

CITY OF SOUTH LEBANON, OHIO  
RESOLUTION NO. 2022-20

**A RESOLUTION AUTHORIZING THE MAYOR AND FISCAL OFFICER TO SIGN  
A PRE-ANNEXATION AGREEMENT WITH MICHAEL AND KIMBERLY LENIG,  
AND DECLARING AN EMERGENCY**

**WHEREAS**, Michael and Kimberly Lenig are the current owners of a certain property located at 556 Mason-Morrow-Millgrove Road containing 1.003 acres in Union Township, Warren County, Ohio, (Sidwell# 12-01-126-009); and

**WHEREAS**, Michael and Kimberly Lenig are 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 Fiscal Officer to execute the attached Agreement, as approved as to form by the City Solicitor, attached hereto and incorporated by reference.

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

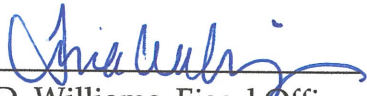
**Section 3.** That this Resolution is hereby declared to be an emergency measure in accordance with Ohio Rev. Code § 731.30 for the immediate preservation of the public peace, health, safety and general welfare; and, this Resolution shall be in full force and effective immediately upon its passage.

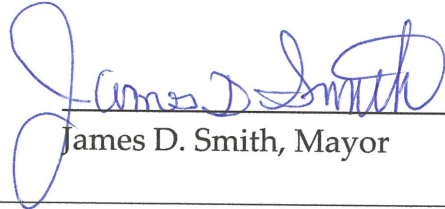
**Section 4.** That it is found and determined that all formal actions of the Council concerning and relating to passing this Resolution were adopted in an open meeting of Council in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Resolution No. 2022-20

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Adopted this 19<sup>th</sup> day of May, 2022.

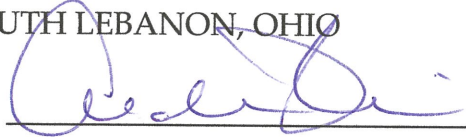
Attest:   
Petrina D. Williams, Fiscal Officer/Clerk

  
James D. Smith, Mayor

Rules Suspended: <u>5/19/2022</u> (if applicable)	Effective Date - <u>5/19/2022</u>
Vote - <u>5</u> Yeas ___ Nays	
First Reading - / /2022	Effective Date - / /2022
Second Reading - / /2022	
Third Reading - / /2022	
Vote - ___ Yeas ___ Nays	

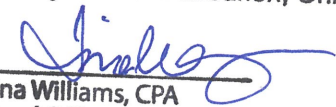
Prepared by and approved as to form:

ANDREW P. MEIER  
CITY SOLICITOR  
SOUTH LEBANON, OHIO

By:   
Date: 5/19/2022

CERTIFICATE OF POSTING

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

5/20/22   
Date Tina Williams, CPA  
Fiscal Officer  
City of South Lebanon, Ohio

# AGREEMENT

This Agreement is made and entered into on this 19<sup>th</sup> day of May, 2022, by and between the City of South Lebanon, Ohio, an Ohio municipal corporation ("South Lebanon" or "City") and Michael and Kimberly Lenig, husband and wife ("the Owners"), for the purpose of providing certain municipal services to real estate owned by Owners and located at 556 Mason-Morrow-Millgrove Road, South Lebanon, Ohio 45065 (the "Lenig Property"), upon its annexation to South Lebanon, which real estate is more particularly described and shown in "Exhibit A" attached hereto.

**WHEREAS**, the Lenig Property is approximately 1.003 acres and is now located in unincorporated Union Township, Warren County, Ohio, being Warren County Auditor's Parcel No. 12-01-126-009; 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 Owners shall petition for annexation of all of the Lenig 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 Lenig 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 Lenig Property to South Lebanon.

(B) The Owners may petition, at their sole cost and expense, for annexation of all of the Lenig 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 Lenig 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 Owners 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 Owners 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 Owners' 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. Owners further agree 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, Owners may continue to pursue the annexation, at Owners' expense, and South Lebanon agrees that it will support the annexation for so long as Owners 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 Lenig 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 Lenig 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 Lenig 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 Lenig 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 Lenig Property by City Council beyond any right of referendum or appeal, South Lebanon will make sanitary sewer available to the Lenig Property within a reasonable time and shall waive its fee for one commercial sanitary sewer tap for the Lenig Property for a business use permitted by the South Lebanon Zoning classification on the Lenig Property. The Owners shall be responsible for extending service lines from the City's sanitary sewer line to service its Property and shall pay all other costs and utility fees for 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 Lenig 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

[Signature]  
Name Andrew P. Meier

[Signature]

WITNESS:

MICHAEL AND KIMBERLY LENIG

[Signature]  
Name Megan Bodker

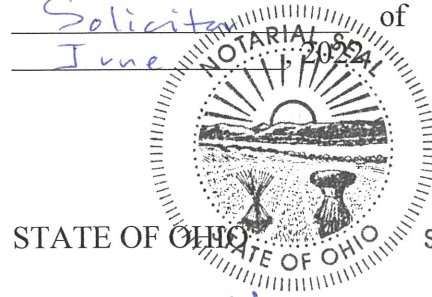
[Signature]  
Michael Lenig  
[Signature]  
Kimberly Lenig

STATE OF OHIO

SS:

COUNTY OF WARREN

This instrument was acknowledged before me by Andrew P. Meier, the Solicitor of the City of South Lebanon, on this 16 day of June, 2024.



ANDREW P. MEIER  
ATTORNEY AT LAW  
NOTARY PUBLIC  
STATE OF OHIO  
My Comm. Has No Expiration Date  
Section 147.03 R. C.

[Signature]  
Notary Public

STATE OF OHIO

SS:

COUNTY OF Warren

This instrument was acknowledged before me by Michael + Kimberly Lenig, the Owners of Michael and Kimberly Lenig, on this 3 day of May, 2022.



[Signature]  
Notary Public

**EXHIBIT A**

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

Being a part of Section One Town 4, Range 3, M.R.S. Lot Number One (1) of Barrett Subdivision, Recorded in Plat Book 12, Page 74 of the Warren County Plat Records.





Date: 3/23/2022

Color of all lines	Line Type	Symbol	Notes
Blue	Water	Blue area	Water
Black	Property line	Thin black line	Property line
Red	Survey line	Thin red line	Survey line
Green	Right-of-Way	Thin green line	Right-of-Way
Yellow	Topography and Range line	Thin yellow line	Topography and Range line
Orange	15 ft. line	Thin orange line	15 ft. line
Purple	20 ft. line	Thin purple line	20 ft. line
Light Blue	30 ft. line	Thin light blue line	30 ft. line
Light Green	40 ft. line	Thin light green line	40 ft. line
Light Yellow	50 ft. line	Thin light yellow line	50 ft. line
Light Orange	60 ft. line	Thin light orange line	60 ft. line
Light Purple	70 ft. line	Thin light purple line	70 ft. line
Light Blue-Gray	80 ft. line	Thin light blue-gray line	80 ft. line
Light Green-Gray	90 ft. line	Thin light green-gray line	90 ft. line
Light Yellow-Gray	100 ft. line	Thin light yellow-gray line	100 ft. line
Light Orange-Gray	110 ft. line	Thin light orange-gray line	110 ft. line
Light Purple-Gray	120 ft. line	Thin light purple-gray line	120 ft. line
Light Blue-Gray	130 ft. line	Thin light blue-gray line	130 ft. line
Light Green-Gray	140 ft. line	Thin light green-gray line	140 ft. line
Light Yellow-Gray	150 ft. line	Thin light yellow-gray line	150 ft. line
Light Orange-Gray	160 ft. line	Thin light orange-gray line	160 ft. line
Light Purple-Gray	170 ft. line	Thin light purple-gray line	170 ft. line
Light Blue-Gray	180 ft. line	Thin light blue-gray line	180 ft. line
Light Green-Gray	190 ft. line	Thin light green-gray line	190 ft. line
Light Yellow-Gray	200 ft. line	Thin light yellow-gray line	200 ft. line
Light Orange-Gray	210 ft. line	Thin light orange-gray line	210 ft. line
Light Purple-Gray	220 ft. line	Thin light purple-gray line	220 ft. line
Light Blue-Gray	230 ft. line	Thin light blue-gray line	230 ft. line
Light Green-Gray	240 ft. line	Thin light green-gray line	240 ft. line
Light Yellow-Gray	250 ft. line	Thin light yellow-gray line	250 ft. line
Light Orange-Gray	260 ft. line	Thin light orange-gray line	260 ft. line
Light Purple-Gray	270 ft. line	Thin light purple-gray line	270 ft. line
Light Blue-Gray	280 ft. line	Thin light blue-gray line	280 ft. line
Light Green-Gray	290 ft. line	Thin light green-gray line	290 ft. line
Light Yellow-Gray	300 ft. line	Thin light yellow-gray line	300 ft. line
Light Orange-Gray	310 ft. line	Thin light orange-gray line	310 ft. line
Light Purple-Gray	320 ft. line	Thin light purple-gray line	320 ft. line
Light Blue-Gray	330 ft. line	Thin light blue-gray line	330 ft. line
Light Green-Gray	340 ft. line	Thin light green-gray line	340 ft. line
Light Yellow-Gray	350 ft. line	Thin light yellow-gray line	350 ft. line
Light Orange-Gray	360 ft. line	Thin light orange-gray line	360 ft. line
Light Purple-Gray	370 ft. line	Thin light purple-gray line	370 ft. line
Light Blue-Gray	380 ft. line	Thin light blue-gray line	380 ft. line
Light Green-Gray	390 ft. line	Thin light green-gray line	390 ft. line
Light Yellow-Gray	400 ft. line	Thin light yellow-gray line	400 ft. line
Light Orange-Gray	410 ft. line	Thin light orange-gray line	410 ft. line
Light Purple-Gray	420 ft. line	Thin light purple-gray line	420 ft. line
Light Blue-Gray	430 ft. line	Thin light blue-gray line	430 ft. line
Light Green-Gray	440 ft. line	Thin light green-gray line	440 ft. line
Light Yellow-Gray	450 ft. line	Thin light yellow-gray line	450 ft. line
Light Orange-Gray	460 ft. line	Thin light orange-gray line	460 ft. line
Light Purple-Gray	470 ft. line	Thin light purple-gray line	470 ft. line
Light Blue-Gray	480 ft. line	Thin light blue-gray line	480 ft. line
Light Green-Gray	490 ft. line	Thin light green-gray line	490 ft. line
Light Yellow-Gray	500 ft. line	Thin light yellow-gray line	500 ft. line

**Lenig Property (Parcel# 12-01-126-009)**

1 inch = 94 feet

The provider makes no warranty or representation with respect to the information. It is not to be used for a particular purpose. The provider is not liable for direct, indirect, incidental, or consequential damages resulting from any use of the information. The provider shall have no liability for any other information programs or data used, with or without the representation, including the cost of any information programs or data.



Henry L. Toedtman  
Land Surveyor  
5606 Bunnell Hill Road  
Lebanon, Ohio 45036

Phone: 937-603-2875  
htman1965@gmail.com

Jerry

This is the Surveyor that  
Just Performed a Survey of the Property  
for my Site Plan filed with my Building  
Drawings for the Building Permit.

Michael Lonig