the Forest Avenue OPWC Project

Authorization of Invoices

7. Old Business:

8. 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 | |

9. Executive Session

10. Adjournment



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

MEMORANDUM

To: Mayor & City Council
From: Jerry Haddix, City Administrator
Date: May 30, 2023
Subject: Riverside TIF Refunding Bonds

The Warren County Port Authority (“Port”) has been working with the Lebanon Mason LLC, the developer of the Riverside Development to refund the bonds and, in a nutshell, take the developer out of the TIF financing. This is similar to the same deal at Rivers Crossing a few years ago.

Due to the complexity of the financing, Dean Spoor will be available to answer any questions at the meeting via “Zoom”. Due to the timing of the refinancing, we are planning on a first reading this week, then it would need to be passed by emergency at the next meeting.

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

ORDINANCE NO. 2023-12

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOT TO EXCEED \$8,250,000 OF TAX INCREMENT REVENUE REFUNDING BONDS, SERIES 2023 (RIVERSIDE PROJECT) OF THE CITY OF SOUTH LEBANON, OHIO, UNDER SECTION 5709.40 ET SEQ. OF THE OHIO REVISED CODE FOR THE PURPOSE OF REFUNDING A PRIOR (SERIES 2016) ISSUE OF BONDS THE PROCEEDS OF WHICH WERE ORIGINALLY USED TO PAY THE COST OF CERTAIN PUBLIC INFRASTRUCTURE IMPROVEMENTS; AUTHORIZING A PLEDGE OF AND LIEN ON CERTAIN REVENUES TO SECURE SUCH BONDS; AUTHORIZING A SECOND AMENDMENT TO COOPERATIVE AGREEMENT, A SECOND AMENDMENT TO ADMINISTRATION AGREEMENT AND A BOND PLACEMENT AGREEMENT; AND DECLARING AN EMERGENCY.

WHEREAS, Section 5709.40 et seq. of the Ohio Revised Code (the “Act”) authorizes the issuance of notes or bonds payable from service payments in lieu of taxes to pay the costs of infrastructure improvements; and

WHEREAS, pursuant to the Act and Ordinance No. 2005-16, the Council of the City of South Lebanon, Ohio (the “City”) has created Tax Incentive District Number 1 (the “TIF District”); and

WHEREAS, the City and Lebanon Mason, LLC (together with its successors and assigns, the “Owner”) subsequently entered into an Amended and Restated Infrastructure Agreement dated as of October 1, 2016 (as amended from time to time, the “Infrastructure Agreement”), which is incorporated by reference into this ordinance (hereinafter, this “Ordinance”); unless otherwise defined herein, all capitalized terms used herein shall have the respective meanings ascribed to such by the Infrastructure Agreement and the Service Agreement (as hereinafter defined);

WHEREAS, pursuant to the Infrastructure Agreement, the Owner has agreed to construct certain public improvements (as more particularly described in the Infrastructure Agreement, the “Public Improvements”) that are needed to facilitate the development of the parcels of real property located within the TIF District (the “Property”), and the City has agreed to issue TIF Obligations to pay the Purchase Price for a portion of the Costs of Work paid by the Owner in connection with the construction of the Public Improvements;

WHEREAS, to pay the Purchase Price for a portion of the Costs of Work, the Developer had requested the City to issue TIF Obligations which it did consisting of tax increment financing Bonds (the “Series 2016 Bonds”);

WHEREAS, consistent with its obligations under the Infrastructure Agreement, the City desires to authorize the issuance of a new series of bonds (as further defined herein, the “Series 2023 Bonds”) to refund the Series 2016 Bonds and thereby finance the costs of the Public Improvements;

WHEREAS, to facilitate the sale of the Series 2023 Bonds and to provide credit enhancement therefor, the Warren County Port Authority, a body corporate and politic duly organized and validly existing under the laws of the State of Ohio (the “Authority”) has agreed to issue its revenue bonds in a principal amount not to exceed \$8,000,000 (the “Authority Bonds”) to be issued under the Authority’s Ohio Communities Accelerator Fund (the “OCAF”), and to use the proceeds of the sale of the Authority Bonds to purchase the Series 2023 Bonds from the City;

WHEREAS, in connection with the issuance and sale of the Series 2023 Bonds to the Authority, the City will enter into the Second Amendment to Administration Agreement, the Bond Placement Agreement and the Second Amendment to Cooperative Agreement, each as hereafter defined, and appurtenant certificates and documents necessary for the issuance and sale of the Series 2023 Bonds by the City;

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

SECTION 1. Definitions. When used in this Ordinance:

“Act” means Section 5709.40 et seq. of the Ohio Revised Code.

“Administration Agreement” means the Agreement for Administrative Services by and among the Authority, the Trustee, the City and the Administrator (as hereinafter defined), as the same may be amended or supplemented from time to time.

“Administrator” means the Person appointed from time to time as Administrator pursuant to the Cooperative Agreement to undertake the duties of the Administrator under the Cooperative Agreement and the Administration Agreement, including any successors or assigns, and being initially The Incentive Group, and its successors and assigns under the Administration Agreement.

“Authority” means the Warren County Port Authority, a port authority and political subdivision of the State of Ohio.

“Bond Account” means the account established in Section 10(b) hereof.

“Bond Placement Agreement” means a bond purchase or placement agreement by and among the City, the Original Purchaser (as hereinafter defined), the Placement Agent (as hereinafter defined), the Original Port Bonds Purchaser (as hereinafter defined) and the Owner, effecting, among other things, the sale of the Authority Bonds, as the same may be amended or supplemented from time to time.

“Certificate of Award” means the Certificate executed by the Fiscal Officer setting forth any terms relating to the issuance of the Series 2023 Bonds which are not specified in this Ordinance.

“Cooperative Agreement” means the agreement by and among the City, the Authority and the Owner, providing for, among other things, the purchase by the Authority of the Series 2023 Bonds, the assignment by the City to the Authority of certain rights described therein and necessary to provide for the collection of the Minimum Service Payments and the payment of deferred

interest on the Series 2023 Bonds, as the same may be amended or supplemented from time to time

“Cost of Issuance Account” means the account by that name established in Section 10(a) hereof.

“Eligible Investments” means the investments defined in Section 9 hereof.

“Fiscal Officer” means the Fiscal Officer of the City.

“Government Obligations” means direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America.

“Interest Payment Dates” means the dates set forth on the Certificate of Award, provided that, if any such date is not a business day, the Interest Payment Date will be the next succeeding business day.

“Investment Letter” means the letter from the Original Purchaser to the City as described in Section 5 hereof.

“OCAF Costs” means any fees, deposits, reserves or other amounts, whether or not refundable, to be paid or made from the proceeds of the Series 2023 Bonds to or at the direction of the Authority in connection with the issuance by the Authority of the Authority Bonds under the OCAF.

“Original Port Bonds Purchaser” means the original purchaser of the Authority Bonds pursuant to the Bond Placement Agreement.

“Original Purchaser” means the Authority, as the original purchaser of the Series 2023 Bonds pursuant to the Cooperative Agreement.

“Owner” means Lebanon Mason, LLC, an Ohio limited liability company and its successors and assigns, as set forth in the Service Agreement.

“Placement Agent” means D.A. Davidson & Co., as the placement agent or underwriter for the Authority Bonds.

“Property” shall have the meaning given to such term in the recitals to this Ordinance.

“Public Improvements” shall have the meaning given to such term in the recitals to this Ordinance.

“Register” means the books kept and maintained by the Registrar for registration of ownership of the Series 2023 Bonds, and of the outstanding principal amount thereof, and for registration of any permitted transfer or exchange of a Series 2023 Bond or Series 2023 Bonds.

“Registrar” means the person designated by the City from time to time to keep and maintain the Register and means initially the Fiscal Officer of the City.

“Revenues” means (a) the Service Payments, (b) the money and investments held in the Bond Account and the Costs of Issuance Account and (c) all income and profit from the investment of the foregoing moneys.

“Second Amendment to Administration Agreement” means the Second Amendment to Administration Agreement by and among the Authority, the Trustee, the City and the Administrator.

“Second Amendment to Cooperative Agreement” means the Second Amendment to Cooperative Agreement by and among the City, the Authority and the Owner.

“Series 2023 Bonds” means the Tax Increment Revenue Refunding Bonds, Series 2023 (Riverside Project) authorized by this Ordinance.

“Service Agreement” means the Amended and Restated Service Payment Agreement dated as of October 1, 2016, between the City and the Owner, as amended from time to time, which is incorporated by reference into this Ordinance.

“Service Payments” means the Service Payments, including Statutory Service Payments and Minimum Service Payments, payable by the Owner and any other current or future owners of the parcels comprising the Property pursuant to the provisions of the Service Agreement.

“TIF Fund” means the City of South Lebanon Municipal Public Improvement Incentive Tax Equivalent Fund created pursuant to the TIF Ordinance, and includes Incentive District No. 1 Account therein, in which the Service Payments shall be deposited.

“TIF Ordinance” means Ordinance No. 2005-16 adopted by the Council of the City on December 1, 2005.

“Trustee” means The Huntington National Bank, a national banking association.

“City” means the City of South Lebanon, Ohio.

SECTION 2. It is necessary to issue and sell and this Council determines that the Series 2023 Bonds shall be issued and sold to the Original Purchaser in an aggregate principal amount of not to exceed \$8,250,000, to provide for (a) the refunding the Series 2016 Bonds including payment of all or a portion of accrued interest thereon if other funds are not available for such purpose, and (b) costs related to the issuance of the Series 2023 Bonds and the security therefor, including OCAF Costs. The Series 2023 Bonds shall be dated on the date set forth on the Certificate of Award, or such other date selected by the Fiscal Officer in his or her discretion, and shall mature on the date or dates set forth on the Certificate of Award, or such other date or dates selected by the Fiscal Officer in his or her discretion, but in any event not later than December 1, 2036. The Series 2023 Bonds shall be sold to or through the Original Purchaser for the purchase price set forth in the Certificate of Award, which shall not be less than 97% of the par amount of the Series 2023 Bonds.

SECTION 3. The Series 2023 Bonds shall bear interest at the Specified Interest Rate (as defined in the Certificate of Award) on each Interest Payment Date from the most recent date to

which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from their date, all as may be further specified in the Certificate of Award.

The principal amount of the Series 2023 Bonds and the Specified Interest Rate on the Series 2023 Bonds during the Initial Period, and any premium to be received on, or discount to be applied for the Series 2023 Bonds, shall be determined by the Fiscal Officer in the Certificate of Award in accordance with Section 9 of this Ordinance. The Series 2023 Bonds shall be issued in substantially the same form as attached hereto as Exhibit A.

SECTION 4. The Mayor and Fiscal Officer are further hereby authorized and directed to execute and deliver:

(a) a Second Amendment to Cooperative Agreement with the Authority and the Owner, which shall have terms and conditions not inconsistent with this Ordinance and not substantially adverse to the City as may be permitted by law and approved by the officers executing the same;

(b) a Bond Placement Agreement with the Authority, the Owner, the Placement Agent and the Original Port Bonds Purchaser, which shall have terms and conditions not inconsistent with this Ordinance and not substantially adverse to the City as may be permitted by law and approved by the officers executing the same; and

(c) a Second Amendment to Administration Agreement with the Authority, the Trustee and the Administrator, which shall have terms and conditions not inconsistent with this Ordinance and not substantially adverse to the City as may be permitted by law and approved by the officers executing the same.

SECTION 5. The Fiscal Officer is appointed to act as the initial authenticating agent, bond registrar and transfer agent (collectively, the “Registrar”) for the Series 2023 Bonds. In accordance with applicable law, the City may hereafter designate a different person to serve as Registrar and enter into a contract for the provision by that person of services as Registrar. No Series 2023 Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the form of Series 2023 Bond, is signed by the Registrar as authenticating agent. Authentication by the Registrar shall be conclusive evidence that the Series 2023 Bond so authenticated has been duly authenticated and delivered under this resolution and is entitled to the security and benefit of this Ordinance. The certificate of authentication may be signed by any officer or officers of or designated as the Registrar. It shall not be necessary that the same authorized person sign the certificate of authentication on each Series 2023 Bond.

So long as the Series 2023 Bonds remain outstanding, the City shall cause the Register to be maintained and kept by the Registrar, at the office of the Registrar, for the registration exchange and transfer of the Series 2023 Bonds as provided in this Section, including a current and accurate record of the name and address of each Holder. The registered Holder of a Series 2023 Bond shall be regarded as the absolute owner of that Series 2023 Bond for all purposes of this Ordinance and the payment of principal and interest on each Series 2023 Bond shall be made only to or upon the order of that Holder. Neither the City nor the Holder shall be affected by any notice to the contrary, but the registration may be changed as herein provided.

The Series 2023 Bonds upon presentation and surrender thereof at the office of the Registrar, together with a request for exchange signed by the registered Holder or by a person authorized by the Holder to do so by a power of attorney satisfactory to the Registrar, may be exchanged, at the option of the Holder, for a Series 2023 Bond or Bonds of the same tenor and effect and in a denomination or denominations equal to the aggregate outstanding principal amount of the Series 2023 Bond surrendered. In all cases in which a Series 2023 Bond is exchanged for a new Series 2023 Bond or Bonds, the Mayor and Fiscal Officer shall execute a replacement Series 2023 Bond or Bonds, and the Registrar shall undertake the actions necessary to authenticate and deliver the replacement Series 2023 Bond or Bonds only after execution of the new Series 2023 Bond or Bonds by the Mayor and the Fiscal Officer.

Every exchange of a Series 2023 Bond shall be without charge to the Holder; except that the City and the Registrar may make a charge sufficient to reimburse them, respectively for any tax or other governmental charge required to be paid upon any such exchange or transfer. The City and the Registrar may require that those charges, if any, be paid before they begin the procedure for the exchange. Any Series 2023 Bond issued upon an exchange shall be the valid special obligation of the City, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Series 2023 Bond surrendered upon that exchange.

The City shall execute, and the Registrar shall complete, authenticate, deliver and register, a replacement Series 2023 Bond to replace any Series 2023 Bond lost, stolen, destroyed or mutilated upon receiving written request from the Holder, together with (i) the destroyed or mutilated Series 2023 Bond or (ii) indemnification of the City and the Registrar in a form and issued by an indemnitor satisfactory to the Fiscal Officer and the Registrar.

Any Series 2023 Bond surrendered to the Registrar pursuant to this Ordinance for the purpose of retirement, or for exchange or replacement, shall be cancelled by the Registrar. Written reports of surrender and cancellation, if any, of the Series 2023 Bonds shall be made to the Fiscal Officer by the Registrar at least once each calendar year. Unless otherwise directed by the Council of the City, any canceled Series 2023 Bond shall be retained and stored by the Registrar for a period of seven years. After that time, or at any earlier time as authorized by the Council of the City, any canceled Series 2023 Bond may be destroyed by the Registrar by shredding or cremation, with evidence of that destruction (describing the manner of the destruction) to be provided by the Registrar to the Fiscal Officer.

SECTION 6. The Series 2023 Bonds may be redeemed in whole or in part at any time. Notice of the call for redemption of the Series 2023 Bonds, specifying the numbers of the Series 2023 Bonds to be redeemed, shall be sent by the Registrar by registered mail to the registered holders thereof, not less than seventy-five (75) days prior to the date of redemption, upon which date all interest upon the Series 2023 Bonds or portions thereof so called shall cease except those as to which default shall be made in the payment of the redemption price. Prior to any notice of call for redemption funds for such redemption shall be on deposit with the City and the City shall direct the Registrar in writing to make any notice of call for redemption.

The Series 2023 Bonds are subject to mandatory redemption on the dates and in the amounts set forth in the Certificate of Award.

If less than all of the Series 2023 Bonds shall be called for redemption at the option of the City, those Series 2023 Bonds to be called shall be determined by the Registrar by lot, provided, however, that the portion of any Series 2023 Bond to be redeemed shall be in the principal amount of \$5,000 or any integral multiple thereof.

The Series 2023 Bonds shall initially be numbered from R-1 upwards; provided, however, that in the event of the exchange or transfer of any Series 2023 Bond, any new Series 2023 Bonds issued by the Registrar as a result of such exchange or transfer shall be numbered in a manner which will assure that such new Series 2023 Bonds retain the same terms with respect to redemption as were possessed by the exchanged or transferred Series 2023 Bonds.

The principal of, and interest on, the Series 2023 Bonds shall be payable to the registered holders thereof by check or draft of the Registrar, and such payment shall be made without deduction for the services of such Registrar. At the written request of the registered owner of at least \$100,000 aggregate principal amount of the Series 2023 Bonds received by the Registrar at least one business day prior to the corresponding record date, interest accrued on the Series 2023 Bonds will be payable by wire transfer within the continental United States in immediately available funds to the bank account number of such owner specified in such request, and, so long as the Authority is the sole holder of the Series 2023 Bonds, any trust account held on its behalf specified by the Authority, and entered by the Registrar on the registration records.

SECTION 7. The Series 2023 Bonds shall be designated “Tax Increment Revenue Refunding Bonds, Series 2023 (Rivers Crossing Project)”.

SECTION 8. Upon the face of each of the Series 2023 Bonds shall be recited a reference to the Act and this Ordinance. Each of the Series 2023 Bonds shall express upon its face the purpose for which the same is issued and that such Series 2023 Bond is payable solely from the Revenues. The Series 2023 Bonds shall bear the manual or facsimile signatures of the Mayor and the Fiscal Officer of the City, shall be authenticated manually by the Registrar, and shall bear the manual or facsimile impression of the corporate seal of the City. The Series 2023 Bonds shall be prepared, issued, and delivered to the Original Purchaser under the direction of the appropriate officers of the City as hereinafter provided. The Original Purchaser shall, if requested by the City, execute and deliver to the City an Investment Letter which shall certify that the Original Purchaser is either (i) a “qualified institutional buyer” within the meaning of subsection (a) of Rule 144A promulgated by the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended or (ii) an “accredited investor” within the meaning of Rule 501 of Regulation D promulgated by the Securities and Exchange Commission pursuant to the Securities Act of 1933, and in either case has otherwise received sufficient information and data to evaluate its purchase of the Series 2023 Bonds. Any permitted transferee of a Series 2023 Bond, shall, in writing, provide the Registrar with certain certificates, in substantially the same manner as indicated in the above-referenced Investment Letter. Each of the Series 2023 Bonds shall furthermore bear the following legend: **“Neither this Bond, nor any portion of, rights under or interest in this Bond, shall be sold, assigned or transferred unless the Registrar shall first have received prior written approval from the Mayor of the City of South Lebanon, Ohio and one of the following: (i) a written certificate from the transferee that certifies that the transferee is a “qualified institutional buyer” within the meaning of subsection (a) of Rule 144A promulgated by the Securities and Exchange Commission pursuant to the Securities Act of**

1933, as amended; or (ii) a written certificate from the transferee that certifies that the transferee is a “accredited investor” within the meaning of Rule 501 of Regulation D promulgated by the Securities and Exchange Commission pursuant to the Securities Act of 1933 or (iii) a certificate from the Fiscal Officer of the City of South Lebanon, Ohio to the effect that the restrictions on transfer under the Ordinance are no longer in effect.”

SECTION 9. The Series 2023 Bonds are hereby awarded and shall be delivered to the Original Purchaser upon payment for the Series 2023 Bonds. The Mayor and the Fiscal Officer of the City are hereby authorized and directed in the name of and on behalf of the City to make, execute and deliver the Series 2023 Bonds to the Original Purchaser. The Fiscal Officer is hereby authorized and directed in the name of and on behalf of the City to execute the Certificate of Award setting forth the terms of the Series 2023 Bonds not set forth in this Ordinance. The Series 2023 Bonds shall be payable solely from the Revenues, including the Service Payments required to be made under the Service Agreement, and shall be secured by a pledge of, and lien on, the Revenues. The pledge of, and lien on, any Service Payments shall be senior to all other notes and bonds issued by the City that are payable from the Service Payments. **THE SERIES 2023 BONDS ARE NEGOTIABLE INSTRUMENTS BUT DO NOT CONSTITUTE GENERAL OBLIGATIONS OF THE CITY AND THE GENERAL CREDIT AND TAXING POWER OF THE CITY ARE NOT PLEDGED PAYMENT THEREOF, OR ANY PART THEREOF, OR THE INTEREST THEREON, AND THE SERIES 2023 BONDS ARE PAYABLE AS TO PRINCIPAL, PREMIUM, IF ANY, AND INTEREST ONLY FROM THE REVENUES.**

SECTION 10. The proceeds of the sale of the Series 2023 Bonds, plus other lawfully available funds of the City as set forth in the Certificate of Award, and except for accrued interest, shall be deposited by the City as follows:

(a) The amount to the City as directed in the Certificate of Award to the account hereby created and designated as the “Cost of Issuance Account”, such Cost of Issuance Account to be held by the City to be used to pay all costs and items of expense incurred by the City in connection with the issuance of the Series 2023 Bonds and the security therefor, including without limitation costs of financial and/or feasibility studies and reports; reimbursable expenses payable to the Original Purchaser; costs of Series 2023 Bond insurance or other credit enhancement, including any Letter of Credit fees and OCAF Costs; costs of financial advisory, bond counsel, counsel to the Original Purchaser and other legal, accounting and management services and services of other consultants and professional and related charges, fees and disbursements; Series 2023 Bond rating fees, if any; costs of issuance; printing and reproduction costs; filing and recording fees; and costs of preparation, execution, transportation and safekeeping of the Series 2023 Bonds. The City shall transfer to the Bond Account (to be used to pay interest on the Series 2023 Bonds) any moneys remaining in the Cost of Issuance Account upon determination by the Fiscal Officer of the City that all the costs described above have been received and paid by the City.

(b) The remainder to the account hereby created and designated as the “Bond Account” to refund the Series 2016 Bonds.

Any accrued interest on the Series 2023 Bonds shall be transferred by the Fiscal Officer to the Bond Account and shall be applied by such Fiscal Officer only to the payment of the interest and principal of the Series 2023 Bonds and for no other purpose.

The Bond Account shall be maintained in the custody of the City. The Bond Account may be used for (1) the refunding of the Series 2016 Bonds, (2) the payment of the principal of and interest on the Series 2023 Bonds and, (3) to the extent provided in this Ordinance, for the redemption and the purchase for retirement of the Series 2023 Bonds.

SECTION 11. From and after the date of issuance and delivery of the Series 2023 Bonds the Statutory Service Payments shall be set aside and deposited by the City in the TIF Fund. The TIF Fund shall be administered as follows with the following payments being made in the following order:

FIRST: Pursuant to the Amended and Restated Tax Incentive Agreement dated as of May 15, 2008 (as amended from time to time, the "School Compensation Agreement") with Kings Local School District (the "School District"), the amount of compensation owed to the School District under the School Compensation Agreement shall be paid to the School District.

SECOND: Subject to the parity lien on the Service Payments of all other notes and bonds issued by the City that are payable from the Service Payments, there shall be paid into the Bond Account on the second business day immediately preceding each Interest Payment Date, an amount equal to the interest due on all outstanding Series 2023 Bonds on the next ensuing Interest Payment Date, and, on the second business day immediately preceding the maturity date, principal payment date or redemption date, as the case may be, of the Series 2023 Bonds, an amount equal to the principal and interest due on such maturity date or redemption date.

THIRD: As provided for in Section 3(d) of the Service Agreement.

The TIF Fund shall be maintained in the custody of the City.

If, as of the close of business on the second business day immediately preceding an Interest Payment Date or the maturity date or redemption date, as the case may be, of the Series 2023 Bonds, the balance to the credit of the Bond Account is less than the amount required to pay principal of and interest on the Series 2023 Bonds and the payment of such amounts has not otherwise been provided for (including by the authorization of the Series 2023 Bonds or other TIF Obligations, as defined in the Service Agreement), then prior to 3:00 p.m. Ohio time on the Business Day immediately preceding the Interest Payment Date, maturity date or redemption date, the Fiscal Officer shall draw on any Letter of Credit, if any exists, in an amount equal to the difference between the amount required to pay the principal and interest on the Series 2023 Bonds then due and the amount available in the TIF Fund to make such payment.

SECTION 12. Moneys in the TIF Fund, the Bond Account and the Cost of Issuance Account shall be invested either in (a) cash insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized by direct obligations of (including obligations

issued or held in book entry form on the books of) the Department of the Treasury of the United States of America, (b) U.S. dollar denominated deposit accounts, federal funds and banker's acceptances with domestic commercial banks which have a rating on their short term certificates of deposit on the date of purchase of "A-1" or "A-1+" by Standard & Poor's Financial Services LLC and "P-1" by Moody's Investors Service and maturing no more than 360 days after the date of purchase. (ratings on holding companies are not considered as the rating of the bank), or (c) a money market fund rated "AAAM" or "AAAm--G" or better by Standard & Poor's Financial Services LLC. Unless otherwise provided above, interest on any moneys or investments in each of the funds and accounts established under this Ordinance shall be credited to that fund or account. All investments by the City shall be made at the written direction of the Fiscal Officer. Unless otherwise provided herein, interest on any moneys or investments in each of the funds or accounts established under this Ordinance shall be credited to that fund or account.

SECTION 13. Should it be judicially determined by a court having jurisdiction to pass upon the validity of this Ordinance, the Cooperative Agreement or Series 2023 Bonds herein authorized, that any provision of this Ordinance is beyond the powers of this Council or the City, or is otherwise invalid, then such decision shall in no way affect the validity of said Cooperative Agreement or the validity of the Series 2023 Bonds, or any proceeds related thereto, except as to the particular matters found by such decision to be invalid.

SECTION 14. The funds derived from the sale of the Series 2023 Bonds authorized by this Ordinance become and they are hereby set aside and appropriated for the payments as described in this Ordinance.

SECTION 15. That sums which are expended from the above appropriations and which are proper charges against and are repaid by any other department, any firm, person or corporation, shall be considered reappropriated for such original purpose; provided that the total appropriation as increased by any such repayment shall not be exceeded.

SECTION 16. The Series 2023 Bonds are being issued pursuant to, and subject to, the Infrastructure Agreement and the Service Agreement and this Ordinance shall be the "Trust Indenture" for purposes of the Infrastructure Agreement, the Registrar shall be the "Trustee" for purposes of the Infrastructure Agreement and this Ordinance shall be the "Bond Ordinance" for purposes of the Infrastructure Agreement.

SECTION 17. That the Fiscal Officer of the City of South Lebanon be and he or she is hereby authorized to draw his or her warrants of the City Treasury and Depository for payments from any of the foregoing appropriations upon receiving proper approval in accordance with the ordinances of the City of South Lebanon.

SECTION 18. This Council hereby finds and determines that all formal actions relative to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Revised Code.

[continued on next page]

SECTION 19. That this Ordinance is hereby declared to be an emergency measure for the immediate preservation of the public peace, health, safety and welfare of the inhabitants of the City, and this Council hereby finds that the City must issue the Series 2023 Bonds at the earliest possible date to so preserve the public peace, health safety and welfare of the inhabitants of the City.

WHEREFORE, this Ordinance shall be enforced immediately upon its passage.

Adopted this ___ day of June, 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 – n/a

Third Reading – n/a

Vote - ___ Yeas
___ Nays

Approved as to form:

ANDREW P. MEIER
CITY SOLICITOR
SOUTH LEBANON, OHIO

By: _____

Date: June [___], 2023

CERTIFICATE

The undersigned, Fiscal Officer of the City of South Lebanon, County of Warren, Ohio, hereby certifies that the foregoing is a true and correct copy of Ordinance No. 2023-12 adopted by the Council of the City of South Lebanon, Ohio, on June [], 2023.

Fiscal Officer

EXHIBIT A
BOND FORM

Neither this Bond, nor any portion of, rights under or interest in this Bond, shall be sold, assigned or transferred unless the Registrar shall first have received prior written approval from the Mayor of the City of South Lebanon, Ohio and one of the following: (i) a written certificate from the transferee that certifies that the transferee is a “qualified institutional buyer” within the meaning of subsection (a) of Rule 144A promulgated by the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended; or (ii) a written certificate from the transferee that certifies that the transferee is a “accredited investor” within the meaning of Rule 501 of Regulation D promulgated by the Securities and Exchange Commission pursuant to the Securities Act of 1933; or (iii) a certificate from the Fiscal Officer of the City of South Lebanon, Ohio to the effect that the restrictions on transfer under the Ordinance are no longer in effect.

UNITED STATES OF AMERICA
STATE OF OHIO
CITY OF SOUTH LEBANON

TAX INCREMENT REVENUE REFUNDING BONDS
(RIVERSIDE PROJECT)
SERIES 2023

KNOW ALL MEN BY THESE PRESENTS, that the CITY OF SOUTH LEBANON, OHIO, acknowledges itself to owe and for value received, hereby promises to pay, but only from the Revenues (as defined in the Ordinance referred to herein), to the Warren County Port Authority the aggregate sum of

[EIGHT MILLION TWO HUNDRED FIFTY THOUSAND] DOLLARS ([\$8,250,000.00])

on [_____, 20__], subject to mandatory redemption on the dates and in the amounts set forth in Schedule I hereto in accordance with the terms of the Ordinance. The Series 2023 Bonds shall bear interest at the Specified Interest Rate (as hereinafter defined), computed on the basis of a 360-day year consisting of twelve 30 day months, payable semi-annually on the first day of each [_____] and [_____] , commencing on [_____, ____] (each, an “Interest Payment Date”), provided that, if any such date is not a business day, the Interest Payment Date will be the next succeeding business day.

“Specified Interest Rate” as used herein means:

[_____]

The principal sum and interest thereon are payable in Federal Reserve funds at the offices of the Registrar at maturity, without deduction for exchange, collection or service charges. This bond may be redeemed in whole or in part at any time in accordance with the terms of the Ordinance.

This bond is for the purpose of paying the cost of constructing public infrastructure improvements in the City through the refunding of the Series 2016 Bonds (as defined in the Ordinance), and paying related costs, under authority of the general laws of the State of Ohio and Section 5709.40 et seq. of the Ohio Revised Code, and by virtue of Ordinance No. 2023-[] duly adopted by the Council of said City on June [], 2023 (the "Ordinance"). Unless otherwise defined herein, all capitalized terms used herein shall have the respective meanings given to that term by the Ordinance.

AND IT IS HEREBY CERTIFIED AND RECITED, that all acts, conditions and things necessary to be done precedent to and in the issuing of this bond in order to make it a legal, valid and binding obligation of the City have been done, have happened and have been performed in regular and due form as required by law; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing this bond.

The City, to pay the debt service on the Series 2023 Bonds, has pledged the Service Payments to be made by the owners from time to time of the parcels comprising the Property) pursuant to the terms of the Service Agreement. The Series 2023 Bonds are payable solely from the Service Payments and other Revenues pledged to the payment thereof pursuant to the Ordinance, subject to the limitations specified in the Ordinance and the City shall not be in default in the payment of this bond as a result of the insufficiency of the Service Payments.

THE SERIES 2023 BONDS ARE NEGOTIABLE INSTRUMENTS BUT DO NOT CONSTITUTE GENERAL OBLIGATIONS OF THE CITY AND THE GENERAL CREDIT AND TAXING POWER OF THE CITY ARE NOT PLEDGED PAYMENT THEREOF, OR ANY PART THEREOF, OR THE INTEREST THEREON, AND THE SERIES 2023 BONDS ARE PAYABLE AS TO PRINCIPAL, PREMIUM, IF ANY, AND INTEREST ONLY FROM THE REVENUES.

IN WITNESS WHEREOF, the City of South Lebanon, Ohio, has caused this bond to be signed by its Mayor and Fiscal Officer, as of the [____] day of [____], 20__], in accordance with Ordinance Number 2023-12

By: _____

Mayor

Date: _____

By: _____

Fiscal Officer

Date: _____

SCHEDULE I

[\$8,250,000]

TAX INCREMENT REVENUE REFUNDING BONDS
(RIVERSIDE PROJECT)
SERIES 2023

<u>Date</u>	<u>Amount</u>	<u>Date</u>	<u>Amount</u>
	\$		\$

* Final maturity

CERTIFICATE OF AUTHENTICATION

This Bond is issued under the within-mentioned Bond Ordinance.

City of South Lebanon, Ohio

By: _____
Fiscal Officer, as Registrar

[FORM OF ASSIGNMENT]

The following abbreviations, when used in the inscription on the face of this Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM -	as tenants in common	UNIF GIFT MIN ACT/UNIF TRANF
TEN ENT -	as tenants by the entireties	MIN ACT _____
		(Cust)

JT TEN -	as joint tenants with right of survivorship and not as tenants in common	Custodian _____
		(Minor)

under Uniform Gifts to Minors Act/Uniform
Transfer to Minor Act

(State)

Additional abbreviations may also be used though not in the above list.

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____
(please print or typewrite name and address of transferee), the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____
attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____
Signature

In the presence of: _____

NOTICE: **THE SIGNATURE TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS IT APPEARS UPON THE FACE OF THE WITHIN BOND IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATEVER.**



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 30, 2023
Subject: HuDawn Annexation Ordinance

Attached is an ordinance for the HuDawn Annexation of 7.0165 acres in Union Township. The County Commissioners approved the annexation on March 7, 2023, and the Commissioners Clerk delivered the record of the proceedings to the City Fiscal Officer on March 17, 2023. Per ORC 709.04, after sixty (60) days from the date of the delivery, the City Council can officially accept the annexation. It is presented as an emergency ordinance to expedite the property owner's necessity to utilize City services.

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

CITY OF SOUTH LEBANON, OHIO
ORDINANCE NO. 2023-13

**AN ORDINANCE ACCEPTING THE ANNEXATION OF 7.0165 ACRES IN UNION
TOWNSHIP, WARREN COUNTY, OHIO TO THE CITY OF SOUTH LEBANON,
OHIO AND DECLARING AN EMERGENCY**

WHEREAS, a petition for annexation of approximately 7.0165± acres in Union Township, Warren County to the City of South Lebanon described in attached Exhibit A and shown on the map or plat attached as Exhibit B was filed with the Warren County Commissioners on February 3, 2023. The petition followed the expedited type 2 annexation process provided for in Ohio Revised Code Section 709.023; and,

WHEREAS, the petition was signed by all owners of real estate in the unincorporated territory of the township proposed for annexation; and,

WHEREAS, by resolution adopted on March 7, 2023, the Board of County Commissioners of Warren County, Ohio approved the annexation of 7.0165± acres in Union Township to the City of South Lebanon, Ohio; and,

WHEREAS, the clerk of the Warren County Board of County Commissioners had a certified copy of the record of the annexation proceedings, including all resolutions of the Board held in connection with the 7.0165± acre annexation, delivered to the Fiscal Officer on March 17, 2023; and

WHEREAS, more than sixty (60) days from the date of delivery of the record of the annexation proceedings to the City has elapsed in accordance with provisions of Section 709.04 of the Ohio Revised Code and the Fiscal Officer has now laid the resolution of the Warren County Commissioners granting the annexation and the annexation papers before Council at this next regular scheduled meeting to accept or reject the petition for annexation; and

WHEREAS, it is the desire of the owners, and in the interest of the City, that all municipal ordinances and powers be immediately effective in the annexed territory, that City services be immediately available to the territory and that territory immediately be within the City so that the City can begin providing services and for the preservation of the peace, health, safety and welfare of the annexation territory, the City and its residents.

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

Section 1. The annexation of 7.0165± acres described in Exhibit A and shown on the map or plat labeled Exhibit B previously approved by the Warren County Board of County Commissioners by Resolution on March 7, 2023, be and is hereby accepted by the City.

Section 2. The Fiscal Officer is hereby directed to make three copies containing the petition, the map or plat accompanying the petition, a transcript of the proceedings of the Board of County Commissioners, and resolutions and ordinances in relation to the annexation, including this Ordinance. The Fiscal Officer shall then deliver one certified copy to the Warren County Recorder for recording it in the Recorder's official records. The other two copies shall be certified by the Fiscal Officer and forwarded to the Ohio Secretary of State and the Warren County Auditor. The Fiscal Officer shall pay any associated fees and costs and to take any other action required by statute.

Section 3. The Fiscal Officer is further directed to notify the Warren County Board of Elections of the changes in the boundaries of the City in writing which shall include a certified copy of this Ordinance with its attached exhibits, including the legal description and annexation plat, within thirty (30) days of the adoption of this Ordinance.

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

Section 5. This measure is hereby declared to be an emergency measure in accordance with Ohio Rev. Code § 731.30 that is necessary for the immediate preservation of the public peace, health, safety or welfare of the City and its residents for the reason the annexation territory has an immediate need for City services, the owners of the annexation territory desire to have the property immediately subject to the City's authority and for City services immediately available to the property. In addition, it is in the interest of the City and its residents and inhabitants to have its municipal ordinances,

Ordinance 2023-13

Page 3

powers and services immediately applied throughout the municipality without delay, including in newly annexed territories; and this Ordinance shall be in full force and effect immediately upon its passage.

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 June, 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

DESCRIPTION FOR:**CITY OF SOUTH LEBANON****LOCATION:****HUDAWN ANNEXATION
7.0165 Acres**

Situate in Union Township, Warren County, Ohio and being all of the 6.107 acre and 0.496 acre parcels as described and conveyed to 1770 MMM, LLC by deed recorded in Document Number 2015-002400 (all records of the Warren County, Ohio Recorder's Office) and including the 0.3340 acres of Lot 1 of River Creek Lofts Subdivision, as shown and recorded in Plat Book 102, Page 61, that lies within the existing public right-of-way of Mason-Morrow-Millgrove Road as granted to the State of Ohio by easement in D.B. 336, P. 317 and also including (0.079471) 0.0795 acres dedicated 30' half public right-of-way of Mason Morrow Road, as shown and recorded in Plat Book 10, Page 85;

Beginning at a point in the existing corporation line of the City of Lebanon, located at the intersection of the centerline of Mason-Morrow-Millgrove Road (County Road No. 38) with the westerly right-of-way line of 6.821 acres (former Penn-Central Railroad parcel) conveyed to the City of Lebanon by deed recorded in Official Record 3502, Page 957 and also being the northerly corner of said (0.079471) 0.0795 acres dedicated public right-of-way in Plat Book 10, Page 85;

Thence along said corporation line of the City of Lebanon, with the easterly line of said dedicated right-of-way, South 41°24'00" East, 31.81 feet to the existing corporation line of the City of South Lebanon at the northerly corner of Lot 1 of River Creek Lofts Subdivision, shown and recorded in Plat Book 102, Page 61;

Thence along said corporation line of the City of South Lebanon, along the southerly line of said dedicated right-of-way and along a northerly line of said Lot 1, South 68°00'00" West, 110.03 feet to a point in the south line of a right-of-way and easement granted to the State of Ohio by deed recorded in Deed Book 336, Page 317;

Thence, continuing along said corporation line of the City of South Lebanon, along lines of said State of Ohio right-of-way and easement through said Lot 1, South 64°32'54" West, 120.98 feet and South 74°03'44" West, 192.50 feet to the westerly line of said Lot 1;

Thence, along said westerly line of said Lot 1, North 42°35'40" West, 53.41 feet to a south line of aforesaid 6.107 acre parcel conveyed to 1770 MMM, LLC;

Thence, along lines of said 6.107 acre parcel, South 74°02'00" West, 73.27 feet and North 81°42'15" West, 85.12 feet to the east corner of aforesaid 0.496 acre parcel conveyed to 1770 MMM, LLC and northerly right-of-way line of relocated Mason-Morrow-Millgrove Road as shown on plans for the Columbus-Cincinnati Expressway (State Route 1, Section 5.72) Project I-71-1(8)-29;

Thence with lines of said 0.496 acre parcel, the following four (4) courses and distances:

McGill Smith Punshon, Inc.

3700 Park 42 Drive, Suite 190B ■ Cincinnati, Ohio 45241

513.759.0004 ■ Fax 513.563.7099 ■ www.msppdesign.com



- 1.) Along said northerly right-of-way line, South 68°23'05" West, 106.55 feet;
- 2.) Continuing along said northerly right-of-way line, South 52°22'16" West, 135.13 feet;
- 3.) North 38°34'32" West, 141.66 feet to the limited access right-of-way line of said Columbus-Cincinnati Expressway (I-71);
- 4.) Along said limited access right-of-way line, North 42°13'25" East, 64.59 feet to the west corner of aforesaid 6.107 acre parcel conveyed to 1770 MMM, LLC;

Thence, with lines of said 6.107 acre parcel, the following four (4) courses and distances:

- 1.) Continuing along said limited access right-of-way line and northwesterly line of said 6.107 acre parcel, with an arc deflecting to the right, having a central angle of 4°06'08", a radius of 12087.67 feet and a length of 865.43 feet. The chord of said arc bears North 42°58'10" East, 865.24 feet to the existing corporation line of the City of Lebanon and the westerly line of 4.799 acres (former Penn-Central Railroad parcel) conveyed to the City of Lebanon by deed recorded in Official Record 504, Page 641;
- 2.) Along said corporation line and westerly line of said City of Lebanon, South 21°26'10" East, 185.51 feet;
- 3.) Continuing along said corporation line and a westerly line of the City of Lebanon, with an arc deflecting to the left, having a central angle of 6°22'35", a radius of 2324.83 feet and a length of 258.72 feet. The chord of said arc bears South 24°36'50" East, 258.59 feet to the north corner of 0.155 acres conveyed to Almar Investments, LLC by deed recorded in Official Record 4260, Page 510;
- 4.) With the westerly line of said 0.155 acre parcel, South 06°12'15" West, 156.95 feet to the aforesaid centerline of Mason-Morrow-Millgrove Road (County Road No. 38) and north line of aforesaid (0.079471) 0.0795 acres dedicated in Plat Book 10, Page 85;

Thence, along said centerline and north line of said dedication, North 68°00'00" East, 73.76 feet to the point of beginning.

Containing 7.0165 acres, more or less, of land.

Subject to all legal highways, easements and restrictions of record.

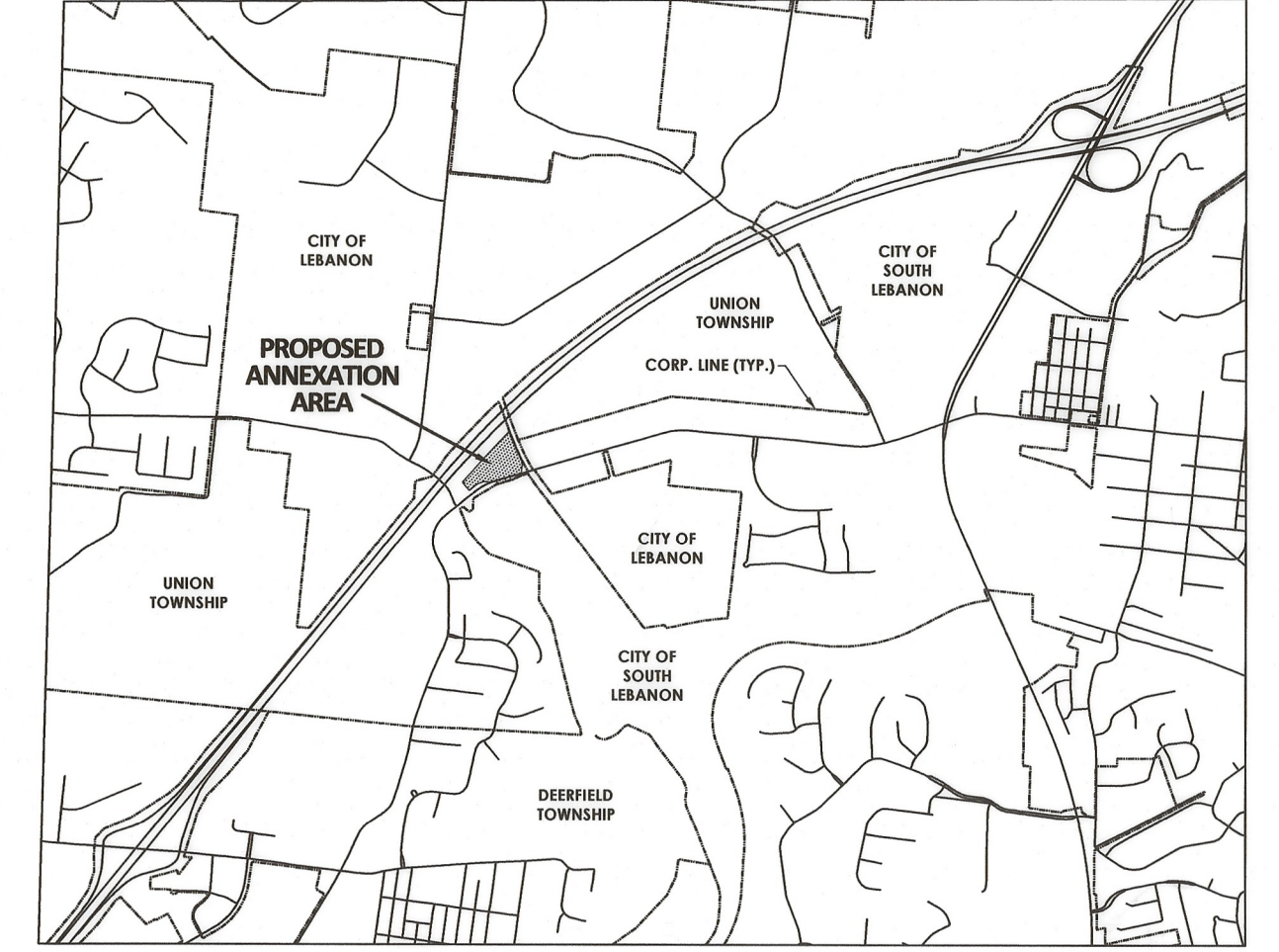
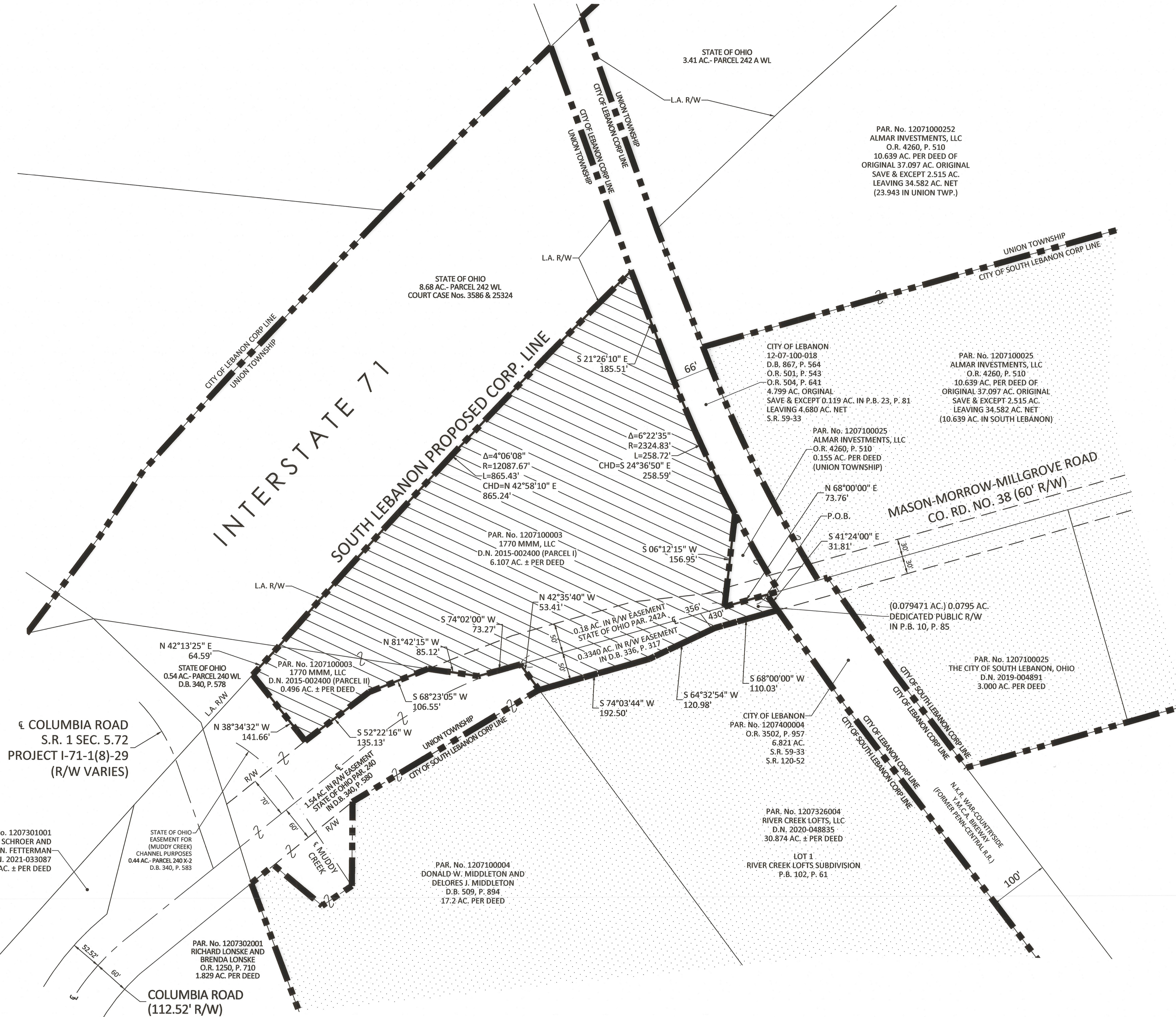
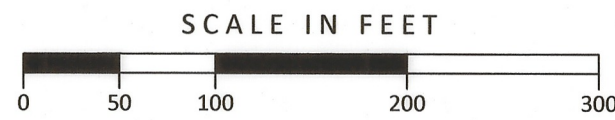
The above description is the result of a Plat of Annexation by McGill Smith Punshon, Inc. under the direction of Richard D. Nichols, P.S. No. 7929, dated the 18th of April 2022. The bearings in the above description are based on the description for Parcel II as conveyed to 1770 MMM, LLC by deed recorded in Document Number 2015-002400, record of the Warren County, Ohio Recorder's Office.

Prepared by: McGill Smith Punshon, Inc.
Date: 18 APR 2022
MSP No.: 06308.24

06308243-CLI-LEG-Hudawn Parcels



BEARINGS BASED ON SUBJECT PROPERTY DEEDS,
RECORDS OF THE WARREN COUNTY, OHIO RECORDER'S OFFICE.



VICINITY MAP
NOT TO SCALE

COUNTY COMMISSIONERS:

WE, THE BOARD OF COUNTY COMMISSIONERS OF WARREN
COUNTY, OHIO DO HEREBY APPROVE THIS PLAT ON THIS
7 DAY OF March, 2023.

COMMISSIONERS
[Signatures]

CITY APPROVAL:

CITY OF SOUTH LEBANON CLERK

DATE

COUNTY RECORDER:

FILE NO. _____
RECEIVED THIS ____ DAY OF _____, 20____, AT ____ A.M./P.M.
RECORDED THIS ____ DAY OF _____, 20____, AT ____ A.M./P.M.
RECORDED IN PLAT BOOK NO. _____, PAGE _____
FEE: _____

BY: DEPUTY _____ WARREN COUNTY RECORDER

COUNTY AUDITOR:

TRANSFERRED THIS ____ DAY OF _____, 20____

BY: DEPUTY _____ WARREN COUNTY AUDITOR

**PLAT OF ANNEXATION
CITY of SOUTH LEBANON
"HUDAWN ANNEXATION"**

SECTION 7, TOWN 4 EAST, RANGE 3 NORTH
BETWEEN THE MIAMIS
UNION TOWNSHIP
WARREN COUNTY, OHIO

EX. CITY OF SOUTH LEBANON CORP.

AREA TO BE ANNEXED TO THE
CITY OF SOUTH LEBANON

**TOTAL AREA IN PROPOSED ANNEXATION:
7.0165 ACRES ±**

TOTAL AREA IN PROPOSED ANNEXATION: 7.0165 ACRES ±

ACREAGE BREAKDOWN (BASED ON RECORDS AND SHOULD BE CONSIDERED APPROXIMATE):

PARCEL	OWNER	DEED REFERENCE	ACRES
1207100003	1770 MMM, LLC	D.N. 2015-002400 (PARCEL I)	6.1070 AC.
		(PARCEL 2)	0.4960 AC.
1207326004	RIVER CREEK LOFTS, LLC	D.N. 2020-048835 (PART LOT 1)	0.3340 AC.
		P.B. 10, P. 85 (0.079471 AC.)	0.0795 AC.
	PUBLIC R/W PARCEL		7.0165 AC. TOTAL

LENGTHS OF EACH ROAD IN TERRITORY:

MASON-MORROW-MILLGROVE ROAD = 430 FT.

THIS PLAT WAS PREPARED FROM EXISTING DEEDS, PLATS AND SURVEYS OF RECORD
NOTED HEREON, AND IS NOT THE RESULT OF A FIELD SURVEY.

[Signature] 12/8/22
RICHARD D. NICHOLS
OHIO PROFESSIONAL SURVEYOR No. 7929



Date 18 APR 2022
Scale 1" = 100'
Drawn By CMB Proj. Mgr. RDN
Survey Database N/A
DWG 06308243-ANX-00
X-Ref(s)
Project Number 06308.24
File No. 06308.24 Sheet No. 1/1

MSP
DESIGN
McGill Smith Punshon
Architecture
Engineering
Landscape Architecture
Planning
Surveying
3700 Park 42 Drive
Suite 190B
Cincinnati OH 45241
Phone 513.759.0004
www.mspsdesign.com

Exhibit "B"



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 30, 2023
Subject: Hobart St. Sidewalk Engineering Agreement

Attached is a resolution & agreement with Choice One Engineering for the design of the Hobart Street sidewalk project. The County Grants Administration office is proceeding with the grant process so that, once it is designed, it can go out to bid with, hopefully, construction completed this year.

This need to be passed an emergency in order to proceed with the design ASAP to try to get it completed this construction season.

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

CITY OF SOUTH LEBANON, OHIO

RESOLUTION NO. 2023-23

**A RESOLUTION AUTHORIZING THE MAYOR AND FISCAL OFFICER TO
ENTER INTO AN AGREEMENT WITH CHOICE ONE ENGINEERING FOR
CONSULTING ENGINEER SERVICES REQUIRED FOR THE HOBART STREET
COMMUNITY DEVELOPMENT BLOCK GRANT PROJECT, AND DECLARING
AN EMERGENCY**

WHEREAS, the City has been awarded \$84,788 in Fiscal Year 2023 Community Development Block Grant (CDBG) funds for construction of sidewalk on Hobart Street from Main Street to High Street; and,

WHEREAS, the City committed \$22,515 to the Project which included up to \$19,000 for engineering and construction observation; and,

WHEREAS, the City has solicited a proposal from Choice One Engineering for consulting engineer for said Project; and,

WHEREAS, funds are available in the City's 2023 General Fund budget for consulting engineer services for the Hobart Street Sidewalk Project; and,

WHEREAS, immediate action is required to assure design and utility relocation can be completed as soon as possible to expedite the construction of the project, 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 authorizes the Mayor and Fiscal Officer to enter into a contract with Choice One Engineering for consulting engineer services in the City of South Lebanon required for Hobart Street CDBG Project for the not to exceed amount of \$11,200.

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

Resolution No. 2023-23

Page 2

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 1st day of June, 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

MASTER AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES

This MASTER AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES (the "Agreement") made as of the date stated below, between the City of South Lebanon, Ohio, 10 N. High Street, South Lebanon, OH 45065 (the "City") and Choice One Engineering, organized under the laws of the State of Ohio as a Corporation, whose address is 8956 Glendale0-Milford Road, Suite 1, Loveland, Ohio 45140 ("Consultant").

The City and the Consultant in consideration of their mutual covenants herein agree, in respect of the performance of professional consulting services by Consultant and the payment for those services by the City, to the following terms, conditions and obligations.

SECTION 1 - BASIC SERVICES OF CONSULTANT

- 1.1 The Consultant agrees to provide consulting engineering products and/or services (the "Basic Services") relative to design and engineering for the Lebanon Road CDBG Project, all in accordance with the scope of work described in Exhibit 1 herein.

SECTION 2 - ADDITIONAL SERVICES OF CONSULTANT

- 2.1 If authorized in writing by the City and Consultant, Consultant shall furnish or obtain from others Additional Services of certain types, which are not considered normal or customary Basic Services. Such additional services are particularly set forth, defined and identified, in the attachment hereto, and made a part of this Agreement as Exhibit 1-A.

SECTION 3 – THE CITY’S RESPONSIBILITIES

The City shall:

- 3.1. Provide all criteria and full information for the Project, including objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations.
- 3.2. Assist Consultant by providing all available information pertinent to the Basic Services in the possession of the City including any previous reports and any other data relative to the Project.
- 3.3. Furnish Consultant, as required for performance of Consultant's Basic Services, data prepared by or services of others, as applicable.
- 3.4. Arrange for access to and make all provisions for Consultant to enter upon public and private property as required for Consultant to perform the scope of services.
- 3.5. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by Consultant, obtain advice of an attorney, insurance counselor and other Consultants as the City deems appropriate for such

examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of Consultant.

- 3.6. Furnish approvals and permits from all governmental authorities having jurisdiction over the Basic Services and such approvals and consents from others as may be necessary for completion of the Basic Services.
- 3.7. Provide such accounting, insurance counseling and such legal services as may be required for the Basic Services, such legal services as the City and Consultant may require or Consultant may reasonably request with regards to legal issues pertaining to the Basic Services.
- 3.8. Designate in writing the person or persons to act as the City's representative with respect to the services to be rendered under this Agreement. Such person shall have authority to transmit instructions, receive information, interpret and define the City's policies and decisions with respect to materials, equipment, elements and systems pertinent to Consultant's services.
- 3.9. Give prompt written notice to Consultant whenever the City observes or otherwise becomes aware of any development that affects the scope or timing of Consultant's services, or any defect in the work of any third party.
- 3.10. Furnish, or direct Consultant to provide, upon approval of the City, necessary Additional Services as stipulated in accordance with Section 2 of this Agreement or other services as required. (Intentionally Omitted)
- 3.11. Bear all costs incident to compliance with the requirements of this Section 3.

SECTION 4 - PERIOD OF SERVICE

- 4.1. The provisions of this Section 4 and the various rates of compensation for Consultant's services provided for elsewhere in this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Basic Services.
- 4.2. Upon receipt of a written notice to proceed from the City, Consultant shall proceed with the performance of the services called for in a task order to be issued at a future date.
- 4.3. Consultant's services to be rendered thereunto shall be considered complete upon final payment issued by City.
- 4.4. If the City has requested significant modifications or changes in the extent of the Project, the time of performance of Consultant's services and his/her/its various rates of compensation shall be adjusted appropriately, upon approval of the City and the Consultant of a written Schedule.

SECTION 5 - PAYMENTS TO CONSULTANT

5.1 Methods of Payment for Services and Expenses of CONSULTANT

- 5.1.1. For Basic Services. The City shall pay Consultant for Basic Services rendered under Section 1 as follows:

The price for the products and/or services provided herein and the method of payment thereto shall be on a time-and-materials basis in accordance with the hourly rate established in Exhibit "1". **THE TOTAL PRICE FOR THE BASIC SERVICES SHALL NOT EXCEED \$11,200.00.** The City shall not be responsible for the cost of any Basic Services that exceeds the aforementioned not-to-exceed price without prior written authorization from the City.

- 5.1.2 For Additional Services. The City shall pay Consultant for Additional Services rendered set forth in Exhibit 1 based on the hourly rates for Professional Consulting Services, as particularly set forth, defined and identified, in the attachment hereto, and made a part of this Agreement as Exhibit 1.

5.2 Times of Payments.

- 5.2.1. Consultant shall submit itemized statements for Basic and Additional Services rendered. The City shall make prompt payments in response to Consultant's itemized statements by mailing via ordinary U.S. mail such payment no later than five (5) business days after the City Council's regularly scheduled Council Meeting on the 3rd Thursday of each month.

5.3 Other Provisions Concerning Payments.

- 5.3.1. If the City fails to make any payment due Consultant for services and expenses within forty-five (45) days after receipt of Consultant's itemized statement therefore, the amounts due Consultant shall include a charge at the rate of 1% per month from said 45th day, and in addition, Consultant may, after giving seven days, written notice to the City, suspend services under this Agreement until he/she has been paid in full all amounts due for services and expenses.
- 5.3.2. In the event of termination by the City under paragraph 6.1 upon the completion of any phase of the Basic Services, progress payments due Consultant for all services satisfactorily rendered through such phase shall constitute total payment for such services.
- 5.3.3. Records of Consultant's Salary Costs pertinent to Consultant's compensation under this Agreement will be kept in accordance with generally accepted accounting practices. Copies will be made available to the City upon request prior to final payment for Consultant's services.

5.4 Definitions

- 5.4.1. The Payroll Costs used as a basis for payment means salaries and wages (basic and incentive) paid to all personnel engaged directly on the Project, including, but not limited to the following; Consultant's architects, surveyors, designers, draftsmen, specification writers, estimators, all other technical personnel, stenographers, typists and clerks; plus the cost of customary and statutory benefits including, but not limited to, social security contributions, unemployment, excise and payroll taxes,

workers' compensation, health and retirement benefits, sick leave, vacation and holiday pay applicable thereto.

SECTION 6 - GENERAL CONSIDERATIONS

6.1 Termination.

The obligation to provide services under this Agreement may be terminated by either party for no cause upon seven (7) days' written notice by certified mail, return receipt requested.

6.2 Reuse of Documents.

All documents prepared by Consultant pursuant to this Agreement are instruments of service as part of the Project. They are not intended or represented to be suitable for reuse by the City or others on extensions of the Project or any other project. Any reuse without written verification or adaptation by Consultant for the specific purpose intended will be at the City's risk and without liability or legal exposure to Consultant. Any verification or adaptation requested by the City to be performed by Consultant will entitle Consultant to further compensation at rates to be agreed upon by the City and Consultant.

6.3 Controlling Law and Venue

This Agreement is to be governed by the law of the State of Ohio. The venue for any disputes hereunder shall exclusively be the Warren County, Ohio Court of Common Pleas.

6.4 Successors and Assigns.

- 6.4.1. The City and Consultant each binds himself/herself and his/her partners, successors, executors, administrators, assigns and legal representatives to the other party, to this Agreement and to the partners, successors, executors, administrators, assigns and legal representatives of such other party, in respect to all covenants, agreements and obligations of this Agreement.
- 6.4.2. Neither the City nor Consultant shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except as stated in paragraph 6.4.1 and except to the extent that the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent Consultant from employing such independent consultants, associates and subcontractors, as he/she may deem appropriate to assist him/her in the performance of services hereunder.
- 6.4.3. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than the City and Consultant.

6.5 Modification or Amendment

No modification or amendment of any provisions of this Agreement shall be effective unless made by a written instrument, duly executed by the party to be bound thereby, which refers specifically to this Agreement and states that an amendment or modification is being made in the respects as set forth in such amendment.

6.6 Construction

Should any portion of this Agreement be deemed unenforceable by any administrative or judicial officer or tribunal of competent jurisdiction, the balance of this Agreement shall remain in full force and effect unless revised or terminated pursuant to any other section of this Agreement.

6.7 Waiver

No waiver by either party of any breach of any provision of this Agreement shall be deemed to be a further or continuing waiver of any breach of any other provision of this Agreement. The failure of either party at any time or times to require performance of any provision of this Agreement shall in no manner affect such party's right to enforce the same at a later time.

6.8 Relationship of Parties

The parties shall be independent contractors to each other in connection with the performance of their respective obligations under this Agreement.

6.9 Parties

Whenever the terms "the City" and "Consultant" are used herein, these terms shall include without exception the employees, agents, successors, assigns, and/or authorized representatives of the City and the Consultant.

6.10 Headings

Paragraph headings in this Agreement are for the purposes of convenience and identification and shall not be used to interpret or construe this Agreement.

6.11 Notices

All notices required to be given herein shall be in writing and shall be sent certified mail return receipt to the following respective addresses:

TO: The City of South Lebanon, Ohio
Attn. City Administrator
10 N. High Street
South Lebanon, OH 45065

Consultant: Choice One Engineering
Attn. Troy Niese, P.E.
Address: 8956 Glendale-Milford Road, Suite 1
Address: Loveland, Ohio 45140

6.12 Insurance

Consultant shall carry comprehensive general and professional liability insurance, with no interruption of coverage during the entire term of this Agreement. Consultant further agrees that in the event that its comprehensive general or professional liability policy is maintained on a "claims made" basis, and in the event that this Agreement is terminated, Consultant shall continue such policy in effect for the period of any statute or statutes of limitation applicable to claims thereby insured, notwithstanding the termination of the Agreement. Consultant shall provide the City with a certificate of insurance evidencing such coverage, and shall provide thirty (30) days notice of cancellation or non-renewal to the City. Cancellation or non-renewal of insurance shall be grounds to terminate this Agreement. The insurance shall comply with all of the following provisions:

(a) The insurer shall have an AM Best rating of A- or better, unless otherwise agreed by the City in writing;

(b) The insurance coverage must have commercial general liability limit of \$1,000,000 per occurrence for bodily injury, personal injury and property damage and the minimum general aggregate shall be \$2,000,000;

(c) The insurance coverage must have professional liability (i.e. errors and omissions) limit of \$1,000,000 per occurrence.

(d) The automobile liability limit shall be at least \$500,000 per accident for bodily injury and property damage where applicable;

(e) The insurance coverage shall have Ohio stop gap employer's liability with a \$2,000,000 limit;

(f) The Consultant shall name the City, its elected and appointed officials, agents, employees and volunteers as additional insureds to all insurance policies with waiver of subrogation against the City, and shall furnish the City with certificates of insurance naming such individuals and entities as additional insureds. The coverage shall be primary to the additional insureds and not contributing with any other insurance or similar protection available to the additional insured's, whether available coverage is primary, contributing or excess, and shall provide the City with the same coverage and duty to defend as the primary coverage provides for Consultant;

The Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor; provided that all coverages for subcontractors shall be subject to all requirements stated herein; and

(g) Consultant shall carry statutory worker's compensation insurance and statutory employer's liability insurance as required by law and shall provide the City with certificates of insurance evidencing such coverage simultaneous with the execution of this Agreement.

SECTION 7 - SPECIAL PROVISIONS, EXHIBITS and SCHEDULES

7.1 This Agreement is subject to the following special provisions, if any:

7.1.1 None

7.2. The following Exhibits are attached to and made a part of this Agreement:

Exhibit "1"

SECTION 8 – DISPUTE RESOLUTION

Any and all controversies, disputes, disagreements, claims and demands of whatsoever kind or nature arising out of or relating in any way to this Agreement, alleged breaches thereof, and/or the parties' relationship shall: (i) first be submitted to mediation before a mediator mutually agreed upon, and if mediation is not successful, then; (ii) the parties may litigate the dispute subject to the jurisdiction and venue stipulation in Section 6, Paragraph 6.2 herein.

SECTION 9 – ENTIRE AGREEMENT

This Agreement, together with the Exhibits and schedules identified above constitute the entire agreement between the City and Consultant, and supersede all prior written or oral understandings. This Agreement and said Exhibits and schedules may only be amended, supplemented, modified or canceled by a duly executed written instrument, signed by all parties.

SECTION 10 – INDEMNIFICATION

Consultant will, to the extent allowed by law, indemnify and save the City harmless from loss, claims, expenses, causes of action, costs, damages, and other obligations including but not limited to the City's reasonable attorney fees, financial or otherwise, to the extent arising from (a) negligent, reckless, and errors or omissions by Consultant, its agents, employees, licensees, contractors, or subcontractors; and, (b) the failure of Consultant, its agents, employees, licensees, contractors, or subcontractors, to observe the applicable standard of care in providing services pursuant to this Agreement. Nothing in this Agreement shall require the Consultant to provide indemnification that would be in violation of the provisions found in Ohio Revised Code § 153.81.

[the remainder of this page is blank]

SECTION 11 – EXECUTION

CONSULTANT :

IN EXECUTION WHEREOF, Choice One Engineering, the Consultant herein, has caused this Agreement to be executed on the date stated below by _____ whose title is _____, pursuant to a Resolution or Consent Action authorizing such act.

SIGNATURE: _____

PRINTED NAME: _____

TITLE: _____

DATE: _____

CITY:

IN EXECUTION WHEREOF, the Council of the City of South Lebanon, Ohio, has caused this Agreement to be executed on the date stated below by its Mayor and its Fiscal Officer, pursuant to Resolution No. 2023 - ____.

SIGNATURE: _____

PRINTED NAME: James D. Smith

TITLE: Mayor

DATE: _____

SIGNATURE: _____

PRINTED NAME: Petrina D. Williams

TITLE: Fiscal Officer

DATE: _____

APPROVED AS TO FORM:

ANDREW P. MEIER
CITY SOLICITOR
CITY OF SOUTH LEBANON, OHIO

By: _____

Date: _____

Scope of Services

Project Snapshot

Choice One intends to provide construction plans and an estimate to install sidewalk along the South side of Hobart Avenue from High Street to Main Street.

Project Details

- See attached exhibit for project area.
- The proposed sidewalk will run along the south side of Hobart Avenue from Main Street to High Street.
- A preliminary estimate was provided by Choice One to the City in 2022 as part of a funding application. The estimated construction cost was around \$88,000.
- Existing fence will be removed and reset as part of this project where necessary.
- Sidewalk will be placed on grade where possible. Storm sewer improvements are not expected to be necessary for this project.
- Electric, gas, cable, etc. will be relocated if necessary prior to construction. Choice One will coordinate with the utility companies during the design on any relocations.
- Maintenance of traffic will be handled by general notes.
- If the project estimate is over \$50,000, it will need to be publicly bid. Choice One can assist the City with public bidding procedures if requested. An "if authorized" price is included in this scope of work.

Project Services

1. Topographic Survey

- a. Contact Ohio Utilities Protection Service (OUPS) for underground utility locations.
- b. Perform necessary deed and plat research.
- c. Establish horizontal and vertical survey control for the project area based on State Plane coordinates and NAVD 88.
- d. Field reconnaissance and traverse of existing monumentation.
- e. Identify visible features from 10' beyond right-of-way for both sides including utilities and drainage.
- f. Provide roadway cross-sections every 50', at driveways, and other critical areas.
- g. Inventory manholes and catch basins including type of construction, depth, pipe size, and condition.
- h. Locate underground utilities as marked by the appropriate utility companies.
- i. Boundary resolution will not be performed. Existing right-of-way lines will be placed in the drawing utilizing County GIS lines and other readily-available information.
- j. Provide one (1) foot contour intervals.
- k. Completed topographic survey shall be provided in AutoCAD format.

2. Construction Plans

- a. Design construction plans to include:
 - i. Title Sheet
 - ii. General Notes and Details
 - iii. Quantity Summary and Engineer's Estimate
 - iv. Plan and Profile (scale 1" = 20' horizontal, 1" = 5' vertical)
 - v. Cross Section Sheets (scale 1" = 5' horizontal, 1" = 5' vertical)

3. Construction Bidding Procedures (if authorized)

- a. Prepare bidding documents for the bidding process to be sold online, for free, or at Choice One's office with the cost to be reimbursed to Choice One by contractor's purchase of plans and documents.
- b. Provide assistance in the bidding process including answering questions during the bidding phase from the Client, contractors, and suppliers, including material alternatives and intent of the plans, general notes, and specifications.
- c. Process addenda, if necessary.
- d. Attend bid opening.

- e. Review bids and contractor qualifications.
- f. Prepare bid tabulations.
- g. Check System for Award Management (SAM) database prior to award to ensure contractor is not suspended or debarred.
- h. Check Ohio Auditor of State's website for unresolved findings.
- i. Prepare contracts for successful bidder.
- j. Attend preconstruction meeting.

4. Construction Administration Services

- a. *Construction Administration services listed below will be provided upon request on an hourly basis according to our current Standard Hourly Rate Schedule.*
 - i. Produce additional plans for successful contractor and Client.
 - ii. Attend preconstruction meeting and provide minutes to attendees.
 - iii. Respond to Contractor's questions.
 - iv. Administrate plan interpretation for contractor and Client during construction, as required.
 - v. Attend meetings at the request of the Client with contractor.
 - vi. Review and approve pay requests.
 - vii. Process necessary change orders.
 - viii. Conduct final inspection and provide a punch list.
 - ix. Review site/civil shop drawings.

Client Responsibilities

- Execute necessary Work Agreements and Easements.
- Provide timely decisions to keep design work on schedule.
- Assist in utility company coordination.
- Provide property access and owner notification along the project route.
- Assist in utility company coordination.

Compensation & Schedule

Compensation

Lump Sum Fee Schedule	
Topographic Survey	\$2,600.00
Construction Plans	\$8,600.00
Total	\$11,200.00
<i>Public Bidding Procedures (if authorized)</i>	<i>\$3,500.00</i>
<i>Construction Administration Services</i>	<i>Hourly Upon Request</i>

Schedule

Choice One will have the construction plans completed and ready to bid within one hundred and fifty days (150) after receipt of an executed agreement.

This agreement is valid for 60 days prior to being executed by the Client. After 60 days, Choice One reserves the right to modify the fee and schedule, as necessary.

Legend

- Feature 1
- Feature 2
- Joseph Sallee Roofing
- Pentecostal Temple
- Rogers Park



sidewalk on south side
of Hobart Ave between
Main and High Streets



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 30, 2023
Subject: Forest Avenue OPWC Engineering Amendment

Back in 2020, as part of the Ohio Public Works Commission (OPWC) application for the Forest Avenue project, the then-Village entered into an agreement with Choice One Engineering for the design of the project. This project was finally approved for funding and we will be getting a grant agreement after July 1. Since it has been three (3) years since the original agreement and given the increase in the rate of inflation over the last few years, an increase to the agreement would be reasonable. They have proposed a \$6,700 increase to the contract.

This needs to be passed an emergency in order to proceed with the design ASAP to try to get it completed this construction season.

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

**CITY OF SOUTH LEBANON, OHIO
RESOLUTION NO. 2023-24**

**A RESOLUTION APPROVING AND AUTHORIZING MAYOR AND FISCAL
OFFICER TO EXECUTE AMENDMENT #1 TO AGREEMENT WITH CHOICE ONE
ENGINEERING FOR THE FOREST AVENUE RECONSTRUCTION PROJECT
PHASE ONE, AND DECLARING AN EMERGENCY**

WHEREAS, on June 18th, 2020, as part of a funding application to the Ohio Public Works Commission (OPWC), the then-Village Council passed Resolution No. 2020-23 and entered into an agreement with Choice One Engineering (“Engineer”) for the design of the Forest Avenue Reconstruction Project Phase One in the amount of \$38,000.00; and,

WHEREAS, on May 23rd, 2023, the City received confirmation from OPWC of the approval of funding for the Forest Avenue Reconstruction Project Phase One; and,

WHEREAS, in the time since the execution of the original agreement, costs have increased for the Engineer which justifies an increase to the “not to exceed” amount in the original agreement; and,

WHEREAS, the Engineer has submitted a proposal for an increase in the costs since the original agreement was executed which will result in a not to exceed cost of \$44,700.00 which is a net increase of \$6,700.00 from the original contract price; and,

WHEREAS, immediate action is required to approve said amendment to ensure the design for the Project is expedited to allow for construction this year 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, at least two-thirds of all members elected thereto concurring:

Section 1. Approve Amendment #1 with Choice One Engineering, a copy of which is attached hereto, and further authorize the Mayor and Fiscal Officer to execute an Amendment on behalf of the City.

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

Resolution 2023-24

Page 2

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 passing 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 1st day of June, 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

Resolution 2023-24

Page 3

Prepared by and approved as to form:

ANDREW P.MEIER
CITY SOLICITOR
SOUTH LEBANON, OHIO

By: _____

Date: 6/1/2023

**Date**

May 26, 2023

Attention

Jerry Haddix
Administrator
jhaddix@southlebanonohio.org

Address

City of South Lebanon
10 N. High Street
South Lebanon, OH 45065

Subject

Amendment #1 to Agreement for Professional Services
Forest Avenue Reconstruction – Phase 1
WAR-SLE-2004

Dear Mr. Haddix:

The Agreement referred to herein was executed on 6/19/2020 between the City of South Lebanon, hereinafter referred to as Client and Choice One Engineering Corporation, hereinafter referred to as Choice One.

This Agreement is hereby modified by mutual consent and agreement as followed. Please execute the Agreement Amendment and return it to Choice One.

If you have any questions, please feel free to give us a call.

City of South Lebanon

James D. Smith, Mayor

Date

Choice One Engineering Corporation

Troy A. Niese, P.E., Project Manager

5/26/2023
Date

Tina Williams
Fiscal Officer

Date

Approved as to form:
ANDREW P. MEIER
CITY SOLICITOR
SOUTH LEBANON, OHIO

By: _____
Date: _____

W. Central Ohio/E. Indiana
440 E. Hoewisher Rd.
Sidney, OH 45365
937.497.0200 Phone

S. Ohio/N. Kentucky
8956 Glendale Milford Rd., Suite 1
Loveland, OH 45140
513.239.8554 Phone

www.CHOICEONEENGINEERING.com



Scope of Services

Project Details

- As of May 2023, no work has been performed, or invoiced under the previous agreement.
- This amendment is to revise Choice One's fees to perform the scope provided in the original agreement. Fee revisions are based on the adjustments to Choice One's hourly rates between the time of the initial authorization and when the work will commence.
- The project will be partially funded by the OPWC grant from the 2022-2023 cycle.
- The revised estimated construction cost for the project based on current public bid data and inflation changes from the original timeline is \$770,000.
- Nothing in this agreement amendment or the original agreement will require Choice One to provide indemnification that would be in violation of the provisions found in O.R.C 153.81.

Compensation & Schedule

Compensation

Task	Additional Fee	Additional Fees From Previous Amendments	Original Fee	Total
Topographic Survey	\$1,000.00	\$0.00	\$4,200.00	\$5,200.00
Construction Plans	\$5,700.00	\$0.00	\$33,800.00	\$39,500.00
Total	\$6,700.00	\$0.00	\$38,000.00	\$44,700.00
Construction Administration Services			Hourly upon request	

Schedule

Choice One will work with the City's schedule to have plans designed and ready to bid in the fall of 2023.