

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

REGULAR COUNCIL MEETING OF
July 13, 2011 - 8:00 PM

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

ORDINANCE M - 2011	AN ORDINANCE AMENDING THE BUSINESS REGULATION CODE OF THE CODIFIED ORDINANCES OF THE VILLAGE OF BOSTON HEIGHTS TO REPLACE CHAPTER 711 ENTITLED "ENTERTAINMENT DEVICE ARCADES"
ORDINANCE P - 2011	AN ORDINANCE EXTENDING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT OF ALL INTERNET GAMING/SWEEPSTAKES CAFES IN THE VILLAGE OF BOSTON HEIGHTS, OHIO AND DECLARING AN EMERGENCY
ORDINANCE Q - 2011	AN ORDINANCE AMENDING CHAPTER 137.01(a) OF THE CODIFIED ORDINANCES OF THE VILLAGE OF BOSTON HEIGHTS REGARDING THE COMPOSITION OF THE POLICE DEPARTMENT AND DECLARING AN EMERGENCY
ORDINANCE R - 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 S - 2011	AN ORDINANCE AMENDING THE COMPENSATION ORDINANCE (ORDINANCE 3-2011) TO ADD IN SECTION 5 (A)(1) THE LEVEL OF LIEUTENANT AND DECLARING AN EMERGENCY
RESOLUTION Q - 2011	A RESOLUTION DECLARING IT NECESSARY TO RENEW THE TAX LEVY AT THE TAX RATE OF .75 AND REQUESTING THE SUMMIT COUNTY FISCAL OFFICER TO CERTIFY THE TOTAL CURRENT TAX VALUATION OF THE VILLAGE AND THE DOLLAR AMOUNT OF REVENUE THAT WOULD BE GENERATED BY THIS RENEWAL LEVY, AND DECLARING AN EMERGENCY
RESOLUTION R - 2011	A RESOLUTION CONFIRMING THE LEVEL CHANGE WITHIN THE POLICE DEPARTMENT WAGE STRUCTURE FOR VARIOUS EMPLOYEES AND DECLARING AN EMERGENCY

RESOLUTION S-2011

A RESOLUTION CONFIRMING THE LEVEL CHANGE OF KATHLEEN COLE AS THE OFFICE CLERK/CLERK OF MAYOR'S COURT OF THE VILLAGE OF BOSTON HEIGHTS TO LEVEL (3) THREE, AND DECLARING AN EMERGENCY

RESOLUTION T-2011

A RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE VILLAGE OF BOSTON HEIGHTS TO ENTER INTO AN AGREEMENT WITH GANNETT-FLEMING ENGINEERS AND ARCHITECTS, P.C. FOR DESIGNS ON REPLACEMENT OF THE AKRON-CLEVELAND ROAD BRIDGE AND DECLARING AND EMERGENCY

RESOLUTION U-2011

Adopted: Res 19-2011
as amended

A RESOLUTION ON A PROPOSED RENEWAL OF A TAX LEVY EXCEEDING THE TEN (10) MILL LIMITATION FOR THE PURPOSES OF GENERAL CONSTRUCTION, RECONSTRUCTION, RESURFACING AND REPAIR OF STREETS, ROADS, AND BRIDGES (O.R.C. 5705.10(G)) AND DECLARING AN EMERGENCY

MOTIONS:

- APPROVAL OF THE MAY 2011 FINANCIAL STATEMENT

COMMITTEE REPORTS
OLD BUSINESS
NEW BUSINESS
ADJOURN

CAROL ZEMAN, CLERK-TREASURER

ORDINANCE M-2011

JULY 13, 2011

AN ORDINANCE AMENDING THE BUSINESS REGULATION CODE OF
THE CODIFIED ORDINANCES OF THE VILLAGE OF BOSTON HEIGHTS TO REPLACE
CHAPTER 711 ENTITLED "ENTERTAINMENT DEVICE ARCADES"

WHEREAS, The Planning Commission of the Village of Boston Heights has reviewed and recommended the replacement of Chapter 711 of the Village's Business Regulation Code as per Exhibit A (copy attached); and

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

Section 1: That the existing Chapter 711 of the Codified Ordinances of the Village of Boston Heights is hereby repealed in its entirety and replaced with the Planning Commission recommended replacement as per the attached Exhibit A.

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 Council and that all deliberations of this Council and of any of its committees or subcommittees that resulted in those formal actions were 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: That this Ordinance was duly adopted and shall take effect thirty (30) days after its adoption by Council and approval by the Mayor, otherwise at the earliest period allowed by law.

PASSED:

BILLGONCY, 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 13th day of July, 2011

CHAPTER 711
Entertainment Device Arcades

- 711.01 Applicability.**
- 711.02 Definitions.**
- 711.03 License application; requirements.**
- 711.04 License fees; transfer and display; disposition of fees.**
- 711.05 License revocation; hearing procedure.**
- 711.06 Location.**
- 711.07 Hours of Operation**
- 711.08 Miscellaneous operating requirements.**
- 711.09 Administrative Agent**
- 711.98 Severability.**
- 711.99 Penalties.**

SECTION 711.01 APPLICABILITY.

This Chapter shall apply to the operation of entertainment devices that are lawfully operated pursuant to the Ohio Revised Code and does not legalize or license any operation of a device that is unlawful to operate pursuant to the Ohio Revised Code. This Chapter shall apply to all entertainment device arcades that operate or propose to operate in the Village of Boston Heights.

SECTION 711.02 DEFINITIONS.

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- (a) "Entertainment device arcade" means any business, establishment, room or place where four or more entertainment devices are kept for use by the public or by persons other than the owner of the devices, where persons give anything of value to access the use of the entertainment devices or the premises, and the person may be given anything of value by the operator, whether the giving occurs on or off the premise or at the same time or a later time.
- (b) "Entertainment device" means any mechanical, electronic, video or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a person, for the purpose of playing a game, viewing a video display, hearing an audio transmission or reading entries or outcomes from any other kind of device. "Entertainment device" does not include any vending machine, juke box, audio book, video player or any device that gives anything of value where the only value given, directly or indirectly, is a video or audio transmission or the playing of a game.

- (c) "Anything of value" means cash, cash equivalents, tangible objects, credits to play, sweepstakes entry points and any other tangibles or intangibles, no matter how slight. Anything of value includes playing a game, viewing a video display, hearing an audio transmission, and reading entries or outcomes from any other kind of device. A person who gives anything of value for a product or service, whether tangible or intangible, in any way, directly or indirectly, in association with being given access to the use of an entertainment device, is deemed to have given value for the access to the entertainment device.
- (d) "Operator" means any person or organization that owns, controls, operates, promotes or maintains or knowingly engages in conduct that facilitates the operation of an entertainment device arcade or the entertainment devices in an entertainment device arcade.
- (e) "Law enforcement agency" means the Village of Boston Heights Police Department or other law enforcement agency with appropriate jurisdiction.
- (f) "Administrative Agent" means the agent or department responsible for the administration of the regulations delineated within this Chapter under the terms of Section 711.09.

SECTION 711.03 LICENSE APPLICATION; REQUIREMENTS.

- (a) No person, partnership, corporation, or other entity shall operate or conduct an entertainment device arcade without first obtaining an annual license to operate therefore from the Administrative Agent. The license to operate shall first be obtained prior to the initial operation of the entertainment device arcade and annually thereafter, with the subsequent annual application and associated fee due prior to the 1st day of January of each calendar year.
- (b) Every person, partnership, corporation, organization or other entity desiring to operate or conduct an entertainment device arcade shall make an application in writing to the Administrative Agent. Such application shall include a non-refundable application fee of \$500.00 payable to the Clerk-Treasurer of the Village of Boston Heights, and which application shall provide each of the following:
 - (1) The name and federal tax identification number under which the business is to be conducted;
 - (2) The location where the business is conducted, with a description of the premises, including a scaled diagram;
 - (3) The name, address, and government issued photo identification of any manager, supervisor, and all other employees;
 - (4) The name, address, and government issued photo identification of the owner or owners of the entertainment devices;
 - (5) The name, address, government issued photo identification and principal occupation of every person with an interest in the business. If the business is conducted by:

- A. A sole proprietorship, the name, address, government issued photo identification and principal occupation of that individual;
 - B. A firm, limited liability company or partnership, the names, addresses, government issued photo identification and principal occupations of each member of the firm or partnership; or,
 - C. A corporation, the names, addresses, government issued photo identifications and principal occupations of all officers and shareholders and the statutory agent.
- (6) If a corporation or limited liability company, a certificate of good standing from the Ohio Secretary of State;
- (7) The name, description, model number and serial number of each entertainment device on the premises and any other device on the premises that is necessary to the operation of the entertainment device;
- (8)
- A. A list of each separate prize that may be given out and each separate dollar amount that may be given; and,
 - B. The odds of winning any offered prize or dollar amount awarded for the participation in any game, activity, program, scheme or play, use or participation in any way in an entertainment device or participating in any other activity or promotion in the entertainment device arcade, whether or not the determination of the giving of the thing of value or the delivery of the thing of value occurs totally within the confines of the premises or requires some event, occurrence or happening at another location.
- (9) The name and address of any and all persons, businesses or organizations that provide games, computer software, equipment, or services or operate devices linked to the licensee's entertainment devices or to devices necessary to operate the entertainment devices, whether any such provisions are sold, leased or licensed; and,
- (10) A certificate or report, provided by an Authorized Independent Testing Laboratory, identifying the components of the entertainment devices and related systems, identifying the operational characteristics of the entertainment device and systems and verifying that each entertainment device identified in 711.03(b)(7), above, and the software therein, is either a skill-based amusement machine, as defined in Section 2915.01 of the Ohio Revised Code, or is part of a sweepstakes game format. If the certificate or report verifies that the entertainment device and the software therein is part of a sweepstakes game format, the certificate or report shall verify the following information:
- A. The sweepstakes game is governed by official rules, which are clearly posted and available to customers.

- B. Sweepstakes entries are provided to customers upon purchase of a good or service, for which consideration is paid, and no consideration is paid for the sweepstakes entry itself. Additionally, the sweepstakes game provides for a method of free entry upon request, and the chance of winning the sweepstakes game does not vary between free entries and entries received as a result of purchase.
 - C. The total number of entries, the number of winning and losing entries and the number and nature of prizes of the sweepstakes game are finite, predetermined and established prior to the start of the sweepstakes. Additionally, all winning and losing entries are predetermined prior to the start of the sweepstakes game and the entries cannot be changed or modified once the sweepstakes game begins.
 - D. The sweepstakes game contains no element of skill and the customer has no ability to alter or affect the outcome or results of the sweepstakes game.
- (c) The Administrative Agent shall publish, within sixty (60) days after the enactment of this ordinance a list of Authorized Independent Testing Laboratories, and shall keep said list updated and current at all times.
 - (d) Only certificates or reports from the entities listed by the Administrative Agent as Authorized Independent Testing Laboratories shall satisfy the requirements of this Section. Said certificate or report shall be provided to the Administrative Agent for each entertainment device prior to an operator placing the device into service. The certificate or report for an Authorized Independent Testing Laboratory required herein shall be updated annually for each entertainment device and the updated certificate or report shall be provided at the time of each annual application, and shall contain the information required in this subsection.
 - (e) Any update to an entertainment device, or the software therein, during the course of the year shall be reviewed and inspected by an Authorized Independent Testing Laboratory, and a certificate or report from the Authorized Independent Testing Laboratory shall be filed with the Administrative Agent prior to the operator placing the device in service, and shall contain the information required in this subsection.
 - (f) No entertainment device shall be lawfully operated unless it is certified to meet the requirements of this subsection.
 - (g) Duty to keep information current. No person, partnership, corporation, or other entity shall operate or conduct an entertainment device arcade at any time unless the information on file with the Administrative Agent is current and accurately reports the licensing information at the time of operation. The person, partnership, corporation, or other entity operating or conducting an entertainment device

arcade shall have a continuing duty to inform the Administrative Agent as to changes in the information required in this section.

- (h) Rejection or approval of application. The Administrative Agent shall reject or preliminarily approve an application within ten (10) business days of receipt. If rejected, the Administrative Agent shall notify the applicant in writing, with reasons for rejection. If the application is preliminarily approved, the Administrative Agent shall notify the applicant in writing of said preliminary approval. Upon notification of preliminary approval, applicant shall pay to the Clerk-Treasurer of the Village the semi-annual license fee due in conjunction with the initial or annual application for each entertainment device that will be located on the premises during the following semi-annual period. Upon notification of receipt of said semi-annual license fee, the Administrative Agent shall grant final approval of the application and shall issue a license to operate. No person shall operate an entertainment device arcade, until such final approval is granted and said license to operate is issued, unless otherwise permitted herein.
- (i) Prohibition as a result of conviction; fire inspection. The Administrative Agent shall not issue a license to any person, partnership, corporation, or other entity if any of the persons with an interest in the business or if any of the employees of the business have been convicted of a violation of a federal or state statute or of any local ordinance pertaining to gambling or other crime of moral turpitude within five years preceding the application. Also, as a prerequisite to the issuance of such license, an inspection shall be made of the premises by the Village of Boston Heights Fire Department and Zoning Inspector to seek and obtain the approval of said department.
- (j) Right of entry for inspection. The entertainment device arcade shall be open to inspection and viewing of operations by the Administrative Agent, fire department personnel, Zoning Inspector, and health department personnel at all times that the arcade is open for business. Law enforcement agency officers may accompany officials from the Administrative Agent, fire department, Zoning Inspector, and health department on any official business or inspection to the extent authorized by this Chapter of these Codified Ordinances. No operator shall fail to immediately permit entry to any such officials.
- (k) Suspension or revocation of license. Failure to register or pay a license fee for an entertainment device shall be grounds for immediate suspension or revocation of the license for the entertainment device arcade and said device shall be seized and forfeited to the Village of Boston Heights.

SECTION 711.04 LICENSE FEES; TRANSFER AND DISPLAY; DISPOSITION OF FEES.

- (a) License fees. The non-refundable annual license fee, payable to the Clerk-Treasurer of the Village at the time of initial or annual application to the Administrative Agent, shall be \$1,000.00 for each entertainment device arcade

location for each calendar year or any part thereof. Additionally, a semi-annual non-refundable license fee of \$200.00 shall be paid to the Clerk-Treasurer of the Village for each entertainment device that will be located on the premises during the following semi-annual period. The semi-annual license fee for each entertainment device shall be paid upon preliminary approval of the initial or annual application and no later than June 1st of each calendar year, or, if the entertainment device is brought to the premises following the payment of the semi-annual license fee, prior to such time as the entertainment device is brought to or operating on the premises. For purposes of determining licensing fees, each device that is operable by one person, or having an independently viewable video or similar display screen, is a separate entertainment device. The Clerk-Treasurer shall notify the Administrative Agent upon the receipt of such fees.

- (b) Non-transferability; display. Licenses issued under this article shall not be transferable to any other person, partnership, corporation, or other entity and the business may be conducted only at the location for which the license is issued. The license must be so placed as to be made conspicuously visible and shall list each entertainment device with serial number.
- (c) Disposition of license fees. License fees received by the Village of Boston Heights shall be deposited into the General Fund of the Village.

SECTION 711.05 LICENSE REVOCATION; HEARING PROCEDURE.

- (a) Creation of commission. An Entertainment Device Arcade License Review Commission is hereby created to hear complaints concerning entertainment device arcade licenses. The Commission shall consist of the Mayor or his/her designee, the President pro tempore of the Village Council or his/her designee and the Clerk-Treasurer of the Village or his/her designee.
- (b) Revocation or suspension of license. A license may be suspended or revoked at any time by the Commission on satisfactory proof that violation of the laws of the State of Ohio, the Codified Ordinances of the Village of Boston Heights or this Chapter occurs or has occurred at an entertainment device arcade. In addition to any license suspension, the Commission may assess the licensee a penalty fee of not less than \$500.00 or more than \$1,000.00 for any violation of this Chapter. Each day a continuing violation exists shall constitute a separate violation for purpose of assessing penalty fees. Suspensions, revocations and assessments of penalty fees by the Commission are in addition to and separate from any criminal liability and does not preclude criminal prosecution for any violation of this Chapter or other Village Ordinances or other applicable laws. Penalty fees shall be disposed of in the same manner as license fees as set forth in Section 711.04(c).
- (c) Submission of complaint; regular inspection. Any resident of the Village of Boston Heights may submit a written notice of complaint to the Administrative

Agent concerning any entertainment device arcade located within the Village. The notice of complaint shall include the name of the resident, the address of the location, the Administrative Agent's device identification number, if known, and the specific reasons why the complainant is complaining. The Administrative Agent and/or the law enforcement agency responsible for policing the Village shall regularly inspect the premises, the operation, the entertainment devices and the licensee's records and may issue a notice of complaint to the licensee for any violations.

- (d) Interview of complainant. The Administrative Agent shall interview the resident complainant, as set forth in subpart (c), and inquire as to the specific reasons for the complaint. The Administrative Agent may dismiss the complaint if it is determined that:
 - (1) The specific reasons listed in the complaint are not proper grounds for suspension or revocation of the license; or
 - (2) There are not substantial credible facts to support the complaint.
- (e) No appeal from dismissal of complaint. No appeal shall lie from the decision of the Administrative Agent to dismiss a resident complaint.
- (f) Fact-finding conference. If the complaint is not dismissed by the Administrative Agent, it will then notify the licensee and the owner of the devices on the premises, as listed on the license application, that a complaint has been filed and will set a date for a fact-finding conference on the matter. Extensions will be granted and necessary investigations will be conducted at the discretion of the Administrative Agent and it may request the assistance of the law enforcement agency to assist in the investigation. For the purpose of conducting the investigation, the Administrative Agent and any assisting law enforcement agency officer shall have access to the entertainment device arcade and the records of the licensee during all times that the entertainment devices are available for play.
- (g) Resolution of complaint. At the time of the fact-finding conference, the complainant, the licensee, and the owner of the devices will meet and attempt to amicably resolve the situation. If the complainant, licensee, and the owner can reach an amicable solution, the Administrative Agent shall issue a written notice directing the licensee to comply with the agreed resolution of the complaint.
- (h) Referral to the Commission. After a fact-finding conference, if the parties cannot agree upon an amicable solution to the problem, the Administrative Agent shall transmit the complaint, together with its recommendation thereon, to the Entertainment Device Arcade License Review Commission. The Administrative Agent recommendation may be for dismissal of the complaint, suspension of the license and assessment penalty fees, and/or revocation of the license.

- (i) Hearing. The Commission may accept, reject, or modify the recommendation of the Administrative Agent. The complainant, the licensee and the owner of the devices, as listed on the license application, shall be notified in advance by certified mail of the day on which the Commission is to consider the complaint; and they may, if they so choose, be present during consideration of the complaint. Consideration of the complaint before the Commission shall be a public hearing which shall be held within 30 days after said notice is given. The licensee shall have the right to be represented by counsel, and have the right to examine and cross-examine witnesses. The Commission shall enter its decision the day of hearing. In the event of a decision and ruling adverse to the licensee, the licensee shall have the right to appeal such decision and ruling to a court of competent jurisdiction under authority of and pursuant to the provisions of Chapter 2506 of the Ohio Revised Code.
- (j) Other enforcement actions. The complaint process set forth in this section is separate and distinct from any law enforcement action taken to enforce the laws of the State of Ohio or the Codified Ordinances of the Village of Boston Heights and this Chapter, and is not a condition precedent or otherwise an impediment to enforcement of said laws by criminal prosecution.

SECTION 711.06 LOCATION.

- (a) Limitation on location. No license shall be granted to an entertainment device arcade that operates any entertainment device within 500 feet from the boundaries of a parcel of real estate having situated on it a residential dwelling, hotel, motel, tourist house, school, hospital, nursing home, public administrative or any public safety building, public library, public playground, or any establishment that has been issued a liquor permit by the State of Ohio.
- (b) Exception; change in ownership. This article shall not apply to any entertainment device arcade locations in existence at the time of the passage of this ordinance, and shall not apply to any duly licensed entertainment device arcade locations in existence at the time a school, public library, public playground, or any establishment that has been issued a liquor permit by the State of Ohio moves within 500 feet of said entertainment device arcade. However, any change in ownership of the entertainment device arcade or change in location will remove said entertainment device arcade from this exception. "Change in ownership" in the case of a partnership or corporation for the purpose of this section means more than 50 percent change in partners or shareholders from the partners or shareholders owning the partnership or corporation as of the date the school, public library, or public playground moves within five hundred feet of said entertainment device arcade.

SECTION 711.07 HOURS OF OPERATION.

- (a) Entertainment device arcades shall operate only between the hours set forth below:

Fridays and Saturdays	10:00am to 2:00am of the following day
Sundays	1:00pm to 12:00am Monday morning
All Other Days	10:00am to 12:00am of the following day

- (b) No operator shall permit any person to operate any entertainment device during any time other than specified herein.

SECTION 711.08 MISCELLANEOUS OPERATING REQUIREMENTS.

- (a) Supervision of entertainment devices. Any entertainment device arcade shall have an adult who is 21 years of age or over on the premises and supervising at all times the entertainment devices during all hours of operation.
- (b) Square-footage. The interior of the entertainment device arcade shall provide a minimum area of 50 square feet per entertainment device in each room in which entertainment devices are located.
- (c) No alcoholic beverages. No operator shall permit the sale, possession or consumption of alcoholic beverages on the premises of an entertainment device arcade.
- (d) Public peace. No operator shall fail to maintain order and quiet on the premises so as not to violate the public peace.
- (e) No minors. No persons under the age of eighteen years shall be permitted on the premises of any entertainment device arcade.
- (f) Photo identification. The operator shall require a photo identification of every person to whom anything of value is given in connection with the entertainment device arcade and, if the dollar value of the thing given to a person is \$600.00 or more, the operator shall make and maintain a copy of the person's photo identification and shall record the person's name and home address and a description of the thing given, a stated dollar value of the thing given, the date and time of the giving and, if an entertainment device is involved in the circumstances of the giving, the serial number or other identifying description of the device. By the second Tuesday of each month the operator shall cause to be delivered to the Administrative Agent a copy of the record of things given to persons together with the above required information given during the preceding month. If the records pertaining to photo identification contain social security numbers or drivers license numbers, the operator and the Administrative Agent shall not

disclose those numbers to anyone except as required by the laws of the State of Ohio and the United States government.

- (g) Posting. The operator shall post in a conspicuous place on the premises in the room where the entertainment devices are located in no less than twenty point type:
- (1) Each separate prize that may be given and each separate dollar amount that might be given;
 - (2) The odds as stated in the filing with the Administrative Agent, as required in Section 711.03(b)(10);
 - (3) A complete statement of the rules and conditions pertaining to the giving of any prizes or anything of value to any person, whether or not the determination the giving of the thing of value or the delivery of the thing of value occurs totally within the confines of the premises or requires some event, occurrence or happening at another location, and the method of free entry for any sweepstakes game; and,
 - (4) That no person under the age of 18 shall be permitted on these premises. This notice shall be posted in no less than 72 point type.
- (h) Device Identification. On each entertainment device, a sticker, if issued by the Administrative Agent, shall be placed on each device indicating that it has been registered by the operator with the Administrative Agent, and bearing a unique identification number for that device.
- (i) Records. The operator shall keep a complete set of all records of the operations taking place at the premises at all times, including all federal, state and local tax records, all records of payments and receipts, all records of expenses and revenues of the operation, all banking records, all contracts, leases and agreements affecting the premises, equipment and operation, all personnel records and all other records pertaining to the business, which shall be available for inspection and copying by any entity provided a right of entry under subsection 711.03(j). Records more than 10 years old are exempt from this requirement.
- (j) Correct information. No applicant shall make a false or incorrect statement in an application for an entertainment device arcade license and no operator shall fail to update the information supplied to the Administrative Agent to reflect existing operations as required in Section 711.03(b).
- (k) Reporting of Internet Time. Any entertainment device arcade that engages in the sale of internet time or computer usage time or telephone service time in exchange for anything of value shall provide to the Administrative Agent, no later than the 2nd Tuesday of each month a report detailing the daily amount of time sold in the preceding calendar month.

- (l) Strict liability for violations. It is the intent of this Chapter that operators are strictly liable for any violations of this Chapter.

SECTION 711.09 ADMINISTRATIVE AGENT

The Mayor of the Village of Boston Heights, with the consent of Council, shall contract with a qualified independent agent which shall act as the Administrative Agent for the purposes of this Chapter.

SECTION 711.98 SEVERABILITY.

In the event any provision of Sections 711.01-711.99 shall be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this Chapter as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

SECTION 711.99 PENALTIES.

- (a) Minor misdemeanor. Whoever violates or fails to comply with any of the provisions of this Chapter, for which no penalty is otherwise provided, is guilty of a minor misdemeanor and shall be fined not more than \$150.00 for each offense, said fine shall not be reduced or suspended. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.
- (b) Failure to obtain or operating without a license. Whoever violates or fails to comply with the requirement to obtain a license for an entertainment device arcade or an entertainment device as provided in this Chapter is guilty of a misdemeanor of the fourth degree and shall be fined not more than \$250.00, or imprisoned not more than 30 days or both, for each offense, provided said fine shall not be reduced or suspended. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

AN ORDINANCE EXTENDING A TEMPORARY
MORATORIUM ON THE ESTABLISHMENT OF ALL INTERNET
GAMING/SWEEPSTAKES CAFES IN THE VILLAGE OF BOSTON
HEIGHTS, OHIO AND DECLARING AN EMERGENCY

WHEREAS, Council has found and determined that legitimate health, safety and welfare concerns exist regarding the placement of internet gaming/sweepstakes cafes in the Village of Boston Heights; and,

WHEREAS, based upon action taken by other political subdivisions in recent weeks regarding the regulation of these facilities, the Village of Boston Heights would like the opportunity to **continue** to study all of the recently enacted legislation and determine whether or not it is appropriate for our community; and,

WHEREAS, to give Council, Planning Commission and the Administration sufficient time to conduct the necessary research to make a thoughtful decision regarding the legality of these cafes. Council considers it appropriate to **extend, the Six (6) Month** Moratorium on the issuance of all applications for zoning permits, special use permits, occupancy permits, building permits or the like for these facilities **an additional Six (6) Months**; and,

WHEREAS, Council finds that any such use of property within the Village of Boston Heights during the pendency of the above Moratorium would have the potential to cause irrevocable harm to the public health, safety and welfare,

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

Section 1: That there is hereby imposed **an additional Six (6) Month** Moratorium on the creation, operation and/or development of internet gaming/sweepstakes cafes anywhere within the Village, said Moratorium to extend to the submission, consideration or approval of all applications for zoning permits, special use permits, occupancy permits, building permits or the like.

Section 2: That this Moratorium shall become effective on the date following its passage by the Council, and approval by the Mayor, and shall remain in effect for at least Six (6) Months following the date upon which **Ordinance 5 - 2011, duly passed by this Council on February 9, 2011, is no long in effect, but shall not extend beyond January 18, 2012** unless extended upon a majority vote of the Council for a period of no more than Six (6) additional months if the Council finds such continuance is required to allow additional time for the Village to complete its study and make a determination as to what action, if any, the Village should take to safeguard the public health, safety and welfare through the provision of adequate planning, zoning, land-use, or other regulatory controls that are specifically applicable to internet gaming/sweepstakes cafes.

Section 3: That this Moratorium suspends and tolls any lime periods prescribed by law within which the Planning Commission or any other official or official body of the Village is required to take action upon an application for a zoning permit, a special use permit, building permit, site plan approval or the like, for the development/use of land anywhere in the Village for an internet gaming/sweepstakes cafe on the effective date of this Moratorium; and that no such application shall be deemed to be approved by the failure of the Planning Commission, or any other official or official body to approve or deny said application during the time when this Moratorium shall be in effect.

Section 4: That the Planning Commission , at its next regular meeting, is hereby directed to **continue** to complete, if possible, a study to recommend what action, if any, the Village of Boston Heights should take to preserve the public health, safety and welfare through the provision of adequate planning, zoning, land-use, or other regulatory controls that are specifically applicable to internet gaming/sweepstakes cafes.

ORDINANCE P - 2011

Section 5: If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 6: That it is found and determined that all formal actions of the Council of the Village of Boston Heights concerning and relating to the adoption of this Ordinance were taken in an open meeting of the Council of the Village of Boston Heights and that all deliberations of this Village's Council and any of its committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 7: That this Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public health, safety and welfare of the citizens of the Village of Boston Heights, the immediate emergency being the necessity to impose a temporary moratorium to insure an orderly development within the Village in adopting a well thought-out and contemporary zoning and business regulation for the Village and to protect the public interest and rights of property owners; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

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 13 th day of July, 2011.

ORDINANCE Q - 2011

AN ORDINANCE AMENDING CHAPTER 137.01(a) OF THE CODIFIED ORDINANCES OF THE VILLAGE OF BOSTON HEIGHTS REGARDING THE COMPOSITION OF THE POLICE DEPARTMENT AND DECLARING AN EMERGENCY

WHEREAS, the Police Chief and Safety Committee have recommended that the composition of the Police department be changed,

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

Section 1: That Chapter 137.01(a) of the Codified Ordinance be amended to read as follows:

"(a) The Police Department shall consist of a Chief of Police, up to **Three (3) Supervisory employees, as defined in the Village of Boston Heights Codified Ordinance Section 137.05**, up to Three (3) full time patrolmen, and up to fifteen **(15)** auxiliary officers as the Mayor may from time to time deem appropriate. Council from time to time may provide for additional officers, patrolmen and police."

Section 2: That this Ordinance is hereby declared to be an emergency measure necessary for the public peace, health and safety and to provide for adequate police protection for the Village of Boston Heights and shall take effect upon passage by Council and approval by the Mayor.

Section 3: 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.

PASSED:

ATTEST:

BILL GONCY, MAYOR

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 13th day of July, 2011.

CAROL ZEMAN, Clerk of the Village of
Boston Heights

ORDINANCE R - 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

BE IT ORDAINED by the Council of the Village of Boston Heights, Summit County, State of
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 the changes as set forth on Exhibit "A"
attached hereto and incorporated herein by reference.

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 Boston Heights, County of Summit, State of
Ohio at a meeting on the 13th day of July, 2011.

Carol Zeman, Clerk of the Village of Boston Heights

Fire Levy (09N) Operating

Salaries	211		73,000.00
Benefits	212		15,000.00
Contractual Services	230		
Auditors Fees	230		
Del Ad & Coll	230		
Diretac Fees	230		
Total			89,200.00

Computer Fund

Salaries	211		
Benefits	212		
Contractual	230		
Supplies	240		
Capital Outlay	250		
Fund Total			22,000.00

Law Enforcement Trust Fund

Contractual	230		
Supplies	240		
Fund Total			300.00

Cemetery Trust Fund

Contractual			
Supplies			
Fund Total		3,000.00	13,000.00

AN ORDINANCE AMENDING THE
 COMPENSATION ORDINANCE (ORDINANCE 3-2011) TO
 ADD IN SECTION 5 (A)(1) THE LEVEL OF LIEUTENANT AND
 DECLARING AN EMERGENCY

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

Section 1: Ordinance 3 - 2011 Section 5(A)(1) is to be amended to add the level of Lieutenant as follows:

A. Police Department

1. Full Time Police Officers: (rates are noted as dollars per hour)

	LEVEL 1	LEVEL 2	LEVEL 3
Police Officer	19.31	20.32	21.09
Sergeant	21.83	22.63	23.37
Lieutenant	24.12	24.87	25.62
Police Chief	26.53	27.59	29.77

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: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety and to institute without delay fair and equitable pay plans for the employees who serve the various municipal departments and shall take effect and be in force from and after its passage.

PASSED:

BILLGONCY, 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 13th day of July, 2011.

CAROL ZEMAN, Clerk of the Village
 of Boston Heights

A RESOLUTION DECLARING IT NECESSARY TO RENEW THE TAX LEVY AT THE TAX RATE OF .75 AND REQUESTING THE SUMMIT COUNTY FISCAL OFFICER TO CERTIFY THE TOTAL CURRENT TAX VALUATION OF THE VILLAGE AND THE DOLLAR AMOUNT OF REVENUE THAT WOULD BE GENERATED BY THIS RENEWAL LEVY, AND DECLARING AN EMERGENCY

WHEREAS, this Council finds that the amount of taxes which may be raised within the ten-mill limitation by levies on the current tax duplicate will be insufficient to provide an adequate amount for the necessary requirements of the Village and that it is necessary to levy a tax in excess of that limitation for the purposes of payment of permanent, part-time or volunteer firefighters or firefighting companies to operate the fire department, including the payment of the firefighter employers' contribution required under section 742.34 of the Revised Code, or the provision of ambulance, paramedic, or others emergency medical services operated by a fire department or firefighting company therefore (O.R.C. 5705.19)(I) in the Village of Boston Heights; and

WHEREAS, in accordance with Division B of Section 5705.03 of the Ohio Revised Code, as amended by Am. Sub. S.B. No. 201, effective December 21, 1998, in order to submit the question of a renewal tax levy pursuant to Section 5705.25 of the Ohio Revised Code, this Council must request that the Summit County Fiscal Officer certify (i) the total current tax valuation of the Village, and (ii) the dollar amount of revenue that would be generated by the levy; and

WHEREAS, in accordance with Division B of Section 5705.03 of the Ohio Revised Code, upon receipt of a certified copy of a resolution of this Council declaring the necessity of the tax, stating its purpose, slating whether it is an additional levy, a renewal or a replacement of an existing tax, noting the Section of the Ohio Revised Code pursuant to which its submission to the electors is authorized, and requesting the County Fiscal Officer to certify the total current tax valuation of the Village, and the dollar amount of revenue that would be generated by the proposed levy.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Boston Heights, County of Summit and State of Ohio, two-thirds of the members elected therefore concurring that:

Section 1: This Council declares that it is necessary to have a renewal tax levied, for a period of three (3) years, of .75 mill ad valorem property tax outside of the ten mill limitation for the purpose of providing for the payment of permanent, part-time or volunteer firefighters or firefighting companies to operate the fire department, including the payment of the firefighter employers' contribution required under section 742.34 of the Revised Code, or the provision of ambulance, paramedic, or others emergency medical services operated by a fire department or firefighting company therefore (O.R.C. 5705.19(1)), and that it intends to submit the question of the renewed tax of that levy to the electors at an election on November 8, 2011 as authorized by Section 5705.25 of the Ohio Revised Code.

SECTION 2: This Council requests the Summit County Fiscal Officer to certify to it both (i) the total current tax valuation of the Village; and (ii) the dollar amount of revenue that would be generated by the .75 mill renewal levy specified in Section 1.

SECTION 3: The Clerk of this Council is authorized and directed to deliver promptly to the Summit County Fiscal Officer a certified copy of this Resolution and the form of the County Fiscal Officer's Certificate in connection therewith that is currently on file with the Clerk of Council.

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: This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and to comply with the requirements of the Ohio Revised Code regarding the levy of taxes outside the 10 mill limitations and shall take effect and be in force from and after its passage.

RESOLUTION Q-2011

JULY 13, 2011

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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 July 13,2011.

CAROL ZEMAN, Clerk of the Village of
Boston Heights, Ohio

A RESOLUTION CONFIRMING THE LEVEL CHANGE WITHIN
THE POLICE DEPARTMENT WAGE STRUCTURE FOR
VARIOUS EMPLOYEES AND DECLARING AN EMERGENCY

WHEREAS, the Police Chief and the Mayor have approved moving:

Randall Robison - to Level 2 and
Jeffrey Lyle - to Level 2

under Section 5 (A)(1) entitled Police Department, Full Time Police Officers rates of the present compensation Ordinance 3 - 2011; and,

WHEREAS, the present compensation Ordinance 3 - 2011 indicates the consent of Council is required after the approval of the Police Chief and Mayor;

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 Police Chief and the Mayor have approved Randall Robison and Jeffrey Lyle, having successfully met their probation period, to move to Level 2 under the classification of Sergeant as indicated in the Compensation Ordinance 3 -2011 of the Village of Boston Heights and have presented this Resolution to the Council of the Village of Boston Heights for their consent.

Section 2: Upon the consent of Council this level change shall begin with the pay period beginning July 25, 2011.

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 forward progress of the Village Police department.

PASSED

BILLGONCY, 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 13th day of July, 2011.

CAROL ZEMAN, Clerk of the Village of Boston Heights, Ohio

RESOLUTION S-2011

JULY 13, 2011

A RESOLUTION CONFIRMING THE LEVEL CHANGE OF KATHLEEN COLE AS THE OFFICE CLERIC/CLERK OF MAYOR'S COURT OF THE VILLAGE OF BOSTON HEIGHTS TO LEVEL (3) THREE, AND DECLARING AN EMERGENCY.

WHEREAS, the Mayor of the Village of Boston Heights has approved moving Kathleen Cole from Level 1 to Level 3 in accordance with Section 5 (C)(1), entitled Mayor's Court, of the present compensation Ordinance 3 - 2011; and,

WHEREAS, the present compensation Ordinance 3 - 2011 indicates the consent of the Council is required after the approval of the Mayor;

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

Section 1: That Mayor's recommendation to move Kathleen Cole, to Level (3) three, in accordance with Section 5 (C)(1) of the compensation Ordinance 3 - 2011, entitled Mayor's Court, Office Clerk/Clerk of Mayor's Court, of the Village of Boston Heights and having presented this Resolution to the Council of the Village of Boston Heights for their consent.

Section 2: Upon the consent of Council this level change shall begin with the pay period beginning July 25, 2011.

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 Mayor's Court within the Village of Boston Heights.

PASSED:

BILLGONCY, 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 Boston Heights, County of Summit, State of Ohio, as a meeting of Council on the 13th day of July, 2011.

CAROL ZEMAN, Clerk of the Village of
Boston Heights, Ohio

A RESOLUTION
AUTHORIZING THE MAYOR, ON BEHALF OF
THE VILLAGE OF BOSTON HEIGHTS TO
ENTER INTO AN AGREEMENT WITH
GANNETT FLEMING ENGINEERS AND
ARCHITECTS, P.C. FOR DESIGNS ON
REPLACEMENT OF THE AKRON-
CLEVELAND ROAD BRIDGE 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 Gannett Fleming Engineers and Architects, P.C. Said
contract is attached hereto as Exhibit A.

Section 2: That the attached Gannett Fleming Engineers and
Architects, P.C. contract for 2011 is in force from July 13, 2011 through
December 31, 2011.

Section 3: That the Mayor is hereby authorized to take such further
actions as the Mayor shall determine to be necessary or proper in order to fully
implement the terms of the Agreement.

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 meeting open to the public, in full compliance
with the applicable legal requirements including Section 121.22 of the Ohio
Revised Code.

Section 5: 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 timely completion of necessary construction and shall take effect and be in
force from and after its passage.

PASSED:

BILLGONCY, 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 Boston Heights, County of Summit, State of Ohio as
meeting of Council on the 13th day of July, 2011.

CAROL ZEMAN, Clerk of the Village of
Boston Heights, Ohio



OHIO DEPARTMENT OF TRANSPORTATION

CENTRAL OFFICE * 1980 WEST BROAD STREET * COLUMBUS, OH 43223

JOHN R. KASICH, GOVERNOR * JERRY WRAY, DIRECTOR

The Honorable Bill Goncy
Mayor of the Village of Boston Heights
45 East Boston Mills Road
Boston Heights, Ohio 44236

Re: Consultant Agreement No.16754
SUM-Akron Cleveland Road
PID No. 86154
Federal Project No. E090(441)
Gannett Fleming Engineers and Architects, P. C., Consultant

Dear Mayor Goncy:

The Department has approved Consultant Agreement No. 16754 for the above project.

Accordingly, the Village may execute the Consultant Agreement with Gannett Fleming Engineers and Architects, P. C. The Village may submit either monthly invoices or one (1) final invoice, after the work has been completed and accepted, to the District Deputy Director of District 4 for reimbursement of costs incurred by the Village. Reimbursement of costs eligible for Federal participation shall be limited to an amount not to exceed \$53,250.00 (100% of \$53,250.00). The Village's invoice(s) shall be supported by a copy of the Consultant's invoice(s) and proof of payment by the Village.

Upon execution of the Consultant Agreement the Village may authorize the Consultant to proceed with the work.

To formalize acceptance of the aforementioned action, please sign this letter-form Agreement and return this letter-form Agreement together with one (1) reproduced copy of the fully executed Consultant Agreement, and your letter authorizing the Consultant to proceed, to the District Deputy Director of District 4 who will forward the documents to the Office of Consultant Services, 1980 West Broad Street, Columbus, Ohio 43223.

Respectfully,

Jerry Wray Director

JW:RLF:JAK

A C C E P T A N C E

The foregoing is accepted as a basis for the allocation of Federal Funds.

Date: _____

VILLAGE OF BOSTON HEIGHTS

Bill Goncy Mayor

APPROVED AS TO FORM:

By: _____

Title: _____

VILLAGE OF BOSTON HEIGHTS AGREEMENT NO. 16754

This Agreement No. 16754 entered into this _____ day of _____, 2011, by and between the Village of Boston Heights, acting by and through the Mayor, hereinafter referred to as the Village, and Gannett Fleming Engineers and Architects, P. C_M hereinafter referred to as the Consultant, with an office located at 4151 Executive Parkway, Suite 350, Westerville, Ohio 43081.

WITNESSETH :

That the Village and the Consultant, for the mutual considerations herein contained and specified, have agreed and do hereby agree as follows:

CLAUSE I - WORK DESCRIPTION

The Consultant agrees to perform all professional services as may be authorized by the Village for the preparation of the Minor Project Development Process for the replacement of the deficient Akron-Cleveland Road Bridge over MetroParks Hike & Bike Trail in the Village of Boston Heights, Summit

County, Ohio, identified as SUM-Akron Cleveland Road.

CLAUSE II - INVOICE & PROGRESS SCHEDULE

The Village and the Consultant agree to the attached Invoice and Progress Schedule including the overall Agreement length, and Scheduled Submittal dates and Review Times set out in the Project Schedule.

The Consultant agrees to submit the completed Invoice and Progress Schedule transmittal letter together with the updated Invoice and Progress Schedule for all billing purposes for all Parts of this Agreement every thirty (30) days as follows:

- (a) Signed original transmittal letter and invoice (IPS) and three (3) copies of same.
- (b) Two (2) copies of the updated Progress Schedule.

CLAUSE 111 - PRIME COMPENSATION

The Village agrees to compensate the Consultant for the performance of the authorized portions of the Work specified in this Agreement.

Minor Project Development Process.

Part 1: Steps 1 thru 3.

Actual costs plus a net fee of Three Thousand One Hundred Forty- Seven Dollars (\$3,147.00). However, the maximum prime compensation shall not exceed Fifty Thousand Two Hundred Fifty Dollars (\$50,250.00).

Part 2: Attend Stakeholder Meeting.

Actual costs plus a net fee of Two Hundred Seventy-Two Dollars (\$272.00). However, the maximum prime compensation shall not exceed Three Thousand Dollars (\$3,000.00).

The total maximum prime compensation of all Parts which may be authorized for the subject Agreement is Fifty-Three Thousand Two Hundred Fifty Dollars (\$53,250.00).

Prime Compensations, only as agreed and by proper modification of this Agreement and authorized in writing by the Village, may be added to or subtracted from under the authority of the Department of Transportation's "Specifications for Consulting Services, 2010 Edition".

CLAUSE IV - INCORPORATION BY REFERENCE

The following documents, or specified portions thereof, are hereby incorporated into and made a part of this Agreement as though expressly rewritten herein:

- (a) The Department of Transportation's "Specifications for Consulting Services, 2010 Edition".
- (b) The attached Final Scope of Services Minutes resulting from the meeting held on January 20, 2011.
- (c) The attached Invoice & Progress Schedule.
- (d) The most current Office of Budget and Management Travel Policy as published on the State of Ohio Website (<http://obm.ohio.gov/MiscPages/TravelRule>).

CLAUSE V - GENERAL PROVISIONS

Any person executing this Agreement in a representative capacity hereby warrants that he/she has been duly authorized by his/her principal to execute this Agreement on such principal's behalf. Additionally, it is expressly understood by the parties that none of the rights, duties and obligations described in this Agreement shall be binding on either party until such time as the expenditure of funds is certified by the Director of Budget and Management, pursuant to Section 126.07 of the Ohio Revised Code.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written by affixing the signature of the duly authorized officer of Consultant and the signature of the Mayor.

GANNETT FLEMING
ENGINEERS AND ARCHITECTS,
P. C.

By: . Title:

VILLAGE OF BOSTON HEIGHTS

Bill Goncy Mayor

APPROVED AS TO FORM:

By: .

Title:

RESOLUTION U - 2011

JULY 13,2011

Adopted: Resolution 19-2011

A RESOLUTION ON A PROPOSED
RENEWAL OF A TAX LEW EXCEEDING THE TEN (10) MILL
LIMITATION FOR THE PURPOSES OF GENERAL
CONSTRUCTION, RECONSTRUCTION,
RESURFACING AND REPAIR OF STREETS, ROADS, AND
BRIDGES (O.R.C. 5705.10(G)) AND DECLARING AN
EMERGENCY

BE IT RESOLVED by the Council of the Village of Boston Heights, County of Summit and State of Ohio, with at least two-thirds (2/3) of all members concurring:

Section 1: The amount of taxes that may be raised within the ten (10) mill limitation are insufficient to provide for the necessary requirements of the Village of Boston Heights, and it is necessary to levy a tax exceeding that limitation for purposes of general construction, reconstruction, resurfacing and repair of streets, roads and bridges (O.R.C. 5705.19(G)).

Section 2: The proposed levy is a renewal for 2.75 mill ad valorem property tax outside of the ten mill limitation. Pursuant to O.R.C. 5705.03 on June 30, 2011, the County Fiscal Officer certified to the Village of Boston Heights that the tax revenue to be produced by the stated millage calculated to be \$196,821.00, calculated at a tax of 2.75 mills for each dollar of valuation, which amounts to Twenty-Seven and one-half Cents (\$.275) for each One Hundred Dollars (\$100.00) of valuation.

~~Section 3:~~ The levy shall remain in effect for five (5) years.

~~Section 4:~~ The levy shall be voted on by the electors of the Village of Boston Heights at the general election to be held on November 8, 2011. A majority vote shall be needed for passage.

~~Section 5:~~ The levy shall be placed on the tax list beginning in 2012 for the first collection in 2013, if the electors voting on it approve the levy as provided by law.

~~Section 6:~~ The Clerk of the Village of Boston Heights shall certify a copy of this Resolution to the Board of elections of the County of Summit not later than August 9, 2011.

~~Section 6:~~ That it is found and determined that all formal actions of the Council of the Village of Boston Heights concerning and relating to the adoption of this Ordinance were taken in an open meeting of the Council of the Village of Boston Heights and that all deliberations of this Village's Council and any of its committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

~~Section 7:~~ That this Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public health, safety and welfare of the citizens of the Village of Boston Heights, the immediate emergency being the necessity to comply with the 90 day filing deadline imposed by the Summit County Board of Elections.

RESOLUTION U - 2011

JULY 13, 2011

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 13th day of July, 2011.

CAROL ZEMAN, Clerk of the Village of
Boston Heights