

**CITY OF SOUTH LEBANON, OHIO  
RESOLUTION NO. 2022-25**

**A RESOLUTION APPROVING AND AUTHORIZING MAYOR AND FISCAL OFFICER TO EXECUTE AN EASEMENT AGREEMENT FOR A PERPETUAL STORMWATER SEWER EASEMENT ON THE PROPERTY OWNED BY MACKENZIE VEITH NECESSARY FOR THE CONSTRUCTION OF A STORMWATER SEWER SYSTEM, AND DECLARING AN EMERGENCY**

WHEREAS, providing utilities, including storm water management, is one the functions of local municipal government; and,

WHEREAS, in order to properly collect stormwater flowing west from Shawhan Road through properties on Pauline Drive and Mary Lane, it is necessary for the stormwater to be collected and directed to the City's stormwater system via underground piping and away from the affected properties in the area; and,

WHEREAS, Mackenzie Veith desires to grant the City a perpetual Sanitary Sewer Easement for just consideration, and the City has determined that the consideration recited in the attached Easement Agreement is just compensation which the said property owner is willing to accept; and,

WHEREAS, immediate action is required for the City to acquire the said public stormwater sewer easement to maintain the construction schedule for the project, and such action is necessary in order to preserve the public peace, health, safety or welfare of the City.

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

**Section 1.** That the Council approves and authorizes the Mayor to execute the Easement Agreement, a copy of which is attached hereto.

**Section 2.** Approving the consideration, as recited in the Easement Agreement, subject to receipt of the Easement Agreement properly and completely executed.

**Section 3.** Authorizing the Fiscal Officer to pay the recordation costs to record the Easement Agreement in the Warren County Recorder's Office.

Resolution No. 2022-25

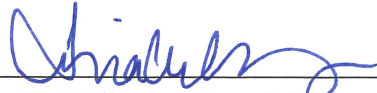
Page 2

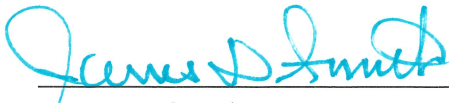
**Section 5.** That the recitals contained within the Whereas Clauses set forth above are incorporated by reference herein.

**Section 6.** That this Resolution is hereby declared to be an emergency measure in accordance with Ohio Rev. Code § 731.30 for the immediate preservation of the public peace, health, safety and general welfare.

**Section 7.** That it is found and determined that all formal actions of the Council concerning and relating to the adoption of this Resolution were passed in an open meeting of Council in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Adopted this 16th day of June, 2022.


Attest:   
Petrina D. Williams, Fiscal Officer/Clerk

  
James D. Smith, Mayor

Rules Suspended: <u>6/16/22</u> (if applicable)	Effective Date - <u>6/16/22</u>
Vote - <u>6</u> Yeas ___ Nays	
First Reading - / /2022	Effective Date - / /2022
Second Reading - / /2022	
Third Reading - / /2022	
Vote - ___ Yeas ___ Nays	

**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

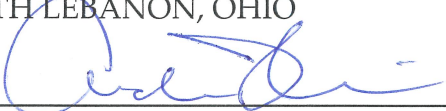
6/24/22   
Date Tina Williams, CPA  
Fiscal Officer  
City of South Lebanon, Ohio

Resolution No. 2022-25

Page 3

Prepared by and approved as to form:

ANDREW P. MEIER  
CITY SOLICITOR  
SOUTH LEBANON, OHIO

By:  \_\_\_\_\_

Date: 6/16/2022

**EASEMENT AND AGREEMENT**  
(Storm Water Line and Appurtenances)

**Mackenzie Veith , South Lebanon Warren County, Ohio** address of 590 Pauline Drive, South Lebanon, Ohio 45065 (“Grantor”), for One Dollar (\$1.00) and other good and valuable consideration recited herein paid by the **CITY OF SOUTH LEBANON, an Ohio municipal corporation**, acting by and through its duly elected **City Council**, an Ohio political subdivision operating under Title 7, et. seq. of the Ohio Revised Code, with an address of **10 High Street, South Lebanon, Ohio 45065** (“Grantee”), the receipt and sufficiency of which are hereby stipulated, does hereby grant to Grantee, its successors and assigns forever, a non-exclusive easement in, on, over, under, across and through the real property particularly described in Exhibit “A 1” and illustrated in Exhibit “B” (the “Easement Area”), both of which are attached hereto and incorporated by reference herein, for the purposes of constructing, installing, reconstructing, replacing, removing, repairing, maintaining and operating an underground storm water utility line and related apparatus and appurtenances thereto (the “Improvements”), for the public purpose and necessity of extending an underground sanitary sewer line.

The said permanent easement shall be subject to the following:

1. Grantee at its sole cost shall be entitled to survey, construct, use, operate, inspect, maintain and keep in repair thereon, replace and remove, the storm water sewer utility line, apparatus and appurtenances within the Easement Area, including without limitation the activities customarily associated therewith and the right to remove or abate any obstructions or items that may endanger the safety of or interfere with Grantee’s rights herein. The said Improvements shall be constructed or reconstructed in accordance with Project construction plans and specifications, a copy of which will be maintained on file in the Office of the South Lebanon City Administrator and available to Grantor at all times. Grantee shall, at its expense, promptly return the surface of the Easement Area to its former condition as nearly as is reasonably practicable subject to the rights in this Easement. Once Grantee commences construction of the Improvements, it shall diligently and expeditiously complete such construction. During construction of the Improvements, Grantee shall keep the worksite in neat, clean and orderly condition, and remove from Grantor’s property any

equipment or vehicles required for construction purposes when such equipment or vehicles are no longer being used for the same. Grantee shall take reasonable care to minimize the number of trees and shrubbery cut down in connection with construction of the Improvements.

2. After Grantee's approval and acceptance of the said Improvements, Grantee agrees that upon subsequent entry by Grantee for the purpose of construction, installation, reconstruction, replacement, removal, repair, maintenance and operation of the Improvements, it will at Grantee's expense promptly restore the surface of Grantor's property within the Easement Area to its former condition as nearly as is reasonably practicable. Grantor understands and agrees that restoration of Grantor's property within the Easement Area shall not include repair or replacement of any structures, improvements, fixtures of other tangible items in the Easement Area.

3. The perpetual easement rights granted herein are "non-exclusive". Grantor retains the right to use Grantor's property for all purposes which do not in any manner impair Grantee's use or interfere with the construction, operation, maintenance, repair, removal, replacement or reconstruction of the Improvements or access thereto. Grantor shall not cause or allow any permanent or temporary building, structure, facility, or other improvement to be constructed in or upon the Easement Area, except utility service lines, paved parking, driveways, landscaping and sidewalks. If Grantor makes permanent or temporary improvements in or upon the Easement Area, other than those stated above, then Grantor shall assume full responsibility for any damage or destruction of such improvements by Grantee, and Grantee, its employees, agents, representatives and contractors, shall not be liable for any damage or destruction of such improvements during the good faith exercise of the rights granted herein.

4. Grantor hereby covenants with Grantee to be the true and lawful owner of the above-described real property and lawfully seized of the same in fee simple and having good right and full power to grant this Easement and will not convey or transfer fee simple ownership of the described real property prior to this instrument being recorded, and any subsequent transfers shall be subject to Grantee's rights established herein. Grantor further covenants and warrants to Grantee that this Easement is not subordinate to any mortgages.

5. Upon completion of the improvements on Grantor's property, Grantee shall install a driveway consisting of asphalt concrete at a depth of 3" minimum and a length of approximately 55 lineal feet. The width of the driveway shall match the existing gravel driveway.

6. In addition to the permanent storm water drainage easement, the Grantor grants a temporary construction easement to the Grantee for the construction phase of the project. Upon final approval of the project, this easement will terminate. This temporary easement is described in Exhibit A 2 and illustrated in Exhibit "B" (the "Temporary Construction Easement")

7. Any reference in this instrument to Grantee shall also include its agents, contractors, employees, officials and insurers. All terms and conditions contained herein shall inure to the benefit of and be binding upon the parties and their respective successors and assigns. This Agreement contains the entire agreement between the parties and supersedes all prior written or oral agreements between the parties. No representations, promises, understandings, agreements, or otherwise, not herein contained shall be of any force or effect. No modifications or amendment of any provisions of this Agreement shall be effective unless made by a written instrument executed by all parties. This Agreement shall be construed in accordance with, and the legal relations between the parties shall be governed by, the laws of the State of Ohio as applicable to contracts executed and partially or fully performed in the State of Ohio. The parties further stipulate that the venue for any litigation arising out of this Agreement shall exclusively be the Warren County Court of Common Pleas, and do further knowingly waive any right to initiate or remove any such litigation to any other county, state or federal court.

**[signature pages follow]**

**GRANTOR**

Mackenzie Veith, 590 Pauline Drive, South Lebanon, Warren County, Ohio,  
the Grantor herein, has executed this instrument on the date stated below.

\_\_\_\_\_  
Mackenzie Veith, South Lebanon Warren County,  
Ohio

STATE OF OHIO, COUNTY OF HAMILTON, ss.

**BE IT REMEMBERED**, that on the \_\_\_\_ day of \_\_\_\_\_, 2022, before me,  
the subscriber, a Notary Public, in and for said County and State, personally appeared  
an individual known or proven to me to be Mackenzie Veith, 590 Pauline Drive, South  
Lebanon Warren County, Ohio, whose name is subscribed hereto, and who  
acknowledged the signing and execution of said instrument is his free and voluntary act  
and deed.

[seal]

**Notary Public:** \_\_\_\_\_  
**My Commission Expires:** \_\_\_\_\_

**GRANTEE:**

IN EXECUTION WHEREOF, the City of South Lebanon, Ohio, acting through its City Council, has caused this instrument to be executed by James D. Smith, its Mayor, and Tina Williams its Fiscal Officer, on the date stated below, pursuant to Resolution Number 22- 25 dated 6/16/22.

**CITY OF SOUTH LEBANON, OHIO**

SIGNATURE: James D. Smith  
NAME: James D. Smith

SIGNATURE: Tina Williams  
NAME: Tina Williams

TITLE: Mayor

TITLE: Fiscal Officer

DATE: 6/16/22

DATE: 6/16/22

**STATE OF OHIO, COUNTY OF WARREN, ss.**

BE IT REMEMBERED, on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, before me, the subscriber, a Notary Public in and for said state, personally came an individual or individuals known or proven to be **James D. Smith, Mayor** and **Tina Williams, Fiscal Officer**, of the City of South Lebanon, Ohio, and pursuant to the authority granted to them to act on its behalf pursuant to Resolution Number 22-\_\_\_\_\_, dated \_\_\_\_\_, and while acting in their official capacity, did acknowledge the signing thereof to be their voluntary act and deed.

**Notary Public:** \_\_\_\_\_

[SEAL]

**My Commission Expires:** \_\_\_\_\_

**THIS PREPARED AND APPROVED AS TO FORM BY:**

CITY SOLICITOR  
SOUTH LEBANON, OHIO

SIGNATURE: Andrew Meier  
NAME: Andrew Meier  
TITLE: City Solicitor  
DATE: 6/16/2022