

**CITY OF SOUTH LEBANON, OHIO
RESOLUTION NO. 2024-41**

A RESOLUTION AUTHORIZING THE MAYOR AND DIRECTOR OF FINANCE TO SIGN A PRE-ANNEXATION AGREEMENT WITH ROBERT & ANITA OEDER FAMILT TRUST, ANITA OEDER SUCCESSOR TRUSTEE OF PER DOC# 2022-015538, (1/3 INT) & JOANNE PARKER REVOCABLE LIVING TRUST DAYE DECEMBER 6, 1997, JOANNE PARKER, TRUSTEE, (1/3 INT) AND RONALD LEE OEDER REVOCABLE TRUST AGREEMENT DATED SEPTEMBER 20, 2004, AS AMENDED, RONALD LEE OEDER, TRUSTEE, (1/3 INT) (COLLECTIVELY KNOWN AS “THE OEDER FAMILY”

WHEREAS the Oeder Family is the owner of approximately 112.1665 acres of land in Hamilton Township, Warren County, Ohio located adjacent to and north of Zoar Road, whose street address is 5274 Zoar Road, being a 112.1665 acre parcel (Sidwell No. 13-31-400-034, Account No. 2801752 (102.2775 ac.) and Account No. 2612348 (9.889 ac.)), (hereinafter “Property”);; and

WHEREAS, the Oeder Family is requesting to annex to the City of South Lebanon for the planned development of single-family residences on the property; and

WHEREAS, the City Annexation Committee met on August 26, 2024, and is hereby recommending approval of the pre-annexation agreement; and

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

Section 1. The City Council does hereby authorize the Mayor and Director of Finance to execute the attached Agreement, as approved as to form by the City Law Director, attached hereto and incorporated by reference.

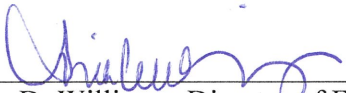
Section 2. That the recitals contained within the Whereas Clauses set forth above are incorporated by reference herein.

Section 3. That it is found and determined that all formal actions of the Council concerning and relating to passing 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.

Resolution No. 2024-41
Page 2

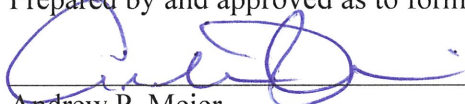
Adopted this 21st day of November, 2024.

Linda S. Burke
Linda S. Burke, Mayor

Attest: 
Petrina D. Williams, Director of Finance/Clerk

Rules Suspended:	<u>-</u>	(if applicable)
First Reading:	<u>11/7/24</u>	
Second Reading:	<u>11/21/24</u>	
Vote:	<u>5</u> Yeas	
	<u>-</u> Nays	
Effective Date:	<u>12/21/24</u>	

Prepared by and approved as to form:


Andrew P. Meier
Law Director
City of South Lebanon, Ohio

PRE-ANNEXATION AGREEMENT

This Pre-Annexation Agreement (hereinafter the “Agreement”) is entered into by and between the City of South Lebanon, Ohio, an Ohio municipal corporation (hereinafter “City”), and Robert & Anita Oeder Family Trust, Anita Oeder Successor Trustee of per Doc# 2022-015538, (1/3 INT) & Joanne Parker Revocable Living Trust dated December 6, 1997, Joanne Parker, Trustee, (1/3 INT) and Ronald Lee Oeder Revocable Trust Agreement dated September 20, 2004, as amended, Ronald Lee Oeder, Trustee, (1/3 INT), a _____, with a tax mailing address of 8807 South State Route 134, Martinsville, Ohio 45146 (hereinafter “Oeder Family” or “Owners”) and shall be effective upon the date last executed below.

R E C I T A L S

WHEREAS, the Oeder Family is the owner of approximately 112.1665 acres of land in Hamilton Township, Warren County, Ohio located adjacent to and north of Zoar Road, whose street address is 5274 Zoar Road, being a 112.1665 acre parcel (Sidwell No. 1331400034, Account No. 2801752 (102.2775 ac.) and Account No. 2612348(9.889 ac.)), (hereinafter “Property”); and

WHEREAS, the Owners are seeking to develop said Property for single-family residential lots; and

WHEREAS, the Property is adjacent to City of South Lebanon along the west and south sides of the Property; and

WHEREAS, the Owners desire to obtain water and sewer services from the City; and

WHEREAS, the City requires that all users of its municipal services be located within the corporate limits of the City; and

WHEREAS, the City is willing to make municipal services available to the Property, including water and sewer service, upon its annexation into the City as provided in the ordinances of the City upon the same terms and conditions as are afforded to other properties within the City except as otherwise provided in this Agreement; and

WHEREAS, the Property would benefit from municipal services provided by the City and Owner desires to annex its property to the City; and

WHEREAS, the mutual purposes of both City and the Oeder Family can be accomplished through the annexation of Owner’s property, together with others, into the City.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and intending to be legally bound, the City and the Owner hereby agree and bind themselves, their agents, officers, elected officials, employees, heirs, devisees, successors and assigns as follows:

(1) **Annexation**

(A) The Owners shall petition for a Type 2 annexation of all of the Oeder Property to the City of South Lebanon individually, at their sole cost and expense, or together with other properties at a proportionately shared cost and expense, at such time as the City of South Lebanon may request annexation of all of the Oeder Property. The Owners shall, within thirty (30) days following receipt of any written request for annexation from the City of South Lebanon, cause a petition to be filed with the Warren County Board of Commissioners requesting annexation of their property, together with any other properties desiring to annex to the City of South Lebanon, and will support such petition in any and all proceedings before the Warren County Board of Commissioners as may be necessary to accomplish annexation of all of the Oeder Property to the City of South Lebanon.

(B) The Owners may petition, at their sole cost and expense, for annexation of all of the Oeder Property to the City of South Lebanon at any time they deem annexation appropriate, and the City will support the petition in any and all proceedings before the Warren County Board of Commissioners and such other actions and/or proceedings as may be necessary to accomplish annexation of all of the Oeder Property to South Lebanon.

(C) South Lebanon may, in its sole discretion and at its own cost, continue to support and/or prosecute the annexation and any other proceedings relating to the annexation beyond the proceedings before the Warren County Board of Commissioners, including any referendum or court proceedings, including mandamus, injunction, and appeal, until the matter is finally determined beyond any right of referendum or appeal. The Owners agree that they shall continue to sign, support, and prosecute the annexation through the final conclusion of all proceedings, including any referendum or court proceedings for so long as South Lebanon elects to support the annexation at its cost, fees, and expenses. The Owners may also independently support and defend the annexation at their cost irrespective of whether South Lebanon elects to proceed at its cost, and South Lebanon agrees to continue to support the annexation at Owners' cost.

(D) Owners agree to support the Petition and not remove their name from the Petition so long as their signatures remain effective within the statutory period provided by law before the petition is filed and agree to continue to support the annexation to the City throughout the annexation process after the petition is filed, including any appeal, mandamus or other court action. Owners further agree to sign and support a new annexation petition, should the initial petition fail or should a new petition become necessary to accomplish the annexation, even if the annexation territory is reconfigured, as long as this Agreement is in effect and South Lebanon pays all expenses connected therewith. Should South Lebanon elect, at any time, to stop paying the costs, fees and expenses associated with any challenges to the annexation, Owners may continue to pursue the annexation, at Owners' expense, and South Lebanon agrees that it will support the annexation for so long as Owners pay all costs, fees and expenses associated with the annexation.

(2) **Commitments by South Lebanon**

(A) **Service Resolution.** The City agrees that it shall timely enact and file with the Warren County Board of County Commissioners the appropriate ordinance or resolution required by law indicating what services the City will provide to the annexation territory. Services shall be

provided to the Property upon the same terms and conditions as are afforded to other properties within the City except as otherwise provided in this Agreement.

(B) Acceptance of Annexation. The City agrees that it is in the interest of the City to have the Property annexed into the City. Upon the approval of the annexation by the Warren County Board of County Commissioners and/or a court of law, and the City municipal clerk's receipt of the record of the annexation proceedings from the clerk of the Warren County Board of County Commissioners, the City shall timely consider and accept the annexation and process it according to law.

(C) Zoning. The Oeder Property (now in Hamilton Township) is currently zoned R-1 Single Family Residential (Rural Residence District) Zone. South Lebanon agrees that, upon annexation to South Lebanon and upon request of the Owners, staff shall recommend to the Planning Commission the South Lebanon zoning district that is most closely related to the existing, surrounding residential areas, which is R-3 Single and Multi-Family Residential District. To the extent permitted by applicable law, South Lebanon shall permit the Owners to commence the zoning process prior to the completion of the annexation.

(D) Utilities. Upon the acceptance of the annexation by the South Lebanon City Council and beyond any right of referendum or appeal, South Lebanon shall make public water service available to the Oeder Property prior to the completion of the annexation. Additionally, the City is to construct a sanitary sewer capital project that will extend the City's sanitary sewer system access to the Oeder property as shown on the attached Exhibit A. The construction of the sanitary sewer capital project shall commence no later than July 1, 2025, and be completed no later than September 30, 2026. This schedule may be amended by mutual agreement of both parties.

- a. Upon the acceptance of the annexation by the South Lebanon City Council, and beyond any right of referendum or appeal, South Lebanon shall make public water service available to the 8.56 acre parcel owned by James Oeder, without the requirement for him to annex into the City.

(3) **Binding Effect**

This Agreement shall be a covenant running with the land and shall inure to the benefit of and be binding upon the Oeder Property and the respective successors and assigns of the parties hereto. This Agreement comprises the complete agreement between the parties. There is no guarantee that the property will be annexed. If a dispute arises, the appropriate courts of Warren County, Ohio shall have jurisdiction to resolve any disputes unless the parties mutually agree in writing to mediate or arbitrate the disputed matter.

(4) **Counterparts**

This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original, but all such counterparts shall constitute one and the same instrument.

(5) **Wording**

Any word used in this Agreement shall be construed to mean either singular or plural as indicated by the number of signatures hereto.

(6) **Construction/Entire Agreement**

This Agreement shall be construed and enforced in accordance with the laws of the State of Ohio. This Agreement shall constitute the entire agreement of South Lebanon and the Owner, and no oral, verbal, or implied agreement or understanding shall cancel, modify, or vary the terms of this Agreement. This Agreement may be amended or modified only by a writing executed by the Parties and their duly authorized officers or representatives where applicable.

(7) **Severability.**

If, for any reason, one or more articles, sections, sentences, clauses or parts of this Agreement are held invalid, void or unenforceable by any court of law or duly authorized public body to any extent, such provision shall be enforced to the greatest extent permitted by law. Such determination shall not affect, impair, invalidate or prejudice in any way the validity of the remaining portions of this Agreement in any other instance, which shall be enforced to the greatest extent permitted by law.

(8) **Applicable Law.**

This Agreement shall be governed by, construed, and interpreted in accordance with the ordinances of the City of South Lebanon and the laws of the State of Ohio. The parties hereto further agree that any action, suit or proceeding in respect of or arising out of this Agreement, its validity or performance shall be initiated and prosecuted as to all parties and their heirs, successors and assigns and consent to and submit to the exercise of jurisdiction over its person and the Property by any state court with original jurisdiction and venue in Warren County, Ohio having jurisdiction over the subject matter.

(9) **Headings and Captions.**

Headings and captions in this Pre-Annexation Agreement are for the convenience of reference only and shall not limit or affect the meaning hereof.

(10) **Waiver.**

No delay or failure on the part of any party hereto in exercising any right, power, or privilege under this Agreement or under any other instruments given in connection with or pursuant to this Agreement shall impair any such right, power, or privilege or be construed as a waiver of any default or any acquiescence therein. No single or partial exercise of any such right, power, or privilege shall preclude the further exercise of such right, power, or privilege, or the exercise of any other right, power or privilege.

(11) Authority and Effective Date

The parties represent that each of the undersigned has the authority and capacity to sign on behalf of each of them in the capacity shown below and executed this Agreement in such authorized capacity on date written below. This Agreement is effective on the date last executed.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed the day and year first written above.

**CITY OF SOUTH LEBANON, OHIO,
an Ohio municipal corporation**

Linda S. Burke
By: LINDA S BURKE
Its: MAYOR

Date: 21 Nov 2024

OWNERS

By: _____
Its: _____

Date: _____

By: _____
Its: _____

Date: _____

By: _____
Its: _____

Date: _____

This Agreement was authorized by the City of South Lebanon by Resolution No. 2024-41 adopted on 11/21/24, 2024 at an open meeting and in accordance with the laws of the State of Ohio, and the ordinances and Charter of the City of South Lebanon, is executed by the Mayor on this 21st day of November, 2024 and is effective upon the date provided above.

CITY OF SOUTH LEBANON, OHIO

By: Linda S. Burke
Linda S. Burke, Mayor

APPROVED AS TO FORM:



Andrew Meier
Law Director
City of South Lebanon, Ohio

EXHIBIT A