

02 - 16

**AN ORDINANCE APPROVING AND ACCEPTING A PRE-ANNEXATION AGREEMENT WITH ATTACHMENTS AND EXHIBITS, ATTACHED AND INCORPORATED HEREIN BY REFERENCE AND DECLARING AN EMERGENCY.**

BE IT ORDAINED by the Council of the Village of Lithopolis, Fairfield County, State of Ohio:

SECTION 1. The Council of the Village of Lithopolis has reviewed and discussed the Pre-Annexation Agreement, with attachments and exhibits, regarding the annexation of certain properties south of the Village along Smith Road.

SECTION 2. Council directs the Mayor to enter into the Pre-Annexation Agreement, attached and incorporated herein and to execute any paperwork or documents necessary to advance said Agreement.

SECTION 3. This Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety in this Village, in that reducing this agreement to writing allows the parties to plan for orderly annexation and construction of a new residence without delays caused by the annexation process.

DATE PASSED: 3/8, 2016

ATTEST: \_\_\_\_\_  
CLERK

SIGNED TED SIMON  
MAYOR 3/10/16

APPROVED AS TO FORM:

J. M. Browning  
JON BROWNING  
VILLAGE SOLICITOR

I, \_\_\_\_\_ Fiscal Officer  
for the Village of Lithopolis do  
hereby certify that this is a  
true and accurate copy of:  
\_\_\_\_\_

## PRE-ANNEXATION AGREEMENT

This PRE-ANNEXATION AGREEMENT (the "Agreement") is entered into by and among the VILLAGE OF LITHOPOLIS, Ohio ("Lithopolis"), an Ohio statute municipal corporation, and DEVIN AND KAYLA REISER referred to together and individually as "Owner(s)".

### PURPOSE

WHEREAS, the Owner(s) is the owners of real property containing **approximately 1.67 acres** located on the north side of Smith Road between Stoney Bluff Way and Rolling Acres Drive, being more fully described in Exhibit A attached hereto; and

WHEREAS, Owner(s) desires to annex their properties to the Village of Lithopolis; and

WHEREAS, the Owner(s) currently have water services available and can benefit by receiving village comprehensive planning, and other incentives and benefits from Lithopolis upon annexation; and

WHEREAS, Lithopolis can offer its municipal services to the **1.67 +/- acres** (the "Property") comprising the parcels to be annexed, if the Property is annexed to Lithopolis; in particular, Lithopolis can provide potable water, police protection and franchise refuse service to the Property, as desired by the Owner(s); and

NOW, THEREFORE, in consideration of the foregoing mutual promises, Lithopolis and Owner(s) of the property agree as follows:

1. Annexation Petition. The Owner(s) will exert their best efforts to annex the Property to Lithopolis, which effort shall include the preparation and execution of an annexation petition and supporting information. The annexation process shall be a "Type II" annexation as

provided in ORC § 709.023. **The Owner(s) agrees that he will execute the annexation petition, and will execute any other documents reasonably necessary to effectuate the annexation as may be required by law no sooner than one year and no later than eighteen months after occupancy of the primary residential structure.** The Owner(s) further agrees that they will continue to support the annexation to Lithopolis throughout the process, as long as this Agreement is in effect and Lithopolis is able to provide services contemplated herein. Owner(s) and Lithopolis also agree to provide necessary affidavits and/or witnesses, as necessary, to support the annexation at hearing or otherwise.

If persons other than those identified herein, who can legally do so and are cumulatively contiguous to the property, request to join in the petition for annexation of the Property to Lithopolis prior to the date of its filing with the Commissioners of Fairfield County, the signatory parties may by their unanimous written consent, but shall have no obligation to, expand the annexation to include such contiguous property. If such consent is given and the Owner(s) of such contiguous property execute an agreement in form acceptable to the parties hereto agreeing to be bound as Owner(s) by the terms of this Agreement, the "Owner(s)" shall thereafter also include such additional Owner(s); "Property" shall thereafter include said additional contiguous properties; and the signatory parties will cooperate in any and all respects as may be required by law. If the annexation is so expanded, the Owner(s) of the additional properties must agree to reimburse the original parties for costs incurred on an acreage proportional basis.

2. Service and Support Resolutions. Pursuant to and in accordance with Ohio Revised Code ("ORC") § 709.023(C), Lithopolis agrees to enact, prior to twenty (20) days after the date of filing the annexation petition with the Fairfield County Commissioners, the appropriate ordinance or resolution (the "Service Resolution") stating that the services described

in Section 3 below will be provided to the Property upon their annexation. Lithopolis further agrees to cooperate with, and take any and all actions necessary to facilitate, the annexation of the Property.

3. Public Services to be provided by Lithopolis.

(a) Water. Potable water is available to the Properties by Lithopolis pursuant to its Service Resolution. Water rents shall be at the “out of town” rate until the annexation is final. Water tap parts and labor shall be due at the time of installation. Water capacity charges may be paid over sixty months (60), billed monthly on the Village Utility Bill.

(b) Sanitary Sewer. Sanitary Sewer is available to the Properties by Lithopolis pursuant to its Service Resolution. Sanitary Sewer rents shall be at the “out of town” rate until the annexation is final. Connection parts and labor shall be due at the time of installation. New Community Connection Charges may be paid over sixty months (60), billed monthly on the Village Utility Bill. place.

(c) Other Services. Lithopolis will provide police services to the developments within the Property as provided to other areas of the Village of Lithopolis, without special charge or fee.

4. Zoning. Lithopolis agrees that, upon the granting of the annexation the Property will be placed in a zoning classification that best represents the current use.

5. Miscellaneous.

(a) Taxes.

PROPERTY TAX. The properties are currently taxed at a combined **MAX RATE of 76.45 mils with an EFFECTIVE RATE of 49.428414 mils** in Bloom Township. After annexation the properties would see the **MAX RATE of**

**73.45 mils and an EFFECTIVE RATE of 43.354871 mils.** The property tax burden for residential property after annexation is lower by **6.073543 mils**.

INCOME TAX. The property residents currently pay no income tax as Bloom Township residents. Upon annexation residents would pay a 1.5% income tax. One half percent is for a fixed term of 5 years beginning in 2015, after that the Village Income Tax would revert to 1%.

While each individual's situation is different, a resident may see an overall tax burden reduction by annexing into the Village. ***NOTE: The Village income tax is not collected against retirement, social security, pension or military pay.***

(b) Relative Rights. The rights and obligations of the parties hereunder shall be subject to the terms and conditions hereof, and will inure to the benefit of, and be binding on, the respective successors and assigns.

(c) Entire Agreement. This Agreement between the parties contains the entire Agreement of the parties with respect to the subject matter. This Agreement may not be modified except by a written document signed by the parties.

(d) Severability. If any clause, sentence, paragraph or part of this Agreement shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Agreement and the remainder of said Agreement shall continue in full force or effect.

(e) Council Action. The obligations of and agreements by Lithopolis contained herein shall be effective and enforceable upon the approval of all necessary legislation and/or motions by Council.

(f) Assignment of Agreement. The Owner(s) shall have the right to sell, transfer, assign or otherwise convey, to the transferee of all or any part of the Property, all of such Owner(s)'s rights, duties and responsibilities under this Agreement with respect to the part of the Property transferred to such transferee; provided, however, that no such sale, transfer, assignment or other conveyance of rights, duties and responsibilities under this Agreement shall be effective unless (a) the purchaser, transferee, assignee or other vendee of such rights, duties and responsibilities shall assume such rights, duties and responsibilities in writing for the benefit of all of the parties to this Agreement, and (b) a copy of such assumption is delivered to the other party then having an interest under this Agreement, such delivery to be made to such parties at their respective notice addresses under this Agreement. Upon completion of the actions described in clauses (a) and (b) of the immediately preceding sentence as to any sale, transfer, assignment or other conveyance of rights, duties and responsibilities under this Agreement, the seller, transferor, assignor or other vendor thereof shall be released automatically from all liability and obligation with respect to the rights, duties and responsibilities so sold, transferred, assigned or otherwise conveyed.

(g) Notices. Any notices necessary under the terms of this Agreement shall in writing and be given to the legal counsel for either party or their designated agent, with copies to the Owner(s) at the following respective addresses: Lithopolis' address shall be Mayor's Office, P. O. Box 278, Lithopolis, Ohio 43136; and the Owner address found on Exhibit A and Jon M. Browning, Esq., counsel for the Village, in care of the Village at P.O. Box 278, Lithopolis, OH 43136. Any party may change its address for notices by giving written notice of its new address for notices to all of the other parties hereto.

(h) Binding Effect. This Agreement shall be binding upon the parties hereto and their respective successors and/or assigns. This is the complete Agreement between the parties. If a dispute arises, the Courts of Fairfield County, Ohio shall have jurisdiction to resolve any dispute unless both parties agree to mediate or arbitrate the disputed matter.

(i) Modifications. It is agreed that the Agreement merges all of the oral negotiations, representations, discussions and understandings between the parties, their Legal Counsel, Agents or Representatives, and that no modifications, alterations or additions shall be made to this Agreement except in writing signed by both parties hereto.

(j) Choice of Law. This Agreement shall be construed under and in accordance with the laws of the State of Ohio.

(k) Effective Date. This Agreement shall be effective when signed by all the parties hereto.

(l) Time. Time shall be of the essence in doing and performing all things to be done under the terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Addendum to be executed by their duly authorized representatives this 10<sup>th</sup> day of March 2016.

VILLAGE OF LITHOPOLIS, OHIO

By: Ted Simon Mayor  
Ted Simon, Mayor

Jacinta Flowers  
Jacinta Seagraves, Village Fiscal Officer  
Flowers

Owner(s):

D. R.  
Signature

DEVIN REISER  
Print Name

Kayla Reiser  
Signature

Kayla Reiser  
Print Name



LIST OF EXHIBITS  
TO LITHOPOLIS-WINCHESTER ROAD  
PRE-ANNEXATION AGREEMENT

A. Individual Parcel Information for the Properties

**EXHIBIT A**

**INDIVIDUAL PARCEL INFORMATION**

<b>Tract</b>	<b>Parcel No.</b>	<b>Owner(s)</b>	<b>Address</b>	<b>Acreage</b>
1	0080011811			1.67
<b>Totals</b>				<b>1.67</b>