

CITY OF CENTERVILLE, OHIO

RESOLUTION NO. 03-03

SPONSORED BY COUNCILMEMBER Paul M. Aescham ON THE  
27<sup>th</sup> DAY OF January, 2003.

A RESOLUTION AUTHORIZING THE CITY MANAGER,  
ON BEHALF OF THE CITY OF CENTERVILLE, TO  
ENTER INTO AN AGREEMENT WITH PHILIP WERTZ  
FOR PLAN EXAMINATION.

WHEREAS, The Building Inspector and the Public Works Department for the  
City of Centerville has the need, at times, for engineering and  
architectural services in the nature of review and examination of  
building plans, and

WHEREAS, Philip Wertz represents to Centerville that he is a qualified  
engineering and architectural consultant who is ready, willing and  
able to provide the City with said services; and

WHEREAS, the parties wish to amend and replace a previous agreement between  
them authorized by Resolution 30-01 passed the 19<sup>th</sup> day of March,  
2001.

NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY  
RESOLVES:

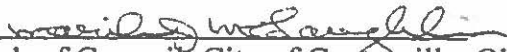
Section 1. That the City Manager be and is hereby authorized to execute an  
Agreement between the City of Centerville and Philip Wertz for review and examination  
of building plans for the City's Building Inspector and Public Works Department, a copy  
of said Agreement which is attached hereto and incorporated herein, marked Exhibit "A".

Section 2. That this Resolution shall become effective immediately upon  
passage.

PASSED this 27<sup>th</sup> day of January, 2003.

Sally D. Beale  
Mayor of the City of Centerville, Ohio

ATTEST:

  
Clerk of Council, City of Centerville, Ohio

**CERTIFICATE**

The undersigned, Clerk of the Council of the City of Centerville, Ohio, hereby certifies that the foregoing is a true and correct copy of Resolution Number 03-03, passed by the Council of the City of Centerville, Ohio, on the 27<sup>th</sup> day of January, 2003.

  
Clerk of Council

Approved as to form, consistency  
with the Charter and Constitutional Provisions.

Department of Law  
Robert N. Farquhar  
Municipal Attorney

AMENDED AGREEMENT

This AGREEMENT made at Centerville, Ohio on the \_\_\_ day of \_\_\_\_\_, 2003 by and between Philip Wertz (hereinafter CONSULTANT) whose address is 729-A Treasury Drive, Dayton, Ohio 45429 and the CITY OF CENTERVILLE, an Ohio municipal corporation, 100 West Spring Valley Road, Centerville, Ohio 45458 (hereinafter CENTERVILLE).

WITNESSETH

WHEREAS, CENTERVILLE desires to have several matters relating to engineering and architectural services in the nature of plans examining performed for it; and

WHEREAS, CONSULTANT represents to CENTERVILLE that he is a qualified engineering and architectural consultant who is ready, willing and able to provide the city with the services hereafter described; and

WHEREAS, the parties entered into a previous agreement for said services as authorized by Resolution 30-01 effective March 14, 2001 which they now wish to replace by this amended agreement.

NOW THEREFORE, in consideration of the foregoing recitations and the benefits to them mutually accruing, the parties agree as follows:

Section 1. TERM This AGREEMENT shall commence upon the date of execution and shall remain in effect until either party gives written notice to the other of an election not to continue at least thirty (30) days prior to any termination date. This AGREEMENT replaces and amends said agreement authorized by Resolution 30-01 effective March 14, 2001.

Section 2. DUTIES At the request of the Public Works Department of CENTERVILLE, CONSULTANT shall undertake a review and examination of building plans for the building inspector and the Public Works Department of the city.

Section 3. COMPENSATION In consideration of his performance of the consulting services as provided for herein, CONSULTANT shall be compensated at the rate of \$70.00 per hour. Payment shall be made by CENTERVILLE to CONSULTANT based upon CONSULTANT's time records on the last day of any month with payment to be due him by CENTERVILLE no later than the end of the first week of the next succeeding month. In the event of termination as provided for herein, CONSULTANT shall only be entitled for compensation for services performed prior to the effective date of the termination.

Section 4. INDEPENDENT CONTRACTOR The parties hereto agree that, pursuant to this AGREEMENT, CONSULTANT is an independent contractor and not an employee or partner of CENTERVILLE. As such, CONSULTANT is solely responsible for the payment of all applicable taxes including, but not limited to, applicable income taxes, self-

employment tax, medicare tax, workers' compensation and unemployment compensation. Since CONSULTANT is an independent contractor and not an employee entitled to the protections afforded public employees under Chapter 2744, Ohio Revised Code, CENTERVILLE shall cause CONSULTANT to be added as an additional insured on its liability insurance policy.

Section 5. PERSONAL SERVICE CONTRACT The parties agree that this Agreement is, and is intended to be, a "personal service contract" as provided in Section 145.03, Ohio Revised Code and as interpreted in Section 145-5-15(C) of the Ohio Administrative Code. This AGREEMENT is and is intended to be a formal bilateral written contract between the parties as required by Section 145-5-15(C)(3). The parties further agree that since this is a personal service contract no Public Employee's Retirement System deductions will be made from CONSULTANT's compensation nor paid to the Public Employee's Retirement System of Ohio on and in accordance with provisions of Section 145-5-15(D) of the Ohio Administrative Code. As a personal service contract, the duties are personal to CONSULTANT and may not be assigned by him to any other person without the written consent of CENTERVILLE.

Section 6. MISCELLANEOUS This AGREEMENT represents the entire understanding between the parties. No amendment or modification shall be effective unless in writing signed by both parties. Any notices provided for herein shall be served in person or by mail to the address set forth in the first paragraph above until such time as either party has notified the other of a change of address.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT on the date first above written.

WITNESS:

CITY OF CENTERVILLE

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BY: \_\_\_\_\_  
Gregory B. Horn, City Manager

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\_\_\_\_\_  
Philip Wertz  
CONSULTANT