

RESOLUTION NO. 70-03  
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Paul M. Shesam ON  
THE 15<sup>th</sup> DAY OF December 2003.

A RESOLUTION RATIFYING THE ACTION TAKEN BY THE CITY MANAGER, ON BEHALF OF THE CITY OF CENTERVILLE, TO ENTER INTO AN AGREEMENT WITH THE BOARD OF COMMISSIONERS OF MONTGOMERY COUNTY FOR THE DISPOSITION OF WILDLIFE DELIVERED TO THE MONTGOMERY COUNTY ANIMAL SHELTER BY THE CITY OF CENTERVILLE.

WHEREAS, the Board of Commissioners of Montgomery County pursuant to Ohio Revised Code Section 307.15 is authorized to contract with Municipal Corporations for the disposal of wildlife; and

WHEREAS, the City of Centerville is desirous of contracting with the Board of Commissioners of Montgomery County for the disposal of wildlife delivered to the Montgomery County Animal Shelter by the City of Centerville.

NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:

SECTION 1. That the action taken by the City Manager is hereby ratified to enter into an Agreement with the Board of Commissioners of Montgomery County to provide for the disposition of wildlife delivered to the Montgomery County Animal Shelter by the City of Centerville, a copy of which Agreement is attached hereto, marked Exhibit "A" and incorporated herein.

PASSED this 15<sup>th</sup> day of December, 2003.

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

ATTEST:

Maril J. McLaughlin  
Clerk of Council,  
City of Centerville, Ohio

**CERTIFICATE**

The undersigned, Clerk of the Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Resolution Number 70-03, passed by the Council of the City of Centerville, Ohio, on the 15<sup>th</sup> day of December, 2003.

Maril J. McLaughlin  
Clerk of Council

Approved as to form, consistency  
with existing ordinances, the  
charter and constitutional provisions.

Department of Law  
Robert N. Farquhar  
Municipal Attorney

**AGREEMENT**

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in Dayton, Montgomery County, Ohio, by and between the BOARD OF COMMISSIONERS of MONTGOMERY COUNTY, hereinafter called the "BOARD", and the CITY OF CENTERVILLE, OHIO, hereinafter called the "CITY."

**WITNESSETH:**

WHEREAS, the City is desirous of contracting with the Board for the disposal of wildlife delivered to the Board by the City; and

WHEREAS, the Board is authorized to dispose of wildlife delivered by the City to the Board under an Agreement pursuant to Revised Code Section 307.15, if said City has the authority by ordinances or resolutions to dispose of wildlife within the jurisdiction of the City; and,

WHEREAS, the City does have the authority to dispose wildlife within its jurisdiction under Resolution No. 83-01 dated November 19, 2001, a certified copy of which is attached hereto as Exhibit A and is incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED, that in consideration of the mutual covenants, herein, the Board and the City agree as follows:

## **ARTICLE ONE: SCOPE OF WORK**

The Board agrees to dispose of all wildlife delivered by the City to the Montgomery County Animal Shelter located at 6550 Webster Street, Dayton, Ohio 45414.

## **ARTICLE TWO: COMPENSATION**

The City agrees to pay to the Board a sum of 17.51 in the year 2004, per carcass for oversize carcasses such as deer. The City also, agrees to pay to the Board a sum of \$18.04 in the year 2005, per carcass for oversize carcasses such as deer. The City shall be billed monthly by the Board for disposal services rendered under this Agreement. Payments shall be within thirty (30) days of receipt of invoice and shall be sent to the Montgomery County Animal Shelter, 6550 Webster Street, Dayton, Ohio 45414.

## **ARTICLE THREE: TERM**

The term of this Agreement shall be from January 1, 2004, or the date of execution by all parties whichever date is later and shall terminate on December 31, 2005.

## **ARTICLE FOUR: REPORTS**

The Board agrees to submit a monthly report to the City detailing the total number of wildlife disposed of in the prior month and the cost incurred for said disposal.

## **ARTICLE FIVE: TERMINATION**

This Agreement may be terminated by either party by the delivery upon the other party of Written notice such termination and specifying an effective date thereof at least thirty (30) days before the effective date of such termination. The parties further agree that should the Board become unable for any reason, to honor the term of this Agreement, or should either party terminate this Agreement as provided herein, or should this Agreement be declared invalid, illegal, or unenforceable by any Court of competent jurisdiction, or administrative office, or officer, having the power and authority to review the validity, legality, or enforceability of this Agreement, then such services as the Board has performed to the date of such inability to perform, termination, or judicial or administrative declaration shall be compensated by the City in compliance with the rates and methods established in Article Two of this Agreement.

## **ARTICLE SIX: ASSIGNMENT**

The parties hereto agree that this Agreement shall not be assigned by either party without the prior written approval of both parties.

## **ARTICLE SEVEN: GOVERNING LAW**

This Agreement, and any modification, amendments, or alterations, thereof shall be governed, construed and enforced under the laws of the State of Ohio.

## **ARTICLE EIGHT: INTEGRATION AND MODIFICATION**

This instrument embodies the entire Agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations or agreements, either written or oral, between the parties to this Agreement. Also, this Agreement shall not be modified in any manner except by an instrument, in writing, executed by the parties to this Agreement.

## **ARTICLE NINE: INDEMNIFICATION**

The City agrees to hold harmless and indemnify the Board from and against any and all claims, liability, damage, or loss caused, or alleged to have been caused to any person, wildlife, or property, which claim, liability, damage or loss allegedly arises, or grows out of, the negligent acts of the City, or which allegedly arises out of any negligent act of the City's employees or agents.

## **ARTICLE: TEN MISCELLANEOUS**

The parties agree that the Board will not enforce City's animal control ordinances and will not cite City residents for violations of said City's animal control ordinances. Both parties agree that this Agreement shall be exclusively for the disposal of wildlife delivered to the Board by the City.

The City shall make every effort to delivery any wildlife for disposal only to the Animal Shelter between the hours of 10:30 a.m. – 7:00 p.m., Monday through Friday and 10:30 a.m. to 4:00 p.m. on Saturday so that the disposal process can be efficiently carried out.

## **ARTICLE ELEVEN: HEADINGS**

Numbered topical headings, articles, paragraphs, subparagraphs or titles of this Agreement are inserted for the convenience of organization and reference and not intended to affect the interpretation or construction of the terms thereof.

## **ARTICLE TWELVE: AUTHORITY TO BIND PRINCIPAL**

Signatures hereon shall act as express representations that the signing agents are authorized to bind their respective principals to all rights, duties, remedies, obligations and responsibilities incurred by way of this Agreement.

NOTICE: THIS CONTRACT MUST BE SIGNED AND RETURNED TO THE MONTGOMERY COUNTY ANIMAL SHELTER BY THE CITY WITHIN THIRTY (30) DAYS AFTER DATE OF NOTIFICATION TO SIGN OR THE CONTRACT MAY BE CANCELLED AND VOIDED BY MONTGOMERY COUNTY.

IN WITNESS WHEREOF, the parties hereto, place their hands this \_\_\_\_\_ day \_\_\_\_\_, 20\_\_\_\_\_.

Signed and acknowledge  
In the presence of:

BOARD OF COUNTY COMMISSIONERS OF  
MONTGOMERY COUNTY, OHIO (BOARD)

\_\_\_\_\_  
Witness

BY: \_\_\_\_\_

\_\_\_\_\_  
Witness

BY: \_\_\_\_\_

BY: \_\_\_\_\_

OR

\_\_\_\_\_  
Witness

BY: \_\_\_\_\_

Deborah Feldman  
County Administrator

\_\_\_\_\_  
Witness

CITY OF CENTERVILLE (CITY)

BY: \_\_\_\_\_  
City Manager

APPROVED AS TO FORM:

MATHIAS H. HECK, JR.  
PROSECUTING ATTORNEY  
MONTGOMERY COUNTY, OHIO

BY: \_\_\_\_\_  
Walter F. Ruf  
Assistant Prosecuting Attorney

Date: 11-1-03