

VILLAGE OF BOSTON HEIGHTS  
45 E. Boston Mills Road  
Hudson, OH 44236

REGULAR COUNCIL MEETING  
OF  
December 14, 2011 - 8:00 PM

**AGENDA**

ROLL CALL  
PLEDGE OF ALLEGIANCE  
APPROVAL OF AGENDA  
MINUTES PRESENTED FOR CHANGE OR CORRECTION OR ADOPTION  
CORRESPONDENCE  
AUDIENCE PARTICIPATION  
COMMITTEE REPORTS

**ORDINANCE O-2011** AN ORDINANCE CREATING THE POSITION OF VILLAGE FISCAL OFFICER UNDER CHAPTER 133 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF BOSTON HEIGHTS AND DECLARING AN EMERGENCY.

**ORDINANCE AA-2011** AN ORDINANCE AMENDING THE PERMANENT ANNUAL APPROPRIATIONS ORDINANCE (ORDINANCE 7-2011) FOR THE VILLAGE OF BOSTON HEIGHTS FOR THE YEAR 2011 AND DECLARING AN EMERGENCY.

**ORDINANCE BB-2011** AN ORDINANCE APPROVING THE TEMPORARY ANNUAL APPROPRIATIONS FOR THE VILLAGE OF BOSTON HEIGHTS FOR THE YEAR 2012 AND DECLARING AN EMERGENCY.

**RESOLUTION II-2011** A RESOLUTION PROVIDING FOR THE EMPLOYMENT OF VILLAGE ENGINEER/STREET COMMISSIONER OF THE VILLAGE OF BOSTON HEIGHTS, OHIO, FOR THE YEAR 2012 AND DECLARING AN EMERGENCY.

**RESOLUTION JJ-2011** A RESOLUTION PROVIDING FOR THE EMPLOYMENT OF CEMETERY SEXTON FOR THE VILLAGE OF BOSTON HEIGHTS, OHIO, FOR THE YEAR 2012 AND DECLARING AN EMERGENCY.

**RESOLUTION KK-2011** A RESOLUTION PROVIDING FOR THE EMPLOYMENT OF ASSISTANT OFFICE CLERK FOR THE VILLAGE OF BOSTON HEIGHTS, OHIO, FOR THE YEAR 2012 AND DECLARING AN EMERGENCY.

**RESOLUTION LL-2011** A RESOLUTION PROVIDING FOR THE EMPLOYMENT OF ASSISTANT CLERK-TREASURER FOR THE VILLAGE OF BOSTON HEIGHTS, OHIO, FOR THE YEAR 2012 AND DECLARING AN EMERGENCY.

**RESOLUTION MM-2011** A RESOLUTION PROVIDING FOR THE EMPLOYMENT OF ZONING INSPECTOR FOR THE VILLAGE OF BOSTON HEIGHTS, OHIO, FOR THE YEAR 2012 AND DECLARING AN EMERGENCY.

**RESOLUTION NN-2011** A RESOLUTION PROVIDING FOR THE EMPLOYMENT OF CLERK OF COURTS FOR THE VILLAGE OF BOSTON HEIGHTS, OHIO, FOR THE YEAR 2012 AND DECLARING AN EMERGENCY.

**RESOLUTION OO-2011** A RESOLUTION CONFIRMING THE APPOINTMENT OF RONALD DICK TO THE BOARD OF ZONING APPEALS OF THE VILLAGE OF BOSTON HEIGHTS, OHIO, AND DECLARING AN EMERGENCY.

**RESOLUTION PP-2011** A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO THE CONTRACT WITH THE SUMMIT COUNTY PUBLIC DEFENDER'S OFFICE AND DECLARING AN EMERGENCY.

**RESOLUTION QQ-2011** A RESOLUTION TO ENTER INTO A MEMORANDUM OF UNDERSTANDING BETWEEN THE OHIO & ERIE CANALWAY COALITION AND THE VILLAGE OF BOSTON HEIGHTS AND DECLARING AN EMERGENCY.

- MOTION TO APPROVE THE OCTOBER 2011 FINANCIAL STATEMENT
- MOTION TO APPROVE THE APPOINTMENTS OF LARRY AND DENISE BEE AND JEN BELTRANO TO THE PARK ADVISORY BOARD.

OLD BUSINESS  
NEW BUSINESS  
ADJOURN

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CAROL ZEMAN, CLERK-TREASURER

CREATING THE POSITION OF VILLAGE FISCAL OFFICER UNDER CHAPTER 133 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF BOSTON HEIGHTS AND DECLARING AN EMERGENCY.

WHEREAS; The Council of the Village of Boston Heights has duly passed Ordinance 10-2011 abolishing the position of elected Clerk-Treasurer in the Village of Boston Heights; and,

WHEREAS; Upon said passage of Ordinance 10 - 2011 the position of Fiscal Officer for the Village of Boston Heights was created; and,

WHEREAS; Chapter 133 of the Codified Ordinances of the village of Boston Heights should be amended to clarify the duties and obligations of the Fiscal Officer,

NOW THEREFORE, BE IT ORDAINED by the Council of the Village of Boston Heights, Ohio as follows:

Section 1: That Chapter 133 of the Codified Ordinances of the Village of Boston Heights be amended as set forth in Exhibit "A," with the stricken language being repealed and the language in all capital letters being added.

Section 2: That this Council hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council which resulted in formal action were taken in meetings open to the public, in full compliance with the applicable legal requirements including Section 121.22 of the Ohio Revised Code..

Section 3: 42: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and to allow for the continued operations of all Village departments.

PASSED:

\_\_\_\_\_  
BILL GONCY, MAYOR

ATTEST:

\_\_\_\_\_  
CAROL ZEMAN, Clerk-Treasurer

I, CAROL ZEMAN, Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Ordinance \_\_-2011 was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio , at a meeting of Council on the day 14th day of December, 2011.

ORDINANCE O-2011 EXHIBIT A

2011 AMENDMENTS TO CHAPTER 133

**133.01 MERGER OF OFFICES**

~~Effective January 1, 1956, the duties of the Clerk and Treasurer of the Municipality shall be combined into one office to be known as the Clerk-Treasurer.~~ THAT EFFECTIVE APRIL 1, 2012, THE POSITION OF VILLAGE FISCAL OFFICER UNDER OHIO REVISED CODE SECTION 733.262 IS CREATED AND THE OFFICE OF THE CLERK-TREASURER IS ABOLISHED.

133.011 APPOINTMENT, CONFIRMATION, REMOVAL, TERM AND DUTIES OF FISCAL OFFICER

(a) THAT ON OR BEFORE APRIL 1, 2012, THE POSITION OF VILLAGE FISCAL OFFICER SHALL BE FILLED BY APPOINTMENT OF THE MAYOR, WITH THE APPROVAL OF COUNCIL BY A MAJORITY VOTE. THE INITIAL TERM OF FIRST APPOINTED AND APPROVED FISCAL OFFICER SHALL BEGIN AT 12:00 A.M. APRIL 1, 2012 AND END ON JANUARY 9, 2013. BEGINNING IN 2013, THE VILLAGE FISCAL OFFICER SHALL BE APPOINTED IN JANUARY OF EACH FOR A TERM OF ONE YEAR TO COMMENCE AT 12:00 A.M. ON THE THURSDAY FOLLOWING THE SECOND WEDNESDAY OF JANUARY EACH AND RUNNING UNTIL 11:59 P.M. ON THE SECOND WEDNESDAY OF JANUARY THE FOLLOWING YEAR. THE APPOINTMENT OF THE VILLAGE FISCAL OFFICER SHALL BE MADE BY THE MAYOR AND CONFIRMED BY THE VILLAGE COUNCIL BY A MAJORITY VOTE ON OR BEFORE THE SECOND WEDNESDAY OF JANUARY. IF FOR ANY REASON THE MAYOR FAILS TO APPOINT A VILLAGE FISCAL OFFICER AND/OR THE VILLAGE COUNCIL FAILS TO CONFIRM THE MAYOR'S APPOINTEE, THE INDIVIDUAL HOLDING THE OFFICE AND/OR ITS EQUIVALENT SHALL HOLDOVER IN THAT POSITION UNTIL THE MAYOR APPOINTS AND THE VILLAGE COUNCIL CONFIRMS A QUALIFIED INDIVIDUAL.

(b) THE VILLAGE FISCAL OFFICER MAY ONLY BE REMOVED BY THE MAYOR WITH A MAJORITY VOTE OF COUNCIL, OR BY A THREE-FOURTHS VOTE OF COUNCIL IN FAVOR OF REMOVAL WITH OR WITHOUT THE CONSENT OF THE MAYOR. EITHER FORM OF REMOVAL MAY BE WITH OR WITHOUT CAUSE. (O.R.C. 3.01 AND 733.262(D)).

(c) THE VILLAGE FISCAL OFFICER NEED NOT BE AN ELECTOR OF THE VILLAGE NOR RESIDE IN THE VILLAGE AT ANY TIME DURING HIS OR HER EMPLOYMENT WITH THE VILLAGE.

## ORDINANCE O-2011 EXHIBIT A

(d) THE DUTIES OF THE VILLAGE FISCAL OFFICER SHALL BE THE DUTIES PROVIDED BY THE OHIO REVISED CODE FOR THE VILLAGE CLERK AND TREASURER AND ANY OTHER DUTIES CONSISTENT WITH THE NATURE OF THE OFFICE THAT ARE PROVIDED FOR BY MUNICIPAL ORDINANCE.

(e) THAT THE VILLAGE FISCAL OFFICER SHALL WORK THE REGULAR HOURS THAT THE VILLAGE HALL IS OPEN UNLESS OTHERWISE PROVIDED FOR BY COUNCIL.

### **133.02 MINUTES.**

(a) The ~~Clerk-Treasurer~~ FISCAL OFFICER is hereby directed to mail a complete copy of the minutes of each meeting of the Planning Commission and the Zoning Board of Appeals to the Mayor and each member of Council, addressed to their residence and to further make publication of the same by placing a copy of the minutes on the official posting station of the Village Hall.

(b) If an ordinance enacted by Council is changed or varied by amendment or otherwise and is different from the copy presented to the members of Council at the Council meeting, such amended, varied or changed ordinance shall be attached to the minutes submitted to the Mayor and members of Council before being inserted in the official record of ordinances.

### **133.03 AUDIT OF MAYOR'S COURT.**

(a) The ~~Clerk-Treasurer~~ FISCAL OFFICER shall audit the books of the Mayor's Court at least once a month and shall prepare a report relating to the results of such audit.

(b) The ~~Clerk-Treasurer~~ FISCAL OFFICER shall provide each member of Council with a copy of the monthly report of the audit of the books and accounts of the Mayor's Court.

### **133.04 INTERNAL AUDITOR.**

(a) There is hereby created the position of Internal Auditor of the Village of Boston Heights effective May 28, 1991.

(b) The salary of the Internal Auditor shall be paid out of the General Fund Legal Services Account or such other accounts of the General Fund as Council may from time to time direct by Resolution.

(c) The duties and authority of the Internal Auditor shall be:

- (1) Aid the ~~Clerk-Treasurer~~ FISCAL OFFICER in maintaining all books, records, funds, and accounts in auditable condition. In furtherance of this

## ORDINANCE O-2011 EXHIBIT A

duty, the Internal Auditor is authorized to do everything authorized by the Ohio Revised Code permitted to be done by the ~~Clerk-Treasurer~~ FISCAL OFFICER except sign or endorse checks or negotiable instruments.

(2) Report to Council any deviation in the practices of the ~~Clerk-Treasurer~~ FISCAL OFFICER which in the sole determination of the Internal Auditor are contrary to the practices mandated by either the Ohio Revised Code or any rules and regulations promulgated by the Auditor of the State of Ohio or the Auditor of the County of Summit.

(3) Perform any other such function that any four members of Council may direct in writing.

(d) In order to facilitate the duties of the Internal Auditor of the Village, no person is permitted to remove from the Village Town Hall any record book, account, receipt, or statement of any nature whatsoever that is required to be maintained by the ~~Clerk-Treasurer~~ FISCAL OFFICER without the written consent of the Mayor.

(e) The ~~Clerk-Treasurer~~ FISCAL OFFICER shall prepare and deliver to members of the Finance Committee of Council accurate statements of the status of each and every account of the Village, each and every month, at the regularly scheduled Finance Committee meeting. Such financial statement shall be reviewed and approved by the Internal Auditor of the Village prior to issuance to any member of Council.

### **133.05 PUBLIC RECORDS POLICY.**

The Village of Boston Heights believes that openness leads to a better informed citizenry, which leads to better government and better public policy. It is the policy of the Village of Boston Heights to strictly adhere to the state's Public Records Act. All exemptions to openness are to be construed in their narrowest sense and any denial of public records in response to a valid request must be accompanied by an explanation, including legal authority, as outlined in the Ohio Revised Code. If the request is in writing the explanation must also be in writing.

(a) Public Records. This office, in accordance with the Ohio Revised Code, defines records as including the following: Any documents - paper, electronic (including, but not limited to, e-mail), or other format - that is created or received by, or comes under the jurisdiction of a public office that documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office. All records of the Village of Boston Heights are public unless they are specifically exempt from disclosure under the Ohio Revised Code.

(1) It is the policy of the Village of Boston Heights that, as required by Ohio law, records will be organized and maintained so that they are readily available for inspection and copying (See subsection (d) hereof for the

## ORDINANCE O-2011 EXHIBIT A

e-mail record policy.) Record retention schedules are to be updated regularly and posted prominently.

(b) Records Requests. Each request for public records should be evaluated for a response using the following guidelines.

- (1) Although no specific language is required to make a request, the requester must at least identify the records requested with sufficient clarity to allow the public office to identify, retrieve, and review the records. If it is not clear what records are being sought, the records custodian must contact the requester for clarification, and should assist the requester in revising the request by informing the requester of the manner in which the office keeps its records.
- (2) The requester does not have to put a records request in writing, and does not have to provide his or her identity or the intended use of the requested public record. It is this office's general policy that this information is not to be requested.
- (3) Public records are to be available for inspection during regular business hours, with the exception of published holidays. Public records must be made available for inspection promptly. Copies of public records must be made available within a reasonable period of time. "Prompt" and "reasonable" take into account the volume of records requested; the proximity of the location where the records are stored; and the necessity for any legal review of the records requested.
- (4) Each request should be evaluated for an estimated length of time required to gather the records. Routine requests include, but are not limited to, meeting minutes (both in draft and final form), budgets, salary information, forms and applications, personnel rosters, etc. If fewer than 20 pages of copies are requested or if the records are readily available in an electronic format that can be e-mailed or downloaded easily, these should be made as quickly as the equipment allows. If more copies are requested, an appointment should be made with the requester on when the copies or computer files can be picked up. All requests for public records must either be satisfied or be acknowledged in writing by the Village of Boston Heights within three business days following the office's receipt of the request. If a request is deemed significantly beyond "routine," such as seeking a voluminous number of copies or requiring extensive research, the acknowledgment must include the following:
  - A. An estimated number of business days it will take to satisfy the request.
  - B. An estimated cost if copies are requested.
  - C. Any items within the request that may be exempt from disclosure.

## ORDINANCE O-2011 EXHIBIT A

D. Any denial of public records requested must include an explanation, including legal authority. If portions of a record are public and portions are exempt, the exempt portions are to be redacted and the rest released. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority.

(c) Costs for Public Records. Those seeking public records will be charged only the actual cost of making copies.

- (1) The charge for paper Any denial of public records requested must include an explanation, including copies is five cents (\$.05) per page.
- (2) The charge for downloaded computer files to a compact disc is one dollar (\$1.00) per disc.
- (3) There is no charge for documents e-mailed.
- (4) Requesters may ask that documents be mailed to them. They will be charged the actual cost of the postage and mailing supplies.

(d) E-mail. Documents in electronic mail format are records as defined by the Ohio Revised Code when their content relates to the business of the Village of Boston Heights. E- mail is to be treated in the same fashion as records in other formats and should follow the same retention schedules.

- (1) Records in private e-mail accounts used to conduct public business are subject to disclosure, and all employees or representatives of the Village of Boston Heights are instructed to retain their e-mails that relate to public business. (See subsection (a) Public Records) and to copy them to their business e-mail account and/or to the office's records custodian.
- (2) The record custodian is to treat the e-mails from private accounts as records of the public office, filing them in the appropriate way, retaining them per established schedules and making them available for inspection and copy in accordance with the Public Records Act.

(e) Failure to Respond to a Public Records Request. The Village of Boston Heights recognizes the legal and non-legal consequences of failure to properly respond to a public records request. In addition to the distrust in government that failure to comply may cause, the Village of Boston Heights' failure to comply with a request may result in a court ordering the Village of Boston Heights to comply with the law and to pay the requester attorney's fees and damages.

### **133.06 CHARGE FOR NON-SUFFICIENT FUND CHECKS.**

Any individual or entity who tenders a non-sufficient fund check to the Village of Boston Heights for any reason shall be charged a forty dollar (\$40.00) fee by the Village of Boston Heights to cover the costs that the Village of Boston Heights incurs in bank, employee and administration expenses as a result of accepting the individual or entity check.

## ORDINANCE O-2011 EXHIBIT A

The ~~Clerk-Treasurer~~ FISCAL OFFICER shall deposit this fee in the general fund of the Village of Boston Heights. The Village Solicitor is hereby authorized to take whatever means necessary to collect said fee.

### **133.07 RECORDS COMMISSION.**

(a) There is hereby established a Records Commission in accordance with Ohio R.C. 149.39 as follows:

- (1) The Mayor or his appointed representative.
- (2) The Chief Fiscal Officer.
- (3) The Chief Legal Officer.
- (4) A citizen appointed by the Mayor (this position will have no term limit).

(b) The Records Commission shall appoint a secretary, who may or may not be a member of the Commission and who shall serve at the pleasure of the Commission. The Commission may employ an archivist or records manager to serve under its direction. The Commission shall meet at least once every six months and upon call of the chairperson.

(c) The Commission shall provide rules for retention and disposal of records of the Village of Boston Heights and review applications for disposal of obsolete records and schedules of records retention and disposition submitted by offices of the Village of Boston Heights. The Commission may dispose of records pursuant to the procedure outlined in Ohio R.C. 149.39 and may at any time review any schedule it has previously approved and for good cause shown revise that schedule.

### ~~—————~~ **133.08 PAY SCALE**

~~—————~~ The pay scale for the ~~Clerk-Treasurer~~ is as follows:

~~—————~~ (a) ~~Term beginning April 1, 2012 and all terms through March 31, 2016 shall follow the increase of the regular wage ordinance for all other Village employees. The increase shall be annually as given to any other employee. In the event of no increase to the Village employees there shall not be an increase in the salary of the Clerk-Treasurer for that specific term.~~

~~—————~~ (b) ~~The rate for the Clerk-Treasurer for the beginning term of April 1, 2012 shall be \$39,035.53.~~

AN ORDINANCE AMENDING THE PERMANENT ANNUAL APPROPRIATIONS ORDINANCE (ORDINANCE 7-2011) FOR THE VILLAGE OF BOSTON HEIGHTS FOR THE YEAR 2011 AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the Council of the Village of Boston Heights, Summit, County, Ohio:

Section 1: The Permanent Annual Appropriations for the Village of Boston Heights (Ordinance 7-2011) for the year 2011 are hereby amended to reflect any/and all changes necessary to balance the accounts within each fund as needed. There is no exhibit presented due to the undetermined amount of the changes that will be needed.

Section 2: That the Clerk-Treasurer of the Village of Boston Heights is approved to make any changes necessary to comply with the requirements of the Auditor of the State of Ohio. The Clerk-Treasurer is also authorized to recertify any excess revenues with the Summit County Auditor's office for the above mentioned amendments to the appropriation Ordinance 7-2011.

Section 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were held in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 4: That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and the daily operations of the municipal departments and shall take effect and be in force from and after its passage.

PASSED:

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BILL GONCY, MAYOR

ATTEST:

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CAROL ZEMAN, Clerk-Treasurer

I, CAROL ZEMAN, Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Ordinance \_\_-2011 was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio, at a meeting of Council on the day 14th day of December, 2011.

AN ORDINANCE APPROVING THE TEMPORARY ANNUAL APPROPRIATIONS FOR THE VILLAGE OF BOSTON HEIGHTS FOR THE YEAR 2012 AND DECLARING AN EMERGENCY

BE IT ORDAINED by the Council of the Village of Boston Heights, Summit County, Ohio:

Section 1: The Temporary Annual Appropriations for the Village of Boston Heights for the year 2012 as attached hereto as Exhibit "A" are hereby approved and adopted by the Council of the Village of Boston Heights, Ohio

Section 2: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 3: That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and the daily operations of the municipal departments and shall take effect and be in force from and after its passage.

PASSED:

\_\_\_\_\_  
BILL GONCY, MAYOR

ATTEST:

\_\_\_\_\_  
CAROL ZEMAN, Clerk-Treasurer

I, CAROL ZEMAN, Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Ordinance \_\_-2011 was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio, at a meeting of Council on the day 14th day of December, 2011.

TEMPORARY APPROPRIATIONS 2012  
EXHIBIT "A"

GENERAL FUND	425,000.00
ST. CONSTR., MAINT.	30,000.00
ST. HIGHWAY	5,000.00
PARK FUND	5,000.00
ROAD LEVY	100,000.00
FIRE LEVY	20,000.00
COMPUTER FUND	3,000.00
CAPITAL PROJECTS	2,500.00
REF. PERF. BONDS	3,000.00
LAW ENFORCEMENT TRUST	500.00
FEDERAL FORFEITURE FUND	0

A RESOLUTION PROVIDING FOR THE  
EMPLOYMENT OF VILLAGE ENGINEER/STREET  
COMMISSIONER OF THE VILLAGE OF BOSTON  
HEIGHTS, OHIO, FOR THE YEAR 2012 AND  
DECLARING AN EMERGENCY

BE IT RESOLVED by the Council of the Village of Boston Heights, County of Summit, State of Ohio:

Section 1: That **Krock Esser Engineering, Inc.** is hereby appointed to the position of Village Engineer/Street Commissioner for the Village of Boston Heights, Ohio for the year 2012. The Mayor is hereby authorized to enter into the agreement attached hereto as Exhibit A.

Section 2: That effective 1/01/2012, **Krock Esser Engineering, Inc.** shall assume and fulfill the duties imposed upon them by virtue of their respective positions according to the Ordinances of the Village of Boston Heights, Ohio and the Statutes of the State of Ohio.

Section 3: Should the rates for services be increased by the Village Engineer or any Inspectors appointed hereunder during the calendar year 2012, such appointment hereunder shall be subject for review and possible termination prior to the end of year 2012.

**Section 4: That all Resolutions and Ordinances which are in conflict with this Resolution are hereby replaced and /or amended.**

Section 5: That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council which resulted in formal action were taken in meetings open to the public, in full compliance with the applicable legal requirements including Section 121.22 of the Ohio Revised Code.

Section 6: That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and to allow for the continued operations of the Village departments.

PASSED:

\_\_\_\_\_  
BILL GONCY, MAYOR

ATTEST:

\_\_\_\_\_  
CAROL ZEMAN, Clerk-Treasurer

I, CAROL ZEMAN, Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Resolution \_\_-2011 was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio , at a meeting of Council on the day 14th day of December, 2011.

RESOLUTION II-2011 EXHIBIT A

**Krock Esser Engineering, Inc,  
Suite B, 6138 Riverview Road Peninsula, Ohio 44264  
Office 330.657.2115 Fax 330.657.2146**

**RE: Boston Heights Village Engineer**  
*Contract for 2012 & 2013*

The following scope of services, price proposal, and schedule of services represent our understanding of the needs of the Village, based upon prior discussions, meetings, and/or additional information made available at the time of this proposal. We look forward to our role in your community.

**Proposal Outline**

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**Identification**

The parties of the Agreement shall be referred to within this document as follows:  
"Village" shall refer to the Village of Boston Heights, Summit County, Ohio  
"Engineer" shall refer to Krock Esser Engineering, Inc.

## RESOLUTION II-2011 EXHIBIT A

### **Task #1 Standard Engineering Services**

- Provide an Engineer in your community for a Set Price, Set Hours, and Set Duties.
- The following services are included:
  - ◆ Total Hours of Service
    - 8 hours per week (average) (50 weeks/year) @ \$51/hr = \$1,700/month
    - Hours will likely be higher during the peak construction season and emergency situations, and may be lower during the off-peak/winter months, etc.
    - However, the price is set and will not change,
  - ◆ Office Hours at the Village Municipal Center
    - Monday thru Thursday: TBD - in coordination with Village Staff
    - Friday: As necessary to meet with residents or monitor projects
    - Saturday / Sunday: Special Projects or Emergency Situations Only
  - ◆ Meeting Hours (as requested or necessary)
    - Attendance of Council Meetings, as required
    - Attendance of Planning Commission, Zoning Meetings, as required
    - Special meetings at the Village Municipal Center
    - Special meetings to attend on behalf of the Village, at neighboring communities, counties, or state agencies. (MPO, County, ODOT, Soil & Water, etc.)
    - Special meetings with funding agencies for project grants and loans
  - ◆ Office Hours at KEE's Corporate Office
    - Coordination of Village Issues, Grant Applications, Report Preparation, etc.
  - ◆ Technical Advisor on engineering issues referred from the Mayor, Council, Committees, or other Village Departments (Finance, Service, Economic Development, Building, Law),
  - ◆ Represent the Village to advise property owners on problems pertaining to engineering, as they may relate to public sewers, waterlines, drainage patterns, and building grades,
  - ◆ Represent the Village on issues related to the National Flood Insurance Program,
  - ◆ Prepare the Annual Report to Ohio EPA regarding NPDES Phase 2 Permit (MS4).
  - ◆ Review and prepare preliminary sketches, layouts, estimates, or reports, concerning potential future capital improvement projects or repair projects,
  - ◆ Review and prepare funding applications for various funding sources and projects.
    - Assist the Village in preparation of resources necessary to work with the various funding agencies such as CDBG, OPWC, ODNR, FEMA, EPA, OWDA, ODOT, or the Federal government via appropriations including:
      - Low-To-Moderate Income Studies
      - Capital Improvement Plans
      - Utility Rate Structures
  - ◆ Work with the Village administrative staff to organize, manage, and update all Village Engineering related files, standards, and details,
  - ◆ Field review all projects, issues, and emergency situations,
  - ◆ Provide a report to Council regarding the status of all engineering related matters

## RESOLUTION II-2011 EXHIBIT A

### **Task #2 Professional Design Service Contracts**

- This Task covers Professional Design Service Contracts, such as:
  - ♦ Pre-Design Services (Survey, Environmental, Traffic, Geotechnical, etc.)
  - ♦ Engineering Design Services (Construction Plans & Specifications)
  - ♦ Public Bidding & Award Services
  - ♦ Construction Administration, Management, Inspection & Testing (CA/CM/CI)
  - ♦ Reports & Studies (Flood Studies, Traffic Studies, Environmental Studies, etc.)
- Typical Engineering Design Projects requiring Professional Design Services:
  - ♦ Streets, Waterlines, Sanitary Sewers, Storm Sewers, Bridges and Culverts
  - ♦ Other publicly owned infrastructure projects
- All Professional Design Service Contracts will follow Ohio's Qualification-Based Selection (QBS) Law:
  - ♦ ORC 153.65 - 153.73, effective September 28, 2011
  - ♦ Each year, the Village shall advertise and publicly request Statements of Qualifications from Professional Design Service firms wishing to provide services to the Village. (153.68)
  - ♦ Selection of Professional Design Service firms shall be as follows:
    - (1) Professional Design Fee less than \$50k: (153.71)
      - Engineer to provide written scope of services, itemized pricing, & schedule
    - (2) Professional Design Fee more than \$50k: (153.69)
      - Two Options provided by Law:
        - ♦ Option #1: Follow standard QBS Selection Process (153.69)
          - Advertise, Rate All Firms, Select Best Firm, Negotiate Fee
          - If Negotiation Fails, negotiate fee with next Best Qualified Firm
        - ♦ Option #2: Design / Build (153.693) with Criteria Engineer (153.692)
          - Select Criteria Engineer to represent Village
          - Select Design/Build Firms:
            - Advertise, Rate All Firms, Select 3 Best Qualified Firms
            - Request Pricing and Schedule from 3 Firms
            - Negotiate Contract with Best Value D/B Firm
            - If Negotiation Fails, negotiate fee with next Best Firm
  - Prior to commencing work, all Professional Design Service Contracts shall have the following:
    - ♦ Detailed Scope of Services, Itemized Pricing, and Project Schedule
    - ♦ Council Authorization to Proceed
  - If changes in the Scope of Services for a project are necessary, a revised price proposal and schedule shall be provided to the Village for approval, prior to proceeding with the work.

## RESOLUTION II-2011 EXHIBIT A

### **Task #3 Private Sector Developments**

- Engineer will utilize its "ERA / CRA" Program to provide professional engineering representation on behalf of the Village, for all Private Sector Development Projects, at no cost to the Village.
- The following services are included:
  - ♦ The Engineer shall review all engineering plans, plats, easements, etc., required for the construction of new developments, utilities, or building additions,
  - ♦ The Engineer shall provide construction administration services, including pre-construction meetings, shop drawing review, progress meetings, and punch-list items,
    - o The Engineer shall provide construction inspection and testing services to verify that the public infrastructure is being constructed to Village standards,
  - ♦ The Engineer shall coordinate with the bonding companies and financial institutions to guarantee the proper completion of all construction.
- Engineering Review Account (ERA) & Construction Review Account (CRA) Program:
  - ♦ The Engineer shall work with the Village to setup the ERA / CRA Accounts,
  - ♦ The Engineer shall require an initial deposit to the ERA / CRA Account by the Developer,
  - ♦ The Engineer shall require additional deposits to the ERA / CRA Account, as necessary, throughout the duration of the project, by the Developer,
  - ♦ The Engineer shall grant no approvals until all requested deposits are made,
  - ♦ The cost of the ERA / CRA services shall be tracked and itemized for invoicing to the Village,
  - ♦ Village shall pay the Engineer for such services via the ERA / CRA Account deposits.
- This deposit-based system (ERA/CRA) guarantees that the Developer pays in advance for all Village Engineer reviews. There is no cost and no risk to the Village.

RESOLUTION II-2011 EXHIBIT A

**Price Proposal**

<i>Description</i>	<i>Rates</i>
<i>Task #1 Standard Engineering Services</i>	<i>\$ 1,700 /month \$ 20,400 /year</i>
<i>Task #2 Professional Design Service Contracts</i>	<i>\$ Fixed Price per Project</i>
<i>Task #3 Private Sector Developments</i>	<i>\$ Developer Cost</i>
<i>Description of Personnel</i>	<i>Rates</i>
<u><i>Engineering Services</i></u>	
<i>Principal Partner</i>	<i>\$130 /hr</i>
<i>Registered Engineer</i>	<i>\$110 /hr</i>
<i>Senior Designer</i>	<i>\$90 /hr</i>
<i>Designer 3</i>	<i>\$80 /hr</i>
<i>Designer 2</i>	<i>\$ 60 /hr</i>
<i>Designer 1</i>	<i>\$50 /hr</i>
<u><i>Planning &amp; Landscape Architecture</i></u>	
<i>Landscape Architect/Land Planner</i>	<i>\$ 100 /hr</i>
<i>Landscape Designer</i>	<i>\$ 75 /hr</i>
<u><i>Construction Services (CA/CM/CI)</i></u>	
<i>Construction Engineer</i>	<i>\$100 /hr</i>
<i>Construction Manager</i>	<i>\$80 /hr</i>
<i>Construction Inspector 2</i>	<i>\$56 /hr</i>
<i>Construction Inspector 1</i>	<i>\$46 /hr</i>
<u><i>Surveying Services</i></u>	
<i>Registered Surveyor</i>	<i>\$90 /hr</i>
<i>Survey Crew</i>	<i>\$125 /hr</i>
<u><i>Administrative Services</i></u>	
<i>Office Administration</i>	<i>40</i>

- The following items are defined as "reimbursable expenses" and will be invoiced "at cost":
  - ◆ Reproduction Costs; Shipping / Mailing Costs; Project Related Fees, etc

RESOLUTION II-2011 EXHIBIT A

**Contract Term**

Contract shall commence on January 1, 2012 and terminate on December 31, 2013.

If the Village desires to begin this contract prior to January 1, 2012, this contract can be extended back to the desired start date. All contract terms shall apply. Invoices for partial months shall be pro-rated.

**Termination Clause**

Upon 60 days advance written notice, either contracted party (Village or Engineer), may request termination of the contract. The termination date shall be the last day of any month, a minimum of 60 days from the date of written notice. All contract requirements and payment requirements shall apply through the final date of termination.

**Authorization**

**Krock Esser Engineering, Inc.**

**Village of Boston Heights**

\_\_\_\_\_  
David G. Krock, PE  
Vice President

\_\_\_\_\_  
Name Date

Approved as to form:

\_\_\_\_\_  
Eugene P. Esser, PE, PS  
President

\_\_\_\_\_  
Name Date

A RESOLUTION PROVIDING FOR THE  
EMPLOYMENT OF CEMETERY SEXTON FOR THE  
VILLAGE OF BOSTON HEIGHTS, OHIO, FOR THE  
YEAR 2012 AND DECLARING AN EMERGENCY.

BE IT RESOLVED by the Council of the Village of Boston Heights,  
County of Summit, State of Ohio:

Section 1: That **Terry Brannan** is hereby appointed to the position of  
Cemetery Sexton for the Village of Boston Heights, Ohio for the year 2012.

Section 2: That effective 1/01/2012, **Terry Brannan** shall assume and  
fulfill the duties imposed upon him by virtue of his respective position according  
to the Ordinances of the Village of Boston Heights, Ohio and the Statutes of  
the State of Ohio.

Section 3: Should the Village contract with an outside agency for the  
services of any individuals appointed hereunder, then, with 30 days advance  
notice from the Village, such appointments shall be terminated.

Section 4: That this Council hereby finds and determines that all formal  
actions relative to the adoption of this Resolution were taken in an open  
meeting of this Council and that all deliberations of this Council which resulted  
in formal action were taken in meetings open to the public, in full compliance  
with the applicable legal requirements including Section 121.22 of the Ohio  
Revised Code.

Section 5: That this Resolution is hereby declared to be an emergency  
measure necessary for the immediate preservation of the public peace, health,  
safety and to allow for the continued operations of the Village departments.

PASSED:

\_\_\_\_\_  
BILL GONCY, MAYOR

ATTEST:

\_\_\_\_\_  
CAROL ZEMAN, Clerk-Treasurer

I, CAROL ZEMAN, Clerk of the Village of Boston Heights, Summit County,  
Ohio, do hereby certify that the foregoing Resolution \_\_-2011 was duly passed by the  
Council of the Village of Boston Heights, County of Summit, State of Ohio , at a  
meeting of Council on the day 14th day of December, 2011.

A RESOLUTION PROVIDING FOR THE EMPLOYMENT OF ASSISTANT OFFICE CLERK FOR THE VILLAGE OF BOSTON HEIGHTS, OHIO, FOR THE YEAR 2012 AND DECLARING AN EMERGENCY.

BE IT RESOLVED by the Council of the Village of Boston Heights, County of Summit, State of Ohio:

Section 1: That \_\_\_\_\_ is hereby appointed to the position of Assistant Office Clerk for the Village of Boston Heights, Ohio for the year 2012.

Section 2: That effective 1/01/2012, \_\_\_\_\_ shall assume and fulfill the duties imposed upon them by virtue of their respective position according to the Ordinances of the Village of Boston Heights, Ohio and the Statutes of the State of Ohio.

Section 3: Should the Village contract with an outside agency for the services of any individuals appointed hereunder, then, with 30 days advance notice from the Village, such appointments shall be terminated.

Section 4: That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council which resulted in formal action were taken in meetings open to the public, in full compliance with the applicable legal requirements including Section 121.22 of the Ohio Revised Code.

Section 5: That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and to allow for the continued operations of the Village departments.

PASSED:

\_\_\_\_\_  
BILL GONCY, MAYOR

ATTEST:

\_\_\_\_\_  
CAROL ZEMAN, Clerk-Treasurer

I, CAROL ZEMAN, Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Resolution \_\_-2011 was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio , at a meeting of Council on the day 14th day of December, 2011.

A RESOLUTION PROVIDING FOR THE EMPLOYMENT OF ASSISTANT CLERK-TREASURER FOR THE VILLAGE OF BOSTON HEIGHTS, OHIO, FOR THE YEAR 2012 AND DECLARING AN EMERGENCY.

BE IT RESOLVED by the Council of the Village of Boston Heights, County of Summit, State of Ohio:

Section 1: That **Melinda A. Valahovic** is appointed to the position of Assistant Clerk-Treasurer for the Village of Boston Heights, Ohio for the year 2012.

Section 2: That effective 1/01/2012, **Melinda A. Valahovic** shall assume and fulfill the duties imposed upon her by virtue of her respective position according to the Ordinances of the Village of Boston Heights, Ohio and the Statutes of the State of Ohio.

Section 3: Should the Village contract with an outside agency for the services of any individuals appointed hereunder, then, with 30 days advance notice from the Village, such appointments shall be terminated.

Section 4: That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council which resulted in formal action were taken in meetings open to the public, in full compliance with the applicable legal requirements including Section 121.22 of the Ohio Revised Code.

Section 5: That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and to allow for the continued operations of the Village departments.

PASSED:

\_\_\_\_\_  
BILL GONCY, MAYOR

ATTEST:

\_\_\_\_\_  
CAROL ZEMAN, Clerk-Treasurer

I, CAROL ZEMAN, Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Resolution \_\_-2011 was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio , at a meeting of Council on the day 14th day of December, 2011.

A RESOLUTION PROVIDING FOR THE EMPLOYMENT OF ZONING INSPECTOR FOR THE VILLAGE OF BOSTON HEIGHTS, OHIO, FOR THE YEAR 2012 AND DECLARING AN EMERGENCY.

BE IT RESOLVED by the Council of the Village of Boston Heights, County of Summit, State of Ohio:

Section 1: 5: That **David Himes** is hereby appointed to the position of Zoning Inspector for the Village of Boston Heights, Ohio for the year 2012.

Section 2: That effective 1/01/2012, **David Himes** shall assume and fulfill the duties imposed upon him by virtue of his respective position according to the Ordinances of the Village of Boston Heights, Ohio and the Statutes of the State of Ohio.

Section 3: Should the Village contract with an outside agency for the services of any individuals appointed hereunder, then, with 30 days advance notice from the Village, such appointments shall be terminated.

Section 4: That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council which resulted in formal action were taken in meetings open to the public, in full compliance with the applicable legal requirements including Section 121.22 of the Ohio Revised Code.

Section 5: That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and to allow for the continued operations of the Village departments.

PASSED:

\_\_\_\_\_  
BILL GONCY, MAYOR

ATTEST:

\_\_\_\_\_  
CAROL ZEMAN, Clerk-Treasurer

I, CAROL ZEMAN, Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Resolution \_\_-2011 was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio , at a meeting of Council on the day 14th day of December, 2011.

A RESOLUTION PROVIDING FOR THE EMPLOYMENT OF CLERK OF COURTS FOR THE VILLAGE OF BOSTON HEIGHTS, OHIO, FOR THE YEAR 2012 AND DECLARING AN EMERGENCY.

BE IT RESOLVED by the Council of the Village of Boston Heights, County of Summit, State of Ohio:

Section 1: That **Kathleen Cole** is appointed to the position of Clerk of Courts for the Village of Boston Heights, Ohio for the year 2012.

Section 2: That effective 1/01/2012, **Kathleen Cole** shall assume and fulfill the duties imposed upon her by virtue of her respective position according to the Ordinances of the Village of Boston Heights, Ohio and the Statutes of the State of Ohio.

Section 3: Should the Village contract with an outside agency for the services of any individuals appointed hereunder, then, with 30 days advance notice from the Village, such appointments shall be terminated.

Section 4: That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council which resulted in formal action were taken in meetings open to the public, in full compliance with the applicable legal requirements including Section 121.22 of the Ohio Revised Code.

Section 5: That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and to allow for the continued operations of the Village departments.

PASSED:

\_\_\_\_\_  
BILL GONCY, MAYOR

ATTEST:

\_\_\_\_\_  
CAROL ZEMAN, Clerk-Treasurer

I, CAROL ZEMAN, Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Resolution \_\_-2011 was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio , at a meeting of Council on the day 14th day of December, 2011.

APPOINTMENT OF RONALD DICK TO THE BOARD OF ZONING APPEALS OF THE VILLAGE OF BOSTON HEIGHTS AND DECLARING AN EMERGENCY.

WHEREAS, a vacancy will exist on the Board of Zoning Appeals on January 1, 2012; and

WHEREAS, the Mayor of the Village of Boston Heights has recommended the appointment of **Ronald Dick** to fill the vacancy that will exist on said Board on January 1, 2012;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Boston Heights, County of Summit and State of Ohio:

Section 1: That the appointment of **Ronald Dick** to the Boston Heights Board of Zoning Appeals as recommended by the Mayor of the Village of Boston Heights is hereby confirmed by the Council of the Village of Boston Heights.

Section 2: Said appointment shall become effective January 1, 2012 and shall expire on December 31, 2015.

Section 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this resolution were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 4: This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and for the continuing operations of the Board of Zoning Appeals within the Village of Boston Heights.

PASSED:

\_\_\_\_\_  
BILL GONCY, MAYOR

ATTEST:

\_\_\_\_\_  
CAROL ZEMAN, Clerk-Treasurer

I, CAROL ZEMAN, Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Resolution \_\_-2011 was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio, at a meeting of Council on the day 14th day of December, 2011.

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO THE CONTRACT WITH THE SUMMIT COUNTY PUBLIC DEFENDER'S OFFICE AND DECLARING AN EMERGENCY.

BE IT RESOLVED by the Council of the Village of Boston Heights, County of Summit and State of Ohio:

~~Section 1~~: That the Mayor is hereby authorized to enter into the contract with the Summit County Public Defender's Office. Said contract is attached hereto as Exhibit A.

~~Section 2~~: That the Summit County Public Defender's Office contract for 2011 is in force from January 1, 2012 through December 31, 2012.

~~Section 3~~: That this council hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of this council and that all deliberations of this Council which resulted in formal action were taken in meeting open to the public, in full compliance with the applicable legal requirements including Section 121.22 of the Ohio Revised Code.

~~Section 4~~: This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and for the further reason this measure is necessary in order to ensure the daily operations of the municipal departments and shall take effect and be in force from and after its passage.

PASSED:

\_\_\_\_\_  
BILL GONCY, MAYOR

ATTEST:

\_\_\_\_\_  
CAROL ZEMAN, Clerk-Treasurer

I, CAROL ZEMAN, Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Resolution \_\_-2011 was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio, at a meeting of Council on the day 14th day of December, 2011.

RESOLUTION PP-2011 EXHIBIT A

AGREEMENT

This Agreement made at the VILLAGE OF BOSTON HEIGHTS , Ohio on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the VILLAGE OF BOSTON HEIGHTS , Ohio, acting by and through its Mayor (or designee) duly authorized by Ordinance/Resolution No. \_\_\_\_\_, \_\_\_\_\_, passed by the Council of the VILLAGE OF BOSTON HEIGHTS , Ohio on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, hereinafter referred to as the VILLAGE and the Summit County Public Defender's Commission, One Cascade Plaza Suite 1940, Akron, Ohio hereinafter referred to as the DEFENDER.

WITNESSETH:

WHEREAS, the VILLAGE has entered into an agreement to obtain the services of the DEFENDER to provide legal counsel to indigent persons charged with loss of liberty offenses in its municipal jurisdiction for 2012; and

WHEREAS, pursuant to Chapter 120 of the Ohio Revised Code and Administrative Code 120-1-09 it is necessary to enter into this Agreement in order for said County to obtain reimbursement pursuant to Chapter 120 and Administrative Rule 120-1-09 of the Ohio Administrative Code.

NOW, THEREFORE, in consideration of the mutual covenants, promises, conditions, and terms to be kept and performed, it is agreed between the parties as follows:

Section 1. The DEFENDER shall provide counsel in the Stow Municipal Court to persons charged with a violation of the Codified Ordinances of the VILLAGE OF BOSTON HEIGHTS , Ohio, and who meet all the following specifications:

- a. The judge has determined in accordance with Subsection D of Rule 44 of the Ohio Rules of Criminal Procedure that such person is unable to obtain legal counsel.
- b. Such person has not waived the right to counsel in accordance with Rule 43 (C) of the Ohio Rules of Criminal Procedure.

## RESOLUTION PP-2011 EXHIBIT A

- c. The judge determines that a sentence of confinement may be imposed on such person should he be convicted.
- d. Defines "eligible person" as an individual who at the time this need is determined, to be indigent in accordance with Sections 120.05 and 120.15 of the Ohio Revised Code and Section 120-1-03 of the Ohio Administrative Code and other rules and standards established by the Ohio Public Defender and the Commission.

Section 2. The VILLAGE shall pay to the DEFENDER a fee for the services provided in Section 1 of the Agreement of One Hundred Sixty Dollars (\$160.00) per case for all cases opened between January 1, 2012 through December 31, 2012.

- a. The parties hereto agree that said representation of such indigent person shall not exceed the fee schedule in effect and adopted by Summit County, Ohio (said fee schedule currently allows payment of up to \$750.00 per case.as and for a trial.)

Section 3. The DEFENDER shall send semi-annual statements to the VILLAGE certifying the number of cases completed during the preceding months.

Section 4. The Agreement shall expire on December 31, 2012.

Section 5. In the event the VILLAGE does not renew this Agreement, the VILLAGE agrees to pay the DEFENDER the amount of One Hundred-Sixty Dollars (\$160.00) per pending case upon the completion of said case.

Section 6. Should the DEFENDER be succeeded by a county defender organized in accordance with the Ohio Revised Code, the DEFENDER may assign its duties under this assignment and shall not be made by either party without the prior written consent of the other; provided, however, that the DEFENDER is expressly authorized to provide the services described in Section 1 through the Legal Defender Office of Summit County, Ohio Inc.

RESOLUTION PP-2011 EXHIBIT A

Section 7. Should the DEFENDER or any other entity receive reimbursement for the services performed by the DEFENDER, the DEFENDER shall insure the VILLAGE receives its prorated share of such reimbursement through credit toward the VILLAGE'S payment and/or payments, direct or indirect, to the VILLAGE.

Section 8. The DEFENDER shall defend and hold harmless the VILLAGE from any and all claims or liability resulting from the services performed by the DEFENDER under the contract.

Section 9. All amendments to this Agreement shall be in writing and signed by both parties.

Section 10. This contract shall be subject to the approval of the Ohio Public Defender Commission.

IN WITNESS WHEREOF, this Agreement has been executed as of the day and year first above written.

IN THE PRESENCE OF:

VILLAGE OF BOSTON HEIGHTS

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Mayor (or designee)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

SUMMIT COUNTY PUBLIC  
DEFENDER COMMISSION

Approved as to legal form  
and correctness:

\_\_\_\_\_  
Philip Lloyd, Trustee  
(or designee)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Law Director

\_\_\_\_\_  
Date

OHIO PUBLIC DEFENDER  
COMMISSIONER

\_\_\_\_\_  
Date

**CERTIFICATE OF DIRECTOR OF FINANCE**

I hereby certify that certificates will be furnished on payment orders issued by the \_\_\_\_\_ under this contract and that sufficient money is in the treasury under this contract and that sufficient money is in the treasury or in the process of collection to the credit of the appropriate fund or division to discharge the VILLAGES's obligation under this contract as authorized by Ordinance/Resolution No. \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Director of Finance

A RESOLUTION TO ENTER INTO A MEMORANDUM OF UNDERSTANDING BETWEEN THE OHIO & ERIE CANALWAY COALITION AND THE VILLAGE OF BOSTON HEIGHTS AND DECLARING AN EMERGENCY.

WHEREAS; The Ohio & Erie Canalway Coalition seeks to assist units of government in the coordination and support of the Summit County Trail & Greenway Plan for the Summit County Community Grant Project; and,

WHEREAS; The Village of Boston Heights has been awarded Summit County monies based on Ohio & Erie Canalway Coalition application.

NOW THEREFORE BE IT RESOLVED, by the Council of the Village of Boston Heights, County of Summit and State of Ohio:

Section 1: That the Mayor is hereby authorized to enter into the Memorandum of Understanding attached hereto as Exhibit A.

Section 2: That this Council hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council which resulted in formal action were taken in meetings open to the public, in full compliance with the applicable legal requirements including Section 121.22 of the Ohio Revised Code.

Section 3: This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and for the further reason this measure is necessary in order to facilitate the timeline needed to be met by my all agencies involved.

PASSED:

\_\_\_\_\_  
BILL GONCY, MAYOR

ATTEST:

\_\_\_\_\_  
CAROL ZEMAN, Clerk-Treasurer

I, CAROL ZEMAN, Clerk of the Village of Boston Heights, Summit County, Ohio, do hereby certify that the foregoing Resolution \_\_-2011 was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio , at a meeting of Council on the day 14th day of December, 2011.

## RESOLUTION QQ-2011 EXHIBIT A

### MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (hereinafter referred to as "MOU") entered into this \_\_\_\_\_ day of DECEMBER 2011, by and between the Ohio & Erie Canalway Coalition (hereinafter referred to as "Grantor") whose business address is 47 W. Exchange Street, Akron, Ohio 44308 and the Village of Boston Heights (hereinafter referred to as "Grantee") whose address is 45 E. Boston Mills Road, Boston Heights, Ohio 44236.

WITNESSETH:

WHEREAS the Grantor seeks to assist units of government, regional planning organizations, nonprofit organizations and others in the coordination and support of the Summit County Trail & Greenway Plan for the Summit County Community Grant Projects;

WHEREAS, Grantee has been awarded Summit County monies based on Grantee's application (attached hereto and incorporated herein);

NOW, THEREFORE, in consideration of the mutual undertakings and agreements hereinafter set forth, the Grantor and the Grantee do hereby agree as follows:

1. Grant Amount:

The Grantor shall grant funds to Grantee for an amount not to exceed \$10,000.00.

2. Term:

The term of this MOU shall be from November 15, 2011 to November 15, 2012. The projected end date for the project is December 31, 2012.

3. Use of Grant Funds:

The funds granted pursuant to this MOU and any and all interest income accrued on such grant funds shall be used by Grantee for obligations incurred in the performance of this MOU and shall be supported by contracts, invoices, vouchers and other data as appropriate and evidencing the costs incurred.

If the funds are not expended in accordance with the terms and conditions as set forth in this MOU, the amounts not expended shall be returned to Grantor within thirty (30) days after the expiration of this MOU.

4. Accounting of Grant Funds:

The funds and any and all interest income therefrom shall be deposited and maintained in a separate account (the "Account") upon the books and records of the Grantee. The Grantee shall keep all records of the Account in a manner which is consistent with generally accepted accounting principles- All disbursements from the Account shall be for obligations incurred in the performance of this MOU and shall be supported by contracts, invoices, vouchers, and other data, as appropriate, evidencing the necessity of such expenditure. Failure to comply with this requirement may allow Grantor to withhold payment allocation requests until such compliance is demonstrated.

5. Reporting:

The Grantee agrees to provide Grantor with a semi-annual grant activity report of its progress in carrying out the use of Grant Funds and itemized end products as per this MOU and such other reports as the Grantor requests, including Federal Audit Reports, contracts related to the grant project, and prevailing wage reports. The first report shall be submitted along with a detailed year-

## RESOLUTION QQ-2011 EXHIBIT A

to-date line item expenditure of funds no later than June 30, 2012. Said documents shall be submitted to the Summit County Trail & Green way Coordinator, OECC, 47 W. Exchange Street, Akron, Ohio 44308. The next semi-annual grant activity report shall be submitted no later than September 30, 2012.

### 6. Obligation to Disburse Grant Funds:

The Grantor shall be under no obligation to disburse the grant funds to Grantee until such time as the Grantee shall submit the following:

The Grantee may request funds to be drawn down when:

- A. Project is completed and final Grant Activity Report submitted including:
  1. Executed MOU;
  2. Copies of all project related receipts or documentation of expenditures;
  3. Copies of all invoices.

### 7. Records, Access and Maintenance:

The Grantee shall establish and maintain for at least three (3) years from the termination of this MOU such records as are required by the Grantor, including, but not limited to, financial reports, intake and participant information, and all other relevant information. The parties further agree that records required by the Grantor with respect to any questioned costs, audit disallowance, litigation or dispute between the Grantor and Grantee shall be maintained for the time needed for the resolution of said question and that in the event of early termination of this MOU, or if for any other reason the Grantor shall require a review of the records related to the Project, the Grantee shall, at its own expense, segregate all such records related to the project from its other records of operation.

### 8. Adherence to Local, State and Federal Laws:

The Grantee agrees to comply with all applicable federal, state and local laws in the conduct of work hereunder. Grantee accepts full responsibility for payments of all unemployment compensation, insurance premiums, workers compensation premiums, all income tax deductions, social security deductions, and any and all other taxes or payroll deductions required for all employees engaged by Grantee on the performance of the work authorized by this MOU.

The Grantee shall be responsible for the administration of the design and construction contracts for the projects. The Grantee agrees to pay prevailing wages to employees on the construction portion of the project in accordance with Ohio Revised Code Chapter 4115. The grantee, as amended, and agrees to provide the Grantor will full and complete documentation of payment records.

### 9. Default/Termination:

If it appears to the Grantor that the Grantee has failed to perform satisfactorily any of the requirements under this MOU, or if the Grantee is in violation of any provision of this MOU, or upon cause, the Grantor may declare the Grantee in default and terminate this MOU after providing the Grantee with written notice in accordance with the notice provisions of this MOU, of its failure to perform to the Grantor's reasonable satisfaction any requirement of the MOU. In the event of default/termination, the Grantor is released from further obligations to the Grantee and the Grantee shall reimburse the Grantor for the full grant award disbursed to the Grantee plus interest from the date of disbursement of grant funds. Grantor may take action to recover any funds previously disbursed to Grantee, under rights and remedies made available under the law.

## RESOLUTION QQ-2011 EXHIBIT A

Any requests for extension by Grantee must be provided in writing and approved by Grantor. Grantee may make no more than two (2) requests for extension without being found in Default as defined under Section 9.

### 10. Forbearance Not a Waiver:

No act of forbearance or failure to insist on the prompt performance by the Grantee of its obligations under this MOU, either express or implied, shall not be construed as a waiver by the Grantor of any of its rights hereunder.

### 11. Equal Employment Opportunity:

In performing this MOU, the Grantee shall not discriminate against any employee, applicant for employment or other person because of race, religion, color, sex, national origin, disability or age. The Grantee will take affirmative action to ensure that applicants are employed and that employees are treated during their employment without regard to race, religion, color, sex, national origin, disability or age.

### 12. Hold Harmless Indemnification:

(deleted)

### 13. Insurance and Related Liability:

The Grantee shall procure and maintain during the term of the MOU, insurance in a form satisfactory to the Grantor and by an insurance company acceptable to the Grantor. (stricken passage)  
The amounts of the insurance shall not be less than as follows:

- a. General Liability Insurance: General liability insurance in the minimum amount of one million dollars (\$1,000,000.00) combined single limit for bodily injury, including wrongful death, and property damage, each occurrence, covering activities under this MOU.
- b. Worker's Compensation and Employer's Liability Insurance: In compliance with applicable Federal minimum limits of two hundred thousand dollars (\$200,000.00) per person and five hundred thousand dollars (\$500,000.00) per occurrence for bodily injury and twenty thousand dollars (\$20,000.00) per occurrence of property damage shall be required.

RESOLUTION QQ-2011 EXHIBIT A

14. Notices:

All notices, consents, demands, requests and other communications which may be or are required to be given hereunder shall be in writing and shall be deemed duly given if personally delivered or sent by United States mail, registered or certified, return receipt requested, postage prepaid, to the address(es) set forth hereunder or to such other address as the other party hereto may designate in written notice transmitted in accordance with this provision.

15. Signage:

Grantee shall recognize the Summit County Trail & Greenway Flan on all printed materials and promotional media related to this grant.

When there are press releases, photographs, newsletters, any published material or signage about this grant, Grantor shall be included on any and all mailing distributions. Press releases and signage that name Grantor must be approved by the grants committee prior to the distribution to the media or displaying the signage.

IN WITNESS WHEREOF, the parties hereunto have caused this MOU to be executed in duplicate on the day and year first written above.

WITNESSED BY:

\_\_\_\_\_

GRANTOR:

By: \_\_\_\_\_

Its: \_\_\_\_\_

WITNESSED BY:

\_\_\_\_\_

GRANTEE:

By: \_\_\_\_\_

Its: \_\_\_\_\_