

## **ORDINANCE NO. 2016-16**

**AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOT TO EXCEED \$6,200,000 OF TAX INCREMENT REVENUE BONDS, SERIES 2016 (RIVERSIDE PROJECT) OF THE VILLAGE OF SOUTH LEBANON, OHIO, UNDER SECTION 5709.40 ET SEQ. OF THE OHIO REVISED CODE FOR THE PURPOSE OF PAYING THE COST OF CERTAIN PUBLIC INFRASTRUCTURE IMPROVEMENTS; AUTHORIZING A PLEDGE OF AND LIEN ON CERTAIN REVENUES TO SECURE SUCH BONDS; AUTHORIZING A PAYING AGENT AGREEMENT; AUTHORIZING A BOND PURCHASE AGREEMENT; AUTHORIZING A TAX REGULATORY AGREEMENT; AND DECLARING AN EMERGENCY.**

**WHEREAS**, Section 5709.40 et seq. of the Ohio Revised Code (the "Act") authorizes the issuance of Bonds payable from service payments in lieu of taxes to pay the costs of infrastructure improvements; and

**WHEREAS**, pursuant to the Act and Ordinance No. 2005-16, the Council of the Village of South Lebanon, Ohio (the "Village") the Council of the Village has created Tax Incentive District Number 1 (the "TIF District"); and

**WHEREAS**, the Village and Lebanon Mason, LLC (together with its successors and assigns, the "Owner") subsequently entered into an Amended and Restated Infrastructure Agreement dated as of October 1, 2016 (as amended from time to time, the "Infrastructure Agreement"), which is incorporated by reference into this ordinance (hereinafter, this "Ordinance"); unless otherwise defined herein, all capitalized terms used herein shall have the respective meanings ascribed to such by the Infrastructure Agreement and the Service Agreement (as hereinafter defined);

**WHEREAS**, pursuant to the Infrastructure Agreement, the Owner has agreed to construct certain public improvements (as more particularly described in the Infrastructure Agreement, the "Public Improvements") that are needed to facilitate the development of the parcels of real property located within the TIF District, as further described on Exhibit A attached hereto (the "Property"), and the Village has agreed to issue TIF Obligations to pay the Purchase Price for a portion of the Costs of Work paid by the Owner in connection with the construction of the Public Improvements;

**WHEREAS**, to pay the Purchase Price of a portion of the Costs of Work, the Developer has requested the Village to issue TIF Obligations consisting of tax increment financing Bonds (the "Series 2016 Bonds"); and

**WHEREAS**, consistent with its obligations under the Infrastructure Agreement, the Village desires to authorize the issuance of the Series 2016 Bonds, and to further authorize the Paying Agent Agreement (as hereafter defined), the Bond Purchase Agreement (as hereafter

defined), the Tax Regulatory Agreement (as hereinafter defined) and appurtenant certificates and documents necessary for the issuance of the Series 2016 Bonds, and to provide for the security of such Series 2016 Bonds;

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

**SECTION 1. Definitions.** When used in this Ordinance:

“Act” means Section 5709.40 et seq. of the Ohio Revised Code.

“Bond Account” means the account established in Section 7 hereof

“Bond Purchase Agreement” means an agreement between the Village and the Original Purchaser effecting the sale of the Series 2016 Bonds to the Original Purchaser.

“Certificate of Award” means the Certificate executed by the Fiscal Officer setting forth any terms relating to the issuance of the Series 2016 Bonds which are not specified in this Ordinance.

“Code” means the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

“Cost of Issuance Account” means the account by that name established in Section 6 hereof.

“Eligible Investments” means the investments defined in Section 8 hereof.

“Fiscal Officer” means the Fiscal Officer of the Village.

“Government Obligations” means (a) direct obligations of the United States of America for the full and timely payment of which the full faith and credit of the United States of America is pledged, and (b) obligations issued by a person controlled or supervised by and acting as an instrumentality of the United States of America, the payment of the principal of, premium, if any, and interest on which is fully guaranteed as a full faith and credit obligation of the United States of America (including any securities described in (a) or (b) issued or held in book entry form on the books of the Department of Treasury of the United States of America or Federal Reserve Bank).

“Interest Payment Date” means the dates set forth on the Certificate of Award.

“Investment Letter” means a letter from the Original Purchaser, or any transferee of a Series 2016 Bond, to the Village as described in Section 4 hereof.

“Moody’s” means Moody’s Investors Service, a Delaware corporation, and its successors and assigns.

“Original Purchaser” means the entity designated in the Certificate of Award as the original purchaser of the Series 2016 Bonds or any permitted transferee of the Series 2016 Bonds.

“Owner” means Lebanon Mason, LLC, an Ohio limited liability company, and its successors and assigns, as set forth in the Service Agreement.

“Paying Agent Agreement” means the Agreement Relating to Paying Agency, Registrar and Transfer Agency by and between the Village and the Paying Agent, securing the Series 2016 Bonds, and providing for the registering and transfer procedure for the Series 2016 Bonds, as the same may be amended as provided therein.

“Paying Agent” means any bank or trust company that is appointed paying agent under the terms of the Paying Agent Agreement as referred to in Section 11 hereof.

“Project Account” means the account by that name established in Section 6 hereof.

“Property” shall have the meaning given to such term in the recitals to this Ordinance.

“Public Improvements” shall have the meaning given to such term in the recitals to this Ordinance.

“Rating Service” means either Moody’s or S&P.

“Revenues” means (a) the Service Payments, (b) the money and investments held in the Bond Account, the Costs of Issuance Account and the Project Account, and (c) all income and profit from the investment of the foregoing moneys.

“S&P” means Standard & Poor’s Credit Market Services, a division of The McGraw-Hill Companies, and its successors and assigns.

“Series 2016 Bonds” means the Tax Increment Revenue Bonds, Series 2016 (Riverside Project) authorized by this Ordinance.

“Service Agreement” means the Amended and Restated Service Payment Agreement dated as of October 1, 2016, between the Village and the Owner, as amended from time to time, which is incorporated by reference into this Ordinance.

“Service Payments” means the Service Payments, including Statutory Service Payments and Minimum Service Payments, payable by the Owner pursuant to the provisions of the Service Agreement.

“Tax Regulatory Agreement” means the Tax Regulatory Agreement between the Village and the Paying Agent to assure compliance with the Code with respect to the Series 2016 Bonds.

“TIF Fund” means the Village of South Lebanon Municipal Public Improvement Incentive Tax Equivalent Fund created pursuant to the TIF Ordinance, and includes Incentive District No. 1 Account therein, in which the Service Payments shall be deposited.

“TIF Ordinance” means Ordinance No. 2005-16 adopted by the Council of the Village on December 1, 2005.

“Village” means the Village of South Lebanon, Ohio.

**SECTION 2.** It is necessary to issue and sell and this Council determines that the Series 2016 Bonds shall be issued and sold in an aggregate principal amount of not to exceed \$6,200,000 to provide for the payment of (a) the Purchase Price for a portion of the Costs of Work paid by the Owner in connection with the construction of the Public Improvements, (b) capitalized interest on the Series 2016 Bonds, and (c) costs related to the issuance of the Series 2016 Bonds. The Series 2016 Bonds shall be in the principal amount set forth on the Certificate of Award, dated on the date set forth on the Certificate of Award, or such other date selected by the Fiscal Officer in his or her discretion, and shall mature on the date or dates set forth on the Certificate of Award, or such other date or dates selected by the Fiscal Officer in his or her discretion. The Series 2016 Bonds shall be sold to or through the Original Purchaser for the purchase price set forth in the Certificate of Award, which shall not be less than 99% of the par amount of the Series 2016 Bonds. The Series 2016 Bonds shall bear interest at a rate price set forth in the Certificate of Award not to exceed 7.5% per year (computed on the basis of a 360-day year consisting of twelve 30-day months) payable on each Interest Payment Date and at maturity and until the principal amount is paid or payment is provided for. The principal amount of and the rate of interest on the Series 2016 Bonds, and any premium to be received on the Series 2016 Bonds, shall be determined by the Fiscal Officer in the Certificate of Award in accordance with Section 5 of this Ordinance. The Series 2016 Bonds shall be issued in substantially the same form as attached hereto as Exhibit B.

The proceeds of the Series 2016 Bonds will be disbursed from time to time in accordance with the terms of this Ordinance, the Infrastructure Agreement, the Paying Agent Agreement and the Bond Purchase Agreement. If the total principal amount of the Series 2016 Bonds is not disbursed on or prior to the date specified in the Certificate of Award or such later date as may be agreed to by the Mayor of the Village with the consent of this Council which may be withheld, conditioned or delayed in the sole discretion of this Council (the “Disbursement Termination Date”), (i) the principal amount of the Series 2016 Bonds shall be reduced by the amount of undisbursed proceeds of the Series 2016 Bonds on the date following the Disbursement Termination Date, and (ii) the obligation of the Issuer to make scheduled payments of principal on the principal amount of the Series 2016 Bonds which remain outstanding after any such reduction shall not be affected by such reduction, such reduction operating instead to pay and redeem the principal of this Bond at dates earlier than the originally scheduled principal amortization or payment date or dates set forth in the Certificate of Award, in inverse chronological order.

The Mayor and Fiscal Officer are hereby authorized and directed to execute and deliver a Bond Purchase Agreement with the Original Purchaser, if requested by the Original Purchaser, which shall have terms and conditions not inconsistent with this Ordinance and not substantially adverse to the Village as may be permitted by law and approved by the officers executing the same.



The Mayor and Fiscal Officer are hereby further authorized and directed to execute and deliver a Paying Agent Agreement with the Paying Agent, and such other instruments as may be necessary for the issuance of the Series 2016 Bonds, which shall have terms and conditions not inconsistent with this Ordinance and not substantially adverse to the Village as may be permitted by law and approved by the officers executing the same.

**SECTION 3.** The Series 2016 Bonds may be redeemed in whole or in part at any time. Notice of the call for redemption of the Series 2016 Bonds, specifying the numbers of the Series 2016 Bonds to be redeemed, shall be sent by the Paying Agent by registered mail to the registered holders thereof, not less than thirty (30) days nor more than sixty (60) days prior to the date of redemption, upon which date all interest upon the Series 2016 Bonds or portions thereof so called shall cease except those as to which default shall be made, upon presentation, in the payment of the redemption price. Prior to any notice of call for redemption funds for such redemption shall be on deposit with the Paying Agent and the Village shall direct the Paying Agent in writing to make any notice of call for redemption.

If less than all of the Series 2016 Bonds shall be called for redemption at the option of the Village, those Series 2016 Bonds to be called shall be determined by the Paying Agent by lot, provided, however, that the portion of any Series 2016 Bond to be redeemed shall be in the principal amount of \$5,000 or any integral multiple thereof.

The Series 2016 Bonds shall initially be numbered from R-1 upwards; provided, however, that in the event of the exchange or transfer of any Series 2016 Bond, any new Series 2016 Bonds issued by the Paying Agent as a result of such exchange or transfer shall be numbered in a manner which will assure that such new Series 2016 Bonds retain the same terms with respect to redemption as were possessed by the exchanged or transferred Series 2016 Bonds.

The principal of, and interest on, the Series 2016 Bonds shall be payable to the registered holders thereof by check or draft of the Paying Agent, and such payment shall be made without deduction for the services of such Paying Agent. At the written request of the registered owner of at least \$100,000 aggregate principal amount of the Series 2016 Bonds received by the Paying Agent at least one business day prior to the corresponding record date, interest accrued on the Series 2016 Bonds will be payable by wire transfer within the continental United States in immediately available funds to the bank account number of such owner specified in such request and entered by the Paying Agent on the registration records; provided that interest payable at maturity or upon redemption shall be paid only upon presentation and surrender of such owner's Series 2016 Bonds.

The Series 2016 Bonds shall be designated "Tax Increment Revenue Bonds, Series 2016 (Riverside Project)".

**SECTION 4.** Upon the face of each of the Series 2016 Bonds shall be recited a reference to the Act and this Ordinance. Each of the Series 2016 Bonds shall express upon its face the purpose for which the same is issued and that such Series 2016 Bond is payable solely from the Revenues. The Series 2016 Bonds shall bear the manual or facsimile signatures of the Mayor and the Fiscal Officer of the Village, shall be authenticated manually by the Paying

Agent. The Series 2016 Bonds shall be prepared, issued, and delivered to the Original Purchaser under the direction of the appropriate officers of the Village as hereinafter provided. The Original Purchaser shall execute and deliver to the Village an Investment Letter which shall certify that the Original Purchaser is either (i) a “qualified institutional buyer” within the meaning of subsection (a) of Rule 144A promulgated by the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended or (ii) an “accredited investor” within the meaning of Rule 501 of Regulation D promulgated by the Securities and Exchange Commission pursuant to the Securities Act of 1933, and in either case has otherwise received sufficient information and data to evaluate its purchase of the Series 2016 Bonds. Any permitted transferee of a Series 2016 Bond, shall, in writing, provide the Paying Agent with certain certificates, in substantially the same manner as indicated in the above-referenced Investment Letter. Except as provided in the following paragraph, each of the Series 2016 Bonds shall furthermore bear the following legend: **“Neither this Bond, nor any portion of, rights under or interest in this Bond, shall be sold, assigned or transferred except to a single holder holding the entire outstanding principal amount of the Bonds and only if the Paying Agent shall first have received prior written approval from the Mayor of the Village of South Lebanon, Ohio (with the consent of the Village Council which may be withheld, conditioned or delayed in the sole discretion of the Village Council) and one of the following: (i) a written certificate from the transferee that certifies that the transferee is a “qualified institutional buyer” within the meaning of subsection (a) of Rule 144A promulgated by the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended; (ii) a written certificate from the transferee that certifies that the transferee is a “accredited investor” within the meaning of Rule 501 of Regulation D promulgated by the Securities and Exchange Commission pursuant to the Securities Act of 1933; or (iii) a certificate from the Fiscal Officer of the Village of South Lebanon, Ohio to the effect that the restrictions on transfer under the Trust Indenture are no longer in effect.”**

Notwithstanding the foregoing, and as further provided in the Bond Purchase Agreement, beginning in the year immediately following the calendar year in which Service Payments paid under the Service Agreement exceeded the sum of (i) compensation owed from the Service Payments to the School District (defined *infra*) under the School Compensation Agreement (defined *infra*) during such year, and (ii) the debt service due and payable on the Bonds during such calendar year, but no earlier than the calendar year following the Disbursement Termination Date, the holder of the Bonds may submit the Bonds bearing the foregoing legend to the Paying Agent for replacement with Bonds in the same principal amount and tenor bearing the following legend: **“Neither this Bond, nor any portion of, rights under or interest in this Bond, shall be sold, assigned or transferred except to a upon receipt by the Paying Agent of (i) a written certificate from the transferee that certifies that the transferee is a “qualified institutional buyer” within the meaning of subsection (a) of Rule 144A promulgated by the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended; (ii) a written certificate from the transferee that certifies that the transferee is a “accredited investor” within the meaning of Rule 501 of Regulation D promulgated by the Securities and Exchange Commission pursuant to the Securities Act of 1933; or (iii) a certificate from the Fiscal Officer of the Village of South Lebanon, Ohio to the effect that the restrictions on transfer are no longer in effect.”**

Further notwithstanding the foregoing, the restrictions on sale, assignment or transfer contained in this paragraph do not apply to any pledge or hypothecation of the Bonds made by the holder of the Bonds to a financial institution; provided, however, the aforementioned restrictions on sale, assignment or transfer will apply to any sale, assignment or transfer made by such financial institution, or successors or assigns, if it becomes the holder of the Bonds as a result of any such pledge or hypothecation.

**SECTION 5.** The Series 2016 Bonds are hereby awarded and shall be delivered to the Original Purchaser upon payment for the Series 2016 Bonds. The Mayor and the Fiscal Officer of the Village are hereby authorized and directed in the name of and on behalf of the Village to make, execute and deliver the Series 2016 Bonds to the Original Purchaser. The Fiscal Officer is hereby authorized and directed in the name of and on behalf of the Village to execute the Certificate of Award setting forth the terms of the Series 2016 Bonds not set forth in this Ordinance. The Series 2016 Bonds shall be payable solely from the Revenues, including the Service Payments required to be made under the Service Agreement, and shall be secured by a pledge of, and lien on, the Revenues. The pledge of, and lien on, any Service Payments shall be on parity with all other notes and bonds issued by the Village that are payable from the Service Payments. THE SERIES 2016 BONDS ARE NEGOTIABLE INSTRUMENTS BUT DO NOT CONSTITUTE GENERAL OBLIGATIONS OF THE VILLAGE AND THE GENERAL CREDIT AND TAXING POWER OF THE VILLAGE ARE NOT PLEDGED PAYMENT THEREOF, OR ANY PART THEREOF, OR THE INTEREST THEREON, AND THE SERIES 2016 BONDS ARE PAYABLE AS TO PRINCIPAL, PREMIUM, IF ANY, AND INTEREST ONLY FROM THE REVENUES.

**SECTION 6.** The proceeds of the sale of the Series 2016 Bonds, plus other lawfully available funds of the Village as set forth in the Certificate of Award, and except for accrued interest, shall be deposited with the Paying Agent and the Village as follows:

(a) The amount to the Village as directed in the Certificate of Award to the account hereby created and designated as the "Cost of Issuance Account", such Cost of Issuance Account to be held by the Village to be used to pay all costs and items of expense incurred by the Village in connection with the issuance of the Series 2016 Bonds, including without limitation costs of financial and/or feasibility studies and reports; reimbursable expenses payable to the Original Purchaser; costs of financial advisory, bond counsel, counsel to the Original Purchaser and other legal, accounting and management services and services of other consultants and professional and related charges, fees and disbursements; Series 2016 Bond rating fees, if any; costs of issuance; printing and reproduction costs; filing and recording fees; initial fees and charges of the Paying Agent; and costs of preparation, execution, transportation and safekeeping of the Series 2016 Bonds. The Village shall transfer to the Bond Account (to be used to pay interest on the Series 2016 Bonds) any moneys remaining in the Cost of Issuance Account upon determination by the Fiscal Officer of the Village that all the costs described above have been received and paid by the Village.

(b) The amount, representing capitalized interest on the Series 2016 Bonds, as directed in the Certificate of Award, to the account hereby created and designated as the "Bond Account" to be held by the Paying Agent.

(c) The remainder to the account hereby created and designated as the "Project Account", which Project Account shall be held by the Paying Agent and disbursed in accordance with the Infrastructure Agreement to pay the Purchase Price for a portion of the Costs of Work paid by the Owner in connection with the construction of the Public Improvements. The money in the Project Account shall be invested in Eligible Investments maturing not later than it is needed to pay for the costs of the Public Improvements.

Any accrued interest on the Series 2016 Bonds shall be transferred by the Paying Agent to the Bond Account and shall be applied by such Paying Agent only to the payment of the interest and principal of the Series 2016 Bonds and for no other purpose.

The Bond Account and the Project Account shall be maintained in the custody of the Paying Agent. The Bond Account may be used for the payment of the principal of and interest on the Series 2016 Bonds and, to the extent provided in this Ordinance, for the redemption and the purchase for retirement of Series 2016 Bonds.

Any Series 2016 Bonds purchased for cancellation shall be purchased at a price not exceeding their then prevailing call price, if any, nor exceeding their fair market value.

**SECTION 7.** From and after the date of issuance and delivery of the Series 2016 Bonds the Service Payments shall be set aside and deposited by the Village in the TIF Fund. The TIF Fund shall be administered as follows with the following payments being made in the following order:

FIRST: Pursuant to the Amended and Restated Tax Incentive Agreement dated as of May 15, 2008 (as amended from time to time, the School Compensation Agreement") with Kings Local School District (the "School District"), the amount of compensation owed to the School District under the School Compensation Agreement shall be paid to the School District.

SECOND: Subject to the parity lien on the Service Payments of all other notes and bonds issued by the Village that are payable from the Service Payments, there shall be paid into the Bond Account on the second business day immediately preceding each Interest Payment Date, an amount equal to the interest due on all outstanding Series 2016 Bonds on the next ensuing Interest Payment Date, and, on the second business day immediately preceding the maturity date, principal payment date or redemption date, as the case may be, of the Series 2016 Bonds, an amount equal to the principal and interest due on such maturity date or redemption date.

THIRD: As provided for in Section 3(d) of the Service Agreement.

The TIF Fund shall be maintained in the custody of the Village.

**SECTION 8.** Moneys in the Project Account, the Costs of Issuance Account and the Bond Account and any subaccount thereof shall be invested by the Agent in the following eligible investments designated in writing by the Original Purchaser, to the extent permitted by Ohio law and in accordance with Section 15 hereof (herein designated "Eligible Investments"):

- (a) Government Obligations;
- (b) Federal Home Loan Mortgage Corporation (FHLMC) and Farm Credit Banks (Federal Land Banks, Federal Intermediate Credit Banks and Banks for Cooperatives) participation certificates and senior debt obligations which bear interest at a fixed rate and are fully amortizing;
- (c) Federal National Mortgage Association's (FNMA) mortgage backed securities and senior debt obligations which bear interest at a fixed rate and are fully amortizing;
- (d) Student Loan Marketing Association (Sallie Mae) letter of credit backed issues and senior debt obligations;
- (e) Federal funds, certificates of deposits, including those placed by a third party pursuant to an agreement between the Agent and the Lessee, demand deposits, including interest bearing money market accounts, trust deposits, trust account, overnight bank deposits, time deposits and bankers' acceptances (having original maturities of not more than 365 days) of any bank (including the Agent) the short-term bank deposits of which (or, in the case of a bank subsidiary in a bank holding company, debt obligations of the bank holding company) have been rated, at the time of purchase, "AA" or "A-1" or its equivalent by either Rating Service;
- (g) commercial paper (having original maturities of not more than 270 days) rated, at the time of purchase, "A-1" or its equivalent by either Rating Service;
- (h) obligations rated, at the time of purchase, "AA" or "A-1" or its equivalent by either Rating Service, or unrated general obligations of any Person which has outstanding other unsecured, uninsured and unguaranteed obligations which are so rated by either Rating Service;
- (i) repurchase agreements with any institution, including the Agent or any of its affiliates, the unsecured, uninsured and unguaranteed debt obligations of which (or, in the case of a bank subsidiary in a bank holding company, debt obligations of the bank holding company) are rated, at the time of purchase, "AA" or its equivalent by either Rating Service;
- (j) tax-exempt obligations of any state of the United States of America or any political subdivision or other instrumentality of any such state and such obligations are rated, at the time of purchase, in either of the two highest rating categories (i.e., "AA" or higher) of either Rating Service and are not "specified private activity bonds" as defined in Section 57(a)(5)(C) of the Code;
- (k) tax-exempt money market funds which are "qualified regulated investment companies" within the meaning of IRS Notice 87-22, and which meet the other requirements of IRS Notice 87-22 and any subsequent regulations necessary to exempt investments in such funds from the definition of "investment property" under Section 148 of the Code whose assets are solely invested in obligations rated, at the time of purchase, in either of the two highest rating categories by either Rating Service;
- (l) money market funds (including those for which the Agent or one of its affiliates performs services for a fee, whether as a custodian, transfer agent, investment advisor or



otherwise) the assets of which are obligations of or guaranteed by the United States of America (or repurchase agreements fully collateralized by such obligations) and which funds are rated, at the time of purchase, "Am" or "Am-G" or higher by S&P; and

(m) obligations approved in writing by the Original Purchaser which are not unacceptable to the Agent.

**SECTION 9.** Should it be judicially determined by a court having jurisdiction to pass upon the validity of this Ordinance, the Paying Agent Agreement or Series 2016 Bonds herein authorized, that any provision of this Ordinance is beyond the powers of this Council or the Village, or is otherwise invalid, then such decision shall in no way affect the validity of said Paying Agent Agreement or the validity of the Series 2016 Bonds, or any proceeds related thereto, except as to the particular matters found by such decision to be invalid.

**SECTION 10.** The funds derived from the sale of the Series 2016 Bonds authorized by this Ordinance become and they are hereby set aside and appropriated for the payments as described in this Ordinance.

**SECTION 11.** That sums which are expended from the above appropriations and which are proper charges against and are repaid by any other department, any firm, person or corporation, shall be considered re-appropriated for such original purpose; provided that the total appropriation as increased by any such repayment shall not be exceeded.

**SECTION 12.** The Series 2016 Bonds are being issued pursuant to, and subject to, the Infrastructure Agreement and the Service Agreement and, until the Series 2016 Bonds are refunded by the Bonds or other TIF Obligations, for purposes of the Series 2016 Bonds and the Infrastructure Agreement, the Paying Agent Agreement and this Ordinance shall be the "Trust Indenture", the Paying Agent shall be the "Trustee", this Ordinance shall be the "Bond Ordinance" and the Project Account shall be the "Project Fund".

**SECTION 13.** That the Fiscal Officer of the Village of South Lebanon be and he or she is hereby authorized to draw his or her warrants of the Village Treasury and Depository for payments from any of the foregoing appropriations upon receiving proper approval in accordance with the ordinances of the Village of South Lebanon.

**SECTION 14.** The Mayor and the Fiscal Officer are hereby authorized and directed to execute and deliver a Tax Regulatory Agreement with the Paying Agent, which shall have terms and conditions not inconsistent with this Ordinance and not substantially adverse to the Village as may be permitted by law and approved by the officers executing the same.

**SECTION 15.** This Council, for the Village, hereby covenants that it will restrict the use of the proceeds of the Series 2016 Bonds hereby authorized in such manner and to such extent, if any, and take such other action as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute obligations the interest on which is subject to federal income taxation or "arbitrage bonds" under Section 103(b)(2) and 148 of the Code and the regulations prescribed thereunder. The Fiscal Officer or any other officer having responsibility with respect to the issuance of the Series 2016 Bonds is authorized and directed to give an appropriate certificate on behalf of the Village, on the date of



delivery of the Series 2016 Bonds, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to the use of the proceeds thereof and the provisions of said Sections 103(b)(2) and 148 and regulations thereunder.

The Series 2016 Bonds are hereby designated as "qualified tax-exempt obligations" to the extent permitted by Section 265(b) of the Code.

**SECTION 16.** This Council hereby finds and determines that all formal actions relative to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Revised Code.

**SECTION 17.** That this Ordinance is hereby declared to be an emergency measure for the immediate preservation of the public peace, health, safety and welfare of the inhabitants of the Village, and this Council hereby finds that the Village must issue the Series 2016 Bonds and proceed with the construction of certain of the Public Improvements at the earliest possible date to so preserve the public peace, health safety and welfare of the inhabitants of the Village.

**WHEREFORE,** this Ordinance shall be enforced immediately upon its passage.

Adopted this 3rd day of November, 2016.

Attest:

  
Sharon Louallen, Fiscal Officer/Clerk

  
James Smith, Mayor

Rules Suspended: 11/3/2016 (if applicable)

Effective Date – / /2016

Vote - 6 Yeas  
      \_\_\_ Nays

First Reading – / /2016

Effective Date – / /2016

Second Reading – n/a

Third Reading – n/a

Vote - \_\_\_ Yeas  
      \_\_\_ Nays

Approved as to form:

VILLAGE SOLICITOR  
SOUTH LEBANON, OHIO

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

Date: November 3, 2016

## EXHIBIT A

### PROPERTY

South Lebanon Tax Incentive District No. 1 consists of the following property:

<u>Owner of Record</u>	<u>Parcel ID #</u>
Lebanon Mason, LLC	12-01-151-002
Lebanon Mason, LLC	12-01-151-006
Lebanon Mason, LLC	12-01-151-004

See Attached Legal Description

## LEGAL DESCRIPTION

### Tract 1. 42.789 Ac. Sidwell No. 12-01-151-002

Situated in Sections 1 & 7, Town 4, Range 3, Village of South Lebanon, County of Warren, State of Ohio, and being more particularly described as follows:

Beginning at the intersection of the centerline of Turtlecreek Road (T-72) and the centerline of Mason-Morrow-Millgrove Road (C-38); thence along said centerline of said Mason-Morrow-Millgrove Road, South 71 deg. 29' 20" West a distance of 63.54 feet to the real point of beginning for this description; thence continuing along said centerline of said Mason-Morrow-Millgrove Road, South 71 deg. 29' 20" West a distance of 133.46 feet to an iron pin found; thence continuing along said centerline of said M Mason-Morrow-Millgrove Road, North 84 deg. 37' 30" West a distance of 1609.48 feet to a point; thence leaving said centerline of said Mason-Morrow-Millgrove Road, South 06 deg. 18' 40" West a distance of 30.00 feet to an iron pin found; said point also being in the south line of said Mason-Morrow-Millgrove Road; thence along said south line of said Mason-Morrow-Millgrove Road, South 84 deg. 37' 30" East a distance of 81.57 feet to an iron pin set; thence along a new division line the following seven (7) courses: (1) leaving said south line of said Mason-Morrow-Millgrove Road, with a curve to the right an arc distance of 138.54 feet to an iron pin set; said curve having a radius of 116.14 feet, a chord bearing of South 10 deg. 49' 23" East and a chord distance of 130.47 feet; (2) with a curve to the left an arc distance of 1149.68 feet to an iron pin set, said curve having a radius of 593.23 feet, a chord bearing of South 32 deg. 57' 32" East, a chord distance of 978.02 feet; (3) with a curve to the left an arc distance of 991.55 feet to an iron pin set, said curve having a radius of 2470.18 feet, a chord bearing of North 82 deg. 20' 26" East, and a chord distance of 984.90 feet; (4) along a curve to the right an arc distance of 304.90 feet to an iron pin set, said curve having a radius of 391.50 feet, a chord bearing South 86 deg. 50' 53" East and a chord distance of 297.25 feet; (5) South 64 deg. 32' 14" East a distance of 176.15 feet to an iron pin set; (6) South 69 deg. 13' 17" East a distance of 300.16 feet to an iron pin set; (7) North 79 deg. 46' 15" East a distance of 249.36 feet to an iron pin set in the west line of State Route 48; thence along said west line of said State Route 48 along a curve to the right an arc distance of 652.11 feet to a point, said curve having a radius of 2183.48 feet, a chord bearing North 11 deg. 28' 40" West and a chord distance of 649.69 feet; thence leaving said west line of said State Route 48, South 67 deg. 02' 20" West a distance of 13.38 feet to a point; thence South 89 deg. 07' 20" West a distance of 542.52 feet to an iron pin set; thence North 32 deg. 52' 40" West a distance of 330.64 feet to the real point of beginning for this description, passing at 280.60 feet to an iron pin found.

Containing in all 42.789 acres (25.229 acres in Section 1 & 17 .560 acres in Section 7), more or less, subject to all legal highways and easements of record.

Prior Deed Reference: Official Record Volume 3231, page 779 of the Warren County Land Records.

This description is a result of a survey prepared by King Hasselbring & Associates, and written by J. Timothy King, PE-PS Registered Surveyor No. 6549, dated May 21, 2003 and revised June

27, 2005, the survey plat of which is filed in Volume 126, Plat No. 40 of the Warren County Engineer's Record of Land Division.

**Tract 2. 22.971 Ac. 12-01-151-006**

Situated in Section 1, Town 4, Range 3, Village of South Lebanon, County of Warren, State of Ohio and being more particularly described as follows:

Beginning at the intersection of the centerline of Turtlecreek Road (T-72) and the centerline of Mason-Morrow-Millgrove Road (C-38); thence along said centerline of said Mason-Morrow-Millgrove Road, South 71 deg. 29' 20" West a distance of 197.00 feet to an iron pin found; thence continuing along said centerline of said Mason-Morrow-Millgrove Road, North 84 deg. 37' 30" West a distance of 1609.48 feet to a point; thence leaving said centerline of said Mason-Morrow-Millgrove Road, South 06 deg. 18' 40" West a distance of 30.00 feet to an iron pin found; said point also being in the south line of said Mason-Morrow-Millgrove Road; thence along said south line of said Mason-Morrow-Millgrove Road, South 84 deg. 37' 30" East a distance of 81.57 feet to an iron pin set; thence leaving said south line of said Mason-Morrow-Millgrove Road along a new division line, with a curve to the right an arc distance of 138.54 feet to an iron pin set, said curve having a radius of 116.14 feet, a chord bearing of South 10 deg. 49' 23" East and a chord distance of 130.47 feet; thence continuing along a new division line, with a curve to the left an arc distance of 1149.68 feet to an iron pin set, said curve having a radius of 593.23 feet, a chord bearing of South 32 deg. 57' 32" East, a chord distance of 978.02 feet; thence continuing along a new division line, with a curve to the left an arc distance of 759.38 feet to an iron pin set at the real point of beginning for this description: said curve having a radius of 2470.18 feet, a chord bearing of North 85 deg. 01' 59" East, and a chord distance of 756.40 feet; thence continuing along a new division line the following five (5) courses: (1) continuing along said curve to the left an arc distance of 232.16 feet to an iron pin set, said curve having a radius of 2470.18 feet, a chord bearing North 73 deg. 32' 01" East and a chord distance of 232.08 feet: (2) along a curve to the right an arc distance of 304.90 feet to an iron pin set, said curve having a radius of 391.50 feet, a chord bearing South 86 deg. 50' 53" East and a chord distance of 297.25 feet: (3) South 64 deg. 32' 14" East a distance of 176.15 feet to an iron pin set: (4) South 69 deg. 13' 17" East a distance of 300.16 feet to an iron pin set; (5) North 79 deg. 46' 15" East a distance of 249.36 feet to an iron pin set in the west line of State Route 48; thence along said west line of said State Route 48, South 06 deg. 56' 31" West a distance of 168.22 feet to an iron pin found; thence continuing along said west line of said State Route 48, South 48 deg. 45' 05" East a distance of 92.00 feet to an iron pin found; thence leaving said west line of said State Route 48, South 06 deg. 13' 50" East a distance of 50.00 feet to an iron pin found; thence South 09 deg. 13' 10" West a distance of 50.00 feet to an iron pin found; thence South 18 deg. 15' 10" West a distance of 50.00 feet to an iron pin found: thence South 29 deg. 14' 30" West a distance of 65.00 feet to a point: thence South 48 deg. 28' 30" West a distance of 164.00 feet to a point; thence South 35 deg. 48' 30" West a distance of 78.00 feet to a point; thence South 51 deg. 29' 30" West a distance of 214.00 feet to a point: thence South 59 deg. 38' 30" West a distance of 399.08 feet to a point; thence South 64 deg. 31' 30" West a distance of 258.53 feet to an iron pin set; thence South 82 deg. 21' 50" West a distance of 24.09 feet to an iron pin set; thence along a new division line the following four (4) courses: (1) North 17 deg. 57' 19" West a distance of 445.19

feet to an iron pin set; (2) North 28 deg. 4' 06" East a distance of 97.00 feet to an iron pin set; (3) North 39 deg. 26' 09" West a distance of 252.71 feet to an iron pin set; (4) North 01 deg. 55' 24" West a distance of 437.24 feet to the real point of beginning for this description.

Containing in all 22.971 Acres, more or less, subject to all legal highways and easements of record.

Prior Deed Reference: Official Record Volume 3231, page 779 of the Warren County Land Records.

This description is a result of a survey prepared by King Hasselbring & Associates, and written by J. Timothy King, PE-PS Registered Surveyor No. 6549, dated May 21, 2003 and revised June 27, 2005, the survey plat of which is filed in Volume 126, Plat No. 40 of the Warren County Engineer's Record of Land Division.

Less and Except:

Situated in Section 1, Town 4, Range 3, Union Township, the Village of South Lebanon, Warren County, Ohio and being more particularly described as follows:

Commencing at an existing spike at the centerline intersection of Turtlecreek Road and Mason-Morrow-Millgrove Road; thence along the centerline of said Mason-Morrow-Millgrove Road South 71 deg. 28' 59" West, 63.54 feet to the northeast corner of Tract I as conveyed to MMMilgrove Road LLC, as recorded in O.R. 3897, Page 406 of the Warren County Recorder's Office; thence leaving the centerline of Mason-Morrow-Millgrove Road, along the east line of Tract I of said MMMilgrove Road LLC, Tract I, the following three (3) courses:

1. South 32 deg. 53' 01" East, 330.64 feet;
2. North 89 deg. 06' 59" East, 542.52 feet;
3. North 67 deg. 01' 59" East, 13.38 feet to a point in the west right of way of State Route 48;

Thence along the west right of way of said State Route 48, on a curve deflecting to the left having a radius of 2183.48 feet, an arc length of 652.11, having a central angle of 17 deg. 06' 42", chord of said arc bears. South 11 deg. 29' 01" East, 649.69 feet to the northeast corner of Tract 2 of said MMMilgrove Road LLC; thence along the east line of said MMMilgrove Road LLC, Tract 2, and the west right of way of said State Route 48, South 06 deg. 56' 10" West, 129.49 feet to a set iron pin and the point of beginning; thence continuing along said MMMilgrove Road LLC, Tract 2, and the west right of way of said State Route 48, South 6 deg. 56' 10" West, 38.73 feet to an existing concrete monument and South 48 deg. 45' 26" East, 92.00 feet to the northeast corner of a tract conveyed to the State of Ohio Department of Natural Resources as recorded in O.R. 52, Page 842 of the Warren County Recorder's Office referenced by an existing concrete monument at South 3.25 feet and East 3.85 feet; thence along said State of Ohio Department of Natural Resources, the following five (5) courses:

1. South 06 deg. 14' 11" East, 50.00 feet to a point being referenced by an existing concrete monument, South 3.20 feet and East 3.78 feet;



2. South 09 deg. 12' 49" west, 50.00 feet to point being referenced by an existing concrete monument at South 3.27 and East 3.82 feet;
3. South 18 deg. 14' 49" West, 50.00 feet to a point being referenced by an existing concrete monument at South 3.31 and East 3.64 feet;
4. South 29 deg. 14' 09" West, 65.00 feet to a point being referenced by an existing concrete monument at 3.94 feet and 3.14 feet;
5. South 48 deg. 28' 09" West 49.11 feet to a set iron pin;

Thence along new division lines through the lands of the grantor, the following four (4) courses:

1. South 86 deg. 38' 36" West, 199.69 feet to a set iron pin;
2. North 03 deg. 21' 24" West, 250.24 feet to a set MAG nail;
3. North 33 deg. 23' 23" East 103.35 feet to a set iron pin;
4. North 86 deg. 38' 36" East, 179.67 feet to the point of beginning.

Containing 2.0000 acres. Subject to legal highways and easements of record.

The above described parcel being part of those lands conveyed to MMMilgrove Road LLC, as recorded at the Warren County Recorder's Office and is further identified as Auditor's Parcel No. 12011510030.

Monuments referred to set iron pins are 5/8 inch diameter x 30-inch long iron bars with a cap marked "G.J. BERDING P.S. 6880".

The bearings are based on State Plane Coordinate Systems, Ohio South Zone, NAD 83.

Based on a plat of survey prepared by G.J. Berding Surveying, Inc., on October 29, 2009. This description was prepared and reviewed on October 29, 2009. Gerard J. Berding, Registered Surveyor Number 6880.

Leaving a remainder of 20.971 acres for Tract 2, more or less.

**Tract 3. 47.972 Ac. 12-01-151-004**

Situated in Sections 1 & 7, Town 4, Range 3, Village of South Lebanon, County of Warren, State of Ohio and being more particularly described as follows:

Beginning at the intersection of the centerline of Turtlecreek Road (T-72) and the centerline of Mason-Morrow-Millgrove Road (C-38); thence along said centerline of said Mason-Morrow-Millgrove Road; South 71 deg. 29' 20" West a distance of 197.00 feet to an iron pin found; thence continuing along said centerline of said Mason-Morrow-Millgrove Road, North 84 deg. 37' 30" West a distance of 1609.48 feet to a point; thence leaving said centerline of said Mason-Morrow-Millgrove Road, South 06 deg. 18' 40" West a distance of 30.00 feet to the real point of beginning for this description, said point also being in the south line of said Mason-Morrow-Millgrove Road; thence along said south line of said Mason-Morrow-Millgrove Road, South 84

deg. 37' 30" East a distance of 81.57 feet to an iron pin set; thence leaving said south line of said Mason-Morrow-Millgrove Road, with a curve to the right an arc distance of 138.54 feet to an iron pin set, said curve having a radius of 116.14 feet, a chord bearing of South 10 deg. 49' 23" East and a chord distance of 130.47 feet; thence with a curve to the left an arc distance of 1149.68 feet to an iron pin set, said curve having a radius of 593.23 feet, a chord bearing of South 32 deg. 57' 32" East, a chord distance of 978.02 feet; thence with a curve to the left an arc distance of 759.38 feet to an iron pin set, said curve having a radius of 2470.18 feet, a chord bearing of North 85 deg. 01' 59" East, and a chord distance of 756.40 feet; thence South 01 deg. 55' 24" East a distance of 437.24 feet to an iron pin set; thence South 39 deg. 26' 09" East a distance of 252.71 feet to an iron pin set; thence South 28 deg. 45' 06" West a distance of 97.00 feet to an iron pin set; thence South 17 deg. 57' 19" East a distance of 445.19 feet to an iron pin set; thence South 82 deg. 21' 50" West a distance of 140.76 feet to an iron pin set; thence North 89 deg. 02' 40" West a distance of 170.25 feet to an iron pin set; thence South 05 deg. 49' 00" West a distance of 87.60 feet to an iron pin set; thence North 84 deg. 51' 00" West a distance of 444.00 feet to an iron pin set; thence North 83 deg. 46' 00" West a distance of 534.12 feet to an iron pin set; thence South 79 deg. 45' 00" West a distance of 612.46 feet to an iron pin set; thence North 06 deg. 18' 40" East a distance of 2158.88 feet to the real point of beginning for this description.

Containing in all 47.972 Acres (17.315 acres in Section 1 & 30.657 Acres in Section 7), more or less, subject to all legal highways and easements of record.

Prior Deed Reference: Official Record Volume 3231, page 779 of the Warren County Land Records.

This description is a result of a survey prepared by King Hasselbring & Associates, and written by J. Timothy King, PE-PS Registered Surveyor No. 6649, dated May 21, 2003 and revised June 27, 2005, the survey plat of which is filed in Volume 126, Plat No. 40 of the Warren County Engineer's Record of Land Division.

**EXHIBIT B**  
**BOND FORM**

Neither this Bond, nor any portion of, rights under or interest in this Bond, shall be sold, assigned or transferred except to a single holder holding the entire outstanding principal amount of the Bonds and only if the Paying Agent shall first have received prior written approval from the Mayor of the Village of South Lebanon, Ohio (with the consent of the Village Council which may be withheld, conditioned or delayed in the sole discretion of the Village Council) and one of the following: (a) a written certificate from the transferee that certifies that the transferee is a "qualified institutional buyer" within the meaning of subsection (a) of Rule 144A promulgated by the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended; (b) a written certificate from the transferee that certifies that the transferee is an "accredited investor" within the meaning of Rule 501 of Regulation D promulgated by the Securities and Exchange Commission pursuant to the Securities Act of 1933; or (c) a certificate from the Fiscal Officer of the Village of South Lebanon, Ohio to the effect that the restrictions on transfer under the Trust Indenture are no longer in effect.

UNITED STATES OF AMERICA  
STATE OF OHIO  
VILLAGE OF SOUTH LEBANON

No. R-\_\_\_\_\_

CUSIP NO.  
N/A

TAX INCREMENT REVENUE BONDS, SERIES 2016  
(RIVERSIDE PROJECT)

*KNOW ALL MEN BY THESE PRESENTS, that the VILLAGE OF SOUTH LEBANON, OHIO (the "Village"), acknowledges itself to owe and for value received, hereby promises to pay, but only from the Revenues (as defined in the Ordinance referred to herein), to [\_\_\_\_\_] the aggregate sum of*

*[\_\_\_\_\_] AND 00/100 DOLLARS (\$\_\_\_\_\_.00)]*

*or, if less, an amount equal to the proceeds of this Bond disbursed pursuant to the Infrastructure Agreement (as defined in the Ordinance) on and prior to the Disbursement Termination Date (as hereinafter defined), on the dates and in the amounts set forth in Schedule I hereto, with interest thereon from the date hereof at the rate of [\_\_\_\_\_] per centum ([\_\_\_\_\_]%) per annum, payable annually on [\_\_\_\_\_] of each year, commencing on [\_\_\_\_\_, \_\_\_\_]. The principal sum of this Bond and interest thereon are payable in Federal Reserve funds at U.S. Bank National Association, Cincinnati, Ohio, as Paying Agent, upon presentation and surrender of this Bond at maturity, without deduction for exchange, collection or service charges.*

*If the total principal amount of this Bond is not disbursed on or prior to [\_\_\_\_\_, \_\_\_\_] or such later date as may be agreed to by the Mayor of the Village of South Lebanon, Ohio with the consent of the Village Council which may be withheld, conditioned or delayed in the sole discretion of the Village Council (the "Disbursement Termination Date"), (a) the principal amount of this Bond shall be reduced by the amount of undisbursed proceeds of this Bond on the date following the Disbursement Termination Date, and (b) the obligation of the Village to make scheduled payments of principal on the principal*

amount of this Bond which remains outstanding after any such reduction shall not be affected by such reduction, such reduction operating instead to pay and redeem the principal of this Bond at dates earlier than the originally scheduled principal amortization or payment date or dates set forth on Schedule I hereto, in inverse chronological order.

This Bond is subject to redemption prior to maturity in accordance with the terms of the Ordinance.

This Bond is issued for the purpose of paying the cost of constructing public infrastructure improvements in the Village and paying related costs, under authority of the general laws of the State of Ohio, and Section 5709.40 et seq. of the Ohio Revised Code, and by virtue of Ordinance No. 2016-16 duly adopted by the Council of said Village on November 3, 2016 (the "Ordinance").

AND IT IS HEREBY CERTIFIED AND RECITED, that all acts, conditions and things necessary to be done precedent to and in the issuing of this Bond in order to make it a legal, valid and binding obligation of the Village have been done, have happened and have been performed in regular and due form as required by law; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing this Bond.

The Village, to pay as debt service on the Bond, has pledged service payments in lieu of taxes (the "Service Payments") to be made by the owner or owners of certain real property located within the Village (the "Owner") pursuant to the terms of a Service Payment Agreement between the Village and the Owner. The Bond are payable solely from the Service Payments and other Revenues pledged to the payment thereof pursuant to the Ordinance, subject to the limitations specified in the Ordinance.

This Bond is hereby designated as "qualified tax-exempt obligations" to the extent permitted by Section 265(b) of the Code (as defined in the Ordinance).

THIS BOND IS A NEGOTIABLE INSTRUMENT BUT DOES NOT CONSTITUTE A GENERAL OBLIGATION OF THE VILLAGE AND THE GENERAL CREDIT AND TAXING POWER OF THE VILLAGE ARE NOT PLEDGED TO THE PAYMENT THEREOF, OR ANY PART THEREOF, OR THE INTEREST THEREON, AND THIS BOND IS PAYABLE AS TO PRINCIPAL, PREMIUM, IF ANY, AND INTEREST ONLY FROM THE REVENUES.

IN WITNESS WHEREOF, the Village of South Lebanon, Ohio, has caused this Bond to be signed by its Mayor and Fiscal Officer, as of the 3<sup>rd</sup> day of November, 2016, in accordance with Ordinance No. 2016-16.

By: James D. Smith  
Mayor  
Date: November 3, 2016

By: Sharon L. Hall  
Fiscal Officer  
Date: November 3, 2016

SCHEDULE I

*\$6,200,000.00*

TAX INCREMENT REVENUE BONDS, SERIES 2016  
(RIVERSIDE PROJECT)

924975