

**VILLAGE OF SOUTH LEBANON, OHIO  
RESOLUTION NO. 2018-11**

**A RESOLUTION APPROVING AND FURTHER AUTHORIZING THE MAYOR  
AND FISCAL OFFICER TO EXECUTE A WATER SERVICE AGREEMENT WITH  
WARREN COUNTY RELATING TO THE TURTLECREEK ROAD AREA**

**WHEREAS**, the Village has received a request from Siteworx, LLC for water service to a planned office/warehouse facility for their business on Turtlecreek Road; and

**WHEREAS**, the Village does not currently provide water service to the area shown on Exhibit A of the Agreement; and,

**WHEREAS**, it is not feasible to extend water service along Turtlecreek Road due to the existing large water mains owned by Greater Cincinnati Water Works and the Warren County Board of Commissioners; and

**WHEREAS**, the County is willing to extend water service to the area shown on Exhibit A; and

**WHEREAS**, the Village Council desires to enter into a Water Service Agreement with Warren County.

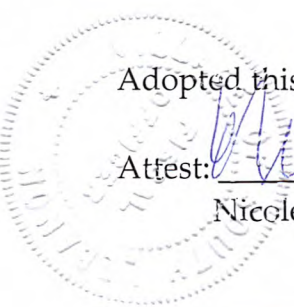
**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Village of South Lebanon, Ohio, at least a majority of all members elected thereto concurring:

**Section 1.** That the Council approves and authorizes the Mayor and Fiscal Officer to execute the Water 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 15<sup>th</sup> day of March, 2018.

Attest: Nicole Armstrong  
Nicole Armstrong, Fiscal Officer/Clerk

James D. Smith  
James D. Smith, Mayor

Rules Suspended: / /2018 (if applicable)	Effective Date – / /2018
Vote - ___ Yeas ___ Nays	
First Reading - <u>2/15</u> /2018	Effective Date – / /2018
Second Reading - <u>3/1</u> /2018	
Third Reading - <u>3/15</u> /2018	
Vote - <u>6</u> Yeas ___ Nays	

Prepared by and approved as to form:

PAUL R. REVELSON  
VILLAGE SOLICITOR  
SOUTH LEBANON, OHIO

By: [Signature]  
Date: 3/15/2018

**CERTIFICATE OF POSTING**  
 I, Nicole Armstrong, 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.

3/16/18      [Signature]  
 Date                      Nicole Armstrong  
                                  Fiscal Officer  
                                  Village of South Lebanon,  
                                  Ohio

## WATER SERVICE AGREEMENT

This WATER SERVICE AGREEMENT (hereinafter, the "Agreement") is entered into on the date stated below by and between the SOUTH LEBANON VILLAGE COUNCIL, acting on behalf of the VILLAGE OF SOUTH LEBANON, an Ohio municipal corporation operating under a statutory scheme of municipal government in accordance with Chapter 731.09, et seq., of the Revised Code, 99 North High Street, South Lebanon, Ohio 45036 (hereinafter "South Lebanon") and the WARREN COUNTY BOARD OF COMMISSIONERS, an Ohio political subdivision operating under a statutory scheme of County government in accordance with Chapter 305, et seq., of the Revised Code, 406 Justice Drive, Lebanon, Ohio 45036 (hereinafter, the "County").

### WITNESSETH:

WHEREAS, South Lebanon has received a request for water service from Site Worx LLC, an Ohio limited liability company (hereinafter, "Site Worx") to serve its proposed corporate office and warehouse facility site located in the corporate limits of South Lebanon, Warren County, Ohio (the "Site Worx site"); and,

WHEREAS, the water main owned by South Lebanon in closest proximity to the Site Worx site is approximately 1,900 feet from the Site Worx site; and,

WHEREAS, in addition to the Site Worx site, there are additional properties, identified in Table 1 below, within the corporate limits of South Lebanon along Turtlecreek Road without the ability to connect to a South Lebanon owned water main; and

WHEREAS, a suitable water main owned and operated exclusively by the County to provide water service is readily available to the properties identified in Table 1 below that are located along Turtlecreek Road; and,

WHEREAS, the County is willing to extend its water main into the corporate limits of South Lebanon to serve the Site Worx site, as long as South Lebanon releases all of the properties identified in Table 1 below and transfers the exclusive rights to the County to be the sole water service provider for all such properties in perpetuity; and,

WHEREAS, South Lebanon desires to release and transfer to the County the exclusive rights for the County to be the sole water service provider in perpetuity to all of the properties identified in Table 1 below, regardless of whether the acreage of each parcel remains unchanged or are split and/or subdivided and/or consolidated and/or platted and/or replatted in to multiple parcels or lots in the future.

NOW, THEREFORE, in consideration of the promises and the mutual covenants set forth herein, the County and South Lebanon, hereby agree as follows:

1) This Agreement hereby creates an area shall be known for all purposes herein as the County Retail Water Service Area as illustrated in the attached Exhibit "A" incorporated herein and made a part hereof, which consists of the entire acreage of the parcels identified in Table 1:

**TABLE 1**  
**County Retail Water Service Area**  
**Village of South Lebanon, Warren County**

Parcel ID	Account No.	Owner	Acreage
12-08-478-001	6804986	Site Worx LLC, an Ohio limited liability company	14.468
12-08-478-013	6803262	Oeder & Son's Garage Inc.,	0.277
12-02-351-002	6803459	Oeder Holdings, LLC, an Ohio limited liability company	25.7834
12-01-102-001	6801294	The Village of South Lebanon	5.001
TOTAL			45.5294

(2) South Lebanon hereby releases and transfers all of its exclusive rights and responsibilities to serve as the water service provider in accordance with Ohio Revised Code §6103.03 et seq. to the County, and the County shall be the sole and exclusive Retail Water Service Provider, in perpetuity, in the Retail Water Service Areas illustrated in Exhibit "A" consisting of the entire acreage of the properties identified in Table 1 above (regardless of whether the acreage of each parcel remains unchanged or is split and/or subdivided and/or consolidated and/or platted and/or replatted in to multiple parcels or lots in the future).

(3) The County shall not provide water service to any other properties within South Lebanon's service area, not already subject to a separate written agreement between the parties, without South Lebanon's written approval.

4) Within the area released to the County for retail water service, the County shall own, operate, and maintain the water mains, and be solely responsible therefor. Service to the properties shall be in accordance with County rules, regulations, and standards applicable to such service, including without limitation those providing for the provision of water service outside County boundaries, as such rules, regulations and standards may be modified or amended from time to time. Water service customers within the area released will be required to install and maintain redundant pressure reducing valves within five feet after the County owned meter. All costs and responsibility of pressure reducing valves will be those of the property owner.

5) The Tap-In fees and water user rates charged to customers shall be collected and paid to the County as established by the County, as set forth in the County's applicable fee schedules. These fees and user rate schedules shall be subject to adjustment as determined by the County.

6) South Lebanon agrees to issue required permits and allow the County to work within any right of way of Turtlecreek Road that may be in the corporate limits of South Lebanon, without paying fees or costs, if such work relates to the construction, operation, repair and maintenance of the County's water main and appurtenant apparatus used in the provision of water service in the County Water Service Area. The County shall be responsible for obtaining

required permits from the County Engineer for any area of the right of way of Turtlecreek Road located outside the corporate limits of South Lebanon.

7) Miscellaneous.

- a) Definition. Retail water service shall be defined to mean that all of the owners and occupants in the County Water Service Area illustrated in Exhibit A who shall receive their exclusive water supply from the County, and such owners and occupants shall be the exclusive retail customers of the County whose consumption shall be billed directly by the County, and such owners and occupants shall pay the tap-in fees and their water consumption bills directly to the County, and they shall strictly comply with the Rules and Regulations of the Warren County Water and Sewer Department in effect at the time the parties execute this Agreement, and as may be amended thereafter. See [www.co.warren.oh.us/water/rules.pdf](http://www.co.warren.oh.us/water/rules.pdf).
- b) Consideration. The parties stipulate that there is mutual benefit and consideration provided and received by virtue of the terms and conditions of this Agreement.
- c) Binding Effect. This Agreement shall run with the land and shall be binding and enforceable upon the parties and their successors and permitted assigns.
- d) Assignment. This Agreement shall not be assignable by any of the parties hereto without the written consent of the other party.
- e) Waiver. Neither any failure nor any delay by any party in exercising any right under this Agreement or any amendment thereto will operate as a waiver of such right, and any waiver of a right must be in writing. Any waiver of a particular default, specific right or remedy, or any single or partial exercise of any right will preclude any other or further exercise of such right or any other right.
- f) Partial Invalidity. Wherever possible, each provision hereof shall be interpreted in such manner as to be effective and valid under applicable law, but in case any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein unless the deletion of such provision or provisions would render the completion of the transactions contemplated hereby to be unreasonable.
- g) Integration of Agreement. This Agreement supersedes all prior agreements, oral and written, between the parties with respect to the subject matter thereunder. Neither this Agreement, nor any provision hereof, may be changed, waived, discharged, supplemented or terminated orally, but only by an agreement in writing signed by all of the parties hereto.

- h) Governing Law and Venue. This Agreement shall be construed under the laws of the State of Ohio. By agreement of the parties, the venue for any and all claims, disputes, interpretations and litigation of any kind arising out of or related thereto in any way to this Agreement shall exclusively be in the Warren County, Ohio Court of Common Pleas (unless both parties mutually agree in writing to alternate dispute resolution), and the parties hereby waive any right to bring or remove such matters in or to any other state or federal court.

**SOUTH LEBANON:**

**IN EXECUTION WHEREOF**, the South Lebanon Village Council, has caused this Agreement to be executed by James D. Smith, its Mayor, and Nicole Armstrong, its Fiscal Officer, in accordance with section 731.14 of the Revised Code, on the date stated below, pursuant to the accompanying Resolution Number 2018-11, dated 3-15-18 authorizing this Agreement and the said public officials to execute the Agreement on its behalf.

**VILLAGE OF SOUTH LEBANON**

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

TITLE: Mayor

DATE: 3/15/18

SIGNATURE: Nicole Armstrong  
NAME: Nicole Armstrong

TITLE: Fiscal Officer

DATE: 3/15/18

Approved as to form:

PAUL R. REVELSON  
VILLAGE SOLICITOR  
VILLAGE OF SOUTH LEBANON, OHIO

Paul R. Revelson

Date: 3/15/18

**COUNTY:**

**IN EXECUTION WHEREOF**, the Warren County Board of Commissioners has caused this Agreement to be executed by \_\_\_\_\_, its President or Vice-President, on the date stated below, pursuant to Board Resolution No. \_\_\_\_\_, dated \_\_\_\_\_ authorizing this Agreement and the said public officials to act on its behalf.

**WARREN COUNTY BOARD OF  
COMMISSIONERS**

SIGNATURE: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

Approved as to form:

DAVID P. FORNSHELL  
PROSECUTING ATTORNEY  
WARREN COUNTY, OHIO

\_\_\_\_\_  
By: Bruce McGary, Asst. Prosecutor  
Date: \_\_\_\_\_

**EXHIBIT A**  
**COUNTY RETAIL WATER SERVICE AREA**  
South Lebanon, Warren County

