

RESOLUTION NO. 24-98  
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER JAMES SINGER ON THE  
17th DAY OF AUGUST, 1998.

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AN ESCROW AGREEMENT ON BEHALF OF THE CITY OF CENTERVILLE WITH YANKEE TRACE DEVELOPMENT, INC., AND AMENDING THE AGREEMENT BETWEEN THE CITY OF CENTERVILLE AND GREAT TRADITIONS DEVELOPMENT GROUP, INC., DATED JUNE 27, 1994 TO PROVIDE FOR THE EXECUTION OF THIS ESCROW AGREEMENT.

WHEREAS, An Agreement between the City of Centerville, Ohio and Great Traditions Development Group, Inc. was executed on June 27, 1994 to provide for the purchase and development of residential parcels at Yankee Trace, and

WHEREAS, Section 6. COVENANTS & WARRANTIES OF CITY, Sub-Section 6.8, Special Assessment Financing, provides that the City shall provide special assessment financing for the installation of streets and utility improvements for the Yankee Trace project, and

WHEREAS, Special Assessment Financing (SAF) have been issued and future phases of SAF are contemplated, and

WHEREAS, the City and Yankee Trace Development, Inc. have reached an agreement that the Yankee Trace project would be better served if funds for the Yankee Trace Drive Improvements were utilized from SAF II, and funds for the Water Line Improvements would be deferred for SAF III, and

WHEREAS, Yankee Trace Development, Inc. has agreed to place in escrow an amount equal to One Hundred Twenty Thousand Dollars (\$120,000.00) for the City to draw upon in the event Montgomery County requires the City to install the Water Line Improvements prior to the issuance of SAF III funding.

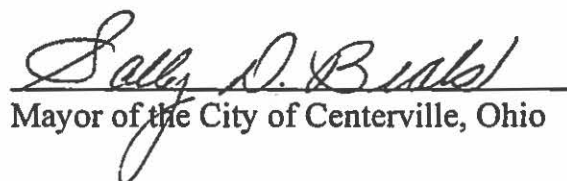
NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:

Section 1. That the City Manager is hereby authorized to execute an Escrow Agreement with Yankee Trace Development, Inc. to provide for appropriate timing of certain public improvements funded by SAF II and SAF III, a copy of the Escrow Agreement marked as Exhibit "A", attached hereto and incorporated herein.


Section 2. That the City Manager is hereby authorized to execute an amendment to said Agreement of June 27, 1994 and exhibits A and B thereto to reflect the revisions to the construction and SAF schedules authorized by this Resolution

Section 3. This Resolution shall become effective at the earliest date allowed by law.

PASSED this 17<sup>th</sup> day of AUGUST, 1998.

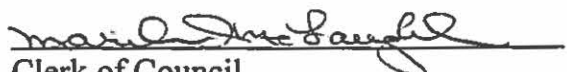
  
Mayor of the City of Centerville, Ohio

ATTEST:

  
Clerk of Council, City of Centerville, Ohio

**CERTIFICATE**

The undersigned, Clerk of the Council of the City of Centerville, Ohio, hereby certifies that the foregoing is a true and correct copy of Resolution Number 24-98, passed by the Council of the City of Centerville, Ohio, on the 17<sup>th</sup> day of AUGUST, 1998.

  
Clerk of Council

Approved as to form, consistency  
with the Charter and Constitutional Provisions.

Department of Law  
Robert N. Farquhar  
Municipal Attorney

## ESCROW AGREEMENT

THIS ESCROW AGREEMENT ("Escrow Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_, 1998 by THE CITY OF CENTERVILLE, OHIO, an Ohio municipal corporation (the "City") and YANKEE TRACE DEVELOPMENT, INC., an Ohio corporation (the "Developer") under the following circumstances:

A. Pursuant to the terms and conditions of a certain Agreement dated June 27, 1994 between the City and the Developer's predecessor in interest, Great Traditions Development Group, Inc. (the "Development Agreement"), the City agreed to provide special tax assessment financing ("SAF") for infrastructure and other public improvements for the residential project being acquired and developed by the Developer currently known as the Yankee Trace (the "Project").

B. Currently, two (2) phases of the SAF have been issued and future phases of SAF are contemplated.

C. The agreements between the City and the Developer allow for certain optional public improvements to be completed, dependent upon fund availability, including, without limitation, the water line improvements described in Exhibit A attached hereto and made a part hereof (the "Water Line Improvements") and the road improvements described in Exhibit B attached hereto and made a part hereof (the "Yankee Trace Drive Improvements").

D. The City and the Developer previously contemplated completing the Water Line Improvements with funds from the second phase of the SAF, but have decided instead, that the Yankee Trace Project would be benefitted by completing the Yankee Trace Drive Improvements earlier than originally contemplated utilizing the second phase of the SAF and deferring the completion of the Water Line Improvements until the issuance of the next phase of the SAF.

E. The City and the Developer have reached the agreements contained herein regarding the SAF and the timing of certain public improvements as described in the preceding paragraph in order to benefit the Project.

NOW, THEREFORE, in consideration of the mutual agreements contained in this Escrow Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the city and the Developer hereby agree as follows:

1. The installation of the Water Line Improvements will be delayed until the earlier of (i) the issuance of the next phase of the SAF or (ii) the demand by the County of Montgomery to the City that the Water Line Improvements be installed.

2. In lieu of paying for the Water Line Improvements from the second phase of the SAF, the Yankee Trace Drive Improvements will be installed and constructed and paid for from the next phase of SAF.

3. Concurrently with the execution of this Escrow Agreement, the Developer is depositing into escrow with \_\_\_\_\_ ("Escrow Agent") an amount equal to One Hundred Twenty Thousand Dollars (\$120,000.00) (the "Escrow Amount"), which shall be held in escrow pursuant and subject to the terms and conditions of this Escrow Agreement.

4. If, prior to the time the Developer causes the petition for the next phase of SAF to be filed, the County requires the City to install the Water Line Improvements, then the City shall be entitled to draw upon the Escrow Amount to pay for the cost to install the Water Line Improvements. The City shall notify the Developer in writing promptly upon its receipt of any request from the County regarding the Water Line Improvements and at least ten (10) days in advance of either commencing the installation of the Water Line Improvements or requesting disbursement of the Escrow Amount from the Escrow Agent. Any portion of the Escrow Amount not used for paying for the costs of the Water Line Improvements shall be disbursed to the Developer upon completion of the Water Line Improvements and payment by the City of the costs for installing the same.

5. If the City draws on the Escrow Amount to pay for the Water Line Improvements, the City shall cause the Developer to be reimbursed for the Escrow Amount utilized by the City promptly upon the issuance of the next phase of the SAF, which issuance shall be the sole condition to such reimbursement. The City and the Developer both agree, in any event, that the Water Line Improvements will be included as public improvements to be funded in the next phase of the SAF.

6. If not utilized by the City pursuant to Section 4, the Escrow Amount, including all interest earned thereon, shall be released to the Developer immediately upon the filing of the petition for the next phase of the SAF, which shall be the sole condition for the return of the Escrow Amount to the Developer. Upon the return of the Escrow Amount and the payment of interest earned thereon to the Developer, all obligations of the parties under this Escrow Agreement shall be released.

7. The Escrow Amount shall be invested in a federally insured interest bearing bank account to be selected by the mutual agreement of the Developer and the City. All interest earned on the Escrow Amount shall be paid to the Developer.

8. The Escrow Agent agrees to hold and disburse the Escrow Amount pursuant and subject to the terms and conditions of this Agreement.

SIGNED this \_\_\_\_\_ day of August, 1998.

**THE CITY OF CENTERVILLE, OHIO**

By \_\_\_\_\_  
Name \_\_\_\_\_  
Its \_\_\_\_\_

Approved as to Form

\_\_\_\_\_  
Robert N. Farquhar, Esq.  
Centerville Municipal Attorney

**YANKEE TRACE DEVELOPMENT, INC.,  
an Ohio corporation**

By \_\_\_\_\_  
Name \_\_\_\_\_  
Its \_\_\_\_\_

\_\_\_\_\_  
a(n) \_\_\_\_\_

By \_\_\_\_\_  
Name \_\_\_\_\_  
Its \_\_\_\_\_

## **EXHIBIT A**

**Improvements to Social Row Road by constructing a 16" diameter water main along the south side of Social Row Road starting at a point approximately 400 feet East of the intersection of Social Row Road and Yankee Trace Drive, and extending approximately 1,600 feet East.**

## **EXHIBIT B**

**Extending the Yankee Trace Drive public road improvements starting from the terminus point described in Item 1 above, by clearing, grading, draining, curbing, paving, and installation of sanitary sewers, storm sewers, water mains, sidewalk, together with all necessary appurtenances thereto.**