

**NOTICE OF ADOPTION**

I, Teri Davis, do hereby certify:

1. That I am the Clerk of Council of the Council of the City of Centerville, Ohio;  
and
2. That on the 6th day of January, 2020,  
Ordinance No. 01-20 was adopted by the Centerville City Council; and
3. That a certified copy of Ordinance No. 01-20 was published in the  
posting locations prescribed by City of Centerville Council Rules.

  
\_\_\_\_\_  
Clerk of Council

ORDINANCE NO. 01-20

CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Belinda Kenley ON THE 6<sup>th</sup> DAY  
OF January, ~~2019~~ 2020

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO CONSTRUCTION MANAGER AT RISK AGREEMENT WITH OBERER CONSTRUCTION MANAGERS, LTD., AND CORNERSTONE DEVELOPERS, LTD. FOR CONSTRUCTION MANAGEMENT SERVICES FOR PHASE IV INTERIOR PUBLIC IMPROVEMENTS.

WHEREAS, the City of Centerville (the "City") and Cornerstone Developers, LTD ("Cornerstone") entered into a Development Agreement ("the Development Agreement") dated November 14, 2013, and as amended; and

WHEREAS, pursuant to the provisions of Section 6.7 of the Development Agreement, Cornerstone and the City entered into a Memorandum of Understanding (As to Phase IV) dated February 8, 2018, as amended by Amendment to Memorandum of Understanding (As to Phase IV) dated December 2, 2019 (as so amended, the "MOU"), setting forth their understanding regarding the scope of Public Improvements for Phase IV of the Development (the "Phase IV Interior Public Improvements," as more fully defined in the MOU), the allocation of TIF Funds for those improvements, and related matters; and

WHEREAS, the MOU, among other things, memorialized certain understanding relating to the development and construction of the Phase IV Interior Public Improvements for the Cornerstone of Centerville construction project (the "Project"); and

WHEREAS, pursuant to the Development Agreement and the MOU, Cornerstone agreed to arrange for the design and engineering of the Project at Cornerstone's own expense, subject to the review and approval of the City; and

WHEREAS, this Council has determined that it is in the best interest of the City to allow a Construction Manager At Risk Agreement for the purpose of providing construction management services and expediting the construction of the Project in a timely manner; and

WHEREAS, Oberer Construction Managers, LTD. ("Oberer") has agreed to provide such services at no charge to the City of Centerville; and

WHEREAS, there is no city financial commitment to the Project; and

WHEREAS, the City has determined that it will be beneficial for the City if the Oberer acts as the construction manager to oversee and perform the design, engineering and construction of the Project on an at-risk basis; and

WHEREAS, §3.01 of the Centerville Charter provides: "Except as restricted by this Charter, the Municipality shall have all powers possible for a municipality to have under the Constitution and laws of the State of Ohio, as fully and completely as though they were specifically enumerated in this Charter."; and

WHEREAS, it has been judicially determined that the adoption of a request for proposal process for the construction of the Project is an exercise of the power of local self-government and not an exercise of the police power so that a municipal bidding process may be adopted which supersedes state law all in accordance with the municipal powers granted to charter cities in §3, Article XVIII of the Constitution of the State of Ohio; and

WHEREAS, this council, by this ordinance, in accordance with §7.07 of the Centerville Charter is hereby exercising its power of local self-government to authorize and ratify the construction management process and contract for the construction of the Project through competitive bidding as set forth in Exhibit F of the Construction Manager At Risk Agreement, attached to this Ordinance; and


WHEREAS, pursuant to § 210.16 of the Codified Ordinances of the City of Centerville, this Council allows contracts for construction management services which are in the best interests of the City.

NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

Section 1. That the City Manager is authorized and directed to enter into an agreement substantially similar to the form attached hereto as Exhibit "A" with Oberer Construction Managers, LTD, the Construction Manager and Cornerstone Developers, LTD., the Developer, to provide construction management services for the construction of Project at no cost to the City.

- Section 2. That the City has no financial commitment for the Project.
- Section 3. That all bid packages that the Construction Manager selects are approved, subject to the concurrence of the City Manager; and the Construction Manager is authorized to use any subcontractor who submits a bid and that the Construction Manager recommends, subject to the concurrence of the City Manager.
- Section 4. This ordinance shall be effective from and after the earliest date allowed by law.

PASSED THIS 6<sup>th</sup> day of January, 2020.

  
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Mayor of the City of  
Centerville, Ohio

ATTEST:

  
\_\_\_\_\_  
Clerk of Council  
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Ordinance No. 01-20, passed by the Council of the City of Centerville, Ohio on the 6<sup>th</sup> day of January, 2020.

  
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Clerk of the Council

Approved as to form, consistency with the  
Charter and Constitutional Provisions.  
Department of Law  
Scott A. Liberman  
Municipal Attorney