

RESOLUTION NO. 79-20
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Belinda Kenley ON
THE 2nd DAY OF November, 2020.

**RESOLUTION AUTHORIZING AND DIRECTING THE CITY
MANAGER TO ENTER INTO AN AMENDMENT TO
AGREEMENTS WITH CORNERSTONE DEVELOPERS, LTD. FOR
PARK IMPROVEMENTS IN THE CORNERSTONE PARK.**

WHEREAS, Cornerstone Developers, LTD. ("Cornerstone") is the current owner of certain real property known as Lot #5, Cornerstone Section Seven B Record Plan, consisting of approximately 9.624 acres of land in Greene County and commonly known as the Cornerstone Park Active Area and additional land consisting of approximately 11.499 acres known as Lot #4 on the Plat and Lot #1 of Cornerstone Section Seven A Record Plan and commonly known as the Cornerstone Park Passive Area (all land collectively referred to as the "Park Area"); and

WHEREAS, pursuant to a Development Agreement between Cornerstone and the City dated November 14, 2013, as amended, as well as the zoning approvals obtained by Cornerstone in connection with the development of the overall site, Cornerstone committed to make private improvements to the Park Area (the "Project"); and

WHEREAS, pursuant to a Donation Agreement and a Right of Entry Agreement between Cornerstone and the City both dated August 26, 2019 (the "Agreements"), which call for Cornerstone to complete construction of the Park Area Improvements on or before November 30, 2020; and

WHEREAS, Cornerstone has determined that it will require additional time to complete the Project (referred to as the Park Improvements in the Right of Entry Agreement), and has requested an extension of time from the City up to November 30, 2021; and

WHEREAS, the City is willing to grant this extension.

NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE
HEREBY RESOLVES:


Section 1: That the City Manager is hereby authorized to execute the Amendment to Agreements with Cornerstone Developers, Ltd., to extend the time for construction of Park Improvements in both the Active and Passive Parks as set forth in both the Donation

and Right of Entry Agreements. A copy of the Amendment to Agreements is attached and marked Exhibit "A" and incorporated herein.

Section 2: That the City Manager is hereby authorized and directed to do any and everything necessary to carry out the terms of said Agreement.


Section 3: This Resolution shall take affect at the earliest date allowed by law.

PASSED THIS 2nd day of November, 2020.



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 Resolution No. 79-20, passed by the Council of the City of Centerville, Ohio on the 2nd day of November, 2020.



Clerk of the Council

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

Department of Law
Scott A. Liberman, Municipal Attorney
Municipal Attorney

AMENDMENT TO AGREEMENTS

This Amendment to Agreements (this "Amendment") is made as of the effective date described below, between CORNERSTONE DEVELOPERS, LTD., an Ohio limited liability company ("Cornerstone"), whose address is 3445 Newmark Drive, Miamisburg, Ohio 45342, and CITY OF CENTERVILLE, OHIO, an Ohio municipal corporation (the "City"), whose address is 100 W. Spring Valley Road, Centerville, Ohio 45458, under the following circumstances:

A. Pursuant to a Donation Agreement entered into by Cornerstone and the City dated December 26, 2019 (the "Donation Agreement"), Cornerstone agreed to construct on the real property known as Lot No. 5, Cornerstone Section Seven B Record Plan (the "Property"), certain improvements consisting of park/recreation features and associated infrastructure (the "Project"). The Donation Agreement requires that, subject to delays beyond Cornerstone's reasonable control, Cornerstone shall the cause the Project to be substantially completed on or before November 30, 2020.

B. Contemporaneously with the Donation Agreement, Cornerstone and the City entered into a Right of Entry Agreement (the "Right of Entry Agreement") which also calls for completion of the Park Improvements (as defined therein) on or before November 30, 2020.

C. Cornerstone has determined that it will require additional time to complete the Project (referred to as the Park Improvements in the Right of Entry Agreement), and has requested an extension of time from the City. The City is willing to grant this extension.

NOW, THEREFORE, for valuable consideration paid, the receipt and sufficiency of which are hereby acknowledged, Cornerstone and the City agree as follows:

1. Section 10(i) of the Donation Agreement is hereby amended to read as follows:

"(i) Subject to delays beyond Cornerstone's reasonable control, Cornerstone shall cause the Project to be substantially completed on or before November 30, 2021."

2. Paragraph 4(i) of the Right of Entry Agreement is hereby amended to read as follows:

"(i) Subject to delays beyond Cornerstone's reasonable control, Cornerstone shall cause the Park Improvements to be substantially completed on or before November 30, 2021."

3. Except as amended hereby, the Donation Agreement and the Right of Entry Agreement are ratified and confirmed and remain in full force and effect.

4. This Amendment is effective as of the date last signed by the City or Cornerstone. This Amendment may be signed in several counterparts and, together, shall constitute one document. Facsimile copies of signatures or digitally signed signatures (including scanned signatures attached to an email) shall be acceptable to evidence complete agreement.

THE CITY:

CITY OF CENTERVILLE, OHIO,
an Ohio municipal corporation

By: _____
Wayne S. Davis, City Manager

Date: _____

CORNERSTONE:

CORNERSTONE DEVELOPERS, LTD.,
an Ohio limited liability company

By: Oberer Construction Managers, Ltd., its
Managing Member

By: _____
George R. Oberer, Jr., Manager

Date: _____

APPROVED AS TO FORM:

City Attorney