

RESOLUTION 2014-03
RESOLUTION TO APPROVE AN ANNEXATION AGREEMENT
BETWEEN HILLIAR TOWNSHIP AND THE VILLAGE OF CENTERBURG PURSUANT
TO RC §§709.022 AND 709.192 AND TO DECLARE AN EMERGENCY

WHEREAS, the Village of Centerburg ("Village") and Property Owners entered into Contract to Purchase a Sanitary Sewer Easement and Temporary Construction Easement which requires the Village to annex the two (2) contiguous parcels of real estate to the Village as part of the Village providing water and sanitary sewer services to said properties;

WHEREAS, the Village has proposed an Annexation Agreement with Hilliar Township regarding two (2) contiguous parcels of real estate to the Village as part of the Village providing water and sanitary sewer services to said parcels;

WHEREAS, the Property Owners of the parcels are in agreement with the terms of the Annexation Agreement; and

WHEREAS, Hilliar Township has approved the terms of the attached Annexation Agreement per Township Resolution 2014-0127 effective February 1, 2014 (See Exhibit A attached hereto); and

WHEREAS, the Village desires to proceed with the execution of the Annexation Agreement to expedite the approval of the annexation;

NOW THEREFORE, be it resolved by the Council for the Village of Centerburg, Ohio as follows:

Section 1. That the Council hereby approves the Annexation Agreement between the Village and Hilliar Township. (See Exhibit B attached hereto).

Section 2. That the Council hereby authorizes the Mayor and Village Administrator to execute the Annexation Agreement on behalf of the Village to assist the Village and Property Owners in efficiently completing the annexation process so as to

Section 3. That this Resolution is declared to be an emergency, immediately necessary for the preservation of the public health, safety and welfare so as to not delay the contractor in performing the Wastewater Reclamation Facility Construction Project.

WHEREFORE, this Resolution shall take effect immediately from and after its passage and approval by the Mayor.

DATE PASSED Feb. 3, 2014

PRESIDENT OF COUNCIL

ATTEST _____
CLERK OF COUNCIL

MAYOR

APPROVED AS TO FORM:

LEGAL COUNSEL

I hereby certify that the ordinance or a summary of the ordinance was published once a week for two consecutive weeks on _____, 2014 and _____, 2014 in the *Mount Vernon News* in conformance with the Ohio Revised Code.

CLERK-TREASURER

EXHIBIT A

Village of Centerburg
Res. 2014-03

RESOLUTION 2014- 0127

RESOLUTION APPROVING AN ANNEXATION AGREEMENT
WITH THE VILLAGE OF CENTERBURG PURSUANT TO RC §709.022

WHEREAS, the Village of Centerburg ("Village") has proposed an Annexation Agreement with the Township regarding two (2) parcels of real estate contiguous to the Village as part of the Village providing water and sanitary sewer services to said parcels;

WHEREAS, the Property Owners of the parcels have also approved the terms of the Annexation Agreement;

NOW THEREFORE, be it resolved by the Board of Trustees of Hilliar Township, Knox County, Ohio as follows:

That in conformance with RC §709.022, the Trustees hereby approve the Annexation Agreement attached hereto as Exhibit A and the Trustees' execution of same to assist the Village and Property Owners in efficiently completing the annexation process for two (2) parcels contiguous to the Village.

Adopted by the Board of Trustees of Hilliar Township, Knox County, Ohio on this 27th day of January, 2014.

This Resolution shall become effective this 1st day of February, 2014.

By: Gail Morey, Trustee

Attest by Fiscal Officer:

Fiscal Officer

By: Don McCracken, Trustee

By: Roger Hall, Trustee

EXHIBIT B

Village of Centerburg

Res. 2014-03

**ANNEXATION AGREEMENT
BETWEEN VILLAGE OF CENTERBURG AND HILLIAR TOWNSHIP**

Feb 3, 2014

WHEREAS, Gene S. Jackson and Debra J. Jackson ("Property Owners") are owners of two (2) parcels of real estate known as (1) Knox County, tax parcel no. 17-00702.005 located at 3941 Columbus Road, Centerburg, Ohio 43011; and (2) Knox County, tax parcel no. 17-00702.003 located at 0 Columbus Road, Centerburg, Ohio 43011 (collectively the "Subject Property"), which Subject Property consists of approximately 3.260 acres presently located in Hilliar Township ("Township").

WHEREAS, the Village of Centerburg ("Village") and Property Owners entered into Contract to Purchase a Sanitary Sewer Easement and Temporary Construction Easement which requires the Village to Annex two (2) contiguous parcels of real estate to the Village as part of the Village providing water and sanitary sewer services to said properties;

WHEREAS, the Village intends to remove said parcels the Township, and within the geographical boundaries of the Village of Centerburg, pursuant to R.C. § 503.07 and consistent with Village Ordinance 2011-04; and

WHEREAS, the Village is petitioning the County Commissioners pursuant to R.C. §709.022 for Annexation with the Consent of All Parties, which requires the submission of an Annexation Agreement pursuant to R.C. §709.192;

AGREEMENT

NOW THEREFORE, regarding annexation of the Subject Property, the Village and Township, and Property Owners, represent, covenant and agree, that:

1. The Township, including its Trustees and administrators, support the annexation of the Subject Property to the Village and will use its best efforts to support annexation of same.
2. The Township will not take any action which will adversely affect the annexation of the Subject Property to the Village of Centerburg.
3. The Township, in conformance with Village Ordinance 2011-04 and R.C. 503.07 consents to removal of the Subject Property from the Township taxing district and following approval of the annexation by the County Commissioners, a change of the municipal boundaries to incorporate the Subject Property solely within the Village taxing district. [RC §709.192(C)(13)].

4. The Village shall provide water and sanitary sewer services to the Subject Property or allow the Subject Property to access the Village water and sanitary sewer services at rates consistent with the rates and tap fees charged to all Village residents, except as otherwise amended by the Contract to Purchase a Sanitary Sewer Easement and Temporary Construction Easement. [RC §709.192(C)(11)].
5. The Village shall provide police services to the Subject Property in conformance with its agreement with the Knox County Sheriffs' Office. [RC §709.192(C)(11)]
6. Fire protections services will be available to the Subject Property as provided by the Central Ohio Joint Fire District. [RC §709.192(C)(11)].
7. The Township and Village shall work with the County Auditor to ascertain and apportion the amount of existing net indebtedness of the Township to be assumed and paid by the Village. [RC §709.12].
8. This Agreement shall be deemed an Annexation Agreement in compliance with R.C §709.192. The parties acknowledge having review R.C §709.192, and deeming the provisions set forth herein sufficient with respect to this annexation of the Subject Property.
9. The Parties will continue to cooperate and abide by the terms of the Non-Exclusive Recreational Facilities Lease/Use Agreement regarding the local Park, and the parties agree to amend the Non-Exclusive Recreational Facilities Lease/Use Agreement to read as follows:

Paragraph 3, **Term** of the Non-Exclusive Recreational Facilities Lease/Use Agreement shall be amended, effective January 1, 2015, in its entirety to read as follows:

3. Renewal Term.

The renewal term of this Agreement shall be a period of five (5) years, commencing on the first (1st) day of January, 2015 and ending on the thirty-first (31st) day of December, 2019. Neither Party shall be obligated to enter any additional renewal of this Agreement, nor has either party made a representation that they would agree to extend the term of this Agreement beyond what is set forth herein.

Paragraph 4, **Rent** of the Non-Exclusive Recreational Facilities Lease/Use Agreement shall be amended effective January 1, 2015 for the Renewal Term, in its entirety to read as follows:

4. **Rent.**

- A. *The rental amount for the Five (5) Year Renewal Term shall be the total amount of Three Thousand Five Hundred Fifty Dollars and No Cents (\$3,500.00) payable in one installment on or before the last day of February 2015. In addition to rent, and as additional consideration to Hilliar, Centerburg shall consider requests from Hilliar for in-kind assistance in the event an extraordinary need arises, such as a significant storm event or a critical piece of equipment necessary for the Park's maintenance breaks down. Such assistance might include labor, loaning of equipment, or sharing of other resources.*
- B. *A condition precedent to Centerburg paying said rent to Hilliar is Hilliar's establishment of a fund pursuant to R.C. § 5709.05(F) designated solely for maintenance of the Park ("Hilliar Park Fund"). Hilliar shall deposit all rent payments hereunder in said fund and use said rent payments solely for maintenance of the Park. Centerburg shall not be obligated to make any payment to Hilliar until said fund had been established. Hilliar shall provide an annual accounting and report to the Village of expenditures from the Hilliar Park Fund.*
- C. *An additional condition precedent to Centerburg paying said rent to Hilliar is the Knox County Commissioner's approval of the Annexation of the Subject Property at issue in the Annexation Agreement between the Parties.*
- D. *In addition to rent, and as additional consideration to Hilliar, Centerburg shall consider requests from Hilliar for in-kind assistance in the event an extraordinary need arises, such as a significant storm event or a critical piece of equipment necessary for the Park's maintenance breaks down. Such assistance might include labor, loaning of equipment, or sharing of other resources.*

Paragraph 7, **Termination** of the Non-Exclusive Recreational Facilities Lease/Use Agreement shall be amended effective January 1, 2015 for the Renewal Term, in its entirety to read as follows:

7. **Termination.**

- A. *Upon Default of Centerburg:* Hilliar may terminate this Agreement, without penalty or further liability, upon thirty (30) days written notice to Centerburg, if Centerburg fails to cure a default for payment of amounts due under this Agreement within that 30-day period, or if Centerburg defaults, other than for non-payment of rent and fails to cure such default within that 30-day period; provided, however, Centerburg shall not be deemed to be in default for non-payment if Hilliar has failed to establish the Hilliar Park Fund for maintenance of the Park pursuant to R.C. §5709.05(F).

- ~~B. *Termination in the Event of Levy Passage:* This Agreement shall terminate immediately upon the passage of a levy on the first day of the effective tax year for said levy, where said levy proceeds are paid to the Centerburg Joint Recreation District or Hilliar and said levy is to provide for the maintenance and operation of the Premises.~~

All other provisions of the Non-Exclusive Recreational Facilities Lease/Use Agreement shall remain unchanged during the Renewal Term.

10. That upon approval of this Annexation Agreement by all parties, Kyle Stroh, Solicitor for the Village and acting as Agent for the Property Owners shall cause to be filed with the Knox County Commissioners, the Petition attached hereto as Exhibit A.

11. This Agreement is binding upon and inures to the benefit of the Village and Township and their successors and assigns.
12. This Agreement is deemed to have been prepared jointly by the Parties hereto and any uncertainty or ambiguity herein, if any, shall not be interpreted against either Party, but shall be interpreted according to the application of the rules of interpretation for arm's length agreements.
13. Each person executing this Agreement on behalf of the Parties specifically warrants and represents that he or she has full power and authority to execute this Agreement on behalf of such Party through actions approved at a public meeting.
14. This document sets forth the entire agreement between the Parties and may only be changed in a writing signed by all parties hereto subject to approval of said change by each party at a public meeting. There are no representations, arrangements, understandings or agreements, oral or written, relating to the subject matter of this Agreement, except as expressed herein.

THE VILLAGE OF CENTERBURG

Village Authorizing Resolution No. 2014-__

By: Philip Lohmeyer
Philip Lohmeyer, Village Administrator

Date: 2-3-14

By: Diana Stockmaster
Diana Stockmaster, Mayor

Date: 2-3-14

***[ADDITIONAL SIGNATURES ON NEXT PAGE;
REMAINDER OF PAGE IS INTENTIONALLY BLANK]***

HILLIAR TOWNSHIP, OHIO

Township Authorizing Resolution No. 2014-0127

By: [Signature]
Gail Morey, Trustee

Date: 1-27-14

By: [Signature]
Don McCracken, Trustee

Date: 1/27/14

By: [Signature]
Roger Hall, Trustee

Date: 1/27/14

Approved by:

[Signature]
Gene S. Jackson, Property Owner of Subject
Property

[Signature]
Debra J. Jackson, Property Owner of Subject
Property

[Signature]
Kyle J. Stroh, Village Solicitor
Village of Centerburg

[Signature]
Legal Counsel
Hilliard Township

APPROVED AS TO FORM

John C. Thatcher
Knox County
Prosecuting Attorney

EXHIBIT A

ANNEXATION AGREEMENT BETWEEN THE
VILLAGE OF CENTERBURG
AND
HILLIAR TOWNSHIP

February 2014

**PETITION FOR EXPEDITED ANNEXATION OF 3.26 ACRES IN HILLIAR
TOWNSHIP TO THE VILLAGE OF CENTERBURG (R.C. §709.022)**

Date: _____, 2014

To: The Board of County Commissioners of Knox County, Ohio Knox
County Administration Building
117 E. High Street, Ste 161
Mt. Vernon, OH 43050

The undersigned Property Owners, Gene S. Jackson and Debra J. Jackson, who represent 100% of the owners of the real estate hereinafter described in Exhibit "A" and consisting of 3.26 acres in Hilliar Township, Knox County, Ohio, adjacent to the Village of Centerburg, do hereby respectfully petition the Board of Knox County Commissioners to cause such territory to be annexed to the Village of Centerburg under authority of Sections 709.02 to 709.11 of the Ohio Revised Code of Ohio.

There are two (2) owners within the area, Gene S. Jackson and Debra J. Jackson, husband and wife.

1. Attached to this petition and made part hereof is a full legal description marked **Exhibit "A"**.
2. Attached to this petition and made part hereof is an accurate mylar (map) of the area to be annexed, marked **Exhibit "B"**.
3. Attached to this petition and made part hereof is a list of parcels in area to be annexed and adjacent territory that includes name of owner, mailing address of owner and permanent parcel number, marked **Exhibit "C"**.

["Pursuant to RC §709.022(A), notice to these property owners is not required as "upon receipt of the petition and the [Annexation Agreement attached as Exhibit D], the board of county commissioners, at the board's next regular session shall enter upon its journal a resolution granting the annexation, without holding a hearing."]

4. Attached to this petition and made part hereof is a certified copy of the Annexation Agreement between Hilliar Township and the Village of Centerburg marked as **Exhibit "D"** pursuant to RC §709.022 and §709.192.

The undersigned Petitioners/Property Owners do hereby designate Attorney, Kyle J. Stroh as their Agent, who is the Solicitor for the Village of Centerburg, whose address is: Kyle J. Stroh, Metz, Bailey, & McLoughlin, 33 E. Schrock Road, Westerville, Ohio 43081, 614-882-2327, 614-882-5150 (FAX), kstroh@metzbailey.com.

WHOEVER SIGNS THIS PETITION EXPRESSLY WAIVES THEIR RIGHT TO APPEAL ANY ACTION ON THE PETITION TAKEN BY THE BOARD OF COUNTY COMMISSIONERS. THERE ALSO IS NO APPEAL FROM THE BOARD'S DECISION IN THIS MATTER IN LAW OR IN EQUITY.

Gene S. Jackson, Petitioner
174 Houck Street
Centerburg, Ohio 43011
740-398-3652

Date

Debra J. Jackson
174 Houck Street
Centerburg, Ohio 43011
740-398-3652

Date

EXHIBIT "A"
DESCRIPTION

Legal Description of Real Estate to be annexed from Hilliar Township to the Village of Centerburg:

Situated in the State of Ohio, in the County of Knox, in the Township of Hilliar and being further described as follows:

[TO BE INSERTED OR ATTACHED]

EXHIBIT "B"
MYLAR MAP OF PARCELS TO
BE ANNEXED

EXHIBIT "C"**LIST OF: PARCELS TO BE ANNEXED**

Attached to this petition and made part hereof is a list of parcels in area to be annexed and adjacent territory that includes name of owner, mailing address of owner and permanent parcel number, marked

PARCEL #1: Tax parcel no. 17-00702.005
3941 Columbus Road, Centerburg, Ohio 43011

Owners: Gene S. Jackson and Debra J. Jackson
Mailing Address: 174 Houck Street
Centerburg, Ohio 43011

PARCEL #2: Tax parcel no. 17-00702.003
0 Columbus Road, Centerburg, Ohio 43011

Owners: Gene S. Jackson and Debra J. Jackson
Mailing Address: 174 Houck Street
Centerburg, Ohio 43011

EXHIBIT "D"
ANNEXATION AGREEMENT
(RC §§ 709.022 and 709.192)

SEE ATTACHED

- **Hilliar Township Trustees Resolution 2014-0127 passed on January 27, 2014 approving the Annexation Agreement.**
- **Village of Centerburg Resolution 2014-03 passed on February 3, 2014 approving the Annexation Agreement.**
- **Fully Executed Annexation Agreement**
- **Village of Centerburg Resolution 2014-04 passed on February 3, 2014 regarding the Village's providing of services to the parcels being Annexed.**

NOTICE TO COMMISSIONERS

**NO HEARING IS REQUIRED
PURSUANT RC §709.022(A).
THE BELOW INFORMATION IS
PROVIDED BY PETITIONER
MERELY AS A COURTESY.**

LEGAL NOTICE PETITION FOR ANNEXATION

Notice is hereby given that on the _____ day of _____, _____, there was presented to the Board of Commissioners for the County of Knox, State of Ohio. A petition for Type I Expedited Annexation of 3.260 acres consisting of two (2) parcels from Hilliar Township to the Village of Centerburg, Ohio, which petition was presented by 100% of the owners of the territory described as follows:

[SEE ATTACHED LEGAL DESCRIPTION]

The territory to be annexed consists of two adjacent parcels fronting along Columbus Road, Centerburg, Ohio which are adjacent to the following properties listed below which are not part of the territory to be annexed, but are being identified in the event any notice needs to be given to said adjacent property owners:

Adjacent Property Owners to the East:

- Property owned by Becky A. Thatcher (Parcel No. 18-00146.000) known as 204 W Main Street PO Box 193, Centerburg, Ohio 43011;
- Property owned by Charles Brown and David Brown (Parcel No. 18-00347.000) with a mailing address of 27 Willis Street, Centerburg, Ohio 43011;
- Property owned by Robert L Dardinger, Wanda Conner, and Michael Simmons with a mailing address of 31 Willis Street, Centerburg, Ohio 43011

Adjacent Property Owners to the West:

- Property owned by AAA Storage of Mount Vernon, LLC, (Parcel No. 17-00702.000) with a

mailing address of 778 Millstone Lane, Mount Vernon, Ohio 43011 and a statutory agent address of c/o Donald Durbin, 1150 Vernonview Drive, Mount Vernon, Ohio 43050

Adjacent Property Owners to the North:

- Property owned by Gene S. Jackson and Debra J. Jackson, (Parcel No. 17-00702.001) known as 174 Houck Street, Centerburg, Ohio 43011;

Adjacent Property Owners to the South:

- Property owned by James A Suttinger (18-00259.000) known as 223 W. Main Street, Centerburg, Ohio 43011;
- Property owned by Douglas L. Flinn and Tamara K. Flinn (18-00259.000) known as 7 Factory Street, Centerburg, Ohio 43011;
- Property owned by Jeffrey P. Belcher and Diane L. Belcher (18-00903.000) known as 3940 Columbus Road, Centerburg, Ohio 43011, but with a mailing address of 6879 State Route 229, Marengo, Ohio 43334;
- Property owned by Patrick L. White and Taffy S. White known as 3938 Columbus Road, Centerburg, Ohio 43011, but with a mailing address of PO Box 139, Centerburg, Ohio 43011.

The Board of Commissioners of Knox County has fixed _____, at _____ o'clock am/pm, as the time for hearing the Petition, which shall be in the Knox County Administration Building at 117 E. High Street, Ste 161, Mount Vernon, Ohio 43050.

Agent for Petitioners

Kyle J. Stroh
Metz, Bailey and McLoughlin
33 E. Schrock Road
Westerville, Ohio 43081
614-882-2327
614-882-5150 (FAX)
kstroh@metzbailey.com.