

RESOLUTION NO. 22-79  
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMAN J. R. Stone ON THE 2nd  
DAY OF July, 1979.

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A CONTRACT BETWEEN MONTGOMERY COUNTY AND THE CITY OF CENTERVILLE, OHIO, FOR SOLID WASTE DISPOSAL BY THE MONTGOMERY COUNTY SANITARY ENGINEERING DEPARTMENT.

THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

SECTION 1. That the City Manager is hereby authorized and directed to enter into a Contract between Montgomery County and the City of Centerville, Ohio, for solid waste disposal by the Montgomery County Sanitary Engineering Department, a copy of the Contract being attached hereto, marked Exhibit "A" and made a part hereof.

SECTION 2. This Resolution shall be in full force and effect at the earliest date allowed by law.

PASSED this 2nd day of July, 1979.

Victor A. Green  
Mayor of the City of Centerville, Ohio

ATTEST:

Maile M. Paulsen  
Clerk of the Council of the  
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 a Resolution passed by the Council of the City of Centerville, Ohio, on the 2nd day of July, 1979.

Maile M. Paulsen  
Clerk of the Council

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

Department of Law  
Robert N. Farquhar  
Municipal Attorney

CONTRACT FOR DISPOSAL SERVICES

This Contract is entered into as of \_\_\_\_\_ pursuant to Section 343.02 of the Ohio Revised Code, between the County of Montgomery, Ohio (the "County"), acting by and through its Board of County Commissioners (the "Board") and on behalf of the Montgomery County Garbage and Refuse Disposal District created by the Board under Section 343.01 of the Ohio Revised Code (the "District"), and the \_\_\_\_\_ of \_\_\_\_\_, a municipal corporation whose territory is included within the District (the "Municipality").

WHEREAS, the County and the Municipality have heretofore entered into an agreement or agreements with respect to the provision of disposal services by the County at its two existing incinerators, and

WHEREAS, the County, in order to comply with applicable state and federal pollution control laws and regulations, expects to cease operations at either or both of such incinerators by July 1, 1979; and before, on or after such date, expects to arrange for one or more alternative methods for the disposal of solid waste originating within the District, pending further negotiations with the Municipality and other municipal corporations within the District regarding additional contractual arrangements for implementation of a new solid waste disposal facility to serve the District; and

WHEREAS, the County and the Municipality are desirous of entering into this Contract to set forth their relative rights and obligations until the date which shall be the earliest of the following: (a) until alternative contractual arrangements between the County and the Municipality are concluded to facilitate the financing of a new facility referred to in Section 4 or, (b) until payment in full of bonds heretofore issued by the County to finance the Facilities hereinafter defined.

THE COUNTY AND THE MUNICIPALITY HEREBY COVENANT AND AGREE AS FOLLOWS:

SECTION 1. Delivery of Solid Waste. The Municipality agrees to deliver or cause to be delivered to such facility or facilities (the "Facilities"), currently referred to as the North and/or South Incinerator sites (but which does not necessarily require that the waste be incinerated) such solid waste as shall be described in rules promulgated by the Board, acting upon recommendations made by the Solid Waste Advisory Committee provided for in Section 3 hereof (the "Advisory Committee"). The Municipality is not bound by this Section during such time as it may be prevented from doing so by circumstances

beyond its control, including but not limited to, labor disturbances and natural disasters. Further, such rules which may be enacted by the Board shall not impose upon the Municipality any specific method of waste collection.

SECTION 2. Acceptance and Disposal of Solid Waste. The County agrees to accept such solid waste at the Facilities and dispose of same in accordance with rules promulgated by the Board, acting upon recommendations made by the Advisory Committee; unless prevented from doing so by circumstances beyond the County's control, including, but not limited to, labor disturbances and natural disasters.

SECTION 3. Solid Waste Advisory Committees. The Solid Waste Advisory Committee provided for in Resolution # 79-1254 adopted March 27, 1979, is hereby reaffirmed and shall remain in existence throughout this agreement. The Advisory Committee shall be comprised of members whose appointment and duties are provided for by Resolution #79-1295 passed April 2, 1979, by the Board of County Commissioners.

The Advisory Committee shall propose rules concerning the delivering and disposal of solid waste and shall recommend the establishment and/or modification of disposal user charges under this contract. Such user charges are those needed to meet the cost of operation, maintenance, and debt service charges of the Facilities.

It shall be a requirement by adoption of this agreement that the "Board" shall request a review, opinion and/or recommendation from the "Advisory Committee" on all matters related to solid waste management policy, including, but not limited to, rates and charges, rules and regulations for disposal, and method of disposal. Said "Advisory Committee" shall be permitted a reasonable time to respond after receiving a request and being provided all relative information. (A reasonable time shall be construed to be no less than 30 days.) Similarly when a matter is initiated or communicated to the "Board" by the "Advisory Committee" the "Board" shall be permitted a reasonable period of time to take appropriate action or communicate in writing to the "Advisory Committee" the reason for failure to do so. (A reasonable period of time in this instance shall be construed to be no more than 60 days.)

Nothing in this agreement shall preclude either the "Advisory Committee" from recommending, nor the "Board" from adopting a financial subsidy of the solid waste disposal system.

SECTION 4. Future Solid Waste Disposal Program Negotiations. The Board and the Municipality, in cooperation with other municipal corporations whose territory is included within the District, agree to discuss, review and negotiate in good faith the financing, construction, and operation of new and innovative methods for solid waste management, such as, but not limited to, resource recovery facilities to replace or supplement the Facilities referred to in Section 1. The Board and the Municipality mutually covenant that they will cooperate fully with each other and with such other municipal corporations to implement such new and innovative methods which are economically feasible, ecologically sound, and in compliance with applicable laws and regulations.

SECTION 5. Preambles. The preambles to this Contract are agreed to be necessary and operative portions hereof for all purposes.

SECTION 6. Severability. To the extent of any inconsistency between the County and the Municipality with respect to disposal of solid waste, this Contract shall be deemed controlling, provided that in the event that this Contract shall be rescinded by mutual consent or held void in any respect material to the substance hereof, such prior agreement or agreements shall be effectual for all purposes except to the extent that either party is prevented from performing thereunder by operation of law.

SECTION 7. Notices. All notices, certificates, requests or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, postage prepaid, addressed to the Board at County of Montgomery, Ohio, Montgomery County Administration Building, 451 West Third Street, Dayton, Ohio 45422, Attention: County Administrator, and to the Municipality at the address set forth in Exhibit A hereto. The Board and the Municipality may, by notice given hereunder, designate a different or additional address to which communications shall be sent.

SECTION 8. Binding Effect. This Contract shall inure to the benefit of and shall be binding upon the County and the Municipality and their respective legal successors. Any obligations of the County and the Municipality created by or arising out of this Contract shall be payable out of disposal service charges and other monies collected by the County pursuant to Section 343.08 of the Ohio Revised Code, in the case of the County, and from whatever source deemed legal and appropriate by the Municipality; The County may, if it chooses, Pursuant to Section 3 regarding a subsidy, pay such subsidy from any source it deems legal and appropriate.

SECTION 9. Amendments, Changes and Modifications. Except as otherwise provided herein, this Contract shall not be effectively amended, changed, or terminated except by a writing signed on behalf of the County and the Municipality. The Board shall not amend or modify any contract with any municipality in the District without the knowledge and consent of all other municipalities in the District. Such consent shall not be unreasonably withheld. It is the intent of this Section that all parties in the District shall be treated similarly.

SECTION 10. Counterparts. This Contract may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same Contract.

SECTION 11. Captions. The captions or headings in this Contract are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Contract.

SECTION 12. Governing Law. This Contract shall be deemed to be a Contract made under the laws of the State of Ohio and for all purposes shall be governed by and construed in accordance with the laws of the State of Ohio.

IN WITNESS WHEREOF, the County and the Municipality have caused this Contract to be signed by their duly authorized officers as of the date first above written.

City of \_\_\_\_\_

By \_\_\_\_\_

COUNTY OF MONTGOMERY, OHIO,  
acting by and through its  
Board of County Commissioners  
and on behalf of the MONTGOM-  
ERY COUNTY GARBAGE AND REFUSE  
DISPOSAL DISTRICT

By \_\_\_\_\_  
Commissioner Charles Lewis, President

APPROVED AS TO FORM

By \_\_\_\_\_  
Commissioner Paula J. MacIlwaine

By \_\_\_\_\_  
Assistant County Prosecutor

By \_\_\_\_\_  
Commissioner (Mrs.) E. George Ferg