

RESOLUTION NO. 67-22
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Duke Lunsford ON THE 15th
DAY OF August, 2022.

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A FOURTH AMENDMENT TO THE SUBDIVIDER'S AGREEMENT WITH YANKEE TRACE WOODS, LLC FOR PROPERTY LOCATED IN THE CITY OF CENTERVILLE ALONG PARAGON ROAD.

WHEREAS, the City of Centerville and Yankee Trace Woods, LLC, the Owner and Developer of property located in City of Centerville along Paragon Road, had successfully negotiated a Subdivider's Agreement to allow property to be developed in the City and for the construction of both private and public improvements; and

WHEREAS, the Subdivider's Agreement was executed on September 14, 2015, and subsequently amended three times on May 12, 2016, December 19, 2016, and July 18, 2019; and

WHEREAS, it is the desire of the parties to the Subdivider's Agreement to clarify that County Auditor's fees are not to be included in the special assessment amount paid by each lot owner; and

WHEREAS, this Council has determined that it would be in the best interests of the citizens of Centerville to enter into said Amendment to the Agreement in order to address the Auditor's fees.

NOW, THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:


SECTION 1. That the City Manager is authorized and directed to enter into a Fourth Amendment to the Subdivider's Agreement with Yankee Trace Woods, LLC to allow for the development of property located in City of Centerville, consisting of property along Paragon Road in accordance with the terms of said Amendment, a copy of which is attached hereto as Exhibit "A" and incorporated herein.

SECTION 2. This Resolution is to take effect at the earliest time allowed by law.

PASSED THIS 15th day of August, 2022.


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. 67-22, passed by the Council of the City of Centerville, Ohio on the 15th day of August, 2022.


Clerk of the Council

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

FOURTH AMENDMENT TO SUBDIVIDER'S AGREEMENT

THIS AMENDMENT TO SUBDIVIDER'S AGREEMENT made this _____ day of August, 2022, between **Yankee Trace Woods, LLC**, an Ohio limited liability company, hereinafter referred to as the "Developer", and the **CITY OF CENTERVILLE**, Montgomery County, Ohio, an Ohio municipal corporation, hereinafter referred to as "Centerville" or "City" (collectively "the Parties").

WITNESSETH:

WHEREAS, the Parties entered into a Subdivider's Agreement dated September 14, 2015; amended on May 12, 2016; December 19, 2016 and July 18, 2017 (the "Agreement") relating to the record plan (plat) for the improvements and expansion of The Grove at Yankee Trace project located along Paragon Road, hereinafter referred to as the "Development", and

WHEREAS, the Agreement contemplated the satisfaction of certain contingencies established therein; and

WHEREAS, in consideration of the mutual benefits accruing hereunder, the Parties desire to amend the Agreement as hereinafter provided in order to clarify the Auditor's fee.

NOW, THEREFORE, it is agreed between Developer and Centerville to amend the Agreement as follows:

1. Paragraph 6 of the Agreement is hereby restated and amended in its entirety as follows:

6. The amount of the Special Assessment for the Improvements not including Auditor fees is capped at Seven Hundred and Eight Thousand, Seven Hundred Fifty and no/100 Dollars (\$708,750), calculated by the number of lots (27) times the annual special assessment of \$875/lot for thirty years. It is understood by the parties that the County Auditor may impose a fee on each assessment, which fee is collected by the Auditor and not paid to the City. Subject to the City's prior approval, which approval shall not be unreasonably withheld, Developer shall have the option of having the City issue and sell the bonds at any time after the execution of this Agreement and the recording of the Plat and Developer may delay the issuance and sale of the bonds by the City until no later than July 31, 2019.

From time to time upon the Developer's request, the City shall advise the Developer of the anticipated interest rate for the bonds and other issuance costs and whether the interest rate can be fixed or locked prior to issuance.

2. Except as modified, hereby, the Agreement is ratified and confirmed and remains in full force and effect. This Amendment may be executed in several counterparts, each of which shall be deemed to constitute an original, but all of which together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereunto have set their hands as of the day and year first above written.

Signed in the presence of:

YANKEE TRACE WOODS, LLC, an Ohio limited liability company

Witness for Developer

By: _____
Its: _____

CITY OF CENTERVILLE

Witness for City

By: Wayne S. Davis
Its: City Manager

Approved as to form:

Scott A. Liberman, Municipal Attorney