

**VILLAGE OF BOSTON HEIGHTS  
COUNCIL MEETING AGENDA  
TUESDAY, MAY 13, 2014  
7:00 PM**

**CALL TO ORDER - Don Polyak, Council President Pro Tempore presiding**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**ALSO: Fiscal Officer Betty Klingenberg, Solicitor Marshal Pitchford, Engineer Dave Krock**

**R.Antal X - B.Bartko X - J.Miller X- G.Blakeney X- R.Fenn X- D.Polyak X**

**Note: Mayor Bill Gony was out of town, so Don Polyak (Council President pro tempore) presided over Council. Mr. Polyak was permitted to vote as a Council member nonetheless. (See Ohio Att'y General Opinion 80-100: <http://www.ohioattorneygeneral.gov/getattachment/aea18e3c-495e-4339-b9c6-a3ed293ac68e/1980-100.aspx> )**

**APPROVAL OF AGENDA**

**APPROVED**

**OPEN FORUM**

Scott Shaffer of Simple Recycling explained textiles recycling per Resolution 4–22 to reduce landfill use without cutting into charitable donations of clothing. Curbside pickup will be in green bags to be provided to residents. About 10-20% go to thrift stores, 30-40% go to export and the rest is recycled. Village will get one cent per pound of what's picked up. Pickup will be on the same day as normal trash pickup using a 16 foot box truck. Bags are exchanged at pickup time and may also possibly be offered at the Village Hall. Clean fabric is the only requirement. No carpet is permitted. The service is also starting in Bath, Richfield, Richfield Township, and Northfield Center.

Don Blakeny, a former councilmember, stated that she is receiving calls from residents with various complaints. She has approached the Mayor to offer a large high-quality playset for the park but has received no reply. The Village has not been able to get grants for new playground equipment and she thought this would be useful to the tow. She objects to the poor record of volunteerism and staffing at the park: only a few interested parties are doing all the work, specifically Ms. Tarnowski, Ms. Fenderbosch and Mr. Himes. There is no Park Manager and no Head Lifeguard yet, even though the park will open the pool very soon. In response to a question from Council, Solicitor Pitchford stated that he knows of no liability issues with used equipment offered to the village. Fiscal Officer Betty Klingenberg will look into it from an insurance angle. Engineer Dave Krock will inspect the equipment. Council member Janet Miller will field the issue from here. Ms. Klingenberg said that Ms. Tarnowski has already been hired as the Park Manager, and there is a rough job description. There is a meeting with the Mayor on Thursday to delineate her responsibilities. Other Park Pool personnel were announced later in the meeting.

Carol Fenn, of the Fairview Cemetery Board of Trustees, asked Council member Bob Bartko about complaints he had concerning the cemetery. She stated that he had taken some concerns about holes in the turf directly to the Road Department. She asked that further complaints about the cemetery be directed to the Cemetery Trustees or the Cemetery Committee of Council, and not taken up directly with the Road Department. Mr. Bartko said that he had been unaware of the correct lines of command.

**CORRESPONDENCE**

Mr. Polyak noted that the Boston Heights community yard sale was scheduled for Saturday, May 17, and sites were still available.

**APPROVAL OF MINUTES:**

Minutes of April 8, 2014	<b>APPROVED</b>
Minutes of April 22, 2014 (Special Meeting)	<b>APPROVED</b>
Pending Warrants: March	<b>APPROVED</b>

**ORDINANCES**

ORDINANCE 2014-4-11 (Third Reading)	ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF NOTES IN A MAXIMUM PRINCIPAL AMOUNT OF \$210,000 IN ANTICIPATION OF THE ISSUANCE OF BONDS. TO PAY THE COSTS OF IMPROVING THE WATER SYSTEM. INSTALLING WATER SERVICE CONNECTIONS AND NECESSARY APPURTENANCES THERETO AND DECLARING AN EMERGENCY.
<b>ADOPTED: ORD 2014-4-11</b>	
<b>Vote: 5-1, with Mr. Bartko "no"</b>	

**NOTE: This was discussed at length at the two most recent Council meetings; see the more extensive notes there.**

**Mr. Bartko asked whether this was really the third reading and whether this second reading at the recent special Council meeting was valid. He was concerned because that special meeting wasn't "on the board" — that is, posted on the sign board next to the fire station. Ms. Klingenberg stated that she thought the Mayor had just not gotten to it, but that she did post in all five of the public places required by law plus sent a notice to the local newspaper. Solicitor Pitchford stated that the only legal requirement for the meeting was to be posted in the public places.**

ORDINANCE 2014-4-12 (Third Reading)	ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF NOTES IN A MAXIMUM PRINCIPAL AMOUNT OF \$825,000 IN ANTICIPATION OF THE ISSUANCE OF BONDS. TO PAY THE COSTS OF RESURFACING AND OTHERWISE IMPROVING CERTAIN STREETS IN THE VILLAGE; AND DECLARING AN EMERGENCY.
<b>ADOPTED: ORD 2014-4-12</b>	
<b>Vote: 5-1, with Mr. Bartko "no"</b>	

**NOTE: This was discussed at length at the two most recent Council meetings; see the more extensive notes there.**

ORDINANCE 2014-4-13  
(Third Reading)

**ADOPTED: ORD 2014-4-13**

**Vote: 5-1, with Mr. Bartko "no"**

ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF NOTES IN A MAXIMUM PRINCIPAL AMOUNT OF \$250,000 IN ANTICIPATION OF THE ISSUANCE OF BONDS. TO PAY THE COSTS OF CONSTRUCTING, RECONSTRUCTING, WIDENING AND OTHERWISE IMPROVING HINES HILL ROAD AND RELOCATING SANITARY SEWER LINES IN CONNECTION THEREWITH AND DECLARING AN EMERGENCY.

**NOTE: Solicitor Pitchford thanks Msrs. Justin Markey (Attorney, Roetzel & Andress LPA) and Brian Cooper (Managing Director, ACI Financial Advisors, LLC) for their extensive work on these note and bond issue measures.**

ORDINANCE 2014-5-14  
(First Reading)

**ADOPTED: ORD 2014-5-14**

ORDINANCE REGARDING COMPENSATION FOR EMPLOYEES OF THE VILLAGE OF BOSTON HEIGHTS, AND DECLARING AN EMERGENCY

**NOTE: Mr. Antal and Ms. Klingenberg were reported to have worked together on the village employee handbook and on a variable compensation scheme based on performance. This would replace the previous method of paying on three tiers of seniority. Council member Janet Miller wanted to modify the starting lifeguard wage from \$9 to \$10.10 per hour. There was some discussion on the matter but not enough support to change the proposed rate.**

ORDINANCE 2014-5-15  
(First Reading)

**ADOPTED: ORD 2014--5-15  
(as amended)**

AN ORDINANCE APPROVING THE EDITING AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES OF BOSTON HEIGHTS, OHIO AND DECLARING AN EMERGENCY

**NOTE: Solicitor Pitchford explained that this is the usual ordinance to authorize Walter-Drane to update the codified ordinances. This includes a number of ordinances being brought into conformance with changes to the Ohio Revised Code. The Solicitor asked for and received an amendment to include a list of additional ordinances; this covered the period between August and December 2013.**

ORDINANCE 2014-5-16  
(First Reading)

**ADOPTED: ORD 2014--5-16**

AN ORDINANCE AMENDING CHAPTER 145 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF BOSTON HEIGHTS, OHIO AND DECLARING AN EMERGENCY

**NOTE: This ordinance establishes the position of Park Manager.**

## RESOLUTIONS

RESOLUTION 2014-4-22  
(Second Reading)

**No action: to 3rd Reading**

RESOLUTION AUTHORIZING THE VILLAGE TO ENTER AN AGREEMENT WITH GREAT LAKES RECYCLING, INC., REGARDING THE COLLECTION OF SOFT RECYCLABLES, AND DECLARING AN EMERGENCY (EXHIBIT A)

**NOTE: This is for textile (clothing) recycling in the Village. Last month, Solicitor Pitchford stated that he needed to further review the proposed agreement, so no action was taken on this item at the time. This month, Mr. Pitchford stated that he was still in discussions regarding the contract on issues of liability and asked that it be deferred until next month.**

RESOLUTION 2014-5-28  
(First Reading)

**ADOPTED: RES 2014-5-28**

A RESOLUTION APPOINTING TERRI NEFF TO THE POSITION OF ASSISTANT FISCAL OFFICER EFFECTIVE APRIL 14, 2014, RETROACTIVELY, AND DECLARING AN EMERGENCY

**NOTE: Mr. Blakeney asked why this had not been brought up at the April Council meeting. Ms. Klingenberg pointed out that the appointment had actually occurred after that meeting, and this was the next regular Council meeting.**

RESOLUTION 2014-5-29  
(First Reading)

**ADOPTED: RES 2014-5-29**

A RESOLUTION APPOINTING GREG HERCIK TO THE POSITION OF ASSISTANT CLERK OF COURTS EFFECTIVE 5-13-2014 AND DECLARING AN EMERGENCY

**NOTE: Mr. Blakeney asked whether Ms. Enovitch was having problems keeping up with the work as clerk of Mayor's Court. He had been given to understand that she was having no problem taking care of the workload. Ms. Klingenberg stated that Ms. Enovitch had asked for assistance since she had been hired with the understanding that she was a part-time employee herself. She was reported to have interviewed several candidates and was satisfied with the selection of Mr.Hercik. Ms. Klingenberg gave a few details about Mr.Hercik's curriculum vitae. Mr. Blakeney wanted more information before future village hiring occurred.**

RESOLUTION 2014-5-30  
(First Reading)

**ADOPTED: RES 2014-5-30**

A RESOLUTION ON A RENEWAL OF A TAX LEVY EXCEEDING THE TEN (10) MILL LIMITATION FOR THE PURPOSES OF PROVIDING AND MAINTAINING FIRE APPARATUS, APPLIANCES, BUILDINGS, AND SITES (O.R.C.5705.19(I)) AND DECLARING AN EMERGENCY

**NOTE: It was pointed out that this is the five-year Fire Department capital levy. Mr. Antal stated that he had been asked whether this levy is now redundant giving the Village's spending on other matters. Mr. Fenn replied that this levy may be able to be dispensed with in the future, but not yet. Mr. Polyak noted that the Valley Fire contract's financing is predicated on the funds from this levy.**

RESOLUTION 2014-5-31  
(First Reading)

**ADOPTED: RES 2014-5-31**

A RESOLUTION AUTHORIZING THE APPROVAL AND ADOPTION OF THE SUMMIT COUNTY HAZARD MITIGATION PLAN FOR THE VILLAGE OF BOSTON HEIGHTS AND DECLARING AN EMERGENCY

**NOTE: Msrs. Polyak cancel and Pitchford explained that this is in accordance with the County's hazard mitigation plan, and essentially adopts that plan as the village's. State law requires that the village have such a plan. This is apparently an update for 2014.**

RESOLUTION 2014-5-32  
(First Reading)

**ADOPTED: RES 2014-5-32**

A RESOLUTION AUTHORIZING THE VILLAGE TO ENTER INTO AN AGREEMENT WITH CHARLES E. HARRIS & ASSOCIATES, AN INDEPENDENT PUBLIC ACCOUNTING FIRM, AND DECLARING AN EMERGENCY

**NOTE: This is for the Village's biennial audit, which is not being performed by the State Auditor's office this year. Ms. Klingenberg explained that this is for three two-year auditing periods. The auditor of state has required the village to go to a private contractor for these audits. She expected the audits to go smoothly, but it will require some documents to be removed from the Village Hall.**

RESOLUTION 2014-5-33  
(First Reading)

**ADOPTED: RES 2014-5-33**

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH KROCK ESSER ENGINEERING, INC., AN INDEPENDENT ENGINEERING COMPANY, AND DECLARING AN EMERGENCY

**NOTE: Village Engineer Dave Krock explained that this is for design of the paving repairs anticipated for 2014 in the Village's capital improvement plan.**

RESOLUTION 2014-5-34  
(First Reading)

A RESOLUTION AUTHORIZING PARTICIPATION IN THE  
SUMMIT COUNTY BID PROCESS AND DECLARING AN  
EMERGENCY

**ADOPTED: RES 2014-5-34**

**NOTE: Village Engineer Dave Krock explained that this was related to the Akron-Peninsula Road repaving project. After last year's repairs the road still needed to be chip sealed but the old contractor was no longer in business. Summit County had rebid this on behalf of municipalities involved. The Village must therefore accept the county's selected contractor's new bid plus cover an additional \$900 of additional cost over the previous grant from the Cuyahoga Valley National Park. Some of this additional cost may be shared with Peninsula.**

RESOLUTION 2014-5-35  
(First Reading)

A RESOLUTION: CARDINAL ASPHALT AKRON/PENINSULA  
ROAD AND DECLARING AN EMERGENCY

**ADOPTED: RES 2014-5-35**

**NOTE: Village Engineer Dave Krock explained that an additional \$10K worth of repairs were needed on Akron Peninsula Road after last winter. This is solely for the Village's portion of that roadway. These must be completed before the chip seal. Mr. Fenn will further discuss the progress of this project at the Road Committee meeting.**

RESOLUTION 2014-5-36  
(First Reading)

A RESOLUTION AUTHORIZING A CHANGE ORDER FOR  
LOCKHART CONCRETE AND DECLARING AN EMERGENCY

**ADOPTED: RES 2014-5-36**

**NOTE: Village Engineer Dave Krock explained that this was related to the paving project in the village Hall parking lot. While last year's EPA SWFT Grant was to cover 100% of the project, some required signage had not been included in the contract. In addition he advised new entrance and exit signs at various points in the village parking lot. The total for all of the signage will be about \$2000 from Village funds.**

RESOLUTION 2014-5-37  
(First Reading)

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO  
AN AGREEMENT WITH THE OHIO DEVELOPMENT SERVICES  
AGENCY AND DECLARING AN EMERGENCY

**ADOPTED: RES 2014-5-37**

**NOTE: Solicitor Pitchford explained that this was related to a grant award of \$350,000 from the State of Ohio. This was to be applied to the widening and improvement of Hines Hill Road (between the new Arhaus development and State Route 8). There is a possibility of another \$350K grant for the same project. There was some discussion about the possibility of extending this project to include a roundabout at Olde Eight Road and Hines Hill Road. Solicitor Pitchford asked whether it would be possible to at least include the requirements for right-of-way for such a roundabout. Mr. Kroc thought that perhaps a rough pre-design could be done on that basis, but that it would be unwise to overburden the project with any major changes at this point.**

RESOLUTION 2014-5-38  
(First Reading)

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO  
A SETTLEMENT AGREEMENT WITH THE ESTATE OF DENNIS  
A. CERNY AND DECLARING AN EMERGENCY

ADOPTED: RES 2014-5-38

**NOTE:** Solicitor Pitchford explained that this was intended to settle the longest running legal matter in the village. Mr. Fenn recalled that this had been going on since 1996. The agreement would settle the Village's various claims against Mr. Cerny for \$40K, including withdrawing all claims and injunctions, and restoring the late Mr. Cerny's property on Chittenden Road to the normal course of the Village's zoning. Mr. Pitchford stated that he felt it was unlikely that the Village could receive any more on this, and would otherwise rack up considerable further legal billing. In addition, this settlement will assist in avoiding a foreclosure on the property by other parties. In any case any such agreement must be validated by the Probate Court. He expected payment to be made by July, if all went well.

**ED. NOTE:** This matter is related to the late Mr. Cerny's operation of a hauling business on his Chittenden Road property in violation of the Village's Zoning Code. Aside from vast and uncountable legal costs, the Village incurred about \$76,399 in direct costs for regrading and culverting in an attempt to remediate grading and excavating that Mr. Cerny's had carried out without permits, and in a way that allegedly endangered his neighbor's commercial buildings. These costs were reduced to \$66,399 by agreement with Mr. Cerny, and a judgement lien issued (JL-2012-3535) but never paid. An additional judgement lien of \$121,600 (JL-2012-8475) was also issued against Mr. Cerny as a \$50/day fine for his activities beyond a 2005 court settlement, but this too was never paid. Apparently, then, the total Village liens of \$187,999 are to be satisfied by this \$40,000 settlement. It should be noted that there are a large number of other claimants to the Chittenden Road property and Mr. Cerny's estate in general.

## REPORTS

### MAYOR

No report.

B. GONCY (by D. POLYAK Ppt)

### FISCAL OFFICER

B. KLINGENBERG

Ms. Klingenberg reported the following: 1. She has distributed the updated tax certification from summit County. 2. She wanted to know if the next finance committee meeting should be changed to Wednesday, May 28, to accommodate the Solicitor. It was agreed to make this change.

## COMMITTEE REPORTS:

### SAFETY COMMITTEE / VALLEY FIRE DISTRICT G. BLAKENEY

Mr. Blakeny reported that the committee would meet next week. Police Chief Heatwall is getting a radar trailer from the County for use on Olde Eight Road. The new police SUV is now in-house. Mr. Blakeny gave a report on the doings of the Valley fire district.

### ROADS COMMITTEE

R. FENN

Mr. Fenn reported that the committee had met on April 21. The engineer had reported on the progress of Akron Peninsula road repaving, Brighton drive paving, and other matters. The road Department superintendent reported that new mower was being considered as was an additional seasonal worker. The next meeting will be on May 19 at 5 PM.

### LANDS AND BUILDINGS COMMITTEE / PARK J.MILLER

Ms. Miller stated that there was a possibility of changing time and date of these meetings. She reported on the condition of the service building and that there'd been some complaints about the height of the grass in the park, but noted that it has been very wet. She will meet with the Mayor and the new Park Manager. Mr. Fenn endorsed the idea of the Park Manager getting firm idea of her resources and responsibilities.

**CEMETERY TRUSTEES**

R. FENN

**[CEMETERY COMMITTEE]**

Mr. Fenn reported that the Easter egg hunt at been a big success. He also noted that the village yard sale is on this coming Saturday. The Memorial Day parade and services will be on May 26 beginning at 8:30 AM. The band, the preacher and so forth have all been arranged.

**ECONOMIC DEVELOPMENT COMMITTEE**

R. ANTAL

Mr. Antal reported that there had been no meeting of this committee.

**PLANNING COMMISSION / BZA**

D. POLYAK

**[ZONING COMMITTEE]**

Mr. Polyak reported that there had been no BZA meeting. The PC, however, had met and given a variance of the approved plat for residential lot to reduce the setback from a gas well. Additionally, signs for Aurora Motorcars had been approved. Mr. Polyak also distributed copies of the draft Comprehensive Plan for the village and urged the Council members to read it carefully.

**ENGINEER**

D. KROCK

Mr. Kroc reported that the OPWC grant was received for repairs to drainage and culverts on Walters Road and Meadowview. He noted that the gas line had been moved under the Akron-Cleveland Road bridge. The Parkview Estates subdivision had been delayed by a gas well capping and by weather. He was working with the Brighton developer on the matter of paving that road.

**OLD BUSINESS**

none

**NEW BUSINESS**

Mr. Polyak reported that the Mayor had approved the hiring of the listed Park and pool staff for 2014.

Mr. Blakeny reported that he and the Mayor had attended the groundbreaking of the Munson Athletic Center for the Hudson schools. He was unhappy that he was the only Council member attending. He urged Council's attendance at futures events of this sort.

**EXECUTIVE SESSION**

none

**ADJOURN**

NOTICE

The complete text of each such Ordinance or Resolution may be obtained or viewed at the Boston Heights Village Hall, 45 East Boston Mills Road in the Office of the Fiscal Officer during office hours.



VILLAGE OF BOSTON HEIGHTS  
ORDINANCE NO: 2014-4-11  
THIRD READING / **ADOPTED**

**ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF NOTES IN A  
MAXIMUM PRINCIPAL AMOUNT OF \$210,000 IN  
ANTICIPATION OF THE ISSUANCE OF BONDS. TO PAY THE COSTS OF  
IMPROVING THE WATER SYSTEM. INSTALLING WATER SERVICE  
CONNECTIONS AND NECESSARY APPURTENANCES THERETO AND  
DECLARING AN EMERGENCY.**

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

Section 1. Definitions. Words and terms are used in this ordinance with the following meanings:

"Authorized Denominations" means the denomination of \$5,000 or any whole multiple of \$5,000.

"Bonds" means the bonds anticipated by the Water Improvement Notes.

"Certificate of Award" means the certificate authorized by Section 8 of this ordinance, setting forth the terms and other provisions of the Water Improvement Notes required or authorized by this ordinance.

"Closing Date" means the date of delivery of and payment for the Water Improvement Notes.

"Code" means the Internal Revenue Code of 1986, as amended. . References to the Code and sections of the Code include applicable regulations (whether temporary or final) under the Code, and any amendments of, or successor provisions to, those sections or regulations.

"Continuing Disclosure Agreement" means the continuing disclosure agreement made by the Village for the benefit of Holders and beneficial owners of the Water Improvement Notes in accordance with the SEC Rule. It consists of the covenants in Section 9(b) of this ordinance.

"Debt Service Charges" means all amounts due as principal, interest, and any premium on an issue of securities.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, with its participants or otherwise, a book-entry system to record ownership of book-entry interests in securities or the principal of and interest on securities, and to effect transfers of securities in book-entry form and means initially The Depository Trust Company, New York, New York, a limited purpose trust company.

"EMMA System" means the MSRB's Electronic Municipal Market Access system.

"Federal Tax Status" means the status of the interest as excludable from gross income for federal income tax purposes and not treated as an item of tax preference for purposes of the alternative minimum tax.

"Financing Costs" means any financing costs authorized to be paid by Section 133.01(K), of the Ohio Revised Code.

"Holder" means, as to any Water Improvement Note, the person in whose name the Water Improvement Note is registered on the Register.

"MSRB" means the Municipal Securities Rulemaking Board.

"Note Proceedings" means, collectively, this ordinance, the Certificate of Award, any Purchase Agreement, any paying agency agreement, any registrar agreement, the Continuing Disclosure Agreement, and the other proceedings of the Village, including the Water Improvement Notes, that provide collectively for, among other things, the rights of Holders and beneficial owners of the Water Improvement Notes.

"Original Purchaser" means the original purchaser of the Water Improvement Notes designated in the Certificate of Award, in accordance with Section 8(c).

"Paying Agent" means (a) the entity designated as the Paying Agent by the Fiscal Officer in the Certificate of Award in accordance with Section 10(c), or (b) the Fiscal Officer, if she determines to serve in that capacity.

"Program" means the Ohio Market Access Program - Note Wrap offered by the Treasurer.

"Project" means paying the costs improving the water system, installing water service connections and necessary appurtenances thereto.

"Purchase Agreement" means any Note Purchase Agreement between the Village and the Original Purchaser, entered into in accordance with Section 8.

"Register" means all books and records necessary for the registration, exchange, and transfer of the Water Improvement Notes.

"Registrar" means (a) the entity designated as the Registrar by the Fiscal Officer in the Certificate of Award in accordance with Section 10(d), or (b) the Fiscal Officer, if she determines to serve in that capacity.

"Registrar Agreement" means any Registrar Agreement between the Village and the Registrar.

"SEC Rule" means SEC Rule 15c2-12.

"Specified Events" means any of the events specified in SEC Rule Section (b)(5)(i)(C), as in effect and applicable to the Water Improvement Notes at the time of the primary offering of the Water Improvement Notes.

"Standby Note Purchase Agreement" means the Standby Note Purchase Agreement between the Village and the Treasurer.

"Ten-mill Limitation" means the "ten-mill limitation" defined in Section 5705.02, Ohio Revised Code.

"Treasurer" means the Treasurer of State of the State of Ohio.

"Water Improvement Notes" means the bond anticipation notes authorized by Section 3 of this ordinance.

Section 2. Findings and Determinations. This Council makes the following findings and determinations:

(a) It is necessary for the Village to issue the Bonds to pay the costs of the Project. It is necessary to issue the Water Improvement Notes in anticipation of the Bonds for the purpose of (1) paying the costs of the Project, and (2) paying the Financing Costs of the Water Improvement Notes.

(b) The Fiscal Officer has certified to this Council the maximum maturity of the Bonds and notes issued in anticipation of the Bonds.

(c) All acts and conditions necessary to be performed by the Village or to have been met for the issuance of the Water Improvement Notes in order to make them legal, valid, and binding general obligations of the Village, have been performed and met, or will have been performed and met, at the time of delivery of the Water Improvement Notes, as required by law.

(d) No statutory or constitutional limitation of indebtedness or taxation will be exceeded by the issuance of the Water Improvement Notes.

(e) All formal actions of this Council relating to the enactment of this ordinance were taken in an open meeting of this Council, and all deliberations of this Council and of any of its committees that resulted in those formal actions, were in meetings open to the public, in compliance with the law.

Section 3. Estimated Bond Terms. The Bonds will have the following terms:

(a) Amount and Rate. The Bonds will be issued in the maximum principal amount of \$210,000 and will bear interest at the estimated average annual interest rate of 5%.

(b) Term. The Bonds will mature serially over a period of 30 years in accordance with the following estimated principal payment schedule:

<u>Year</u>	<u>Principal</u>	<u>Year</u>	<u>Principal</u>
1	\$7,000	16	\$7,000
2	7,000	17	7,000
3	7,000	18	7,000
4	7,000	19	7,000
5	7,000	20	7,000
6	7,000	21	7,000
7	7,000	22	7,000
8	7,000	23	7,000
9	7,000	24	7,000
10	7,000	25	7,000
11	7,000	26	7,000
12	7,000	27	7,000
13	7,000	28	7,000
14	7,000	29	7,000
15	7,000	30	7,000

(c) Debt Service Charges. The Bonds will be payable as to Debt Service Charges from any money of the Village lawfully available and appropriated for that purpose and, if that money is insufficient, from the proceeds of an ad valorem tax to be levied on all property within the Village, subject to the Ten-Mill Limitation.

Section 4. Note Terms. The Water Improvement Notes will have the following terms:

(a) Amount. The Water Improvement Notes will be issued in the principal amount of \$210,000 or any lesser principal amount as determined by the Fiscal Officer in the Certificate of Award.

(b) Date. The Water Improvement Notes will be dated the Closing Date, or any other date, not more than 31 days before the Closing Date, as determined by the Fiscal Officer in the Certificate of Award.

(c) Maturity. The Water Improvement Notes will mature one year from their date. The Fiscal Officer may, if she determines it to be in the best interests of the Village, establish a different maturity date, less than one year from the Closing Date.

(d) Interest. The Water Improvement Notes will bear interest from their date at a rate not to exceed 8% per annum, payable at maturity. Interest will be calculated on the basis of a 360-day year consisting of twelve 30-day months. The rate of interest on the Water Improvement Notes must be determined by the Fiscal Officer in the Certificate of Award. There is further hereby authorized an after-maturity interest rate as established in the materials for the Program should the Village determine to participate and be approved for participation in such Program as further described in Section 14 herein.

(e) Redemption before Stated Maturity. The Water Improvement Notes will not be subject to redemption before maturity, unless otherwise determined by the Fiscal Officer in the Certificate of Award. The Fiscal Officer may determine, in the Certificate of Award, to provide that the Water Improvement Notes will be subject to redemption and may establish, in the Certificate of Award, notice provisions for that redemption and any price for that redemption. The redemption price may be any percentage of the principal amount redeemed, not exceeding 110%.

(f) Form, Numbering, and Denomination. The Water Improvement Notes must be issued in fully registered form. They must be issued in book-entry form unless the Fiscal Officer determines in the Certificate of Award that it would not be in the best interest of the Village for the Water Improvement Notes to be in book-entry form. They must be issued in Authorized Denominations and in the numbers and amounts as requested by the Original Purchaser and approved by the Fiscal Officer. They must be numbered as determined by the Fiscal Officer in a manner to distinguish each Water Improvement Note from any other Water Improvement Note. They must express on their faces the purpose for which they are issued and that they are issued in accordance with this ordinance. The Water Improvement Notes will be designated "Water Improvement Bond Anticipation Notes, Series 2014," unless otherwise designated in the Certificate of Award.

Section 5. Payment. The Debt Service Charges on the Water Improvement Notes will be payable when due in lawful money of the United States of America, without deduction for the services of the Paying Agent, upon presentation and surrender of the Water Improvement Notes at the office of the Paying Agent.

Section 6. Signing and Authentication.

(a) Signing. The Water Improvement Notes must be signed on behalf of the Village by the Mayor and the Fiscal Officer. Both signatures on the Water Improvement Notes may be facsimiles.

(b) Authentication. No Water Improvement Note will be valid or obligatory for any purpose or will be entitled to any security or benefit under the Note Proceedings unless and until the certificate of authentication printed on the note certificate is signed by the Registrar as authenticating agent. Authentication by the Registrar will be conclusive evidence that the Water Improvement Note so authenticated has been duly issued, signed, and delivered under, and is entitled to the security and benefit of, the Note Proceedings. The certificate of authentication may be signed by any authorized officer or employee of the Registrar or by any other person acting as an agent of the Registrar and approved by the Fiscal Officer on behalf of the Village. The same person need not sign the certificate of authentication on all of the Water Improvement Notes.

Section 7. Registration, Transfer, and Exchange; Book-Entry System.

(a) Registrar. So long as any of the Water Improvement Notes remain outstanding, the Village must cause the Registrar to maintain the Register. The person in whose name a Water Improvement Note is registered on the Register will be regarded as the absolute owner of that Water Improvement Note for all purposes of the Note Proceedings. Payment of the Debt Service Charges on any Water Improvement Note will be made only to, or on the order of, that person.

(b) Transfer and Exchange. Any Water Improvement Note may be transferred or exchanged for Water Improvement Notes of any Authorized Denomination, upon presentation and surrender of that Water Improvement Note at the

office of the Registrar, together with a request for exchange or an assignment signed by the Holder or by a person legally empowered to do so on behalf of the Holder, in a form satisfactory to the Registrar. The Registrar must complete, authenticate, and deliver new Water Improvement Notes, upon an exchange, to the Holder or its agent or, upon a transfer, to the new Holder of the transferred Water Improvement Notes or its agent, in Authorized Denominations equal in the aggregate to the principal amount of the Water Improvement Notes surrendered. Every exchange or transfer of the Water Improvement Notes will be made without charge to the Holders, except that the Village and the Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required for the exchange or transfer.

If manual signatures on behalf of the Village are required, the Registrar will undertake the exchange or transfer of a Water Improvement Note only after the new Water Improvement Note is signed by the authorized officers of the Village. In all cases of Water Improvement Notes exchanged or transferred, the Village will sign, and the Registrar will authenticate and deliver Water Improvement Notes in accordance with the provisions of the Note Proceedings. The exchange or transfer will be without charge to the Holder, except that the Village and the Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The Village or the Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Water Improvement Notes issued and authenticated upon any exchange or transfer will be valid obligations of the Village, evidencing the same debt, and entitled to the same security and benefit under the Note Proceedings as the Water Improvement Notes surrendered upon that exchange or transfer. Neither the Village nor the Registrar will be required, to make any exchange or transfer of any Water Improvement Note selected for redemption, in whole or in part.

(c) Book-Entry System. Unless otherwise provided in the Certificate of Award, the Water Improvement Notes must be originally issued in book-entry form to a Depository, initially The Depository Trust Company, for use in a book-entry system.

The Village and the Registrar must recognize and treat the Depository as the owner of the Water Improvement Notes for all purposes, including payment of Debt Service Charges, redemption and other notices, and enforcement of remedies.

If any Depository determines not to continue to act as a Depository for the Water Improvement Notes for use in a book-entry system or if the Village determines to discontinue the book-entry system, the Fiscal Officer may attempt to establish a securities depository relationship with another qualified Depository. If the Fiscal Officer does not do so, the Fiscal Officer must direct the Registrar to make provision for notification of the book-entry interest owners by the Depository and to make any other arrangements necessary for the withdrawal of the Water Improvement Notes from the book-entry system, including the authentication and delivery of replacement Water Improvement Note certificates.

Section 8. Sale of the Water Improvement Notes.

(a) Private Sale. This Council authorizes and directs the Fiscal Officer to sell the Water Improvement Notes in a private sale to the Original Purchaser. The purchase price of the Water Improvement Notes must not be less than 97% of the aggregate principal amount of the Water Improvement Notes, plus any interest accrued on the Water Improvement Notes from their date to the Closing Date. The Fiscal Officer may either sell the Water Improvement Notes to an investment banker, acting as underwriter, or to a financial institution or other entity or person in a private placement. The Fiscal Officer may enter into a Purchase Agreement with the Original Purchaser in that private sale, or may sell the Water Improvement Notes without a Purchase Agreement. The Fiscal Officer may sell the Water Improvement Notes at the same time, in the same manner, and in the same offering with other securities of the Village, whether or not those other securities have been consolidated with the Water Improvement Notes.

(b) Consolidation. If the Fiscal Officer determines it to be in the best interest of the Village, she may combine the Water Improvement Notes with one or more other general obligation bond anticipation notes of the Village, payable from taxes subject to the Ten-Mill Limitation.

(c) Certificate of Award. The Fiscal Officer must deliver a Certificate of Award to the Original Purchaser in connection with the sale of the Water Improvement Notes. The Fiscal Officer must state the following in the Certificate of Award: the principal amount of the Water Improvement Notes; the interest rate on the Water Improvement Notes; the purchase price for the Water Improvement Notes; the designated Registrar and Paying Agent; the Original Purchaser; the amount of interest, if any, on the Water Improvement Notes to be paid from the proceeds of the Water Improvement Notes; and any other terms required by this ordinance. The Fiscal Officer may state the following in the Certificate of Award: any changes in the date, the maturity date, the redemption provisions, and the designation of the Water Improvement Notes; and any other terms authorized by this ordinance, subject to the limitations stated in this ordinance.

(d) Delivery. The Fiscal Officer must cause the Water Improvement Notes to be prepared, signed, and delivered to the Original Purchaser. This Council authorizes and directs the Fiscal Officer to deliver a true transcript of proceedings for the issuance of the Water Improvement Notes to the Original Purchaser upon payment of the purchase price.

Section 9. Disclosure.

(a) Primary Offering Disclosure - Official Statement. This Council authorizes and directs the Mayor and the Fiscal Officer, or either of them, (1) to prepare or cause to be prepared, and to make or authorize modifications, completions, or changes of or supplements to, a disclosure document in the form of an official statement, (2) to determine, and certify or otherwise represent, when the official statement is to be "deemed final" (except for permitted omissions) or is a final official statement for purposes of the SEC Rule, (3) to use and distribute, or authorize the use and distribution of, that official statement and any supplements in connection with the original issuance of the Water Improvement Notes, and (4) to complete and sign the final official statement

together with certificates, statements, or other documents in connection with the finality, accuracy, and completeness of that official statement.

(b) Secondary Market Disclosure - Continuing Disclosure Agreement. For the benefit of the Holders of the Water Improvement Notes and the beneficial owners of book-entry interests in the Water Improvement Notes, the Village agrees, as the only obligated person with respect to the Water Improvement Notes under the SEC Rule, to provide notices, in the manner required for purposes of paragraph (b)(5)(i) of the SEC Rule.

(1) Information Filing. The Village further agrees, in particular, to provide, to the MSRB in an electronic format as prescribed by the MSRB and containing identifying information as prescribed by the MSRB, in a timely manner, notice of (A) any Specified Event, within 10 business days of the occurrence of a Specified Event, (B) any failure by the Village to appropriate funds to meet costs to be incurred to perform the Continuing Disclosure Agreement, and (C) the termination of the Continuing Disclosure Agreement.

(2) Disclosure Procedures. This Council further authorizes and directs the Fiscal Officer to establish procedures to ensure compliance by the Village with the Continuing Disclosure Agreement, including timely provision of notices as described above. Before providing notice of the occurrence of any events, the Fiscal Officer may consult with and obtain legal advice from bond counsel or other qualified independent special counsel selected by the Village. The Fiscal Officer, acting in the name and on behalf of the Village, may rely upon that legal advice in determining whether a filing should be made.

(3) Amendments. The Village reserves the right to amend the Continuing Disclosure Agreement, and to obtain the waiver of noncompliance with any provision of the Continuing Disclosure Agreement, as may be necessary or appropriate to achieve its compliance with any applicable federal securities law or rule, to cure any ambiguity, inconsistency, or formal defect or omission, and to address any change in circumstances arising from a change in legal requirements, change in law, or change in the identity, nature, or status of the Village, or type of business conducted by the Village. Any amendment or waiver will not be effective unless the Continuing Disclosure Agreement (as amended or taking into account that waiver) would have complied with the requirements of the SEC Rule at the time of the primary offering of the Water Improvement Notes, after taking into account any applicable amendments to or official interpretations of the SEC Rule, as well as any change in circumstances, and until the Village has received either (A) a written opinion of bond counsel or other qualified independent special counsel selected by the Village that the amendment or waiver would not materially impair the interests of Holders or beneficial owners of book-entry interests in the Water Improvement Notes, or (B) the written consent to the amendment or waiver by the Holders of at least a majority of the principal amount of the Water Improvement Notes then outstanding.



(4) Enforcement. The Continuing Disclosure Agreement will be solely for the benefit of the Holders of, and beneficial owners of book-entry interests in, the Water Improvement Notes. The exclusive remedy for any breach of the Continuing Disclosure Agreement by the Village will be limited, to the extent permitted by law, to a right of Holders and beneficial owners to institute and maintain legal proceedings to obtain the specific performance by the Village of its obligations under the Continuing Disclosure Agreement. Any individual Holder or beneficial owner may institute and maintain those proceedings to require the Village to provide a filing if the filing is due and has not been made. Any proceedings to require the Village to perform any other obligation under the Continuing Disclosure Agreement (including any proceedings that contest the sufficiency of any filing) may be instituted and maintained only (A) by a trustee appointed by the Holders and beneficial owners of not less than 25% in principal amount of the Water Improvement Notes then outstanding, or (B) by Holders and beneficial owners of not less than 10% in principal amount of the Water Improvement Notes then outstanding, in accordance with Section 133.25(B)(4)(b) or (C)(1), Revised Code, as applicable, or any comparable successor provisions.

(5) Appropriation. The performance by the Village of the Continuing Disclosure Agreement will be subject to the annual appropriation of any funds that may be necessary to perform it.

(6) Term. The Continuing Disclosure Agreement will remain in effect only for the period that the Water Improvement Notes are outstanding in accordance with their terms and the Village is an obligated person with respect to the Water Improvement Notes within the meaning of the SEC Rule. The obligation of the Village to provide notices of the events described above will terminate if and when the Village is no longer an obligated person with respect to the Water Improvement Notes.

Section 10. Financing Costs. The Village retains the professional services and authorizes the payment of the Financing Costs for the Water Improvement Notes, as provided in this Section 10.

(a) Bond Counsel. The Village retains the legal services of Roetzel & Andress, A Legal Professional Association, as bond counsel for the Water Improvement Notes. The legal services will be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Water Improvement Notes and rendering legal opinions upon the delivery of the Water Improvement Notes. Bond counsel must render those services to the Village in an attorney-client relationship. Bond counsel must be paid just and reasonable compensation for those legal services.

(b) Original Purchaser. This Council authorizes and directs the Fiscal Officer to select the Original Purchaser of the Water Improvement Notes in the Certificate of Award. The Original Purchaser will be paid for services in accordance with any

Purchase Agreement or, if there is no Purchase Agreement, in accordance with its proposal as accepted by the Fiscal Officer in the Certificate of Award.

(c) Paying Agent. This Council authorizes and directs the Fiscal Officer to appoint a Paying Agent for the Water Improvement Notes. The Paying Agent must be a bank or trust company, may be the same entity serving as Registrar, and may provide its paying agency services under the terms of its Registrar Agreement or under a separate paying agency agreement. The Village retains the services of the Paying Agent for the Water Improvement Notes. The Paying Agent must be compensated for those services in accordance with any paying agency agreement or Registrar Agreement. Alternately, the Fiscal Officer may serve as Paying Agent for the Water Improvement Notes. The Paying Agent must be designated in the Certificate of Award.

(d) Registrar. This Council authorizes and directs the Fiscal Officer to appoint a Registrar for the Water Improvement Notes. The Registrar must be a financial institution able to complete transfer and exchange functions for the Water Improvement Notes in accordance with standards and conditions applicable to registered corporate securities. The Village retains the services of the Registrar for the Water Improvement Notes. The Registrar must perform the services as registrar, authenticating agent, paying agent, and transfer agent for the Water Improvement Notes as provided in this ordinance and any Registrar Agreement. The Registrar must be paid for those services in accordance with the Registrar Agreement. Alternately, the Fiscal Officer may serve as Registrar for the Water Improvement Notes. The Registrar must be designated in the Certificate of Award.

(e) Issuer's Counsel. The Village retains the legal services of DiCaudo, Pitchford & Yoder LLC as issuer's counsel the Water Improvement Notes. The legal services will be in the nature of legal advice and recommendations as to the documents in connection with the issuance and sale of the Water Improvement Notes. Issuer's counsel must render those services to the Village in an attorney-client relationship. Issuer's counsel must be paid just and reasonable compensation for those legal services.

(f) Ratings and Credit Enhancement. If, in the judgment of the Fiscal Officer, the filing of an application for (1) a rating on the Water Improvement Notes by one or more nationally recognized statistical rating organizations, or (2) a policy of insurance or other credit enhancement to better assure the payment of principal of and interest on the Water Improvement Notes, is in the best interest of and financially advantageous to the Village, the Fiscal Officer must prepare and submit those applications and provide to each of those rating agencies or insurance or other credit enhancement providers the information required for the purpose. This Council further authorizes the fees for those ratings and the premiums for the insurance or the fees for such credit enhancement programs to be included in Financing Costs authorized under (i) below.

(g) Financial Adviser. This Council retains the services of ACI Financial Advisors, LLC as financial adviser for the Water Improvement Notes. The financial adviser will be paid for those services in accordance with its letter of engagement. This

Council authorizes the fees for the financial adviser's services to be included in the Financing Costs authorized under (i) below.

(h) Limits on Authority of Service Providers. In rendering the services described above, as independent contractors, those service providers must not exercise any administrative discretion on behalf of the Village in the formulation of public policy; expenditure of public funds; enforcement of laws, rules, and regulations of the State of Ohio, the Village, or any other political subdivision; or the execution of public trusts.

(i) Payment of Financing Costs. This Council authorizes and approves the expenditure of the amounts necessary to pay those Financing Costs specifically authorized above and all other necessary Financing Costs in connection with the issuance and sale of the Water Improvement Notes. Those Financing Costs may be paid by the Original Purchaser. To the extent they are not paid by the Original Purchaser, this Council authorizes and directs the Fiscal Officer to provide for the payment of those Financing Costs from the proceeds of the Water Improvement Notes to the extent available and, otherwise, from any other funds lawfully available and appropriated for the purpose.

Section 11. Use of Proceeds. The proceeds from the sale of the Water Improvement Notes must be deposited and used as provided in this Section 11.

(a) Any accrued interest or premium received on the sale of the Water Improvement Notes must be deposited in the Bond Retirement Fund of the Village and be used for the payment of interest on the Water Improvement Notes at their maturity.

(b) The remainder of the proceeds must be paid into the proper fund or funds and used for the payment of any Financing Costs of the Notes to the extent that those Financing Costs are not paid by the Original Purchaser and to the extent that the Fiscal Officer determines to pay those Financing Costs from the proceeds of the Water Improvement Notes.

(c) The remainder of the proceeds must be paid into the proper fund or funds and used for the payment of the costs of the Project.

Section 12. Security and Source of Payment. The Water Improvement Notes will be general obligations of the Village.

(a) This Council pledges to the payment of Debt Service Charges on the Water Improvement Notes the full faith and credit of the Village including, without limitation:

(1) The general taxing power of the Village, including the power to levy taxes within the Ten-mill Limitation.

(2) Any money remaining from the sale of the Water Improvement Notes after the payment of accrued interest or premium and the Financing Costs

of the Water Improvement Notes and not required to refund the Water Improvement Notes.

(b) The Debt Service Charges on the Water Improvement Notes must be paid at their maturity from any of the amounts set forth above pledged to their payment, or any funds of the Village otherwise available for their payment.

(c) During the years while the Water Improvement Notes are outstanding, there will be levied on all the taxable property in the Village, in addition to all other taxes, a direct tax annually, subject to the Ten-mill Limitation, in an amount sufficient to pay Debt Service Charges on the Water Improvement Notes when due. The tax will be not less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution. The tax must be and is ordered to be computed, certified, levied, and extended upon the tax list and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of those years are computed, certified, levied, extended, and collected. The tax must be placed before and in preference to all other items and for its full amount. The money derived from that tax levy must be placed in the Bond Retirement Fund of the Village and is irrevocably pledged for the payment of the Debt Service Charges on the Water Improvement Notes, when and as that Debt Service Charges falls due. In each year to the extent proceeds from the Village's municipal income tax are available for the payment of Debt Service Charges on the Water Improvement Notes and Bonds and are appropriated for the purpose, the amount of the tax shall be reduced by the amount of the income so available and appropriated. The Village hereby covenants that it will appropriate annually from municipal income taxes, and shall continue to levy and collect those municipal income taxes, in the amounts required to pay the principal of and interest on the Water Improvement Notes and Bonds when and as the same shall fall due. Additionally, if any of the following amounts are available for the payment of the Water Improvement Notes and are appropriated for that purpose, the amount of the tax levy in each year must be reduced by the amount available and appropriated:

- (1) Any surplus in the Bond Retirement Fund.
- (2) Proceeds received from the sale of any bonds issued to refund the Water Improvement Notes.
- (3) Any other money lawfully available to the Village.

Section 13. Federal Tax Matters. The Village covenants that it will take those actions required to maintain the Federal Tax Status of the Water Improvement Notes and that it will not take or permit to be taken any actions that would adversely affect that Federal Tax Status. Without limiting these covenants, the Village specifically covenants as follows:

(a) Private Activity Bonds. The Village will apply the proceeds received from the sale of that portion of the Water Improvement Notes to those uses described in Section 11. The Village will not secure or derive the money for payment of Debt Service Charges on that portion of the Water Improvement Notes by any property or payments,

and will not loan the proceeds of that portion of the Water Improvement Notes to any person, all in a manner as to cause that portion of the Water Improvement Notes to be "private activity bonds" within the meaning of Code Section 141(a).

(b) Arbitrage. The Village will restrict the use of proceeds of that portion of the Water Improvement Notes in the manner and to the extent as may be necessary, after taking into account reasonable expectations at the time of the delivery of and payment for the Water Improvement Notes, so that that portion of the Water Improvement Notes will not constitute "arbitrage bonds" within the meaning of Code Section 148. The Fiscal Officer or any other official having responsibility for issuing the Water Improvement Notes, is authorized and directed, alone or in conjunction with any other officer, employee, or consultant of the Village, to sign and deliver a certificate of the Village, for inclusion in the transcript of proceedings for the Water Improvement Notes, setting forth the reasonable expectations of the Village on the Closing Date, regarding the amount and use of the proceeds of that portion of the Water Improvement Notes in accordance with Code Section 148. If required, the Village will limit the yield on any "investment property" (as defined in Code Section 148(b)(2)) acquired with the proceeds of that portion of the Water Improvement Notes.

(c) Arbitrage Rebate. Unless the gross proceeds of that portion of the Water Improvement Notes are expended in accordance with one of the spending period exceptions set forth in Treas. Reg. Section 1.148-7, the Village will pay the amounts required by Code Section 148(f)(2) to the United States at the times required by Code Section 148(f)(3). The Village will maintain the books and records and make the calculations and reports that are required to comply with the Code's arbitrage rebate requirements.

(d) Federal Guarantee. The Village will not make loans of the proceeds of that portion of the Water Improvement Notes, or invest the proceeds of that portion of the Water Improvement Notes in a manner as to cause that portion of the Water Improvement Notes to be "federally guaranteed" within the meaning of Code Section 149(b).

(e) Information Reporting. This Council authorizes and directs the Fiscal Officer or any other official of the Village having responsibility for issuing the Water Improvement Notes to sign and file a Form 8038-G for that portion of the Water Improvement Notes with the Internal Revenue Service.

Section 14. Signing and Delivery of Water Improvement Notes and Documents. This Council authorizes and directs the Mayor and the Fiscal Officer, or the persons designated to sign in their absence, to sign and deliver the Water Improvement Notes in accordance with Section 6 of this ordinance. This Council authorizes and directs the Mayor and the Fiscal Officer, or either of them, to sign and approve a preliminary official statement, a final official statement, and supplements and amendments to both in accordance with Section 9 of this ordinance.

(a) This Council authorizes and directs the Fiscal Officer to sign and deliver, on behalf of the Village:

- (1) The Certificate of Award.
- (2) Any Registrar Agreement.
- (3) Any Purchase Agreement.
- (4) Any paying agency agreement.
- (5) Any agreements or letters of representation in connection with a book-entry system for the Water Improvement Notes.
- (6) Applications for and agreements in connection with obtaining a policy of municipal bond insurance for the Water Improvement Notes.
- (7) Applications for and agreements in connection with obtaining one or more ratings for the Water Improvement Notes.

(b) This Council authorizes and directs the Fiscal Officer to sign and deliver, on behalf of the Village, in her capacity as fiscal officer of the Village, any certificates required under Section 5705.41, Revised Code, for any of the agreements in connection with the Water Improvement Notes.

(c) This Council authorizes and directs the Mayor, the Solicitor, the Fiscal Officer, the President of Council and any other Village officials:

- (1) to sign and deliver any certificates, instruments, and other documents that the official considers necessary or appropriate in connection with the issuance and sale of the Water Improvement Notes and that are not inconsistent with this ordinance; and
- (2) to take any actions as are necessary or appropriate to consummate the transactions contemplated by this ordinance.

(d) The Standby Note Purchase Agreement is hereby authorized in the form presented to the Council with such changes not materially adverse to the Village as may be approved by the officers of the Village executing the Standby Note Purchase Agreement. The Village acknowledges the agreement of the Treasurer in the Standby Note Purchase Agreement that, in the event the Village is unable to repay the principal amount and accrued and unpaid interest of the Water Improvement Notes at their maturity, whether through its own funds or through the issuance of other obligations of the Village, the Treasurer agrees (a) to purchase the Water Improvement Notes from the Holders or beneficial owners thereof upon their presentation to the Treasurer for such purchase at a price of par plus accrued interest to maturity or (b) to purchase renewal notes of the Village in a principal amount not greater than the principal amount of the Notes plus interest due at maturity, with such renewal notes bearing interest at a rate equal to 1-year MMD AAA plus 400 basis points, maturing not more than one year after the date of their issuance, and being prepayable at any time with 30 days'

notice, provided that in connection with the Treasurer's purchase of such renewal notes the Village shall deliver to the Treasurer an unqualified opinion of nationally recognized bond counsel that (i) such renewal notes are the legal, valid and binding general obligations of the Village, and the principal of and interest on such renewal notes, unless paid from other sources, are to be paid from the proceeds of the levy of ad valorem taxes within the ten-mill limitation imposed by law on all property subject to ad valorem taxes levied by the Village and (ii) interest on the renewal notes is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code as amended to the same extent that interest on the Notes is so excluded.

The officers signing the Water Improvement Notes are authorized to take all actions that may in their judgment reasonably be necessary to provide for the Standby Note Purchase Agreement, including but not limited to the inclusion of a notation on the form of the Water Improvement Notes providing notice to the Holders or beneficial owners of the existence of such Standby Note Purchase Agreement and providing instructions to such Holders or beneficial owners regarding the presentation of the Water Improvement Notes for purchase by the Treasurer at stated maturity.

Section 15. Certification to County Fiscal Officer. This Council directs the Fiscal Officer to forward a certified copy of this ordinance and a copy of the Certificate of Award to the County Fiscal Officer.

Section 16. Emergency and Effective Date. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, welfare, and safety of the Village and for the further reason that the Water Improvement Notes must be sold promptly in order to pay the costs of the Project; wherefore, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest period allowed by law.

PASSED:

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BILL GONCY, Mayor

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Council for the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Ordinance **2014-4-11** was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this 13th day of May, 2014.

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BETTY KLINGENBERG, FISCAL OFFICER

VILLAGE OF BOSTON HEIGHTS  
ORDINANCE NO: 2014-4-12  
THIRD READING / **ADOPTED**

**ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF NOTES IN A  
MAXIMUM PRINCIPAL AMOUNT OF \$825,000 IN  
ANTICIPATION OF THE ISSUANCE OF BONDS. TO PAY THE COSTS OF  
RESURFACING AND OTHERWISE IMPROVING CERTAIN STREETS IN THE  
VILLAGE; AND DECLARING AN EMERGENCY.**

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

Section 1. Definitions. Words and terms are used in this ordinance with the following meanings:

"Authorized Denominations" means the denomination of \$5,000 or any whole multiple of \$5,000.

"Bonds" means the bonds anticipated by the Street Resurfacing Notes.

"Certificate of Award" means the certificate authorized by Section 8 of this ordinance, setting forth the terms and other provisions of the Street Resurfacing Notes required or authorized by this ordinance.

"Closing Date" means the date of delivery of and payment for the Street Resurfacing Notes.

"Code" means the Internal Revenue Code of 1986, as amended. References to the Code and sections of the Code include applicable regulations (whether temporary or final) under the Code, and any amendments of, or successor provisions to, those sections or regulations.

"Continuing Disclosure Agreement" means the continuing disclosure agreement made by the Village for the benefit of Holders and beneficial owners of the Street Resurfacing Notes in accordance with the SEC Rule. It consists of the covenants in Section 9(b) of this ordinance.

"Debt Service Charges" means all amounts due as principal, interest, and any premium on an issue of securities.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, with its participants or otherwise, a book-entry system to record ownership of book-entry interests in securities or the principal of and interest on securities, and to effect transfers of securities in book-entry form and means initially The Depository Trust Company, New York, New York, a limited purpose trust company.

"EMMA System" means the MSRB's Electronic Municipal Market Access system.

"Federal Tax Status" means the status of the interest as excludable from gross income for federal income tax purposes and not treated as an item of tax preference for purposes of the alternative minimum tax.



"Financing Costs" means any financing costs authorized to be paid by Section 133.01(K), of the Ohio Revised Code.

"Holder" means, as to any Street Resurfacing Note, the person in whose name the Street Resurfacing Note is registered on the Register.

"MSRB" means the Municipal Securities Rulemaking Board.

"Note Proceedings" means, collectively, this ordinance, the Certificate of Award, any Purchase Agreement, any paying agency agreement, any registrar agreement, the Continuing Disclosure Agreement, and the other proceedings of the Village, including the Street Resurfacing Notes, that provide collectively for, among other things, the rights of Holders and beneficial owners of the Street Resurfacing Notes.

"Original Purchaser" means the original purchaser of the Street Resurfacing Notes designated in the Certificate of Award, in accordance with Section 8(c).

"Paying Agent" means (a) the entity designated as the Paying Agent by the Fiscal Officer in the Certificate of Award in accordance with Section 10(c), or (b) the Fiscal Officer, if she determines to serve in that capacity.

"Program" means the Ohio Market Access Program - Note Wrap offered by the Treasurer.

"Project" means paying the costs of resurfacing and otherwise improving certain streets in the Village.

"Purchase Agreement" means any Note Purchase Agreement between the Village and the Original Purchaser, entered into in accordance with Section 8.

"Register" means all books and records necessary for the registration, exchange, and transfer of the Street Resurfacing Notes.

"Registrar" means (a) the entity designated as the Registrar by the Fiscal Officer in the Certificate of Award in accordance with Section 10(d), or (b) the Fiscal Officer, if she determines to serve in that capacity.

"Registrar Agreement" means any Registrar Agreement between the Village and the Registrar.

"SEC Rule" means SEC Rule 15c2-12.

"Specified Events" means any of the events specified in SEC Rule Section (b)(5)(i)(C), as in effect and applicable to the Street Resurfacing Notes at the time of the primary offering of the Street Resurfacing Notes.

"Standby Note Purchase Agreement" means the Standby Note Purchase Agreement between the Village and the Treasurer.

"Street Resurfacing Notes" means the bond anticipation notes authorized by Section 3 of this ordinance.

"Ten-mill Limitation" means the "ten-mill limitation" defined in Section 5705.02, Ohio Revised Code.

"Treasurer" means the Treasurer of State of the State of Ohio.

Section 2. Findings and Determinations. This Council makes the following findings and determinations:

(a) It is necessary for the Village to issue the Bonds to pay the costs of the Project. It is necessary to issue the Street Resurfacing Notes in anticipation of the Bonds for the purpose of (1) paying the costs of the Project, and (2) paying the Financing Costs of the Street Resurfacing Notes.

(b) The Fiscal Officer has certified to this Council the maximum maturity of the Bonds and notes issued in anticipation of the Bonds.

(c) All acts and conditions necessary to be performed by the Village or to have been met for the issuance of the Street Resurfacing Notes in order to make them legal, valid, and binding general obligations of the Village, have been performed and met, or will have been performed and met, at the time of delivery of the Street Resurfacing Notes, as required by law.

(d) No statutory or constitutional limitation of indebtedness, or taxation will be exceeded by the issuance of the Street Resurfacing Notes.

(e) All formal actions of this Council relating to the enactment of this ordinance were taken in an open meeting of this Council, and all deliberations of this Council and of any of its committees that resulted in those formal actions, were in meetings open to the public, in compliance with the law.

Section 3. Estimated Bond Terms. The Bonds will have the following terms:

(a) Amount and Rate. The Bonds will be issued in the maximum principal amount of \$825,000 and will bear interest at the estimated average annual interest rate of 5%.

(b) Term. The Bonds will mature serially over a period of 15 years in accordance with the following estimated principal payment schedule:

<u>Year</u>	<u>Principal</u>	<u>Year</u>	<u>Principal</u>
1	\$55,000	9	\$55,000
2	55,000	10	55,000
3	55,000	11	55,000
4	55,000	12	55,000
5	55,000	13	55,000
6	55,000	14	55,000
7	55,000	15	55,000
8	55,000		

(c) Debt Service Charges. The Bonds will be payable as to Debt Service Charges from any money of the Village lawfully available and appropriated for that purpose and, if that money is insufficient, from the proceeds of an ad valorem tax to be levied on all property within the Village, subject to the Ten-Mill Limitation.

Section 4. Note Terms. The Street Resurfacing Notes will have the following terms:

(a) Amount. The Street Resurfacing Notes will be issued in the principal amount of \$825,000 or any lesser principal amount as determined by the Fiscal Officer in the Certificate of Award.

(b) Date. The Street Resurfacing Notes will be dated the Closing Date, or any other date, not more than 31 days before the Closing Date, as determined by the Fiscal Officer in the Certificate of Award.

(c) Maturity. The Street Resurfacing Notes will mature one year from their date. The Fiscal Officer may, if she determines it to be in the best interests of the Village, establish a different maturity date, less than one year from the Closing Date.

(d) Interest. The Street Resurfacing Notes will bear interest from their date at a rate not to exceed 8% per annum, payable at maturity. Interest will be calculated on the basis of a 360-day year consisting of twelve 30-day months. The rate of interest on the Street Resurfacing Notes must be determined by the Fiscal Officer in the Certificate of Award. There is further hereby authorized an after-maturity interest rate as established in the materials for the Program should the Village determine to participate and be approved for participation in such Program as further described in Section 14 herein.

(e) Redemption before Stated Maturity. The Street Resurfacing Notes will not be subject to redemption before maturity, unless otherwise determined by the Fiscal Officer in the Certificate of Award. The Fiscal Officer may determine, in the Certificate of Award, to provide that the Street Resurfacing Notes will be subject to redemption and may establish, in the Certificate of Award, notice provisions for that redemption and any price for that redemption. The redemption price may be any percentage of the principal amount redeemed, not exceeding 110%.

(f) Form, Numbering, and Denomination. The Street Resurfacing Notes must be issued in fully registered form. They must be issued in book-entry form unless the Fiscal Officer determines in the Certificate of Award that it would not be in the best interest of the Village for the Street Resurfacing Notes to be in book-entry form. They must be issued in Authorized Denominations and in the numbers and amounts as requested by the Original Purchaser and approved by the Fiscal Officer. They must be numbered as determined by the Fiscal Officer in a manner to distinguish each Street Resurfacing Note from any other Street Resurfacing Note. They must express on their

faces the purpose for which they are issued and that they are issued in accordance with this ordinance. The Street Resurfacing Notes will be designated "Street Resurfacing Bond Anticipation Notes, Series 2014," unless otherwise designated in the Certificate of Award.

Section 5. Payment. The Debt Service Charges on the Street Resurfacing Notes will be payable when due in lawful money of the United States of America, without deduction for the services of the Paying Agent, upon presentation and surrender of the Street Resurfacing Notes at the office of the Paying Agent.

Section 6. Signing and Authentication.

(a) Signing. The Street Resurfacing Notes must be signed on behalf of the Village by the Mayor and the Fiscal Officer. Both signatures on the Street Resurfacing Notes may be facsimiles.

(b) Authentication. No Street Resurfacing Note will be valid or obligatory for any purpose or will be entitled to any security or benefit under the Note Proceedings unless and until the certificate of authentication printed on the note certificate is signed by the Registrar as authenticating agent. Authentication by the Registrar will be conclusive evidence that the Street Resurfacing Note so authenticated has been duly issued, signed, and delivered under, and is entitled to the security and benefit of, the Note Proceedings. The certificate of authentication may be signed by any authorized officer or employee of the Registrar or by any other person acting as an agent of the Registrar and approved by the Fiscal Officer on behalf of the Village. The same person need not sign the certificate of authentication on all of the Street Resurfacing Notes.

Section 7. Registration, Transfer, and Exchange; Book-Entry System.

(a) Registrar. So long as any of the Street Resurfacing Notes remain outstanding, the Village must cause the Registrar to maintain the Register. The person in whose name a Street Resurfacing Note is registered on the Register will be regarded as the absolute owner of that Street Resurfacing Note for all purposes of the Note Proceedings. Payment of the Debt Service Charges on any Street Resurfacing Note will be made only to, or on the order of, that person.

(b) Transfer and Exchange. Any Street Resurfacing Note may be transferred or exchanged for Street Resurfacing Notes of any Authorized Denomination, upon presentation and surrender of that Street Resurfacing Note at the office of the Registrar, together with a request for exchange or an assignment signed by the Holder or by a person legally empowered to do so on behalf of the Holder, in a form satisfactory to the Registrar. The Registrar must complete, authenticate, and deliver new Street Resurfacing Notes, upon an exchange, to the Holder or its agent or, upon a transfer, to the new Holder of the transferred Street Resurfacing Notes or its agent, in Authorized Denominations equal in the aggregate to the principal amount of the Street Resurfacing Notes surrendered. Every exchange or transfer of the Street Resurfacing Notes will be made without charge to the Holders, except that the Village and the Registrar may make a

charge sufficient to reimburse them for any tax or other governmental charge required for the exchange or transfer.

If manual signatures on behalf of the Village are required, the Registrar will undertake the exchange or transfer of a Street Resurfacing Note only after the new Street Resurfacing Note is signed by the authorized officers of the Village. In all cases of Street Resurfacing Notes exchanged or transferred, the Village will sign, and the Registrar will authenticate and deliver Street Resurfacing Notes in accordance with the provisions of the Note Proceedings. The exchange or transfer will be without charge to the Holder, except that the Village and the Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The Village or the Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Street Resurfacing Notes issued and authenticated upon any exchange or transfer will be valid obligations of the Village, evidencing the same debt, and entitled to the same security and benefit under the Note Proceedings as the Street Resurfacing Notes surrendered upon that exchange or transfer. Neither the Village nor the Registrar will be required to make any exchange or transfer of any Street Resurfacing Note selected for redemption, in whole or in part.

(c) Book-Entry System. Unless otherwise provided in the Certificate of Award, the Street Resurfacing Notes must be originally issued in book-entry form to a Depository, initially The Depository Trust Company, for use in a book-entry system.

The Village and the Registrar must recognize and treat the Depository as the owner of the Street Resurfacing Notes for all purposes, including payment of Debt Service Charges, redemption and other notices, and enforcement of remedies.

If any Depository determines not to continue to act as a Depository for the Street Resurfacing Notes for use in a book-entry system or if the Village determines to discontinue the book-entry system, the Fiscal Officer may attempt to establish a securities depository relationship with another qualified Depository. If the Fiscal Officer does not do so, the Fiscal Officer must direct the Registrar to make provision for notification of the book-entry interest owners by the Depository and to make any other arrangements necessary for the withdrawal of the Street Resurfacing Notes from the book-entry system, including the authentication and delivery of replacement Street Resurfacing Note certificates.

Section 8. Sale of the Street Resurfacing Notes.

(a) Private Sale. This Council authorizes and directs the Fiscal Officer to sell the Street Resurfacing Notes in a private sale to the Original Purchaser. The purchase price of the Street Resurfacing Notes must not be less than 97% of the aggregate principal amount of the Street Resurfacing Notes, plus any interest accrued on the Street Resurfacing Notes from their date to the Closing Date. The Fiscal Officer may either sell the Street Resurfacing Notes to an investment banker, acting as underwriter, or to a financial institution or other entity or person in a private placement. The Fiscal Officer may enter into a Purchase Agreement with the Original Purchaser in that private sale, or

may sell the Street Resurfacing Notes without a Purchase Agreement. The Fiscal Officer may sell the Street Resurfacing Notes at the same time, in the same manner, and in the same offering with other securities of the Village, whether or not those other securities have been consolidated with the Street Resurfacing Notes.

(b) Consolidation. If the Fiscal Officer determines it to be in the best interest of the Village, she may combine the Street Resurfacing Notes with one or more other general obligation bond anticipation notes of the Village, payable from taxes subject to the Ten-Mill Limitation.

(c) Certificate of Award. The Fiscal Officer must deliver a Certificate of Award to the Original Purchaser in connection with the sale of the Street Resurfacing Notes. The Fiscal Officer must state the following in the Certificate of Award: the principal amount of the Street Resurfacing Notes; the interest rate on the Street Resurfacing Notes; the purchase price for the Street Resurfacing Notes; the designated Registrar and Paying Agent; the Original Purchaser; the amount of interest, if any, on the Street Resurfacing Notes to be paid from the proceeds of the Street Resurfacing Notes; and any other terms required by this ordinance. The Fiscal Officer may state the following in the Certificate of Award: any changes in the date, the maturity date, the redemption provisions, and the designation of the Street Resurfacing Notes; and any other terms authorized by this ordinance, subject to the limitations stated in this ordinance.

(d) Delivery. The Fiscal Officer must cause the Street Resurfacing Notes to be prepared, signed, and delivered to the Original Purchaser. This Council authorizes and directs the Fiscal Officer to deliver a true transcript of proceedings for the issuance of the Street Resurfacing Notes to the Original Purchaser upon payment of the purchase price.

Section 9. Disclosure.

(a) Primary Offering Disclosure - Official Statement. This Council authorizes and directs the Mayor and the Fiscal Officer, or either of them, (1) to prepare or cause to be prepared, and to make or authorize modifications, completions, or changes of or supplements to, a disclosure document in the form of an official statement, (2) to determine, and certify or otherwise represent, when the official statement is to be "deemed final" (except for permitted omissions) or is a final official statement for purposes of the SEC Rule, (3) to use and distribute, or authorize the use and distribution of, that official statement and any supplements in connection with the original issuance of the Street Resurfacing Notes, and (4) to complete and sign the final official statement together with certificates, statements, or other documents in connection with the finality, accuracy, and completeness of that official statement.

(b) Secondary Market Disclosure - Continuing Disclosure Agreement. For the benefit of the Holders of the Street Resurfacing Notes and the beneficial owners of book-entry interests in the Street Resurfacing Notes, the Village agrees, as the only obligated person with respect to the Street Resurfacing Notes under the SEC Rule, to

provide notices, in the manner required for purposes of paragraph (b)(5)(i) of the SEC Rule.

(1) Information Filing. The Village further agrees, in particular, to provide, to the MSRB in an electronic format as prescribed by the MSRB and containing identifying information as prescribed by the MSRB, in a timely manner, notice of (A) any Specified Event, within 10 business days of the occurrence of a Specified Event, (B) any failure by the Village to appropriate funds to meet costs to be incurred to perform the Continuing Disclosure Agreement, and (C) the termination of the Continuing Disclosure Agreement.

(2) Disclosure Procedures. This Council further authorizes and directs the Fiscal Officer to establish procedures to ensure compliance by the Village with the Continuing Disclosure Agreement, including timely provision of notices as described above. Before providing notice of the occurrence of any events, the Fiscal Officer may consult with and obtain legal advice from bond counsel or other qualified independent special counsel selected by the Village. The Fiscal Officer, acting in the name and on behalf of the Village, may rely upon that legal advice in determining whether a filing should be made.

(3) Amendments. The Village reserves the right to amend the Continuing Disclosure Agreement, and to obtain the waiver of noncompliance with any provision of the Continuing Disclosure Agreement, as may be necessary or appropriate to achieve its compliance with any applicable federal securities law or rule, to cure any ambiguity, inconsistency, or formal defect or omission, and to address any change in circumstances arising from a change in legal requirements, change in law, or change in the identity, nature, or status of the Village, or type of business conducted by the Village. Any amendment or waiver will not be effective unless the Continuing Disclosure Agreement (as amended or taking into account that waiver) would have complied with the requirements of the SEC Rule at the time of the primary offering of the Street Resurfacing Notes, after taking into account any applicable amendments to or official interpretations of the SEC Rule, as well as any change in circumstances, and until the Village has received either (A) a written opinion of bond counsel or other qualified independent special counsel selected by the Village that the amendment or waiver would not materially impair the interests of Holders or beneficial owners of book-entry interests in the Street Resurfacing Notes, or (B) the written consent to the amendment or waiver by the Holders of at least a majority of the principal amount of the Street Resurfacing Notes then outstanding.

(4) Enforcement. The Continuing Disclosure Agreement will be solely for the benefit of the Holders of, and beneficial owners of book-entry interests in, the Street Resurfacing Notes. The exclusive remedy for any breach of the Continuing Disclosure Agreement by the Village will be limited, to the extent permitted by law, to a right of Holders and beneficial owners to institute and maintain legal proceedings to obtain the specific performance by the Village of its obligations under the Continuing Disclosure Agreement. Any individual

Holder or beneficial owner may institute and maintain those proceedings to require the Village to provide a filing if the filing is due and has not been made. Any proceedings to require the Village to perform any other obligation under the Continuing Disclosure Agreement (including any proceedings that contest the sufficiency of any filing) may be instituted and maintained only (A) by a trustee appointed by the Holders and beneficial owners of not less than 25% in principal amount of the Street Resurfacing Notes then outstanding, or (B) by Holders and beneficial owners of not less than 10% in principal amount of the Street Resurfacing Notes then outstanding, in accordance with Section 133.25(B)(4)(b) or (C)(1), Revised Code, as applicable, or any comparable successor provisions.

(5) Appropriation. The performance by the Village of the Continuing Disclosure Agreement will be subject to the annual appropriation of any funds that may be necessary to perform it.

(6) Term. The Continuing Disclosure Agreement will remain in effect only for the period that the Street Resurfacing Notes are outstanding in accordance with their terms and the Village is an obligated person with respect to the Street Resurfacing Notes within the meaning of the SEC Rule. The obligation of the Village to provide notices of the events described above will terminate if and when the Village is no longer an obligated person with respect to the Street Resurfacing Notes.

Section 10. Financing Costs. The Village retains the professional services and authorizes the payment of the Financing Costs for the Street Resurfacing Notes, as provided in this Section 10.

(a) Bond Counsel. The Village retains the legal services of Roetzel & Andress, A Legal Professional Association, as bond counsel for the Street Resurfacing Notes. The legal services will be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Street Resurfacing Notes and rendering legal opinions upon the delivery of the Street Resurfacing Notes. Bond counsel must render those services to the Village in an attorney-client relationship. Bond counsel must be paid just and reasonable compensation for those legal services.

(b) Original Purchaser. This Council authorizes and directs the Fiscal Officer to select the Original Purchaser of the Street Resurfacing Notes in the Certificate of Award. The Original Purchaser will be paid for services in accordance with any Purchase Agreement or, if there is no Purchase Agreement, in accordance with its proposal as accepted by the Fiscal Officer in the Certificate of Award.

(c) Paying Agent. This Council authorizes and directs the Fiscal Officer to appoint a Paying Agent for the Street Resurfacing Notes. The Paying Agent must be a bank or trust company, may be the same entity serving as Registrar, and may provide paying agency services under the terms of its Registrar Agreement or under a separate paying agency agreement. The Village retains the services of the Paying Agent for the



Street Resurfacing Notes. The Paying Agent must be compensated for those services in accordance with any paying agency agreement or Registrar Agreement. Alternately, the Fiscal Officer may serve as Paying Agent for the Street Resurfacing Notes. The Paying Agent must be designated in the Certificate of Award.

(d) Registrar. This Council authorizes and directs the Fiscal Officer to appoint a Registrar for the Street Resurfacing Notes. The Registrar must be a financial institution able to complete transfer and exchange functions for the Street Resurfacing Notes in accordance with standards and conditions applicable to registered corporate securities. The Village retains the services of the Registrar for the Street Resurfacing Notes. The Registrar must perform the services as registrar, authenticating agent, paying agent, and transfer agent for the Street Resurfacing Notes as provided in this ordinance and any Registrar Agreement. The Registrar must be paid for those services in accordance with the Registrar Agreement. Alternately, the Fiscal Officer may serve as Registrar for the Street Resurfacing Notes. The Registrar must be designated in the Certificate of Award.

(e) Issuer's Counsel. The Village retains the legal services of DiCaudo, Pitchford & Yoder LLC as issuer's counsel the Street Resurfacing Notes. The legal services will be in the nature of legal advice and recommendations as to the documents in connection with the issuance and sale of the Street Resurfacing Notes. Issuer's counsel must render those services to the Village in an attorney-client relationship. Issuer's counsel must be paid just and reasonable compensation for those legal services.

(f) Ratings and Credit Enhancement. If, in the judgment of the Fiscal Officer, the filing of an application for (1) a rating on the Street Resurfacing Notes by one or more nationally recognized statistical rating organizations, or (2) a policy of insurance or other credit enhancement to better assure the payment of principal of and interest on the Street Resurfacing Notes, is in the best interest of and financially advantageous to the Village, the Fiscal Officer must prepare and submit those applications and provide to each of those rating agencies or insurance or other credit enhancement providers the information required for the purpose. This Council further authorizes the fees for those ratings and the premiums for the insurance or the fees for such credit enhancement programs to be included in Financing Costs authorized under (i) below.

(g) Financial Adviser. This Council retains the services of ACI Financial Advisors, LLC as financial adviser for the Street Resurfacing Notes. The financial adviser will be paid for those services in accordance with its letter of engagement. This Council authorizes the fees for the financial adviser's services to be included in the Financing Costs authorized under (i) below.

(h) Limits on Authority of Service Providers. In rendering the services described above, as independent contractors, those service providers must not exercise any administrative discretion on behalf of the Village in the formulation of public policy; expenditure of public funds; enforcement of laws, rules, and regulations of the State of Ohio, the Village, or any other political subdivision; or the execution of public trusts.

(i) Payment of Financing Costs. This Council authorizes and approves the expenditure of the amounts necessary to pay those Financing Costs specifically authorized above and all other necessary Financing Costs in connection with the issuance and sale of the Street Resurfacing Notes. Those Financing Costs may be paid by the Original Purchaser. To the extent they are not paid by the Original Purchaser, this Council authorizes and directs the Fiscal Officer to provide for the payment of those Financing Costs from the proceeds of the Street Resurfacing Notes to the extent available and, otherwise, from any other funds lawfully available and appropriated for the purpose.

Section 11. Use of Proceeds. The proceeds from the sale of the Street Resurfacing Notes must be deposited and used as provided in this Section 11.

(a) Any accrued interest or premium received on the sale of the Street Resurfacing Notes must be deposited in the Bond Retirement Fund of the Village and be used for the payment of interest on the Street Resurfacing Notes at their maturity.

(b) The remainder of the proceeds must be paid into the proper fund or funds and used for the payment of any Financing Costs of the Notes to the extent that those Financing Costs are not paid by the Original Purchaser and to the extent that the Fiscal Officer determines to pay those Financing Costs from the proceeds of the Street Resurfacing Notes.

(c) The remainder of the proceeds must be paid into the proper fund or funds and used for the payment of the costs of the Project.

Section 12. Security and Source of Payment. The Street Resurfacing Notes will be general obligations of the Village.

(a) This Council pledges to the payment of Debt Service Charges on the Street Resurfacing Notes the full faith and credit of the Village including, without limitation:

(1) The general taxing power of the Village, including the power to levy taxes within the Ten-mill Limitation.

(2) Any money remaining from the sale of the Street Resurfacing Notes after the payment of accrued interest or premium and the Financing Costs of the Street Resurfacing Notes and not required to refund the Street Resurfacing Notes.

(b) The Debt Service Charges on the Street Resurfacing Notes must be paid at their maturity from any of the amounts set forth above pledged to their payment, or any funds of the Village otherwise available for their payment.

(c) During the years while the Street Resurfacing Notes are outstanding, there will be levied on all the taxable property in the Village, in addition to all other taxes, a direct tax annually, subject to the Ten-mill Limitation, in an amount sufficient to pay Debt Service Charges on the Street Resurfacing Notes when due. The tax will be not less

than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution. The tax must be and is ordered to be computed, certified, levied, and extended upon the tax list and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of those years are computed, certified, levied, extended, and collected. The tax must be placed before and in preference to all other items and for its full amount. The money derived from that tax levy must be placed in the Bond Retirement Fund of the Village and is irrevocably pledged for the payment of the Debt Service Charges on the Street Resurfacing Notes, when and as that Debt Service Charges falls due. In each year to the extent proceeds from the Village's municipal income tax are available for the payment of Debt Service Charges on the Street Resurfacing Notes and Bonds and are appropriated for the purpose, the amount of the tax shall be reduced by the amount of the income so available and appropriated. The Village hereby covenants that it will appropriate annually from municipal income taxes, and shall continue to levy and collect those municipal income taxes, in the amounts required to pay the principal of and interest on the Street Resurfacing Notes and Bonds when and as the same shall fall due. Additionally, if any of the following amounts are available for the payment of the Street Resurfacing Notes and are appropriated for that purpose, the amount of the tax levy in each year must be reduced by the amount available and appropriated:

- (1) Any surplus in the Bond Retirement Fund.
- (2) Proceeds received from the sale of any bonds issued to refund the Street Resurfacing Notes.
- (3) Any other money lawfully available to the Village.

Section 13. Federal Tax Matters. The Village covenants that it will take those actions required to maintain the Federal Tax Status of the Street Resurfacing Notes and that it will not take or permit to be taken any actions that would adversely affect that Federal Tax Status. Without limiting these covenants, the Village specifically covenants as follows:

(a) Private Activity Bonds. The Village will apply the proceeds received from the sale of that portion of the Street Resurfacing Notes to those uses described in Section 11. The Village will not secure or derive the money for payment of Debt Service Charges on that portion of the Street Resurfacing Notes by any property or payments, and will not loan the proceeds of that portion of the Street Resurfacing Notes to any person, all in a manner as to cause that portion of the Street Resurfacing Notes to be "private activity bonds" within the meaning of Code Section 141(a).

(b) Arbitrage. The Village will restrict the use of proceeds of that portion of the Street Resurfacing Notes in the manner and to the extent as may be necessary, after taking into account reasonable expectations at the time of the delivery of and payment for the Street Resurfacing Notes, so that that portion of the Street Resurfacing Notes will not constitute "arbitrage bonds" within the meaning of Code Section 148. The Fiscal Officer or any other official having responsibility for issuing the Street Resurfacing Notes, is authorized and directed, alone or in conjunction with any other officer, employee, or

consultant of the Village, to sign and deliver a certificate of the Village, for inclusion in the transcript of proceedings for the Street Resurfacing Notes, setting forth the reasonable expectations of the Village on the Closing Date, regarding the amount and use of the proceeds of that portion of the Street Resurfacing Notes in accordance with Code Section 148. If required, the Village will limit the yield on any "investment property" (as defined in Code Section 148(b)(2)) acquired with the proceeds of that portion of the Street Resurfacing Notes.

(c) Arbitrage Rebate. Unless the gross proceeds of that portion of the Street Resurfacing Notes are expended in accordance with one of the spending period exceptions set forth in Treas. Reg. Section 1.148-7, the Village will pay the amounts required by Code Section 148(f)(2) to the United States at the times required by Code Section 148(f)(3). The Village will maintain the books and records and make the calculations and reports that are required to comply with the Code's arbitrage rebate requirements.

(d) Federal Guarantee. The Village will not make loans of the proceeds of that portion of the Street Resurfacing Notes, or invest the proceeds of that portion of the Street Resurfacing Notes in a manner as to cause that portion of the Street Resurfacing Notes to be "federally guaranteed" within the meaning of Code Section 149(b).

(e) Information Reporting. This Council authorizes and directs the Fiscal Officer or any other official of the Village having responsibility for issuing the Street Resurfacing Notes to sign and file a Form 8038-G for that portion of the Street Resurfacing Notes with the Internal Revenue Service.

Section 14. Signing and Delivery of Street Resurfacing Notes and Documents. This Council authorizes and directs the Mayor and the Fiscal Officer, or the persons designated to sign in their absence, to sign and deliver the Street Resurfacing Notes in accordance with Section 6 of this ordinance. This Council authorizes and directs the Mayor and the Fiscal Officer, or either of them, to sign and approve a preliminary official statement, a final official statement, and supplements and amendments to both in accordance with Section 9 of this ordinance.

(a) This Council authorizes and directs the Fiscal Officer to sign and deliver, on behalf of the Village:

- (1) The Certificate of Award.
- (2) Any Registrar Agreement.
- (3) Any Purchase Agreement.
- (4) Any paying agency agreement.
- (5) Any agreements or letters of representation in connection with a book-entry system for the Street Resurfacing Notes.

(6) Applications for and agreements in connection with obtaining a policy of municipal bond insurance for the Street Resurfacing Notes.

(7) Applications for and agreements in connection with obtaining one or more ratings for the Street Resurfacing Notes.

(b) This Council authorizes and directs the Fiscal Officer to sign and deliver, on behalf of the Village, in her capacity as fiscal officer of the Village, any certificates required under Section 5705.41, Revised Code, for any of the agreements in connection with the Street Resurfacing Notes.

(c) This Council authorizes and directs the Mayor, the Solicitor, the Fiscal Officer, the President of Council and any other Village officials:

(1) to sign and deliver any certificates, instruments, and other documents that the official considers necessary or appropriate in connection with the issuance and sale of the Street Resurfacing Notes and that are not inconsistent with this ordinance; and

(2) to take any actions as are necessary or appropriate to consummate the transactions contemplated by this ordinance.

(d) The Standby Note Purchase Agreement is hereby authorized in the form presented to the Council with such changes not materially adverse to the Village as may be approved by the officers of the Village executing the Standby Note Purchase Agreement. The Village acknowledges the agreement of the Treasurer in the Standby Note Purchase Agreement that, in the event the Village is unable to repay the principal amount and accrued and unpaid interest of the Street Resurfacing Notes at their maturity, whether through its own funds or through the issuance of other obligations of the Village, the Treasurer agrees (a) to purchase the Street Resurfacing Notes from the Holders or beneficial owners thereof upon their presentation to the Treasurer for such purchase at a price of par plus accrued interest to maturity or (b) to purchase renewal notes of the Village in a principal amount not greater than the principal amount of the Notes plus interest due at maturity, with such renewal notes bearing interest at a rate equal to 1-year MMD AAA plus 400 basis points, maturing not more than one year after the date of their issuance, and being prepayable at any time with 30 days' notice, provided that in connection with the Treasurer's purchase of such renewal notes the Village shall deliver to the Treasurer an unqualified opinion of nationally recognized bond counsel that (i) such renewal notes are the legal, valid and binding general obligations of the Village, and the principal of and interest on such renewal notes, unless paid from other sources, are to be paid from the proceeds of the levy of ad valorem taxes within the ten-mill limitation imposed by law on all property subject to ad valorem taxes levied by the Village and (ii) interest on the renewal notes is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code as amended to the same extent that interest on the Notes is so excluded.

(e) The officers signing the Street Resurfacing Notes are authorized to take all actions that may in their judgment reasonably be necessary to provide for the Standby Note Purchase Agreement, including but not limited to the inclusion of a notation on the form of the Street Resurfacing Notes providing notice to the Holders or beneficial owners of the existence of such Standby Note Purchase Agreement and providing instructions to such Holders or beneficial owners regarding the presentation of the Street Resurfacing Notes for purchase by the Treasurer at stated maturity.

Section 15. Certification to County Fiscal Officer. This Council directs the Fiscal Officer to forward a certified copy of this ordinance and a copy of the Certificate of Award to the County Fiscal Officer.

Section 16. Emergency and Effective Date. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, welfare, and safety of the Village and for the further reason that the Street Resurfacing Notes must be sold promptly in order to pay the costs of the Project; wherefore, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest period allowed by law.

PASSED:

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BILL GONCY, Mayor

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Council for the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Ordinance **2014-4-12** was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this 13th day of May, 2014.

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BETTY KLINGENBERG, FISCAL OFFICER

VILLAGE OF BOSTON HEIGHTS  
ORDINANCE NO: 2014-4-13  
THIRD READING / **ADOPTED**

**ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF NOTES IN A  
MAXIMUM PRINCIPAL AMOUNT OF \$250,000 IN  
ANTICIPATION OF THE ISSUANCE OF BONDS. TO PAY THE COSTS OF  
CONSTRUCTING, RECONSTRUCTING, WIDENING AND OTHERWISE  
IMPROVING HINES HILL ROAD AND RELOCATING SANITARY SEWER LINES IN  
CONNECTION THEREWITH AND DECLARING AN EMERGENCY.**

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

Section 1. Definitions. Words and terms are used in this ordinance with the following meanings:

"Authorized Denominations" means the denomination of \$5,000 or any whole multiple of \$5,000.

"Bonds" means the bonds anticipated by the Street Improvement Notes.

"Certificate of Award" means the certificate authorized by Section 8 of this ordinance, setting forth the terms and other provisions of the Street Improvement Notes required or authorized by this ordinance.

"Closing Date" means the date of delivery of and payment for the Street Improvement Notes.

"Code" means the Internal Revenue Code of 1986, as amended. References to the Code and sections of the Code include applicable regulations (whether temporary or final) under the Code, and any amendments of, or successor provisions to, those sections or regulations.

"Continuing Disclosure Agreement" means the continuing disclosure agreement made by the Village for the benefit of Holders and beneficial owners of the Street Improvement Notes in accordance with the SEC Rule. It consists of the covenants in Section 9(b) of this ordinance.

"Debt Service Charges" means all amounts due as principal, interest, and any premium on an issue of securities.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, with its participants or otherwise, a book-entry system to record ownership of book-entry interests in securities or the principal of and interest on securities, and to effect transfers of securities in book-entry form and means initially The Depository Trust Company, New York, New York, a limited purpose trust company.

"EMMA System" means the MSRB's Electronic Municipal Market Access system.

"Financing Costs" means any financing costs authorized to be paid by Section 133.01(K), of the Ohio Revised Code.

"Federal Tax Status" means the status of the interest as excludable from gross income for federal income tax purposes and not treated as an item of tax preference for purposes of the alternative minimum tax.

"Holder" means, as to any Street Improvement Note, the person in whose name the Street Improvement Note is registered on the Register.

"MSRB" means the Municipal Securities Rulemaking Board.

"Note Proceedings" means, collectively, this ordinance, the Certificate of Award, any Purchase Agreement, any paying agency agreement, any registrar agreement, the Continuing Disclosure Agreement, and the other proceedings of the Village, including the Street Improvement Notes, that provide collectively for, among other things, the rights of Holders and beneficial owners of the Street Improvement Notes.

"Original Purchaser" means the original purchaser of the Street Improvement Notes designated in the Certificate of Award, in accordance with Section 8(c).

"Paying Agent" means (a) the entity designated as the Paying Agent by the Fiscal Officer in the Certificate of Award in accordance with Section 10(c), or (b) the Fiscal Officer, if she determines to serve in that capacity.

"Program" means the Ohio Market Access Program - Note Wrap offered by the Treasurer.

"Project" means paying the costs constructing, reconstructing, widening and otherwise improving Hines Hill Road and relocating sanitary sewer lines in connection therewith.

"Purchase Agreement" means any Note Purchase Agreement between the Village and the Original Purchaser, entered into in accordance with Section 8.

"Register" means all books and records necessary for the registration, exchange, and transfer of the Street Improvement Notes.

"Registrar" means (a) the entity designated as the Registrar by the Fiscal Officer in the Certificate of Award in accordance with Section 10(d), or (b) the Fiscal Officer, if she determines to serve in that capacity.

"Registrar Agreement" means any Registrar Agreement between the Village and the Registrar.

"SEC Rule" means SEC Rule 15c2-12.



"Specified Events" means any of the events specified in SEC Rule Section (b)(5)(i)(C), as in effect and applicable to the Street Improvement Notes at the time of the primary offering of the Street Improvement Notes.

"Standby Note Purchase Agreement" means the Standby Note Purchase Agreement between the Village and the Treasurer.

"Street Improvement Notes" means the bond anticipation notes authorized by Section 3 of this ordinance.

"Ten-mill Limitation" means the "ten-mill limitation" defined in Section 5705.02, Ohio Revised Code.

"Treasurer" means the Treasurer of State of the State of Ohio.

Section 2. Findings and Determinations. This Council makes the following findings and determinations:

(a) It is necessary for the Village to issue the Bonds to pay the costs of the Project. It is necessary to issue the Street Improvement Notes in anticipation of the Bonds for the purpose of (1) paying the costs of the Project, and (2) paying the Financing Costs of the Street Improvement Notes.

(b) The Fiscal Officer has certified to this Council the maximum maturity of the Bonds and notes issued in anticipation of the Bonds.

(c) All acts and conditions necessary to be performed by the Village or to have been met for the issuance of the Street Improvement Notes in order to make them legal, valid, and binding general obligations of the Village, have been performed and met, or will have been performed and met, at the time of delivery of the Street Improvement Notes, as required by law.

(d) No statutory or constitutional limitation of indebtedness or taxation will be exceeded by the issuance of the Street Improvement Notes.

(e) All formal actions of this Council relating to the enactment of this ordinance were taken in an open meeting of this Council, and all deliberations of this Council and of any of its committees that resulted in those formal actions, were in meetings open to the public, in compliance with the law.

Section 3. Estimated Bond Terms. The Bonds will have the following terms:

(a) Amount and Rate. The Bonds will be issued in the maximum principal amount of \$250,000 and will bear interest at the estimated average annual interest rate of 5%.

(b) Term. The Bonds will mature serially over a period of 25 years in accordance with the following estimated principal payment schedule:

<u>Year</u>	<u>Principal</u>	<u>Year</u>	<u>Principal</u>
1	\$10,000	14	\$10,000
2	10,000	15	10,000
3	10,000	16	10,000
4	10,000	17	10,000
5	10,000	18	10,000
6	10,000	19	10,000
7	10,000	20	10,000
8	10,000	21	10,000
9	10,000	22	10,000
10	10,000	23	10,000
11	10,000	24	10,000
12	10,000	25	10,000
13	10,000		

(c) Debt Service Charges. The Bonds will be payable as to Debt Service Charges from any money of the Village lawfully available and appropriated for that purpose and, if that money is insufficient, from the proceeds of an ad valorem tax to be levied on all property within the Village, subject to the Ten-Mill Limitation.

Section 4. Note Terms. The Street Improvement Notes will have the following terms:

(a) Amount. The Street Improvement Notes will be issued in the principal amount of \$250,000 or any lesser principal amount as determined by the Fiscal Officer in the Certificate of Award.

(b) Date. The Street Improvement Notes will be dated the Closing Date, or any other date, not more than 31 days before the Closing Date, as determined by the Fiscal Officer in the Certificate of Award.

(c) Maturity. The Street Improvement Notes will mature one year from their date. The Fiscal Officer may, if she determines it to be in the best interests of the Village, establish a different maturity date, less than one year from the Closing Date.

(d) Interest. The Street Improvement Notes will bear interest from their date at a rate not to exceed 8% per annum, payable at maturity. Interest will be calculated on the basis of a 360-day year consisting of twelve 30-day months. There is further hereby authorized an after-maturity interest rate as established in the materials for the Program should the Village determine to participate and be approved for participation in such Program as further described in Section 14 herein.

(e) The rate of interest on the Street Improvement Notes must be determined by the Fiscal Officer in the Certificate of Award.

(f) Redemption before Stated Maturity. The Street Improvement Notes will not be subject to redemption before maturity, unless otherwise determined by the Fiscal

Officer in the Certificate of Award. The Fiscal Officer may determine, in the Certificate of Award, to provide that the Street Improvement Notes will be subject to redemption and may establish, in the Certificate of Award, notice provisions for that redemption and any price for that redemption. The redemption price may be any percentage of the principal amount redeemed, not exceeding 110%.

(g) Form, Numbering, and Denomination. The Street Improvement Notes must be issued in fully registered form. They must be issued in book-entry form unless the Fiscal Officer determines in the Certificate of Award that it would not be in the best interest of the Village for the Street Improvement Notes to be in book-entry form. They must be issued in Authorized Denominations and in the numbers and amounts as requested by the Original Purchaser and approved by the Fiscal Officer. They must be numbered as determined by the Fiscal Officer in a manner to distinguish each Street Improvement Note from any other Street Improvement Note. They must express on their faces the purpose for which they are issued and that they are issued in accordance with this ordinance. The Street Improvement Notes will be designated "Street Improvement Bond Anticipation Notes, Series 2014," unless otherwise designated in the Certificate of Award.

Section 5. Payment. The Debt Service Charges on the Street Improvement Notes will be payable when due in lawful money of the United States of America, without deduction for the services of the Paying Agent, upon presentation and surrender of the Street Improvement Notes at the office of the Paying Agent.

Section 6. Signing and Authentication.

(a) Signing. The Street Improvement Notes must be signed on behalf of the Village by the Mayor and the Fiscal Officer. Both signatures on the Street Improvement Notes may be facsimiles.

(b) Authentication. No Street Improvement Note will be valid or obligatory for any purpose or will be entitled to any security or benefit under the Note Proceedings unless and until the certificate of authentication printed on the note certificate is signed by the Registrar as authenticating agent. Authentication by the Registrar will be conclusive evidence that the Street Improvement Note so authenticated has been duly issued, signed, and delivered under, and is entitled to the security and benefit of, the Note Proceedings. The certificate of authentication may be signed by any authorized officer or employee of the Registrar or by any other person acting as an agent of the Registrar and approved by the Fiscal Officer on behalf of the Village. The same person need not sign the certificate of authentication on all of the Street Improvement Notes.

Section 7. Registration, Transfer, and Exchange; Book-Entry System.

(a) Registrar. So long as any of the Street Improvement Notes remain outstanding, the Village must cause the Registrar to maintain the Register. The person in whose name a Street Improvement Note is registered on the Register will be regarded as the absolute owner of that Street Improvement Note for all purposes of the Note

Proceedings. Payment of the Debt Service Charges on any Street Improvement Note will be made only to, or on the order of, that person.

(b) Transfer and Exchange. Any Street Improvement Note may be transferred or exchanged for Street Improvement Notes of any Authorized Denomination, upon presentation and surrender of that Street Improvement Note at the office of the Registrar, together with a request for exchange or an assignment signed by the Holder or by a person legally empowered to do so on behalf of the Holder, in a form satisfactory to the Registrar. The Registrar must complete, authenticate, and deliver new Street Improvement Notes, upon an exchange, to the Holder or its agent or, upon a transfer, to the new Holder of the transferred Street Improvement Notes or its agent, in Authorized Denominations equal in the aggregate to the principal amount of the Street Improvement Notes surrendered. Every exchange or transfer of the Street Improvement Notes will be made without charge to the Holders, except that the Village and the Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required for the exchange or transfer.

If manual signatures on behalf of the Village are required, the Registrar will undertake the exchange or transfer of a Street Improvement Note only after the new Street Improvement Note is signed by the authorized officers of the Village. In all cases of Street Improvement Notes exchanged or transferred, the Village will sign, and the Registrar will authenticate and deliver Street Improvement Notes in accordance with the provisions of the Note Proceedings. The exchange or transfer will be without charge to the Holder, except that the Village and the Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The Village or the Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Street Improvement Notes issued and authenticated upon any exchange or transfer will be valid obligations of the Village, evidencing the same debt, and entitled to the same security and benefit under the Note Proceedings as the Street Improvement Notes surrendered upon that exchange or transfer. Neither the Village nor the Registrar will be required to make any exchange or transfer of any Street Improvement Note selected for redemption, in whole or in part.

(c) Book-Entry System. Unless otherwise provided in the Certificate of Award, the Street Improvement Notes must be originally issued in book-entry form to a Depository, initially The Depository Trust Company, for use in a book-entry system.

The Village and the Registrar must recognize and treat the Depository as the owner of the Street Improvement Notes for all purposes, including payment of Debt Service Charges, redemption and other notices, and enforcement of remedies.

If any Depository determines not to continue to act as a Depository for the Street Improvement Notes for use in a book-entry system or if the Village determines to

discontinue the book-entry system, the Fiscal Officer may attempt to establish a securities depository relationship with another qualified Depository. If the Fiscal Officer does not do so, the Fiscal Officer must direct the Registrar to make provision for notification of

the book-entry interest owners by the Depository and to make any other arrangements necessary for the withdrawal of the Street Improvement Notes from the book-entry system, including the authentication and delivery of replacement Street Improvement Note certificates.

Section 8. Sale of the Street Improvement Notes.

(a) Private Sale. This Council authorizes and directs the Fiscal Officer to sell the Street Improvement Notes in a private sale to the Original Purchaser. The purchase price of the Street Improvement Notes must not be less than 97% of the aggregate principal amount of the Street Improvement Notes, plus any interest accrued on the Street Improvement Notes from their date to the Closing Date. The Fiscal Officer may either sell the Street Improvement Notes to an investment banker, acting as underwriter, or to a financial institution or other entity or person in a private placement. The Fiscal Officer may enter into a Purchase Agreement with the Original Purchaser in that private sale, or may sell the Street Improvement Notes without a Purchase Agreement. The Fiscal Officer may sell the Street Improvement Notes at the same time, in the same manner, and in the same offering with other securities of the Village, whether or not those other securities have been consolidated with the Street Improvement Notes.

(b) Consolidation. If the Fiscal Officer determines it to be in the best interest of the Village, she may combine the Street Improvement Notes with one or more other general obligation bond anticipation notes of the Village, payable from taxes subject to the Ten-Mill Limitation.

(c) Certificate of Award. The Fiscal Officer must deliver a Certificate of Award to the Original Purchaser in connection with the sale of the Street Improvement Notes. The Fiscal Officer must state the following in the Certificate of Award: the principal amount of the Street Improvement Notes; the interest rate on the Street Improvement Notes; the purchase price for the Street Improvement Notes; the designated Registrar and Paying Agent; the Original Purchaser; and any other terms required by this ordinance. The Fiscal Officer may state the following in the Certificate of Award: any changes in the date, the maturity date, the redemption provisions, and the designation of the Street Improvement Notes; and any other terms authorized by this ordinance, subject to the limitations stated in this ordinance.

(d) Delivery. The Fiscal Officer must cause the Street Improvement Notes to be prepared, signed, and delivered to the Original Purchaser. This Council authorizes and directs the Fiscal Officer to deliver a true transcript of proceedings for the issuance of the Street Improvement Notes to the Original Purchaser upon payment of the purchase price.

Section 9. Disclosure.

(a) Primary Offering Disclosure - Official Statement. This Council authorizes and directs the Mayor and the Fiscal Officer, or either of them, (1) to prepare or cause to be prepared, and to make or authorize modifications, completions, or changes of or supplements to, a disclosure document in the form of an official statement, (2) to

determine, and certify or otherwise represent, when the official statement is to be "deemed final" (except for permitted omissions) or is a final official statement for purposes of the SEC Rule, (3) to use and distribute, or authorize the use and distribution of, that official statement and any supplements in connection with the original issuance of the Street Improvement Notes, and (4) to complete and sign the final official statement together with certificates, statements, or other documents in connection with the finality, accuracy, and completeness of that official statement.

(b) Secondary Market Disclosure - Continuing Disclosure Agreement. For the benefit of the Holders of the Street Improvement Notes and the beneficial owners of book-entry interests in the Street Improvement Notes, the Village agrees, as the only obligated person with respect to the Street Improvement Notes under the SEC Rule, to provide notices, in the manner required for purposes of paragraph (b)(5)(i) of the SEC Rule.

(1) Information Filing. The Village further agrees, in particular, to provide, to the MSRB in an electronic format as prescribed by the MSRB and containing identifying information as prescribed by the MSRB, in a timely manner, notice of (A) any Specified Event, within 10 business days of the occurrence of a Specified Event, (B) any failure by the Village to appropriate funds to meet costs to be incurred to perform the Continuing Disclosure Agreement, and (C) the termination of the Continuing Disclosure Agreement.

(2) Disclosure Procedures. This Council further authorizes and directs the Fiscal Officer to establish procedures to ensure compliance by the Village with the Continuing Disclosure Agreement, including timely provision of notices as described above. Before providing notice of the occurrence of any events, the Fiscal Officer may consult with and obtain legal advice from bond counsel or other qualified independent special counsel selected by the Village. The Fiscal Officer, acting in the name and on behalf of the Village, may rely upon that legal advice in determining whether a filing should be made.

(3) Amendments. The Village reserves the right to amend the Continuing Disclosure Agreement, and to obtain the waiver of noncompliance with any provision of the Continuing Disclosure/Agreement, as may be necessary or appropriate to achieve its compliance with any applicable federal securities law or rule, to cure any ambiguity, inconsistency, or formal defect or omission, and to address any change in circumstances arising from a change in legal requirements, change in law, or change in the identity, nature, or status of the Village, or type of business conducted by the Village. Any amendment or waiver will not be effective unless the Continuing Disclosure Agreement (as amended or taking into account that waiver) would have complied with the requirements of the SEC Rule at the time of the primary offering of the Street Improvement Notes, after taking into account any applicable amendments to or official interpretations of the SEC Rule, as well as any change in circumstances, and until the Village has received either (A) a written opinion of bond counsel or other qualified independent special counsel selected by the Village that the amendment or waiver would not

materially impair the interests of Holders or beneficial owners of book-entry interests in the Street Improvement Notes, or (B) the written consent to the amendment or waiver by the Holders of at least a majority of the principal amount of the Street Improvement Notes then outstanding.

(4) Enforcement. The Continuing Disclosure Agreement will be solely for the benefit of the Holders of, and beneficial owners of book-entry interests in, the Street Improvement Notes. The exclusive remedy for any breach of the Continuing Disclosure Agreement by the Village will be limited, to the extent permitted by law, to a right of Holders and beneficial owners to institute and maintain legal proceedings to obtain the specific performance by the Village of its obligations under the Continuing Disclosure Agreement. Any individual Holder or beneficial owner may institute and maintain those proceedings to require the Village to provide a filing if the filing is due and has not been made. Any proceedings to require the Village to perform any other obligation under the Continuing Disclosure Agreement (including any proceedings that contest the sufficiency of any filing) may be instituted and maintained only (A) by a trustee appointed by the Holders and beneficial owners of not less than 25% in principal amount of the Street Improvement Notes then outstanding, or (B) by Holders and beneficial owners of not less than 10% in principal amount of the Street Improvement Notes then outstanding, in accordance with Section 133.25(B)(4)(b) or (C)(1), Revised Code, as applicable, or any comparable successor provisions.

(5) Appropriation. The performance by the Village of the Continuing Disclosure Agreement will be subject to the annual appropriation of any funds that may be necessary to perform it.

(6) Term. The Continuing Disclosure Agreement will remain in effect only for the period that the Street Improvement Notes are outstanding in accordance with their terms and the Village is an obligated person with respect to the Street Improvement Notes within the meaning of the SEC Rule. The obligation of the Village to provide notices of the events described above will terminate if and when the Village is no longer an obligated person with respect to the Street Improvement Notes.

Section 10. Financing Costs. The Village retains the professional services and authorizes the payment of the Financing Costs for the Street Improvement Notes, as provided in this Section 10.

(a) Bond Counsel. The Village retains the legal services of Roetzel & Andress, A Legal Professional Association, as bond counsel for the Street Improvement Notes. The legal services will be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Street Improvement Notes and rendering legal opinions upon the delivery of the Street Improvement Notes. Bond counsel must render those services to the Village in an attorney-client relationship. Bond counsel must be paid just and reasonable compensation for those legal services.



(b) Original Purchaser. This Council authorizes and directs the Fiscal Officer to select the Original Purchaser of the Street Improvement Notes in the Certificate of Award. The Original Purchaser will be paid for services in accordance with any Purchase Agreement or, if there is no Purchase Agreement, in accordance with its proposal as accepted by the Fiscal Officer in the Certificate of Award.

(c) Paying Agent. This Council authorizes and directs the Fiscal Officer to appoint a Paying Agent for the Street Improvement Notes. The Paying Agent must be a bank or trust company, may be the same entity serving as Registrar, and may provide its paying agency services under the terms of its Registrar Agreement or under a separate paying agency agreement. The Village retains the services of the Paying Agent for the Street Improvement Notes. The Paying Agent must be compensated for those services in accordance with any paying agency agreement or Registrar Agreement. Alternately, the Fiscal Officer may serve as Paying Agent for the Street Improvement Notes. The Paying Agent must be designated in the Certificate of Award.

(d) Registrar. This Council authorizes and directs the Fiscal Officer to appoint a Registrar for the Street Improvement Notes. The Registrar must be a financial institution able to complete transfer and exchange functions for the Street Improvement Notes in accordance with standards and conditions applicable to registered corporate securities. The Village retains the services of the Registrar for the Street Improvement Notes. The Registrar must perform the services as registrar, authenticating agent, paying agent, and transfer agent for the Street Improvement Notes as provided in this ordinance and any Registrar Agreement. The Registrar must be paid for those services in accordance with the Registrar Agreement. Alternately, the Fiscal Officer may serve as Registrar for the Street Improvement Notes. The Registrar must be designated in the Certificate of Award.

(e) Issuer's Counsel. The Village retains the legal services of DiCaudo, Pitchford & Yoder LLC as issuer's counsel the Street Improvement Notes. The legal services will be in the nature of legal advice and recommendations as to the documents in connection with the issuance and sale of the Street Improvement Notes. Issuer's counsel must render those services to the Village in an attorney-client relationship. Issuer's counsel must be paid just and reasonable compensation for those legal services.

(f) Ratings and Credit Enhancement. If, in the judgment of the Fiscal Officer, the filing of an application for (1) a rating on the Street Improvement Notes by one or more nationally recognized statistical rating organizations, or (2) a policy of insurance or other credit enhancement to better assure the payment of principal of and interest on the Street Improvement Notes, is in the best interest of and financially advantageous to the Village, the Fiscal Officer must prepare and submit those applications and provide to each of those rating agencies or insurance or other credit enhancement providers the information required for the purpose. This Council further authorizes the fees for those ratings and the premiums for the insurance or the fees for such credit enhancement programs to be included in Financing Costs authorized under (i) below.

(g) Financial Adviser. This Council retains the services of ACI Financial Advisors, LLC as financial adviser for the Street Improvement Notes. The financial adviser will be paid for those services in accordance with its letter of engagement. This Council authorizes the fees for the financial adviser's services to be included in the Financing Costs authorized under (i) below.

(h) Limits on Authority of Service Providers. In rendering the services described above, as independent contractors, those service providers must not exercise any administrative discretion on behalf of the Village in the formulation of public policy; expenditure of public funds; enforcement of laws, rules, and regulations of the State of Ohio, the Village, or any other political subdivision; or the execution of public trusts.

(i) Payment of Financing Costs. This Council authorizes and approves the expenditure of the amounts necessary to pay those Financing Costs specifically authorized above and all other necessary Financing Costs in connection with the issuance and sale of the Street Improvement Notes. Those Financing Costs may be paid by the Original Purchaser. To the extent they are not paid by the Original Purchaser, this Council authorizes and directs the Fiscal Officer to provide for the payment of those Financing Costs from the proceeds of the Street Improvement Notes to the extent available and, otherwise, from any other funds lawfully available and appropriated for the purpose.

Section 11. Use of Proceeds. The proceeds from the sale of the Street Improvement Notes must be deposited and used as provided in this Section 11.

(a) Any accrued interest or premium received on the sale of the Street Improvement Notes must be deposited in the Bond Retirement Fund of the Village and be used for the payment of interest on the Street Improvement Notes at their maturity.

(b) The remainder of the proceeds must be paid into the proper fund or funds and used for the payment of any Financing Costs of the Notes to the extent that those Financing Costs are not paid by the Original Purchaser and to the extent that the Fiscal Officer determines to pay those Financing Costs from the proceeds of the Street Improvement Notes.

(c) The remainder of the proceeds must be paid into the proper fund or funds and used for the payment of the costs of the Project.

Section 12. Security and Source of Payment. The Street Improvement Notes will be general obligations of the Village.

(a) This Council pledges to the payment of Debt Service Charges on the Street Improvement Notes the full faith and credit of the Village including, without limitation:

(1) The general taxing power of the Village, including the power to levy taxes within the Ten-mill Limitation.

(2) Any money remaining from the sale of the Street Improvement Notes after the payment of accrued interest or premium and the Financing Costs of the Street Improvement Notes and not required to refund the Street Improvement Notes.

(b) The Debt Service Charges on the Street Improvement Notes must be paid at their maturity from any of the amounts set forth above pledged to their payment, or any funds of the Village otherwise available for their payment.

(c) During the years while the Street Improvement Notes are outstanding, there will be levied on all the taxable property in the Village, in addition to all other taxes, a direct tax annually, subject to the Ten-mill Limitation, in an amount sufficient to pay Debt Service Charges on the Street Improvement Notes when due. The tax will be not less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution. The tax must be and is ordered to be computed, certified, levied, and extended upon the tax list and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of those years are computed, certified, levied, extended, and collected. The tax must be placed before and in preference to all other items and for its full amount. The money derived from that tax levy must be placed in the Bond Retirement Fund of the Village and is irrevocably pledged for the payment of the Debt Service Charges on the Street Improvement Notes, when and as that Debt Service Charges falls due. In each year to the extent proceeds from the Village's municipal income tax are available for the payment of Debt Service Charges on the Street Improvement Notes and Bonds and are appropriated for the purpose, the amount of the tax shall be reduced by the amount of the income so available and appropriated. The Village hereby covenants that it will appropriate annually from municipal income taxes, and shall continue to levy and collect those municipal income taxes, in the amounts required to pay the principal of and interest on the Street Improvement Notes and Bonds when and as the same shall fall due. Additionally, if any of the following amounts are available for the payment of the Street Improvement Notes and are appropriated for that purpose, the amount of the tax levy in each year must be reduced by the amount available and appropriated:

(1) Any surplus in the Bond Retirement Fund.

(2) Proceeds received from the sale of any bonds issued to refund the Street Improvement Notes.

(3) Any other money lawfully available to the Village.

Section 13. Federal Tax Matters. The Village covenants that it will take those actions required to maintain the Federal Tax Status of the Street Improvement Notes and that it will not take or permit to be taken any actions that would adversely affect that Federal Tax Status. Without limiting these covenants, the Village specifically covenants as follows:

(a) Private Activity Bonds. The Village will apply the proceeds received from the sale of that portion of the Street Improvement Notes to those uses described in

Section 11. The Village will not secure or derive the money for payment of Debt Service Charges on that portion of the Street Improvement Notes by any property or payments, and will not loan the proceeds of that portion of the Street Improvement Notes to any person, all in a manner as to cause that portion of the Street Improvement Notes to be "private activity bonds" within the meaning of Code Section 141(a).

(b) Arbitrage. The Village will restrict the use of proceeds of that portion of the Street Improvement Notes in the manner and to the extent as may be necessary, after taking into account reasonable expectations at the time of the delivery of and payment for the Street Improvement Notes, so that that portion of the Street Improvement Notes will not constitute "arbitrage bonds" within the meaning of Code Section 148. The Fiscal Officer or any other official having responsibility for issuing the Street Improvement Notes, is authorized and directed, alone or in conjunction with any other officer, employee, or consultant of the Village, to sign and deliver a certificate of the Village, for inclusion in the transcript of proceedings for the Street Improvement Notes, setting forth the reasonable expectations of the Village on the Closing Date, regarding the amount and use of the proceeds of that portion of the Street Improvement Notes in accordance with Code Section 148. If required, the Village will limit the yield on any "investment property" (as defined in Code Section 148(b)(2)) acquired with the proceeds of that portion of the Street Improvement Notes.

(c) Arbitrage Rebate. Unless the gross proceeds of that portion of the Street Improvement Notes are expended in accordance with one of the spending period exceptions set forth in Treas. Reg. Section 1.148-7, the Village will pay the amounts required by Code Section 148(f)(2) to the United States at the times required by Code Section 148(f)(3). The Village will maintain the books and records and make the calculations and reports that are required to comply with the Code's arbitrage rebate requirements.

(d) Federal Guarantee. The Village will not make loans of the proceeds of that portion of the Street Improvement Notes, or invest the proceeds of that portion of the Street Improvement Notes in a manner as to cause that portion of the Street Improvement Notes to be "federally guaranteed" within the meaning of Code Section 149(b).

(e) Information Reporting. This Council authorizes and directs the Fiscal Officer or any other official of the Village having responsibility for issuing the Street Improvement Notes to sign and file a Form 8038-G for that portion of the Street Improvement Notes with the Internal Revenue Service.

Section 14. Signing and Delivery of Street Improvement Notes and Documents. This Council authorizes and directs the Mayor and the Fiscal Officer, or the persons designated to sign in their absence, to sign and deliver the Street Improvement Notes in accordance with Section 6 of this ordinance. This Council authorizes and directs the Mayor and the Fiscal Officer, or either of them, to sign and approve a preliminary official statement, a final official statement, and supplements and amendments to both in accordance with Section 9 of this ordinance.

(a) This Council authorizes and directs the Fiscal Officer to sign and deliver, on behalf of the Village:

(1) The Certificate of Award.

(2) Any Registrar Agreement.

(3) Any Purchase Agreement.

(4) Any paying agency agreement.

(5) Any agreements or letters of representation in connection with a book-entry system for the Street Improvement Notes.

(6) Applications for and agreements in connection with obtaining a policy of municipal bond insurance for the Street Improvement Notes.

(7) Applications for and agreements in connection with obtaining one or more ratings for the Street Improvement Notes.

(b) This Council authorizes and directs the Fiscal Officer to sign and deliver, on behalf of the Village, in her capacity as fiscal officer of the Village, any certificates required under Section 5705.41, Revised Code, for any of the agreements in connection with the Street Improvement Notes.

(c) This Council authorizes and directs the Mayor, the Solicitor, the Fiscal Officer, the President of Council and any other Village officials:

(1) to sign and deliver any certificates, instruments, and other documents that the official considers necessary or appropriate in connection with the issuance and sale of the Street Improvement Notes and that are not inconsistent with this ordinance; and

(2) to take any actions as are necessary or appropriate to consummate the transactions contemplated by this ordinance.

(d) The Standby Note Purchase Agreement is hereby authorized in the form presented to the Council with such changes not materially adverse to the Village as may be approved by the officers of the Village executing the Standby Note Purchase Agreement. The Village acknowledges the agreement of the Treasurer in the Standby Note Purchase Agreement that, in the event the Village is unable to repay the principal amount and accrued and unpaid interest of the Street Improvement Notes at their maturity, whether through its own funds or through the issuance of other obligations of the Village, the Treasurer agrees (a) to purchase the Street Improvement Notes from the Holders or beneficial owners thereof upon their presentation to the Treasurer for such purchase at a price of par plus accrued interest to maturity or (b) to purchase renewal notes of the Village in a principal amount not greater than the principal amount of the Notes

plus interest due at maturity, with such renewal notes bearing interest at a rate equal to 1-year MMD AAA plus 400 basis points, maturing not more than one year after the date of their issuance, and being prepayable at any time with 30 days' notice, provided that in connection with the Treasurer's purchase of such renewal notes the Village shall deliver to the Treasurer an unqualified opinion of nationally recognized bond counsel that (i) such renewal notes are the legal, valid and binding general obligations of the Village, and the principal of and interest on such renewal notes, unless paid from other sources, are to be paid from the proceeds of the levy of ad valorem taxes within the ten-mill limitation imposed by law on all property subject to ad valorem taxes levied by the Village and (ii) interest on the renewal notes is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code as amended to the same extent that interest on the Notes is so excluded.

The officers signing the Street Improvement Notes are authorized to take all actions that may in their judgment reasonably be necessary to provide for the Standby Note Purchase Agreement, including but not limited to the inclusion of a notation on the form of the Street Improvement Notes providing notice to the Holders or beneficial owners of the existence of such Standby Note Purchase Agreement and providing instructions to such Holders or beneficial owners regarding the presentation of the Street Improvement Notes for purchase by the Treasurer at stated maturity.

Section 15. Certification to County Fiscal Officer. This Council directs the Fiscal Officer to forward a certified copy of this ordinance and a copy of the Certificate of Award to the County Fiscal Officer.

Section 16. Emergency and Effective Date. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, welfare, and safety of the Village and for the further reason that the Street Improvement Notes must be sold promptly in order to pay the costs of the Project; wherefore, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest period allowed by law.

PASSED:

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BILL GONCY, Mayor

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Council for the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Ordinance **2014-4-13** was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this 13th day of May, 2014.

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BETTY KLINGENBERG, FISCAL OFFICER

VILLAGE OF BOSTON HEIGHTS  
ORDINANCE NO: 2014-5-14  
FIRST READING / **ADOPTED**

**ORDINANCE REGARDING COMPENSATION FOR EMPLOYEES OF THE VILLAGE  
OF BOSTON HEIGHTS, AND DECLARING AN EMERGENCY**

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

Section 1: Department head employees shall be by Ordinance, approved by the  
Council of the Village of Boston Heights.

Section 2: Pay levels are established job classifications as outlined in this Ordinance.  
Job descriptions for each position shall be found in the Fiscal Office and/or the individual  
departments and shall be given to each applicable employee for their records,

Section 3: Except as otherwise provided herein, by law, or act of Village Council,  
employees shall:

1. Read and sign the Employee Booklet (Ordinance #2013-12-30);
2. Read and sign the Job Description (Ordinance # \_\_\_\_\_ )
3. Time cards shall reflect the start and end time of actual hours worked.

Section 4: All employees shall be compensated as outlined in this section and will  
have a performance evaluation to determine any increase in hourly rate. All increases in pay shall  
be scheduled the first day of the next pay period.

Section 5: The job classifications and pay range per hour are as follows:

A. FISCAL OFFICE:

FISCAL OFFICER: The rate of pay for the Fiscal Officer for the Village of  
Boston Heights shall be as noted in the following range and determined by the  
Mayor:

\$19.00 - \$25.00

ASSISTANT FISCAL OFFICER: The rate of pay for the Assistant Fiscal Officer  
for the Village of Boston Heights shall be as noted in the following rate and  
determined by the Mayor:

\$12.50 - \$17.00

B. MAYOR'S CLERK OF COURTS:

CLERK OF COURTS: The rate of pay for the Clerk of Courts for the Village of Boston Heights shall be as noted in the following rate and determined by the Mayor:

\$19.00 - \$25.00

ASSISTANT CLERK OF COURTS: The rate of pay for the Assistant Clerk of Courts for the Village of Boston Heights shall be as noted in the following rate and determined by the Mayor:

\$12.50 -17.00

C. MAYOR'S CLERK: The rate of pay for the Mayor's Clerk for the Village of Boston Heights Boston Heights shall be as noted in the following rate and determined by the Mayor:

\$12.50 - \$20.00

D. POLICE DEPARTMENT:

CHIEF OF POLICE: The rate of pay for the Chief of Police for the Village of Boston Heights shall be as noted in the following rate and determined by the Mayor:

\$28.00 - \$35.00

LIEUTENANT: The rate of pay for the Lieutenant for the Village of Boston Heights shall be as noted in the following rate and determined by the Mayor:

\$25.00 - \$28.00

SERGEANT: The rate of pay for the Sergeant for the Village of Boston Heights shall be as noted in the following rate and determined by the Mayor:

\$23.00 - \$26.00

POLICE OFFICER (FULL TIME): The rate of pay for full time police officers for the Village of Boston Heights shall be as noted in the following rate and determined by the Mayor:

\$20.00 - \$23.00



**PART TIME POLICE OFFICER:** The rate of pay for the Part Time Police Officer after completion of the Training Period for the Village of Boston Heights shall be as noted in the following rate and determined by the Mayor:

\$13.00 - \$14.00

**PERMANENT PART TIME POLICE OFFICER:** The rate of pay for the Permanent Part Time Police after completion of the above-mentioned steps, for the Village of Boston Heights shall be noted in the following rate and determined by the Mayor:

\$14.50 - \$16.50

**AUXILIARY POLICE OFFICER (PART TIME):** The rate of pay for the Auxiliary Police Officer (Part Time) during the training period for the Village of Boston Heights shall be as noted in the following rate and determined by the Mayor:

\$12.00

All members of the Police Department shall be compensated two (2) hours of work time for "court time" when not on the normal schedule to work for the Police Department.

All members of the Police Department shall be compensated up to twenty (20) hours per year of work time (straight time) for attendance at any required training sessions within the Police Department when not on the normal schedule to work for the Police Department.

**E. SERVICE DEPARTMENT:**

**SERVICE SUPERINTENDENT:** The rate of pay for the Service Superintendent for the Village of Boston Heights shall be as noted in the following rate and determined by the Mayor:

\$20.00 - \$25.00

**SERVICE FOREMAN:** The rate of pay for the Service Foreman for the Village of Boston Heights shall be as noted in the following rate and determined by the Mayor:

\$15.00 - \$20.00

**CDL TRUCK DRIVER/LABORER:** The rate of pay for the CDL Truck Driver/Laborer for the Village of Boston Heights shall be as noted in the following rate and determined by the Mayor:

\$14.00 - \$18.00

NON-CDL TRUCK DRIVER: The rate of pay for the Non-CDL Truck Driver for the Village of Boston Heights shall be as noted in the following rate and determined by the Mayor:

\$12.50 - \$14.00

CASUAL LABORER (PART TIME AND/OR SEASONAL): The rate of pay for the Casual Laborer (part time and/or seasonal) for the Village of Boston Heights shall be as noted in the following rate and determined by the Mayor:

\$11.00 - \$14.00

CDL TRUCK DRIVER/LABORER (PART TIME): The rate of pay for the CDL Truck Driver/Laborer (Part Time) for the Village of Boston Heights shall be as noted in the following rate and determined by the Mayor:

\$12.50 - \$16.00

MECHANIC (PART TIME): The rate of pay for the Mechanic (Part Time) for the Village of Boston Heights shall be as noted in the following rate and determined by the Mayor:

\$12.50 - \$16.00

F. MATTHEWS THOMAS PARK:

PARK MANAGER: The rate of pay for the Park Manager for the Village of Boston Heights shall be as noted in the following rate and determined by the Mayor:

\$5,000 per season

HEAD LIFEGUARD: The rate of pay for the Senior Life Guard for the Village of Boston Heights shall be as noted in the following rate and determined by the Mayor:

\$13.00 - \$15.00

SENIOR LIFEGUARD: The rate of pay for the Senior Life Guard for the Village of Boston Heights shall be as noted in the following rate and determined by the Mayor:

\$10.50 - \$13.00

LIFEGUARD: The rate of pay for the Life Guard for the Village of Boston Heights shall be as noted in the following rate and determined by the Mayor:

\$9.00 - \$10.50

Section 5: This Ordinance shall be effective and shall take effect June 30, 2014, and/or at any time amendments become necessary.

Section 6: That all Resolutions and Ordinances which are in conflict with this Ordinance are hereby replaced and/or amended.

Section 7: That this Council hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meetings 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 8: That this Ordinance is hereby declared to be an emergence measure necessary for the immediate preservation of 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 on July 1, 2014, and pay increases will be effective on the first day of the following pay period, and at any time amendments become necessary.

PASSED:

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BILL GONCY, Mayor

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Council for the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Ordinance **2014-5-14** was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this 13th day of May, 2014.

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BETTY KLINGENBERG, FISCAL OFFICER

VILLAGE OF BOSTON HEIGHTS  
ORDINANCE NO: 2014-5-15  
FIRST READING / **ADOPTED**

**AN ORDINANCE APPROVING THE EDITING AND INCLUSION OF CERTAIN  
ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE  
CODIFIED ORDINANCES OF BOSTON HEIGHTS, OHIO AND DECLARING AN  
EMERGENCY**

WHEREAS, various ordinances of a general and permanent/nature have been passed which should be included in the Codified Ordinances of Boston Heights, Ohio; and,

WHEREAS, numerous sections of the Traffic and General Offenses Codes need to be amended or enacted so as to conform to enactments of the Ohio General Assembly; and,

WHEREAS, Council has entered into a contract with the Walter H. Drane Company to prepare and publish such revisions which are now before Council.

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

Section 1: That the editing, arrangement and numbering or renumbering of the following ordinances and parts of ordinances are hereby approved as parts of the various component codes of the Codified Ordinances of Boston Heights, Ohio, so as to conform to the classification and numbering system of the Codified Ordinances, to-wit:

Ord. No.                      Date                      C.O. Section

**MORE TO BE ADDED HERE** [listed by amendment, tbd]

Section 2: The following sections of thfe Traffic and General Offenses Codes, as amended, are hereby approved and adopted as amended or enacted so as to conform to the enactments of the Ohio General Assembly:

Traffic Code

<u>Code Sec.</u>	<u>ORC Sec.</u>	
301.031	4511.01(KKK) 4511.01(LLL)	Beacon; Hybrid Beacon. (Added)
301.04	4511.01(G)	Bicycle. (Amended)
301.161	4511.01(QQQ)	Highway Maintenance Vehicle. (Added)
301.162	4511.01(MMM)	Highway Traffic Signal. (Added)
301.17	4511.01(KK)	Intersection. (Amended)
301.181	4511.01(NNN)	Median. (Added)
301.26(b)	4511.01(OOO)	Private Road or Driveway. (Added)
301.361	4511.01(PPP)	Shared-Use Path. (Added)
301.45	4511.01(TT)	Traffic (Amended).
301.46	4511.01(QQ)	Traffic Control Device. (Amended)
301.47	4511.01(RR)	Traffic Control Signal. (Amended)
301.51	4511.01(A)	Vehicle. (Amended)

303.041 4511.041 Emergency, Public Safety and Coroner's Vehicles Exempt.  
 (Amended)  
 313.03 4511.13 Traffic Signal Indications. (Amended)

Traffic Code (Cont'd)

Code Sec. ORC Sec.  
 333.01 4511.19, 4511.193 Driving or Physical Control While Under the Influence.  
 (Amended)  
 333.03 4511.21 Maximum Speed Limits. (Amended)  
 333.031 4511.213 Approaching a Stationary Public Safety, Emergency or  
 Road Service Vehicle. (Amended)  
 337.16 4513.17 Number of Lights; Limitations on Flashing. (Amended)  
 341.01 4506.01 Commercial Vehicle Definitions. (Amended)  
 341.03 4506.03 Prerequisites to Pperation of a Commercial Motor Vehicle.  
 (Amended)  
 351.04 4511.69 Parking Near Curb; Handicapped Parking. (Amended)

General Offenses Code

Code Sec. ORC Sec.  
 501.01 2901.01 Definitions. (Amended)  
 501.02 2901.02 Classification of Offenses. (Amended)  
 505.071 959.99 Cruelty to Companion Animals. (Amended)  
 517.01 2915.01 Gambling Definitions. (Amended)  
 517.02 2915.02 Gambling. (Amended)  
 517.06 2915.09 Methods of Conducting a Bingo Game. (Amended)  
 517.07 2915.091 Instant Bingo Conduct. (Amended)  
 517.08 2915.092 Raffles. (Amended)  
 517.09 2915.093 Charitable Instant Bingo Organizations. (Amended)  
 517.10 2915.094 Location of Instant Bingo. (Amended)  
 517.11 2915.10 Bingo or Game of Chance Records. (Amended)  
 517.13 2915.12 Bingo Exceptions. (Amended)  
 517.15 2915.06, 2915.061 Skill-Based Amusement Machines. (Amended)  
 525.01 2921.01 Law Enforcement and Public Office Definitions.(Amended)  
 525.02 2921.13 Falsification. (Amended)  
 525.05 2921.22 Failure to Report a Crime, Injury or Knowledge of Death.  
 (Amended)  
 529.01 4301.01 Liquor Control Definitions. (Amended)  
 529.07 4301.62, 4301.99(A) Open Container Prohibited. (Amended)  
 537.03 2903.13 Assault. (Amended)  
 537.12 128.01, 128.32,  
 128.99 Misuse of 9-1-1 System. (Amended)  
 537.16 2927.02 Illegal Distribution of Cigarettes, Other Tobacco Products  
 or Alternate Nicotine Products. (Amended)  
 537.17 2905.05 Criminal Child Enticement. (Amended)  
 545.01 2913.01 Theft and Fraud Definitions. (Amended)  
 545.05 2913.02 Petty Theft. (Amended)  
 545.18 2913.51 Receiving Stolen Property. (Amended)  
 553.03 4999.04 Duties of Locomotive Engineer. (Amended)

Section 3: That the Clerk of Council, pursuant to Ohio Revised Code Section 731.21 shall publish a succinct summary of this Ordinance which shall contain notice that the complete text of this Ordinance may be obtained or viewed, and the Codified Ordinances viewed, at the office of the Clerk of Council and may be viewed at any other location designated by Council. The solicitor shall review the summary prior to forwarding it to the Clerk for publication to ensure that the summary is legally accurate and sufficient.

Section 4: That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, welfare and safety for the reason that there exists an imperative necessity for the earliest publication and distribution of the current version of the Boston Heights Codified Ordinances to the officials and residents of the Municipality, so as to facilitate administration, daily operation and avoid legal entanglements, including conflict with general State law, and therefore shall take effect and be in force from and immediately after its passage.

PASSED:

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BILL GONCY, Mayor

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Council for the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Ordinance **2014-5-15** was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this 13th day of May, 2014.

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BETTY KLINGENBERG, FISCAL OFFICER

VILLAGE OF BOSTON HEIGHTS  
ORDINANCE NO: 2014-5-16  
FIRST READING / **ADOPTED**

**AN ORDINANCE AMENDING CHAPTER 145 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF BOSTON HEIGHTS, OHIO AND DECLARING AN EMERGENCY**

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

Section 1: That Chapter 145 of the Codified Ordinances of the Village of Boston Heights be amended and restated as set forth in the attached Exhibit "A."

Section 2: That the Clerk of Council, pursuant to Ohio Revised Code Section 731.21 shall publish a succinct summary of this Ordinance which shall contain notice that the complete text of this Ordinance may be obtained or viewed, and the Codified Ordinances viewed, at the office of the Clerk of Council and may be viewed at any other location designated by Council. The solicitor shall review the summary prior to forwarding it to the Clerk for publication to ensure that the summary is legally accurate and sufficient.

Section 3: That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, welfare and safety and to allow for the staffing of the Village's Park in sufficient time to open for Memorial Day, and, so as to facilitate the administration and daily operation of the Village's Park, and therefore shall take effect and be in force from and immediately after its passage.

PASSED:

\_\_\_\_\_  
BILL GONCY, Mayor

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Council for the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Ordinance **2014-5-16** was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this 13th day of May, 2014.

\_\_\_\_\_  
BETTY KLINGENBERG, FISCAL OFFICER

**EXHIBIT A: ORDINANCE 2014-5-16**

**EXHIBIT "A"  
CHAPTER 145  
PARK STAFF AND RECREATION ADVISORY COMMISSION**

**145.01 RECREATION ADVISORY COMMISSION.**

There is hereby created a Recreation Advisory Commission to aid and assist the members of Council in preparing and promoting the recreation program within the Municipality.

**145.02 COMMISSION MEMBERSHIP AND TERM.**

(a) The Recreation Advisory Commission shall have not more than nine members who shall be appointed by the Mayor. The terms of the Commission members shall be for a period of four years with the exception of the year 1987 in which three members of the Commission shall be appointed for a term of four years and four members of the Commission shall be appointed for a term of two years. Thereafter all members of the Commission shall be appointed for a term of four years.

(b) In the event a member may be unable to serve his or her full term, the Mayor shall appoint a person to complete that term. If the Mayor fails to make an appointment within thirty days of the vacancy, Council shall then appoint a person to complete the term of the Commission member.

(c) The Mayor and the three members of the Lands and Buildings Committee of the Council shall sit as ex-officio members of the Recreation Advisory Commission. The ex-officio members shall attend meetings and may add their input, however, they shall have no vote on the Recreation Advisory Commission.

**145.03 COMMISSION DUTIES.**

The Recreation Advisory Commission shall have the following duties:

(a) The Commission shall choose from its own group a chairperson and a recording secretary. Minutes shall be kept of each meeting and filed with the Clerk of the Village.

(b) The Commission shall meet at least once a month from March until August, and at least once every two months for the balance of the year. The first meeting of each year shall be an organizational meeting held with the Mayor and the Lands and Buildings Committee.

(c) To study and make plans for the initial development of the cultural and recreational program most beneficial to the Municipality and its inhabitants during the present year and report the results of the study to Council.

(d) It shall prepare a long-range program designed to meet such needs in the future through an orderly progression of an increasing recreational program necessary to health, education and welfare of the residents of the Municipality.



(e) The Commission shall recommend and adopt as its recommendation to Council a financial program so designed as to remain within the budget provided by Council for its annual appropriated moneys for recreational purposes. Along these lines, the Commission may make recommendations to Council relative to finances of the park and fees to be charged. However, the decision on the amount of fees to be charged to residents for use of the park and the amount of money to be spent on salaries and staff at a park is totally within the discretion of Council.

**145.04 COMMISSION EXPENSES.**

Members of the Recreation Advisory Commission shall serve without compensation but upon approval of Council, shall be compensated for any reasonable expenses incurred while serving on such Recreation Advisory Commission.

**145.05 PARK STAFF.**

(a) There is hereby created a position of Park Manager. This is a seasonal position. The Park Manager shall be appointed by the Mayor and approved by Council. The Park Manager shall recommend to the Mayor for approval any and all park staff. There shall be no residency requirement of any kind connected to the position of Park Manager.

VILLAGE OF BOSTON HEIGHTS  
RESOLUTION NO: 2014-4-22  
SECOND READING / **NO ACTION**

**RESOLUTION AUTHORIZING THE VILLAGE TO ENTER AN AGREEMENT WITH  
GREAT LAKES RECYCLING, INC. REGARDING THE COLLECTION OF SOFT  
RECYCLABLES, AUTHORIZING PAYMENT AND DECLARING AN EMERGENCY**

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

Section 1: That the Mayor is hereby authorized and directed to enter an Agreement for Collection of Soft Recyclables (the "Agreement"), in a form substantially similar to the document attached hereto as Exhibit "A."

Section 2: That the Mayor and/or Fiscal Officer are hereby authorized and directed to make payments to Great Lakes Recycling, Inc. as set forth under the Agreement, as executed.

Section 3: That the Council hereby appropriates the funds necessary for the Agreement, as executed.

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 welfare of the Village's residents and to allow for the continued operations of the Village Service Department and other departments and shall therefore take effect and be in force from and immediately after its passage.

PASSED:

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BILL GONCY, Mayor

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Council for the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Resolution **2014-4-22** was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this 13th day of May, 2014.

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BETTY KLINGENBERG, FISCAL OFFICER

**ED. NOTE: WE HAVE NOT YET RECEIVED A COPY OF THIS EXHIBIT, TO DATE**

VILLAGE OF BOSTON HEIGHTS  
RESOLUTION NO: 2014-5-28  
FIRST READING / **ADOPTED**

**A RESOLUTION APPOINTING TERRI NEFF TO THE POSITION OF ASSISTANT  
FISCAL OFFICER EFFECTIVE APRIL 14, 2014, RETROACTIVELY, AND  
DECLARING AN EMERGENCY**

WHEREAS, The Village of Boston Heights has evaluated the need for an Assistant Fiscal Officer and reviewed the qualifications of Terri Neff for such position; and

WHEREAS, the Mayor has recommended the appointment of Terri Neff as Assistant Fiscal Officer.

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

Section 1: That effective April 14, 2014, the Mayor's appointment of Terri Neff is confirmed and that she is hereby appointed and authorized to serve as the Village's Assistant Fiscal Officer pursuant to Codified Ordinance 133.012.

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: That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the Village's residents and to allow for the continued operations of the Village Fiscal Officer and other departments and shall therefore take effect and be in force from and immediately after its passage.

PASSED:

\_\_\_\_\_  
BILL GONCY, Mayor

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Council for the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Resolution **2014-5-28** was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this 13th day of May, 2014.

\_\_\_\_\_  
BETTY KLINGENBERG, FISCAL OFFICER

VILLAGE OF BOSTON HEIGHTS  
RESOLUTION NO: 2014-5-29  
FIRST READING

**A RESOLUTION APPOINTING GREG HERCIK TO THE POSITION OF ASSISTANT  
CLERK OF COURTS EFFECTIVE 5-13-2014 AND DECLARING AN EMERGENCY**

**ED. NOTE: WE HAVE NOT YET RECEIVED A COPY OF THIS LEGISLATION, TO DATE**

PASSED:

\_\_\_\_\_  
BILL GONCY, Mayor

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Council for the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Resolution **2014-5-29** was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this 13th day of May, 2014.

\_\_\_\_\_  
BETTY KLINGENBERG, FISCAL OFFICER

VILLAGE OF BOSTON HEIGHTS  
RESOLUTION NO: 2014-5-30  
FIRST READING

**A RESOLUTION ON A RENEWAL OF A TAX LEVY EXCEEDING THE TEN (10) MILL LIMITATION FOR THE PURPOSES OF PROVIDING AND MAINTAINING FIRE APPARATUS, APPLIANCES, BUILDINGS, AND SITES (O.R.C.5705.19(D)) AND DECLARING AN EMERGENCY**

NOW THEREFORE, BE IT RESOLVED by the Council of the Village of Boston Heights, Summit County, Ohio, two-thirds (2/3) of all members concurring as follows:

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 providing and maintaining fire apparatus, appliances, buildings and sites (O.R.C. 5705.19(1)).

Section 2: The proposed levy is a renewal of the 50 of the ten mill limitation. Pursuant to O.R.C. 5705.03 on April 29, 2014, 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 \$33,796 calculated at a tax of .50 mills for each dollar of valuation, which amounts to Five Cents (\$.05) for each One Hundred Dollars (\$100.00) of valuation.

Section 3: The levy shall remain in effect for five 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 4, 2014. A majority shall be needed for passage.

Section 5: The levy shall be placed on the tax list beginning in 2015 for the first collection in 2016, if the electors voting on it approve the levy as provided by law.

Section 6: The Fiscal Officer of the Village of Boston Heights shall certify a copy of this Resolution to the Board of Elections of the County of Summit no later than June 1, 2014.

Section 7: 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 8: That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare, to allow the timely submission of this Resolution to the Summit County Board of Elections to comply with the requirements of the Ohio Revised Code regarding the levying of taxes outside the 10 mill limitation, and to allow for the continued operations of the Village departments and shall therefore take effect and be in force from and immediately after its passage.

PASSED:

\_\_\_\_\_  
BILL GONCY, Mayor

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Council for the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Resolution **2014-5-30** was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this 13th day of May, 2014.

\_\_\_\_\_  
BETTY KLINGENBERG, FISCAL OFFICER

VILLAGE OF BOSTON HEIGHTS  
RESOLUTION NO: 2014-5-31  
FIRST READING

**A RESOLUTION AUTHORIZING THE APPROVAL AND ADOPTION OF THE  
SUMMIT COUNTY HAZARD MITIGATION PLAN FOR THE VILLAGE OF BOSTON  
HEIGHTS AND DECLARING AN EMERGENCY**

WHEREAS, the Federal Emergency Management Agency ("FEMA") has established rules and regulations under 44 CFR part 201.6, as authorized by the Disaster Mitigation Act of 2000, requiring that local governments have a mitigation plan ("Plan") approved pursuant to the aforementioned section in order to receive Hazard Mitigation Grant Program ("HMGP") grants; and,

WHEREAS, the Summit County Emergency Management Agency ("SCEMA") is responsible to update the Plan every five years, and has updated the same; and,

WHEREAS, after update by SCEMA, the updated Plan was reviewed by local agencies such as AMATS, police and fire chiefs, and the County Engineer, and was ultimately approved by the Summit County Emergency Management Executive Committee; and,

WHEREAS, the updated Plan was forwarded by Ohio Emergency Management Agency ("OEMA"), and subsequently forwarded by FEMA, and approved by each agency; and

WHEREAS, the updated Plan must now be adopted by this Council.

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

Section 1: The Summit County Hazard Mitigation Plan for calendar year 2014, which was adopted by Summit County Council on February 11, 2014, is hereby approved and adopted by this Council for the use and benefit of the Village of Boston Heights, Ohio.

Section 2: This Council finds and determines, after reviewing all pertinent information, that it is necessary and in the best interest of the Village of Boston Heights to approve and adopt the aforementioned mitigation plan.

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



Section 4: That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare, and to allow for the continued operations of the Village Police Department, the Village Engineer's office and other Village departments and shall therefore take effect and be in force from and immediately after its passage.

PASSED:

\_\_\_\_\_  
BILL GONCY, Mayor

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Council for the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Resolution **2014-5-31** was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this 13th day of May, 2014.

\_\_\_\_\_  
BETTY KLINGENBERG, FISCAL OFFICER

VILLAGE OF BOSTON HEIGHTS  
RESOLUTION NO: 2014-5-32  
FIRST READING

**A RESOLUTION AUTHORIZING THE VILLAGE TO ENTER INTO AN  
AGREEMENT WITH CHARLES E. HARRIS & ASSOCIATES, AN INDEPENDENT  
PUBLIC ACCOUNTING FIRM, AND DECLARING AN EMERGENCY**

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

Section 1: That the Mayor is hereby authorized and directed to enter a Memorandum of Agreement with Charles E. Harris & Associates, an independent public accounting firm, (the "Agreement"), in a form substantially similar to the document attached hereto as Exhibit "A."

Section 2: That the Mayor and/or Fiscal Officer are hereby authorized and directed to make payments to Charles E. Harris & Associates as set forth under the Agreement, as executed.

Section 3: That the Council hereby appropriates the funds necessary for the Agreement, as executed.

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 welfare of the Village's residents and to allow for the continued operations of the Village Fiscal Office Department and mother departments and shall therefore take effect and be in force from and immediately after its passage.

PASSED:

\_\_\_\_\_  
BILL GONCY, Mayor

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Council for the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Resolution **2014-5-32** was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this 13th day of May, 2014.

\_\_\_\_\_  
BETTY KLINGENBERG, FISCAL OFFICER

**ED. NOTE: WE HAVE NOT YET RECEIVED A COPY OF THIS EXHIBIT, TO DATE**

VILLAGE OF BOSTON HEIGHTS  
RESOLUTION NO: 2014-5-33  
FIRST READING

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT  
WITH KROCK ESSER ENGINEERING, INC., AN INDEPENDENT ENGINEERING  
COMPANY, AND DECLARING AN EMERGENCY**

PASSED:

\_\_\_\_\_  
BILL GONCY, Mayor

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Council for the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Resolution **2014-5-33** was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this 13th day of May, 2014.

\_\_\_\_\_  
BETTY KLINGENBERG, FISCAL OFFICER

**ED. NOTE: WE HAVE NOT YET RECEIVED A COPY OF THIS EXHIBIT, TO DATE**

VILLAGE OF BOSTON HEIGHTS  
RESOLUTION NO: 2014-5-34  
FIRST READING

**A RESOLUTION AUTHORIZING PARTICIPATION IN THE SUMMIT COUNTY BID  
PROCESS AND DECLARING AN EMERGENCY**

**ED. NOTE: WE HAVE NOT YET RECEIVED A COPY OF THIS LEGISLATION, TO DATE**

PASSED:

\_\_\_\_\_  
BILL GONCY, Mayor

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Council for the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Resolution **2014-5-34** was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this 13th day of May, 2014.

\_\_\_\_\_  
BETTY KLINGENBERG, FISCAL OFFICER

VILLAGE OF BOSTON HEIGHTS  
RESOLUTION NO: 2014-5-35  
FIRST READING

**A RESOLUTION: CARDINAL ASPHALT AKRON/PENINSULA ROAD AND  
DECLARING AN EMERGENCY**

**ED. NOTE: WE HAVE NOT YET RECEIVED A COPY OF THIS LEGISLATION, TO DATE**

PASSED:

\_\_\_\_\_  
BILL GONCY, Mayor

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Council for the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Resolution **2014-5-35** was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this 13th day of May, 2014.

\_\_\_\_\_  
BETTY KLINGENBERG, FISCAL OFFICER

VILLAGE OF BOSTON HEIGHTS  
RESOLUTION NO: 2014-5-36  
FIRST READING

**A RESOLUTION AUTHORIZING A CHANGE ORDER FOR LOCKHART  
CONCRETE AND DECLARING AN EMERGENCY**

**ED. NOTE: WE HAVE NOT YET RECEIVED A COPY OF THIS LEGISLATION, TO DATE**

PASSED:

\_\_\_\_\_  
BILL GONCY, Mayor

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Council for the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Resolution **2014-5-36** was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this 13th day of May, 2014.

\_\_\_\_\_  
BETTY KLINGENBERG, FISCAL OFFICER



VILLAGE OF BOSTON HEIGHTS  
RESOLUTION NO: 2014-5-37  
FIRST READING

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT  
WITH THE OHIO DEVELOPMENT SERVICES AGENCY AND DECLARING AN  
EMERGENCY**

WHEREAS, the Ohio Development Services Agency has awarded a grant to the Village of Boston Heights, Summit County, Ohio; and,

WHEREAS, it is necessary that the Grant Agreement for SBIG20141132 be executed by the Mayor within thirty days of the award by the Ohio Development Services Agency.

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

Section 1: That the Mayor is hereby authorized to execute Grant Agreement SBIG20141132, attached hereto as Exhibit "A", to secure the grant awarded by the Ohio Development Services Agency to the Milage of Boston Heights.

Section 2: That the Mayor and Fiscal Officer are hereby authorized and directed to execute all necessary paperwork to fulfill the requirements of the Grant Agreement attached hereto as Exhibit "A", including, but not limited to the execution of said Agreement.

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

Section 4: 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 timely submission of the required application, as well as the continued operations of the Village Service Department, the Village Engineer's office and other departments and shall therefore take effect and be in force from and immediately after its passage.

PASSED:

\_\_\_\_\_  
BILL GONCY, Mayor

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Council for the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Resolution **2014-5-37** was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this 13th day of May, 2014.

\_\_\_\_\_  
BETTY KLINGENBERG, FISCAL OFFICER

# Ohio Development Services Agency

John R. Kasich, Governor

David Goodman, Director

## GRANT AGREEMENT

<b>Grantee:</b>	Village of Boston Heights	<b>Grant Control No.:</b>	SBIG20141132
<b>Project Site Address:</b>	105 E. Hines Hill Road, Boston Heights, OH 44236		
<b>Project Local Jurisdiction:</b>	Boston Heights, Village of	<b>Effective Date:</b>	5/5/2014
<b>Project County:</b>	Summit	<b>Metric Evaluation Date:</b>	12/31/2018
<b>Grant Funds:</b>	\$350,000.00	<b>End Date:</b>	12/31/2018
<b>Project Contact</b>			
<b>Grantee Contact:</b>	Marshal Pitchford	<b>Title:</b>	Consultant
<b>Address:</b>	45 E. Boston Mills Road	<b>State:</b>	OH
<b>Email Address:</b>	mpitchford@dpylaw.com	<b>Zip:</b>	44236
<b>Phone Number:</b>	(330) 650-4111	<b>FAX Number:</b>	-----

This Grant Agreement (the "**Agreement**") is made and entered into by and between the **State of Ohio, Development Services Agency ("Grantor")** and **Grantee** to set forth the terms and conditions upon which Grantor will provide financial assistance to Grantee and Grantee will use the financial assistance for costs associated with public roadwork improvements in support of the Village of Boston Heights at the Project Site listed above (the "**Project**"). This Agreement incorporates by reference the "**Scope of Work**," which is attached as Exhibit I.

### 1. Project Funding.

(a) State Grant. Grantor hereby grants to Grantee funds in the aggregate amount of Grant Funds listed in the table above (the "Grant Funds") to be used for the sole and express purpose of undertaking and completing the Project. Grantee shall undertake and complete the Project substantially as described in Exhibit I. Grantee may not use the Grant Funds for any purpose other than completion of the Project.

(b) Availability of Other Funds. It is a condition to the award of Grant Funds that Grantee provides additional funds from other sources to pay Project costs in excess of the Grant Funds. Grantee represents and warrants to Grantor that Grantee has obtained such additional funds or that Grantee has a binding commitment for such additional funds and, with the exercise of reasonable diligence, will have obtained such additional funds no later than the time such funds will be required to pay Project costs as and when such costs are incurred and payable. No Grant Funds will be disbursed to reimburse Project costs.

## EXHIBIT A: RESOLUTION 2014-5-37

(c) **Budget Reductions.** Grantee acknowledges that Grantor is subject to State of Ohio budgetary constraints that could result in the reduction of the amount Grant Funds provided under this Agreement. Should Grantor's funding levels be reduced, Grantor shall notify Grantee in writing of the extent of any reduction to the Grant Funds and reduce Grantee's commitments in a manner corresponding to the reduction of Grant Funds and such notice shall result in the Agreement being amended without further action by the parties.

Grantee hereby revocably authorizes Grantor to reduce the amount of Grant Funds provided under this Agreement upon written notice to Grantee provided there is a corresponding reduction in commitments outlined on page 1 of this Agreement.

(d) **Subsequent Increase.** In cases where there is a reduction of Grant Funds and Grantor provides the written notice in accordance with Section 1(c) above, but subsequently additional funds become available to Grantor to increase the amount of Grant Funds to be provided to Grantee, Grantor shall notify Grantee in writing, but any such increase shall require mutual agreement of the parties which shall be reflected in an Amendment signed in accordance with Section 14(e) of this Agreement.

**2. Payment of Grant Funds.** Grantor shall disburse the Grant Funds on a reimbursement basis. Grantee shall submit to Grantor for review and approval requests for reimbursement detailing expenditures which have then been incurred by Grantee in accordance with the Project budget included in Exhibit I. The payment of the requests for reimbursement shall be based upon 12% reimbursement of the actual eligible Project costs. Travel expenses will not be costs eligible for reimbursement with Grant Funds. Grantor shall be the sole judge of the adequacy of reimbursement requests. All expenses to be reimbursed with Grant Funds shall be supported by contracts, invoices, vouchers, paid receipts and other documentation as appropriate to evidence the costs incurred by Grantee to perform the work described in Exhibit I. Grantee shall submit to Grantor such documentation necessary to substantiate a reimbursement request.

**3. Grant Funds Not Expended.** If the Grant Funds are not expended by Grantee in accordance with the terms and conditions of this Agreement or within the time period set forth in this Agreement, the award of the Grant Funds shall cease and Grantor shall have no further obligation to disburse the Grant Funds. Grantor shall also have no obligation to disburse any amount of the Grant Funds that exceeds the eligible costs of the Project actually incurred by Grantee. If Grant Funds have been paid to Grantee and Grantor determines that Grantee has not performed in accordance with the terms and conditions of this Agreement, Grantee shall return such improperly expended Grant Funds within 30 days after demand by Grantor. In the event that Grantee does not submit any requests for reimbursement by the End Date (as such date may be extended as provided in Section 4) and/or the Project is affirmatively abandoned by Grantee, this Agreement shall be null and void without any further action by the parties and neither party shall have any obligation under this Agreement.

#### **4. Agreement Deadlines and Term.**

(a) **Project Completion.** Grantee shall complete the Project not later than the End Date set forth on the first page of this Agreement. If Grantee anticipates that the Project will not be completed by the End Date, Grantee must request an extension of time to complete the Project at least 60 days before the scheduled End Date. It will be within the sole discretion of Grantor to grant or deny such extension of time.

(b) **Term of Agreement.** This Agreement shall be in effect from the Effective Date set forth on the first page of this Agreement through the End Date set forth on the first page of this Agreement unless it is terminated earlier as provided in Section 10 (collectively, the "Term").

**5. Secondary Goal of the Project.** The primary focus of the grant is to complete an eligible roadwork project. In addition, one of the secondary goals is the creation or retention of jobs as a result of the grant. Grantee intends to create or retain at least 436 full-time jobs as a result of the Project. Grantee is required to report any job creation or retention in the reports required under Section 7 of this Agreement, however, job creation will not be used to determine compliance under this Agreement.

## EXHIBIT A: RESOLUTION 2014-5-37

### **6. Non-Discrimination.**

(a) Minority Hiring Goal. Grantee shall make a good faith effort to employ minority persons in the completion and operation of the Project and in the fulfillment of Grantee's job creation obligations in the same percentage as the average percentage of minority persons who reside in the county in which the Project is located and any contiguous Ohio counties.

(b) Equal Employment Opportunity. Grantee shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, age, military status or ancestry. Grantee shall ensure that applicants for employment are considered for employment, and that employees are treated during employment, without regard to their race, religion, color, sex, national origin, disability, age, military status or ancestry. Grantee will incorporate the requirements of this paragraph in all of its contracts for any of the work undertaken on the Project (other than subcontracts for standard commercial supplies or raw materials), and Grantee will require all of its contractors for any part of such work to incorporate such requirements in all subcontracts for such work.

### **7. Reporting.**

(a) Performance Reports. Grantee shall submit to Grantor an Annual Report in the format required by Grantor (the "Annual Report"). Each Annual Report shall provide information for the applicable reporting period, including but not limited to, information detailing the progress of the Project, if required, the number of employees first hired by the company or companies benefiting at the Project Site on or after the Effective Date, the number of employees first employed at the Project Site prior to the Effective Date and retained at the Project Site on or after the Effective Date, the corresponding payroll information for the employees at the Project Site and the Investment to date. Annual Reports shall be submitted by Grantee for each year (or part of a year) during which this Agreement is in effect and each Annual Report shall be received by Grantor no later than March 1, following the year covered by such Annual Report. In addition, Grantee shall provide to Grantor such additional information and reports as Grantor may reasonably from time to time require to evaluate Grantee's performance and the effectiveness of the award.

(b) Signature and Costs. The chief executive officer, chief financial officer, or other officer of Grantee authorized to sign tax returns on behalf of Grantee shall certify by his or her signature of each Annual Report that the information reported by Grantee is true, complete and correct. All costs incurred by Grantee to comply with the reporting requirements of this Agreement shall be borne by Grantee and shall not be an allowable expense reimbursable from Grant Funds.

(c) Remedy. Performance reports are essential for Grantor's effective administration of this grant and its financial incentive programs, generally. If Grantee fails to submit any Annual Report and such breach continues uncured for more than 30 days, Grantor may recover, and Grantee shall pay, as liquidated damages for the breach, an amount equal to \$500 for each month or part of a month the Annual Report is past due.

### **8. Records Maintenance and Access.**

(a) Maintenance of Records. Grantee shall establish and maintain for at least three (3) years after the End Date or any earlier termination date its records regarding this Agreement, the Grant Funds and the Project, including, but not limited to, financial reports, job creation and retention statistics, and all other information pertaining to Grantee's performance of its obligations under this Agreement. If any audit, dispute or litigation is then pending, however, Grantee shall maintain such records as may be relevant to such matter until it is finally resolved.

## EXHIBIT A: RESOLUTION 2014-5-37

(b) Inspection and Copying. At any time during normal business hours and upon not less than 24 hours prior written notice, Grantee shall make available to Grantor, its agents or other appropriate State agencies or officials all books and records regarding this Agreement, the Grant Funds and the Project which are in the possession or control of Grantee, including, but not limited to, records evidencing employment at the Project Site. Grantor, its agents and other appropriate State agencies and officials may review, audit and make copies of such books and records, and any such inspection of books and records will be undertaken in such a manner as not to interfere unreasonably with the normal business operations of Grantee. Grantee shall, at its own cost and expense, segregate records to be made available for inspection pursuant to this Section 8(b) from Grantee's other records of operation.

### **9. Adherence to State and Federal Laws and Regulations.**

(a) General. Grantee shall comply with all applicable federal, state, and local laws in the performance of Grantee's obligations under this Agreement, the completion of the Project and the operation of the Project as long as Grantee has any obligation to Grantor under this Agreement. Without limiting the generality of such obligation, Grantee shall pay or cause to be paid all unemployment compensation, insurance premiums, workers' compensation premiums, income tax withholding, social security withhold, and any and all other taxes or payroll deductions required for all employees engaged by Grantee in connection with the Project, and Grantee shall comply with all applicable environmental, zoning, planning and building laws and regulations.

(b) Ethics. In accordance with Executive Order 2011-03K, Grantee, by its signature on this document, certifies: (1) it has reviewed and understands Executive Order 2011-03K, (2) has reviewed and understands the Ohio ethics and conflict of interest laws including, without limitation, Ohio Revised Code §§ 102.01 et seq., §§ 2921.01, 2921.42, 2921.421 and 2921.43, and §§ 3517.13(1) and (J), and (3) will take no action inconsistent with those laws and the order, as any of them may be amended or supplemented from time to time. Grantee understands that failure to comply with the Ohio ethics and conflict of interest laws, is in itself, grounds for termination of this Agreement and the grant of funds made pursuant to this Agreement and may result in the loss of other contracts or grants with the State of Ohio.

(c) Conflict of Interest. No personnel of Grantee, contractor of Grantee or personnel of any such contractor, and no public official who exercises any functions or responsibilities in connection with the review or approval of any work completed under this Agreement, shall, prior to the completion of such work, voluntarily or involuntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge or fulfillment of his or her functions or responsibilities with respect to the completion of the work contemplated under this Agreement. Grantee shall immediately disclose in writing to Grantor any such person who, prior to or after the execution of this Agreement, acquires any personal interest, voluntarily or involuntarily. Grantee shall cause any such person who, prior to or after the execution of this Agreement, acquires any personal interest, voluntarily or involuntarily, to immediately disclose such interest to Grantor in writing. Thereafter, such person shall not participate in any action affecting the work under this Agreement unless Grantor determines that, in light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest.

(d) Outstanding Liabilities. Grantee represents and warrants to Grantor that Grantee does not owe: (1) any delinquent taxes to the State of Ohio or a political subdivision of the State of Ohio; (2) any moneys to the State of Ohio or a state agency for the administration or enforcement of any environmental laws of the State of Ohio; and (3) any other moneys to the State of Ohio, a state agency or a political subdivision of the State of Ohio that are past due, whether or not the amounts owed are being contested in a court of law.

(e) Falsification of Information. Grantee represents and warrants to Grantor that Grantee has made no false statements to Grantor or any of its employees or agents in the process of obtaining the award of Grant Funds. Grantee acknowledges that any person who knowingly makes a false statement to obtain an award of

## EXHIBIT A: RESOLUTION 2014-5-37

financial assistance may be required under Ohio Revised Code § 9.66(C) to repay such financial assistance and shall be ineligible for any future economic development assistance from the State of Ohio, any state agency or a political subdivision. In addition, any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code § 2921.13(F)(1).

(f) Prevailing Wage. Construction of public improvements with public funds is subject to the prevailing wage requirements of Ohio Revised Code Chapter 4115. Construction projects undertaken with financial assistance provided by the State of Ohio under certain provisions of the Ohio Revised Code are also subject to the prevailing wage requirements of Ohio Revised Code Chapter 4115. Grantee shall comply, and shall cause its contractors and subcontractors to comply, with all prevailing wage requirements applicable to the Project. Grantee shall designate or cause to be designated an individual who shall perform the duties and responsibilities required by law of a prevailing wage coordinator for the Project.

(g) Public Records. Grantee acknowledges that this Agreement and other records in the possession or control of Grantor regarding the Project are public records under Ohio Revised Code § 149.43 and are open to public inspection unless a legal exemption applies. Grantee's non-public financial information may be exempt from disclosure under a trade secret exception to the public records law.

### **10. Default and Remedies.**

(a) Default. Grantee shall be in default of this Agreement if Grantee fails to perform any of its obligations under this Agreement and such failure to perform continues uncured for more than 30 days after written notice (a "Default Notice") from Grantor. During the thirty-day cure period, Grantee shall incur only those obligations or expenditures pre-approved by Grantor that are necessary to enable Grantee to continue its operations and achieve compliance with the terms and conditions of this Agreement. Grantee shall also be in default of this Agreement if Grantee is in default of any other agreement between Grantor and/or the Director of Grantor and Grantee and such default continues beyond any applicable period of cure or grace.

(b) Remedies. Following a default by Grantee, Grantor may exercise one or more of the following remedies:

(i) Discontinue Disbursements. If the Grant Funds have not been fully disbursed, Grantor may terminate any and all of Grantor's obligations under this Agreement, including the obligation to make further disbursements of Grant Funds.

(ii) Demand Repayment of Grant Funds. If Grantee fails to complete the roadwork portion of the Project as required under Section 4(a) and detailed in Exhibit I, Scope of Work, Grantor may demand repayment of Grant Funds. Grantee shall not be required to refund Grant Funds or pay liquidated damages in an amount that exceeds the Grant Funds awarded.

(iii) Other Legal Remedies. Pursue any other legal or equitable remedies Grantor may have under this Agreement or applicable law.

(c) Remedies Cumulative. No remedy provided to Grantor under this agreement or otherwise by law or in equity is exclusive of any other available remedy. No delay or omission by Grantor in exercising any right or power accruing upon any default shall impair any such right or power or be construed as a waiver, and each such right or power may be exercised from time to time as often as may be deemed by Grantor to be expedient.

(d) Early Termination. Grantor may also terminate this Agreement if Grantee (i) defaults under another Agreement between the Grantor and/or the Tax Credit Authority and Grantee, (ii) admits Grantee's inability to

## EXHIBIT A: RESOLUTION 2014-5-37

pay its debts as such debts become due, (iii) Grantee commences a voluntary bankruptcy, (iv) an involuntary bankruptcy action occurs against Grantee which remains undismissed or unstayed for 60 days, (v) Grantee fails to meet the minimum funding requirements under the Employee Retirement Income Security Act or other such employee benefits plan, or (vi) Grantor has reason to believe Grantee has ceased operations at the Project location. The events permitting early termination by Grantor shall be considered a default by Grantee and subject to the remedies available under paragraph (b) of this Section 10.

(e) Effects of Termination. Within 60 days after termination of this Agreement following any default, Grantee shall provide Grantor with a final report setting forth the number of full-time jobs created and/or retained by Grantee from the Effective Date through the termination, the total expenditure of the Grant Funds by Grantee and the status of the Project at the time of termination. The final report shall be signed and certified in the same manner as the reports required by Section 7 of this Agreement. This reporting obligation shall survive the termination of the Agreement.

(f) Grantor's Expenses. Grantee shall reimburse Grantor for all expenses, including, without limitation, reasonable attorneys' fees, in connection with the enforcement of this Agreement.

**11. Liability.** Grantee shall maintain liability and property insurance to cover actionable legal claims for liability or loss which are the result of injury to or death of any person, damage to property (including property of Grantor) caused by the negligent acts or omissions, or negligent conduct of the Grantee, to the extent permitted by law, in connection with the activities of this Agreement. Furthermore, each party to this Agreement agrees to be liable for the negligent acts or negligent omissions by or through itself, its employees, agents and subcontractors. Each party further agrees to defend itself and themselves and pay any judgments and costs arising out of such negligent acts or omissions, and nothing in this Agreement shall impute or transfer any such liability from one to the other.

**12. Certification of Funds.** None of the rights, duties and obligations of the parties under this Agreement shall be binding on either party until all statutory provisions of the Ohio Revised Code including, without limitation, Section 126.07, have been complied with, and until such time as all funds have been made available and are forthcoming from the appropriate state agencies.

**13. Notice.** Any notice or report required or permitted to be given under this Agreement shall be deemed to have been sufficiently given for all purposes if mailed by first class certified or registered mail or sent by commercial delivery to the following addresses of the parties or to such other address as either party may hereafter furnish by written notice to the other party.

If to Grantor:  
Ohio Development Services Agency  
77 South High Street, 28th Floor  
P.O. Box 1001  
Columbus, Ohio 43216-1001  
ATTN: Director, Strategic Business Investment  
Division

If to Grantee:  
To the Grantee Contact and address as set  
forth on page one of this Agreement.

With a copy to the Chief Legal Counsel of the Ohio  
Development Services Agency.

## EXHIBIT A: RESOLUTION 2014-5-37

### 14. Miscellaneous.

- (a) Governing Law. This Agreement shall be governed by the laws of the State of Ohio as to all matters including, but not limited to, its validity, construction, effect and performance.
- (b) Forum and Venue. Grantee irrevocably submits to the non-exclusive jurisdiction of any federal or state court sitting in Columbus, Ohio, in any action or proceeding arising out of or related to this Agreement, Grantee agrees that all claims in respect of such action or proceeding may be heard and determined in any such court, and Grantee irrevocably waives any objection it may now or hereafter have as to the venue of any such action or proceeding brought in such court or that such court is an inconvenient forum. Nothing in this Agreement shall limit the right of Grantor to bring any action or proceedings against Grantee in the courts of any other jurisdiction. Any actions or proceedings by Grantee against Grantor or the State of Ohio involving, directly or indirectly, any matter in any way arising out of or related to this Agreement shall be brought only in a court in Columbus, Ohio.
- (c) Entire Agreement. This Agreement, including its exhibits and documents incorporated into it by reference, constitutes the entire agreement and understanding of the parties with respect to its subject matter. Any prior written or verbal agreement, understanding or representation between the parties or any of their respective officers, agents, or employees is superseded and no such prior agreement, understanding or representation shall be deemed to affect or modify any of the terms or conditions of this Agreement.
- (d) Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions of this Agreement.
- (e) Amendments. This Agreement may not be amended or modified except upon such terms as both parties may agree in a writing executed by authorized representatives of each party.
- (f) Forbearance Not a Waiver. No act of forbearance or failure to insist on the prompt performance by Grantee of its obligations under this Agreement, either express or implied, shall be construed as a waiver by Grantor of any of its rights under this Agreement or applicable law.
- (g) Pronouns. The use of any gender pronoun shall be deemed to include the other gender, and the use of any singular noun or verb shall be deemed to include the plural, and vice versa, whenever the context so requires.
- (h) Headings. Section headings contained in this Agreement are inserted for convenience only and shall not be used in construing this Agreement.
- (i) Assignment. Neither this Agreement nor any rights, duties, or obligations of Grantee pursuant to this Agreement shall be assigned by Grantee without the prior express written consent of Grantor, which shall not be unreasonably withheld. Any purported assignment not made in accordance with this paragraph shall be void.
- (j) Binding Effect. Each and all of the terms and conditions of this Agreement shall extend to and bind and inure to the benefit of Grantee, its successors and permitted assigns.
- (k) Survival. Any provision of this Agreement which, by its nature, is intended to survive the expiration or other termination of this Agreement, including, without limitation, any indemnification obligation, shall so survive and shall benefit the parties and their respective successors and permitted assigns.



## EXHIBIT I

### Scope of Work

#### Village of Boston Heights

On May 5, 2014, the Ohio Controlling Board approve the Ohio Development Services Agency's (ODSA) request to release \$350,000 from fund 4W00, line item 195629, Roadwork Development Grant, for FY14, for the Village of Boston Heights, for costs associated with the completion of public roadwork improvements in support of Homeworks, Inc.'s (Homeworks) project in the Village of Boston Heights, Summit County.

The primary focus of the grant is to complete an eligible roadwork project. In addition, the secondary goal is the creation or retention of jobs as a result of the grant. Homeworks intends to create 162 new, full-time-equivalent jobs, and retain 274, at-risk, existing, full-time-equivalent jobs as a result of the Project. The Village of Boston Heights will be required to report any job creation or retention in the reports required under the grant agreement.

Roadwork improvements include the reconstruction and widening of Hines Hill Road, the primary access point to Homeworks' facility. Hines Hill Road runs between Olde Eight Road and State Route 8 and is the only direct connection to State Route Sand the Ohio Turnpike; The current road is a narrow, 2-lane road that was not designed to handle heavy truck traffic. Truck access to State Route 8 and the Ohio Turnpike is the primary reason that this location was selected. The existing road pavement is not capable of handling heavy truck traffic and does not have sufficient turn lanes or storm drainage to handle the project. The road will be completely reconstructed with a new base, pavement and curbs. Hines Hill Road will also be widened to allow for truck traffic.

#### **Project Budget**

Water & Sewer	\$ 250,000
Engineering & Design	\$ 230,000
Bidding & Construction Inspection	\$ 100,000
Easements & Administration	\$ 250,000
Road Construction	\$2,300,000
-----	
Total Project Cost	\$3,130,000

VILLAGE OF BOSTON HEIGHTS  
RESOLUTION NO: 2014-5-38  
FIRST READING

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A SETTLEMENT AGREEMENT WITH THE ESTATE OF DENNIS A. CERNY AND DECLARING AN EMERGENCY**

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

Section 1: That the Mayor, Fiscal Officer and/or Solicitor are hereby authorized and directed to execute a settlement agreement with the Estate of Dennis A. Cerny, in a form substantially similar to the one attached hereto as Exhibit "A," and to execute all necessary paperwork including court filings to fulfill the requirements of said Agreement.

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: That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the Village's residents and to allow for the continued operations of the Village Fiscal Officer and other departments and shall therefore take effect and be in force from and immediately after its passage.

PASSED:

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BILL GONCY, Mayor

ATTEST:

I, BETTY KLINGENBERG, Fiscal Officer and Clerk of the Council for the Village of Boston Heights, Summit County, Ohio do hereby certify that the foregoing Resolution **2014-5-38** was duly passed by the Council of the Village of Boston Heights, County of Summit, State of Ohio at a meeting of Council on this 13th day of May, 2014.

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BETTY KLINGENBERG, FISCAL OFFICER