RESOLUTION NO. 45-2016

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A MARKETING AGREEMENT WITH UTILITY SERVICE PARTNERS PRIVATE LABEL, INC. TO ALLOW THE OFFER TO RESIDENTS TO PURCHASE WATER AND/OR SEWER LINE WARRANTY SERVICES.

WHEREAS, sewer and water line laterals between the mainlines and the connection on residential private property are owned by individual residential property owners; and

WHEREAS, the City desires to offer residential property owners the opportunity, but not the obligation, to purchase a service line warranty.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MONROE, STATE OF OHIO, THAT:

SECTION 1: The City Manager is authorized to enter into a Marketing Agreement with Utility Service Partners Private Label, Inc. pursuant to the terms and conditions set forth on Exhibit "A" attached hereto and made a part hereof.

SECTION 2: This measure shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: October 11, 2016

ATTEST:

Clerk of Council

APPROVED:

Mayor

First Reading: September 27, 2016

"I, the undersigned Clerk of Council of the city of Monroe, Ohio, hereby certify the foregoing (ordinance or resolution) was published as required by Section 7.16 of the Charter of the City of Monroe.

Clerk of Council
City of Monroe, Ohio

This legislation was enacted in an open meeting pursuant to the terms and provisions of the Sunshine Law, Section 121.22 of the Ohio Revised Code.

Exh "A"
Res 45-2016

SEWER AND WATER LINE MARKETING LICENSE AGREEMENT BETWEEN THE CITY OF MONROE, OHIO, AND UTILITY SERVICE PARTNERS PRIVATE LABEL, INC. D/B/A SERVICE LINE WARRANTIES OF AMERICA

This SEWER AND WATER LINE MARKETING LICENSE AGREEMENT ("Agreement") entered into as of [_____, 20__] ("Effective Date"), by and between the City of Monroe, Ohio ("City"), and Utility Service Partners Private Label, Inc. d/b/a Service Line Warranties of America ("SLWA"), herein collectively referred to singularly as "Party" and collectively as the "Parties".

RECITALS:

WHEREAS, sewer and water line laterals between the mainlines and the connection on residential private property are owned by individual residential property owners ("Residential Property Owner"); and

WHEREAS, City desires to offer Residential Property Owners the opportunity, but not the obligation, to purchase a service line warranty ("Warranty"); and

WHEREAS, SLWA is the administrator of the National League of Cities Service Line Warranty Program and has agreed to provide the Warranty to Residential Property Owners subject to the terms and conditions contained herein; and

NOW, THEREFORE, in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and with the intent to be legally bound hereby, the Parties agree as follows:

AGREEMENT

1. **Purpose.** City hereby grants to SLWA the right to offer the Warranty to Residential Property Owners subject to the terms and conditions herein.

2. **Grant of License.** City hereby grants to SLWA a non-exclusive license ("License") to use City's name and logo on letterhead, bills and marketing materials to be sent to Residential Property Owners from time to time, and to be used in advertising, all at SLWA's sole cost and expense and subject to City's prior review and approval, which will not be unreasonably conditioned, delayed, or withheld. City agrees that it will not extend a similar license to any competitor of SLWA during the term of this Agreement.

3. **Term.** The term of this Agreement ("Term") shall be for three (3) years from the Effective Date. The Agreement will automatically renew for additional one (1) year terms ("Renewal Term") unless one of the Parties gives the other written notice at least ninety (90) days prior to end of the Term or of a Renewal Term that the Party does not intend to renew this Agreement. In the event that SLWA is in material breach of this Agreement, the City may terminate this Agreement thirty (30) days after giving written notice to SLWA of such breach, if said breach is not cured during said thirty (30) day period. SLWA will be permitted to complete

any marketing initiative initiated or planned prior to termination of this Agreement after which time, neither Party will have any further obligations to the other and this Agreement will terminate. During the Term, SLWA shall conduct a Spring and Fall campaign each year in accordance with the schedules set forth in Exhibit A. The pricing for each such campaign shall be in accordance with Exhibit A attached hereto.

4. **Consideration.** As consideration for such license, SLWA will pay to City a License Fee of Fifty-Cents ($.50) for each month a Warranty shall be in force (and for which payment is received by SLWA) for a Residential Property Owner ("License Fee") during the term of this Agreement. The first payment shall be due by January 30th of the year following the conclusion of first year of the Term. Succeeding License Fee payments shall be made on an annual basis throughout the Term and any Renewal Term, due and payable on January 30th of the succeeding year. Each License Fee payment herein shall be paid within thirty (30) days after it becomes due. SLWA shall include with each License Fee payment to City a statement signed by an SLWA corporate officer certifying the calculation of the License Fee. City will have the right, at its sole expense, to conduct an audit, upon reasonable notice and during normal business hours, of SLWA's books and records pertaining to any fees due under this Agreement while this Agreement is in effect and for one (1) year after any termination of this Agreement.

5. **Indemnification.** SLWA hereby agrees to protect, indemnify, and hold the City, its elected officials, officers, employees and agents (collectively or individually, "Indemnitee") harmless from and against any and all claims, damages, losses, expenses, suits, actions, decrees, judgments, awards, attorneys' fees and court costs (individually or collectively, "Claim"), which an Indemnitee may suffer or which may be sought against or are recovered or obtainable from an Indemnitee, as a result of, or by reason of, or arising out of or in consequence of any act or omission, negligent or otherwise, of the SLWA or its officers, employees, contractors, subcontractors, agents or anyone who is directly or indirectly employed by, or is acting in concert with, the SLWA or its officers, its employees, contractors, subcontractors, or agents in the performance of this Agreement; provided that the applicable Indemnitee notifies SLWA of any such Claim within a time that does not prejudice the ability of SLWA to defend against such Claim. Any Indemnitee hereunder may participate in its, his, or her own defense, but will be responsible for all costs incurred, including reasonable attorneys' fees, in connection with such participation in such defense.

6. **Notice.** Any notice required to be given hereunder shall be deemed to have been given when notice is (i) received by the Party to whom it is directed by personal service, (ii) telephonically faxed to the telephone number below provided confirmation of transmission is received thereof, or (iii) deposited as registered or certified mail, return receipt requested, with the United States Postal Service, addressed as follows:

To: City:
ATTN: Dan Arthur
City of Monroe
233 South Main Street
Monroe, OH 45050

Phone: 513-727-8953

To: SLWA:
ATTN: Vice President, Business Development
Utility Service Partners Private Label, Inc.
11 Grandview Circle, Suite 100
Canonsburg, PA 15317
Phone: (724) 749-1003

7. **Modifications or Amendments/Entire Agreement.** Any and all of the representations and obligations of the Parties are contained herein, and no modification, waiver or amendment of this Agreement or of any of its conditions or provisions shall be binding upon a party unless in writing signed by that Party.

8. **Assignment.** This Agreement and the License granted herein may not be assigned by SLWA without the prior written consent of the City, such consent not to be unreasonably withheld.

9. **Counterparts/Electronic Delivery.** This Agreement may be executed in counterparts, all such counterparts will constitute the same contract and the signature of any Party to any counterpart will be deemed a signature to, and may be appended to, any other counterpart. Executed copies hereof may be delivered by facsimile or e-mail and upon receipt will be deemed originals and binding upon the Parties hereto, regardless of whether originals are delivered thereafter.

10. **Choice of Law/Attorney Fees.** The governing law shall be the laws of the State of Ohio. In the event that at any time during the Term or any Renewal Term either Party institutes any action or proceeding against the other relating to the provisions of this Agreement or any default hereunder, then the unsuccessful Party shall be responsible for the reasonable expenses of such action including reasonable attorney's fees, incurred therein by the successful Party.

11. **Incorporation of Recitals and Exhibits.** The above Recitals and Exhibit A attached hereto are incorporated by this reference and expressly made part of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and year first written above.

SEWER AND WATER LINE MARKETING LICENSE AGREEMENT BETWEEN THE CITY OF MONROE AND UTILITY SERVICE PARTNERS PRIVATE LABEL, INC. D/B/A SERVICE LINE WARRANTIES OF AMERICA

CITY OF MONROE

By:_____

UTILITY SERVICE PARTNERS PRIVATE LABEL, INC.

By:_____

Brad H. Carmichael, Vice President

By:_____

_____

Exhibit A
NLC Service Line Warranty Program
City of Monroe, OH
Term Sheet
April 27, 2016
(Term Sheet valid for 90 days)

I. Term of agreement
    a. Initial term
        i. Three years guaranteed (total of 6 campaigns)
II. Annual royalty – $0.50 per month per paid warranty contract
    a. City logo on letterhead, advertising, billing, and marketing materials
    b. Signature by City official
III. Products offered
    a. External sewer line warranty
    b. External water line warranty
IV. Scope of Coverage
    a. External sewer line warranty
        i. Scope is from the city main tap until line daylights inside home...of which includes the service line under the concrete floor. [Note: **If homeowner responsibility is different than this language, please advise.]**
    b. External water line warranty
        i. Scope is from the meter and/or curb box until it daylights inside home...of which includes the service line under the concrete floor. [Note: **If homeowner responsibility is different than this language, please advise.]**
V. Marketing Campaigns – two seasonal campaigns per year (Spring and Fall)
    a. 2016 Spring - Sewer
    b. 2016 Fall - Water
    c. 2017 Spring - Sewer
    d. 2017 Fall - Water
    e. 2018 Spring - Sewer
    f. 2018 Fall - Water
VI. Campaign Pricing
    a. Sewer
        i. Year 1 - $7.75 per month; $88.00 annually
        ii. Year 2 - $7.75 per month; $88.00 annually (subject to annual review)
        iii. Year 3 - $7.75 per month; $88.00 annually (subject to annual review)
    b. Water
        i. Year 1 - $5.75 per month; $64.00 annually
        ii. Year 2 - $5.75 per month; $64.00 annually (subject to annual review)
        iii. Year 3 - $5.75 per month; $64.00 annually (subject to annual review)