

VILLAGE OF SOUTH LEBANON, OHIO
RESOLUTION NO. 2015-19

**A RESOLUTION APPROVING AND FURTHER AUTHORIZING THE MAYOR
AND FISCAL OFFICER TO EXECUTE A WHOLESALE WATER AND SANITARY
SEWER SERVICE AGREEMENT WITH WARREN COUNTY RELATING TO THE
CEDARS OF RIVER'S BEND APARTMENT COMPLEX AND HIGHLAND PARK
SUBDIVISION**

WHEREAS, the Village of South Lebanon designed and constructed a water booster pump station near the intersection of Lebanon and Zoar Roads to serve the Cedars at River's Bend Apartment Complex, and upon its start-up in 2005 discovered that the water distribution system lacked sufficient capacity to allow successful operation of the station; and

WHEREAS, at the request of the Village, the Warren County Commissioners agreed to provide wholesale water service to the Village for the Cedar's at River's Bend Apartment Complex at the same rate charged other Warren County customers, subject to the wholesale water service being on a permanent basis, and the Village providing public sanitary sewer service to Highland Park Subdivision in Union Township without annexation, and at the same rate as other Village customers, should Highland Park be improved with public sanitary sewers in the future; and,

WHEREAS, Warren County began providing wholesale water service to the Village for the Cedar's at River's Bend Apartment Complex in 2005, and such service continues to date; and

WHEREAS, no public sanitary sewers have been constructed in the Highland Park Subdivision to date; and

WHEREAS, recently Warren County reaffirmed its commitment to provide permanent wholesale water service to the Village for the Cedars at River's Bend Apartment Complex subject to the aforementioned conditions and the agreement being confirmed in writing, thus enabling the Village to forgo costly capital improvements to its distribution system; and,

WHEREAS, the Village Council desires to enter into a Wholesale Water and Sanitary Sewer Service Agreement with Warren County.

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

Section 1. That the Council approves and authorizes the Mayor and Fiscal Officer to execute the Wholesale Water and Sanitary Sewer Service Agreement attached hereto.

Section 2. That the Council is acting in its administrative capacity in adopting this Resolution.

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

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 day of June, 2015.

Attest: Sharon Louallen Lionel H. Lawhorn
Sharon Louallen, Fiscal Officer/Clerk Lionel Harold Lawhorn, Mayor

Rules Suspended: / /2015 (if applicable)	Effective Date - / /2015
Vote - ___ Yeas ___ Nays	
First Reading - 6/8/2015	Effective Date - / /2015
Second Reading - 7/2/2015	
Third Reading - 7/14/2015	
Vote - ___ Yeas ___ Nays	

Prepared by and approved as to form:


BRUCE A. MCGARY
VILLAGE SOLICITOR
SOUTH LEBANON, OHIO

By: 
Date: 7/16/2015

CERTIFICATE OF POSTING

I, Sharon Louallen, Fiscal Officer of the Village 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 Village as authorized by Section 731.25 of the Ohio Revised Code and Ordinance 98-08 of Village of South Lebanon, Ohio.

7-17-15
Date


Sharon Louallen
Fiscal Officer
Village of South Lebanon,
Ohio

**WARREN COUNTY & VILLAGE OF SOUTH LEBANON
WHOLESALE WATER & SANITARY SEWER SERVICE AGREEMENT**

THIS AGREEMENT is entered by and between the Board of County Commissioners of WARREN COUNTY, Ohio, a county organized and existing under the laws of the State of Ohio (hereinafter referred to as the "COUNTY"), and the VILLAGE OF SOUTH LEBANON, a municipal corporation organized and existing under the laws of the State of Ohio (hereinafter referred to as the "VILLAGE"), and shall be effective immediately upon execution by all the parties.

WITNESSETH:

WHEREAS, the COUNTY's Water and Sewer Department is a regional water supplier capable of supplying water to surrounding communities and jurisdictions; and

WHEREAS, the VILLAGE provides sanitary sewer service to residents inside the VILLAGE corporation limits, and the powers enumerated in ORC §§ 715.40 and 717.01 (J), et seq. enables the VILLAGE to acquire and contract for the acquisition of extra-territorial sewer facilities outside its corporate limits; and

WHEREAS, in 2004, the VILLAGE approved the construction and development of a nine building, 172 unit multifamily apartment complex on 11.92 acres known as the Cedars of River's Bend (hereinafter referred to as the "CEDARS") located on Lebanon Road with the intention of providing water and sanitary sewer service to the CEDARS; and

WHEREAS, in 2004, the VILLAGE requested the COUNTY provide wholesale water service to the VILLAGE to serve the CEDARS, and the COUNTY by letter dated May 27, 2004, notified the VILLAGE that the COUNTY had no intention of selling water to the VILLAGE for purposes of serving the CEDARS; and,

WHEREAS, in 2005, the VILLAGE designed and constructed a water booster pump station near the intersection of Lebanon and Zoar Roads to serve the CEDARS and upon its start-up discovered that the VILLAGE'S water distribution system lacked sufficient capacity to allow successful operation of the station; and

WHEREAS, in June 2005, the COUNTY completed an engineering study confirming that the COUNTY's distribution system had sufficient size and capacity to provide domestic water service and fire protection to the CEDARS; and

WHEREAS, on August 9, 2005, during a public work session, at the request of the VILLAGE, the COUNTY verbally agreed that the COUNTY will provide wholesale water service to the CEDARS at the same rate the COUNTY charges its other customers, on the conditions that the wholesale water service be on a permanent basis, and that the VILLAGE provide public sanitary sewer service to Highland Park Subdivision located in unincorporated Union Township (hereinafter designated as "Highland Park") without annexation and at the same rate as other VILLAGE residents should Highland Park be improved with public sanitary sewers in the future; and

WHEREAS, the COUNTY began providing wholesale water service to the VILLAGE in 2005 and such service continues to date; and

WHEREAS, to date no public sanitary sewers have been constructed in HIGHLAND PARK; and

WHEREAS, on April 14, 2015, during a public work session with the VILLAGE, the COUNTY reaffirmed its commitment to provide permanent wholesale water service to the CEDARS subject to the same conditions with such agreement being confirmed in writing, thus enabling the VILLAGE to forgo costly capital improvements to its distribution system.

NOW, THEREFORE, in consideration of the promises and the mutual covenants set forth herein, the COUNTY and the VILLAGE, hereby agree as follows:

1. **PURPOSE**

a. The purpose of this AGREEMENT is to set forth in writing the terms and conditions under which the COUNTY will provide wholesale water to the VILLAGE for the purposes of providing water service to the CEDARS, and the VILLAGE will provide sanitary sewer service to HIGHLAND PARK.

2. **WATER SERVICE**

- a. **Wholesale Water Service** The COUNTY will sell water to the VILLAGE at the COUNTY'S retail water rate as established by the Board of County Commissioners, and as periodically modified by the Board.
- b. **Service Area** The wholesale water service shall be limited to the 11.92 acre development known as the Cedar's of Rivers Bend and identified as Warren County Parcel No. 12-01-453-005-0, having an address of 3885 Cross Key Dr., South Lebanon, Ohio 45065 (off Lebanon Rd.), as shown in **Exhibit A**.
- c. **Tap Fees** The COUNTY shall waive all tap fees associated with water service to the CEDARS.
- d. **Existing Interconnect** The existing metered interconnection between the VILLAGE and COUNTY water systems located near 518 S. Main Street, South Lebanon shall remain closed except during emergencies. The water meter to the CEDARS is located on the COUNTY'S side of the interconnection.
- e. **Meter Reading and Maintenance** The COUNTY and VILLAGE shall both have access and the authority to read the water meter serving the CEDARS. Both entities shall have the authority to repair, replace, monitor, modify, and test the meter. Work performed on the meter shall be coordinated between both parties with the cost of the work shared equally by both parties.
- f. **Invoicing** The COUNTY shall read the meter serving the CEDARS according to its reading schedule and invoice the VILLAGE for water usage based on the meter readings. The VILLAGE shall invoice the

CEDARS for water service. The VILLAGE shall be responsible for payment of the water bill, including any penalties for late payment, as are all other customers in the COUNTY in accordance with the Rules and Regulations of the COUNTY Water and Sewer Department.

- g. Fees and Charges The COUNTY agrees to furnish water to the VILLAGE during calendar year 2015 at the rate of \$3.69 per 1,000 gallons of water registered on the CEDAR's meter. For the remaining term of the agreement, whenever the COUNTY modifies the fee(s) for water service to customers within the COUNTY, the fee(s) for the VILLAGE shall be modified by the equal or lesser percentage, with said rate not to exceed the Village of South Lebanon's current water user rate.

3. SEWER SERVICE

- a. Service Area In the event the COUNTY and the residents of HIGHLAND PARK desire that HIGHLAND PARK should be improved with public sanitary sewers in the future, and the COUNTY consents to and OKI and/or the Ohio EPA amends the Water Quality Management 208 PLANNING AREA to allow HIGHLAND PARK to be served by the VILLAGE, and public sanitary sewers are constructed per the terms provided in paragraph 3 (b), the VILLAGE shall provide sanitary sewer service to HIGHLAND PARK as shown in **Exhibit B**, without requiring the property owners to annex to the VILLAGE, or execution of a pre-annexation agreement.
- b. Sewer Construction The engineering, design, and construction cost for centralized sewers in HIGHLAND PARK shall not be the responsibility of the VILLAGE and shall be borne by the COUNTY, property owners, or other entity. The improvements shall be constructed in accordance with the VILLAGE's standards, inspected by the VILLAGE, and upon approval and release of all maintenance bonds shall be owned, operated, and maintained by the VILLAGE.
- c. Retail Sewer Service At such time sewers are constructed within the Highland Park Subdivision, the VILLAGE shall provide retail sewer service to HIGHLAND PARK and shall bill residents for sewer service based on water usage, with such charges included in their water bill.
- d. Sewer Connection Fees Sewer Connection Fees shall be paid to the VILLAGE when properties within HIGHLAND PARK connect to the VILLAGE sewers. Sewer Connection Fees collected by the Village for HIGHLAND PARK shall be the same as fees charged to customers in the VILLAGE.
- e. Sewer User Fees The VILLAGE shall charge customers within HIGHLAND PARK for sewer service at the same rate charged customers in the VILLAGE. The VILLAGE shall be responsible for collecting payment of the charges, including any penalties for late payment as are

all customers in the VILLAGE in accordance with the Rules and Regulations of the VILLAGE.

- f. Redevelopment The terms and conditions of this Agreement only apply to the existing HIGHLAND PARK subdivision and shall not apply to properties in HIGHLAND PARK that in the future are redeveloped under new subdivision approval.
- g. Treatment Capacity Upon the extension of sewer service to HIGHLAND PARK, the COUNTY shall assign its 50,000 gallons of reserve capacity in the Lebanon Wastewater Treatment Plant to the VILLAGE. This reserve capacity was retained by the COUNTY under the 2005 Novation agreement entered into by the COUNTY, VILLAGE, and City of Lebanon.

4. **AGREEMENT TERMINATION**

This Agreement may only be terminated with a three (3) year notice and by the consensus of both parties, in writing.

5. **ENTIRE AGREEMENT**

- a. This Agreement sets forth the entire agreement between the COUNTY and the VILLAGE for the COUNTY to deliver water to the VILLAGE for service to the CEDARS and all previous agreements for delivery of water for the CEDARS as provided for herein have expired and are no longer controlling the relationship between the parties.
- b. Changes to this Agreement shall be by negotiation upon request of either the VILLAGE or the COUNTY.

COUNTY:

IN EXECUTION WHEREOF, the BOARD OF COUNTY COMMISSIONERS of Warren County, Ohio has caused this Agreement to be executed by its President or Vice-President, on the date stated below, pursuant to Resolution No. 15-1252 dated August 11, 2015

**BOARD OF COUNTY COMMISSIONERS
OF WARREN COUNTY, OHIO**

SIGNATURE: _____

PRINTED NAME: David G. Young

TITLE: President

DATE: 8-11-15

Approved as to form:

KEITH ANDERSON
PROSECUTING ATTORNEY
WARREN COUNTY, OHIO



By: KEITH ANDERSON, Asst. Prosecutor
DATE: 8-4-15

VILLAGE:

IN EXECUTION WHEREOF, the Village Council of the Village of South Lebanon, has caused this Agreement to be executed by its Mayor and Fiscal Officer, on the date stated below, pursuant to Resolution Number _____, a copy of which is attached hereto.


SIGNATURE: 

PRINTED NAME: Sharon Louallen

TITLE: Fiscal Officer

DATE: 7-26-15

VILLAGE OF SOUTH LEBANON

SIGNATURE: 

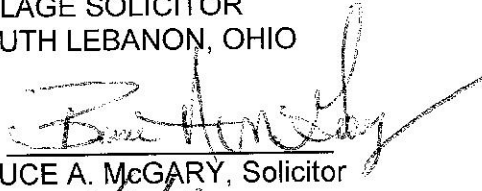
PRINTED NAME: Lionel Harold Lawhorn

TITLE: Mayor

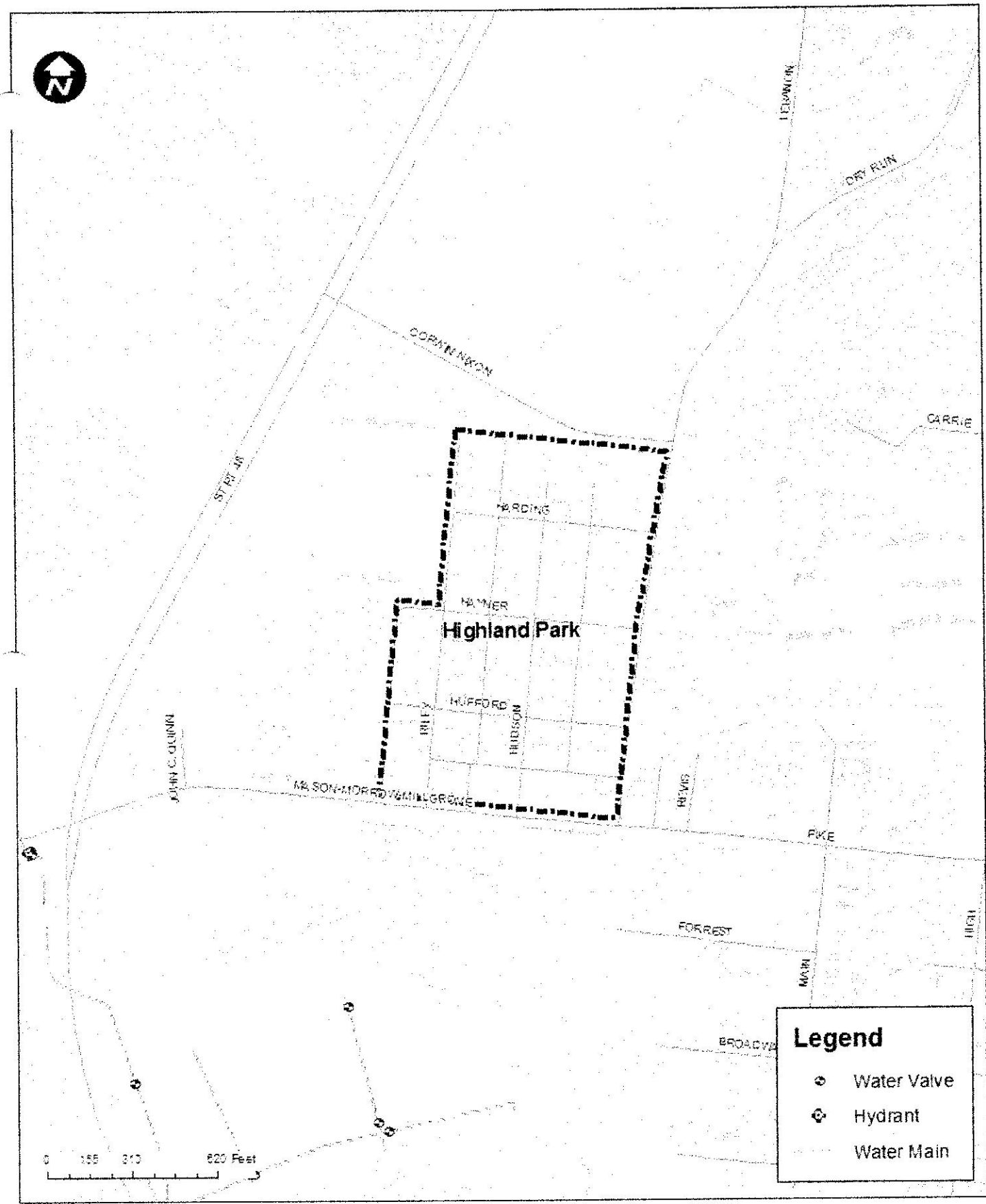
DATE: 7/20/15

Approved as to form:

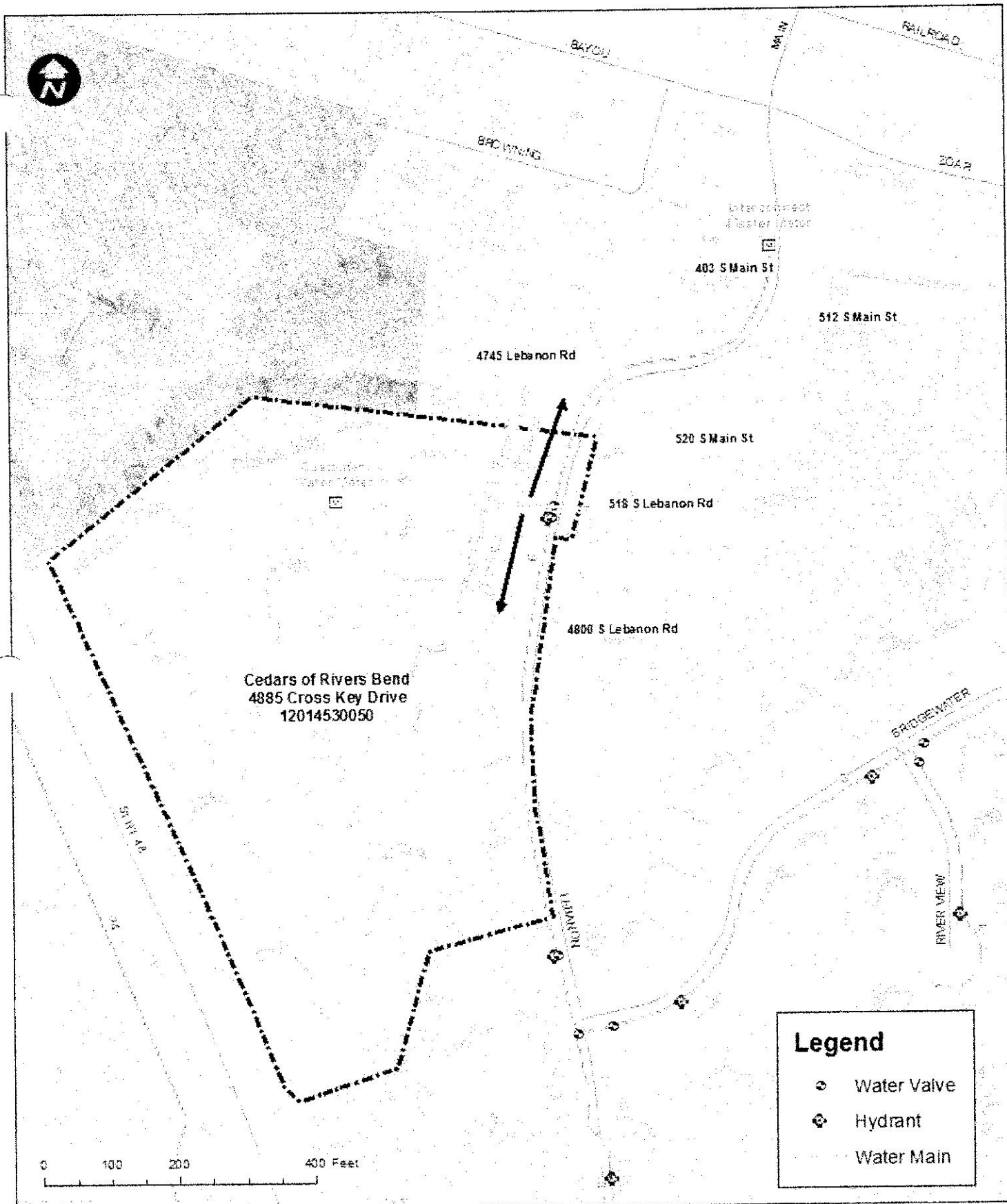
VILLAGE SOLICITOR
SOUTH LEBANON, OHIO

By: 
BRUCE A. MCGARY, Solicitor

DATE: 7/30/15



**EXHIBIT B
HIGHLAND PARK DEVELOPMENT**



**EXHIBIT A
CEDARS OF RIVERS BEND**