

RESOLUTION NO. 01-12
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Brooks Compton ON THE
10th DAY OF JANUARY, 2012.

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY
MANAGER TO ENTER INTO A PRE-ANNEXATION AGREEMENT
WITH YANKEE DEVELOPMENT GROUP FOR PROPERTY
LOCATED IN WASHINGTON TOWNSHIP.

WHEREAS, the City and Yankee Development Group, the owner of property
located in Washington Township, have successfully negotiated a Pre-annexation
Agreement to allow property to be annexed into the City; and

WHEREAS, this Council has determined that it would be in the best interests of
the citizens of Centerville to enter into said agreement.

NOW, THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY
RESOLVES:

Section 1. That the City Manager is authorized and directed to enter into a Pre-
Annexation Agreement with Yankee Development Group to allow for the
annexation of property located in Washington Township in accordance with the
terms of said agreement, a copy of which is attached hereto as Exhibit "A" and
incorporated herein.

PASSED THIS 6th day of January, 2012.

Mark Kuyper
Mayor of the City of
Centerville, Ohio

ATTEST:

Debra A. James
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 Resolution No. 01-12, passed by the Council of the City of Centerville, Ohio on the 6th day of January, 2012.


Clerk of the Council

Approved as to form, consistency
with existing ordinances, the
charter & constitutional provisions
Department of Law
Scott A. Liberman
Municipal Attorney

PRE-ANNEXATION AGREEMENT

This Pre-Annexation Agreement is entered into this ___ day of _____, 2011, by and between the City of Centerville, an Ohio municipal corporation (hereinafter "City"), and Yankee Development Group, a real property owner in Washington Township, Montgomery County, Ohio (hereinafter referred to as "Petitioner").

WHEREAS, the undersigned Petitioner or Petitioners are the owners of property, located near the corner of Sheehan and Social Row Road in Washington Township, Montgomery County, Ohio, which property is contiguous with the City; and

WHEREAS, the undersigned Petitioner or Petitioners wish to annex their property or a portion thereof to the City; and

WHEREAS, both parties wish to cooperate in facilitating the annexation of the territory;

NOW, THEREFORE, in consideration of the following, Petitioner or Petitioners and City hereby agree as follows:

Section 1: Annexation Petition. The City at its cost will prepare and provide an annexation petition, map, and description to Petitioner or Petitioners in the appropriate form. The Petitioner or Petitioners agree upon presentation to sign the annexation petition agreeing to annex the territory described in this Agreement to the City and appointing Nathan E. Cahall, residing at 2425 Ferndown Drive Miamisburg, Ohio 45342, as the petitioner's agent. The annexation petition may be filed solely containing the Petitioner's property or may be filed as a joint annexation petition with other parcels so long as all other territory so joined is supported by one hundred (100%) of the owners of such territory as defined by Ohio Revised Code Section 709.02 (E) at the time of signing. The petition will be filed with the Montgomery County Board of County Commissioners within sixty (60) days of obtaining the last owner's signature. The City agrees that all costs and expenses associated with petitioning for the annexation will be borne by City. Should Petitioner or Petitioners desire their own attorney to represent their interests with regard to the annexation petition, those costs will be borne by Petitioner or Petitioners. Once this Agreement is signed and accepted by City, the Petitioner or Petitioners agree that they will not remove their names from the petition and will continue to support the annexation to the City throughout the entire annexation process, including any appeal or court action provided such is at no further expense to Petitioner or Petitioners and as long as the annexation, appeal, or court action is supported by the City. Petitioner or Petitioners will cooperate with City in attending or presenting any necessary information or testimony before the Montgomery County Board of County Commissioners or court of competent jurisdiction as requested by City. If necessary, and at City's request, Petitioner or Petitioners will appear at the review of the petition before the Montgomery County Board of County Commissioners and at any subsequent court hearings on appeal.

Section 2: Service Resolution. The City agrees to enact and file the appropriate service resolution with the Montgomery County Board of County Commissioners within twenty (20) days of the filing of the annexation petition stating the services that would be provided to

the area sought to be annexed and the approximate time such services would be provided. The City further agrees to adopt an ordinance or resolution stating that if the territory is annexed and becomes subject to zoning by the City and the zoning permits uses in the annexed territory that the City determines are clearly incompatible with the uses permitted under the current zoning on the adjacent land that remains within the township, the City will require in the rezoning ordinance the owner to provide a buffer separating the uses in the annexed territory from the adjacent township uses as set out by law. The City further agrees, if necessary, to appear by its designated representative at the review before the Montgomery County Board of County Commissioners in support of the petition.

Section 3: Condition Precedent. Both parties acknowledge and agree that this Agreement is effective at the earliest period allowed by law.

Section 4: Miscellaneous. This Agreement and the rights and obligations of the parties hereunder shall be subject to the terms and conditions hereof and shall inure to the benefit of and be binding on the respective successors and assigns.

This Agreement supersedes any and all prior agreements, arrangements, negotiations, letters of understanding and acknowledgements between City and Petitioner or Petitioners, or any related party, relative to matters contained herein whether oral or written. No amendment, modification or alteration of this Agreement shall be valid unless in writing and signed by the parties hereto.

If for any reason any one or more articles, sections, sentences, clauses or parts of this Agreement are held invalid by any court of law or duly authorized public body such determination shall not affect, impair, or invalidate the remaining provisions of this Agreement but shall be confined in its operation to the specific articles, sections, sentences, clauses or parts of the Agreement in any one or more instance shall not prejudice in any way the validity of the Agreement in any other instance nor shall such finding alter the understandings of both parties as to the intent of this Agreement and both parties agree to use their best efforts to bring to fruition the results contemplated in this Agreement regardless of the findings of any court of law of other duly authorized public body.

This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

This Agreement is executed this ____ day of _____, 2011, by the City of Centerville, Ohio, and Yankee Development Group, and is effective upon the date provided above.

PETITIONER

Date: _____, 2011

By: _____
Its: _____

This Agreement was authorized by the City of Centerville by Resolution No. _____ adopted on _____, 2011 at an open meeting and in accordance with the laws of the state of Ohio, and the ordinances and Charter of the City of Centerville, and is executed by the City Manager this _____ day of _____, 2011 in accordance with such authority and is effective at the earliest date as provided by law.

CITY OF CENTERVILLE, OHIO

Date: _____, 2011

By: Gregory B. Horn
Its: City Manager

