

AGENDA
REGULAR MEETING OF CITY COUNCIL
AUGUST 17, 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. Guest: Arik Sherk, Thompson Hine LLP

5. Floor open to the public:

6. New Business: Emergency Resolution 2023-30, authorizing a preliminary term sheet with River Creek Lofts, LLC for financing the River Creek Lofts Multi-Family Development

Emergency Resolution 2023-31, authorizing to replat the River Creek Lofts Subdivision property into two parcels

Emergency Resolution 2023-32, authorizing an Ohio Public Works Commission (OPWC) grant agreement for Forrest Avenue Phase One project

Emergency Resolution 2023-33, authorizing an Ohio Public Works Commission (OPWC) grant agreement for Morrow Road Phase One project

Emergency Resolution 2023-34, approving amendment one to an agreement with Choice One Engineering for the Morrow Road Phase One OPWC Project

Emergency Resolution 2023-35, authorizing a pre-annexation agreement with Susan R. Combs-Ramsy Living Trust for .19 acres of property along Lebanon Road

Emergency Resolution 2023-36, authorizing a pre-annexation agreement with Beaver Creek Site Management for .8143 acres of property along Striker Road

Resolution 2023-37, First Reading, approving the 2024 Solid Waste Management Plan with the Warren County Solid Waste Management District

Motion to approve an emergency expense of \$44,790 with Snider Recreation Inc. for the replacement of playground equipment at the Bike Trail Park

Approval of Invoices

Authorization of Law Director's Invoice

Approval of the July Financial Statements

Approval of Meeting Minutes:
Regular Meeting – August 3, 2023

7. Old Business:
8. Communications and reports from City Officials and Committees:
 - a. Mayor
 - b. Director of Finance
 - c. Administrator
 - d. Asst. Administrator
 - e. Law Director
 - f. Sergeant
 - g. Council Members
9. Executive Session:
10. 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

CC: Tina Williams, Director of Finance
Andrew Meier, Law Director

From: Jerry Haddix, City Administrator

Date: August 14, 2023

Subject: River Creek Lofts TIF Preliminary Term Sheet

The developer of the River Creek Lofts development has requested to use tax-increment financing (TIF) to assist in the construction of the public improvements for the Project.

At Thursday night's meeting, Arik Sherk of Thompson Hine LLP, who represents the City with respect to TIF and CRA issues, will be in attendance to explain the term sheet and the specifics of the proposed financing as spelled out in the preliminary term sheet.

This needs to be passed an emergency in order to proceed with the steps required by the ORC prior to the start of construction.

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

**CITY OF SOUTH LEBANON, OHIO
RESOLUTION NO. 2023-30**

**A RESOLUTION APPROVING AND FURTHER AUTHORIZING MAYOR TO
EXECUTE A PRELIMINARY TERM SHEET WITH RIVER CREEK LOFTS, LLC,
RELATIVE TO THE FINANCING OF THE RIVER CREEK LOFTS MULTI-FAMILY
DEVELOPMENT, AND DECLARING AN EMERGENCY**

WHEREAS, River Creek Lofts, LLC (“the Developer”) has proposed to construct a 460-unit residential development on an approximately 30.5 acre site located at 1771 Mason-Morrow-Millgrove Road (“the Project”); and,

WHEREAS, the Developer is requesting a tax increment financing (TIF) exemption to be established on the entire project site pursuant to Ohio Revised Code Sec. 5709.40(B) to assist in the construction of public improvements for the Project; and,

WHEREAS, City staff and the Developer have prepared a term sheet outlining the specifics and structure of the proposed TIF financing; and,

WHEREAS, the term sheet will be the basis for all of the additional documents required for proposed TIF financing; and,

WHEREAS, immediate action is required to expedite the preparation of the required documents and other actions required by ORC 5709.40(B), 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 to execute a Preliminary Term Sheet with River Creek Lofts, LLC, 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 2023-30

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 17th of August, 2023.

Attest: _____
Petrina D. Williams, Director of Finance/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	
Vote - ____ Yeas ____ Nays	

Prepared by and approved as to form:

ANDREW P. MEIER
LAW DIRECTOR
CITY OF SOUTH LEBANON, OHIO

By: _____
Date: ____ / ____ /2023

City of South Lebanon

River Creek Lofts Development Preliminary Term Sheet – 2023

Set forth below is a summary of certain terms relating to the development of a phased 460-unit residential development (the “Project”) on an approximately 30.5-acre site located at 1771 Mason-Morrow-Millgrove Road (the “Project Site”) in South Lebanon, Ohio (the “City”) by River Creek Lofts, LLC, an Ohio limited liability company (“Developer”), and Sreenivasa R. Echuri, an individual (the “Principal”), which proposed development is anticipated to include a clubhouse, banquet center, underground parking, pool, dog park, lighted tennis, basketball and tennis courts.

All terms, costs, and other items included herein are preliminary and will be finalized in a Development Agreement (the “Development Agreement”) among the City, Developer and Principal. The Development Agreement and other ancillary agreements, as well as the real property tax exemption contemplated hereby, will require approval by the South Lebanon City Council (with respect to the Development Agreement, the TIF Exemption (as defined below), and the priority of the TIF Exemption).

This Preliminary Term Sheet is not intended to be contractual in nature and has been prepared solely to facilitate discussions between the parties and will guide the drafting of the Development Agreement. No party shall be obligated to any other party in any way by virtue of having signed this Preliminary Term Sheet.

<i>Description of the Private Improvements:</i>	<p>Developer currently anticipates developing the Project on the Project Site in two phases as shown on Exhibit “Exhibits A1-A4</p> <p>The first phase (the “Phase I Private Improvements”) will consist of: Exhibits C & D</p> <p>The second phase (the “Phase II Private Improvements”) will consist of: Exhibits C & D</p> <p>The total estimated cost (including, without limitation, hard construction costs, soft costs, and acquisition costs) of (a) the Phase I Private Improvements is projected to be approximately \$44,361,198.80, and (b) the Phase II Private Improvements is projected to be approximately \$39,158,275.20, for an aggregate total estimated cost for the Private Improvements of approximately \$83,519,474.</p>
<i>Construction of Public Improvements:</i>	<p>Developer will construct of (a) water lines and sewer lines to the Private Improvements across the Project Site, (b) a sewer lift station, and (c) a road over the Project Site, all as depicted on Exhibit A1, A2, A3 and A4 (the “Developer Public Improvements”). The Developer Public Improvements will be</p>

	<p>located on a public easement satisfactory to the City. The Developer Public Improvements must be open and available to the public at all times. Notwithstanding the foregoing, it is contemplated that the Developer Public Improvements will be publicly dedicated and will be maintained by the City. The estimated costs of the Developer Public Improvements are set forth on Exhibit B. The Total Public Improvement Costs are estimated to be \$5,960,120.</p> <p>The Development Agreement shall provide that Developer will construct the Developer Public Improvements at its own cost, but subject to reimbursement from Project TIF Revenues as set forth herein, by a date certain and in accordance with plans and specifications and a budget approved by the City. Developer shall manage and coordinate construction of the Developer Public Improvements and construction of the Developer Public Improvements will be performed by its subcontractors. Developer will award all subcontracts pursuant to a request for proposals in a manner satisfactory to the City.</p> <p>Developer acknowledges and agrees that the Developer Public Improvements are subject to the prevailing wage requirements of Ohio Revised Code Chapter 4115.</p>
<i>Project Site:</i>	<p>The Project Site will be comprised of the following property owned, under contract, or to be acquired by Developer: (See parcel list attached as Exhibit C & D hereto). The Project Site will be subdivided into two separate parcels substantially in accordance with the subdivision plat attached as Exhibit E hereto (the “Subdivision Plat”) and subject to the City’s subdivision regulations. The Phase I Private Improvements will be constructed on Lot 2 as shown on the Subdivision Plat (the “Phase I Lot”) and the Phase II Private Improvements will be constructed on Lot 3 as shown on the Subdivision Plat (the “Phase II Lot”).</p>
<i>Construction and Funding of Private Improvements:</i>	<p>The Private Improvements must be designed and built in a manner that is consistent with the requirements of all applicable zoning, building and subdivision regulations. Developer anticipates that the Private Improvements will be financed through equity and traditional debt.</p>

<p><i>Capital Lease Transactions:</i></p>	<p>Developer anticipates entering into a sale and leaseback (or lease and leaseback) arrangement with respect one or more parcels withing the Project Site (each, a “Parcel”) in which fee title or ground leasehold title to the Parcel to be developed is held by an Ohio port authority formed and operating pursuant to Ohio Revised Code Chapter 4582 (the “Port Authority”) for the purpose of taking advantage of the sales tax exemption on the purchase of building materials. If requested by the Port Authority, the City will indicate to the Port Authority that it supports these capital lease transactions.</p>
<p><i>Creation of 5709.40(B) Project TIF:</i></p>	<p>The City presently anticipates that it will cause a project-based “non-school” tax increment financing exemption to be established on the entire Project Site pursuant to ORC 5709.40(B) (the “TIF Exemption”). Thereafter, the City, Developer and the Port (as applicable) will enter into a service agreement and other ancillary agreements (the “Service Payment Agreement”) which require the payment of full statutory service payments in lieu of real estate taxes (“Statutory Service Payments”). Subject to City Council approval, the TIF Exemption will be accomplished by means of an ordinance exempting 75% of the Improvements (as defined in ORC 5709.40(B)) to the Phase I Lot and the Phase II Lot from real property taxes for a period of 10 years. The TIF Exemption for the Phase I Lot and the Phase II Lot will start on separate dates and on a basis reasonably agreed to by Developer and the City.</p> <p>The City will receive the Statutory Service Payments generated from the Phase I Private Improvements (the “Project TIF Revenue”) and use the same as follows (in the following order of priority): (i) to the extent not deducted by the Warren County Auditor, the City will use the Project TIF Revenue to pay applicable governmental fees (City and County), including City Costs (as defined below) and the City’s annual administrative fee provided for herein, (ii) to the extent not deducted by the Warren County Auditor, the City will use the Project TIF Revenue to satisfy the City’s obligation to the Kings Local School District and the Warren County Career Center and Career Development as compensation pursuant to ORC 5709.40(B); (iii) the City will use net Project TIF Revenue (the amount of the Project TIF Revenue after (i) and (ii) are deducted) to reimburse Developer for costs of the Developer Public Improvements up to the Maximum Amount herein specified; and (iv) the City will retain the balance of the Project TIF Revenue, if any, to be expended by the City in its sole discretion for any lawful purpose.</p>

	<p>The City will receive all of the Statutory Service Payments generated from the Phase II Private Improvements (the “City TIF Revenue”) and, subject to the requirements in subsections (i) and (ii) above, the City will retain the City TIF Revenue and expend the City TIF Revenue in its sole discretion for any lawful purpose. Developer will have no right to receive any of the City TIF Revenue.</p>
<i>Project Timeline:</i>	<p>A preliminary project timeline for all phases of the Project is attached hereto as Exhibit C & D.</p>
<i>Reimbursement Amount:</i>	<p>The City will reimburse Developer for approved costs of the Developer Public Improvements, including interest (Interest Carry) thereof from the date of completion of the Developer Public Improvements through the date of reimbursement of the costs of the Developer Public Improvements at a rate (not to exceed 6.25% per annum) established as a market rate by the financial advisor to the City (“Interest Carry”), but only from the available Project TIF Revenue and up to a maximum amount not to exceed \$5,960,120 plus Interest Carry (the “Maximum Amount”), subject to the following: (a) if, subject to Force Majeure, the Phase I Private Improvements are not completed by December 31, 2027, the Maximum Amount will be \$4,823,554 plus Interest Carry, (b) if, subject to Force Majeure, the Phase II Private Improvements are not completed by December 31, 2030, the Maximum Amount will be \$5,960,120 without Interest Carry.</p> <p>To the extent the Project TIF Revenue provided by the City is insufficient to reimburse Developer for the Maximum Amount of the costs of the Developer Public Improvements, Developer will be solely responsible for the shortfall.</p> <p>Reimbursement Payments under the Development Agreement will be made to Developer semi-annually within forty-five (45) days after the City’s receipt of Project TIF Revenues.</p>
<i>Completion Guaranty:</i>	<p>Principal will execute a Completion Guaranty, pursuant to which Principal guarantees completion of the Phase I Private Improvements and the Phase II Private Improvements by no later than December 31, 2027 and December 31, 2030, respectively.</p>
<i>Tap-In Fees:</i>	<p>The tap-in fee payable by to the City with respect to the Project will be \$2,400 per Sewer Permit and \$2,400 per Water Tap Permit as provided for in the City ordinances and regulations,</p>

	except that the foregoing “Tap-In Fees” will be payable within thirty (30) days following the issuance of a building permit for the Project.
<i>Assignment; Change of Control:</i>	Developer may assign its rights or interests under the Development Agreement with the written consent of the City, which the City will not unreasonably withhold prior to the completion of construction of all phases of the Project to a related party. After the completion of both phases of the Project, the Developer may assign its rights or interests without the prior written consent of the City, provided that Developer may not sell the Phase I Private Improvements separately from the Phase II Private Improvements.
<i>Indemnification:</i>	Developer and Principal will jointly and severally indemnify the City and its officers, council members, employees and agents (collectively, the “Indemnified Parties”) from and against any and all actions, suits, claims, losses, costs (including without limitation reasonable attorneys’ fees), demands, judgments, liability and damages suffered or incurred by or asserted against the Indemnified Parties as a result of or arising from (a) the construction, ownership and operation of the Project, including, without limitation, damages or injury to persons or property, (b) until public dedication of the Developer Public Improvements, the construction, ownership and operation of the Developer Public Improvements, including, without limitation, damages or injury to persons or property, (c) the performance by the City of the its obligations under the Development Agreement without gross negligence or willful misconduct, (d) any default by Developer or Principal in its or his obligations under the Development Agreement, the Service Payment Agreement or the Completion Guaranty, or (e) the environmental condition of the Project Site. In addition, Developer shall at all times add the City as an additional insured in Developer’s liability policy and, upon demand of the City, provide the City with a certificate of insurance or other proof of such insurance acceptable to the City.
<i>City Costs:</i>	It is anticipated that the City will incur, directly or indirectly, certain costs and expenses associated with its obligations under the Development Agreement and the Service Payment Agreement, including, but not necessarily limit to, legal and financial advisory fees (collectively, the “City Costs”). Upon execution of the Development Agreement, Developer and Principal shall reimburse the City for its City Costs through the date thereof. Thereafter, upon demand by the City, Developer and Principal shall reimburse the City from time to time for any

	additional City Costs incurred by the City, provided that, in any year that there are available Project TIF Revenues, the City may deduct such additional City Costs from the Project TIF Revenues prior to payments made to Developer.
<i>Reporting Requirements:</i>	During each year that the TIF Exemption remains in effect, Developer, including any future Owner(s) of all or any future portion of the Property, agree that, within forty-five (45) days following notice from the City, Developer and any such future Owner(s) shall provide the information which is required to be provided in any reports that the City files with the Director of Development for the State of Ohio in accordance with ORC 5709.40. Furthermore, Developer, including any future owner(s) of all or any future portion of the Property, shall cooperate in all reasonable ways with and provide necessary and reasonable information to the designated Tax Incentive Review Council (the "TIRC") to enable the TIRC to review and determine annually during the term of the Development Agreement and the compliance of Developer with the terms of the Development Agreement.
<i>Fees:</i>	Developer and Principal agree to pay to the City an annual administrative fee in the amount of \$2,500 related to the implementation and monitoring of the TIF Exemption. Such fee shall be paid by Developer annually in advance on the date of the execution of the Development Agreement and thereafter on August 1 of each calendar year, provided that, in any year that there are available Project TIF Revenues, the City may deduct the annual administrative fee from the Project TIF Revenues prior to payments made to Developer.
<i>Development Agreement Provisions:</i>	Development Agreement will contain such other terms as may be mutually acceptable to the City and Developer. Omission of a term from this Preliminary Term Sheet is not an indication that such term will not be included in the Development Agreement.
<i>Modification:</i>	This Preliminary Term Sheet may be modified with the approval of all affected parties.

<i>Exhibits:</i>	<p>Exhibit A1-A4 – Site Depiction, including Phases, Parcel List</p> <p>Exhibit B – Public Improvements Costs</p> <p>Exhibit C & D – Narrative, Timing & Costs</p> <p>Exhibit E – Draft Record Subdivision Plat</p>
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James D. Smith, Mayor

Date

Sreenivasa R. Echuri, Authorized
Representative of Developer

Date

Sreenivasa R. Echuri, an individual
Principal

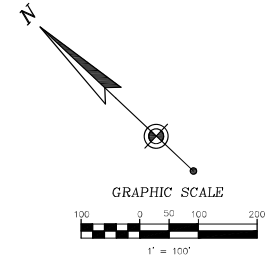
Date

Exhibits A1-A4

Site Depiction, including Phases, Parcel List

EXHIBIT A2 RIVER CREEK LOFTS MULTI FAMILY DEVELOPMENT

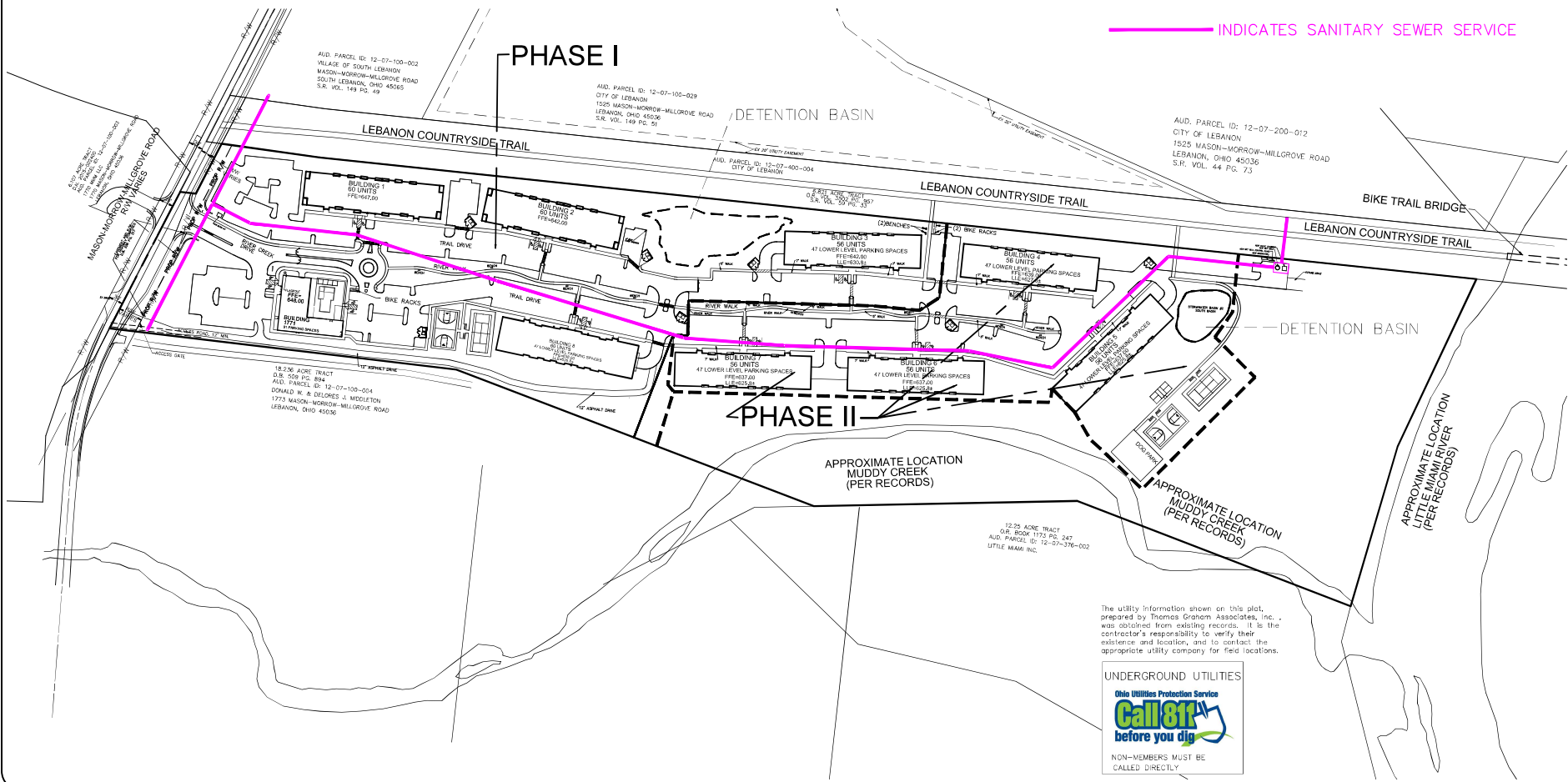
PARCEL ID: 1207326004
ADDRESS: 1771 MASON-MORROW-MILLGROVE ROAD
SOUTH LEBANON, OHIO 45065
WARREN COUNTY
STATE OF OHIO



tga
THOMAS
GRAHAM
ASSOCIATES, INC.
• Engineers
• Surveyors
803 Compton Road
Cincinnati, Ohio 45231
513-521-4760
Fax # 521-2439

Date: JULY 19, 2023
Scale: 1" = 100'
Job No: 8201
Revisions

No.	Date
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The utility information shown on this plot, prepared by Thomas Graham Associates, Inc., was obtained from existing records. It is the contractor's responsibility to verify their existence and location, and to contact the appropriate utility company for field locations.

UNDERGROUND UTILITIES
Ohio Utilities Protection Service
Call 811
before you dig
NON-MEMBERS MUST BE CALLED DIRECTLY

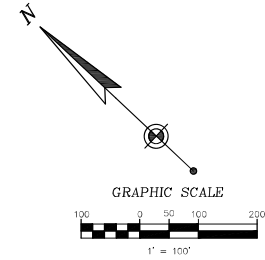
RIVER CREEK LOFTS
EXHIBIT 'B'
ADDRESS: 1771 MASON-MORROW-MILLGROVE ROAD
SOUTH LEBANON, OHIO 45065
WARREN COUNTY
STATE OF OHIO

ACAD FILENAME: 8201_RCL_10-15-2022_SITEPLAN_BASE.dwg
Drawn By: JKAFFENBERGER

Job No: 8201

EXHIBIT A3 RIVER CREEK LOFTS MULTI FAMILY DEVELOPMENT

PARCEL ID: 1207326004
ADDRESS: 1771 MASON-MORROW-MILLGROVE ROAD
SOUTH LEBANON, OHIO 45065
WARREN COUNTY
STATE OF OHIO



• Engineers
• Surveyors

803 Complan Road
Cincinnati, Ohio 45231
513-521-4760
Fax # 521-2439

Date: JULY 19, 2023

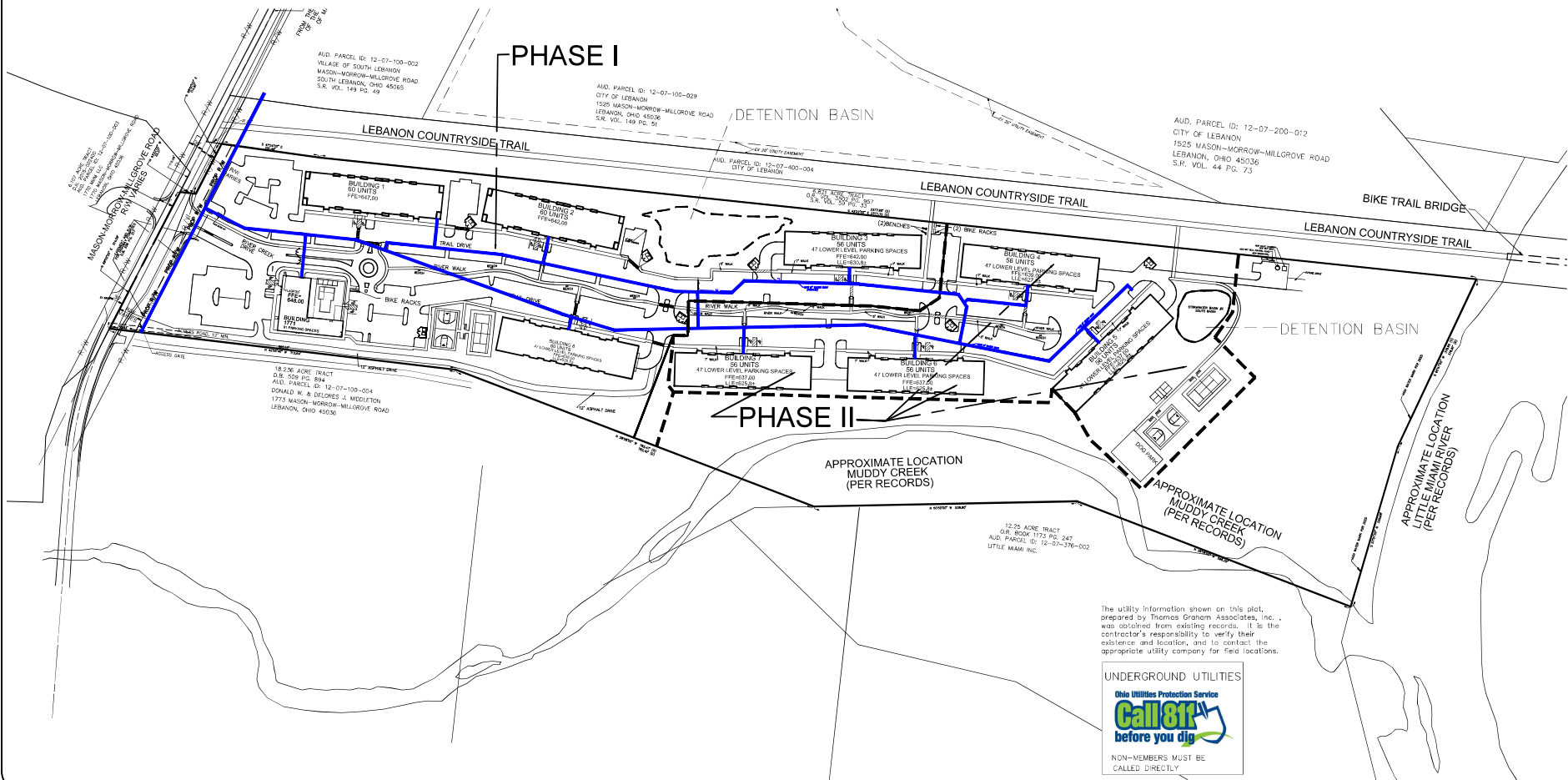
Scale: 1" = 100'

Job No: 8201

Revisions

No.	Date

— INDICATES NEW WATER SERVICE



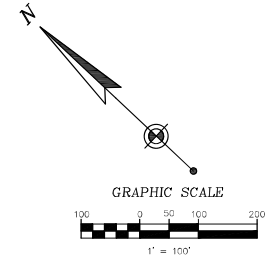
RIVER CREEK LOFTS
EXHIBIT 'C'
ADDRESS: 1771 MASON-MORROW-MILLGROVE ROAD
SOUTH LEBANON, OHIO 45065
WARREN COUNTY
STATE OF OHIO

ACAD FILENAME: 8201_RCL_10-15-2022_SITEPLAN_BASE.dwg
Drawn By: JKAFFENBERGER

Job No: 8201

EXHIBIT A4 RIVER CREEK LOFTS MULTI FAMILY DEVELOPMENT

PARCEL ID: 1207326004
ADDRESS: 1771 MASON-MORROW-MILLGROVE ROAD
SOUTH LEBANON, OHIO 45065
WARREN COUNTY
STATE OF OHIO



• Engineers
• Surveyors

803 Compton Road
Cincinnati, Ohio 45231
513-521-4760
Fax # 521-2439

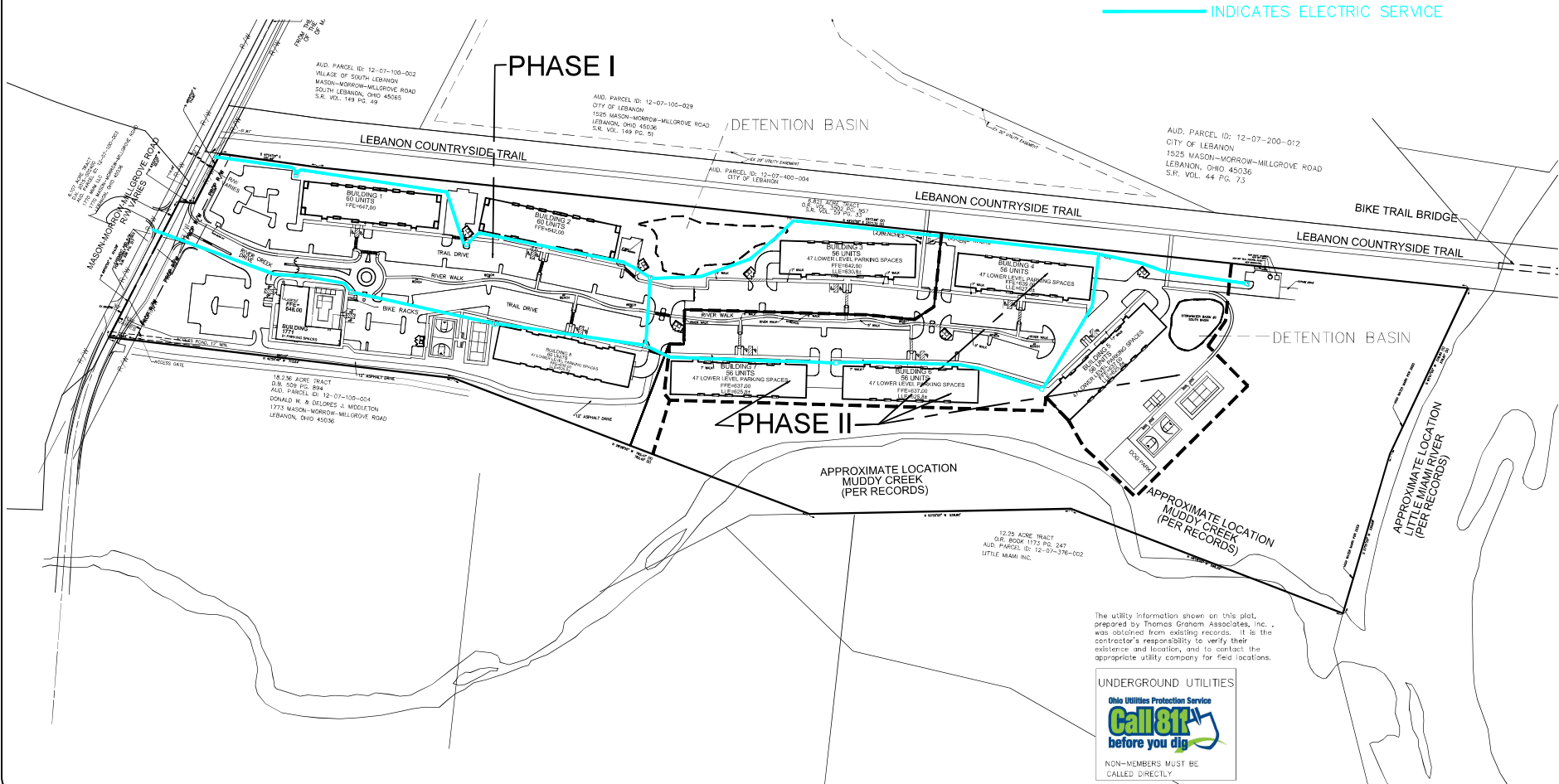
Date: JULY 19, 2023

Scale: 1" = 100'

Job No: 8201

Revisions

No.	Date
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RIVER CREEK LOFTS
EXHIBIT 'D'
ADDRESS: 1771 MASON-MORROW-MILLGROVE ROAD
SOUTH LEBANON, OHIO 45065
WARREN COUNTY
STATE OF OHIO

Drawn By: JKAFFENBERGER

Job No: 8201

Exhibit B

Public Improvements Costs

Exhibit B Phase I

PROJECT: **River Creek Lofts Phase 1**

MAY. 9, 2023

JOB No. 8201

QUANTITIES ESTIMATE: INFRASTRUCTURE TIF

\$4,823,554

ITEM SPEC	DESCRIPTION	UNIT	QUANT	UNIT COST	TOTAL
SITE ITEMS					
201	CLEARING & GRUBBING	AC	20	8,000.00	160,000.00
201	TOP SOIL REMOVAL, STOCK PILE & RESPREAD	CY	16000	18.00	288,000.00
201	TREE REMOVAL	LS	1	10,000.00	10,000.00
202	BARN AND POOL REMOVED	EA	5	10,000.00	50,000.00
203	EXCAVATION, NOT INCLUDING EMBANKMENT	CY	50000	5.00	250,000.00
203	EMBANKMENT	CY	50000	5.00	250,000.00
204	SUBGRADE COMPACTION	SY	6000	3.00	18,000.00
400	HEAVY DUTY PAVEMENT	SY	6000	47.30	283,800.00
601	RCP OUTLET PROTECTION	CY	75	200.00	15,000.00
608	CONC. CURBS	F	1200	7.00	8,400.00
608	CONC. COMB. WALK & CURB	SF	1350	10.00	13,500.00
611	12" STORM	F	550	80.00	44,000.00
611	15" STORM	F	27	100.00	2,700.00
611	18" STORM	F	500	120.00	60,000.00
611	24" STORM	F	165	150.00	24,750.00
611	30" STORM	F	350	180.00	63,000.00
611	36" STORM	F	522	200.00	104,400.00
611	ODOT 2-2	EA	8	3,000.00	24,000.00
611	ODOT 2-3	EA	8	4,000.00	32,000.00
611	ODOT 2-4	EA	2	6,000.00	12,000.00
611	ODOT MH	EA	4	6,000.00	24,000.00
611	ODOT HW	EA	3	3,500.00	10,500.00
611	8" SANITARY	F	2320	125.00	290,000.00
611	SANITARY MH	EA	8	8,000.00	64,000.00
611	SANITARY CO	EA	9	1,200.00	10,800.00
611	SANITARY PUMP STATION	EA	1	475,000.00	475,000.00
611	SANITARY FORCE MAIN	EA	1	100,000.00	100,000.00
611	6" SANITARY	F	470	100.00	47,000.00
623	CONSTRUCTION LAYOUT STAKES AND SURVEYING	LUMP	1	120,000.00	120,000.00
625	ELECTRIC CONDUIT	F	3200	80.00	256,000.00
625	ELECTRIC BOX	EA	3	500.00	1,500.00
625	TRANSFORMER PAD	EA	7	1,500.00	10,500.00
638	8" WATER	F	2100	90.00	189,000.00
638	6" WATER	F	60	70.00	4,200.00
638	FIRE HYDRANTS	EA	5	8,500.00	42,500.00
638	WATER VALVES	EA	9	2,000.00	18,000.00
1125	EROSION CONTROL	LS	1	25,000.00	25,000.00
	MMM ROADWAY IMPROVEMENTS (CHOICEONE)	LS	1	774,687.00	774,687.00
	Contingency	10%			417,623.70
	Owner Management Fee	5%			229,693.04
	SUBTOTAL FOR SITE WORK ITEMS				\$4,823,553.74

Exhibit B Phase II

PROJECT: **River Creek Lofts** Phase II

MAY. 9, 2023

JOB No. 8201

QUANTITIES ESTIMATE: INFRASTRUCTURE TIF

\$1,136,566

ITEM SPEC	DESCRIPTION	UNIT	QUANT	UNIT COST	TOTAL
SITE ITEMS					
202	HOUSE REMOVED	EA	1	10,000.00	10,000.00
203	EXCAVATION, NOT INCLUDING EMBANKMENT	CY	10000	5.00	50,000.00
203	EMBANKMENT	CY	10000	5.00	50,000.00
204	SUBGRADE COMPACTION	SY	6000	3.00	18,000.00
400	HEAVY DUTY PAVEMENT	SY	6000	47.30	283,800.00
601	RCP OUTLET PROTECTION	CY	5	200.00	1,000.00
608	CONC. CURBS	F	670	7.00	4,690.00
611	12" STORM	F	520	80.00	41,600.00
611	15" STORM	F	65	100.00	6,500.00
611	18" STORM	F	650	120.00	78,000.00
611	24" STORM	F	315	150.00	47,250.00
611	ODOT 2-2	EA	10	3,000.00	30,000.00
611	ODOT 2-3	EA	5	4,000.00	20,000.00
611	ODOT 2-4	EA	1	6,000.00	6,000.00
611	ODOT HW	EA	1	3,500.00	3,500.00
623	CONSTRUCTION LAYOUT STAKES AND SURVEYING	LUMP	1	30,000.00	30,000.00
625	ELECTRIC CONDUIT	F	1080	80.00	86,400.00
625	ELECTRIC BOX	EA	2	500.00	1,000.00
625	TRANSFORMER PAD	EA	3	1,500.00	4,500.00
638	8" WATER	F	1600	90.00	144,000.00
638	6" WATER	F	40	70.00	2,800.00
638	FIRE HYDRANTS	EA	4	8,500.00	34,000.00
638	WATER VALVES	EA	3	2,000.00	6,000.00
1125	EROSION CONTRIOL	LS	1	25,000.00	25,000.00
	Contingency		10%		98,404.00
	Owner Management Fee		0.05		54,122.20
SUBTOTAL FOR SITE WORK ITEMS					\$1,136,566.20

Exhibit B
Public Improvements

Total

PROJECT: **River Creek Lofts** All Phases
JOB No. 8201

MAY 9,2023

QUANTITIES ESTIMATE: INFRASTRUCTURE TIF Phase I	\$4,823,554
QUANTITIES ESTIMATE: INFRASTRUCTURE TIF Phase II	\$1,136,566

TOTAL QUANTITIES ESTIMATE: INFRASTRUCTURE	\$ 5,960,119.94
--	------------------------

Exhibits C & D

Narrative, Timing & Costs

EXHIBIT C & D “Parcel List & Timeline”

Parcel ID # TBD

Phase I Improvements

The Phase I improvements will include the construction of 236 units of Class A luxury apartments and a Clubhouse (12,000 sq. ft with two floors, including a banquet hall, state-of-the-art fitness center, yoga studio, and infinity pool). 7 acres of dedicated park, Basketball, and Tennis Courts. All parking spaces and drive aisles necessary to accommodate the residential units will also be created (Diagram Exhibit A (1)).

The site will be cleared and grabbed, and the barn and pool will be removed. The necessary water (including hydrants) and sanitary lines will be installed along with the pump station. Walkways with curb and gutter necessary for the first phase will be included. Electric service will be extended into and through the site.

Stormwater management features will be added. Improvements to Mason Morrow Millgrove Rd. will be completed to City and County Specifications.

The total private investment for Phase I will be \$ 44,361,199

The Phase I Improvements, including the Public Improvements, shall be completed by December 31, 2027.

EXHIBIT C & D “Parcel List & Timeline”

Parcel ID # **To Be Created from Parent Parcel**

Phase II Improvements

Phase II improvements will include constructing 224 units of Class A luxury apartments with additional basketball and tennis courts and a Dog Park. All parking spaces and drive aisles necessary to accommodate the residential units will also be created (Diagram Exhibit A (2)).

The existing house on the site will be razed, the land will be prepared for the structure, and impervious surfaces will be extended. Stormwater management features will be added.

The stormwater connections necessary for this phase will be installed and operational. All utilities will be connected and finalized before the completion of this phase.

The total private investment for Phase II will be \$ 39,158,275

The Phase II Improvements, including the Public Improvements, shall be completed by December 31, 2030.

Exhibit E

Subdivision Plat

RIVER CREEK LOFTS SUBDIVISION

DEED REFERENCE

SITUATED IN SECTION 7, TOWNSHIP 4, RANGE 3, CITY OF SOUTH LEBANON, WARREN COUNTY CONTAINING 30.8740 ACRES AND BEING ALL OF LOT 1 OF RIVER CREEK LOFTS SUBDIVISION AS RECORDED IN PLAT BOOK 102, PAGE 61 OF THE PLAT RECORDS OF WARREN COUNTY, OHIO AND CONVEYED BY DEED TO RIVER CREEK LOFTS, LLC AND RECORDED 12/02/2020 AS DOCUMENT NO. 2020-048835 WARREN COUNTY, OHIO RECORDS.

OWNERS CONSENT AND DEDICATION

WE, THE UNDERSIGNED, BEING ALL THE OWNERS OF THE LANDS HEREIN PLATTED, DO HEREBY VOLUNTARILY CONSENT TO THE EXECUTION OF THE SAID PLAT AND DO DEDICATE THE STREETS, AS SHOWN HEREON TO THE PUBLIC USE FOREVER.

ANY 'PUBLIC UTILITY EASEMENTS' AS SHOWN ON THIS PLAT ARE FOR THE PLACEMENT OF SIDEWALKS AND PUBLIC UTILITIES FOR THE MAINTENANCE AND REPAIR OF SAID UTILITIES. THIS EASEMENT AND ALL OTHER EASEMENTS SHOWN ON THIS PLAT, UNLESS DESIGNATED FOR A SPECIFIC PURPOSE, ARE FOR THE CONSTRUCTION, OPERATION, MAINTENANCE, REPAIR, REPLACEMENT OR REMOVAL OF WATER, SEWER, GAS, ELECTRIC, TELEPHONE, CABLE TELEVISION, OR OTHER UTILITY LINES OR SERVICES, STORMWATER DISPOSAL AND FOR THE EXPRESS PRIVILEGE OF CUTTING, TRIMMING OR REMOVING ANY AND ALL TREES OR OTHER OBSTRUCTIONS WITHIN SAID EASEMENT, OR IMMEDIATELY ADJACENT THERETO, TO THE FREE USE OF SAID EASEMENTS OR ADJACENT STREETS AND FOR PROVIDING INGRESS AND EGRESS TO THE PROPERTY FOR SAID PURPOSES AND ARE TO BE MAINTAINED AS SUCH FOREVER. NO BUILDINGS OR OTHER STRUCTURES MAY BE BUILT WITHIN SAID EASEMENTS, NOR MAY THE EASEMENT AREA BE PHYSICALLY ALTERED SO AS TO (1) REDUCE CLEARANCES OF EITHER OVERHEAD OR UNDERGROUND FACILITIES; (2) IMPAIR THE LAND SUPPORT OF SAID FACILITIES; (3) IMPAIR ABILITY TO MAINTAIN THE FACILITIES OR (4) CREATE A HAZARD.

THE ABOVE PUBLIC UTILITY EASEMENTS ARE FOR THE BENEFIT OF ALL PUBLIC UTILITY PROVIDERS INCLUDING, BUT NOT LIMITED TO DUKE ENERGY, AT&T, CHARTER COMMUNICATIONS, THE CITY OF SOUTH LEBANON AND WARREN COUNTY.

ALL PERSONS INTERESTED IN THIS PLAT AS OWNERS HAVE UNITED IN ITS EXECUTION, SIGNED AND ACKNOWLEDGED IN THE PRESENCE OF:

OWNER: River Creek Lofts, LLC

NAME: _____

PRINTED NAME: _____

TITLE: _____

CERTIFICATE OF NOTARY PUBLIC

STATE OF _____: SS
COUNTY OF _____:

BE REMEMBERED THAT ON THIS _____ DAY OF _____, 2023, BEFORE ME A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED _____ OF RIVER CREEK LOFTS, LLC, WHO REPRESENTED THAT THEY ARE DULY AUTHORIZED IN THE PREMISES AND WHO ACKNOWLEDGED THAT THEY DID SIGN THE FORGOING INSTRUMENT AND THAT THE SAME IS THEIR VOLUNTARY ACT AND DEED FOR THE USED AND PURPOSES IN SAID INSTRUMENT MENTIONED.

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY NOTARIAL SEAL ON THE DAY AND YEAR AS WRITTEN ABOVE.

NOTARY PUBLIC: _____

MY COMMISSION EXPIRES: _____

MORTGAGE ACCEPTANCE STATEMENT

ALL PERSONS INTERESTED IN THIS PLAT AS OWNERS HAVE UNITED IN ITS EXECUTION, SIGNED AND ACKNOWLEDGED IN THE PRESENCE OF:

MORTGAGE HOLDER: Chiveta Bank _____:

NAME: _____

PRINTED NAME: _____

TITLE: _____

CERTIFICATE OF NOTARY PUBLIC

STATE OF _____: SS
COUNTY OF _____:

BE REMEMBERED THAT ON THIS _____ DAY OF _____, 2023, BEFORE ME A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED _____ OF _____, WHO REPRESENTED THAT THEY ARE DULY AUTHORIZED IN THE PREMISES AND WHO ACKNOWLEDGED THAT THEY DID SIGN THE FORGOING INSTRUMENT AND THAT THE SAME IS THEIR VOLUNTARY ACT AND DEED FOR THE USED AND PURPOSES IN SAID INSTRUMENT MENTIONED.

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY NOTARIAL SEAL ON THE DAY AND YEAR AS WRITTEN ABOVE.

NOTARY PUBLIC: _____

MY COMMISSION EXPIRES: _____

MORTGAGE RECORDED WITH INSTRUMENT NUMBER 2022-001886 IN WARREN COUNTY, OHIO

RE PLAT OF LOT #1 PLAT BOOK 102, PAGE 62 SITUATE IN SEC. 7 TOWN 4, RANGE 3 CITY OF SOUTH LEBANON WARREN COUNTY STATE OF OHIO JULY, 2023

ACREAGE TABLE

R/W AREA	0.4134 ACRES DEDICATED TO CITY OF SOUTH LEBANON
LOT 2	12.1832 ACRES
LOT 3	18.2774 ACRES

TOTAL AREA = 30.8740 ACRES

GRANT OF UTILITY EASEMENT

FOR VALUABLE CONSIDERATION, WE, THE UNDERSIGNED (GRANTOR) DO HEREBY PERMANENTLY GRANT TO DUKE ENERGY OHIO/KENTUCKY, INC. AND THEIR PARENT ENTITY (OR ENTITY CONTROLLING BOTH ENTITIES), THEIR RESPECTIVE SUBSIDIARIES OR AFFILIATE ENTITIES, AND ANY OTHER PROVIDER OF UTILITY SERVICES (GRANTEE) THEIR SUCCESSORS AND ASSIGNS, FOREVER, NON-EXCLUSIVE EASEMENTS, AS SHOWN ON THE WITHIN PLAT AND DESIGNATED AS UTILITY EASEMENTS FOR THE CONSTRUCTION, OPERATION, MAINTENANCE, REPAIR, OR REPLACEMENT OF ANY AND ALL NECESSARY FIXTURES FOR THE OVERHEAD OR UNDERGROUND DISTRIBUTION OF GAS, ELECTRIC, TELEPHONE, TELECOMMUNICATIONS OR OTHER UTILITIES (GRANTEE FACILITIES OR FACILITIES). THE GRANTEE SHALL HAVE THE RIGHT OF INGRESS AND EGRESS AND ALSO THE RIGHT TO CUT, TRIM, OR REMOVE ANY TREES, UNDERGROWTH, OR OVERHANGING BRANCHES WITHIN THE UTILITY EASEMENTS OR IMMEDIATELY ADJACENT THERETO, TO THE FREE USE OF SAID EASEMENTS OR ADJACENT STREETS AND FOR PROVIDING INGRESS AND EGRESS TO THE PROPERTY FOR SAID PURPOSES AND ARE TO BE MAINTAINED AS SUCH FOREVER. NO BUILDING OR OTHER STRUCTURES MAY BE BUILT WITHIN SAID EASEMENTS, NOR MAY THE UTILITY EASEMENTS AREA BE PHYSICALLY ALTERED TO (1) REDUCE THE CLEARANCES OF EITHER OVERHEAD OR UNDERGROUND FACILITIES; (2) IMPAIR THE LAND SUPPORT OF GRANTEE FACILITIES; (3) IMPAIR THE ABILITY TO MAINTAIN THE FACILITIES OR; (4) CREATE A HAZARD. TO HAVE AND TO HOLD THE EASEMENT FOREVER. WE ACKNOWLEDGE HAVING THE FULL POWER TO CONVEY THIS UTILITY EASEMENT AND WILL DEFEND THE SAME AGAINST ALL CLAIMS.

ALSO HEREBY GRANTED TO DUKE ENERGY OHIO/KENTUCKY, INC. AND ITS SUBSIDIARIES, SUCCESSORS, AND ASSIGNS IS THE RIGHT TO LATEROALLY EXTEND, REPAIR, AND MAINTAIN NATURAL GAS SERVICES TO SERVE INDIVIDUAL BUILDINGS AS CONSTRUCTED BY THE ORIGINAL BUILDER ALLOWING DISTURBANCE ONLY OVER EXISTING SERVICES TO SERVICE INDIVIDUAL BUILDINGS AS CONSTRUCTED BY THE ORIGINAL BUILDER ALLOWING DISTURBANCE ONLY OVER EXISTING SERVICE LINES NECESSARY FOR THE REPAIR ONLY ON THE LOT ON WHICH THE SERVICE IS LOCATED. RECONSTRUCTION OR RELOCATION IS PERMISSIBLE ONLY WITH THE WRITTEN PERMISSION OF THE PARCEL OWNER AND SAID UTILITY PROVIDER TO A MUTUALLY AGREEABLE LOCATION. NO PART OF THE UTILITY EASEMENTS SHALL ENCUMBER EXISTING BUILDINGS OR ADJOINING LOTS.

PUBLIC SANITARY SEWER EASEMENT

ANY "PUBLIC SANITARY SEWER EASEMENT" AS SHOWN ON THIS PLAT IS FOR THE BENEFIT OF THE CITY OF SOUTH LEBANON. THE EASEMENT GRANTS CITY OF SOUTH LEBANON, ITS EMPLOYEES OR AGENTS, THE RIGHT TO ACCESS, SURVEY, CONSTRUCT, USE, OPERATE, INSPECT, MAINTAIN, REPAIR, REPLACE, AND REMOVE SANITARY SEWERS, FORCE MAINS, PUMP STATIONS, AND ALL NECESSARY RELATED ABOVE AND BELOW GROUND APPURTENANCES AND FOR THE EXPRESS PRIVILEGE OF CUTTING, TRIMMING OR REMOVING ANY AND ALL TREES OR OTHER OBSTRUCTIONS WITHIN SAID EASEMENT, OR IMMEDIATELY ADJACENT THERETO, TO THE FREE USE OF SAID EASEMENTS AND FOR PROVIDING INGRESS AND EGRESS TO THE PROPERTY FOR SAID PURPOSES AND ARE TO BE MAINTAINED AS SUCH FOREVER. NO BUILDING OR OTHER STRUCTURES MAY BE BUILT WITHIN SAID EASEMENTS, NOR MAY THE EASEMENT AREA BE PHYSICALLY ALTERED SO AS TO (1) REDUCE CLEARANCES OF EITHER OVERHEAD OR UNDERGROUND FACILITIES; (2) MODIFY THE AMOUNT OF COVER OVER THE UTILITY LINES; (3) IMPAIR ABILITY TO MAINTAIN THE FACILITIES OR (4) CREATE A HAZARD.

DRAINAGE STATEMENT

THE EASEMENT AREAS SHALL BE MAINTAINED CONTINUOUSLY BY THE PROPERTY OWNER. WITHIN THE EASEMENTS, NO STRUCTURE, PLANTING, FENCING, CULVERT, OR OTHER MATERIAL SHALL BE PLACED OR PERMITTED TO REMAIN WHICH MAY OBSTRUCT, RETARD, OR DIVERT THE FLOW THROUGH THE WATERCOURSE.

THE CITY OF SOUTH LEBANON ASSUMES NO LEGAL OBLIGATION TO MAINTAIN OR REPAIR ANY OPEN DRAIN, DITCHES OR WATERCOURSE WITHIN THE EASEMENT AREA UNLESS NOTED OTHERWISE ON THIS PLAT.

THE PUBLICLY-MAINTAINED PORTION OF THE STORM SEWER SYSTEM WILL INCLUDE STORM DRAINS, CULVERTS, AND/OR DITCHES LOCATED WITHIN EITHER THE PUBLIC RIGHT-OF-WAY OR THE PUBLIC UTILITY EASEMENT AREA ADJACENT TO THE ROAD RIGHT-OF-WAY.

THE OWNER IS RESPONSIBLE FOR MAINTAINING ALL STORM WATER FACILITIES LOCATED OUTSIDE OF THE PUBLIC RIGHT-OF-WAY INCLUDING SEWER, STRUCTURES, AND DETENTION/RETENTION BASINS.

REFERENCE SURVEYS

RECORD PLAT FOR KINGS RIVER FARM, INC. SUBDIVISION
PREPARED BY JOHN R. SANSALONE & CO.
DATED JUNE, 1979
PLAT BOOK 10 PAGE 85
WARREN COUNTY, OHIO RECORDS

PLAT OF SURVEY BY WOOLPERT CONSULTANTS
VOLUME 44 PLAT 73 DATED APRIL, 1979
WARREN COUNTY, OHIO RECORDS

PLAT OF SURVEY BY B.L. PAYNE & ASSOCIATES, INC.
VOLUME 59 PLAT NO. 33 DATED 6/6/1985
WARREN COUNTY, OHIO RECORDS

PLAT OF SURVEY BY HENDERSON & BODWELL
VOLUME 95 PLAT NO. 44 DATED 12-20-1995
WARREN COUNTY, OHIO RECORDS

PLAT OF SURVEY BY APEX ENGINEERING & SURVEYING, INC.
VOLUME 149 PAGE 51 DATED 2-8-2019
WARREN COUNTY, OHIO RECORDS

RECORD PLAT FOR RIVER CREEK LOFTS SUBDIVISION
PREPARED BY THOMAS GRAHAM ASSOCIATES, INC.
DATED OCTOBER, 2020
PLAT BOOK 102, PAGE 62
WARREN COUNTY, OHIO RECORDS

SHEET INDEX

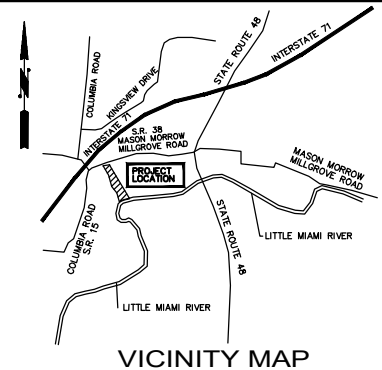
1. TITLE SHEET
2. PLAT
3. PLAT

OWNER

AUD. PARCEL ID: 12-07-326-004
RIVER CREEK LOFTS LLC
1771 MASON-MORROW-MILLGROVE ROAD
SOUTH LEBANON, OHIO 45036
DOC. NO. 2020-048835
WARREN COUNTY, OHIO RECORDS

SURVEYOR

THOMAS GRAHAM ASSOCIATES, INC.
803 COMPTON ROAD, SUITE A
CINCINNATI, OHIO 45231-3819
ATTN: JASON L. KAFFENBERGER, P.S. 8428 IN OHIO
(513) 521-4760
FAX (513) 521-2439



VICINITY MAP

NOT TO SCALE

CITY OF SOUTH LEBANON PLANNING COMMISSION

THIS PLAT WAS APPROVED BY THE CITY OF SOUTH LEBANON PLANNING COMMISSION ON THIS _____ DAY OF _____, 20____.

CHAIRMAN

CITY OF SOUTH LEBANON

I HEREBY CERTIFY THAT ON THE _____ DAY OF _____, 20____,

THIS PLAT WAS APPROVED AND ACCEPTED BY RESOLUTION NO. _____

ADOPTED BY THE COUNCIL OF THE CITY OF SOUTH LEBANON, OHIO.

JAMES D. SMITH, MAYOR

TINA WILLIAMS, FISCAL OFFICER

COUNTY AUDITOR

TRANSFERRED ON THIS _____ DAY OF _____, 20____, AT _____ A.M.

COUNTY AUDITOR

DEPUTY

PRINTED NAME

COUNTY RECORDER

FILE NO: _____

RECEIVED ON THIS _____ DAY OF _____, 20____, AT _____ M.

RECORDED ON THIS _____ DAY OF _____, 20____, AT _____ M.

RECORDED IN PLAT BOOK NO. _____ ON PAGE NO. _____.

SEE: _____

COUNTY RECORDER

DEPUTY

PRINTED NAME

EXHIBIT E1

SURVEYORS CERTIFICATION

I HEREBY CERTIFY THAT THIS MAP IS A TRUE AND COMPLETE SURVEY MADE UNDER MY SUPERVISION AND THAT ALL MONUMENTS AND LOT CORNERS ARE SET AS SHOWN

JASON L. KAFFENBERGER (OHIO P.S. #8428)



THOMAS
GRAHAM
ASSOCIATES, INC.

- Engineers
- Surveyors

803 Compton Road
Cincinnati, Ohio 45231
513-521-4760
Fax # 521-2439

Date: JULY 20, 2023

Scale: AS SHOWN

Job No: 8201

Revisions

No.	Date
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RIVER CREEK LOFTS SUBDIVISION

RE-PLAT OF LOT #1
PLAT BOOK 102, PAGE 62
SITUATE IN
SEC. 7 TOWN 4, RANGE 3
CITY OF SOUTH LEBANON
WARREN COUNTY
STATE OF OHIO
JULY, 2023

LEGEND

- L.A. R/W INDICATES EXISTING LIMITED ACCESS RIGHT OF WAY
R/W INDICATES EXISTING RIGHT OF WAY
● SET IRON PIN
● SET MAG NAIL
△ SET RR SPIKE
(S) INDICATES MEASUREMENT PER SURVEY
(D) INDICATES MEASUREMENT PER DEED

INDICATES RIGHT-OF-WAY
TO CITY OF SOUTH LEBANON
(0.4135 ACRES)

REFERENCE SURVEYS

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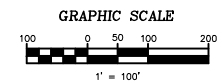
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DEED REFERENCE
DOC. NO. 2020-048835
WARREN COUNTY, OHIO RECORDS

BASIS OF BEARING:
KINGS RIVER FARM, INC. SUBDIVISION
PLAT BOOK 10 PAGE 85
WARREN COUNTY, OHIO RECORDS



THOMAS
GRAHAM
ASSOCIATES, INC.

- Engineers
- Surveyors

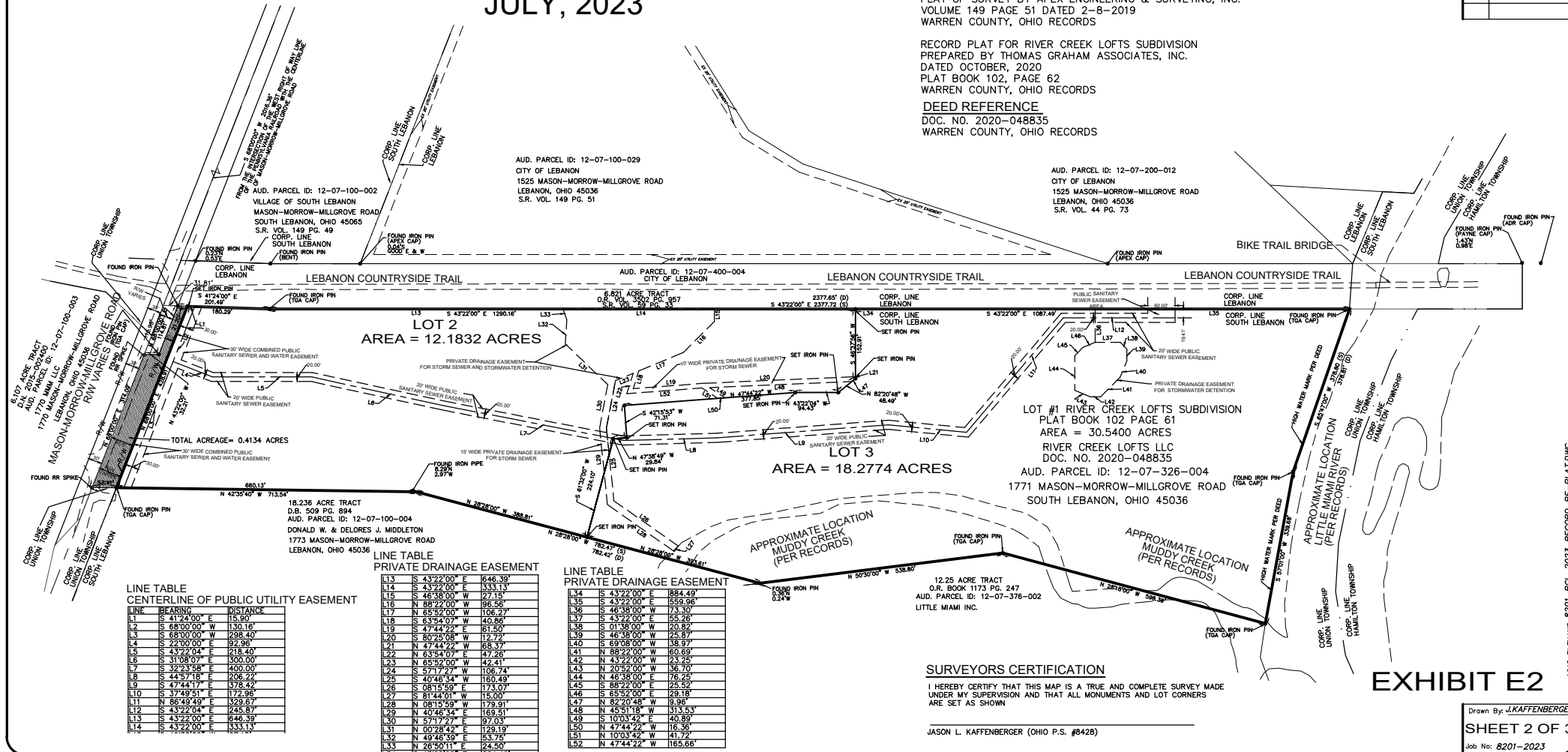
803 Compton Road
Cincinnati, Ohio 45231
513-521-4760
Fax # 521-2439

Date: JULY 20, 2023
Scale: 1" = 100'

Job No: 8201

Revisions

No. Date



RIVER CREEK LOFTS SUBDIVISION

RE-PLAT OF LOT #1
PLAT BOOK 102, PAGE 62
SITUATE IN
SEC. 7 TOWN 4, RANGE 3
CITY OF SOUTH LEBANON
WARREN COUNTY
STATE OF OHIO
JULY, 2023

LEGEND

- L.A. R/W INDICATES EXISTING LIMITED ACCESS RIGHT OF WAY
R/W INDICATES EXISTING RIGHT OF WAY
● SET IRON PIN
● SET MAG NAIL
● SET RR SPIKE
(S) INDICATES MEASUREMENT PER SURVEY
(D) INDICATES MEASUREMENT PER DEED
- INDICATES PRIVATE ACCESS EASEMENT
FOR THE BENEFIT OF THE CITY OF SOUTH LEBANON,
UTILITY COMPANIES, LOT 2, AND LOT 3
TO BE CONSISTENT WITH THE AS-BUILT LOCATION OF THE DRIVES

REFERENCE SURVEYS

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THOMAS
GRAHAM
ASSOCIATES, INC.

- Engineers
- Surveyors

803 Compton Road
Cincinnati, Ohio 45231
513-521-4760
Fax # 521-2439

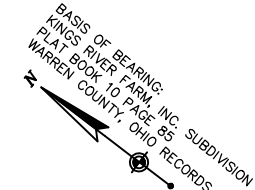
Date: JULY 20, 2023

Scale: 1" = 100'

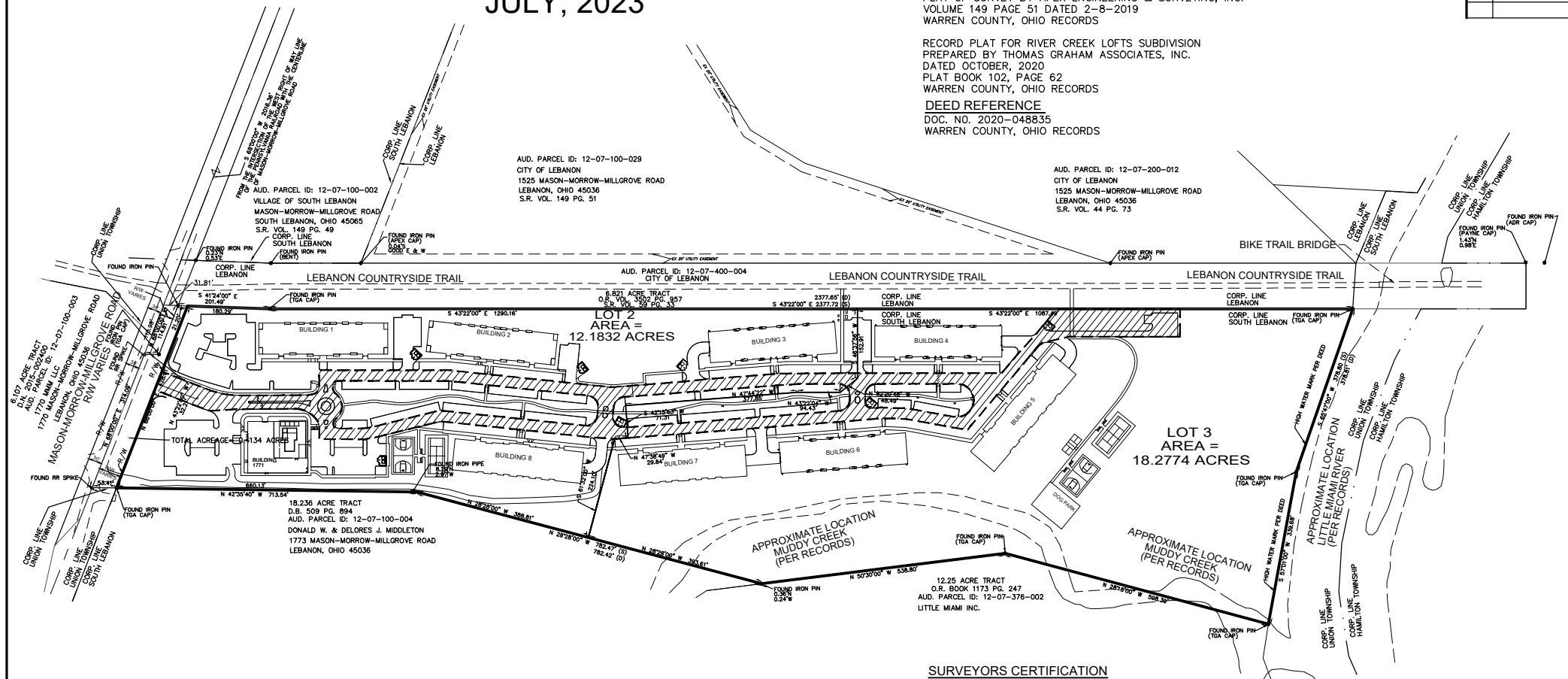
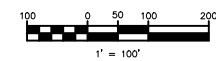
Job No: 8201

Revisions

No. Date



GRAPHIC SCALE



SURVEYORS CERTIFICATION

I HEREBY CERTIFY THAT THIS MAP IS A TRUE AND COMPLETE SURVEY MADE
UNDER MY SUPERVISION AND THAT ALL MONUMENTS AND LOT CORNERS
ARE SET AS SHOWN

JASON L. KAFFENBERGER (OHIO P.S. #8428)

EXHIBIT E3

Drawn By: J. KAFFENBERGER

SHEET 3 OF 3

Job No: 8201-2023

ACAD FILENAME: 8201_RCL_2023_RECORD_RE-PLATING



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 and City Council Members

From: Jerry Haddix, City Administrator

Date: August 1, 2023

Subject: 1771 Mason-Morrow-Millgrove Road (River Creek Lofts property)

Back in 2020, River Creek Lofts, LLC combined the two (2) parcels at 1771 Mason-Morrow-Millgrove Road into one parcel totaling 30.874 acres. This is the proposed site for the River Creek Lofts apartment development. Subsequently, River Creek Lofts, LLC is proposing to develop the project in two (2) phases and is seeking to replat the property into two (2) lots to match the phasing of the project.

The Planning Commission met on August 9th and approved the replat.

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

**CITY OF SOUTH LEBANON, OHIO
RESOLUTION NO. 2023-31**

**A RESOLUTION APPROVING AND AUTHORIZING THE MAYOR AND FISCAL
OFFICER TO EXECUTE A RECORD PLAT FOR THE RIVER CREEK LOFTS
REPLAT SUBDIVISION, AND DECLARING AN EMERGENCY**

WHEREAS, River Creek Lofts, LLC, the owner of Lot #1 of the River Creek Lofts subdivision located on Mason-Morrow-Millgrove Road has submitted an application to subdivide the parcel into two (2) lots to coincide with the two (2) phases of the River Creek Lofts multi-family development that is proposed for the site; and,

WHEREAS, the South Lebanon Planning Commission met on August 9th, 2023, and approved the replat for the River Creek Lofts Replat Subdivision; and,

WHEREAS, immediate action is required to allow for the Owner to proceed with construction and record this plat 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 the River Creek Lofts Replat Subdivision Record Plat, 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.

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.

Resolution No. 2023-31

Page 2

Adopted this day of , 2023.

Attest: _____
Petrina D. Williams, Director of Finance/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	
Vote - ____ Yeas ____ Nays	

Prepared by and approved as to form:

ANDREW P. MEIER
LAW DIRECTOR
CITY OF SOUTH LEBANON, OHIO

By: _____

Date: ____ / ____ /2023

RIVER CREEK LOFTS SUBDIVISION REVISION 1

DEED REFERENCE

SITUATED IN SECTION 7, TOWNSHIP 4, RANGE 3, CITY OF SOUTH LEBANON, UNION TOWNSHIP, WARREN COUNTY, STATE OF OHIO CONTAINING 30.8740 ACRES AND BEING ALL OF LOT 1 OF RIVER CREEK LOFTS SUBDIVISION AS RECORDED IN PLAT BOOK 102, PAGE 61 OF THE PLAT RECORDS OF WARREN COUNTY, OHIO AND CONVEYED BY DEED TO RIVER CREEK LOFTS, LLC AND RECORDED 12/02/2020 AS DOCUMENT NO. 2020-048835 WARREN COUNTY, OHIO RECORDS.

OWNERS CONSENT AND DEDICATION

WE, THE UNDERSIGNED, BEING ALL THE OWNERS OF THE LANDS HEREIN PLATTED, DO HEREBY VOLUNTARILY CONSENT TO THE EXECUTION OF THE SAID PLAT AND DO DEDICATE THE STREETS, AS SHOWN HEREON TO THE PUBLIC USE FOREVER.

ANY "PUBLIC UTILITY EASEMENTS"AS SHOWN ON THIS PLAT ARE FOR THE PLACEMENT OF SIDEWALKS AND PUBLIC UTILITIES FOR THE MAINTENANCE AND REPAIR OF SAID UTILITIES. THIS EASEMENT AND ALL OTHER EASEMENTS SHOWN ON THIS PLAT, UNLESS DESIGNATED FOR A SPECIFIC PURPOSE, ARE FOR THE CONSTRUCTION, OPERATION, MAINTENANCE, REPAIR, REPLACEMENT OR REMOVAL OF WATER, SEWER, GAS, ELECTRIC, TELEPHONE, CABLE TELEVISION, OR OTHER UTILITY LINES OR SERVICES, STORMWATER DISPOSAL AND FOR THE EXPRESS PRIVILEGE OF CUTTING, TRIMMING OR REMOVING ANY AND ALL TREES OR OTHER OBSTRUCTIONS WITHIN SAID EASEMENT, OR IMMEDIATELY ADJACENT THERETO, TO THE FREE USE OF SAID EASEMENTS OR ADJACENT STREETS AND FOR PROVIDING INGRESS AND EGRESS TO THE PROPERTY FOR SAID PURPOSES AND ARE TO BE MAINTAINED AS SUCH FOREVER. NO BUILDINGS OR OTHER STRUCTURES MAY BE BUILT WITHIN SAID EASEMENTS, NOR MAY THE EASEMENT AREA BE PHYSICALLY ALTERED SO AS TO (1) REDUCE CLEARANCES OF EITHER OVERHEAD OR UNDERGROUND FACILITIES; (2) IMPAIR THE LAND SUPPORT OF SAID FACILITIES; (3) IMPAIR ABILITY TO MAINTAIN THE FACILITIES OR (4) CREATE A HAZARD.

THE ABOVE PUBLIC UTILITY EASEMENTS ARE FOR THE BENEFIT OF ALL PUBLIC UTILITY PROVIDERS INCLUDING, BUT NOT LIMITED TO DUKE ENERGY, AT&T, CHARTER COMMUNICATIONS, THE CITY OF SOUTH LEBANON AND WARREN COUNTY.

ALL PERSONS INTERESTED IN THIS PLAT AS OWNERS HAVE UNITED IN ITS EXECUTION, SIGNED AND ACKNOWLEDGED IN THE PRESENCE OF:

OWNER: River Creek Lofts, LLC

NAME: _____

PRINTED NAME: _____

TITLE: _____

CERTIFICATE OF NOTARY PUBLIC

STATE OF _____: SS
COUNTY OF _____

BE REMEMBERED THAT ON THIS _____ DAY OF _____, 2023, BEFORE ME A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED _____ OF RIVER CREEK LOFTS, LLC, WHO REPRESENTED THAT THEY ARE DULY AUTHORIZED IN THE PREMISES AND WHO ACKNOWLEDGED THAT THEY DID SIGN THE FORGOING INSTRUMENT AND THAT THE SAME IS THEIR VOLUNTARY ACT AND DEED FOR THE USED AND PURPOSES IN SAID INSTRUMENT MENTIONED.

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY NOTARIAL SEAL ON THE DAY AND YEAR AS WRITTEN ABOVE.

NOTARY PUBLIC: _____

MY COMMISSION EXPIRES: _____

MORTGAGE ACCEPTANCE STATEMENT

ALL PERSONS INTERESTED IN THIS PLAT AS OWNERS HAVE UNITED IN ITS EXECUTION, SIGNED AND ACKNOWLEDGED IN THE PRESENCE OF:

MORTGAGE HOLDER Civista Bank _____:

NAME: _____

PRINTED NAME: _____

TITLE: _____

CERTIFICATE OF NOTARY PUBLIC

STATE OF _____: SS
COUNTY OF _____

BE REMEMBERED THAT ON THIS _____ DAY OF _____, 2023, BEFORE ME A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED _____ OF _____ WHO REPRESENTED THAT THEY ARE DULY AUTHORIZED IN THE PREMISES AND WHO ACKNOWLEDGED THAT THEY DID SIGN THE FORGOING INSTRUMENT AND THAT THE SAME IS THEIR VOLUNTARY ACT AND DEED FOR THE USED AND PURPOSES IN SAID INSTRUMENT MENTIONED.

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY NOTARIAL SEAL ON THE DAY AND YEAR AS WRITTEN ABOVE.

NOTARY PUBLIC: _____

MY COMMISSION EXPIRES: _____

MORTGAGE RECORDED WITH INSTRUMENT NUMBER 2022 - 001886 IN WARREN COUNTY, OHIO

RE-PLAT OF LOT #1 PLAT BOOK 102, PAGE 62 SITUATE IN SEC. 7 TOWN 4, RANGE 3 CITY OF SOUTH LEBANON UNION TOWNSHIP WARREN COUNTY STATE OF OHIO AUGUST, 2023

ACREAGE TABLE

R/W AREA	0.4133 ACRES DEDICATED TO CITY OF SOUTH LEBANON
LOT 2	12.1829 ACRES
LOT 3	18.2778 ACRES

TOTAL AREA = 30.8740 ACRES

GRANT OF UTILITY EASEMENT

FOR VALUABLE CONSIDERATION, WE, THE UNDERSIGNED ("GRANTOR") DO HEREBY PERMANENTLY GRANT TO DUKE ENERGY OHIO/KENTUCKY, INC. AND THEIR PARENT ENTITY (OR ENTITY CONTROLLING BOTH ENTITIES), THEIR RESPECTIVE SUBSIDIARIES OR AFFILIATE ENTITIES, AND ANY OTHER PROVIDER OF UTILITY SERVICES ("GRANTEE") THEIR SUCCESSORS AND ASSIGNS, FOREVER, NON-EXCLUSIVE EASEMENTS, AS SHOWN ON THE WITHIN PLAT AND DESIGNATED AS "UTILITY EASEMENTS"FOR THE CONSTRUCTION, OPERATION, MAINTENANCE, REPAIR, OR REPLACEMENT OF ANY AND ALL NECESSARY FIXTURES FOR THE OVERHEAD OR UNDERGROUND DISTRIBUTION OF GAS, ELECTRIC, TELEPHONE, TELECOMMUNICATIONS OR OTHER UTILITIES ("GRANTEE FACILITIES"OR "FACILITIES"). THE GRANTEE SHALL HAVE THE RIGHT OF INGRESS AND EGRESS AND ALSO THE RIGHT TO CUT, TRIM, OR REMOVE ANY TREES, UNDERGROWTH, OR OVERHANGING BRANCHES WITHIN THE UTILITY EASEMENTS OR IMMEDIATELY ADJACENT THERETO. NO BUILDINGS OR OTHER STRUCTURES MAY BE BUILT WITHIN THE UTILITY EASEMENTS AREA, NOR MAY THE UTILITY EASEMENTS AREA BE PHYSICALLY ALTERED TO (1) REDUCE THE CLEARANCES OF EITHER OVERHEAD OR UNDERGROUND FACILITIES; (2) IMPAIR THE LAND SUPPORT OF GRANTEE FACILITIES; (3) IMPAIR THE ABILITY TO MAINTAIN THE FACILITIES OR; (4) CREATE A HAZARD. TO HAVE AND TO HOLD THE EASEMENT FOREVER. WE ACKNOWLEDGE HAVING THE FULL POWER TO CONVEY THIS UTILITY EASEMENT AND WILL DEFEND THE SAME AGAINST ALL CLAIMS.

ALSO HEREBY GRANTED TO DUKE ENERGY OHIO/KENTUCKY, INC. AND ITS SUBSIDIARIES, SUCCESSORS, AND ASSIGNS IS THE RIGHT TO LATEROALLY EXTEND, REPAIR, AND MAINTAIN NATURAL GAS SERVICES TO SERVE INDIVIDUAL BUILDINGS AS CONSTRUCTED BY THE ORIGINAL BUILDER ALLOWING DISTURBANCE ONLY OVER EXISTING SERVICES TO SERVICE INDIVIDUAL BUILDINGS AS CONSTRUCTED BY THE ORIGINAL BUILDER ALLOWING DISTURBANCE ONLY OVER EXISTING SERVICE LINES NECESSARY FOR THE REPAIR ONLY ON THE LOT ON WHICH THE SERVICE IS LOCATED. RECONSTRUCTION OR RELOCATION IS PERMISSIBLE ONLY WITH THE WRITTEN PERMISSION OF THE PARCEL OWNER AND SAID UTILITY PROVIDER TO A MUTUALLY AGREEABLE LOCATION. NO PART OF THE UTILITY EASEMENTS SHALL ENCUMBER EXISTING BUILDINGS OR ADJOINING LOTS.

PUBLIC SANITARY SEWER EASEMENT

ANY "PUBLIC SANITARY SEWER EASEMENT" AS SHOWN ON THIS PLAT IS FOR THE BENEFIT OF THE CITY OF SOUTH LEBANON. THE EASEMENT GRANTS CITY OF SOUTH LEBANON, ITS EMPLOYEES OR AGENTS, THE RIGHT TO ACCESS, SURVEY, CONSTRUCT, USE, OPERATE, INSPECT, MAINTAIN, REPAIR, REPLACE, AND REMOVE SANITARY SEWERS, FORCE MAINS, PUMP STATIONS, AND ALL NECESSARY RELATED ABOVE AND BELOW GROUND APPURTENANCES AND FOR THE EXPRESS PRIVILEGE OF CUTTING, TRIMMING OR REMOVING ANY AND ALL TREES OR OTHER OBSTRUCTIONS WITHIN SAID EASEMENT, OR IMMEDIATELY ADJACENT THERETO, TO THE FREE USE OF SAID EASEMENTS AND FOR PROVIDING INGRESS AND EGRESS TO THE PROPERTY FOR SAID PURPOSES AND ARE TO BE MAINTAINED AS SUCH FOREVER. NO BUILDING OR OTHER STRUCTURES MAY BE BUILT WITHIN SAID EASEMENTS, NOR MAY THE EASEMENT AREA BE PHYSICALLY ALTERED SO AS TO (1) REDUCE CLEARANCES OF EITHER OVERHEAD OR UNDERGROUND FACILITIES; (2) MODIFY THE AMOUNT OF COVER OVER THE UTILITY LINES; (3) IMPAIR ABILITY TO MAINTAIN THE FACILITIES OR (4) CREATE A HAZARD.

DRAINAGE STATEMENT

THE EASEMENT AREAS SHALL BE MAINTAINED CONTINUOUSLY BY THE PROPERTY OWNER. WITHIN THE EASEMENTS, NO STRUCTURE, PLANTING, FENCING, CULVERT, OR OTHER MATERIAL SHALL BE PLACED OR PERMITTED TO REMAIN WHICH MAY OBSTRUCT, RETARD, OR DIVERT THE FLOW THROUGH THE WATERCOURSE.

THE CITY OF SOUTH LEBANON ASSUMES NO LEGAL OBLIGATION TO MAINTAIN OR REPAIR ANY OPEN DRAIN, DITCHES OR WATERCOURSE WITHIN THE EASEMENT AREA UNLESS NOTED OTHERWISE ON THIS PLAT.

THE PUBLICLY-MAINTAINED PORTION OF THE STORM SEWER SYSTEM WILL INCLUDE STORM DRAINS, CULVERTS, AND/OR DITCHES LOCATED WITHIN EITHER THE PUBLIC RIGHT-OF-WAY OR THE PUBLIC UTILITY EASEMENT AREA ADJACENT TO THE ROAD RIGHT-OF-WAY.

THE OWNER IS RESPONSIBLE FOR MAINTAINING ALL STORM WATER FACILITIES LOCATED OUTSIDE OF THE PUBLIC RIGHT-OF-WAY INCLUDING SEWER, STRUCTURES, AND DETENTION/RETENTION BASINS.

REFERENCE SURVEYS

RECORD PLAT FOR KINGS RIVER FARM, INC. SUBDIVISION
PREPARED BY JOHN R. SANSALONE & CO.
DATED JUNE, 1979
PLAT BOOK 10 PAGE 85
WARREN COUNTY, OHIO RECORDS

PLAT OF SURVEY BY WOOLPERT CONSULTANTS
VOLUME 44 PLAT 73 DATED APRIL, 1979
WARREN COUNTY, OHIO RECORDS

PLAT OF SURVEY BY B.L. PAYNE & ASSOCIATES, INC.
VOLUME 59 PLAT NO. 33 DATED 6/6/1985
WARREN COUNTY, OHIO RECORDS

PLAT OF SURVEY BY HENDERSON & BODWELL
VOLUME 95 PLAT NO. 44 DATED 12-20-1995
WARREN COUNTY, OHIO RECORDS

PLAT OF SURVEY BY APEX ENGINEERING & SURVEYING, INC.
VOLUME 149 PAGE 51 DATED 2-8-2019
WARREN COUNTY, OHIO RECORDS

RECORD PLAT FOR RIVER CREEK LOFTS SUBDIVISION
PREPARED BY THOMAS GRAHAM ASSOCIATES, INC.
DATED OCTOBER, 2020
PLAT BOOK 102, PAGE 62
WARREN COUNTY, OHIO RECORDS

SHEET INDEX

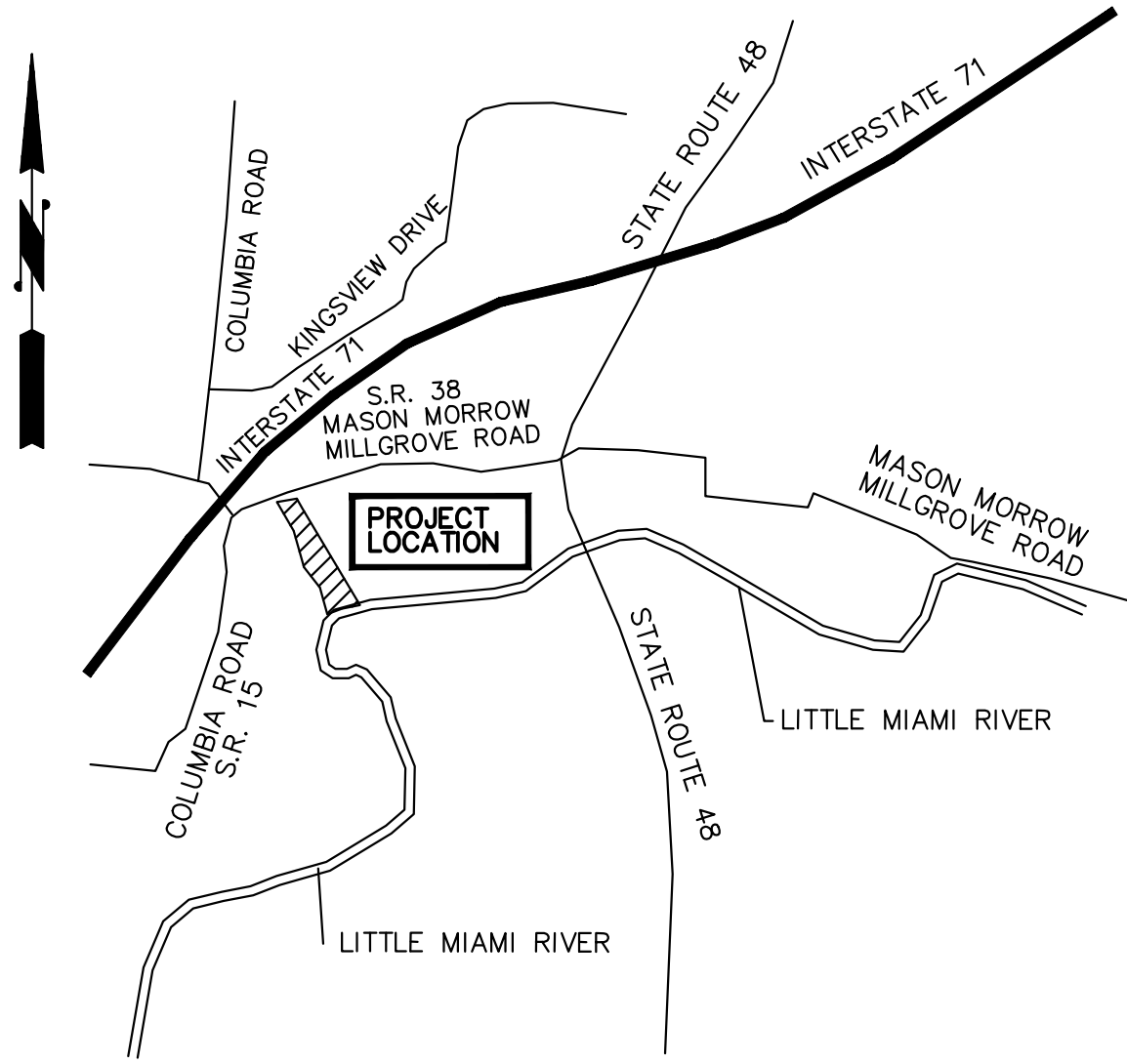
1. TITLE SHEET
2. PLAT
3. PLAT

OWNER

AUD. PARCEL ID: 12-07-326-004
RIVER CREEK LOFTS LLC
1771 MASON-MORROW-MILLGROVE ROAD
SOUTH LEBANON, OHIO 45036
DOC. NO. 2020-048835
WARREN COUNTY, OHIO RECORDS

SURVEYOR

THOMAS GRAHAM ASSOCIATES, INC.
803 COMPTON ROAD, SUITE A
CINCINNATI, OHIO 45231-3819
ATTN: JASON L. KAFFENBERGER, P.S. 8428 IN OHIO
(513) 521-4760
FAX (513) 521-2439



VICINITY MAP

NOT TO SCALE

tga
THOMAS
GRAHAM
ASSOCIATES, INC.

- Engineers
- Surveyors

803 Compton Road
Cincinnati, Ohio 45231
513-521-4760
Fax # 521-2439

Date: AUGUST 4, 2023

Scale: AS SHOWN

Job No: 8201

Revisions

No.	Date
-----	------

CITY OF SOUTH LEBANON PLANNING COMMISSION

THIS PLAT WAS APPROVED BY THE CITY OF SOUTH LEBANON PLANNING COMMISSION ON THIS _____ DAY OF _____, 20____.

CHAIRMAN

CITY OF SOUTH LEBANON

I HEREBY CERTIFY THAT ON THE ____ DAY OF _____, 20____,

THIS PLAT WAS APPROVED AND ACCEPTED BY RESOLUTION NO. _____

ADOPTED BY THE COUNCIL OF THE CITY OF SOUTH LEBANON, OHIO.

JAMES D. SMITH, MAYOR

TINA WILLIAMS, FISCAL OFFICER

COUNTY AUDITOR

TRANSFERRED ON THIS ____ DAY OF _____, 20____, AT _____ A.M.

COUNTY AUDITOR

DEPUTY

PRINTED NAME

COUNTY RECORDER

FILE NO: _____

RECEIVED ON THIS ____ DAY OF _____, 20____, AT _____ M.

RECORDED ON THIS ____ DAY OF _____, 20____, AT _____ M.

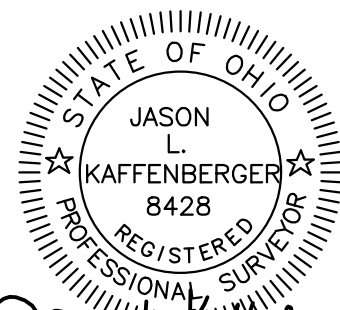
RECORDED IN PLAT BOOK NO. _____ ON PAGE NO. _____.

FEE: _____

COUNTY RECORDER

DEPUTY

PRINTED NAME



SURVEYORS CERTIFICATION

I HEREBY CERTIFY THAT THIS MAP IS A TRUE AND COMPLETE SURVEY MADE UNDER MY SUPERVISION AND THAT ALL MONUMENTS AND LOT CORNERS ARE SET AS SHOWN

Jason L. Kaffenberger
JASON L. KAFFENBERGER (OHIO P.S. #8428)

Drawn By: J.KAFFENBERGER

SHEET 1 OF 3

Job No: 8201-2023

ACAD FILENAME: 8201_RCL_2023_RECORD_RE-PLAT.DWG

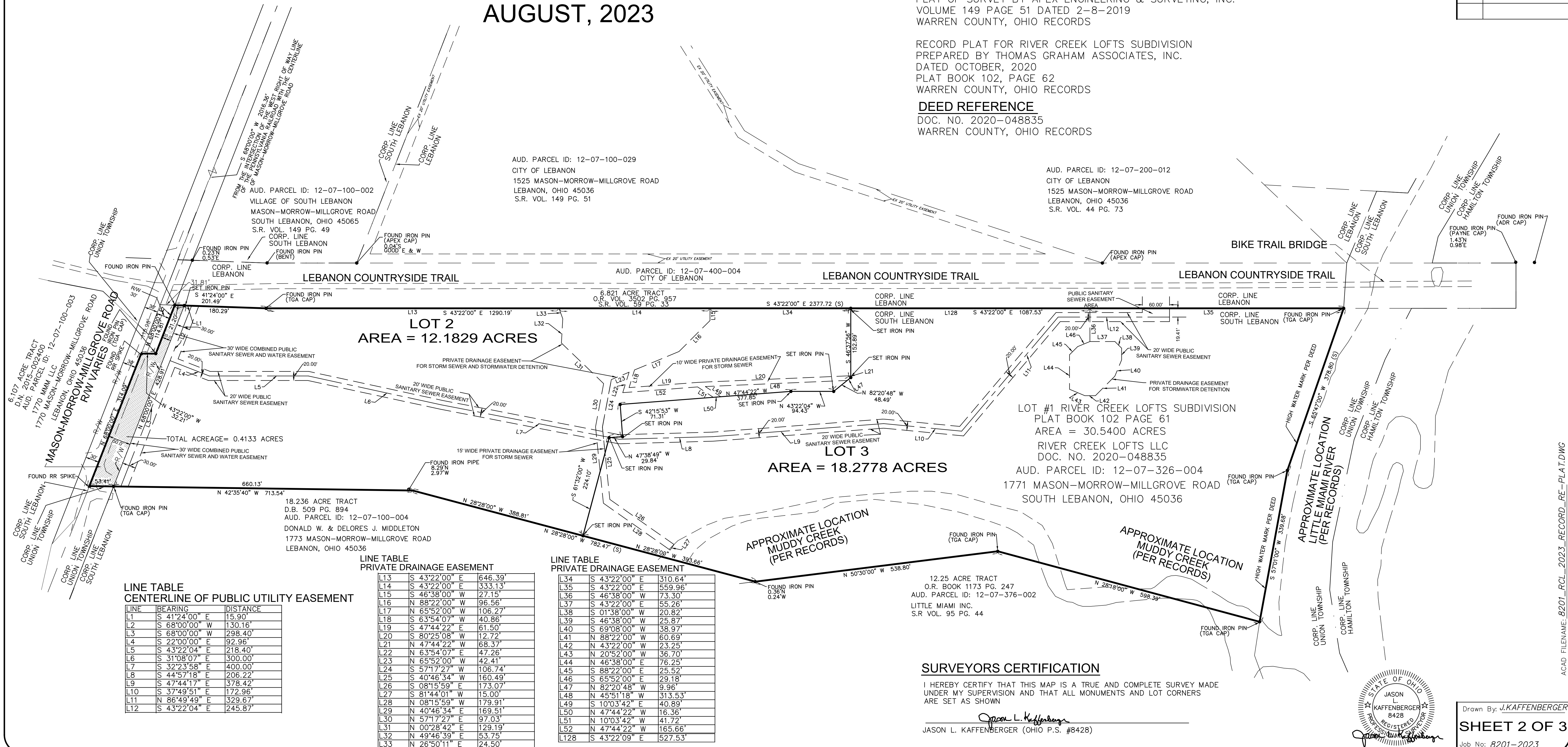
RE-PLAT OF LOT #1
PLAT BOOK 102, PAGE 62
SITUATE IN
SEC. 7 TOWN 4, RANGE 3
CITY OF SOUTH LEBANON
UNION TOWNSHIP
WARREN COUNTY
STATE OF OHIO
AUGUST, 2023

DOC. NO. 2020-048835
WARREN COUNTY, OHIO RECORDS

GRAPHIC SCALE

1' = 100'

INDICATES RIGHT-OF-WAY
TO CITY OF SOUTH LEBANON
(0.4133 ACRES)



ACAD FILENAME: 0201_AGL_2023_RECORD_NE-FLAT.DWG

Job No: 8201-2023

RIVER CREEK LOFTS SUBDIVISION REVISION 1

RE-PLAT OF LOT #1
PLAT BOOK 102, PAGE 62
SITUATE IN
SEC. 7 TOWN 4, RANGE 3
CITY OF SOUTH LEBANON
UNION TOWNSHIP
WARREN COUNTY
STATE OF OHIO
AUGUST, 2023

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RECORD PLAT FOR RIVER CREEK LOFTS SUBDIVISION
PREPARED BY THOMAS GRAHAM ASSOCIATES, INC.
DATED OCTOBER, 2020
PLAT BOOK 102, PAGE 62
WARREN COUNTY, OHIO RECORDS

DEED REFERENCE

DOC. NO. 2020-048835
WARREN COUNTY, OHIO RECORDS



THOMAS
GRAHAM
ASSOCIATES, INC.

- Engineers
- Surveyors

803 Compton Road
Cincinnati, Ohio 45231
513-521-4760
Fax # 521-2439

Date: AUGUST 4, 2023

Scale: 1" = 100'

Job No: 8201

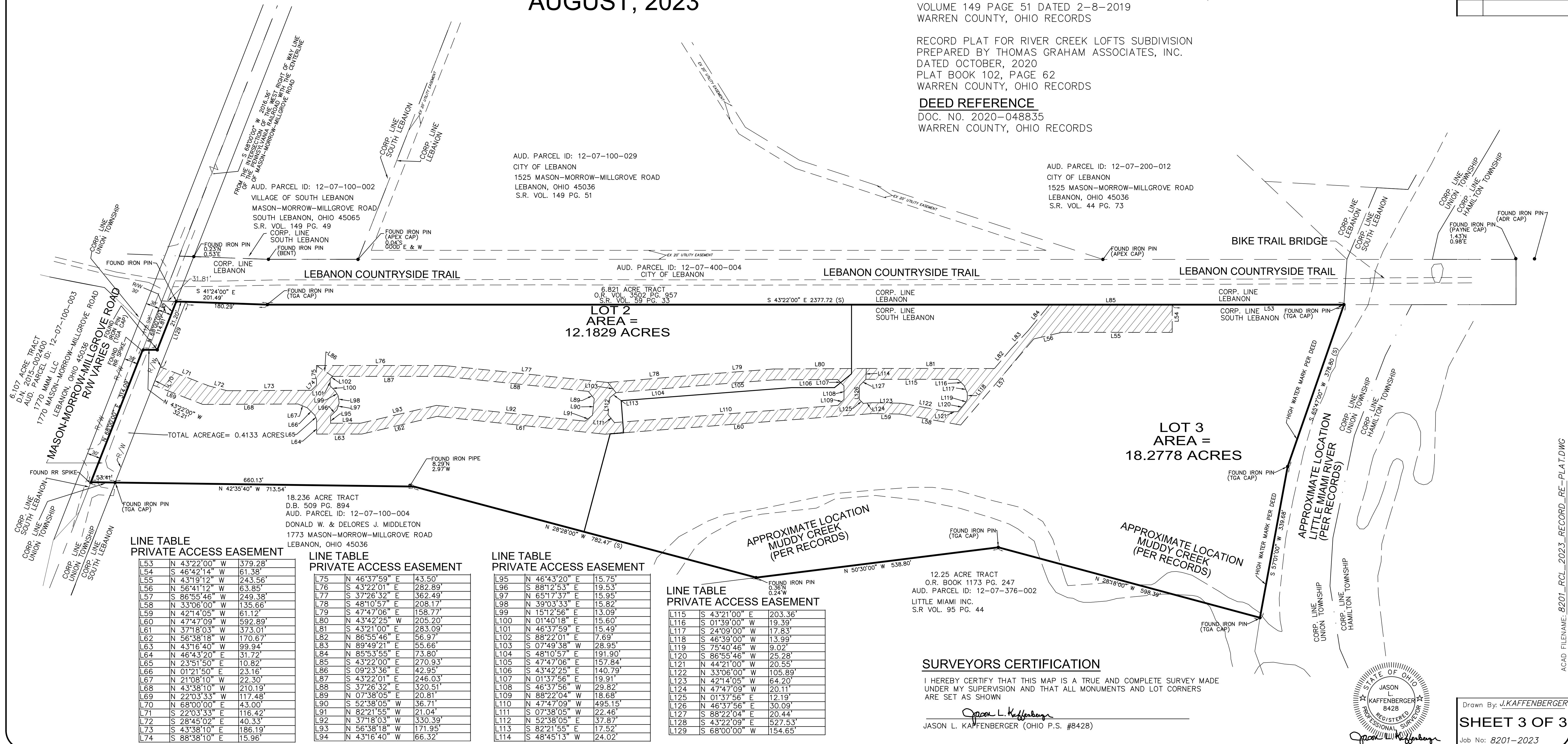
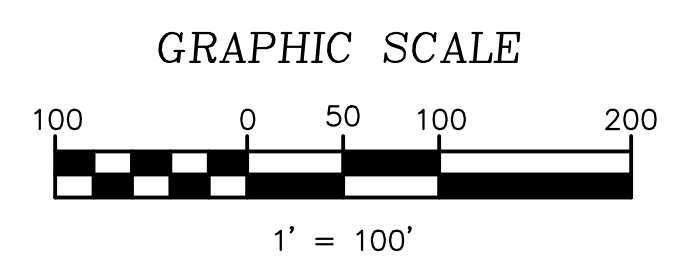
Revisions

No.	Date

- LEGEND
- L.A. R/W INDICATES EXISTING LIMITED ACCESS RIGHT OF WAY
R/W INDICATES EXISTING RIGHT OF WAY
- FOUND IRON PIN (5/8" DIA. UNLESS OTHERWISE NOTED)
 - SET IRON PIN (SEE SURVEY NOTE #4 ON SHEET 1)
 - SET MAG NAIL
 - SET RR SPIKE
 - (S) INDICATES MEASUREMENT PER SURVEY

INDICATES PRIVATE ACCESS EASEMENT
FOR THE BENEFIT OF THE CITY OF SOUTH LEBANON,
UTILITY COMPANIES, LOT 2, AND LOT 3
TO BE CONSISTENT WITH THE AS-BUILT LOCATION OF THE DRIVES

BASIS OF BEARING:
KINGS RIVER FARM, INC. SUBDIVISION
PLAT BOOK 10 PAGE 85
WARREN COUNTY, OHIO RECORDS



LINE TABLE PRIVATE ACCESS EASEMENT

L53	N 43°22'00" W	379.28'
L54	S 46°42'14" W	61.38'
L55	N 43°19'12" W	243.56'
L56	N 56°41'12" W	63.85'
L57	S 86°55'46" W	249.38'
L58	N 33°06'00" W	135.66'
L59	N 42°14'05" W	61.12'
L60	N 47°47'09" W	592.89'
L61	N 37°18'03" W	373.01'
L62	N 56°38'18" W	170.67'
L63	N 43°16'40" W	99.94'
L64	N 46°43'20" E	31.72'
L65	N 23°51'50" E	10.82'
L66	N 01°21'50" E	23.16'
L67	N 21°08'10" W	22.30'
L68	N 43°38'10" W	210.19'
L69	N 22°03'33" W	117.48'
L70	N 68°00'00" E	43.00'
L71	S 22°03'33" E	116.42'
L72	S 28°45'02" E	40.33'
L73	S 43°38'10" E	186.19'
L74	S 88°38'10" E	15.96'

LINE TABLE PRIVATE ACCESS EASEMENT

L75	N 46°37'59" E	43.50'
L76	S 43°22'01" E	282.89'
L77	S 37°26'32" E	362.49'
L78	S 48°10'57" E	208.17'
L79	S 47°47'06" E	158.77'
L80	N 43°42'25" W	205.20'
L81	S 43°21'00" E	283.09'
L82	N 86°55'46" E	56.97'
L83	N 89°49'21" E	55.66'
L84	N 85°53'55" E	73.80'
L85	S 43°22'00" E	270.93'
L86	S 09°23'36" E	42.95'
L87	S 43°22'01" E	246.03'
L88	S 37°26'32" E	320.51'
L89	N 07°38'05" E	20.81'
L90	S 52°38'05" W	36.71'
L91	N 82°21'55" W	21.04'
L92	N 37°18'03" W	330.39'
L93	N 56°38'18" W	171.95'
L94	N 43°16'40" W	66.32'

LINE TABLE PRIVATE ACCESS EASEMENT

L95	N 46°43'20" E	15.75'
L96	S 88°12'53" E	19.53'
L97	N 65°17'37" E	15.95'
L98	N 39°03'33" E	15.82'
L99	N 15°12'56" E	13.09'
L100	N 01°40'18" E	15.60'
L101	N 46°37'59" E	15.49'
L102	S 88°22'01" E	7.69'
L103	S 07°49'38" W	28.95'
L104	S 48°10'57" E	191.90'
L105	S 47°47'06" E	157.84'
L106	S 43°42'25" E	140.79'
L107	N 01°37'56" E	19.91'
L108	N 46°37'56" W	29.82'
L109	N 88°22'04" W	18.68'
L110	N 47°47'09" W	495.15'
L111	S 07°38'05" W	22.46'
L112	N 52°38'05" E	37.87'
L113	S 82°21'55" E	17.52'
L114	S 48°45'13" W	24.02'

LINE TABLE PRIVATE ACCESS EASEMENT

L115	S 43°21'00" E	203.36'
L116	S 01°39'00" W	19.39'
L117	S 24°09'00" W	17.83'
L118	S 46°39'00" W	13.99'
L119	S 75°40'46" W	9.02'
L120	S 86°55'46" W	25.28'
L121	N 44°21'00" W	20.55'
L122	N 33°06'00" W	105.89'
L123	N 42°14'05" W	64.20'
L124	N 47°47'09" W	20.11'
L125	N 01°37'56" E	12.19'
L126	N 46°37'56" E	30.09'
L127	S 88°22'04" E	20.44'
L128	S 43°22'09" E	527.53'
L129	S 68°00'00" W	154.65'

SURVEYORS CERTIFICATION

I HEREBY CERTIFY THAT THIS MAP IS A TRUE AND COMPLETE SURVEY MADE
UNDER MY SUPERVISION AND THAT ALL MONUMENTS AND LOT CORNERS
ARE SET AS SHOWN

Jason L. Kaffenberger
JASON L. KAFFENBERGER (OHIO P.S. #8428)



Drawn By: *J. Kaffenberger*

SHEET 3 OF 3

Job No: 8201-2023

ACAD FILENAME: 8201_RCL_2023_RECORD_RE-PLAT.DWG



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: August 14, 2023
Subject: OPWC Agreement – Forest Avenue Phase 1 Project

Attached is a resolution and grant agreement with the Ohio Public Works Commission (OPWC) for the Forest Avenue Phase 1 Project.

This project consists of improvement to Forest Avenue from High Street to Section Street.

Here is a breakdown of the proposed budget:

\$445,342	OPWC Grant
<u>\$336,181</u>	City funds
\$781,523	TOTAL PROJECT COST

If you have any questions or need additional information, please contact me.

**CITY OF SOUTH LEBANON, OHIO
RESOLUTION NO. 2023-32**

**A RESOLUTION APPROVING AND AUTHORIZING THE MAYOR AND
DIRECTOR OF FINANCE TO EXECUTE A PROJECT GRANT AGREEMENT WITH
THE OHIO PUBLIC WORKS COMMISSION IN THE AMOUNT OF \$445,342.00
FOR THE CONSTRUCTION OF THE FORREST AVENUE RECONSTRUCTION
PHASE I PROJECT IN THE CITY OF SOUTH LEBANON, AND DECLARING AN
EMERGENCY**

WHEREAS, this Council passed Resolution 2022-29 on July 21st, 2022, authorizing the submission of a grant application to the Ohio Public Works Commission (OPWC) to assist in the funding of the Forrest Avenue Reconstruction Phase I Project in the City of South Lebanon (the "Project"); and,

WHEREAS, OPWC has approved a grant for the Project in the amount of \$445,342.00 for the sole and express purpose of financing or reimbursing costs of the Project, subject to the parties executing an Agreement, a copy of which is attached hereto; and,

WHEREAS, immediate action is required for the City to timely and properly executed Agreement as OPWC has made the effective date of the Agreement July 1, 2023, and 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 further authorizes the Mayor and Director of Finance to execute the attached OPWC Project Agreement for the construction of the Forrest Avenue Reconstruction Phase I Project in the City of South Lebanon.

Section 2. That the City Administrator shall return the executed Agreement to the OPWC without further delay.

Section 3. That the recitals contained within the Whereas Clauses set forth above are incorporated by reference herein.

Resolution No. 2023-32

Page 2

Section 4. 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 5. 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 day of August, 2023.

Attest: _____
Petrina D. Williams, Director of Finance/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	
Vote - ____ Yeas ____ Nays	

Prepared by and approved as to form:

ANDREW P. MEIER
LAW DIRECTOR
CITY OF SOUTH LEBANON, OHIO

By: _____
Date: ____/____/2023

Ohio Public Works Commission

PROJECT GRANT AGREEMENT

LOCAL TRANSPORTATION IMPROVEMENT PROGRAM

Pursuant to Ohio Revised Code Chapter 164 and Ohio Administrative Code Chapter 164-1,
this Project Grant Agreement (“Agreement”) is entered into _____ by and between the
State of Ohio, acting by and through the Director of the Ohio Public Works Commission (“Director”
or the “OPWC”), and _____ (“Recipient”), in respect of
the Project named _____
as described in Appendix A of this Agreement (“Project”) to provide _____ % of the total Project cost
 (“Participation Percentage”), not to exceed
(\$ _____), for the sole and express purpose of financing or reimbursing costs of the Project as
more fully set forth in this Agreement and the Appendices as attached.

OPWC Project

RECITALS

The Local Transportation Improvement Fund created under Ohio Revised Code Section 164.14 is to benefit local subdivisions for the planning, construction, reconstruction, and improvement of roads, streets and bridges;

Pursuant to Ohio Revised Code Section 164.02, the Ohio General Assembly created the Ohio Public Works Commission (OPWC) to implement the policies set forth in Article VIII of the Ohio Constitution and Ohio Revised Code Chapter 164;

Pursuant to Ohio Revised Code Section 164.05, the Director is empowered to (i) enter into agreements with Local Subdivisions to provide loans, grants, and local debt support for Capital Improvement Projects; and (ii) authorize payments to Local Subdivisions or their Contractors for costs incurred for Capital Improvement Projects;

Pursuant to Ohio Revised Code Section 164.14, the Director is empowered to review and approve or disapprove requests for financial assistance from the District Public Works Integrating Committees in accordance with the criteria set forth in Ohio Revised Code Sections 164.14(C) and (E);

Ohio Revised Code Section 164.14 permits a grant of funds for such a Capital Improvement Project to be expended or provided only after the District Committee has submitted a request to fund the Project to the Director outlining the Recipient's planned use of the funds, and subsequent approval of the request by the Director;

The Recipient desires to engage in the Capital Improvement Project described in Appendix A of this Agreement; and

The Project has been duly recommended to the Director pursuant to Ohio Revised Code Section 164.06 by the District Committee of which the Recipient is a part.

In consideration of the contained promises and covenants, the undersigned agree as follows:

I. **DEFINITIONS.** The following words and terms as used in this Agreement shall have the following meanings.

“Capital Improvement” or “Capital Improvement Project” means the acquisition, construction, reconstruction, improvement, planning and equipping of roads and bridges.

“Chief Executive Officer” means the single office or official of the Recipient and as designated in Appendix A pursuant to Section V. A. or authorized designee as per written notification to the Director.

“Chief Fiscal Officer” means the single office or official of the Recipient and as designated in Appendix A, pursuant to Section V. A, or authorized designee as per written notification to the Director.

“Contractor” means a person who has a direct contractual relationship with the Recipient and is the manufacturer of all or a portion of the Project, or the provider of labor, materials or services in connection with the acquisition, improvements, construction, reconstruction, expansion, or engineering of the Project; or both.

“Cost of Project” means the costs of acquiring, constructing, reconstructing, expanding, improving and engineering projects and shall also be deemed to include preliminary costs, including but not limited to, planning costs, design costs.

“District Committee” means the District Public Works Integrating Committees and the Executive Committees created pursuant to Ohio Revised Code Section 164.04.

“Effective Date” means the date set forth on Page One of this Agreement.

“Eligible Project Costs” means such portion of the Project costs disbursed from the OPWC to the Recipient for the sole and express purpose of acquiring, constructing, reconstructing, expanding, improving, engineering and equipping the Project, other direct expenses, and related financing costs.

“Local Subdivision” means a county, municipal corporation, or township of the State.

“Local Subdivision Contribution” means the Local Subdivision financial share used for the sole and express purpose of paying or reimbursing the costs certified to the Director under this Agreement for the completion of the project. Such funds shall constitute a specified percentage of the total Cost of Project set forth in Appendix B and may consist of money by any person, any Local Subdivision, the State of Ohio, or the federal government or of contributions in-kind by such parties through purchase or donation of equipment, land, easements, labor, or materials necessary to complete the Project.

“Participation Percentage” means the percentage of the total actual Project costs that will be contributed by the OPWC, not to exceed the maximum dollar contribution of the OPWC identified in this Project Agreement, and the percentage of the total actual Project costs that will be contributed by the Recipient. Both percentages are identified in Appendix B. If the total actual Project costs exceed the estimated Project costs identified in Appendix B, the Local Subdivision Participation Percentage will increase to reflect the cost overrun, while the OPWC percentage contribution will decrease recognizing that there is a maximum dollar contribution from the OPWC which is identified in this Project Agreement.

“Project” means the scope of work specified in Appendix A.

“Project Manager” means the principal employee or agent of the Recipient having administrative authority over the Project designated in Appendix A pursuant to Section V.A., or authorized designee as per written notification to the Director.

“State” means the State of Ohio.

II. **GRANT OF FINANCIAL ASSISTANCE.** Subject to the terms and conditions contained in this Agreement, the Director hereby grants to the Recipient financial assistance, as established in this section, for the sole and express purpose of paying or reimbursing the eligible costs certified to the Director under this Agreement for the completion of the Project.

A. *The Grant.* The Director hereby agrees to provide financial assistance in the form of a grant, from the Local Transportation Improvement Fund, at the rate of _____ % not to exceed (\$ _____).

B. *Joint Funded Project with the Ohio Department of Transportation.* For those projects advertised, awarded and administered by the Ohio Department of Transportation (ODOT), the Recipient and the Director hereby assign certain responsibilities to the ODOT, an authorized representative of the State of Ohio. Notwithstanding Sections V.A., V.B., and V.C. of the Project Agreement, the Recipient hereby acknowledges that upon notification by the ODOT, all payments for eligible project costs will be disbursed by the Director and the OPWC directly to the ODOT. A Memorandum of Funds issued by the ODOT shall be used to certify the estimated project costs. Upon receipt of a Memorandum of Funds from the ODOT, the OPWC shall transfer funds directly to the ODOT via an Intra-State Transfer Voucher. The amount or amounts transferred shall be determined by applying the Participation Percentages defined in Appendix B to those eligible project costs within the Memorandum of Funds.

III. **LOCAL SUBDIVISION CONTRIBUTION.** The Recipient shall, at a minimum, contribute to the Project the Local Subdivision Participation Percentage as set forth in Appendix B of this Agreement. In the event that the total actual Project costs exceed the estimated Cost of Project identified in Appendix B, the OPWC shall not be required to increase the maximum amount of the grant and the Recipient shall increase its Local Subdivision Contribution to meet such actual Cost of Project.

-
- IV. **PROJECT SCHEDULE.** Construction of the Project must begin within one year of the Effective Date of this Agreement, or this Agreement may become null and void at the sole discretion of the Director. A preliminary construction schedule is provided in Appendix A. Delays, with reason for the delay(s), must be communicated to the Director as soon as possible. The Director will review written requests for extensions and may extend the construction start date taking into consideration the Project can be completed within a reasonable time frame. Failure to meet the schedule without approval for an extension may cause this Agreement to become null and void at the sole discretion at the Director.
- V. **DISBURSEMENTS.** All payments made by the OPWC shall be made directly to the contractor that performed the work on the Project and originated the invoice unless the Recipient requests reimbursement. The following provisions apply to Project disbursements:
- A. *Project Administration Designation.* Pursuant to Ohio Administrative Code 164-1-21(B)(1-3), the Recipient shall designate its Chief Executive Officer, Chief Fiscal Officer, and Project Manager in Appendix A of this Agreement. The Director and OPWC must be notified of changes in these designations in writing including the addition of designees or alternates.
- B. *Disbursements to Contractors to Pay Costs of the Project.* The Recipient shall submit to the Director a Disbursement Request together with the information and certifications required by this section, unless otherwise approved by the Director. The dollar amount set forth in the Disbursement Request shall be calculated based on the Participation Percentage set forth on Page One of this Agreement or as amended, to account for changed conditions in the Project financing scheme. If all requirements for disbursement are deemed by the Director to be accurate and completed, the Director shall initiate a voucher in accordance with applicable State requirements for the payment of the amount set forth in the Disbursement Request. The Office of Budget and Management, Ohio Shared Services, will forward the warrant, drawn in connection with the voucher, by regular first-class United States mail or electronic funds transfer to the contractor or other authorized recipient designated in the Disbursement Request.
Prior to any disbursement from the Fund, the following documents shall be submitted to the Director by the Recipient:
1. If the request is for disbursement to a Contractor, an invoice submitted to the Recipient by the Contractor which invoice requests payment of such sums in connection with its performance of the Project;
 2. If the request is for disbursement to the Recipient, proof of payment of the invoice such as check, warrant, or other evidence satisfactory to the Director that payment of such sums has been made by the Recipient in connection with the portion of the Project for which payment is requested;
 3. A Disbursement Request Form properly certified by the Project Manager, Chief Executive Officer and the Chief Fiscal Officer; and
 4. Such other certificates, documents and other information as the Director may reasonably require.
If the Director finds that the documents comply with the requirements of this Agreement, the Director is authorized to cause the disbursement of moneys from the Fund for payment of the identified Project costs. The Recipient represents that the Project was initially constructed, installed or acquired by the Recipient no earlier than the Effective Date of this Agreement.
- C. *Limitations on Use.* No part of the moneys delivered to the Recipient pursuant to Section II is being or will be used to refinance, retire, redeem, or otherwise pay debt service on all or any part

of any governmental obligations regardless of whether the interest on such obligations is or was excluded from gross income for federal income tax purposes.

- D. *Project Scope.* The physical scope of the Project shall be limited to only those Capital Improvements as described in Appendix A of this Agreement. If circumstances require a change in such physical scope, the change must be approved by the District Committee, recorded in the District Committee's official meeting minutes, and provided to the Director for the execution of an amendment to this Agreement.
- E. *Project Cost Overruns.* If the Recipient determines that the moneys granted pursuant to Section II, together with the Local Subdivision Contribution, are insufficient to pay in full the costs of the Project, the Recipient may make a request for supplemental assistance to its District Committee. Pursuant to Ohio Administrative Code Section 164-1-23, the Recipient must demonstrate that such funding is necessary for the completion of the Project and the cost overrun was the result of circumstances beyond the Recipient's control, that it could not have been avoided with the exercise of due care, and that such circumstances could not have been anticipated at the time of the Recipient's initial application. Should the District Committee approve such request, the action shall be recorded in the District Committee's official meeting minutes and provided to the Director for the execution of an amendment to this Agreement.

VI. **CONDITIONS TO FINANCIAL ASSISTANCE AND ITS DISBURSEMENT.** The Recipient must comply with the following before receiving funds:

- A. The Recipient certifies that the Local Subdivision Contribution necessary for the completion of the Project is available or expected to be available through the construction of the Project and must demonstrate its compliance with the provisions of Ohio Revised Code Chapter 164 and Ohio Administrative Code Chapter 164-1. If the local share as certified by the Chief Fiscal Officer at the time of the Project application becomes unavailable, the Recipient is to notify the Director and the OPWC as soon as possible or this Agreement may become null and void at the sole discretion at the Director.
- B. The Recipient shall execute all other documents and certificates as deemed necessary by the Director, on the date hereof or at any time hereafter in connection with the financial assistance and disbursement of moneys pursuant to this Agreement, including any amendments to this Agreement.

VII. **REPRESENTATIONS, WARRANTIES AND COVENANTS OF RECIPIENT.** Recipient represents warrants and covenants for the benefit of the Director as follows:

- A. The Recipient is a Local Subdivision of the State with all the requisite power and authority to construct, or provide for the construction of, and operate the Project under the laws of the State and to carry on its activities as now conducted.
- B. The Recipient has the power to enter into and perform its obligations under this Agreement and has been duly authorized to execute and deliver this Agreement.
- C. This Agreement is the legal, valid and binding obligation of the Recipient, subject to certain exceptions in event of bankruptcy and the application of general principles of equity.
- D. The Recipient has complied with all procedures, prerequisites and obligations for Project application and approval under the Ohio Revised Code Chapter 164 and Ohio Administrative Code Chapter 164-1.
- E. The Recipient is not the subject of, or has it initiated any claim or cause of action that would give rise to any liability which would in any way inhibit Recipient's ability to carry out its performance

of this Agreement according to its terms.

- F. *Use of Proceeds.* With respect to the Project to be financed or reimbursed by moneys granted pursuant to Section II:
1. The total cost of the Project shall not and will not include any cost which does not constitute "Costs of Capital Improvements Projects," as defined in Ohio Revised Code Section 164.01(F);
 2. All the Project is owned, or will be owned, by the Recipient or another Tax-Exempt Organization, upon providing prior written notice to the Director.
- G. *Sufficiency of Moneys.* The Recipient has sufficient moneys in addition to those granted to Recipient pursuant to this Agreement to fund the Project to completion, as its Local Subdivision Contribution.
- H. *Construction Contract.* If federal funds are included as part of the financing of the non-OPWC portion of the Project, federal law may prevail, including, but not limited to, application of Davis Bacon prevailing wage rates, the Copeland "Anti-Kickback" Act, the Contract Work Hours and Safety Standards Act, and any federal environmental regulations. Recipient is solely responsible for ensuring compliance with federal requirements applicable to its Local Subdivision Contribution. Notwithstanding the above, the following provisions apply to construction contracts under this Agreement:
1. *Ohio Preference.* The Recipient shall, to the extent practicable, use and shall cause all its Contractors and subcontractors to use Ohio products, materials, services and labor in connection with the Project pursuant to Ohio Revised Code Section 164.05(A)(6);
 2. *Domestic Steel.* The Recipient shall use and cause all its Contractors and subcontractors to comply with domestic steel use requirements pursuant to Ohio Revised Code Section 153.011;
 3. *Prevailing Wage.* The Recipient shall require that all Contractors and subcontractors working on the Project comply with the prevailing wage requirements contained in Ohio Revised Code Sections 164.07(B) and 4115.03 through 4115.16;
 4. *Equal Employment Opportunity.* The Recipient shall require all Contractors to secure a valid Certificate of Compliance;
 5. *Construction Bonds.* In accordance with Ohio Revised Code Section 153.54, et. seq., the Recipient shall require that each of its Contractors furnish a performance and payment bond in an amount at least equal to 100% of its contract price as security for the faithful performance of its contract;
 6. *Insurance.* The Recipient shall require that each of its construction contractors and subcontractors maintain during the life of its contract or subcontract appropriate Workers Compensation Insurance, Commercial General Liability, Public Liability, Property Damage and Vehicle Liability Insurance, and require Professional Liability Insurance for its professional architects and engineers; and
 7. *Supervision.* The Recipient shall provide and maintain competent and adequate Project management covering the supervision and inspection of the development and construction of the Project and bear the responsibility of ensuring that construction conforms to the approved surveys, plans, profiles, cross sections and specifications.

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- VIII. **PROGRESS REPORTS.** The Recipient shall submit to the Director, at the Director's request, summary reports detailing the progress of the Project pursuant to this Agreement and any additional reports containing such information as the Director may reasonably require.
- IX. **AUDIT RIGHTS.** The Recipient shall, at all reasonable times, provide the Director access to a right to inspect all sites and facilities involved in the Project and access to and a right to examine or audit any and all books, documents and records, financial or otherwise, relating to the Project or to ensure compliance with the provisions of this Agreement. The Recipient shall maintain all such books, documents and records for a period of six years after the termination of this Agreement, and such shall be kept in a common file to facilitate audits and inspections. All disbursements made pursuant to the terms of this Agreement shall be subject to all audit requirements applicable to State funds. The Recipient shall ensure that a copy of any final report of audit prepared in connection with and specific to the Project, regardless of whether the report was prepared during the pendency of the Project or following its completion, is provided to the Director within 10 days of the issuance of the report. The Recipient simultaneously shall provide the Director with its detailed responses to each negative or adverse finding pertaining to the Project and contained in the report. Such responses shall indicate what steps will be taken by the Recipient in remedying or otherwise satisfactorily resolve each problem identified by any such finding. If the Recipient fails to comply with the requirements of this Section or fails to institute steps designated to remedy or otherwise satisfactorily resolve problems identified by negative audit findings, the Director may bar the Recipient from receiving further financial assistance under Ohio Revised Code Chapter 164 until the Recipient so complies or until the Recipient satisfactorily resolves such findings.
- X. **GENERAL ASSEMBLY APPROPRIATION.** The Recipient acknowledges and agrees that the financial assistance provided under this Agreement is entirely subject to, and contingent upon, the availability of funds appropriated by the General Assembly for the purposes set forth in this Agreement and in Ohio Revised Code Chapter 164. The Recipient further acknowledges and agrees that none of the duties and obligations imposed by this Agreement on the Director shall be binding until the Recipient has complied with all applicable provisions of Ohio Revised Code Chapter 164 and until the Recipient has acquired and committed all funds necessary for the full payment of the Local Subdivision Contribution applicable to the Project.
- XI. **THIRD PARTY RIGHTS AND LIABILITY.** Nothing in this Agreement shall be construed as conferring any legal rights, privileges, or immunities, or imposing any legal duties or obligations, on any person or persons other than the parties named in this Agreement, whether such rights, privileges, immunities, duties, or obligations be regarded as contractual, equitable, or beneficial in nature as to such other person or persons. Nothing in this Agreement shall be construed as creating any legal relations between the Director and any person performing services or supplying any equipment, materials, good, or supplies of the Project sufficient to impose upon the Director any of the obligations specified in Ohio Revised Code Section 126.30. The Recipient shall be responsible for the Recipient's use or application of the funds being provided by the Director and the Recipient's construction or management of the Project.
- XII. **TERMINATION.** The Director's and OPWC's obligations under this Agreement shall immediately terminate upon the failure of the Recipient to comply with any of the Agreement's terms or conditions. Upon such termination, the Recipient shall be obligated to return any moneys delivered to the Recipient pursuant to the provisions of this Agreement.
- XIII. **GOVERNING LAW.** This Agreement shall be interpreted and construed in accordance with the laws of the State. In the event any disputes related to this Agreement are to be resolved in a Court of Law, said Court shall be in the courts of Franklin County, State of Ohio.
- XIV. **SEVERABILITY.** If any of the provisions or parts of this Agreement are found to be invalid or unenforceable, the remainder of this Agreement and the application of this provision to such other persons or circumstances shall not be affected, but rather shall be enforced to the greatest extent permitted by Law.
- XV. **ENTIRE AGREEMENT.** This Agreement and its Appendices and Attachments contain the entire understanding between the parties and supersede any prior understandings, agreements, proposals and all

other communications between the parties relating to the subject matter of this Agreement, whether such shall be oral or written.

- XVI. CAPTIONS. Captions contained in this Agreement are included only for convenience of reference and do not define, limit, explain or modify this Agreement or its interpretation, instruction or meanings and are in no way intended to be construed as part of this Agreement.
- XVII. NOTICES. Except as otherwise provided, any required notices shall be in writing and shall be deemed duly given when deposited in the mail, postage prepaid, return receipt requested, by the sending party to the other party at the addresses set forth below or at such other addresses as party may from time to time designate by written notice to the other party.
- XVIII. NO WAIVER. A failure of a party to enforce strictly a provision of this Agreement in no event shall be considered a waiver of any part of such provision. No waiver by a party of any breach or default by the other party shall operate as a waiver of any succeeding breach or other default or breach by such other party. No waiver shall have any effect unless it is specific, irrevocable and in writing.
- XIX. ACCEPTANCE BY RECIPIENT. This Agreement must be signed by the Chief Executive Officer and returned to and received by the Director prior to the acquisition of land and to the disbursement of funds
- XX. ASSIGNMENT. Neither this Agreement or any rights, duties or obligations as described shall be assigned by either party without the prior written consent of the other party.
- XXI. ETHICS/CONFLICT OF INTEREST. The Recipient, by signature on this Agreement, certifies that it has reviewed and understands the Ohio ethics and conflict of interest laws, and will take no action inconsistent with those laws.
- XXII. NON-DISCRIMINATION. Pursuant to Ohio Revised Code Section 125.111 the Recipient agrees that the Recipient and any person acting on behalf of the Recipient shall not discriminate, by reason of race, color, religion, sex, sexual orientation, age, disability, military status, national origin, or ancestry against any citizen of this State in the employment of any person qualified and available to perform the work under this Agreement. The Recipient further agrees that the Recipient any person acting on behalf of the Recipient shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, sexual orientation, age, disability, military status, national origin, or ancestry.
- XXIII. COMPLIANCE WITH LAW. The Recipient, in expending the funds, agrees to comply with all applicable federal, state and local laws, rules, regulations and ordinances.
- XXIV. FACSIMILE SIGNATURES. This Agreement may be executed in multiple counterparts, each of which may be deemed an original agreement and both of which shall constitute one and the same Agreement. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature by either of the parties and the receiving party may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received.

All the above is agreed to and understood by the parties signed below. This Agreement for
Project No. _____ is effective as of the date first written above.

RECIPIENT

STATE OF OHIO
Ohio Public Works Commission



Linda S. Bailiff, Director

Tina Williams
Director of Finance

Date

Approved as to form:
ANDREW P. MEIER
LAW DIRECTOR
CITY OF SOUTH LEBANON, OHIO

By: _____
Date: _____

Appendix A

Project Completion Schedule, Administration Designation, Description

- 1) *Project Schedule.* Construction must begin within one year of _____ . Construction is scheduled to begin _____ with completion by _____. The Recipient may make a written request for an extension of the date to initiate construction, specifying the reasons for the delay and providing new construction start and completion dates. Requests may be approved by the Director providing that the Project can be completed within a reasonable time frame.
- 2) *Project Administration Designation.* The Project Administration Designation required by Section V.A. of this Agreement is designated by the Recipient as follows:

to act as the Chief Executive Officer;
to act as the Chief Fiscal Officer; and
to act as the Project Manager.
- 3) *Project Location & Description.* The Project, for which the provision of financial assistance is the subject of this Agreement, is hereby described as follows:

Location:

Description:

Appendix B

Local Subdivision Contribution, Disbursement Ratio, Project Financing and Expenses Scheme

- 1) *OPWC/Local Subdivision Participation Percentages:* For the sole and express purpose of financing/reimbursing costs of the Project, the estimated costs of which are set forth and described below, the Recipient hereby designates its Local Subdivision Percentage Contribution as amounting to a minimum total value of % of the total Project Cost. The OPWC Participation Percentage shall be % not to exceed \$.
- 2) *Project Financing and Expenses Scheme:* The Recipient further designates the Project's estimated financial resources and estimated costs certified to the OPWC under this Agreement for the Project to consist of the following components:

Project Estimated Costs

- a) Engineering
- b) Construction Administration
- c) Right-of-Way
- d) Construction
- e) Permits, Advertising, Legal
- f) Construction Contingencies

Total Estimated Costs

Project Financial Resources

- a) Local Resources
 - In-kind/Force Account
 - Local Revenues
 - Public Revenue – ODOT/FHWA
 - Public Revenue – OEPA/OWDA
 - Public Revenue – Other

Total Local Resources

- b) OPWC Funds

Total Financial Resources



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: August 14, 2023
Subject: OPWC Agreement – Morrow Road Phase 1 Project

Attached is a resolution and grant agreement with the Ohio Public Works Commission (OPWC) for the Morrow Road Phase 1 Project.

This project consists of improvement to Morrow Road from Mary Ellen Street to Mary Lane.

Here is a breakdown of the proposed budget:

\$519,244	OPWC Grant
<u>\$430,858</u>	City funds
\$950,102	TOTAL PROJECT COST

If you have any questions or need additional information, please contact me.

**CITY OF SOUTH LEBANON, OHIO
RESOLUTION NO. 2023-33**

**A RESOLUTION APPROVING AND AUTHORIZING THE MAYOR AND
DIRECTOR OF FINANCE TO EXECUTE A PROJECT GRANT AGREEMENT WITH
THE OHIO PUBLIC WORKS COMMISSION IN THE AMOUNT OF \$519,244.00
FOR THE CONSTRUCTION OF THE MORROW ROAD RECONSTRUCTION
PHASE I PROJECT IN THE CITY OF SOUTH LEBANON, AND DECLARING AN
EMERGENCY**

WHEREAS, this Council passed Resolution 2022-30 on July 21st, 2022, authorizing the submission of a grant application to the Ohio Public Works Commission (OPWC) to assist in the funding of the Morrow Road Reconstruction Phase I Project in the City of South Lebanon (the "Project"); and,

WHEREAS, OPWC has approved a grant for the Project in the amount of \$519,244.00 for the sole and express purpose of financing or reimbursing costs of the Project, subject to the parties executing an Agreement, a copy of which is attached hereto; and,

WHEREAS, immediate action is required for the City to timely and properly executed Agreement as OPWC has made the effective date of the Agreement July 1, 2023, and 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 further authorizes the Mayor and Director of Finance to execute the attached OPWC Project Agreement for the construction of the Morrow Road Reconstruction Phase I Project in the City of South Lebanon.

Section 2. That the City Administrator shall return the executed Agreement to the OPWC without further delay.

Section 3. That the recitals contained within the Whereas Clauses set forth above are incorporated by reference herein.

Resolution No. 2023-33

Page 2

Section 4. 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 5. 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 day of August, 2023.

Attest: _____
Petrina D. Williams, Director of Finance/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	
Vote - ____ Yeas ____ Nays	

Prepared by and approved as to form:

ANDREW P. MEIER
LAW DIRECTOR
CITY OF SOUTH LEBANON, OHIO

By: _____
Date: ____/____/2023

Ohio Public Works Commission

PROJECT GRANT AGREEMENT

LOCAL TRANSPORTATION IMPROVEMENT PROGRAM

Pursuant to Ohio Revised Code Chapter 164 and Ohio Administrative Code Chapter 164-1,
this Project Grant Agreement (“Agreement”) is entered into _____ by and between the
State of Ohio, acting by and through the Director of the Ohio Public Works Commission (“Director”
or the “OPWC”), and _____ (“Recipient”), in respect of
the Project named _____
as described in Appendix A of this Agreement (“Project”) to provide _____ % of the total Project cost
 (“Participation Percentage”), not to exceed
(\$ _____), for the sole and express purpose of financing or reimbursing costs of the Project as
more fully set forth in this Agreement and the Appendices as attached.

OPWC Project

RECITALS

The Local Transportation Improvement Fund created under Ohio Revised Code Section 164.14 is to benefit local subdivisions for the planning, construction, reconstruction, and improvement of roads, streets and bridges;

Pursuant to Ohio Revised Code Section 164.02, the Ohio General Assembly created the Ohio Public Works Commission (OPWC) to implement the policies set forth in Article VIII of the Ohio Constitution and Ohio Revised Code Chapter 164;

Pursuant to Ohio Revised Code Section 164.05, the Director is empowered to (i) enter into agreements with Local Subdivisions to provide loans, grants, and local debt support for Capital Improvement Projects; and (ii) authorize payments to Local Subdivisions or their Contractors for costs incurred for Capital Improvement Projects;

Pursuant to Ohio Revised Code Section 164.14, the Director is empowered to review and approve or disapprove requests for financial assistance from the District Public Works Integrating Committees in accordance with the criteria set forth in Ohio Revised Code Sections 164.14(C) and (E);

Ohio Revised Code Section 164.14 permits a grant of funds for such a Capital Improvement Project to be expended or provided only after the District Committee has submitted a request to fund the Project to the Director outlining the Recipient's planned use of the funds, and subsequent approval of the request by the Director;

The Recipient desires to engage in the Capital Improvement Project described in Appendix A of this Agreement; and

The Project has been duly recommended to the Director pursuant to Ohio Revised Code Section 164.06 by the District Committee of which the Recipient is a part.

In consideration of the contained promises and covenants, the undersigned agree as follows:

I. **DEFINITIONS.** The following words and terms as used in this Agreement shall have the following meanings.

“Capital Improvement” or “Capital Improvement Project” means the acquisition, construction, reconstruction, improvement, planning and equipping of roads and bridges.

“Chief Executive Officer” means the single office or official of the Recipient and as designated in Appendix A pursuant to Section V. A. or authorized designee as per written notification to the Director.

“Chief Fiscal Officer” means the single office or official of the Recipient and as designated in Appendix A, pursuant to Section V. A, or authorized designee as per written notification to the Director.

“Contractor” means a person who has a direct contractual relationship with the Recipient and is the manufacturer of all or a portion of the Project, or the provider of labor, materials or services in connection with the acquisition, improvements, construction, reconstruction, expansion, or engineering of the Project; or both.

“Cost of Project” means the costs of acquiring, constructing, reconstructing, expanding, improving and engineering projects and shall also be deemed to include preliminary costs, including but not limited to, planning costs, design costs.

“District Committee” means the District Public Works Integrating Committees and the Executive Committees created pursuant to Ohio Revised Code Section 164.04.

“Effective Date” means the date set forth on Page One of this Agreement.

“Eligible Project Costs” means such portion of the Project costs disbursed from the OPWC to the Recipient for the sole and express purpose of acquiring, constructing, reconstructing, expanding, improving, engineering and equipping the Project, other direct expenses, and related financing costs.

“Local Subdivision” means a county, municipal corporation, or township of the State.

“Local Subdivision Contribution” means the Local Subdivision financial share used for the sole and express purpose of paying or reimbursing the costs certified to the Director under this Agreement for the completion of the project. Such funds shall constitute a specified percentage of the total Cost of Project set forth in Appendix B and may consist of money by any person, any Local Subdivision, the State of Ohio, or the federal government or of contributions in-kind by such parties through purchase or donation of equipment, land, easements, labor, or materials necessary to complete the Project.

“Participation Percentage” means the percentage of the total actual Project costs that will be contributed by the OPWC, not to exceed the maximum dollar contribution of the OPWC identified in this Project Agreement, and the percentage of the total actual Project costs that will be contributed by the Recipient. Both percentages are identified in Appendix B. If the total actual Project costs exceed the estimated Project costs identified in Appendix B, the Local Subdivision Participation Percentage will increase to reflect the cost overrun, while the OPWC percentage contribution will decrease recognizing that there is a maximum dollar contribution from the OPWC which is identified in this Project Agreement.

“Project” means the scope of work specified in Appendix A.

“Project Manager” means the principal employee or agent of the Recipient having administrative authority over the Project designated in Appendix A pursuant to Section V.A., or authorized designee as per written notification to the Director.

“State” means the State of Ohio.

II. **GRANT OF FINANCIAL ASSISTANCE.** Subject to the terms and conditions contained in this Agreement, the Director hereby grants to the Recipient financial assistance, as established in this section, for the sole and express purpose of paying or reimbursing the eligible costs certified to the Director under this Agreement for the completion of the Project.

A. *The Grant.* The Director hereby agrees to provide financial assistance in the form of a grant, from the Local Transportation Improvement Fund, at the rate of _____ % not to exceed (\$ _____).

B. *Joint Funded Project with the Ohio Department of Transportation.* For those projects advertised, awarded and administered by the Ohio Department of Transportation (ODOT), the Recipient and the Director hereby assign certain responsibilities to the ODOT, an authorized representative of the State of Ohio. Notwithstanding Sections V.A., V.B., and V.C. of the Project Agreement, the Recipient hereby acknowledges that upon notification by the ODOT, all payments for eligible project costs will be disbursed by the Director and the OPWC directly to the ODOT. A Memorandum of Funds issued by the ODOT shall be used to certify the estimated project costs. Upon receipt of a Memorandum of Funds from the ODOT, the OPWC shall transfer funds directly to the ODOT via an Intra-State Transfer Voucher. The amount or amounts transferred shall be determined by applying the Participation Percentages defined in Appendix B to those eligible project costs within the Memorandum of Funds.

III. **LOCAL SUBDIVISION CONTRIBUTION.** The Recipient shall, at a minimum, contribute to the Project the Local Subdivision Participation Percentage as set forth in Appendix B of this Agreement. In the event that the total actual Project costs exceed the estimated Cost of Project identified in Appendix B, the OPWC shall not be required to increase the maximum amount of the grant and the Recipient shall increase its Local Subdivision Contribution to meet such actual Cost of Project.

-
- IV. **PROJECT SCHEDULE.** Construction of the Project must begin within one year of the Effective Date of this Agreement, or this Agreement may become null and void at the sole discretion of the Director. A preliminary construction schedule is provided in Appendix A. Delays, with reason for the delay(s), must be communicated to the Director as soon as possible. The Director will review written requests for extensions and may extend the construction start date taking into consideration the Project can be completed within a reasonable time frame. Failure to meet the schedule without approval for an extension may cause this Agreement to become null and void at the sole discretion at the Director.
- V. **DISBURSEMENTS.** All payments made by the OPWC shall be made directly to the contractor that performed the work on the Project and originated the invoice unless the Recipient requests reimbursement. The following provisions apply to Project disbursements:
- A. *Project Administration Designation.* Pursuant to Ohio Administrative Code 164-1-21(B)(1-3), the Recipient shall designate its Chief Executive Officer, Chief Fiscal Officer, and Project Manager in Appendix A of this Agreement. The Director and OPWC must be notified of changes in these designations in writing including the addition of designees or alternates.
- B. *Disbursements to Contractors to Pay Costs of the Project.* The Recipient shall submit to the Director a Disbursement Request together with the information and certifications required by this section, unless otherwise approved by the Director. The dollar amount set forth in the Disbursement Request shall be calculated based on the Participation Percentage set forth on Page One of this Agreement or as amended, to account for changed conditions in the Project financing scheme. If all requirements for disbursement are deemed by the Director to be accurate and completed, the Director shall initiate a voucher in accordance with applicable State requirements for the payment of the amount set forth in the Disbursement Request. The Office of Budget and Management, Ohio Shared Services, will forward the warrant, drawn in connection with the voucher, by regular first-class United States mail or electronic funds transfer to the contractor or other authorized recipient designated in the Disbursement Request.
Prior to any disbursement from the Fund, the following documents shall be submitted to the Director by the Recipient:
1. If the request is for disbursement to a Contractor, an invoice submitted to the Recipient by the Contractor which invoice requests payment of such sums in connection with its performance of the Project;
 2. If the request is for disbursement to the Recipient, proof of payment of the invoice such as check, warrant, or other evidence satisfactory to the Director that payment of such sums has been made by the Recipient in connection with the portion of the Project for which payment is requested;
 3. A Disbursement Request Form properly certified by the Project Manager, Chief Executive Officer and the Chief Fiscal Officer; and
 4. Such other certificates, documents and other information as the Director may reasonably require.
If the Director finds that the documents comply with the requirements of this Agreement, the Director is authorized to cause the disbursement of moneys from the Fund for payment of the identified Project costs. The Recipient represents that the Project was initially constructed, installed or acquired by the Recipient no earlier than the Effective Date of this Agreement.
- C. *Limitations on Use.* No part of the moneys delivered to the Recipient pursuant to Section II is being or will be used to refinance, retire, redeem, or otherwise pay debt service on all or any part
-

of any governmental obligations regardless of whether the interest on such obligations is or was excluded from gross income for federal income tax purposes.

- D. *Project Scope.* The physical scope of the Project shall be limited to only those Capital Improvements as described in Appendix A of this Agreement. If circumstances require a change in such physical scope, the change must be approved by the District Committee, recorded in the District Committee's official meeting minutes, and provided to the Director for the execution of an amendment to this Agreement.
- E. *Project Cost Overruns.* If the Recipient determines that the moneys granted pursuant to Section II, together with the Local Subdivision Contribution, are insufficient to pay in full the costs of the Project, the Recipient may make a request for supplemental assistance to its District Committee. Pursuant to Ohio Administrative Code Section 164-1-23, the Recipient must demonstrate that such funding is necessary for the completion of the Project and the cost overrun was the result of circumstances beyond the Recipient's control, that it could not have been avoided with the exercise of due care, and that such circumstances could not have been anticipated at the time of the Recipient's initial application. Should the District Committee approve such request, the action shall be recorded in the District Committee's official meeting minutes and provided to the Director for the execution of an amendment to this Agreement.

VI. **CONDITIONS TO FINANCIAL ASSISTANCE AND ITS DISBURSEMENT.** The Recipient must comply with the following before receiving funds:

- A. The Recipient certifies that the Local Subdivision Contribution necessary for the completion of the Project is available or expected to be available through the construction of the Project and must demonstrate its compliance with the provisions of Ohio Revised Code Chapter 164 and Ohio Administrative Code Chapter 164-1. If the local share as certified by the Chief Fiscal Officer at the time of the Project application becomes unavailable, the Recipient is to notify the Director and the OPWC as soon as possible or this Agreement may become null and void at the sole discretion at the Director.
- B. The Recipient shall execute all other documents and certificates as deemed necessary by the Director, on the date hereof or at any time hereafter in connection with the financial assistance and disbursement of moneys pursuant to this Agreement, including any amendments to this Agreement.

VII. **REPRESENTATIONS, WARRANTIES AND COVENANTS OF RECIPIENT.** Recipient represents warrants and covenants for the benefit of the Director as follows:

- A. The Recipient is a Local Subdivision of the State with all the requisite power and authority to construct, or provide for the construction of, and operate the Project under the laws of the State and to carry on its activities as now conducted.
- B. The Recipient has the power to enter into and perform its obligations under this Agreement and has been duly authorized to execute and deliver this Agreement.
- C. This Agreement is the legal, valid and binding obligation of the Recipient, subject to certain exceptions in event of bankruptcy and the application of general principles of equity.
- D. The Recipient has complied with all procedures, prerequisites and obligations for Project application and approval under the Ohio Revised Code Chapter 164 and Ohio Administrative Code Chapter 164-1.
- E. The Recipient is not the subject of, or has it initiated any claim or cause of action that would give rise to any liability which would in any way inhibit Recipient's ability to carry out its performance

of this Agreement according to its terms.

- F. *Use of Proceeds.* With respect to the Project to be financed or reimbursed by moneys granted pursuant to Section II:
1. The total cost of the Project shall not and will not include any cost which does not constitute “Costs of Capital Improvements Projects,” as defined in Ohio Revised Code Section 164.01(F);
 2. All the Project is owned, or will be owned, by the Recipient or another Tax-Exempt Organization, upon providing prior written notice to the Director.
- G. *Sufficiency of Moneys.* The Recipient has sufficient moneys in addition to those granted to Recipient pursuant to this Agreement to fund the Project to completion, as its Local Subdivision Contribution.
- H. *Construction Contract.* If federal funds are included as part of the financing of the non-OPWC portion of the Project, federal law may prevail, including, but not limited to, application of Davis Bacon prevailing wage rates, the Copeland “Anti-Kickback” Act, the Contract Work Hours and Safety Standards Act, and any federal environmental regulations. Recipient is solely responsible for ensuring compliance with federal requirements applicable to its Local Subdivision Contribution. Notwithstanding the above, the following provisions apply to construction contracts under this Agreement:
1. *Ohio Preference.* The Recipient shall, to the extent practicable, use and shall cause all its Contractors and subcontractors to use Ohio products, materials, services and labor in connection with the Project pursuant to Ohio Revised Code Section 164.05(A)(6);
 2. *Domestic Steel.* The Recipient shall use and cause all its Contractors and subcontractors to comply with domestic steel use requirements pursuant to Ohio Revised Code Section 153.011;
 3. *Prevailing Wage.* The Recipient shall require that all Contractors and subcontractors working on the Project comply with the prevailing wage requirements contained in Ohio Revised Code Sections 164.07(B) and 4115.03 through 4115.16;
 4. *Equal Employment Opportunity.* The Recipient shall require all Contractors to secure a valid Certificate of Compliance;
 5. *Construction Bonds.* In accordance with Ohio Revised Code Section 153.54, et. seq., the Recipient shall require that each of its Contractors furnish a performance and payment bond in an amount at least equal to 100% of its contract price as security for the faithful performance of its contract;
 6. *Insurance.* The Recipient shall require that each of its construction contractors and subcontractors maintain during the life of its contract or subcontract appropriate Workers Compensation Insurance, Commercial General Liability, Public Liability, Property Damage and Vehicle Liability Insurance, and require Professional Liability Insurance for its professional architects and engineers; and
 7. *Supervision.* The Recipient shall provide and maintain competent and adequate Project management covering the supervision and inspection of the development and construction of the Project and bear the responsibility of ensuring that construction conforms to the approved surveys, plans, profiles, cross sections and specifications.

-
- VIII. **PROGRESS REPORTS.** The Recipient shall submit to the Director, at the Director's request, summary reports detailing the progress of the Project pursuant to this Agreement and any additional reports containing such information as the Director may reasonably require.
- IX. **AUDIT RIGHTS.** The Recipient shall, at all reasonable times, provide the Director access to a right to inspect all sites and facilities involved in the Project and access to and a right to examine or audit any and all books, documents and records, financial or otherwise, relating to the Project or to ensure compliance with the provisions of this Agreement. The Recipient shall maintain all such books, documents and records for a period of six years after the termination of this Agreement, and such shall be kept in a common file to facilitate audits and inspections. All disbursements made pursuant to the terms of this Agreement shall be subject to all audit requirements applicable to State funds. The Recipient shall ensure that a copy of any final report of audit prepared in connection with and specific to the Project, regardless of whether the report was prepared during the pendency of the Project or following its completion, is provided to the Director within 10 days of the issuance of the report. The Recipient simultaneously shall provide the Director with its detailed responses to each negative or adverse finding pertaining to the Project and contained in the report. Such responses shall indicate what steps will be taken by the Recipient in remedying or otherwise satisfactorily resolve each problem identified by any such finding. If the Recipient fails to comply with the requirements of this Section or fails to institute steps designated to remedy or otherwise satisfactorily resolve problems identified by negative audit findings, the Director may bar the Recipient from receiving further financial assistance under Ohio Revised Code Chapter 164 until the Recipient so complies or until the Recipient satisfactorily resolves such findings.
- X. **GENERAL ASSEMBLY APPROPRIATION.** The Recipient acknowledges and agrees that the financial assistance provided under this Agreement is entirely subject to, and contingent upon, the availability of funds appropriated by the General Assembly for the purposes set forth in this Agreement and in Ohio Revised Code Chapter 164. The Recipient further acknowledges and agrees that none of the duties and obligations imposed by this Agreement on the Director shall be binding until the Recipient has complied with all applicable provisions of Ohio Revised Code Chapter 164 and until the Recipient has acquired and committed all funds necessary for the full payment of the Local Subdivision Contribution applicable to the Project.
- XI. **THIRD PARTY RIGHTS AND LIABILITY.** Nothing in this Agreement shall be construed as conferring any legal rights, privileges, or immunities, or imposing any legal duties or obligations, on any person or persons other than the parties named in this Agreement, whether such rights, privileges, immunities, duties, or obligations be regarded as contractual, equitable, or beneficial in nature as to such other person or persons. Nothing in this Agreement shall be construed as creating any legal relations between the Director and any person performing services or supplying any equipment, materials, good, or supplies of the Project sufficient to impose upon the Director any of the obligations specified in Ohio Revised Code Section 126.30. The Recipient shall be responsible for the Recipient's use or application of the funds being provided by the Director and the Recipient's construction or management of the Project.
- XII. **TERMINATION.** The Director's and OPWC's obligations under this Agreement shall immediately terminate upon the failure of the Recipient to comply with any of the Agreement's terms or conditions. Upon such termination, the Recipient shall be obligated to return any moneys delivered to the Recipient pursuant to the provisions of this Agreement.
- XIII. **GOVERNING LAW.** This Agreement shall be interpreted and construed in accordance with the laws of the State. In the event any disputes related to this Agreement are to be resolved in a Court of Law, said Court shall be in the courts of Franklin County, State of Ohio.
- XIV. **SEVERABILITY.** If any of the provisions or parts of this Agreement are found to be invalid or unenforceable, the remainder of this Agreement and the application of this provision to such other persons or circumstances shall not be affected, but rather shall be enforced to the greatest extent permitted by Law.
- XV. **ENTIRE AGREEMENT.** This Agreement and its Appendices and Attachments contain the entire understanding between the parties and supersede any prior understandings, agreements, proposals and all

other communications between the parties relating to the subject matter of this Agreement, whether such shall be oral or written.

- XVI. CAPTIONS. Captions contained in this Agreement are included only for convenience of reference and do not define, limit, explain or modify this Agreement or its interpretation, instruction or meanings and are in no way intended to be construed as part of this Agreement.
- XVII. NOTICES. Except as otherwise provided, any required notices shall be in writing and shall be deemed duly given when deposited in the mail, postage prepaid, return receipt requested, by the sending party to the other party at the addresses set forth below or at such other addresses as party may from time to time designate by written notice to the other party.
- XVIII. NO WAIVER. A failure of a party to enforce strictly a provision of this Agreement in no event shall be considered a waiver of any part of such provision. No waiver by a party of any breach or default by the other party shall operate as a waiver of any succeeding breach or other default or breach by such other party. No waiver shall have any effect unless it is specific, irrevocable and in writing.
- XIX. ACCEPTANCE BY RECIPIENT. This Agreement must be signed by the Chief Executive Officer and returned to and received by the Director prior to the acquisition of land and to the disbursement of funds
- XX. ASSIGNMENT. Neither this Agreement or any rights, duties or obligations as described shall be assigned by either party without the prior written consent of the other party.
- XXI. ETHICS/CONFLICT OF INTEREST. The Recipient, by signature on this Agreement, certifies that it has reviewed and understands the Ohio ethics and conflict of interest laws, and will take no action inconsistent with those laws.
- XXII. NON-DISCRIMINATION. Pursuant to Ohio Revised Code Section 125.111 the Recipient agrees that the Recipient and any person acting on behalf of the Recipient shall not discriminate, by reason of race, color, religion, sex, sexual orientation, age, disability, military status, national origin, or ancestry against any citizen of this State in the employment of any person qualified and available to perform the work under this Agreement. The Recipient further agrees that the Recipient any person acting on behalf of the Recipient shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, sexual orientation, age, disability, military status, national origin, or ancestry.
- XXIII. COMPLIANCE WITH LAW. The Recipient, in expending the funds, agrees to comply with all applicable federal, state and local laws, rules, regulations and ordinances.
- XXIV. FACSIMILE SIGNATURES. This Agreement may be executed in multiple counterparts, each of which may be deemed an original agreement and both of which shall constitute one and the same Agreement. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature by either of the parties and the receiving party may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received.

All the above is agreed to and understood by the parties signed below. This Agreement for
Project No. _____ is effective as of the date first written above.

RECIPIENT

STATE OF OHIO
Ohio Public Works Commission



Linda S. Bailiff, Director

Tina Williams
Director of Finance

Date

Approved as to form:
ANDREW P. MEIER
LAW DIRECTOR
CITY OF SOUTH LEBANON, OHIO

By: _____
Date: _____

Appendix A

Project Completion Schedule, Administration Designation, Description

- 1) *Project Schedule.* Construction must begin within one year of . Construction is scheduled to begin with completion by . The Recipient may make a written request for an extension of the date to initiate construction, specifying the reasons for the delay and providing new construction start and completion dates. Requests may be approved by the Director providing that the Project can be completed within a reasonable time frame.
- 2) *Project Administration Designation.* The Project Administration Designation required by Section V.A. of this Agreement is designated by the Recipient as follows:

to act as the Chief Executive Officer;
to act as the Chief Fiscal Officer; and
to act as the Project Manager.
- 3) *Project Location & Description.* The Project, for which the provision of financial assistance is the subject of this Agreement, is hereby described as follows:

Location:

Description:

Appendix B

Local Subdivision Contribution, Disbursement Ratio, Project Financing and Expenses Scheme

- 1) *OPWC/Local Subdivision Participation Percentages:* For the sole and express purpose of financing/reimbursing costs of the Project, the estimated costs of which are set forth and described below, the Recipient hereby designates its Local Subdivision Percentage Contribution as amounting to a minimum total value of % of the total Project Cost. The OPWC Participation Percentage shall be % not to exceed \$.
- 2) *Project Financing and Expenses Scheme:* The Recipient further designates the Project's estimated financial resources and estimated costs certified to the OPWC under this Agreement for the Project to consist of the following components:

Project Estimated Costs

- a) Engineering
- b) Construction Administration
- c) Right-of-Way
- d) Construction
- e) Permits, Advertising, Legal
- f) Construction Contingencies

Total Estimated Costs

Project Financial Resources

- a) Local Resources
 - In-kind/Force Account
 - Local Revenues
 - Public Revenue – ODOT/FHWA
 - Public Revenue – OEPA/OWDA
 - Public Revenue – Other

Total Local Resources

- b) OPWC Funds

Total Financial Resources



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: August 14, 2023

Subject: Morrow Road OPWC Engineering Amendment

Back in 2019, as part of the Ohio Public Works Commission (OPWC) application for the Morrow Road Phase I 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 have received the grant agreement. Since it has been four (4) years since the original agreement and given the increase in the rate of inflation the last few years, an increase to the agreement would be reasonable. They have proposed a \$8,600 increase to the contract.

This needs to be passed an emergency in order to proceed with the design ASAP with the plan to bid it out early next year prior to the start of the 2024 construction season.

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

**CITY OF SOUTH LEBANON, OHIO
RESOLUTION NO. 2023-34**

**A RESOLUTION APPROVING AND AUTHORIZING MAYOR AND DIRECTOR
OF FINANCE TO EXECUTE AMENDMENT #1 TO AGREEMENT WITH CHOICE
ONE ENGINEERING FOR THE MORROW ROAD RECONSTRUCTION PHASE
ONE PROJECT, AND DECLARING AN EMERGENCY**

WHEREAS, on June 6th, 2019, as part of a funding application to the Ohio Public Works Commission (OPWC), the then-Village Council passed Resolution No. 2019-25 and entered into an agreement with Choice One Engineering (“Engineer”) for the design of the Morrow Road Reconstruction Phase One Project in the amount of \$38,200.00; and,

WHEREAS, effective July 1, 2023, the City has been awarded funding from OPWC for the Morrow Road Reconstruction Phase One Project 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 \$46,800.00 which is a net increase of \$8,600.00 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 in the 1st quarter of 2024 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 Director of Finance 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 2023-34

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 17th day of August, 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

Vote - ____ Yeas

____ Nays

Prepared by and approved as to form:

ANDREW P.MEIER

LAW DIRECTOR

CITY OF SOUTH LEBANON, OHIO

By: _____

Date: 8/17/2023

**Date**

May 30, 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
Morrow Road Reconstruction – Phase 1
WAR-SLE-1906

Dear Mr. Haddix:

The Agreement referred to herein was executed on 6/12/2019 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

5/30/2023
Date

Tina Williams
Director of Finance

Date

Approved as to form:
ANDREW P. MEIER
LAW DIRECTOR
CITY OF 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 \$960,000.
- 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	\$1,500.00	\$0.00	\$3,400.00	\$4,900.00
Construction Plans	\$7,100.00	\$0.00	\$34,800.00	\$41,900.00
Total	\$8,600.00	\$0.00	\$38,200.00	\$46,800.00
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 winter of 2023/2024.



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
CC: Tina Williams, Director of Finance
From: Jerry Haddix, City Administrator
Date: August 14, 2023
Subject: Ramsey Preannexation Agreement

Susan Ramsey is seeking to annex the small parcel she owns at the NW corner of Pike St. & Lebanon Road to the City. This will be combined with the property on the other side of Pike St. which we already have an executed pre-annexation agreement..

This needs to be adopted as an emergency in order to execute the agreement and proceed with the annexation process.

If you have any questions or need additional information, please contact me.

**CITY OF SOUTH LEBANON, OHIO
RESOLUTION NO. 2023-35**

**A RESOLUTION AUTHORIZING THE MAYOR AND DIRECTOR OF FINANCE
TO SIGN A PRE-ANNEXATION AGREEMENT WITH THE SUSAN R. COMBS-
RAMSEY LIVING TRUST, U/A, AND DECLARING AN EMERGENCY**

WHEREAS, the Susan R. Combs-Ramsey Living Trust, U/A is the current owner of a certain property along Lebanon Road containing 0.19 acres in Union Township, Warren County, Ohio, (Sidwell# 12-01-204-008); and

WHEREAS, the Susan R. Combs-Ramsey Living Trust, U/A is requesting to annex to the City of South Lebanon; and

WHEREAS, immediate action is required to expedite filing of annexation documents with the Warren County Board of Commissioners, 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. The City Council does hereby authorize the Mayor and Director of Finance to execute the attached Agreement, as approved as to form by the City Law Director, attached hereto and incorporated by reference.

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

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.

Resolution No. 2023-35

Page 2

Adopted this ____ day of _____, 2023.

Attest: _____
Petrina D. Williams, Director of Finance/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	
Vote - ____ Yeas ____ Nays	

Prepared by and approved as to form:

ANDREW P. MEIER
LAW DIRECTOR
CITY OF SOUTH LEBANON, OHIO

By: _____

Date: ____/____/2023

AGREEMENT

This Agreement is made and entered into on this _____ day of _____, 2023, by and between the City of South Lebanon, Ohio, an Ohio municipal corporation (“South Lebanon” or “City”) and Susan R. Combs-Ramsey, Trustee of the Susan R. Combs-Ramsey Living Trust, U/A (“the Owner”), for the purpose of providing certain municipal services to real estate owned by the Owner and located at 4083 Lebanon Road, South Lebanon, Ohio 45065 (the “Ramsey Property”), upon its annexation to South Lebanon, which real estate is more particularly described and shown in “Exhibit A” attached hereto.

WHEREAS, the Ramsey Property is approximately 0.19 acres and is now located in unincorporated Union Township, Warren County, Ohio, being Warren County Auditor’s Parcel No. 12-01-204-008; and

WHEREAS, the Owners seek to annex to South Lebanon and obtain sanitary sewer from South Lebanon for the entire Property that is located in close proximity to, but is not currently within, the South Lebanon corporate limits or South Lebanon’s sanitary sewer service area; and

WHEREAS, South Lebanon requires that new users of South Lebanon municipal sanitary sewer and water services be located within the corporate limits of South Lebanon.

NOW, THEREFORE, in consideration of the covenants and agreements herein contained to be performed by the parties hereto, it is agreed by South Lebanon and the Owners as follows:

(1) **Annexation**

(A) The Owner shall petition for annexation of all of the Ramsey Property to South Lebanon individually, at their sole cost and expense, or together with other properties at a proportionately shared cost and expense, at such time as South Lebanon may request annexation of all of the Ramsey Property. The Owner shall, within thirty (30) days following receipt of any written request for annexation from South Lebanon, cause a petition to be filed with the Warren County Board of Commissioners requesting annexation of their property, together with any other properties desiring to annex to South Lebanon, and will support such petition in any and all proceedings before the Warren County Board of Commissioners as may be necessary to accomplish annexation of all of the Ramsey Property to South Lebanon.

(B) The Owner may petition, at their sole cost and expense, for annexation of all of the Ramsey Property to South Lebanon at any time they deem annexation appropriate, and South Lebanon will support the petition in any and all proceedings before the Warren County Board of Commissioners and such other actions and/or proceedings as may be necessary to accomplish annexation of all of the Ramsey Property to South Lebanon.

(C) South Lebanon may, in its sole discretion and at its own cost, continue to support and/or prosecute the annexation and any other proceedings relating to the annexation beyond the proceedings before the Warren County Board of Commissioners, including any referendum or

court proceedings, including mandamus, injunction, and appeal, until the matter is finally determined beyond any right of referendum or appeal. The Owner agrees that they shall continue to sign, support, and prosecute the annexation through the final conclusion of all proceedings, including any referendum or court proceedings for so long as South Lebanon elects to support the annexation at its cost, fees, and expenses. The Owner may also independently support and defend the annexation at their cost irrespective of whether South Lebanon elects to proceed at its cost, and South Lebanon agrees to continue to support the annexation at Owner's cost.

(D) Owner agrees to support the Petition and not remove their name from the Petition so long as their signatures remain effective within the statutory period provided by law before the petition is filed and agree to continue to support the annexation to the City throughout the annexation process after the petition is filed, including any appeal, mandamus or other court action. Owner further agrees to sign and support a new annexation petition, should the initial petition fail or should a new petition become necessary to accomplish the annexation, even if the annexation territory is reconfigured, as long as this Agreement is in effect and South Lebanon pays all expenses connected therewith. Should South Lebanon elect, at any time, to stop paying the costs, fees and expenses associated with any challenges to the annexation, Owner may continue to pursue the annexation, at Owner's expense, and South Lebanon agrees that it will support the annexation for so long as Owner pays all costs, fees and expenses associated with the annexation.

(2) **Commitments by South Lebanon**

(A) Service Resolution. The City agrees that it shall timely enact and file with the Warren County Board of County Commissioners the appropriate ordinance or resolution required by law indicating what services the City will provide to the annexation territory. Services shall be provided to the Property upon the same terms and conditions as are afforded to other properties within the City except as otherwise provided in this Agreement.

(B) Acceptance of Annexation. The City agrees that it is in the interest of the City to have the Property annexed into the City. Upon the approval of the annexation by the Warren County Board of County Commissioners and/or a court of law, and the City municipal clerk's receipt of the record of the annexation proceedings from the clerk of the Warren County Board of County Commissioners, the City shall timely consider and accept the annexation and process it according to law.

(C) Zoning. The Ramsey Property (now in Union Township) is currently zoned B-2 Community Commercial Businesses Zone. South Lebanon agrees that, upon annexation to South Lebanon and upon request of the Owners, staff shall recommend to the Planning Commission the South Lebanon zoning district that is most closely related to the existing Union Township B-2 Community Commercial Businesses zoning of the Ramsey Property. This Agreement is currently subject to Section 15.7.13(2) of the South Lebanon Zoning Code now in effect, which provides that upon annexation, newly annexed property (the Ramsey Property) shall be classified as being in whichever district established by these Regulations most closely resembles the zoning district that existed in the annexation as recommend by the Planning Commission and approved by Council. The parties agree that this Agreement shall remain subject to Section 15.7.13 currently in effect for the rezoning of the Ramsey Property upon annexation to South Lebanon, unless otherwise mutually agreed to by the parties in writing.

(D) Utilities. Upon completion of and acceptance of the annexation of the Ramsey Property by City Council beyond any right of referendum or appeal, South Lebanon will make water and sanitary sewer available to the Ramsey Property within a reasonable time and shall waive its fee for one commercial water and sanitary sewer tap for the Ramsey Property for a business use permitted by the South Lebanon Zoning classification on the Ramsey Property. The Owner shall be responsible for extending service lines from the City's water and sanitary sewer line to service its Property and shall pay all other costs and utility fees for water and sanitary sewer service in South Lebanon as provided and required by city ordinances (except for the payment of the tap fee provided herein).

(3) **Binding Effect**

This Agreement shall be a covenant running with the land and shall inure to the benefit of and be binding upon the Ramsey Property and the respective successors and assigns of the parties hereto. This Agreement comprises the complete agreement between the parties. There is no guarantee that the property will be annexed. If a dispute arises, the appropriate courts of Warren County, Ohio shall have jurisdiction to resolve any disputes unless the parties mutually agree in writing to mediate or arbitrate the disputed matter.

(4) **Counterparts**

This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original, but all such counterparts shall constitute one and the same instrument.

(5) **Wording**

Any word used in this Agreement shall be construed to mean either singular or plural as indicated by the number of signatures hereto.

(6) **Construction/Entire Agreement**

This Agreement shall be construed and enforced in accordance with the laws of the State of Ohio. This Agreement shall constitute the entire agreement of South Lebanon and the Owner, and no oral, verbal, or implied agreement or understanding shall cancel, modify, or vary the terms of this Agreement. This Agreement may be amended or modified only by a writing executed by the Parties and their duly authorized officers or representatives where applicable.

(7) **Severability.**

If, for any reason, one or more articles, sections, sentences, clauses or parts of this Agreement are held invalid, void or unenforceable by any court of law or duly authorized public body to any extent, such provision shall be enforced to the greatest extent permitted by law. Such determination shall not affect, impair, invalidate or prejudice in any way the validity of the remaining portions of this Agreement in any other instance, which shall be enforced to the greatest extent permitted by law.

(8) **Applicable Law.**

This Agreement shall be governed by, construed, and interpreted in accordance with the ordinances of the City of South Lebanon and the laws of the State of Ohio. The parties hereto further agree that any action, suit or proceeding in respect of or arising out of this Agreement, its validity or performance shall be initiated and prosecuted as to all parties and their heirs, successors and assigns and consent to and submit to the exercise of jurisdiction over its person and the Property by any state court with original jurisdiction and venue in Warren County Ohio having jurisdiction over the subject matter.

(9) **Headings and Captions.**

Headings and captions in this Pre-Annexation Agreement are for the convenience of reference only and shall not limit or affect the meaning hereof.

(10) **Waiver.**

No delay or failure on the part of any party hereto in exercising any right, power, or privilege under this Agreement or under any other instruments given in connection with or pursuant to this Agreement shall impair any such right, power, or privilege or be construed as a waiver of any default or any acquiescence therein. No single or partial exercise of any such right, power, or privilege shall preclude the further exercise of such right, power, or privilege, or the exercise of any other right, power or privilege.

(11) **Authority and Effective Date**

The parties represent that each of the undersigned has the authority and capacity to sign on behalf of each of them in the capacity shown below and executed this Agreement in such authorized capacity on date written below. This Agreement is effective on the date last executed.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed the day and year first written above.

WITNESS:

CITY OF SOUTH LEBANON, OHIO

Name _____

WITNESS:

THE SUSAN R. COMBS-RAMSEY LIVING TRUST, U/A

Name _____

Jerry Haddix

Susan R. Combs-Ramsey, Trustee

STATE OF OHIO

SS:

COUNTY OF WARREN

This instrument was acknowledged before me by _____, the _____ of the City of South Lebanon, on this _____ day of _____, 2023.

Notary Public

STATE OF OHIO

SS:

COUNTY OF Warren

This instrument was acknowledged before me by Susan R. Combs-Ramsey, the Trustee of Susan R. Combs-Ramsey, on this 17th day of August, 2023.



Amy Butler
Notary Public, State of Ohio
My Commission expires
July 18, 2026

Notary Public



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

CC: Tina Williams, Director of Finance

From: Jerry Haddix, City Administrator

Date: August 14, 2023

Subject: Beaver Creek Site Management, LLC Preannexation Agreement

Recently, the developer of the Miami Bluffs development on Striker Road signed a contract to purchase & develop the 68+ acre Irwin farm at the corner of Grandin Road and Striker Road. They also own a small parcel that would connect the Irwin Farm to Striker Road. As a part of their plan, they are seeking to annex this .8 acres to the City & use it as a second connection to the proposed development.

This needs to be adopted as an emergency in order to execute the agreement and proceed with the annexation process necessary for the development.

If you have any questions or need additional information, please contact me.

**CITY OF SOUTH LEBANON, OHIO
RESOLUTION NO. 2023-36**

**A RESOLUTION AUTHORIZING THE MAYOR AND DIRECTOR OF FINANCE
TO SIGN A PRE-ANNEXATION AGREEMENT WITH BEAVER CREEK SITE
MANAGEMENT, LLC, AND DECLARING AN EMERGENCY**

WHEREAS, Beaver Creek Site Management, LLC is the current owner of two (2) certain properties along Striker Road containing 0.8143 acres in Hamilton Township, Warren County, Ohio, (Sidwell# 16-11-295-017 & 16-11-295-018); and

WHEREAS, Beaver Creek Site Management, LLC is requesting to annex to the City of South Lebanon; and

WHEREAS, immediate action is required to expedite filing of annexation documents with the Warren County Board of Commissioners, 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. The City Council does hereby authorize the Mayor and Director of Finance to execute the attached Agreement, as approved as to form by the City Law Director, attached hereto and incorporated by reference.

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

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.

Resolution No. 2023-36

Page 2

Adopted this ____ day of _____, 2023.

Attest: _____
Petrina D. Williams, Director of Finance/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	
Vote - ____ Yeas ____ Nays	

Prepared by and approved as to form:

ANDREW P. MEIER
LAW DIRECTOR
CITY OF SOUTH LEBANON, OHIO

By: _____

Date: ____/____/2023

AGREEMENT

This Agreement is made and entered into on this _____ day of _____, 2023, by and between the City of South Lebanon, Ohio, an Ohio municipal corporation ("South Lebanon" or "City") and Beaver Creek Site Management LLC, an Ohio limited liability company ("the Owner"), for the purpose of providing certain municipal services to real estate owned by Owner and located at Striker Road, Maineville, Ohio 45039 (the "Beaver Creek Site Management LLC Property"), upon its annexation to South Lebanon, which real estate is more particularly described and shown in "Exhibit A" attached hereto.

WHEREAS, the Beaver Creek Site Management LLC Property is approximately 0.8143 acres and is now located in unincorporated Hamilton Township, Warren County, Ohio, being Warren County Auditor's Parcel Nos. 16-11-295-017 and 16-11-295-018; and

WHEREAS, the Owner seeks to annex to South Lebanon to include these parcels in their development plan of the adjoining property and to provide a secondary entrance on Striker Road; and

NOW, THEREFORE, in consideration of the covenants and agreements herein contained to be performed by the parties hereto, it is agreed by South Lebanon and the Owner as follows:

(1) **Annexation**

(A) The Owner shall petition for annexation of all of the Beaver Creek LLC Property to South Lebanon individually, at their sole cost and expense, or together with other properties at a proportionately shared cost and expense, at such time as South Lebanon may request annexation of all of the Beaver Creek LLC Property. The Owner shall, within thirty (30) days following receipt of any written request for annexation from South Lebanon, cause a petition to be filed with the Warren County Board of Commissioners requesting annexation of their property, together with any other properties desiring to annex to South Lebanon, and will support such petition in any and all proceedings before the Warren County Board of Commissioners as may be necessary to accomplish annexation of all of the Beaver Creek LLC Property to South Lebanon.

(B) The Owner may petition, at their sole cost and expense, for annexation of all of the Beaver Creek LLC Property to South Lebanon at any time they deem annexation appropriate, and South Lebanon will support the petition in any and all proceedings before the Warren County Board of Commissioners and such other actions and/or proceedings as may be necessary to accomplish annexation of all of the Beaver Creek Property to South Lebanon.

(C) South Lebanon may, in its sole discretion and at its own cost, continue to support and/or prosecute the annexation and any other proceedings relating to the annexation beyond the proceedings before the Warren County Board of Commissioners, including any referendum or court proceedings, including mandamus, injunction, and appeal, until the matter is finally determined beyond any right of referendum or appeal. The Owner agrees that they shall continue to sign, support, and prosecute the annexation through the final conclusion of all proceedings,

including any referendum or court proceedings for so long as South Lebanon elects to support the annexation at its cost, fees, and expenses. The Owner may also independently support and defend the annexation at their cost irrespective of whether South Lebanon elects to proceed at its cost, and South Lebanon agrees to continue to support the annexation at Owner's cost.

(D) Owners agree to support the Petition and not remove their name from the Petition so long as their signatures remain effective within the statutory period provided by law before the petition is filed and agree to continue to support the annexation to the City throughout the annexation process after the petition is filed, including any appeal, mandamus or other court action. Owner further agrees to sign and support a new annexation petition, should the initial petition fail or should a new petition become necessary to accomplish the annexation, even if the annexation territory is reconfigured, as long as this Agreement is in effect and South Lebanon pays all expenses connected therewith. Should South Lebanon elect, at any time, to stop paying the costs, fees and expenses associated with any challenges to the annexation, Owner may continue to pursue the annexation, at Owner's expense, and South Lebanon agrees that it will support the annexation for so long as Owner pay all costs, fees and expenses associated with the annexation.

(2) **Commitments by South Lebanon**

(A) Service Resolution. The City agrees that it shall timely enact and file with the Warren County Board of County Commissioners the appropriate ordinance or resolution required by law indicating what services the City will provide to the annexation territory. Services shall be provided to the Property upon the same terms and conditions as are afforded to other properties within the City except as otherwise provided in this Agreement.

(B) Acceptance of Annexation. The City agrees that it is in the interest of the City to have the Property annexed into the City. Upon the approval of the annexation by the Warren County Board of County Commissioners and/or a court of law, and the City municipal clerk's receipt of the record of the annexation proceedings from the clerk of the Warren County Board of County Commissioners, the City shall timely consider and accept the annexation and process it according to law.

(C) Zoning. The Beaver Creek LLC Property (now in Hamilton Township) is currently not subject to zoning through Hamilton Township. South Lebanon agrees that, upon annexation to South Lebanon and upon request of the Owner, staff shall recommend to the Planning Commission the South Lebanon zoning district that most closely resembles the existing use of the Beaver Creek LLC Property. This Agreement is currently subject to Section 15.7.13(1) of the South Lebanon Zoning Code which provides that upon annexation, newly annexed property (the Beaver Creek LLC Property) shall be classified as being in whichever district established by these Regulations most closely resembles the existing uses at the time of the annexation as recommended by the Planning Commission and approved by Council. The parties agree that this Agreement shall remain subject to Section 15.7.13 currently in effect for any rezoning of the Beaver Creek LLC Property upon annexation to South Lebanon, unless otherwise mutually agreed to by the parties in writing.

(3) **Binding Effect**

This Agreement shall be a covenant running with the land and shall inure to the benefit of and be binding upon the Beaver Creek LLC Property and the respective successors and assigns of the parties hereto. This Agreement comprises the complete agreement between the parties. There is no guarantee that the property will be annexed. If a dispute arises, the appropriate courts of Warren County, Ohio shall have jurisdiction to resolve any disputes unless the parties mutually agree in writing to mediate or arbitrate the disputed matter.

(4) **Counterparts**

This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original, but all such counterparts shall constitute one and the same instrument.

(5) **Wording**

Any word used in this Agreement shall be construed to mean either singular or plural as indicated by the number of signatures hereto.

(6) **Construction/Entire Agreement**

This Agreement shall be construed and enforced in accordance with the laws of the State of Ohio. This Agreement shall constitute the entire agreement of South Lebanon and the Owner, and no oral, verbal, or implied agreement or understanding shall cancel, modify, or vary the terms of this Agreement. This Agreement may be amended or modified only by a writing executed by the Parties and their duly authorized officers or representatives where applicable.

(7) **Severability.**

If, for any reason, one or more articles, sections, sentences, clauses or parts of this Agreement are held invalid, void or unenforceable by any court of law or duly authorized public body to any extent, such provision shall be enforced to the greatest extent permitted by law. Such determination shall not affect, impair, invalidate or prejudice in any way the validity of the remaining portions of this Agreement in any other instance, which shall be enforced to the greatest extent permitted by law.

(8) **Applicable Law.**

This Agreement shall be governed by, construed, and interpreted in accordance with the ordinances of the City of South Lebanon and the laws of the State of Ohio. The parties hereto further agree that any action, suit or proceeding in respect of or arising out of this Agreement, its validity or performance shall be initiated and prosecuted as to all parties and their heirs, successors and assigns and consent to and submit to the exercise of jurisdiction over its person and the Property by any state court with original jurisdiction and venue in Warren County Ohio having jurisdiction over the subject matter.

(9) Headings and Captions.

Headings and captions in this Pre-Annexation Agreement are for the convenience of reference only and shall not limit or affect the meaning hereof.

(10) Waiver.

No delay or failure on the part of any party hereto in exercising any right, power, or privilege under this Agreement or under any other instruments given in connection with or pursuant to this Agreement shall impair any such right, power, or privilege or be construed as a waiver of any default or any acquiescence therein. No single or partial exercise of any such right, power, or privilege shall preclude the further exercise of such right, power, or privilege, or the exercise of any other right, power or privilege.

(11) Authority and Effective Date

The parties represent that each of the undersigned has the authority and capacity to sign on behalf of each of them in the capacity shown below and executed this Agreement in such authorized capacity on date written below. This Agreement is effective on the date last executed.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed the day and year first written above.

WITNESS:

CITY OF SOUTH LEBANON, OHIO

Name _____

WITNESS:

BEAVER CREEK SITE MANAGEMENT LLC

Joe Farruggia
Name Joseph Farruggia

Ed Farruggia

Edwin Farruggia, SOLE MEMBER

STATE OF OHIO

SS:

COUNTY OF WARREN

This instrument was acknowledged before me by _____, the
_____ of the City of South Lebanon, on this _____ day of
_____, 2023.

Notary Public

STATE OF OHIO

COUNTY OF Hamilton SS:

This instrument was acknowledged before me by
Edwin Farruggia, the sole member
of Beaver Creek Site Management LLC, on this 14th day of August, 2023.



Samantha N Knight
Notary Public, State of Ohio
My Commission Expires:
April 19, 2026

[Signature]
Notary Public

EXHIBIT A

Situated in the Township of Hamilton, Warren County, State of Ohio and more particularly described as follows:

Being a part of Military Survey Number 1548. Lot Numbers One (1) and Two (2) of Striker Road Plat, Recorded in Plat Book 91, Pages 43 & 44 of the Warren County Plat Records.



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: August 14, 2023
Subject: 2024 Solid Waste Management Plan

Attached is a resolution and summary for County Solid Waste District's 2024 Updated Plan. Every municipality in the County must approve or disapprove the Plan.

The complete plan can be viewed at
<https://www.co.warren.oh.us/SolidWaste/HomePageAnnouncements/MP.pdf>.

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

**CITY OF SOUTH LEBANON, OHIO
RESOLUTION NO. 2023-37**

**A RESOLUTION APPROVING THE 2024 SOLID WASTE MANAGEMENT PLAN
OF THE WARREN COUNTY SOLID WASTE MANAGEMENT DISTRICT**

WHEREAS, the Warren County Solid Waste Management District, by its Solid Waste Policy Committee, has adopted a Solid Waste Management Plan for the District, and

WHEREAS, pursuant to Ohio Revised Code Section 3734.55(B), the Board of County Commissioners and the legislative authority of each municipal corporation or township under the jurisdiction of the District must approve or disapprove the Plan by ordinance or resolution, and

WHEREAS, the City of South Lebanon, Warren County, Ohio has reviewed the Plan and considered it at a duly called meeting; and

WHEREAS, the Plan furthers the public interest; and

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

Section 1. That the Warren County Solid Waste Management District 2024 Solid Waste Management Plan, a copy of which is attached hereto, is hereby approved, and,

Section 2. That a copy of this resolution of approval shall be promptly delivered or caused to be delivered to the Policy Committee of the Warren County Solid Waste Management District.

Section 3. That the recitals contained within the Whereas Clauses set forth above are incorporated by reference herein.

Section 5. 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.

Resolution No. 2023-37

Page 2

Adopted this day of , 2023.

Attest: _____
Petrina D. Williams, Director of Finance/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	
Vote - ____ Yeas ____ Nays	

Prepared by and approved as to form:

ANDREW P. MEIER
LAW DIRECTOR
CITY OF SOUTH LEBANON, OHIO

By: _____

Date: ____/____/2023

WARREN COUNTY SOLID WASTEMENT MANAGEMENT DISTRICT

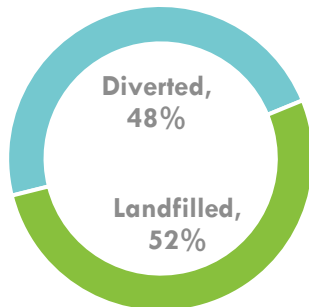
2024-2038 SOLID WASTE MANAGEMENT DISTRICT PLAN UPDATE

As a result of House Bill 592, each Ohio county is required to establish or join other counties to form a solid waste management district. There are 52 solid waste districts in Ohio. Warren Solid Waste Management District (District) is in compliance with regulations and goals set by the Ohio Environmental Protection Agency (Ohio EPA). Ohio EPA requires that ten waste reduction strategies be implemented that will enable the District to meet the goals established in the 2020 State Plan.

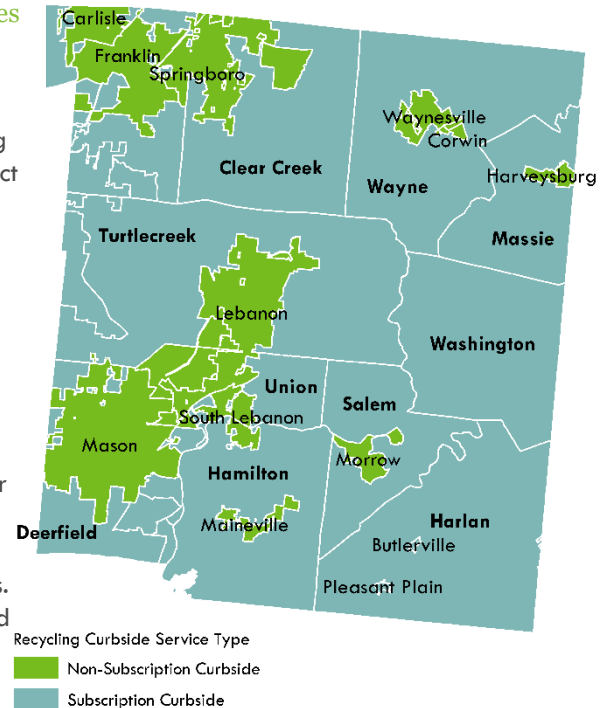
Ohio EPA Goal: The SWMD shall provide access to recycling opportunities to 80% of its residential population in each county and ensure that commercial generators have access to adequate recycling opportunities.

The District's integrated solid waste management system relies heavily on neighboring districts for landfill, transfer facility, and recycling processing infrastructure. The District operates in an open market system, which means customers have a choice of any waste hauler because the system is open to competition. Eleven of the municipal and village political jurisdictions procure one contractor, a single source, to provide specified collection services for their single-family residents. The remaining political jurisdictions operate with individual contracts or private subscriptions, a system where residents contract directly with the hauler of their choice.

Total District Diversion



Recycling activities of commercial and industrial sector businesses were managed by private service providers. Businesses contact available service providers directly for collection and recycling services. Residential recycling activities were also collected and processed by private service providers. The residential recycling infrastructure includes curbside programs and four drop-off locations throughout the



Landfill Capacity: The District does not direct where its wastes are to be taken, waste haulers are able to take the wastes to a licensed sanitary landfill either inside or outside the State of Ohio. There is approx. 23 years left of the Rumpke Sanitary Landfill where over 90% of the Warren County's waste is taken.

Planning: Residential recycling programs provide adequate infrastructure and performance. Maintaining countywide curbside recycling is a high support and priority item for the Policy Committee. The District will continue to support the residential curbside infrastructure with Performance Obligation Agreements and to demonstrate compliance with State Plan Goal #1 Access. Contract assistance will be offered to ensure jurisdiction residents have best services at competitive prices. The District will also explore untapped opportunities such as: participation, incentives, multi-family units, outreach and education, monitoring, and resident perception of costs. The residential/commercial waste reduction rate is projected to hold at 21 percent. Future waste will continue to be managed through methods of recycling, composting and disposal.

Revenue and Investment: The District uses generation fees, local funding from the County Courts, and the District's Reserve Fund for implementation of the Plan. The generation fee is \$0.50 per ton on solid waste generated in Warren County and disposed at transfer facilities or landfills located in Ohio. In comparison to regional solid waste management districts, the District has the lowest per capita revenues and expenses. Funding from County Courts reinforces the Litter Collection Program and uses court directed people that are required to perform community service work as part of a judgment (The Courts provide the District with \$30,000 per year for this activity). The District Reserve Fund was generated over time and came from the Tier Fees charged at Bigfoot Run Sanitary Landfill when it was operating.

Plan implementation expenses are projected to average \$205,000 annually over the 15-year planning period, while revenues are projected to average \$140,000 annually. This deficit in spending will continue to draw down the District's Reserve Fund.

2018 PLAN AND 2024 PLAN COMPARISON

	2018 Plan	2024 Plan
Residential/Commercial Recycling Rate	20%	21%
Industrial Recycling Rate	73%	91%
Demonstration of 80% of Population with Access to Recycling	✓	✓
Generation Fee Funding	\$0.50 per ton	\$0.50 per ton
Available Disposal Capacity for Plan Period	Yes	Yes
Designation	Precludes facility designations	Precludes facility designations
Rules	Maintains established rules. No proposed rules.	Maintains established rules. No proposed rules.
Programs		
Curbside option for single-family housing	All 24 jurisdictions	All 24 jurisdictions
Drop-off Stations	1 in Deerfield Township 1 in Mason 2 in Lebanon	1 in Deerfield Township 1 in Mason 2 in Lebanon
Private paper collection and drop-offs	✓	✓
Solid Waste and Recycling Assessments	✓	✓
Waste Exchange	✓	✓
Electronics Collection	Annual event	Annual event
HHW Information	✓	✓
HHW Management Strategy	Ascertain resident and stakeholder engagement and explore outlets for HHW.	Ascertain resident and stakeholder engagement and explore outlets for HHW.
Lead-Acid Battery Information	✓	✓
Scrap Tire Disposal Information	✓	✓
Yard Waste Composting Programs	✓	✓
Food Waste Management	Add information to Website	Add information to Website
District Webpage	Add a business content page; Link jurisdiction webpages; develop a common suite of messaging materials	Business content page; Link jurisdiction webpages; Recycling Outlets page
Resource Guide	✓	✓
Education Provider	✓	✓
Outreach and Marketing Plan	Specific strategies of outreach to residential, commercial, industrial, political leaders, and schools.	Specific strategies of outreach to residential, commercial, industrial, political leaders, and schools.
Recycling Incentive Mini Grants	\$250 grant to schools, scouts and non-profits for composting and recycling projects	\$1,000 (updated in 2023) grant to schools, scouts and non-profits for composting and recycling projects
Commercial and Industrial Surveying	✓	✓
Curbside Recycling Monitoring Plan	✓	✓
Performance Obligation Agreements	✓	✓
Roadside Litter Collection Program	Scheduled to purchase trucks	Scheduled to purchase trucks



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

CC: Tina Williams, Director of Finance

From: Jeff Boylan, Assistant Administrator

Date: 8-9-2023

Subject: Parks Committee Recommendation

On July 26, 2023, at 1:00 p.m., the parks committee met to discuss the city's parks. The Bike Trail Park located at 242 Railroad Street was identified as being in poor condition and needs to be replaced. It does not meet the current safety requirements and the platforms are rusting and starting to fail.

The park's committee is recommending this park be replaced as an emergency.

I have an estimate from Snider Recreation, Inc. to replace this park at a cost of \$44,790.00. This includes the equipment and installation. We would be responsible for the removal of the old equipment, excavating the area, and purchasing the mulch.

Although this project was not included in this year's capital budget, the project is included in the city's capital plan as a future 2024-2025 project. There are funds available in the park's current year operating budget to fund the expense as an emergency.

We will need a motion from council to approve this expense.

Let me know if you need any additional information.



Snider Recreation Inc.

10139 Royalton Road #K
N. Royalton, OH 44133

Ph (440)877-9151 Toll Free (800)888-2889 Fx (440)877-9159
www.cvsnider.com
info@cvsnider.com

Estimate

Date	Estimate #
7/13/2023	13515

Name / Address
South Lebanon 10 N. High St. South Lebanon, OH 45065

Ship To
South Lebanon Parks & Recreation 10 N High St South Lebanon, OH 45065 Jason Daniels (859)620-5243

Terms	Rep	Customer Phone	Customer Fax	Tax Exempt Number	County
Due on Receipt	JD				Warren-OH

Item	Description	Qty	Rate	Total
Design	BCI Burke Design127-171526-1	1	28,576.00	28,576.00
Freight	Shipping Charges	1	1,444.00	1,444.00
Installation	Installation of Equipment	1	14,770.00	14,770.00
	note: Customer is removing existing equipment, excavating and providing and installing wood fiber themselves			

If tax exempt certificate is not provided appropriate sales tax will be charged. Quote valid for 30 days.

Freight subject to fuel charge. Payment via credit card will incur an additional 3% administrative fee.

Subtotal	\$44,790.00
Sales Tax (6.5%)	\$0.00
Total	\$44,790.00

COLOR KEY

- LEMON
- AQUA
- LIME
- PURPLE
- ORANGE/BLACK



