



CITY OF KENT, OHIO

DEPARTMENT OF FINANCE

To: Dave Ruller, City Manager

From: David A. Coffee, Director of Budget and Finance

Date: January 26, 2012

Re: FY2012 Appropriation Amendments, Transfers, and Advances

The following appropriation amendments are hereby requested:

Fund 131 – JAG – Justice Assistance Grant

Increase \$ 33,925 Police / Reappropriate 2011 funds – partial unexpended grant funds

Fund 201 – Water

Increase \$ 509,000 Capital / Reappropriate 2008 funds - Middlebury Road Water Main Project

Fund 208 – Storm Water

Increase \$ 35,000 Capital / Reappropriate 2009 funds - Plum Creek Stream Restoration Project
Increase \$ 9,900 Capital / Reappropriate 2009 funds - Fishcreek Watershed Study Project
Increase \$ 1,181,000 Capital / Reappropriate 2009 funds - Area Q Phase 5 Irma/Diedrich Project
Increase \$ 40,500 Capital / Reappropriate 2009 funds – Cuyahoga River-Letter of Map Revision Project
Increase \$ 177,700 Capital / Reappropriate 2009 funds – Harvey/Lake Street Outfall Project

Fund 301 – Capital

Increase \$ 142,000 Capital / Reappropriate 2009, 2010, 2011 funding - Finance Computer System Replacement Project
Increase \$ 687,900 Capital / Reappropriate 2009 funds - Summit St. Traffic Signal Coordination Project
Increase \$ 458,188 Capital / Reappropriate 2009 funds - SR 59 Signalization Project
Increase \$ 50,000 Capital / Reappropriate 2010 funds – City/KSU Message Board Project
Increase \$ 10,000 Capital / Reappropriate 2010 funds - Downtown Demolition - Phase 1 Project
Increase \$ 5,000 Capital / Reappropriate 2010 funds – SR 59 Sidewalk Franklin Twp Project
Increase \$ 11,000 Capital / Reappropriate 2010 funds – Pine Street Construction Project
Increase \$ 4,800 Capital / Reappropriate 2010 funds – Alley 5 Parking Lot Project
Increase \$ 377,345 Capital / Reappropriate 2011 funds - Fairchild Ave. Bridge Constr. Project
Increase \$ 46,650 Capital / Reappropriate 2011 funds – Downtown Traffic Study Project

D. Coffey 1-26-2012

Increase	\$ 1,296,000	Capital / Reappropriate 2009 funds – SR 59 Signalization Improvement Project
Increase	\$ 45,000	Capital / Reappropriate 2011 funds – Crain Ave. Re-surfacing Project
Increase	\$ 75,000	Capital / Supplemental funding for matching environmental grant with Thomas & Betts Company per Kent City Council Ord. # 2012-15, former RB&W site.

Fund 302 – MPITIE

Increase	\$ 723,895	Capital / Reappropriate 2011 funds – Downtown Redevelopment Projects (Streets & Utilities)
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CITY OF KENT
DEPARTMENT OF PUBLIC SERVICE
DIVISION OF ENGINEERING

MEMO

TO: David Coffee; Dave Ruller

FROM: Jim Bowling

DATE: January 13, 2012

RE: 2011 Capital Improvement Program – Re-appropriation for 2012.

The following projects need to be carried over to 2012. These projects are critical to the infrastructure of the City and still have a defined need to be completed. If there are any questions on the following list of funds, which were unencumbered in 2011 please let me know.

Fairchild Avenue Bridge Construction –The project is currently in its third year of construction with an estimated substantial completion date of December 2012. Not all of the monies estimated for 2011 were required in 2011. Therefore, the monies will need to be re-appropriated in 2012.

Original CIP Year	Fund	Re-Appropriation Request	Comment
2011	301 – Capital	\$377,345	\$194,277 100% Fed. Funded for R/W

Fish Creek Watershed Study – This project was initiated in 2011. The study is anticipated to be completed in 2012. Therefore, the monies will need to be re-appropriated in 2012.

Original CIP Year	Fund	Re-Appropriation Request	Comment
2009	208 – Storm Water	\$9,900	

Cuyahoga River – Letter of Map Revision – This study was initiated in 2011. The study is anticipated to be completed in 2013. Therefore, the monies will need to be re-appropriated in 2012.

Original CIP Year	Fund	Re-Appropriation Request	Comment
2009	208 – Storm Water	\$40,500	

Middlebury Road Watermain – This project was put on hold due to higher priority projects requiring completion. The project design is 90% complete and construction is anticipated in 2012. Therefore, the monies will need to be re-appropriated in 2012.

Original CIP Year	Fund	Re-Appropriation Request	Comment
2008	201 – Water	\$509,000	\$295,000 OPWC

Area Q Phase 5 Irma/Diedrich – This project was put on hold due to higher priority projects requiring completion. Therefore, the monies appropriated were not used in 2011 and will need to be re-appropriated in 2012.

Original CIP Year	Fund	Re-Appropriation Request	Comment
2009	208 – Storm Water	\$1,181,000	\$545,000 OPWC Grant \$100,000 OPWC Loan \$50,000 Stow

Summit Street Traffic Signal Coordination – This project is currently in the planning phase. The engineering division hosted two public meetings in February to review the recommended improvements and alternates that were developed with the aid of a Citizens Advisory Committee. This phase has not progressed as quickly as anticipated due to the complexity of the issues, opportunities for additional funding and other higher priority projects. Therefore, the following monies will need to be re-appropriated in the 2012.

Original CIP Year	Fund	Re-Appropriation Request	Comment
2009	301 – Capital	\$687,900	\$550,320 Fed. Funded \$68,790 KSU Reimbursed

SR 59 Signalization – The project is currently in the final stages of construction with an estimated completion date of April 2012. Not all of the monies appropriated for 2011 were required in 2011, however they may be required to complete the project in 2012. Therefore, the monies will need to be re-appropriated in 2012.

Original CIP Year	Fund	Re-Appropriation Request	Comment
2009	301 – Capital	\$458,188	\$307,902 Fed. Funded \$73,310 OPWC Funded

Downtown Demolition – Phase 1 – The project has been constructed. There are some potential land transfers issues associated with the demolition that may be required in 2012. Therefore, we will need a small portion of the unused appropriations re-appropriated in 2012.

Original CIP Year	Fund	Re-Appropriation Request	Comment
2010	301 – Capital	\$10,000	

SR 59 Sidewalk Franklin Township – The project consists of construction of a new sidewalk along SR 59. The sidewalk which is being constructed by Franklin Township includes a small portion within the City for continuity. The Township has not yet requested the money for the improvements. Therefore, the monies will need to be re-appropriated in 2012.

Original CIP Year	Fund	Re-Appropriation Request	Comment
2010	301 – Capital	\$5,000	

City/KSU Message Board – The project consists of construction of a community gateway sign and message system at the northeast corner of SR 59 and S. Water Street. The construction of the sign could not happen until the Ohio Department of Transportation transferred Haymaker Parkway to the City in 2011. The construction of the sign design is being managed by Kent State University and is anticipated to occur in 2012. Therefore, the monies will need to be re-appropriated in 2012.

Original CIP Year	Fund	Re-Appropriation Request	Comment
2010	301 – Capital	\$50,000	

Downtown Traffic Study – This project includes the studies necessary to determine the traffic impacts anticipated with the downtown redevelopment. Some studies have been completed to date, however others may be required as additional issues arise. Therefore, the monies will need to be re-appropriated in 2012.

Original CIP Year	Fund	Re-Appropriation Request	Comment
2011	301 – Capital	\$46,650	

Harvey/Lake Street Outfall – This project was put on hold due to higher priority projects requiring completion. Therefore, the monies appropriated were not used in 2011 and will need to be re-appropriated in 2012.

Original CIP Year	Fund	Re-Appropriation Request	Comment
2009	208 – Storm Water	\$177,700	

Pine Street Construction – This project includes reconstruction of Pine Street from Cherry Street to Dodge Street, including new pavement, sidewalk and watermain. The project design was started in 2011 with construction anticipated to begin in 2012. Therefore, the monies will need to be re-appropriated in 2012.

Original CIP Year	Fund	Re-Appropriation Request	Comment
2010	301 – Capital	\$11,000	

Fund 302 – Downtown Redevelopment – This fund represents the money borrowed and expected to be reimbursed with TIF financing. The fund amount listed below represents the amount of money appropriated for street and utility work related to the downtown development. The downtown development began construction in 2010 and will continue in 2012. Therefore, the unappropriated monies will need to be re-appropriated in 2012.

Original CIP Year	Fund	Re-Appropriation Request	Comment
Not applicable	302 – Streets and Utilities associated with the Downtown Redevelopment	\$723,895	

Plum Creek Stream Restoration – This project was completed in 2011. However, in conjunction with the project we are required to revise the Floodplain Mapping through FEMA to reflect the changes to the Creek. This is required after construction is complete and includes fees to update the maps. Therefore, the monies appropriated in 2011 will need to be re-appropriated in 2012.

Original CIP Year	Fund	Re-Appropriation Request	Comment
2010	208 – Storm Water	\$35,000	

Alley 5 Parking Lot – This project includes construction of the Alley 5 Parking Lot and Alley 5 in conjunction with the downtown redevelopment. The project design was started in 2011 with construction anticipated to begin in 2012. Therefore, the monies will need to be re-appropriated in 2012.

Original CIP Year	Fund	Re-Appropriation Request	Comment
2010	301 – Capital	\$4,800	

The total 2011 appropriations and associated reimbursements needing to be re-appropriated, by fund, based on the above are:

Fund	2012 Re-appropriations	Reimbursable Amount
201 – Water	\$509,000	\$295,000
202 – Sewer	\$0	\$0
208 – Storm	\$1,444,100	\$695,000
301 - Capital	\$1,650,883	\$1,194,599
302 - TIFF	\$723,895	

- C: Brian Huff
- Gene Roberts
- Jon Giaquinto
- Suzanne Robertson
- Rhonda Boyd
- Pat Homan
- Cori Finney
- File



CITY OF KENT, OHIO

DEPARTMENT OF COMMUNITY DEVELOPMENT

DATE: January 26, 2012
TO: Dave Ruller, City Manager
FROM: Bridget Susel, Interim Community Development Director *BOD.*
RE: Local Government Innovation Fund (LGIF)

As part of the State of Ohio 2013 fiscal year budget, the General Assembly established the Local Government Innovation Fund (LGIF) as a mechanism for promoting greater collaboration among Ohio communities. The LGIF provides financial incentives through a competitive grant process and a loan program in order to promote the development and implementation of shared services, mergers and coproduction projects among partnering entities. The Ohio Department of Development (ODOD) has been designated as the State agency responsible for administering the new LGIF program.

The City of Kent is currently collaborating with several local governments and other public entities on the development of two (2) different shared services projects that will be submitted to the ODOD for funding consideration under the LGIF competitive grant process. The first proposed project is a shared services collaboration effort that will reduce the amount each participating entity pays for asphalt by using grant funds to cover the costs associated with leasing an asphalt recycling unit that will be shared among the participating communities and the Kent City Schools. The second shared services program involves a collaboration effort involving several Portage County communities, Kent State University and the Portage County Sheriff's Office working together on the development of a plan for improving communication between existing 9-1-1- Public Safety Answering Points (PSAP's) and standardizing training efforts for communications personnel.

Submissions requesting grant funding are due to the ODOD by March 1, 2012 and completed applications must include copies of resolutions of support for the proposed LGIF project from each participating entities' legislative body and an executed Memorandum of Understanding (MOU), signed by the appropriate representative from each participating entity.

I am respectfully requesting time at the February 1, 2012 Committee session to discuss both proposed LGIF grant applications in greater detail and to request Council approval of the needed resolutions of support for each proposed project. I will also be requesting that Council authorize the City Manager to sign the required Memorandum of Understandings associated with each proposed project.

If you have any questions or need additional information in order to get this item listed on the Committee agenda, please let me know.

Cc: Jim Silver, Law Director
Linda Copley, Clerk of Council
Gene Roberts, Service Director
Bill Lillich, Safety Director
LGIF files

2012-

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO APPROVE AND EXECUTE A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF RAVENNA, OHIO, THE CITY OF KENT, OHIO, THE CITY OF AURORA, OHIO, THE CITY OF STREETSBORO, OHIO, THE PORTAGE COUNTY SHERIFF'S OFFICE, AND KENT STATE UNIVERSITY FOR THE PURPOSES OF ESTABLISHING PROCEDURES, DEVELOPING AN IMPLEMENTATION PLAN, AND THE DEFINING OF PARTNERSHIP ROLES FOR THE "PORTAGE COORDINATED PUBLIC SAFETY COMMUNICATIONS INITIATIVE" AND TO ALLOW FOR THE SUBMISSION OF A PROPOSAL APPLYING FOR LOCAL GOVERNMENT INNOVATION FUND (LGIF) GRANT FUNDS FOR THE INITIATIVE AND CALLING FOR COOPERATION BETWEEN THE COMMUNITIES, AND DECLARING AN EMERGENCY.

WHEREAS, the City Of Ravenna, Ohio, The City Of Kent, Ohio, The City Of Aurora, Ohio, The City Of Streetsboro, Ohio, The Portage County Sheriff's Office, And Kent State University, have agreed to participate in a joint Local Government Innovations Fund (LGIF) grant; and

WHEREAS, a Memorandum of Understanding (MOU) between the parties will clarify the roles of the parties and how the grant funds will be utilized; and

WHEREAS, the Kent City Council wants to grant the City Manager the authority to finalize a written MOU document and to execute said document; and

WHEREAS, due to time deadlines in the grant process, time is of the essence in drafting and signing the MOU.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kent, Portage County, Ohio, at least three-fourths (3/4) of all members elected thereto concurring:

SECTION 1. That the City Manager or his designee, be and hereby is authorized to submit a grant application seeking LGIF grant funding and to finalize and execute a written MOU with the City of Ravenna, Ohio, The City Of Kent, Ohio, The City Of Aurora, Ohio, The City Of Streetsboro, Ohio, The Portage County Sheriff's Office, And Kent State University, for purposes of furthering the Grant process for LGIF funding, and determining the procedures, implementation plan and use of said grant funding among the parties to the MOU.

SECTION 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council and that all deliberations of this Council, and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements of 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 residents of this City, for which reason and other reasons manifest to this Council this Resolution is hereby declared to be an emergency measure and shall take effect and be in force immediately after passage.

PASSED: _____
DATE

PRESIDENT PRO TEM

ATTEST: _____
CLERK OF COUNCIL

I hereby certify that Resolution No. _____ was duly enacted this 15th day of
February, 2012, by the Council of the City of Kent, Ohio.

CLERK OF COUNCIL

PUBLISHED BY TITLE ONLY IN THE RECORD COURIER ON THE _____ DAY OF
FEBRUARY 2012, BY CLERK OF COUNCIL.

CLERK OF COUNCIL _____

2012009

MEMORANDUM OF UNDERSTANDING (MOU)

BETWEEN

The City of Ravenna

And

The City of Aurora

And

The City of Streetsboro

And

The Portage County Sheriff's Office

And

Kent State University

And

The City of Kent

A. Introduction

Pursuant to Ohio Revised Code, Sections 189.01 through 189.10, as created by House Bill 153 and as amended by House Bill 371, the State of Ohio established the Local Government Innovation Fund (LGIF), which designated funding for the provision of financial assistance to Ohio political subdivisions for the planning and implementation of collaboration projects that will create efficient and effective service delivery through shared services, coproduction and/or merger. The Ohio Department of Development (ODOD) is responsible for administering the Local Government Innovation Fund for the State of Ohio.

B. Purpose of the MOU

This Memorandum of Understanding summarizes the agreement between the signing parties to collaborate and examine ways to improve emergency communication services in their respective communities. This collaboration, known as the "Portage Coordinated Public Safety Communications Initiative," will work to improve communication between the participating community's existing 9-1-1 Public Safety Answering Points (PSAP's), standardize training efforts for communications personnel, and study ways to improve overall services, while taking advantage of efficiencies realized by the collaboration. The collaborative project also will pursue funding sources to help offset costs of improving emergency communication services in the defined service area.

C. Terms of the MOU

The City of Ravenna, Ohio, The City Of Aurora, Ohio, The City Of Streetsboro, Ohio, The Portage County Sheriff's Office, Kent State University, and City of Kent hereby agree as follows:

The designated partner communities/agencies will submit a single grant application to the Ohio Department of Development (ODOD) requesting LGIF grant funding for the development and implementation of the proposed "Portage Coordinated Public Safety Communications Initiative."

The Ohio Department of Development requires one (1) of the partner communities to be designated as the lead community solely for the purposes of submission of the application and for the execution of a grant agreement if LGIF grant funding is awarded for the proposed project. The City of Ravenna will serve as the lead community only for the purposes stated by the Ohio Department of Development.

The designated partner communities/agencies agree to collaborate on the development and implementation of the "Portage Coordinated Public Safety Communications Initiative," for the purposes of:

- Improving the efficacy of service delivery;
- Increasing efficiency;
- Improving efficient processing of E9-1-1 emergency calls throughout the areas served by the participating agencies;
- Providing for coordinated, multi-agency communications within the jurisdictions of the participating agencies;
- Establishing a pilot project that will allow for the incorporation of additional communities interested in participating in the program;
- Generating significant cost savings through collaborative efforts.

The partner communities/agencies agree to share any data and information required to successfully complete the LGIF grant proposal submission and if funds are awarded, to commit the resources and time needed to support the development and implementation of the proposed project.

The partner communities/agencies agree to act in a timely manner to ensure the submission of the LGIF grant proposal on or before the March 1, 2012 submission deadline date.

Should LGIF grant funds be awarded, the designated partner communities/agencies agree to continue all necessary collaboration to ensure the development and implementation of the "Portage Coordinated Public Safety Communications Initiative" within the grant period specified in the grant agreement.

D. Period of MOU

The designated partner communities/agencies agree that this Memorandum of Understanding will remain in effect from the date of its signing through the end of the grant period as specified in the grant agreement to be issued by the Ohio Department of Development, if grant funding is awarded.

E. Modification of the MOU

This Memorandum of Understanding may be modified or amended by written agreement of the designated partner communities/agencies. A request for an amendment to the Memorandum of Understanding may be initiated by any of the designated partner communities/agencies through written notification to the other collaborative partners.

Any of the designated partner communities/agencies may withdraw its participation in this Memorandum of Understanding by sending written notification to the other designated partner communities/agencies covered by this Memorandum of Understanding.

Now therefore, the City of Kent, The City Of Ravenna, Ohio, The City Of Aurora, Ohio, The City Of Streetsboro, Ohio, The Portage County Sheriff's Office, And Kent State University do hereby agree to the aforementioned terms of this Memorandum of Understanding as of _____, as evidenced by the following signatures:

The City of Ravenna

By: _____ Approved as to Form: _____
Mayor Joseph Bica Law Director

The City of Aurora

By: _____ Approved as to Form: _____
Mayor Lynn E. McGill Law Director

The City of Streetsboro

By: _____ Approved as to Form: _____
Mayor Glenn M. Broska Law Director

The Portage County Commissioners

By: _____ Approved as to Form: _____
Chris Smeiles County Prosecutor

Maureen Frederick

Tommie Jo Marsilio

The Kent State University

By: _____ Approved as to Form: _____
Gregg S. Floyd University Counsel
Vice President

The City of Kent

By: _____ Approved as to Form: _____
Dave Ruller, City Manager, Jim Silver, Law Director

2012010

DRAFT

MEMORANDUM OF UNDERSTANDING (MOU)

BETWEEN

City of Kent
And
City of Ravenna
And
Kent City Schools

A. Introduction

Pursuant to Ohio Revised Code, Sections 189.01 through 189.10, as created by House Bill 153 and as amended by House Bill 371, the State of Ohio established the Local Government Innovation Fund (LGIF), which designated funding for the provision of financial assistance to Ohio political subdivisions for the planning and implementation of collaboration projects that will create efficient and effective service delivery through shared services, coproduction and/or merger. The Ohio Department of Development (ODOD) is responsible for administering the Local Government Innovation Fund for the State of Ohio.

B. Purpose of the MOU

The purpose of this Memorandum of Understanding is to identify the designated partner communities/agencies that have agreed to participate in the development and implementation of a proposed shared services project involving the development and implementation of the “Asphalt Recycling Shared Services Initiative” and identify the roles and responsibilities of the designated partner communities.

C. Terms of the MOU

The City of Kent, the City of Ravenna, and Kent City Schools hereby agrees as follows:

The designated partner communities/agencies will submit a single grant application to the Ohio Department of Development (ODOD) requesting LGIF grant funding for the development and implementation of the proposed “Asphalt Recycling Shared Services Initiative.”

The Ohio Department of Development requires one (1) of the partner communities to be designated as the lead community solely for the purposes of submission of the application and for the execution of a grant agreement if LGIF grant funding is awarded for the proposed project. The City of Kent will serve as the lead community only for the purposes stated by the Ohio Department of Development.

The designated partner communities/agencies agree to collaborate on the development and implementation of the “Asphalt Recycling Shared Services Initiative,” for the purposes of:

- Improving the efficacy of service delivery in each designated partner community/agency;
- Increasing efficiency in each designated partner community/agency;
- Generating cost savings in each designated partner community/agency;
- Establishing a pilot project that will allow for the incorporation of additional communities interested in participating in the program.

The designated partner communities/agencies agree to share any data and information required to successfully complete the LGIF grant proposal submission and if funds are awarded, to commit the resources and time needed to support the development and implementation of the proposed project.

The designated partner communities/agencies agree to act in a timely manner to ensure the submission of the LGIF grant proposal on or before the March 1, 2012 submission deadline date.

Should LGIF grant funds be awarded, the designated partner communities/agency agree to continue all necessary collaboration to ensure the development and implementation of the "Asphalt Recycling Equipment Shared Services Initiative" within the grant period specified in the grant agreement.

D. Period of MOU

The designated partner communities/agencies agree that this Memorandum of Understanding will remain in effect from the date of its signing through the end of the grant period as specified in the grant agreement to be issued by the Ohio Department of Development, if grant funding is awarded.

E. Modification of the MOU

This Memorandum of Understanding may be modified or amended by written agreement of the designated partner communities/agencies. A request for an amendment to the Memorandum of Understanding may be initiated by any of the partner communities/agencies through written notification to the other communities/agencies.

Any of the designated partner communities/agencies may withdraw its participation in this Memorandum of Understanding by sending written notification to the other designated partner communities/agencies covered by this Memorandum of Understanding.

Now therefore, the City of Kent, the City of Ravenna and Kent City Schools do hereby agree to the aforementioned terms of this Memorandum of Understanding as of _____, as evidenced by the following signatures:

By: _____ Approved as to Form: _____
Joseph Bica, Mayor Law Director
City of Ravenna

By: _____ Approved as to Form: _____
Joseph Giancola, Superintendent Legal Counsel
Kent City Schools

By: _____ Approved as to Form: _____
Dave Ruller, City Manager, Jim Silver, Law Director,
City of Kent City of Kent

DRAFT

2012-

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO APPROVE AND EXECUTE A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF KENT, OHIO AND CITY OF RAVENNA, OHIO, AND THE KENT CITY SCHOOLS, OHIO FOR THE PURPOSES OF ESTABLISHING PROCEDURES, DEVELOPING AN IMPLEMENTATION PLAN, AND THE DEFINING OF PARTNERSHIP ROLES FOR THE “ASPHALT RECYCLING SHARED SERVICES INITIATIVE” AND TO ALLOW FOR THE SUBMISSION OF A PROPOSAL APPLYING FOR LOCAL GOVERNMENT INNOVATION FUND (LGIF) GRANT FUNDS FOR THE INITIATIVE AND CALLING FOR COOPERATION BETWEEN THE PARTIES, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Kent, Ohio and the City of Ravenna and the Kent City Schools, Ohio, have agreed to participate in a joint LGIF grant; and

WHEREAS, a Memorandum of Understanding (MOU) between the parties will clarify the roles of the parties and how the grant funds will be utilized; and

WHEREAS, the Kent City Council wants to grant the City Manager the authority to finalize a written MOU document and to execute said document; and

WHEREAS, due to time deadlines in the grant process, time is of the essence in drafting and signing the MOU.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kent, Portage County, Ohio, at least three-fourths (3/4) of all members elected thereto concurring:

SECTION 1. That the City Manager or his designee, be and hereby is authorized to submit a grant application seeking LGIF grant funding and to finalize and execute a written MOU with the City of Ravenna and the Kent City Schools, Ohio, for purposes of furthering the grant process for LGIF funding, and determining the procedures, implementation plan and use of said grant funding among the parties to the MOU.

SECTION 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council and that all deliberations of this Council, and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements of 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 residents of this City, for which reason and other reasons manifest to this Council this Resolution is hereby declared to be an emergency measure and shall take effect and be in force immediately after passage.

PASSED: _____
DATE

PRESIDENT PRO TEM

ATTEST: _____
CLERK OF COUNCIL

I hereby certify that Resolution No. ??? was duly enacted this 18th day of
February, ??? 2009, by the Council of the City of ???, Ohio.

CLERK OF COUNCIL

PUBLISHED BY TITLE ONLY IN THE RECORD COURIER ON THE ??? DAY OF
FEBRUARY 2012, BY ???, CLERK OF COUNCIL.

CLERK OF COUNCIL _____



CITY OF KENT, OHIO

DEPARTMENT OF LAW

TO: Dave Ruller and City Council
FROM: Jim Silver *JS*
RE: Land Swap for the new Courthouse
DATE: January 27, 2012

Pursuant to earlier discussions between the City and the County, I have been working with Denise Smith of the County Prosecutor's office to get a contract for the Courthouse land trade drafted, along with a lease to keep the current Municipal Court in the S. Water courthouse until the new building is completed. To this end, attached are draft documents for the land trade, and a proposed lease. I mention the word drafts, because the language is not final, and the County Commissioners have not approved either document. They will be meeting next week on the issue.

The contract for trading the properties does not yet have language for two areas. A) language that lets the properties revert to original owners if, for whatever reason, the new Courthouse doesn't get built. Should that happen, the City would end up with the East Main St. property and the County would keep the current Courthouse and the parking lot on College St. and Franklin Ave., and B) language that would keep the new Courthouse parking lot open for public use on weekends and evenings. The City would be responsible for plowing the lot on weekends, if needed.

Staff is requesting approval of the proposed documents, with the additions mentioned, in substantially the same form as attached.

[Above Space For Recorder's Use Only]

COMMERCIAL PROPERTY LEASE

THIS LEASE, made as of _____, 2012 (the 'Effective Date') by and between the CITY OF KENT, OHIO, a municipal corporation, as "Lessor", with a mailing address of 215 East Summit Street, Kent, Ohio 44240, and THE COUNTY OF PORTAGE, OHIO, a political subdivision organized and existing under the Constitution and laws of the State of Ohio (County), as "Lessee", with a mailing address of 449 South Meridian Street, Ravenna, Ohio 44266.

W I T N E S S E T H:

WHEREAS, Lessor and Lessee have entered into that certain Purchase Agreement, dated as of _____, (the "Purchase Agreement"), pursuant to which Lessor has agreed to purchase from Lessee certain real property, together with the buildings and improvements thereon, located at 214 South Water Street, Kent, Ohio and known as Permanent Parcel No. _____, being more fully described in Exhibit "A" attached hereto and incorporated herein by reference (the "Premises").

WHEREAS, in accordance with the Purchase Agreement, upon the closing of the sale of the Premises to Lessor, Lessor has agreed to lease the Premises to Lessee, and Lessee has agreed to lease the Premises from Lessor, upon and subject to the terms, covenants and conditions set forth below.

WHEREAS, Lessee is constructing a new municipal Courthouse in Kent on East Main Street, with expectations of moving the current Courthouse located at 214 South Water Street, Kent, Ohio into the new building upon completion of construction.

NOW, THEREFORE, in consideration of the foregoing premises and the covenants set forth herein, Lessor and Lessee hereby agree as follows:

SECTION I
Demise of Leased Premises

Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor, the Premises, upon and subject to the terms, covenants and conditions hereinafter set forth. Lessee accepts the Premises in its "AS-IS" condition as of the date of commencement of the term without any representation or warranty of any kind by Lessor, including representations and warranties as to the condition, use, zoning or operation thereof, and Lessee shall be deemed to have waived any warranty of condition or habitability, suitability for occupancy, use or habitation, fitness for a particular purpose or merchantability, express or implied, related to the Premises.

SECTION II
Term

The Premises are leased for a term beginning on the date on which title to the Premises is conveyed to Lessor, and ending at 11:59 P.M. on the earlier of December 31, 2013, or ninety (90) days after the date that the new East Main Street Courthouse Premises are delivered to County (Lessee) for occupancy. Lessee may terminate this Lease prior to the expiration of the term upon not less than thirty (30) days prior written notice to Lessor specifying the date of termination, provided that Lessee surrenders possession of the Premises to Lessor on the date of termination in accordance with this Lease.

SECTION III
Rent

The rent payable hereunder by Lessee (hereinafter referred to as "rent") consists of "fixed rent," in the amount of \$1.00 per year, which shall be paid in one installment, in advance, on the first day of the term, together with all other amounts which Lessee is obligated to pay under this Lease (including, without limitation, all insurance premiums, utility charges, taxes, late fees, interest and other amounts) (all such amounts being collectively referred to as "additional rent").

SECTION IV
Use and Occupancy

Lessee shall be permitted to use and occupy the Premises as a municipal Court, Lessee's current operations thereon and for no other purpose. Lessee covenants that it will use the Premises in a safe and reasonable manner. Lessee further agrees that it shall not use the Premises for any purpose which is prohibited by applicable law, ordinance or governmental or municipal regulation or order.

SECTION V
Place for Payment of Rent

Lessee shall pay rent, including, without limitation, all additional rent as provided below, to Lessor at Lessor's above stated address or at any other place as Lessor may designate in writing, without demand and without counterclaim, deduction, or setoff.

SECTION VI
Care and Repair of Premises

(a) Lessee shall not commit any act of waste and shall maintain the Premises in the same order, condition and repair as it was on the date of the Purchase Agreement, and shall, in the use and occupancy of the Premises, conform to all laws, orders, and regulations of the federal, state, and municipal governments or any of their departments.

(b) At the termination of this Lease, Lessee shall deliver the Premises to Lessor free of all personal property, trash and debris and in broom clean condition. Lessee may not remove fixtures or building systems, including HVAC systems, plumbing, electrical and lighting fixtures, without the advance consent of Lessor; provided, however, that Lessee may remove trade fixtures, including the following, without the advance consent of Lessor, so long as (i) they are not integral to the operation of the Premises and improvements on the Premises; (ii) the removal will not adversely effect the integrity and function of supporting structures; (iii) the materials removed are to be used in Lessee's other facilities and not sold for salvage; (iv) the Premises are left in a safe and secure condition; and (v) Lessee uses commercially reasonable efforts to minimize any damage caused by the removal:

- (i) Office supplies and equipment, furniture, storage shelving, cabinets; and
- (ii) IT/ phone equipment.

All property of Lessee remaining on the Premises after the last day of the term of this Lease shall be conclusively deemed abandoned and may be removed by Lessor. Lessee shall reimburse Lessor for the cost of the removal of any such property which Lessee is required to remove under this Lease and Lessor may have any such property stored at Lessee's risk and expense.

(c) During the term of this Lease, Lessee agrees to:

- (i) Provide proper written notice to Lessor of any damage or condemnation affecting any portion of the Premises;
- (ii) Deliver to Lessor promptly after receipt by Lessee copies of all notices of violations issued by any governmental authority with respect to the Premises;

- (iii) Promptly advise Lessor of any litigation, arbitration or other judicial or other administrative proceeding which concerns or affects the Premises;
- (iv) Not grant, create or assume or permit to be created any mortgage, lien, encumbrance, lease or covenant, condition, right of way or restriction upon the Premises or Lessee's leasehold estate therein under this Lease; and
- (v) Except in connection with the termination of this Lease with prior written notice to Lessor in accordance with Section II above, abandon the Premises, or allow the Premises to become vacant or deserted.

(d) During the term of the Lease, Lessee agrees that it will indemnify Lessor and save Lessor and the holder of any mortgage on Lessor's fee interest in the Premises (the "Lessor's Mortgage") harmless from and against any and all claims, actions, damages, liability and expenses in connection with loss or damage to property or injury or death to persons occurring in, on or about or arising out of, the Premises and adjacent sidewalks and loading platforms or areas, occasioned wholly or in part by any act or omission of Lessee, Lessee's agents, contractors, customers or employees.

(e) Lessee covenants and agrees that Lessee:

- (i) Shall use, occupy and operate the Premises in compliance with Environmental Laws (as defined in below) and all permits issued pursuant thereto; and
- (ii) Shall prohibit any other entity that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with Lessee (collectively, "Affiliates") and Lessee's agents, employees, officers, directors, partners, shareholders, contractors, consultants or advisors (collectively, "Representatives"), from violating any Environmental Law applicable to the Premises and take all reasonable measures to require full compliance with Environmental Laws by Lessee's Affiliates with respect to their respective entry upon use, presence upon or occupancy of the Premises;

(f) The parties agree that Lessor shall not be liable for any damage to the personal property of Lessee located at the Premises, including, but not limited to, damage occurring by reason of failure to keep the Premises in repair, for any damage done or occasioned by or from fire, explosion, falling plaster, dampness, the electrical system, the heating, ventilating and air conditioning system, the plumbing and sewer system, in, above, upon or about the Premises nor for damages occasioned by water, snow or ice being upon or coming through the roof, trapdoor, walls, windows, doors or otherwise, nor for any damage to or loss of personal property or other property arising from acts of negligence of persons in the improvements or buildings of the Premises, or the

acts of any owner or occupants of adjoining or contiguous property, or from burglary, theft or otherwise.

(g) Lessee shall be responsible for any and all repairs and maintenance needed for said premises during the term of the Lease, including, but not limited to, the roof, walls, windows and doors; all mechanical items such as heating and air conditioning; electric service; plumbing; and interior walls, ceilings, floors, doors and all fixtures therein; and all exterior areas such as lawn, landscaping, sidewalks and parking areas.

SECTION VII
Alterations, Additions or Improvements

(a) Lessee shall not, without first obtaining the written consent of Lessor, make any alterations, additions or improvements in, to or about the Premises affecting the roof, structural elements or floors or make any other alterations, additions or improvements in, to or about the Premises the cost of which exceeds Ten Thousand Dollars (\$10,000.00) (collectively, "Material Alterations"), and then shall make such Material Alterations only by such contractors and mechanics as may be approved in writing by Lessor. Lessee shall make all alterations, changes and improvements in a good and workmanlike manner, shall comply with all applicable laws and building regulations. Lessor's consent shall not be unreasonably withheld, delayed or conditioned, and shall not be required for repairs necessary to keep the Premises in the condition existing as of the Effective Date.

SECTION VIII
Prohibition Against Activities Increasing Fire Insurance Rates

Lessee shall not do or permit any activity on the Premises which will cause an increase in the rate of fire insurance on the Premises.

SECTION IX
Assignment or Sublease

Lessee shall not, without first obtaining the written consent of the Lessor, assign, mortgage, pledge, or encumber this Lease, in whole or in part, or sublet the Premises or any part of the Premises. This covenant shall be binding upon the legal representatives of Lessee, and upon every person to whom Lessee's interest under this Lease passes by operation of law, but shall not apply to an assignment or subletting to an Affiliate of Lessee or to a transfer of the leasehold interest occasioned by a sale of substantially all of the assets, or a consolidation or merger involving Lessee.

SECTION X
Electricity and Other Utilities

Lessee agrees to pay for heating, electricity, water, storm and sanitary, sewer, telecommunication, recycling and all other utility charges of the Premises.

SECTION XI
Real Estate Taxes

Lessee agrees to pay any real estate taxes on the Premises.

SECTION XII
Casualty & Property Insurance

Lessee agrees to maintain and pay for casualty and property insurance on the buildings and improvements on the Premises during the term of this Lease with the coverage, and in the form and amount that Lessee currently has in place. Such insurance shall be issued by an insurer reasonably acceptable to Lessor and include an endorsement naming Lessor as loss payee. Evidence of such insurance shall be provided to Lessor no later than the Effective Date and not less than ten (10) business days prior to the expiration of any policy.

SECTION XIII
Liability and Other Insurance

Lessee agrees to maintain liability and other insurance on the Premises as set forth in Exhibit "B" attached hereto and incorporated herein by reference during the term of this Lease.

SECTION XIV
Damages to Premises

If the Premises are damaged by fire or any other cause, this Lease shall continue in full force and effect unless Lessee provides written notice to Lessor of its intention to terminate this Lease, which notice shall include the date of termination. Lessee shall have the right to use insurance proceeds to repair or rebuild any damaged part of the Premises, but shall have no obligation to do so. Any insurance proceeds not used by Lessee to repair or rebuild the Premises shall be paid to Lessor at the termination of this Lease. Lessee shall promptly notify Lessor of any damage or destruction of the Premises.

SECTION XV
Waivers of Subrogation

Notwithstanding the provisions of Section XIV of this Lease, in any event of loss or damage to the Premises and/or any improvements thereon or contents therein, each party shall look first to

any insurance in its favor before making any claim against the other party; and, to the extent possible without additional cost, each party shall obtain, for each policy of insurance, provisions permitting waiver of any claim against the other party for loss or damage within the scope of the insurance, and each party, to the extent permitted, for itself and its insurers waives all insured claims against the other party.

SECTION XVI
Eminent Domain

If the Premises or any part of the Premises or any estate in the Premises, or any other part of the building materially affecting Lessee's use of the Premises as determined by Lessee in its sole discretion, is taken by eminent domain, this Lease shall terminate on the date when title vests pursuant to the taking. At the election of the Lessee, this Lease will continue in full force and effect with respect to any portion of the Premises not so taken. The additional rent, if any, shall be apportioned as of the termination date and any additional rent paid to Lessor for any period beyond that date shall be refunded to Lessee. Lessee shall not be entitled to any part of the award for the taking or any payment in lieu of payment, but Lessee may file a claim for any taking of trade fixtures and personal property owned by Lessee that Lessee is permitted to remove from the Premises upon the expiration or termination of this Lease as provided above, and for moving expenses.

SECTION XVII
Lessor's Remedies on Default

If Lessee defaults in the payment of rent, or any additional rent, or defaults in the performance of any of the other covenants or conditions of this agreement, Lessor may give Lessee notice of the default. If Lessee does not cure any rent, or additional rent, default within thirty (30) days, or other default within thirty (30) days, after notice is given or if the other default is of a nature that it cannot be completely cured within that period, Lessee does not commence curing within thirty (30) days and thereafter proceed with reasonable diligence and in good faith to cure the default, then Lessor may terminate this Lease on not less than thirty (30) days' notice to Lessee. On the date specified in the notice the term of this Lease shall terminate and Lessee shall then quit and surrender the Premises to Lessor, but Lessee shall remain liable as provided in Section XXIII. If this Lease is terminated by Lessor, Lessor may at any time after termination resume possession of the Premises by any lawful means and remove Lessee or other occupants and its or their effect.

Except as otherwise provided herein, neither Lessor nor Lessee shall be considered in default in its obligations to be performed hereunder, if delay in the performance of such obligations is due to unforeseeable causes beyond its control and without its fault or negligence, including but not limited to, acts of God or of the public enemy, acts of the federal or State government, acts or delays of the other party, fires, floods, unusually severe weather, epidemics, freight embargo, or other unforeseen events beyond the control of a party and without its fault or negligence; it being the purpose and intent of this paragraph that in the event of the occurrence of any such enforced delay, the time or times for performance of such obligations shall be extended for the period of the enforced delay;

provided, however, that the party seeking the benefit of the provisions of this paragraph shall within fourteen (14) days after the beginning of such enforced delay, notify the other party in writing thereof and of the cause thereof and of the duration thereof or, if a continuing delay and cause, the estimated duration thereof, and if the delay is continuing on the date of notification, within thirty (30) days after the end of the delay, notify the other party of the duration of the delay.

SECTION XVIII **Deficiency**

In any case where Lessor has recovered possession of the Premises by reason of Lessee's default, Lessor may, at Lessor's option, occupy the Premises or cause the Premises to be redecorated, altered, divided, consolidated with other adjoining premises, or otherwise changed or prepared for reletting, and may relet the Premises or any part of the Premises as agent of Lessee or otherwise, for a term or terms to expire prior to, at the same time as, or subsequent to, the original expiration date of this Lease, at Lessor's option, and receive the rent as agreed under the Lease. Any rent received shall be applied first to the payment of expenses Lessor may incur in connection with the recovery of possession, redecorating, altering, dividing, consolidating with other adjoining premises, or otherwise changing or preparing for reletting, and reletting, including brokerage and reasonable attorneys' fees, and then to the payment of damages in amounts equal to the rent under this agreement and to the cost and expenses of performance of the other covenants of Lessee as provided in this agreement. Lessee agrees, in the above described circumstances, whether or not Lessor has relet, to pay to Lessor damages equal to the rent and other sums agreed to, less the net proceeds of the reletting. The damages shall be payable by Lessee on the several rent days above specified. In reletting the Premises, Lessor may grant rent concessions, and Lessee shall not be credited with the concessions. No reletting shall constitute a surrender and acceptance or be deemed evidence of a surrender and acceptance. If Lessor elects, pursuant to this agreement, actually to occupy and use the Premises or any part of the Premises during any part of the balance of the term as originally fixed or since extended, there shall be allowed against Lessee's obligation for rent or damages as defined in this agreement, during the period of Lessor's occupancy, the reasonable value of the occupancy, not to exceed in any event the rent reserved and the occupancy shall not be construed as a relief of Lessee's liability under this agreement.

Lessee waives all right of redemption to which Lessee or any person claiming under Lessee might be entitled by any law now or later in force. Lessor's remedies under this agreement are in addition to any remedy allowed by law.

SECTION XIX **Effect of Failure to Insist on Strict Compliance with Conditions**

The failure of either party to insist on strict performance of any covenant or condition of this agreement, or to exercise any option contained in this agreement, shall not be construed as a waiver of the covenant, condition, or option in any other instance. This Lease cannot be changed or terminated orally.

SECTION XX
Collection of Rent from any Occupant

If the Premises are sublet or occupied by anyone other than Lessee and Lessee is in default under this agreement, or if this Lease is assigned by Lessee, Lessor may collect rent from the assignee, sublessee, or occupant, and apply the net amount collected to the rent reserved. The collection shall not be deemed a waiver of the covenant against assignment and subletting, or on acceptance of the assignee, sublessee, or occupant as lessee, or a release of Lessee from further performance of the covenants contained in this agreement.

SECTION XXI
Subordination of Lease

Lessor represents and warrants to Lessee that to Lessor's knowledge the Premises are not subject to the lien of a mortgage as of the Effective Date. Subject to and on the express condition that Lessee's right of possession of the Premises and other rights under this Lease shall not be disturbed by Lessor's Mortgage so long as Lessee is not in default under this Lease beyond the expiration of any applicable cure period, this Lease shall be subject and subordinate to any mortgage in the future affecting the Premises. This clause shall be self-operative, but within twenty (20) days after request, Lessee shall execute and deliver any further instruments confirming the subordination of this Lease and any further instruments of attornment that Lessor's Mortgagee may reasonably request and which are commercially reasonable in form and provided that the beneficiary of such instrument agrees therein that Lessee's possession of the Premises and other rights under this Lease will not be disturbed as long as Lessee is not in default under this Lease beyond the expiration of any applicable cure period.

SECTION XXII
Security Deposit

Lessee agrees to deposit with Lessor upon signing of this Lease the sum of \$1.00 as security for the performance of Lessee's obligations under this Lease, including without limitation the surrender of possession of the Premises to Lessor as provided in this agreement. If Lessor applies any part of the deposit to cure any default of Lessee, Lessee shall upon demand deposit with Lessor the amount applied so that Lessor shall have the full deposit on hand at all times during the term of this Lease.

SECTION XXIII
Lessor's Right To Cure Lessee's Breach

If Lessee breaches any covenant or condition of this Lease, Lessor may (but shall have no obligation), on reasonable notice to Lessee (except that no notice need be given in case of emergency), cure the breach at the expense of Lessee. The reasonable amount of all expenses, including attorneys' fees, incurred by Lessor in curing the breach, whether paid by Lessor or not,

shall be deemed additional rent payable on demand. Any such payment not made on the next business day shall bear and accrue interest thereon at a rate equal to the prime commercial rate of Home Town Bank (or its successor in interest) plus two percent (2%) from such date to the date payment is received by Lessor.

SECTION XXIV
Mechanics Lien

Lessee shall within thirty (30) days after notice from Lessor discharge any liens for materials or labor claimed to have been furnished to the Premises on Lessee's behalf. Lessee hereby completely and fully indemnifies Lessor against all losses, costs, damages, injuries, fees and expenses (including, without limitation attorneys' fees) arising out of or in connection with any No mechanic's, materialmen's or laborer's liens or mortgages or other liens of any character or other lien or claims in connection with the making of any repairs, maintenance, replacements, alterations, changes and improvements to the Premises by or on behalf of Lessee. THE PARTIES EXPRESSLY ACKNOWLEDGE AND AGREE THAT LESSEE IS NOT THE AUTHORIZED AGENT OF LESSOR FOR PURPOSES OF CONTRACTING FOR ANY IMPROVEMENT TO REAL PROPERTY. LESSEE SHALL INCLUDE SUCH A STATEMENT IN EACH AND EVERY CONTRACT IT ENTERS INTO FOR ANY REPAIRS, MAINTENANCE, REPLACEMENTS, ALTERATION, ADDITION OR IMPROVEMENT. Lessee has no right to place nor shall Lessee permit to be placed any lien on the Premises. No mechanic's, materialmen's or laborer's liens or mortgages or other liens of any character whatsoever created or suffered by Lessee shall in any way or to any extent affect the interest or rights of Lessor hereunder or its rights or interests in the Premises, or attach to Lessor's title to or rights in the Premises.

SECTION XXV
Notices

A notice, demand, or other communication under this Lease by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, and

- (a) in the case of Lessee, is addressed to or delivered personally to Lessee at:

PORTAGE COUNTY COMMISSIONERS
449 South Meridian Street
Ravenna, Ohio 44266

with copies to:

PORTAGE COUNTY PROSECUTOR
241 South Chestnut Street
Ravenna, Ohio 44266

(b) in the case of Lessor, is addressed to or delivered personally to Lessor at:

City Manager
Municipal Building
215 East Summit Street
Kent, Ohio 44240

with a copy to the Law Director, at the same address.

or at such other address with respect to either such party as that party may from time to time, designate in writing and forward to the other as provided in this Section.

SECTION XXVI
Interruption of Services or Use

Lessor shall have no obligation to provide utility services to the Premises or to maintain any utility lines or other facilities of or serving the Premises. In the event of interruption or curtailment of any utility or other service for the Premises, for any reason, including, without limitation, strikes, mechanical difficulties, Lessor shall not be liable to Lessee for any damages should the furnishing of such utilities be interrupted or required to be terminated by reason of governmental regulation or restrictions, or any other cause, nor shall any such interruption or cessation constitute a constructive eviction or relieve Lessee from the performance of any of Lessee's covenants, conditions and agreements under this Lease.

SECTION XXVII
Conditions of Lessor's Liability

Lessee may not claim a constructive eviction from the Premises unless Lessee has first notified Lessor in writing of the condition or conditions giving rise to the eviction, and, if the complaints are justified, unless Lessor fails within a reasonable time after receipt of notice to remedy the conditions. No member, official or employee of Lessor shall be personally liable to Lessee, or any successor in interest of Lessee, in the event of any default by Lessor or for any amount which may become due to Lessee or its successor on any obligation under the terms of this Lease.

SECTION XXVIII
Lessor's Right To Show Premises

Lessor may show the Premises to prospective purchasers and mortgagees and, during the six (6) months prior to termination of this Lease, to prospective Lessees, during business hours upon reasonable notice to Lessee.

SECTION XXIX
Effect of Other Representations

No representations or promises shall be binding on the parties to this agreement except those representations and promises contained in this agreement or in some future writing signed by the party making the representations or promises.

SECTION XXX
Peaceful Enjoyment

Lessor covenants that if, and for as long as Lessee pays the rent, and any additional rent as provided in this agreement, and performs the covenants of this Lease, Lessee shall peaceably and quietly have, hold, and enjoy the Premises for the term mentioned without any manner of hindrance from Lessor or any person or persons lawfully claiming the Premises through Lessor.

SECTION XXXI
Waiver of Jury Trial

To the extent permitted by law, the parties waive trial by jury in any action or proceeding brought in connection with this Lease or the Premises.

SECTION XXXII
Section Headings

The section headings in this Lease are intended for convenience only and shall not be taken into consideration in any construction or interpretation of this Lease or any of its provisions.

SECTION XXXIII
Binding Effect on Successors and Assigns; Execution in Counterparts.

The provisions of this Lease shall apply to, bind, and inure to the benefit of Lessor and Lessee and their respective heirs, successors, legal representatives, and assigns. In the event of a transfer or sale of the Premises by Lessor, or in the event of a transfer or sale of Lessor's interest as Lessor under this Lease, Lessor's successor or assign shall take subject to and be bound by this Lease and acknowledge responsibility for deposits and refund of same and, in such event, Lessee covenants and agrees that: (i) Lessor shall be released from all obligations of Lessor under this Lease, except obligations which arose and matured prior to such transfer by Lessor; (ii) Lessee shall thereafter look solely to Lessor's successor or assign for satisfaction of the obligations of Lessor under this Lease; and (iii) upon demand by Lessor or Lessor's successors or assigns, Lessee shall attorn to such successor or assigns. This Lease may be executed in one or more counterparts, each of which shall be deemed an original, and all of which when taken together shall constitute one and the same document.

SECTION XXXIV
No Brokers

Lessor and Lessee represent to each other that no brokerage fees or real estate commissions are or shall be due or owing in connection with this transaction or in any way with respect to the Premises. Each party agrees to pay and be responsible for any claims, costs, judgments or liabilities of any kind advanced by persons claiming real estate brokerage fees through such party.

SECTION XXXV
Lessee's Purchase Option

If Lessee has not relocated from the Premises to the East Main Street, Kent Premises prior to the expiration of this Lease, Lessee shall have the right to extend this Lease by written amendment hereto or, it will have the option to re-exchange the Premises with Lessor the East Main Street property obtained from Lessor under the Purchase Agreement, plus (i) all costs incurred by Lessor in completing its purchase of the Premises from Lessee under the Purchase Agreement, and (ii) all cost incurred by Lessor in connection with the re-exchange of the Premises. Lessee shall be required to exercise the foregoing purchase option by written notice to Lessor not later than thirty (30) days prior to the last day of the term of this Lease, failing which this option shall be null and void and of no further force or effect.

IN WITNESS WHEREOF, each of the parties has caused this Lease to be duly executed in its behalf; as of the date and year first above written.

“Lessor”:
THE CITY OF KENT, OHIO

By: _____
City Manager

APPROVED AS TO FORM AND CORRECTNESS:

Law Director

“Lessee”:
PORTAGE COUNTY, OHIO

By: _____
Name and Title: _____

APPROVED AS TO FORM AND CORRECTNESS:

Portage County Prosecutor's Office

STATE OF OHIO)
) SS:
COUNTY OF PORTAGE)

On this ____ day of _____, 2012, before me, a Notary Public in and for said County and State, personally appeared David Ruller, City Manager of the City of Kent, Ohio, and acknowledged the execution of the foregoing instrument as the authorized officer of said City on behalf of said City, and that the same is his voluntary act and deed as said officer on behalf of the City and the voluntary and corporate act and deed of the City.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

[SEAL]

Notary Public
My commission expires: _____

STATE OF OHIO)
) SS:
COUNTY OF PORTAGE)

On this ____ day of _____, 2012, before me, a Notary Public in and for said County and State, personally appeared _____, the Portage County Commissioners for Portage County, Ohio, and acknowledged the execution of the foregoing instrument as the duly authorized officer thereof, and that the same is their voluntary act and deed as said officers and the voluntary act and deed of the said governmental entity.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

[SEAL]

Notary Public
My commission expires: _____

This instrument was prepared by:
James R. Silver, Law Director
City of Kent, Ohio
215 East Summit Street
Kent, Ohio 44240

EXHIBIT A
LEGAL DESCRIPTION OF PREMISES

EXHIBIT B
INSURANCE COVERAGE REQUIREMENTS

1. Insurance Coverage

(i) Commercial general liability insurance in the amount of at least US\$5,000,000 per occurrence (including umbrella coverage), on a form at least as broad as Insurance Services Office (“ISO”) commercial general liability “occurrence” form CG 00 01 0196 (available through a commercial insurance broker) or another “occurrence” form providing equivalent coverage and approved in writing by Lessor; and such commercial general liability insurance and any necessary riders thereto shall provide at least the following coverages:

- (1) contractual liability coverage as applicable to any hold harmless agreements in this Lease;
- (2) completed operations coverage;
- (3) broad form property coverage for property in the care, custody, or control of the Lessee;
- (4) coverage for liability arising out of professional services or out of explosion, collapse, underground operations, or damage to utilities and loss of use resulting there from.

(ii) The required commercial general liability, insurance policies shall cover Lessor as an additional insured with respect to all claims, actions, suits, demands, arbitrations and causes of action or other similar activity made, filed, done or attempted or submitted for or on account of any actual or alleged liabilities, losses, damages, fines, penalties, awards, judgments, decrees, orders, holdings, determinations, opinions, costs and expenses of every kind and amount whatsoever (including without limitation reasonable attorneys’ fees) on account of or as a result of any actual or alleged loss of, damage to or defect in property or any actual or alleged illness or injury, including death, or one or more persons (collectively, “Claims”) arising out of the work of the named insured and any entry upon the Premises of Lessor, acts or omissions of the named insured, and with respect to Claims by employees of Lessee or any Contractor, or their respective personal representatives, heirs, and beneficiaries. Such coverage shall be primary to and noncontributory with any other insurance carried by any Lessor.

2. The required policies of insurance for commercial general liability, shall not have deductibles or self-insured retentions which are greater than the lesser of (i) five percent (5%) of the coverage limit provided by the policy, or (ii) the deductibles or self-insured retentions in Lessee’s or Contractor’s general program of business insurance, unless approved in writing by Lessor. All deductibles or self insured retentions (“SIR”) on insurance required to be obtained under this Lease shall be borne by Lessee or such Contractor, as applicable, at its sole expense, without

reimbursement by Lessor, and shall be treated as “insurance” with regard to all requirements of this Lease. If Lessee or Contractor is self-insured, it will provide Lessor with appropriate certificates evidencing such self-insurance program, including appropriate documentation of SIR funds.

3. All required policies of insurance shall be maintained in a form and with responsible insurance carriers reasonably satisfactory to Lessor who are qualified to do business in the jurisdiction(s) in which the work is performed, and who are rated by AM Best as A- or better with a size rating of VII or better. As soon as practicable upon execution of this Lease and before entry upon the Premises of Lessor, Lessee shall provide Lessor with certificates of insurance evidencing all required coverages, listing all named insureds and additional insureds, and confirming the required waiver of subrogation. The certificate shall state that the policies described therein will not be cancelled, terminated, or materially amended, and renewals will not be refused or aggregate limits potentially exhausted until at least thirty (30) days after written notice has been given to Lessor. Upon request by Lessor, Lessee shall deliver, and shall cause each Contractor of Lessee to deliver, to Lessor true and complete copies of the original policies of insurance, including all riders and endorsements thereto, and bearing notations or accompanied by other evidence satisfactory to Lessor of the payment of premiums. Thereafter, Lessee shall deliver, and shall cause each Contractor of Lessee to deliver, to Lessor certificates of renewal not less than ten (10) days before the expiration dates of the expiring policies. Each policy of insurance shall not contain any exclusions for work performed by Contractors and must incorporate any additional endorsements as Lessor may reasonably request.

4.. Lessee shall notify Lessor and the applicable insurance carriers of any occurrence or event giving rise to a Claim as required under the terms of the policies.

5. Failure of Lessee to provide such certificates evidencing the required insurance shall under no circumstances be deemed a waiver of this requirement. The obligation of Lessee to provide the required policies of insurance shall not limit in any way the liability or obligation assumed by Lessee under this Lease.

6. Lessee shall cause each of its Contractors that enter onto the Premises of Lessor to obtain the required insurance and to provide to Lessor a certificate of insurance prior to the entry upon such Premises and the start of any work at, on or about such Premises.

7. Lessee and its Contractors shall be responsible for providing all other insurance and employee benefits required under applicable laws.

✓ REAL ESTATE EXCHANGE AGREEMENT

This agreement (the "Agreement"), made and entered into this ___ day of ___, 2012, by and between the County of Portage, Ohio, a County and political subdivision organized and existing under the Constitution and laws of the State of Ohio, (the "County") and The City of Kent, County of Portage, State of Ohio, a municipal corporation duly organized under the laws of the State of Ohio and a duly adopted Charter (the "City").

WITNESSETH:

WHEREAS, County owns the real property described as Exhibit A hereto ("County Property"), and;

WHEREAS, City is acquiring the real property described as Exhibit B hereto ("City Property"), and;

WHEREAS, County desires to exchange the County Property for the City Property and City desires to exchange the City Property for the County Property in accordance the terms and conditions of this Agreement.

WHEREAS, the County, by Resolution No. 2012-_____, attached hereto as Exhibit "C", has accepted the agreement; and

WHEREAS, the City, by Ordinance No. 2012-_____, attached hereto as Exhibit "D", has accepted the agreement; and

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises, representations and undertakings of the parties set forth herein, the adequacy and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. PREMISES DEFINED:

1.1 The County Property consists of the real estate located in the City of Kent, County of Portage and State of Ohio, and more particularly described in Exhibit "A" attached hereto, together with all easements, rights and appurtenances thereto (hereinafter collectively call the "County Property").

1.2 The City Property consists of the real estate located in the City of Kent, County of Portage and State of Ohio, and more particularly described in Exhibit "B" attached hereto, together with all easements, rights and appurtenances thereto (hereinafter collectively call the "City Property").

2. CONSIDERATION:

2.1 Consideration for this Exchange shall be the mutual benefit derived by Portage County and the City of Kent for the public health, safety and welfare within their respective Communities.

3. INSPECTION:

3.1 The City shall provide to County a copy of Phase I Environmental Site Assessment for the City Property (the "Phase I Report") that complies with: (i) the American Society for Testing and Materials (ASTM) Standard Designation: E-1527-00, "*Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process*," and (ii) Ohio Administrative Code rule 3745-300-06. The cost of the Phase I Report shall be paid by the City.

3.2 If the Phase I report indicates any environmental contamination or need for remediation, Buyer may terminate this agreement or may, at its election, take title as is.

4. TITLE:

4.1 At closing City's Title to the City Property shall be good and marketable and free and clear of all liens and encumbrances, except:

- (a) the lien of real estate taxes not then due and payable,
- (b) easements of record which do not interfere with County's ability to develop the property and
- (c) all applicable zoning and building laws, ordinances and regulations.

The County shall pay for a preliminary title insurance commitment, and after the date of closing, at County's option, an owner's title insurance policy with extended coverage issued **Diamond Title Co. of Northeast Ohio** in the amount of One Million Dollars (\$1,000,000). Said policy shall insure title to the Real Estate in County, free and clear of all liens and encumbrances, except as limited above. If title shall prove defective, City shall perfect the same promptly, but if title cannot be perfected by closing, County may terminate this agreement or may, at its election, take title as it then is, upon giving notice of such election to City.

4.2 At closing County's Title to the County Property shall be good and marketable and free and clear of all liens and encumbrances, except:

- (a) the lien of real estate taxes not then due and payable,
- (b) easements of record which do not interfere with City's ability to develop the property,

- (c) all applicable zoning and building laws, ordinances and regulations, and
- (d) subject only to occupancy by the Portage County Municipal Court/Kent Branch of a portion of the County Property in accordance with the lease agreement incorporated herein.

The City shall pay for a preliminary title insurance commitment, and after the date of closing, at the City's option, an owner's title insurance policy with extended coverage issued by Bennett Land Title Co. LLC. in the amount of Seven Hundred Fifty Thousand Dollars (\$750,000). Said policy shall insure title to the Real Estate in City, free and clear of all liens and encumbrances, except as limited above. If title shall prove defective, the County shall perfect the same promptly, but if title cannot be perfected by closing, City may terminate this agreement or may, at its election, take title as it then is, upon giving notice of such election to County.

5. CLOSING.

5.1 The closing (the "Closing") of the grant of the Property contemplated hereby shall occur on or before Forty-five days from the date the City acquires a deed or deeds to all of the premises designated as the City Property.

6. PRORATIONS.

6.1 There shall be prorated between the City and the County, as of the date the Deed to the County Property is filed for record, on the basis of thirty (30)-day months, all real estate taxes and assessments, both general and special (the "real estate taxes"), levied or assessed against the Premises for the current year, based on the latest available tax bills.

6.2 There shall be prorated between the City and the County, as of the date the Deed to the City Property is filed for record, on the basis of thirty (30)-day months, all real estate taxes and assessments, both general and special (the "real estate taxes"), levied or assessed against the Premises for the current year, based on the latest available tax bills.

7. CLOSING PROCEDURES.

7.1 This Agreement shall be closed by placing all instruments, documents and funds necessary to the completion of the transaction contemplated herein in escrow with Bennett Land Title Co. LLC (the "Escrow Agent"). An executed copy of this Agreement shall be delivered to the Escrow Agent and shall constitute its instructions for the Closing.

7.2 The Closing shall proceed as follows:

- (a) Prior to the Closing Date, the County shall deposit with the Escrow Agent the Deed for the County Property.
- (b) Prior to the Closing Date, the City shall deposit with the Escrow Agent the Deed for the City Property.
- (c) Upon such deposits by the City and the County, the Escrow Agent shall confirm that it can and will, upon the filing of the Deeds for record, obtain from the Diamond Title Co. of Northeast Ohio the applicable Title Policies.
- (d) On the Closing Date, the Escrow Agent shall file the Deeds for record and shall deliver to each Party, as soon as practicable, their respective Deed, Title Policy, and the Escrow Agent's closing statement of account
- (e) County shall deposit with Escrow Agent:
 - (i) the cost of recording the Deed to the City Property, if applicable;
 - (ii) 1/2 the Escrow Agent's fee;
 - (iii) the amount of the Ohio transfer fee and Auditor's real property conveyance fee, if applicable to the City Property, if applicable; and
 - (iv) the County's share of real estate taxes due per Section 6 of this Agreement, if applicable.
- (f) City shall deposit with Escrow Agency:
 - (i) the cost of recording the Deed to the County Property;
 - (ii) 1/2 the Escrow Agent's fee;
 - (iii) the amount of the Ohio transfer fee and Auditor's real property conveyance fee, if applicable to the County Property; and
 - (iv) the City's share of real estate taxes due per Section 6 of this Agreement.

8. **NOTICES.**

8.1 Any notice or other communication required hereunder shall be in writing and deemed effective when hand delivered or when deposited in the United States mail, certified or registered, postage prepaid, addressed to the City and the County at the following addresses, or to such other address as either party hereto may designate to the other in the manner provided in this Section 8:

To the City: City of Kent
215 E. Summit St.
Kent, Ohio 44240
Attn: Dave Ruller, City Manager

To the County: Portage County Board of Commissioners
449 S. Meridian Street
Ravenna, OH 44266
Attn: Clerk

9. **WAIVER.** No waiver of any provision of this Agreement shall be valid unless the same is in writing and signed by the party against whom it is sought to be enforced. No waiver of any provision of this Agreement at any time will be deemed a waiver of any other provision of this Agreement at such time or will be deemed a waiver of such provision at any other time. No modification of this Agreement shall be binding unless in writing and signed by the party against whom sought to be enforced.

10. **ENTIRE AGREEMENT.** This Agreement embodies all representations, obligations, agreements and conditions in relation to the subject matter hereof, and no representations, obligations, understandings or agreements, oral or otherwise, in relation thereto exist between the parties except as herein expressly set forth.

11. **BINDING EFFECT.** This Agreement and the various rights and obligations arising hereunder shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors and assigns.

12. **MISCELLANEOUS**

12.1 No obligation in this Agreement shall constitute any personal obligation, whether jointly or severally, of members of the Board for the Portage County Commissioners and their respective officers, agents or employees of Portage County; or the City of Kent and their respective officers, agents or employees of the City Of Kent.

12.2 The captions and headings in this Agreement are solely for convenience of reference and shall in no way defer, limit or describe the scope or intent of any provision or sections of this Agreement.

12.3 This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Ohio and any action to enforce the terms of this Agreement shall be brought in Portage County, Ohio.

12.4 The parties warrant and represent that no real estate agent on behalf of either party was utilized in this transaction.

SIGNATURES ON SEPARATE PAGE

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the undersigned by their representatives duly authorized have executed this Agreement consisting of seven (7) pages.

**PORTAGE COUNTY
COUNTY BOARD OF COMMISSIONERS**

By

Maureen T. Frederick, Commr.

Approved as to Form:

Christopher Smeiles, Commr.

Assistant Prosecuting Atty.

Tommie Jo Marsilio, Commr.

CITY OF KENT

Approved as to Form:

By: _____

Title: _____

Law Director