

RESOLUTION NO. 58-06
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Douglas Cline ON THE 20th
DAY OF November, 2006.

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER
INTO AN EMPLOYMENT SEPARATION AND RELEASE
AGREEMENT WITH JAMES COOPER.

WHEREAS, James Cooper is a police officer employed by the City of
Centerville; and

WHEREAS, claims and disputes arose between Cooper and the City related to
Cooper's employment with the City; and

WHEREAS, this Council is of the opinion that the proposed settlement is in the
best interests of the citizens of this City.

NOW, THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY
RESOLVES:

Section 1. That the City Manager is authorized to enter into an
employment separation and release agreement with James Cooper on
behalf of the City upon the terms and conditions set forth in Exhibit "A"
attached and incorporated herein.

PASSED THIS 20th day of November, 2006.

Mark Kengert
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. 58-06, passed by the Council of the City of Centerville, Ohio on the 20th day of November, 2006.

Debra A. James
Clerk of the Council

Approved as to form, consistency with the
Charter and Constitutional Provisions.
Department of Law
Scott A. Liberman
Municipal Attorney

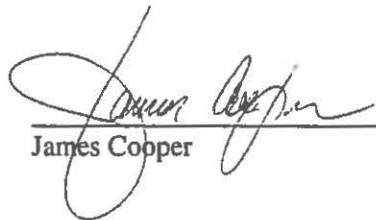
LETTER OF INTENT

TO: CITY OF CENTERVILLE
FROM: JAMES COOPER
DATE: November 15, 2006
RE: Employment Separation and Release Agreement

I hereby give notice of my intent to sign the Employment Separation and Release Agreement, attached hereto, 21 days following receipt of the Agreement. I acknowledge receipt on November 15, 2006. I further acknowledge that if I do not sign the Employment Separation and Release Agreement, the City of Centerville will take steps to terminate my employment and the Employment Separation and Release Agreement shall become null and void.

I ACKNOWLEDGE THAT I HAVE BEEN ADVISED TO REVIEW THESE AGREEMENTS WITH MY ATTORNEY AND THAT I DO HEREBY SIGN THIS LETTER OF INTENT AFTER HAVING BEEN ADVISED OF MY RIGHT TO CONFER WITH MY ATTORNEY AND DO SO OF MY OWN FREE WILL.

Date: 11/15/06

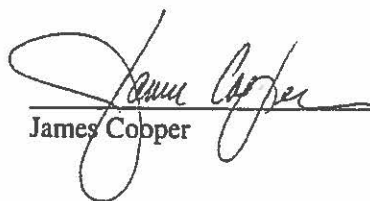

James Cooper

RETIREMENT NOTICE

TO THE CITY OF CENTERVILLE

I hereby submit my resignation to retire effective December 1, 2006.

Dated: 11/15/06


James Cooper

EMPLOYMENT SEPARATION AND RELEASE AGREEMENT

This Employment Separation and Release Agreement ("Agreement") is made this _____ day of November, 2006, by and between **James Cooper** ("Cooper") and **The City of Centerville** ("Centerville"), defined to include officers, employees, agents, representatives and elected officials.

WHEREAS, Cooper has been employed by Centerville since June 13, 1977; and,

WHEREAS, Cooper on November 15, 2006, submitted a written Notice of Resignation intending to retire as of December 1, 2006, which was accepted by Centerville; and,

WHEREAS, it is the parties' desire to conclude their relationship in an amicable manner in accordance with provisions applicable to Cooper's employment; and,

NOW, THEREFORE, in consideration of their mutual promises, the parties agree as follows:

1. Centerville agrees to the following terms and conditions of Cooper's separation from his employment with Centerville:
 - A. Cooper shall retire effective December 1, 2006.
 - B. Cooper will continue to be paid his bi-weekly salary through November 30, 2006, including base salary and applicable retirement contributions. Applicable taxes and deductions will be made.
 - C. Cooper will be paid his accumulated vacation pay and holiday pay up through November 30, 2006. Cooper has 178.87 hours of accrued vacation time and 76.50 hours of holiday pay due as of November 13, 2006.
 - D. Cooper shall be paid the Four Hundred and no/100 Dollars (\$400.00) educational incentive to be paid after November 30, 2006.
 - E. Cooper shall be paid, in a lump sum, Ten Thousand and no/100 Dollars (\$10,000.00) which is equal to the interest forfeiture of the DROP program for failing to reach the three years of continued employment with the City, after entering the DROP program.

- F. Cooper agrees to immediately return all City property, including his badge, gun, and any computer equipment or software still in his possession.
 - G. Centerville will continue to pay all health insurance premiums customarily paid on behalf of full-time Centerville employees through December 31, 2006. Medical and dental insurance coverage shall continue through December. Cooper shall thereafter be eligible to continue health insurance benefits pursuant to his rights under the Consolidated Omnibus Budget Reconciliation Act of 1986 ("COBRA").
 - H. No other benefits of retirement or separation other than those stated above are to be afforded to Cooper.
 - I. The pending disciplinary action will be deemed moot due to Cooper's retirement.
2. Cooper agrees that no claims against Centerville, its employees, officers, representatives, agents, elected officials, or attorneys, either collectively or individually in any capacity will be filed with respect to any federal, state or local administrative agency or in federal or state court whether filed against the municipal entity or against an individual in his or her capacity as an employee of the City of Centerville. Moreover, Cooper irrevocably and unconditionally releases, acquits, and forever discharges Centerville, its successors and assigns, and any of the elected officials, officers, or employees, representatives, agents or attorney from any and all claims, liabilities, obligations, promises, agreements, controversies, actions, causes of action, (including claims for attorneys fees and costs actually incurred) of any nature whatsoever, whether known or unknown suspected or unsuspected, which he now has or claims to have, or which he may claim to have against each or any of the above described releases, excepting only those claims arising under the express terms of this Agreement. This Release relates to all actions taken in any manner without limitation, any and all claims under federal, state or local law based upon race, sex, national origin, religion, handicap, harassment, counter retaliation, and age discrimination and constitutional rights violations, as well as claims based upon common law of tort, breach of contract, or wrongful termination theories through and including final payment made under this agreement.
3. This release specifically includes a release of all claims which could be asserted under Sections 4101.17, 4113.52 or Chapter 4112 of the Ohio Revised Code, or any other law of the State of Ohio or any other state, Title

VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 1981, the Age Discrimination in Employment Act of 1967, as amended, the Americans with Disabilities Act of 1990 ("ADA") and the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), Whistleblower Protection, (Ohio Revised Code §4113.51 et seq.); Federal Whistleblower Protection Statutes, the Ohio Workers Compensation Act, and all wage and hour laws. This release includes, without limitation, any and all claims for any damages, whether compensatory, liquidated, punitive or in the form of attorney fees, expenses or costs. This Release and Waiver also includes, but is not limited to, any and all claims including claims for attorney fees, arising out of or any action for breach of contract, wrongful discharge (including discharge in violation of public policy), infliction of emotional distress, harassment, negligence, defamation, fraud or misrepresentation, invasion of privacy or other action which Cooper or his heirs or assigns ever had, now have, or may have, against any of the Released Parties created by, arising under or otherwise based upon Cooper's employment relationship with Centerville or the termination of that relationship.

4. This Release and Waiver also includes, but is not limited to, all claims for past or future wages, severance pay, bonuses, vacation pay, medical insurance, life or disability insurance, and other benefits (except vested benefits and those benefits expressly set forth in this Agreement) and all claims for violation of any express or implied agreement, written or verbal, that occurred before the execution of this Agreement, or for any violation of any common law duty or statute, including all claims for attorney fees.
5. Centerville irrevocably and unconditionally releases, acquits, and forever discharges Cooper, his successors and assigns, from any and all claims, liabilities, obligations, promises, agreements, controversies, actions, causes of action, (including claims for attorneys fees and costs actually incurred) of any nature whatsoever, whether known or unknown, suspected or unsuspected, which it now has or claims to have, or which it may claim to have against Cooper.
6. Cooper agrees that he has been given the opportunity to fully review this Agreement, has thoroughly reviewed it, fully understands its terms and knowingly and voluntarily agrees to all of its provisions including, but not limited to, the release and other provisions in paragraphs 2, 3, 4 and 5. **Cooper acknowledges that Centerville has provided him with up to twenty-one (21) days to deliberate whether to sign this Agreement, and that Centerville advised him to consult with an attorney regarding this Agreement.** Cooper further acknowledges that if this Agreement is executed prior to the expiration of the 21-day deliberation period, such execution was knowing and voluntary, in consultation with his attorney and/or such advisors

as Cooper deemed appropriate, and without coercion by Centerville or any other person.

7. Cooper shall have the right to revoke this Agreement for a period of seven (7) days following the date of execution by Cooper. Notice of revocation shall be in a signed writing delivered to Centerville before expiration of the revocation period. This Agreement shall not become effective or enforceable until the date on which this seven day revocation period has expired ("Effective Date").
8. The parties agree that in making this Agreement no party admits the violation of any law or any of the other's rights.
9. Cooper waives any right or claim of recall from layoff and/or other re-employment with Centerville and agrees to make no claim or application for such employment in the future. Similarly, Centerville is not obligated in any fashion to consider Cooper for future employment.
10. This Agreement shall be binding on and inure to the benefit of Cooper, his heirs, administrators and assigns and Centerville, its successors and assigns. This Agreement and its releases apply not only to Centerville, but to all affiliated entities, and successors to Centerville, and to all Released Parties.
11. The invalidity of any paragraph or subparagraph of this Agreement shall not affect the validity of any other paragraph or subparagraph of this Agreement.
12. This Agreement shall be construed under the laws of the State of Ohio.
13. This Agreement contains the entire understanding of the parties and supersedes any and all previous verbal and written agreements. There are no other agreements, representations or warranties not referenced or set forth in this Agreement.
14. Cooper admits that he has had the opportunity to consult an attorney and voluntarily has decided to execute this Agreement. Cooper states and admits that in executing this Agreement, he does not rely and has not relied, upon any other representation or statement made by Centerville, its agents, representatives, or attorneys, with regard to this Agreement.

IN WITNESS WHEREOF, the parties have signed this Agreement on the day and year set forth above.

WITNESSES:

Barbara A. Hulse
Linda K. Long

James Cooper 11/05/06
James Cooper, Employee

CITY OF CENTERVILLE, OHIO

By: Gregory B. Horn
Its: City Manager