

RESOLUTION NO. 03-15
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Paul Gresham ON
THE 26th DAY OF January, 2015.

A RESOLUTION AUTHORIZING THE CITY MANAGER, ON
BEHALF OF THE CITY OF CENTERVILLE, TO ENTER INTO AN
AGREEMENT FOR PUBLIC SAFETY DISPATCH SERVICES WITH
THE CITY OF WEST CARROLLTON, OHIO.

WHEREAS, the City of Centerville provides public safety dispatch
services to all areas of the City of Centerville, Montgomery County, Ohio; and

WHEREAS, the City of West Carrollton, Ohio seeks to obtain additional
police and fire protection services from the City of Centerville in the form of
dispatch services ("Public Safety Services"); and

WHEREAS, it is the desire of Centerville and West Carrollton to provide
for public safety services in accordance with the terms and conditions agreed to
by both parties; and

WHEREAS, Ohio Revised Code Section 737.04 authorizes the legislative
authority of any municipal corporation to enter into a contract with another
municipal corporation, upon any terms that are agreed upon, for police protection
services; and

WHEREAS, Ohio Revised Code Section 9.60 authorizes a governmental
entity to contract with another jurisdiction to obtain fire protection or emergency
medical services.

NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE
HEREBY RESOLVES:

Section 1. That the City Manager be and is hereby authorized to
execute an Agreement for Public Safety Dispatch Services, consistent with and
substantially similar to the agreement attached hereto and incorporated herein,
marked Exhibit "A", between the City of Centerville, Ohio and the City of West
Carrollton, Ohio for public safety dispatch services

Section 2. That this Resolution shall take effect at the earliest date
allowed by law.

PASSED THIS 26th day of January, 2015

Chris M. Kenney

Mayor of the City of
Centerville, Ohio

ATTEST:

Debra A. James

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. 03-15, passed by the Council of the City of Centerville, Ohio on the 26th day of January, 2015.

Debra A. James
Clerk of the Council

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

**AGREEMENT FOR PUBLIC SAFETY DISPATCH SERVICES
BETWEEN THE CITY OF CENTERVILLE, OHIO AND
THE CITY OF WEST CARROLLTON, OHIO**

This Agreement is entered into as of this ___ day of _____, 2015, by and between the **CITY OF CENTERVILLE, OHIO** ("Centerville"), an Ohio Municipal Corporation, with principal offices located at 100 West Spring Valley Road, Centerville, Ohio 45458, and the **CITY OF WEST CARROLLTON, OHIO** ("West Carrollton"), an Ohio Municipal Corporation, with principal offices located at 300 East Central Avenue, West Carrollton, Ohio 45449.

WHEREAS, Ohio Revised Code Section 737.04 authorizes the legislative authority of any municipal corporation to enter into a contract with another municipal corporation, upon any terms that are agreed upon, for police protection services; and

WHEREAS, Ohio Revised Code Section 9.60 authorizes a governmental entity to contract with another jurisdiction to obtain fire protection or emergency medical services; and

WHEREAS, Centerville and West Carrollton are both charter municipalities with constitutionally-granted home rule powers; and

WHEREAS, West Carrollton seeks to obtain additional police and fire protection services from the City of Centerville in the form of dispatch services ("Public Safety Services"); and

WHEREAS, the Centerville City Council on _____, 2015 passed Resolution No. _____, authorizing this Agreement with West Carrollton for public safety services; and

WHEREAS, the West Carrollton City Council on _____, 2015 passed Resolution/Ordinance No. _____, authorizing this Agreement with Centerville for purchase of public safety services; and

WHEREAS, it is the desire of Centerville and West Carrollton to provide for public safety services in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing and of the covenants and agreements herein contained, the parties, intending to be legally bound, agree as follows:

ARTICLE I – PUBLIC SAFETY DISPATCH SERVICES

- A. Dispatch Services: Centerville, through its dispatch center located at 155 W. Spring Valley Road, Centerville, Ohio, ("Dispatch Center"), agrees to dispatch West Carrollton Police Department, Fire Department and Emergency Medical Services calls, on a twenty-four (24) hour, three hundred and sixty-five (365) days per year basis, to authorized personnel of the West Carrollton Police Department and the West Carrollton Fire Department and other public safety resources generally with regard to emergency and non-emergency incidents, and with communication support and services/systems directly

related to the dispatch function ("Dispatch Services"). Dispatch Services include but are not limited to the following:

- a. Radio communications
- b. Telephone communications
- c. Dissemination of emergency 9-1-1 calls
- d. Law Enforcement Automated Data Systems (LEADS) and National Crime Information Center (NCIC) information, if appropriate
- e. Teletype communications
- f. Telecommunications for the deaf or hearing impaired
- g. Recording of radio and telephone communications
- h. Public Safety Inter-agency communications
- i. Operation of the Computer Aided Dispatch (CAD) system

The Dispatch Services including processing of calls, to be made available and provided to West Carrollton upon request and in a reasonable time period shall be equivalent to those Dispatch Services that are provided to the City of Centerville.

- B. Dispatch Services Equipment: Centerville shall furnish all equipment necessary to provide the Dispatch Services to West Carrollton, including but not limited to all initial base station radio equipment, furniture, consoles and telephone equipment directly related to dispatch functions, and shall routinely maintain such equipment in a reasonable manner. All decisions relating to the provision, maintenance, upgrading, and replacement of such equipment are and shall remain within the sole discretion of Centerville. However, the parties agree that any major capital expenditures which may impact West Carrollton shall be approved by West Carrollton prior to implementation.
- C. West Carrollton shall provide all equipment necessary to receive the Dispatch Services in the field provided by Centerville, including portable radios, mobile radios, mobile data terminals, in-car radio equipment, video cameras and monitors, and any other communications equipment, and shall maintain and replace such equipment in a manner that ensures compatibility with Centerville's provision of Dispatch Services. West Carrollton agrees to update and/or replace all equipment necessary to receive the Dispatch Services provided by Centerville as may be necessary to ensure the provision of Dispatch Services.
- D. West Carrollton acknowledges that Centerville in the future may incur additional costs in upgrading, repairing, and replacing equipment necessary to provide the Dispatch Services for the benefit of West Carrollton and other communities. West Carrollton and Centerville agree to negotiate, in good faith, their respective responsibility for any such costs for the benefit of West Carrollton that are not reimbursed by grants.
- E. West Carrollton shall be solely responsible to individually pay for its own user fees for such services as LEADS, CAD, RMS or MDC airtime.

- F. Personnel: Centerville shall provide all personnel necessary to provide Dispatch Services to West Carrollton. All staffing issues, including the number of Records/Communications Specialists working at any given time, shall be determined by the Centerville Chief of Police. Centerville shall be solely responsible for the management of all Dispatch Center personnel and all personnel-related issues.
- G. Centerville agrees that after the effective date of this Agreement and prior to the commencement of services date to increase the total number of Records/Communications Specialists employed by Centerville as necessary within its discretion to handle the increased volume of dispatch activity generated as a result of this Agreement. To accomplish this, Centerville will agree to hire as entry-level Records/Communications Specialists, any current West Carrollton dispatcher assuming these individuals meet all of the City of Centerville qualifications and requirements, including, but not limited to, background checks. All Records/Communications Specialists who are hired will become employees of the City of Centerville. Subject to legal provisions and waiver of civil service requirements, preference will be offered to applicants who are currently full-time public safety dispatchers in West Carrollton, but their employment is not guaranteed, and is specifically conditioned, among other things, on all of the following:
- (1) Any personnel seeking to be hired must meet all City of Centerville employment requirements for public safety Records/Communications Specialists.
 - (2) Any full time Records/Communications Specialists appointed by the City of Centerville shall be deemed to be strictly new employees with regard to any provision of the City's employment policies, including seniority, layoff order, and any other benefits or privileges that accrue with time and are subject to the Centerville City Charter, City Ordinances and Personnel Policies.
 - (3) Certifications and training of new personnel shall be the sole responsibility and expense of the City of Centerville.
 - (4) The parties agree that, in the event this Agreement is terminated by West Carrollton -, Centerville will experience a lack of work and/or lack of funds and will not be obligated to retain any new Records/Communications Specialists positions created by this Agreement. The parties further agree, in the event this Agreement is terminated, that layoffs of dispatch personnel may occur and West Carrollton shall become liable for any cost of unemployment only during the initial five year term or due to a result of this agreement not being renewed.
- H. Payment for Dispatch Services: West Carrollton, in consideration of the provision of the Dispatch Services outlined herein, agrees to pay Centerville the amount of Two Hundred, Forty-four Thousand, Four Hundred Ninety-five and no/100 Dollars (\$244,495.00) for the first year; Two Hundred, forty-seven Thousand, Three Hundred Ninety-three and no/100 Dollars (\$247,393.00) for the second year; Two Hundred, Fifty-eight Thousand,

Five Hundred Twenty-nine and no/100 Dollars (\$258,529.00) for the third year; Two Hundred, Seventy Thousand, Four Hundred Ninety-three and no/100 Dollars (\$270,493.00) for the fourth year; and Two Hundred, Eighty-one Thousand, Five Hundred Ninety-two and no/100 Dollars (\$281,592.00) for the fifth year. Should Centerville hire any of West Carrollton's current dispatchers, these sums will not exceed the following additional cost per each Records/Communications Specialists hired: Ten Thousand, One Hundred Twenty-three and no/100 dollars (\$10,123.00) for the first year; Ten Thousand, Three Hundred Twenty-five and no/100 dollars (\$10,325.00) for the second year; Ten Thousand, Five Hundred Thirty-two and no/100 dollars (\$10,532.00) for the third year; and, Ten Thousand, Seven Hundred Forty-two and no/100 dollars (\$10,742.00) for the fourth year. Should any West Carrollton dispatcher be hired at step three of Centerville's pay ordinance, the additional fifth year cost will not exceed Three Thousand, Four Hundred Fifty and no/100 Dollars (\$3,450.00). Additionally, as part of the first year payment, for each Records/Communications Specialists hired a part of this Agreement, West Carrollton agrees to pay up to \$1,500 per applicant in order that the cost of any required medical exam/drug screen and/or psychological examination is reimbursed. The yearly sum is to be divided into four equal quarterly payments during the term of this Agreement with the first said quarterly payment due upon the commencement date stated in Article II below and each succeeding payment in the like amount being due on the same date of each quarter as billed by the City of Centerville.

- I. Financial Advisory Board: The parties agree to meet directly and/or through a Financial Advisory Board as appointed by each party by July 31st of each calendar year, or such other date as is mutually agreeable, to evaluate the sufficiency of payments for future Dispatch Services and to discuss in good faith any proposed changes whether increases or decreases in user fees based on an operational cost analysis to include evaluation of costs distribution, changes in workloads, economies of scale and labor costs and any unforeseen regulatory or mandatory costs not otherwise addressed herein.
- J. Operating Procedures/Operations: Control of operating procedures and operations for the Dispatch Center shall rest within the sole discretion of Centerville. Supervision and management over the Records/Communications Specialists personnel shall lie solely with the City of Centerville. Notwithstanding the above, the City of Centerville shall make all reasonable efforts in connection with its operation of the dispatch center to not materially interfere with the standard operating procedures, response protocols, or other internal operations of West Carrollton or the other various individual contracting communities, if any. Further, the parties agree that they will work together in a cooperative, effective and efficient manner to promptly resolve any technical and/or operational issues arising under this Agreement. As such, the chiefs of police and chief of the West Carrollton fire department, or their designees, will serve as liaison for handling any and all issues, complaints, concerns, or inquiries from the other party until a resolution is achieved. At such time as new hires are being considered for the position of Records/Communications Specialists, the Centerville Police chief will offer the West Carrollton Police and/or Fire chief the opportunity to designate a member of his agency to participate in the entry-level oral interview board.

- K. **Increased Workload Volume:** If calls for service or incident volume directly related to West Carrollton increases to a point that additional staffing becomes necessary, the City of Centerville after obtaining approval from West Carrollton, which approval should not be unreasonably withheld, may increase quarterly fees, and if announced by October 1st for the following calendar year. Notwithstanding, the parties further agree that the foregoing quarterly payments shall increase, as necessary, to cover any additional expenses, including contractual wage increases, health insurance increases, and other personnel-related costs, associated with Centerville's cost of employing the additional dispatch personnel necessary to provide Dispatch Services to West Carrollton. Centerville shall notify West Carrollton, in writing, of any such additional expenses at least thirty (30) days prior to the effective date of any increase in payment to Centerville for Dispatch Services.
- L. **No Obligation to Respond/No Liability:** This Agreement is not intended to and shall not be construed to require Centerville to respond beyond the dispatch function to calls or incidents whether of a law enforcement, fire or EMS basis, nor to otherwise provide law enforcement services for events that occur in West Carrollton. In this regard, Centerville shall have no liability or responsibility for the actions, errors, omissions or negligence of the West Carrollton Police or Fire safety forces or service personnel in responding to any dispatch calls taken through the Dispatch Center. And West Carrollton shall maintain proper levels of insurance in this regard. Notwithstanding this provision, Centerville may render assistance in accordance with Ohio law, any current mutual aid agreements, and/or any current agreements for dispatch services.
- M. **Third Console:** Centerville will be purchasing a third console for these services and amortizing the cost of the console over fifteen (15) years. In the event that this agreement is terminated or not renewed prior to complete payment of the expense of the third console, West Carrollton agrees to pay the remaining cost of the third console, if the console has not yet been completely paid in full. If pursuant to Article VI. G., Centerville contracts with other entities for dispatch services, the remaining cost of the third console after the five year initial term shall be split equally between West Carrollton and any additional entity contracting with Centerville for Dispatch services.
- N. **PSAP Money allocation:** Any additional PSAP money to be received by Centerville during the term of this agreement shall be split between the parties based upon a pro rata share of the population of each city. This money shall either be disbursed or West Carrollton's share credited to them annually and only after receipt from Montgomery County. PSAP money disbursed is subject to state laws, rules and regulations.
- O. **Rules and Regulatory Provisions:** All radio operations shall be in accordance with the rules and regulations of the Federal Communications Commission. All LEADS and NCIC functions will be performed in accordance with rules and regulations of each. All other applicable rules and regulations of any state and national governmental agencies associated with the operations of law enforcement radio operations, computer terminals and operations, and databases shall be followed.

- P. Insurance and Subrogation: Each party shall be responsible for maintaining any liability insurance deemed appropriate by each. There shall be no indemnity between the parties for any liability arising out of an alleged act or omission by the other party, its agents or employees. Each party waives any right of subrogation on its own behalf and on behalf of its insurers.

ARTICLE II – TERM/TERMINATION

It is estimated that Centerville shall begin providing the Public Safety Services at twelve o'clock a.m. on _____, 2015 or as soon thereafter as Centerville reasonably determines that all training, staffing, systems (including LEADS), and operational prerequisites are set in place and ready ("Commencement of Services Date"). In the interim, West Carrollton shall continue to maintain their current dispatch services and shall provide necessary support to Centerville for transition efforts.

This Agreement shall remain in effect for an initial term of five (5) years, with options to renew automatically for additional five year terms, subject to re-negotiation. If either party desires to terminate this agreement at the end of a five year term, that party shall give at least six months advance written notice of its intent to terminate. The parties agree to begin negotiations at least six months prior to the end of each five year term.

ARTICLE III – PUBLIC RECORDS

The parties agree and acknowledge that records created pursuant to this Agreement may be public records under the Ohio Public Records Act and agree to coordinate with each other, in a timely manner, on responses to public records requests and with regard to determination of records schedules retention periods and times for destruction. Notwithstanding this provision, the parties agree that nothing in this Article shall be construed as limiting a party from responding to a public records request in accordance with Ohio law. Processes will be established to enable West Carrollton to obtain access to its recordings of radio and telephone traffic.

ARTICLE IV – NOTICE

All notices required hereunder shall be in writing and delivered to the following addresses:

Centerville:

Contact Name: Gregory B. Horn, City Manager
Address: 100 West Spring Valley Road, Centerville, OH 45458
Telephone: 937-433-7151
e-mail: ghorn@centervilleohio.gov

With a copy to:

Contact Name: Scott A. Liberman, Law Director
Address: 1 South Main St., Ste. 1590, Dayton, OH 45402

Telephone: 937-223-1201
e-mail: liberman@altickcorwin.com

West Carrollton:

Contact Name: Brad Townsend, City Manager
Address: 300 E. Central Ave., West Carrollton, OH 45449
Telephone: 937-859-5181
e-mail: btownsend@westcarrollton.org

With a copy to:

Contact Name: Lori Denlinger, Law Director
Address: 300 E. Central Ave., West Carrollton, OH 45449
Telephone: 937-859-5181
e-mail: lkirkwoodjd@icloud.com

Any notice or communication shall be deemed effectively given (a) on the date of delivery, if delivered by hand or (b) on the date mailed if sent by overnight express delivery or U.S. Mail.

ARTICLE V – CERTIFICATION OF FUNDS

Ohio Revised Code Section 5705.41 requires West Carrollton to certify that the funds necessary to pay for this Agreement have been appropriated and either collected or are in the process of collection. West Carrollton and Centerville acknowledge and agree this Agreement may automatically renew, and does not provide for a specified final term or end date. West Carrollton, in accordance with Ohio Revised Code Section 5705.41, will initially certify this Agreement for Two Hundred, Forty-four Thousand, Four Hundred Ninety-five and no/100 Dollars (\$244,495.00) and shall re-certify this Agreement each year it is in effect for such amounts as may be required to ensure its respective obligations under this Agreement. Upon obtaining the appropriation of additional funds, the Agreement shall be re-certified by the Treasurer or Finance Director of West Carrollton; and a copy of the additional certification shall be provided to Centerville's Finance Director. Failure to certify additional funds, as required by this Agreement, shall be grounds for immediate termination of this Agreement.

ARTICLE VI – MISCELLANEOUS PROVISIONS

A. Entire Agreement: This Agreement represents the entire and integrated agreement between Centerville and West Carrollton concerning the within subject, and supersedes all prior negotiations, representations or agreements, either written or oral.

B. Modification of Contract: It is understood and agreed that this Agreement may not be changed, modified, or altered except by an instrument, in writing, signed by both parties and duly approved and authorized by each party's legislative authority in accordance with the laws of the State of Ohio and of each individual party.

C. Multiple Counterparts: This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

D. Assignment of Contract: Neither party shall assign, delegate, or subcontract any portion of the Dispatch Services without prior written express approval of the other party.

E. Choice of Law/Forum: This Agreement shall be deemed made and entered into in the State of Ohio and shall be governed by and construed in accordance with the law of Ohio. Any controversy or claim related directly or indirectly to this Agreement will be resolved in the appropriate court in Montgomery County, Ohio.

F. Severability: If any provision of this Agreement, or any covenant, obligation or agreement contained here is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if such invalid or unenforceable provision were not contained herein. Such invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

G. Other Similar Agreements by Centerville: Nothing in this Agreement is intended to nor shall it serve to in any way to limit the sole and unfettered discretion of the City of Centerville to contract with other municipalities, townships or political subdivisions for dispatch services and to establish appropriate fees for such purpose totally independent of the arrangement and fees determined for services provided under the within Agreement.

H. Default: In the event either party fails to perform any of its duties hereunder, the non-defaulting party may elect to terminate upon the giving of thirty (30) days prior written notice. Upon termination, all rights duties, and obligations of both parties shall cease as to any future performance hereunder but each party shall remain liable to the other for payment of any money which is or becomes due to the other party prior to termination. Each party shall be entitled to the return of any property owned by it in the possession of the other. Should Centerville incur any unemployment costs related to the termination of this Agreement, West Carrollton shall reimburse these costs.

I. Third Party Beneficiaries: Nothing in this Agreement, express or implied, is intended to or shall confer upon any other person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

This Agreement is hereby executed upon the date first aforesaid by each party acting through its duly authorized representative.

CITY OF CENTERVILLE:

Gregory B. Horn
City Manager

Approved as to form:

Scott A. Liberman, Municipal Attorney

CITY OF WEST CARROLLTON:

Brad Townsend
City Manager

Approved as to form:

Lori Denlinger, Municipal Attorney

FISCAL OFFICER'S CERTIFICATE

The undersigned, Finance Director of the City under the foregoing Agreement, certifies hereby that the monies required to meet the obligations of the City during the year 2015 under the foregoing Agreement have been appropriated lawfully for that purpose, and are in the Treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: _____, 2015

Finance Director
City of Centerville, Ohio

FISCAL OFFICER'S CERTIFICATE

The undersigned, Finance Director of the City under the foregoing Agreement, certifies hereby that the monies required to meet the obligations of the City during the year 2015 under the foregoing Agreement have been appropriated lawfully for that purpose, and are in the Treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: _____, 2015

Finance Director
City of West Carrollton, Ohio