

RESOLUTION NO. 56-08
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Brooks Compton
ON THE 20th DAY OF October, 2008.

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A SIXTH AMENDMENT TO AN AGREEMENT BETWEEN THE CITY AND THE CORPORATE PREDECESSOR OF YANKEE TRACE DEVELOPMENT, INC. ORIGINALLY EXECUTED ON JUNE 27, 1994.

WHEREAS, the City and the corporate predecessor to Yankee Trace Development, Inc. originally entered into a development agreement on June 27, 1994 for the development of the City owned land in the vicinity of the Golf Club at Yankee Trace which agreement was amended on September 20, 1994, amended again on September 21, 1995, supplemented on December 21, 1998, amended on May 31, 2000, amended on November 20, 2000 and amended again on February 26, 2002 (collectively the "Agreement"); and

WHEREAS, the parties wish to further amend the Agreement to provide for an increase in the compensation for the sale of land.

NOW, THEREFORE,

THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:

SECTION 1. That the City Manager of the City of Centerville is hereby authorized to execute the agreement with Yankee Trace Development, Inc. which is set forth in Exhibit "A" and to do any and everything necessary in order to ensure that the provisions of said agreement are carried into effect.

PASSED THIS 20th day of October, 2008.

C. Mark Kuegler
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. 56-08, passed by the Council of the City of Centerville, Ohio on the 20th day of October, 2008.

Debra A. James
Clerk of Council

Approved as to form, consistency
with the charter and constitutional provisions.

Department of Law
Scott A. Liberman
Municipal Attorney

SIXTH AMENDMENT TO AGREEMENT

THIS Sixth AMENDMENT TO AGREEMENT ("Amendment") is entered into this ___ day of _____, 2008 between THE CITY OF CENTERVILLE, OHIO (the "City") and YANKEE TRACE DEVELOPMENT, INC., an Ohio corporation (the "Developer"), under the following circumstances:

- A. The City and the Developer are currently parties to a certain Agreement dated June 27, 1994 as previously modified by an Amendment to Agreement dated September 20, 1994; a Second Amendment to Agreement dated September 21, 1995; a Supplemental Agreement dated September 21, 1998; a Third Amendment to Agreement dated May 31, 2000; a Fourth Amendment to Agreement dated November 21, 2000; and a Fifth Amendment to Agreement dated February 26, 2002 (collectively, the "Agreement").
- B. Pursuant to the terms of the Agreement, the Developer was to acquire from the City approximately Five and Six Tenths (5.6) acres of the New Residential Property (the "Subject Property") on or before October 20, 2002.
- C. The City and the Developer have agreed to modify the Agreement pursuant to the terms and conditions contained herein in order to extend the date by which the Developer must purchase the Subject Property from the City.

NOW THEREFORE, in consideration of the mutual agreements contained in the Agreement and this Amendment, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by both parties, the City and the Developer hereby agree as follows:

- 1. The Developer shall close on the acquisition of the Subject Property on or before October 20, 2010.
- 2. The revised acreage of the Subject Property to be purchased shall be 4.227 acres (as depicted on Exhibit 1 attached hereto and made a part hereof). The Subject Property includes 3.998 acres of tax parcel O68-01116-0074 and 0.239 acres of tax parcel O68-01116-0075.
- 3. Through October 20, 2008, the purchase price for the Subject Property shall be Thirty Two Thousand Eight Hundred Ninety-Eight Dollars (\$32,898.00) per gross acre, which shall be calculated by a survey or surveys to be done by Bayer Becker Engineers, as necessary to create the new tax parcel for the Subject Property and to convey the Subject Property to the Developer.

- 4. The purchase price will increase five percent (5%) annually on October 21st until the land purchase is complete.
- 5. All capitalized terms contained in this Amendment that are not typically capitalized, unless otherwise defined herein, shall have the meanings assigned to such terms by the Agreement.
- 6. Except as specifically modified by the terms of this Amendment, all of the terms and provisions of the Agreement remain in full force and effect and unmodified.

Executed as of the day and year first above written.

WITNESSES:

YANKEE TRACE DEVELOPMENT, INC.
an Ohio corporation

Print Name _____

By: _____
James P. Sullivan
Its Executive Vice President

Print Name _____

THE CITY OF CENTERVILLE, OHIO

Print Name _____

By: _____
Gregory B. Horn
Its City Manager

Print Name _____

Approved as to form:

Scott A. Liberman
Centerville Municipal Attorney

COUNTY

126

0.239 Ac.

3.988 Ac.

SHAWNEE

PARCEL 31

269 Ac.
49 DUA
132 UNITS

BOUNDARY WAY

