

**CITY OF SOUTH LEBANON, OHIO
RESOLUTION NO. 2022-35**

A RESOLUTION APPROVING AND AUTHORIZING MAYOR AND FISCAL OFFICER TO EXECUTE AN EASEMENT AGREEMENT FOR A PERPETUAL WATERLINE EASEMENT ON THE PROPERTY OWNED BY THE ROBERT & ANITA OEDER FAMILY TRUST, JOANNE PARKER REVOCABLE LIVING TRUST, AND RONALD LEE OEDER REVOCABLE TRUST AGREEMENT (COLLECTIVELY THE "OWNERS") NECESSARY FOR THE CONSTRUCTION OF A PUBLIC WATER MAIN, AND DECLARING AN EMERGENCY

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

WHEREAS, per Resolution No. 2021-10, dated March 18, 2021, the then-Village of South Lebanon entered into an agreement with Warren County to purchase water from the Warren County and to construct a connection point on Zoar Road; and,

WHEREAS, said connection point requires the installation of a master meter in accordance with the Warren County Water & Sewer Department's design specifications; and,

WHEREAS, due to its size and space requirements, the required master meter must be placed outside of the Zoar Road right-of-way; and,

WHEREAS, the Owners collectively desire to grant the City a perpetual Waterline 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 waterline 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.

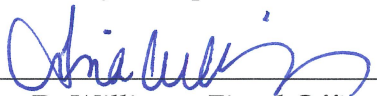
Section 3. Authorizing the Fiscal Officer to pay the recordation costs to record the Easement Agreement in the Warren County Recorder’s Office.

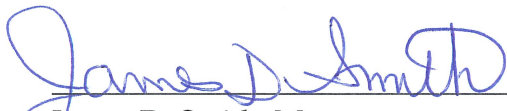
Section 5. That the recitals contained within the Whereas Clauses set forth above are incorporated by reference herein.

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 1st day of September, 2022.

Attest: 
Petrina D. Williams, Fiscal Officer/Clerk


James D. Smith, Mayor

Rules Suspended: <u>9/1/22</u> (if applicable)	Effective Date - <u>9/1/22</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:

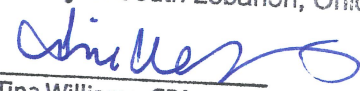
ANDREW P. MEIER
CITY SOLICITOR
SOUTH LEBANON, OHIO

By:  _____

Date: 9/1/2022

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

9/2/22 
Date Tina Williams, CPA
Fiscal Officer
City of South Lebanon, Ohio

EASEMENT AND AGREEMENT

(Water Line and Appurtenances)

Robert & Anita Oeder Family Trust, Anita Oeder Successor Trustee of per Doc# 2022-015538, 401 Neil Armstrong Way, #45 Lebanon, Ohio 45036, (1/3 INT) & Joanne Parker Revocable Living Trust dated December 6, 1997, Joanne Parker, Trustee, 8807 S. State Route 134, Martinsville, Ohio 45146, (1/3 INT) and Ronald Lee Oeder Revocable Trust Agreement dated September 20, 2004, as amended, Ronald Lee Oeder, Trustee, 2581 Stubbs Mill Road, Lebanon, Ohio 45036, (1/3 INT, ("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" 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 water utility line and related apparatus and appurtenances thereto (the "Improvements"), for the public purpose and necessity of extending an underground water 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 water 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. The Grantee agrees to extend the Grantee's public water main to the current driveway access (also referred to as the "Farm Lane") for the property at 5274 Zoar Road, Morrow, Ohio. Upon completion of all improvements and annexation to the City of the subject property, the Grantee will permit the Grantor one (1) complimentary connection to the Grantee's water system for the property at 5366 Zoar Road, Morrow, Ohio. The improvements are to be completed by June 1, 2023, unless mutually agreed to by both parties.

6. 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

Robert & Anita Oeder Family Trust, Warren County, Ohio, the Grantor herein, has executed this instrument on the date stated below.

Anita Oeder Trustee
Anita Oeder, Trustee

STATE OF OHIO, COUNTY OF WARREN, ss.

BE IT REMEMBERED, that on the 23 day of August, 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 Anita Oeder, 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]  KIMBERLY SABELHAUS
Notary Public
State of Ohio
My Comm. Expires
October 18, 2025


Notary Public: Kimberly Sabelhaus
My Commission Expires: Oct 18, 2025

Joanne Parker Revocable Living Trust, Warren County, Ohio, the Grantor herein, has executed this instrument on the date stated below.

Joanne Parker Trustee
Joanne Parker, Trustee

STATE OF OHIO, COUNTY OF WARREN, ss.

BE IT REMEMBERED, that on the 23 day of August, 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 Joanne Parker, 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]  KIMBERLY SABELHAUS
Notary Public
State of Ohio
My Comm. Expires
October 18, 2025

Notary Public: Kimberly Sabelhaus
My Commission Expires: Oct 18, 2025

Ronald Lee Oeder Revocable Trust Agreement, Warren County, Ohio, the Grantor herein, has executed this instrument on the date stated below.

Ronald Lee Oeder, trustee
Ronald Lee Oeder, Trustee

STATE OF OHIO, COUNTY OF WARREN, ss.

BE IT REMEMBERED, that on the 23 day of August, 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 Ronald Oeder, 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]



KIMBERLY SABELHAUS
Notary Public
State of Ohio
My Comm. Expires
October 18, 2025

Notary Public: Kimberly Sabelhaus
My Commission Expires: Oct 18, 2025

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 Petrina D. Williams, its Fiscal Officer, on the date stated below, pursuant to Resolution Number 22- 35 dated 9/1/22.

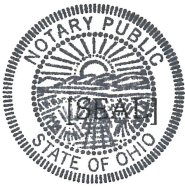
CITY OF SOUTH LEBANON, OHIO

SIGNATURE: James D. Smith
NAME: James D. Smith
TITLE: Mayor
DATE: 9/1/2022

SIGNATURE: Petrina Williams
NAME: Petrina D. Williams
TITLE: Fiscal Officer
DATE: 9/1/22

STATE OF OHIO, COUNTY OF WARREN, ss.

BE IT REMEMBERED, on this 1st day of September, 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 **Petrina D. 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- 35 dated 09-01-22, and while acting in their official capacity, did acknowledge the signing thereof to be their voluntary act and deed.



Amy Butler
Notary Public, State of Ohio
My Commission expires July 18, 2026
Notary Public: [Signature]
My Commission Expires: 07-18-2026

THIS PREPARED AND
APPROVED AS TO FORM BY:

ANDREW P. MEIER
CITY SOLICITOR
SOUTH LEBANON, OHIO

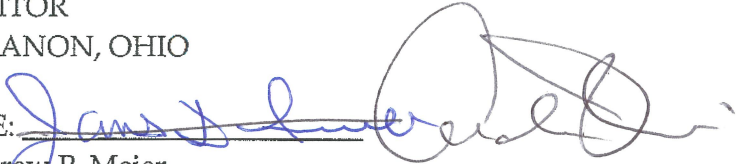
SIGNATURE: 
NAME: Andrew P. Meier
TITLE: City Solicitor
DATE: 9/1/2022

Exhibit "A"

DESCRIPTION FOR: **Zoar Road, 20' Water Main Easement**
0.0321 Acres

LOCATION: **Oeder Property, Zoar Road**
Hamilton Township, Warren County, Ohio

Situate in Military Survey Number 1546, Virginia Military District, Hamilton Township, Warren County, Ohio, being part of the 9.889 acre lands conveyed to Anita Oeder successor Trustee of the Robert and Anita Oeder Family Trust in Document Number 2022-015538, Joanne Parker Trustee of the Joanne Parker Revocable Living Trust Dated December 6, 1997 in Document Number 2022-008177, and Ronald Lee Oeder, Trustee of the Ronald Lee Oeder Revocable Trust Agreement dated September 20, 2004 as amended, in Document Number 2019-024080 and being more particularly described as follows:

BEGINNING at a point in the east line of The Villages at Rivers Bend Grants Frederick Section 2, Block "A" recorded in Plat Book 96, Pages 72-73, also being the west line of said 9.889 acre lands, said point lying, with said east and west lines South 07°27'20" West, 102.55 feet from the southeast corner of Lot 69 of said Villages at Rivers Bend;

Thence through the lands of the grantor herein South 82°23'32" East, 70.00 feet and South 07°27'20" West, 20.00 feet to a point in the north Right of Way line of Zoar Road (54' Right of Way, Warren County Right of Way Worksheet for Zoar Road #153 and Survey Record 7, Pages 217 and 218);

Thence with said north Right of Way line North 82°23'32" West, 70.00 feet to a point in aforesaid east and west lines;

Thence with said east and west lines North 07°27'20" East, 20.00 feet to the point of BEGINNING.

The above described being a 20 feet wide water main easement for the construction, maintenance, repair, and/or replacement of a water main and it's appurtenances.

Containing 0.0321 acres of land.

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

All records being of the Warren County, Ohio Recorder's Office.

Bearings are based on the Ohio State Plane Coordinate System, South Zone, NAD83 (2011), 2010.0 Epoch.

The above description is the result of an easement plat prepared by McGill Smith Punshon, Inc. under the direction of Richard D. Nichols, P.S. No. 7929, dated April 14, 2022.

Prepared by: McGill Smith Punshon, Inc.
Date: August 10, 2022
MSP No.: 06308.22

06308223-LEG-00-Oeder(Parker)-0.0321ac

BEARINGS ARE BASED ON THE OHIO STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD83 (2011), 2010.0 EPOCH.

LINE TABLE		
Line #	BEARING	LENGTH
L1	S82°23'32"E	70.00'
L2	S07°27'20"W	20.00'
L3	N82°23'32"W	70.00'
L4	N07°27'20"E	20.00'

ANITA OEDER SUCCESSOR TRUSTEE OF ROBERT & ANITA OEDER FAMILY TRUST, (1/3 INT) D.N. 2022-015538
 REVOCABLE LIVING TRUST OF JOANNE PARKER (1/3 INT) D.N. 2022-008177
 RONALD LEE OEDER, TRUSTEE OF RONALD LEE OEDER SEPTEMBER 20, 2004 AS AMENDED (1/3 INT) D.N. 2019-024080
 TRACT 1 9.889 ACRES REMAINING PER DEED S.R. 146-70 S.R. 57-88

EASEMENT PLAT OEDER PROPERTY ZOAR ROAD WATER MAIN

MILITARY SURVEY
 NUMBER 1546,
 VIRGINIA MILITARY DISTRICT,
 HAMILTON TOWNSHIP,
 WARREN COUNTY, OHIO

MSP
 D E S I G N
 McGill Smith Punshon

- Architecture
- Engineering
- Landscaping Architecture
- Planning
- Surveying

3700 Park 42 Drive
 Suite 1308
 Cincinnati OH 45241
 Phone 513.951.0804
 www.mspdesign.com

Date	rev. 08-10-2022
Scale	04-14-2022 1"=50'
Drawn By	BKW
Proj. Mgr.	RA
Survey Database	06308.12
DWG	06308223-EAS-00
X-Ref(s)	N/A
Project Number	06308.22
File No.	06308.22
Sheet No.	1/1

