

RECORD OF ORDINANCES

Ordinance No. 08-51- 2014 Passed 8-19, 2014

AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF CIRCLEVILLE TO ENTER INTO AN ANNEXATION AGREEMENT BETWEEN THE CITY OF CIRCLEVILLE, THE BOARD OF TRUSTEES OF WASHINGTON TOWNSHIP, PICKAWAY COUNTY, OHIO, AND OHIO CHRISTIAN UNIVERSITY PURSUANT TO SECTION 709.192 OF THE OHIO REVISED CODE AND DECLARING AN EMERGENCY.

WHEREAS, the Ohio Christian University is the owner of 86.048 acres of property adjacent to and outside of the present corporate boundaries of the City of Circleville; and

WHEREAS, the Ohio Christian University is desirous of annexing this adjacent property to the City in order to obtain municipal services to support the property; and

WHEREAS, the City of Circleville, the Board of Trustees of Washington Township, Pickaway County, Ohio and Ohio Christian University are desirous of entering into an Annexation Agreement to more clearly define the rights and obligations regarding the annexation of this property to the City and to insure that this annexation is in conformity with the previous Annexation Agreement entered into between the City of Circleville and the Board of Township Trustees of Washington Township for the annexation of territory within the Township; and

WHEREAS, it is necessary to authorize the Mayor of the City of Circleville to enter into this Annexation Agreement in order to continue the goals of the previous Annexation Agreement entered into between the City of Circleville and the Township Trustees of Washington Township to cooperate in inducing and fostering economic development within this area and coordinate planning standards between the parties; and

WHEREAS, the authorization of the Mayor to enter into an Annexation Agreement between the parties herein is the best interests of the citizens of the City of Circleville and the same ought to be done;

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Circleville, Pickaway County, Ohio, as follows:

SECTION I. That the Mayor of the City of Circleville is hereby authorized and directed to enter into an Annexation Agreement between the City, the Board of Trustees of Washington Township, Pickaway County, Ohio, and Ohio Christian University in accordance with the terms of the Annexation Agreement attached hereto, marked Exhibit "A", and incorporated herein by reference.

SECTION II. That the City hereby approves and consents to the Annexation Agreement set forth in Section I above and agrees to each of the respective terms and provisions of such Annexation Agreement.

SECTION III. That this ordinance is hereby declared to be an emergency measure necessary for the health, safety and welfare of the citizens of the City of Circleville, such emergency arising out of the immediate need to authorize the Mayor to enter into this Annexation Agreement so as to permit certain grant applications in connection therewith to be submitted prior to their scheduled deadlines so that this ordinance shall take effect and be in force immediately from and after its passage and approval by the Mayor.

PASSED: 8-19-2014
DATE

David M. Cappel
PRESIDENT OF COUNCIL

ATTEST: Indira M. Chaudhary
CLERK OF COUNCIL

APPROVED: 8-19-2014
DATE

William R. McHugh
MAYOR

APPROVED AS TO FORM:

Gary D. Kenworthy
GARY D. KENWORTHY, LAW DIRECTOR

REVIEWED BY LAW DIRECTOR
AND APPROVED AS TO FORM

Council
8/19/14

ANNEXATION AGREEMENT

This Annexation Agreement (the "Agreement"), is entered into this 19th day of August, 2014, by and between the CITY OF CIRCLEVILLE, Ohio, (the "City"), the OHIO CHRISTIAN UNIVERSITY ("OCU"), and the TOWNSHIP OF WASHINGTON, Pickaway County, Ohio (the "Township"):

WHEREAS, OCU is desirous of obtaining sanitary sewerage services from the City to provide such services to its facilities; and

WHEREAS, the City is desirous of providing such sanitary sewerage services in consideration of OCU filing to annex 86.048 acres of its property currently developed into the City; and

WHEREAS, OCU is agreeable in filing a petition for annexation of the aforesaid 86.048 acres of property into the City, which real property is more fully described in the attached Exhibit "A-1" attached hereto and made a part hereof; and

WHEREAS, OCU, the City and the Township all consent to the annexation of this real property to the City as authorized under Ohio Revised Code Section 709.022 and evidence such consent by executing this agreement to accompany the annexation petition; and

WHEREAS, the City is willing to provide all project management including initial design, project documentation, bidding, grant applications, funding acquisition, contract award, easement negotiation and construction inspection services; to fund this sanitary sewerage project; and to reimburse OCU for a portion of income tax revenue to apply to infrastructure improvements; and

WHEREAS, OCU agrees that in consideration of the above services being provided by the City, they will reimburse the City over a 20 year period for the City's initial costs and development expenses associated with this project under the terms hereinafter set forth and to further commit to funding their proportionate share of future planned gravity sewer extension expenses and other improvements in accordance with master planning documents to the campus area; and

WHEREAS, OCU and the City agree to in all respects comply with the previous annexation agreement dated July 6, 2011 entered into between the City and the Township; and

WHEREAS, the City has been authorized to enter into this agreement by Ordinance # 08-57-2014 adopted by City Council on August 19, 2014; and

WHEREAS, the Board of OCU has authorized the entering into this agreement by Resolution # ~~11/1~~, adopted by its Board on ~~May~~ 19, 2014; and

WHEREAS, the Township has authorized the entering into this agreement by Resolution # 08-13-2014 adopted by its Board of Trustees on August 13, 2014;

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements between the parties and to gain mutual benefits between them, the parties hereto agree and obligate themselves as follows:

SECTION I: ANNEXATION PETITION

OCU will fulfill this agreement by the submission of an Annexation Petition thereby agreeing to annex 86.048 acres of its campus facilities currently located in Washington Township, Pickaway County, Ohio to the City. The subject real estate is further described as Auditor's Permanent Parcel Numbers N32-0-001-00-555-01, N32-0-001-00-552-00, N32-0-001-00-555-09, and N32-0-001-00-555-08. The Township and City hereby agree to the annexation of the real property to the City and that the real property will remain within the Township after annexation. Any additional acreage to be connected to the City sanitary sewerage system shall be annexed to the City as development occurs and prior to any connection with the new sanitary sewerage system.

SECTION II. UTILITIES AND SERVICES

The City and Township do hereby agree to provide all available municipal and township services and utilities as set forth below:

A). **THE CITY SHALL BE THE PRIMARY PROVIDER OF THE FOLLOWING MUNICIPAL SERVICES:**

1. Sanitary sewer services;
2. Enforcement of the applicable City's Codified Ordinances, including zoning ordinances, subdivision code ordinances and building code ordinances and provision of any related inspection services;
3. Potential installation and maintenance of traffic signals within the proposed annexation area;
4. Fire and emergency medical services; and
5. Cleaning and fixing of road drainage ditches and storm water retention areas, and repairing and replacing guardrails.

B). THE TOWNSHIP SHALL BE THE PRIMARY PROVIDER OF THE FOLLOWING TOWNSHIP SERVICES:

1. Clearing snow and ice from streets and roads;
2. Salting or in some other way deicing streets and roads;
3. The following pavement maintenance services: berm and shoulder repair, pothole repair and chip and seal resurfacing;
4. Repairing or replacing turf, mowing grass, cleaning up trash and litter;
5. All crack sealing, resurfacing (defined as replacing two inches or less of surface pavement), striping and setting reflective safety devices in pavement (when required by state guidelines); and
6. Police services through the Pickaway County Sheriff's Department.

SECTION III. SANITARY SEWER LINE AND LIFT STATION

A). OBLIGATIONS OF CITY:

1). The City shall provide all project management including initial design, project documentation, bidding, grant applications, funding acquisition, contract award, easement negotiation and construction inspection services necessary for the installation of a fifteen inch sanitary sewer line to replace the current on-site treatment facility of OCU and receive sanitary waste from the OCU campus at a cost of up to \$450,000.00. Engineering for this sewer line shall be completed by June, 2014. Construction will occur after July 1, 2014, with the project to be completed around March 3, 2015.

2). The City will take all action necessary to prepare and submit a grant and loan request through the Ohio Public Works Commission to fund up to fifty percent of the project cost for this sanitary sewer line installation on or before October 4, 2013 to provide funding by July 1, 2014.

3). The City agrees to implement an economic growth incentive program to reimburse OCU a portion of income tax revenue to be applied toward infrastructure improvements. The rebate shall be determined based upon the terms of the City's economic growth initiative (Ordinance No. 10-57-2008) upon receipt of qualified payroll reports from OCU and shall continue for not less than five years, or as negotiated by City Council.

B). OHIO CHRISTIAN UNIVERSITY AGREES TO PROVIDE THE FOLLOWING:

1). OCU and its affiliates shall provide easements and access to facilitate the sanitary sewer system as well as any future gravity sewer project that may service the campus area in accordance with the City's master planning documents on the real estate of OCU and its affiliates, the locations of which are to be mutually agreed upon by OCU and the City.

2). OCU agrees to pay the City regular fees and costs associated with providing of sanitary sewer services and to pay all normal tap fees and acreage fees associated with the installation of the sanitary sewer system and any future permanent gravity sewer to the area.

3). OCU shall also reimburse the City over a twenty year period for the City's initial costs and development fees associated with the installation of the sanitary sewer line in accordance with an agreed upon schedule of payments for a total cost to OCU not to exceed \$600,000.00. There shall be no pre-payment penalties for any early payment by OCU toward these costs and fees.

SECTION IV. PERMANENT GRAVITY SEWER

A). EXTENSION OF PERMANENT GRAVITY SEWER:

1). The parties acknowledge that the installation of the sanitary sewer is potentially a twenty-year interim solution to accommodate recent and projected OCU growth and time lines and the City's growth along the Rte. 22 and 188 corridors. The parties mutually agree that costs associated with the extension of a future permanent Hargus Creek sanitary sewer system in accordance with the City's master planning documents shall be negotiated by the City Administration and the University Administration at that time. Monetary credit for any public sewer paid for by OCU may be applied towards OCU's proportionate share of future permanent sanitary sewer extensions to the area, based on tributary area served.

SECTION V. ZONING AND PLANNING REGULATIONS

A). The parties hereby agree that the real property upon annexation shall become zoned as Special Use (SU). The parties agree that the Special Use (SU) classification (which would permit the development of the property by OCU as a campus site, (with related detention, parking and access) is compatible with the surrounding area.

SECTION VI. CONDITIONS OF CITY CONTRIBUTIONS

A). It is mutually agreed and understood between the parties hereto that the agreements for the contributions and services to be provided by the City of Circleville are subject to and conditioned upon the following:

1). Appropriate approval of the City of Circleville Administration and upon necessary approval and funding by the Council of the City of Circleville.

2). Current parcels owned by OCU and its affiliates being annexed into the City which includes 86.048 acres with additional acreage to be served by the sewerage improvements contemplated herein to be annexed as development occurs prior to any connection with the new sanitary sewerage system.

3). Securing proposed easement and access agreements upon the Woodward property and across property owned by OCU and its affiliates.

4). Securing necessary funding, including grant requests, to the satisfaction of the City.



SECTION VII. MISCELLANEOUS AGREEMENTS

A). The parties mutually acknowledge that OCU has additional infrastructure needed beyond the scope of this agreement and any additional funds received by the City as part of the sanitary sewer project on behalf of OCU and specifically acquired for this project may be used for further expansion of the campus infrastructure needs or other infrastructure projects that support economic growth of OCU within the terms of the agreement used for receipt of said funds from the State of Ohio or other governmental authority.

B). This agreement and the rights and obligations of the parties hereunder shall be subject to the terms and conditions hereof and inure to the benefit of and be binding on the respective successors and assigns of the parties.

C). With the exception of rights conferred expressly in this agreement, nothing expressed or mentioned in or to be implied from this agreement is intended or shall be construed to give to any person other than the parties hereto, any legal or equitable right, remedy, power or claim under or with respect to this agreement or any covenants, agreements, conditions and provisions contained herein. This agreement and all of those covenants, agreements, conditions and provisions are intended to be, and are, for the sole and exclusive benefit of the parties hereto as provided herein.

D). No cancellation, modification, amendment or deletion of, or any addition or change to, this agreement or any provision thereof, or waiver of any right or remedy herein provided, shall be effective for any purpose unless specifically set forth in writing signed by the City, the Township and OCU.

E). No representation, warranty, covenant, agreement, obligation or stipulation contained in this agreement shall be deemed to constitute a representation, warranty, covenant, agreement, obligation or stipulation of any present or future trustee, member, officer, agent or employee of the City, Township or OCU in an individual capacity, and to the extent authorized and permitted by applicable law, no official executing or approving the City's, Township's, or OCU's participation in this agreement shall be liable personally under this agreement or be subject to personal liability or accountability by reason of the issuance thereof.

F). The parties hereto agree to observe and perform faithfully at all times all covenants, agreements and obligations under this Agreement.

G). Each covenant, agreement and obligation of the City, Township and OCU under this agreement is binding upon each officer of the City, Township and OCU as applicable, who may have the authority or duty from time to time under law to take any action which may be necessary or advisable to observe or perform that covenant, agreement or obligation.

H). This agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same agreement. It shall not be necessary in proving this agreement to produce or account for more than one of those counterparts.

I). The captions and headings in this agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this agreement.

J). This agreement shall be governed by and construed in accordance with the laws of the State of Ohio. All claims, counterclaims, disputes or other matters in question between the City, its agents and employees, the Township, its agents and employees, and OCU, its agents and employees, arising out of or relating to this agreement or its breach will be decided in a court of competent jurisdiction within the County of Pickaway, State of Ohio.

K). All representations and warranties of the parties hereto contained in this agreement shall survive the execution and delivery of this agreement.

L). If for any reason any one or more articles, sections, sentences, clauses, or parts of this agreement are held invalid by any court of law or duly authorized public body, such determination shall not affect, impair or invalidate the remaining provisions of this agreement but shall be confined in its operation to the specific articles, sections, sentences, clauses or parts of this agreement held invalid and the invalidity of any article, section, sentence, clause or part of the agreement in any one or more instances shall not prejudice in any way the validity of the agreement in any other instance.

IN WITNESS WHEREOF, the City, Township and OCU have caused this agreement to be executed in their respective names by their duly authorized officers, all as on the date first above written.

CITY OF CIRCLEVILLE, OHIO

BY: Donald R. McIlroy
DONALD MCILROY - MAYOR

Per authority granted by Ordinance # 68-51-2014
passed on the 19th day of
AUG, 2014.

TOWNSHIP OF WASHINGTON,
PICKAWAY COUNTY, OHIO

BY: Richard E. Stevens
RICHARD E. STEVENS,
TOWNSHIP TRUSTEE

BY: James M. Lands Sr.
JAMES M. LANDS, SR.,
TOWNSHIP TRUSTEE

BY: James R. Ewing
JAMES R. EWING,
TOWNSHIP TRUSTEE

Per authority granted by Resolution # 08-2014
passed on the 13th day of
August, 2014.

OHIO CHRISTIAN UNIVERSITY

BY: Mark Smith
MARK SMITH - PRESIDENT

Per authority granted by Resolution # _____
passed on the 19th day of
May, 2014.

UNIVERSITY RESOLUTION

CERTIFICATE OF UNIVERSITY RESOLUTION AUTHORIZING THE PRESIDENT AND/OR VICE PRESIDENT FOR FINANCE TO SIGN IN BEHALF OF THE UNIVERSITY

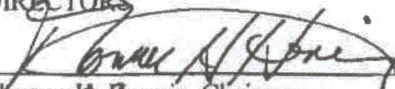
I, Thomas H. Hermiz, Chairman of the Board of Trustees of Ohio Christian University, organized and existing under the laws of the State of Ohio and having its principal place of business at Circleville, Ohio, hereby certify that the following is a true copy of a resolution adopted by the Board of Directors of the University at a meeting convened and held in May, 2014 at which a quorum was present and voting throughout and that such resolution is now in full force and effect and is in accordance with the provisions of the charter and by-laws of the Corporation.

RESOLVED: That the President and/or Vice President for Finance of the University is hereby authorized to sign on behalf of the University any contracts, forms, or agreements in behalf of the University, and that the Vice President for Advancement is hereby authorized to sign trusts, estate plans, life estates, and other such similar financial instruments;

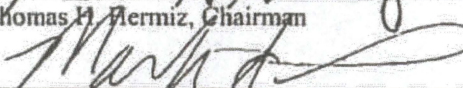
RESOLVED FURTHER: That the President and/or Vice President for Finance is hereby authorized and directed to certify to any interested party that this resolution has been duly adopted, is in full force and effect, and is in accordance with the provisions of the charter and by-laws of the Corporation.

I further certify that this University is duly organized and existing, and has the power to take the action called for by the foregoing resolution.

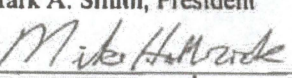
DIRECTORS


Thomas H. Hermiz, Chairman

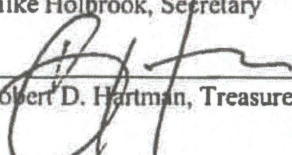
5/19/14
Date


Mark A. Smith, President

05/08/2014
Date


Mike Holbrook, Secretary

5/16/14
Date


Robert D. Hartman, Treasurer

05/08/2014
Date