

City of Willoughby Hills

ORDINANCE NO. 2009-86

AN ORDINANCE AMENDING ORDINANCE NO. 2008-5 THEREBY AMENDING THE PUBLIC INFRASTRUCTURE IMPROVEMENTS DESIGNATED AS THOSE PUBLIC INFRASTRUCTURE IMPROVEMENTS THAT BENEFIT OR SERVE DIRECTLY THE DEVELOPMENT PROPERTY DESCRIBED IN “EXHIBIT A” BY THE INCLUSION OF THE CITY’S IT/DISPATCH CENTER AND THEREBY MODIFYING ONLY THE PUBLIC INFRASTRUCTURE IMPROVEMENTS, MARKED AS “EXHIBIT D” OF THE DEVELOPMENT AGREEMENT WITH 9091 LLC, THE OWNER OF THE DEVELOPMENT PROPERTY AND DECLARING AN EMERGENCY.

WHEREAS, Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43 provide that this Council may declare certain improvements to property within the City to be a public purpose, thereby authorizing the exemption of those improvements from real property taxation for a period of time and provide for the making of service payments in lieu of taxes by the owner of such parcels for the purpose of paying for public infrastructure improvements which directly benefit the property for which the improvement was declared to be a public purpose and establish a municipal public improvement tax increment equivalent fund into which such service payments shall be deposited; and

WHEREAS, on February 14, 2008, the Council of the City of Willoughby Hills adopted Ordinance No. 2008-5 declaring improvements to certain property in the City to be a public purpose, describing the public infrastructure improvements to benefit the property, exempting such improvements to the property from real property taxation, authorizing the execution of Development Agreement and such other documents as may be necessary and establishing a Tax Increment Equivalent Fund for the Deposit of such Service Payments and related Authorizations pursuant to Ohio Revised code Sections 5709.40, 5709.42 and 5709.43; and

WHEREAS, the City desires to amend the Public Infrastructure Improvements described in Exhibit “A”, consisting of (1) page attached hereto (the “Public Infrastructure Improvements”) by the inclusion of the Willoughby Hills’ IT/Dispatch Center; and

WHEREAS, the City wishes to amend the **Development Agreement**, modifying only Public Infrastructure Improvements, marked as Exhibit “D”, found within said Development Agreement, (consisting of twenty (20) pages and marked as Exhibit “C”), with 9091 LLC, the owner of the Development Property, by the inclusion of the City’s IT/Dispatch Center.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILLOUGHBY HILLS, COUNTY OF LAKE, STATE OF OHIO THAT:

SECTION 1. The Public Infrastructure Improvements described in **Exhibit “A”** designated as those Public Infrastructure Improvements that benefit or serve directly the Development Property and are necessary for the public health, safety and welfare is hereby amended to include the **Willoughby Hills’ IT/Dispatch Center**.

SECTION 2. The Public Infrastructure Improvements, marked as **Exhibit “D”**, (consisting one (1) page) found within the Development Agreement with 9091 LLC, the owner of the Development Property, is hereby amended by the inclusion of the City’s IT/Dispatch Center.

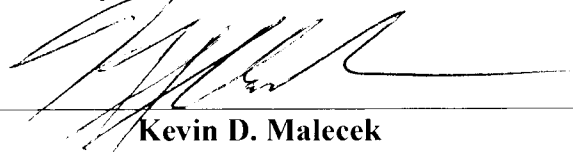
SECTION 3. The Mayor is hereby authorized to execute the Amendment made to Exhibit "D" of the Development Agreement, consisting of one (1) page attached hereto and as referenced herein.

SECTION 4. The Mayor is hereby authorized to execute any and all documents in furtherance of the purpose and intent as noted herein, with a copy or copies of said documents to remain on file in the Office of the Clerk of Council.

SECTION 5. The actions of this Council concerning and relating to the passage of this legislation were conducted in lawful meetings of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were held in compliance with all legal requirements including Chapter 107 of the Codified Ordinances of the City of Willoughby Hills.

SECTION 6. This Ordinance constitutes an emergency measure in that the same provides for the immediate preservation of the public peace, health, safety and welfare of the inhabitants of the City of Willoughby Hills, insofar as it provides for the usual daily operation of a municipal department and for the further reason that this Ordinance is required to be immediately effective to allow for the City's IT/Dispatch Center to be a Public Improvement which is necessary to revitalize the City in an environmentally safe and sound manner; wherefore, this Ordinance shall be in full force and effect immediately upon its passage, provided it receives the affirmative vote of five (5) members of Council elected thereto or six (6) affirmative votes if all members of Council are present at the meeting at which it is passed; otherwise it shall be in full force and effect after the earliest period allowed by law.

PASSED: December 9, 2009



Kevin D. Malecek
President of Council

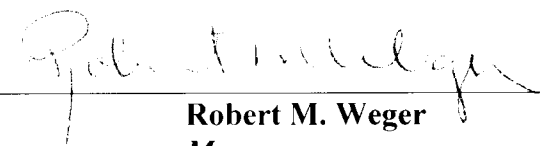
Submitted to the Mayor for his approval
on this 9 day of December, 2009

Approved by the Mayor
December 9, 2009

ATTEST:



Victoria Ann Savage, CMC
Clerk of Council



Robert M. Weger
Mayor

EXHIBIT A

- 1. SOM Center Road Widening and Signalization Improvement**
 - **Widening northbound lane from Classic entrance to I-90 Eastbound ramp; complete with traffic island modifications and pavement markings**
 - **New traffic signal installation at Classic/clinic entrances**
 - **Synchronization of traffic signals along SOM Center Road from Classic/clinic entrance north to Halle Drive in Willoughby**
 - **Prior-incurred cost for the Interchange Modification Study**
 - **Prior-incurred cost for utility changes to beautify Route 91 not requiring public bidding**
- 2. Corporate 90 & Stark Drive Pump Station Improvement**
 - **Equipment; electrical controls and site improvements**
- 3. Chardon Road (US 6) Resurfacing Improvements**
- 4. IT/Dispatch Center**

Exhibit "D" of the Development Agreement as entered into on February 14, 2008, between the City of Willoughby Hills, Ohio (the "CITY") and 9091 LLC, an Ohio Limited Liability Company (the "DEVELOPER" and/or "OWNER"), is hereby amended by the inclusion of the City's IT/Dispatch Center as a Public Improvement, listed as item number 4.

EXHIBIT D

PUBLIC IMPROVEMENTS

1. **SOM Center Road Widening and Signalization Improvement**

- Widening northbound lane from Classic entrance to I-90 Eastbound ramp; complete with traffic island modifications and pavement markings
- New traffic signal installation at Classic/clinic entrances
- Synchronization of traffic signals along SOM Center Road from Classic/clinic entrance north to Halle Drive in Willoughby
- Prior-incurred cost for the Interchange Modification Study
- Prior-incurred cost for utility changes to beautify Route 91 not requiring public bidding

2. **Corporate 90 & Stark Drive Pump Station Improvement**

- Equipment; electrical controls and site improvements

3. **Chardon Road (US 6) Resurfacing Improvements**

4. **IT/Dispatch Center**

IN WITNESS WHEREOF, the City and the Owner have each caused this Amendment to Exhibit "D" of the Development Agreement to be executed after due authorization as of the date aforesaid.

CITY OF WILLOUGHBY HILLS

By: _____
Robert M. Weger, Mayor

Date: _____, 20____

And: _____
Finance Director

Date: _____, 20____

The legal form of the within instrument is hereby approved:

By: _____
Thomas G. Lobe, Director

Date: _____, 20____

9091 LLC, and Ohio Limited Liability Company

By: _____
Its _____

Date: _____, 20____