

RESOLUTION NO. 108-23
CITY OF CENTERVILLE, OHIO

18th SPONSORED BY COUNCILMEMBER Duke Lunsford ON THE
DAY OF December, 2023.

A RESOLUTION AUTHORIZING THE EXECUTION OF THE
CITY MANAGER AGREEMENT SPECIFYING THE
CONDITIONS OF THE CITY MANAGER'S EMPLOYMENT.

WHEREAS, Section 6.01 of the Centerville Charter provides that the City Council, by a majority vote of all members of Council, shall appoint a City Manager and fix compensation; and

WHEREAS, the City Manager was appointed by City Council by Resolution 38-17 on July 10, 2017; and

WHEREAS, the City Manager Agreement was subsequently amended by Resolutions 68-19 on October 7, 2019, 111-21 on November 15, 2021, and 13-23 on February 6, 2023; and

WHEREAS, the Council of the City of Centerville hereby determines that it desires to set forth a new City Manager Agreement in accordance with the City Charter; and

WHEREAS, it is the will and desire of this City Council that a new agreement be entered into between the City Council and Wayne Davis specifying terms and conditions of employment of him as City Manager in addition to those terms and conditions of such employment provided by the City Charter.

NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE
HEREBY RESOLVES:

Section 1. That the Mayor of the City of Centerville is hereby authorized and directed to enter into the City Manager Agreement with Wayne S. Davis along the terms acceptable to the City. A copy of said City Manager Agreement is attached hereto as Exhibit "A" and incorporated herein and is intended to supersede all previous Agreements and/or amendments.

Section 2. This Resolution is to take effect at the earliest date allowed by law.

PASSED THIS 18th day of December, 2023.



Mayor of the City of Centerville, Ohio

ATTEST:



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. 108-23, passed by the Council of the City of Centerville, Ohio on the 18th day of December, 2023.



Clerk of the Council

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

CITY MANAGER AGREEMENT

This Agreement entered into at Centerville, Ohio, on the ____ day of December 2023, by and between the City of Centerville, an Ohio municipal corporation (hereinafter “City”) and Wayne S. Davis (hereinafter “City Manager”).

WHEREAS, by Resolution No. 38-17, passed by a majority vote of all members of the Council of the City on the 10th day of July, 2017, Wayne Davis’ appointment as City Manager was approved; and

WHEREAS, the City Manager Agreement, attached to said Resolution No. 38-17, was executed by the parties; and

WHEREAS, the City Manager Agreement was amended and superseded by agreements dated August 21, 2019, authorized by Resolution No. 68-19, and amendment dated November 15, 2021, authorized by Resolution No. 111-21, and addendum dated February 6, 2023, authorized by Resolution No. 13-23; and

WHEREAS, it is the intent of the parties to amend and supersede said City Manager Agreement and replace it with this new City Manager Agreement;

NOW, THEREFORE, in consideration of the foregoing recitations and pursuant to the terms of Resolution No. _____, the parties agree as follows:

Section 1. Appointment. City Manager is hereby appointed to serve as the City Manager of the City of Centerville for an indefinite term as provided in Section 6.01 of the Centerville Charter, said term commencing on the date that City Council adopts the Resolution authorizing this Agreement (the “Effective Date”), and terminating upon the resignation of the City Manager or as may be provided in Section 6.04 of the Centerville Charter, whichever shall first occur. Recognizing that the City Manager serves for an

indefinite term, it is, nevertheless, the intention of the City and the City Manager that the period of employment shall be for a new term of at least three (3) additional years beginning on the Effective Date; provided, however, that the parties shall complete good faith negotiations for a renewal of this City Manager Agreement at least nine (9) months before the expiration of this Agreement.

Nothing in this City Manager Agreement shall prevent, limit, or otherwise interfere with the right of the Council of the City, to terminate the services of the City Manager at any time, subject only to the provisions of Section 6.04 of the City Charter expressly made applicable to the termination of a City Manager.

Section 2. **Powers and Duties.** The City Manager shall have such powers and duties as are set forth in Section 6.02 of the City Charter, as same may be amended from time to time and such other legally permissible and proper duties and functions as the City shall from time to time assign.

Section 3. **Compensation.** For the performance of the services herein set forth, the City Manager shall receive compensation of Two Hundred Three Thousand, Nine Hundred Forty and 21/100 Dollars (\$203,940.21) annually. This compensation shall be subject to review annually.

In order to recognize that the City Manager has not received prior incentive bonuses; to recognize his satisfactory completion of the 2018-2023 City of Centerville Strategic Plan, and to acknowledge his assistance in developing the 2023-2028 City of Centerville Strategic Plan, beginning December 19, 2023, the City Manager shall be paid a 7.5% performance incentive, based upon the City Manager's current base salary. The performance incentive shall be payable on or before December 31st of each year

commencing December 31, 2023, and will serve as an incentive for the retention effort of City Council to keep the City Manager employed with the City.

In addition, City Manager shall continue to receive such fringe benefits as are set forth in said Personnel Pay Ordinance for full-time employees of the City, including, but not limited to, any general wage increases received by other employees of the City. The City Manager shall continue to have his compensation annually adjusted at the same level as other city employees. This adjustment shall be effective at the beginning of the City's fiscal year in the same pay period as other employees.

Additionally, the City shall continue to pay the PERS Pick-Up on behalf of the City Manager at 10% based upon the total compensation, including any deferred compensation contributions, as a fringe benefit pursuant to IRC Section 414(h)(2) and established in City of Centerville Ordinance No 15-23.

Section 4. **Vacation.** The City Manager shall accrue vacation leave for each year at the rate of 14.67 hours/month with carryover and accrued as provided in the City of Centerville Personnel Manual as it may be amended from time to time. Accrued vacation leave shall be converted upon termination of the City Manager's employment as provided by applicable statute, ordinance and/or the Personnel Manual.

Section 5. **Residency.** There shall be no city residency required of the City Manager.

Section 6. **Termination.** The City may remove the City Manager only in accordance with the provisions of Section 6.04 of the City Charter. It is the intention of the parties that if the City Manager is removed for any reason other than the commission of an immoral or criminal act, or other acts involving moral turpitude, that said

termination shall be with twelve (12) months prior notice to the City Manager. This twelve-month prior notice period may be fulfilled by either retaining the City Manager as a full-time employee for said twelve-month period with his receiving all of the benefits provided hereunder, or by removing him prior to the expiration of said twelve-month period but continuing to provide the compensation and benefits provided for hereunder until the end of said twelve-month period on the condition that the City Manager make himself available to the City for consultant services in order to effect a smooth transition. In the event the City Manager is asked to leave prior to the expiration of said twelve-month period, the payment provided for herein shall be a lump sum cash payment equal to the compensation and benefits otherwise payable during the remainder of said twelve-month period.

Termination of this Agreement by the City Manager shall be subject to a minimum of one hundred and twenty (120) days written notice in advance of such termination.

Upon separation of the City Manager for any reason, his right to accrued vacation and benefits shall be governed by the ordinances governing other City employees upon termination.

Section 7. **Health Insurance.** As a City employee, the City Manager is entitled to and will receive family health insurance coverage under the City's Health Care Plan similar to the policies governing other City employees.

Section 8. **Sick Leave.** The City had previously granted the City Manager up to eight hundred and fifty (850) hours of unused sick leave, which represented the number of unused Sick leave hours which would otherwise have been lost by the City

Manager in his movement to the City from his previous employment. The City Manager shall accrue sick leave for each year as provided in the Personnel Manual. The City Manager will be eligible for sick leave payout for all sick leave, both transferred and accrued, upon his retirement from the City of Centerville at a rate consistent with the benefit for other City employees who retire from the City of Centerville.

Section 9. Dues and Seminar Expenses. The City believes that it is in the best interest of the City and its citizens for the City Manager to continue his training through attendance at seminars and conferences of other public employees as well as the City Manager's participation in local organization activities. Accordingly, the City will reimburse the City Manager for membership dues in local civic organizations, and will pay all reasonable expenses related to training, education and conference expenses with respect to issues relating to city government, including annual conference attendance at ICMA and OCMA and service club dues paid by City, all pending budget allocation and City Council approval.

Section 10. Automobile. In addition to other compensation provided herein, the City recognizes that it is essential that the City Manager have automobile transportation available to him at all times in order to efficiently manage the City. Accordingly and in lieu of a City provided automobile, the City Manager will continue to be provided a car allowance of \$6,000.00 per year, payable in 26 equal installments, for official use of his private vehicle. The car allowance includes reimbursement for an appropriate allocation of vehicle insurance and other expenses of vehicle ownership, maintenance and operation.

Section 11. Cell Phone. In addition to other compensation provided herein, the City recognizes that it is essential that the City Manager have use of a cell phone to be available to him at all times in order to efficiently manage the City. Accordingly, the City Manager will be provided reimbursement for the use of a cell phone in accordance with the City's Cell Phone Policy.

Section 12. Evaluations. The City Manager shall be subject to an annual evaluation. The annual evaluations are to be conducted no later than the end of the calendar year.

Section 14. Defense and Liability. The City and the City Manager both continue to acknowledge and agree that all action taken by the City Manager in connection with the facts and circumstances leading to the case of James Myers v. City of Centerville, OH, et al., Case No. 3:20-cv-00402 (S.D. Ohio) or subsequent James Myers cases containing the same or similar facts and circumstances, were at the direction of City Council or within the scope of employment of the City Manager. In view of the foregoing sentence, and in consideration of the City Manager agreeing not to resign prior to December 31, 2024, the City agrees to defend and hold harmless the City Manager from any personal liability resulting in the above-referenced case or subsequent cases.

Section 15. General Provisions. Any notice to be given hereunder by either party to the other may be effected either by personal delivery in writing, or by mail, registered or certified, posted prepaid with return receipt requested, to such address as may be provided from one party to the other from time to time.

This Agreement constitutes the entire understanding between the parties and no prior oral or written agreement shall be of any effect with respect to the employment of

the City Manager by the City. This Agreement replaces all prior agreements. Any modification of this Agreement shall be in writing, signed by both parties.

The provisions of the Agreement shall be governed by the laws of the State of Ohio.

This Agreement represents a personal service contract on the part of the City Manager and no assignment of any duties hereunder may be made except as provided by the Charter and Ordinances of the City.

The parties have executed this Agreement on the date first above written.

CITY OF CENTERVILLE:

By: _____
Brooks A. Compton, Mayor

CITY MANAGER

Wayne S. Davis

Approved as to form:

Scott A. Liberman
Municipal Attorney