

List of Bills Submitted to Council for Approval Only

Date: 2/03/14

VENDOR	DESCRIPTION	DEPT	FUND	TOTAL	CHECK #
1 A CLASS ACT ENTERTAINMENT, INC.	JUNE 22, 2014 CONCERT DEPOSIT	REC	GEN	\$ 300.00	
2 A-1 DRAIN SERVICE, INC.	CLEAN DRAINS ON BAILEY & LAYER ROADS	DRAINAGE	M&R	\$ 600.00	
3 ALLIED WASTE SERVICES	SERVICES FOR 2/1 - 2/28/14	BLDGS	GEN	\$ 253.50	
4 ALLSTATE PETERBILT YOUNGSTOWN	REPAIRS TO SQUAD #36	FIRE	GEN	\$ 1,028.36	
5 BUCKEYE WELDER SALES	OXYGEN BOTTLE REFILL	FIRE	GEN	\$ 25.00	
6 C & V WHOLESALERS, INC.	URINAL KIT / INSIDE COVER / HANDLE ASSEMBLY	BLDGS	GEN	\$ 41.67	
7 CINTAS CORPORATION	RAGS	POL / RDS / BLDGS	GEN / M&R	\$ 176.22	
8 CLEMENTE-MCKAY AMBULANCE	PARAMEDIC BACKUP	FIRE	GEN	\$ 900.00	
9 COMMUNITIES OF DISTINCTION	TV ADVERTISEMENT	COUNCIL	GEN	\$ 19,800.00	
10 CONCOYLE OILFIELD TOOLS, INC.	TWENTY-ONE EMBROIDERED NAVY JACKETS	FIRE	GEN	\$ 1,433.25	
11 CUYAHOGA VALLEY CAREER CENTER	EMT SCHOOL - MARCUS SHORT	FIRE	GEN	\$ 1,035.00	
12 DOMINION EAST OHIO GAS	GAS SERVICE	FIRE / POL	GEN	\$ 790.93	
13 DYNA dba PARTS MASTER	SHIPPING COSTS ON PO #49270	RDS	M&R	\$ 23.78	
14 GRAINGER	OFFICE SUPPLIES	CLERK	GEN	\$ 78.53	
15 HALL PUBLIC SAFETY	INSTALL SCREEN IN TAHOE / REPLACED TWO FAULTY STROBE BULBS	POL	GEN	\$ 626.49	
16 HOME DEPOT CREDIT SERVICES	INSULATION / FOAMBOARD / DRYWALL SUPPLIES / TEXTURE BRUSH	BLDGS	GEN	\$ 76.02	
17 HOWLAND TOWNSHIP FIRE & EMS	EMT CLASS - DAISY FREE	FIRE	GEN	\$ 850.00	
18 LAKE BUSINESS PRODUCTS	LEASE ON COPIER 2/1/14 - 3/1/14	CLK / POL / UTL	GEN / UTL	\$ 288.98	
19 LAKE BUSINESS PRODUCTS	COPIES	CLK / POL / UTL	GEN / UTL	\$ 153.46	
20 LEAVITTSBURG HARDWARE	SPRAY PAINT / BATTERIES / TOILET TANK REPAIR KIT	FIRE / PKS	GEN	\$ 99.20	
21 LIFE FLEET LLC	EMT CLASSES - CHAD FOOR, ROBERT NUTT, JAMES OVERTON	FIRE	GEN	\$ 2,400.00	
22 LOU CARBONE PLUMBING & HEATING	REPAIR WATER LEAK IN ADMINISTRATION BUILDING	BLDGS	GEN	\$ 1,096.10	
23 LYDEN OIL COMPANY	UNLEADED GASOLINE	POL / P&Z	GEN	\$ 2,580.17	
24 MAHONING VALLEY CHIEFS OF POLICE	2014 MEMBERSHIP DUES	POL	GEN	\$ 25.00	
25 MATRE ARMS & AMMUNITION, INC.	1,000 ROUNDS OF 223 AMMUNITION	POL	GEN	\$ 340.00	
26 MED STAR	MEDIC BACKUP	FIRE	GEN	\$ 400.00	
27 MEDICAL MUTUAL	EMPLOYEE HELATH INSURANCE PREMIUM 2/1 - 2/28/14	ALL	ALL	\$ 19,103.09	
28 MORTON SALT, INC.	DELIVERED SALT	RDS	M&R	\$ 15,762.07	
29 MYERS EQUIPMENT	LIGHT BULBS FOR SQUAD #36 / TUBE PIVOT / GREASE PIVOT / EYE BOLT	FIRE / GRNDS	GEN	\$ 161.84	
30 NOBLE DIAGNOSTICS, INC.	DRUG SCREENING / LAB TESTING	POL	GEN	\$ 34.50	
31 OHIO EDISON	ELECTRIC SERVICE	ALL	ALL	\$ 4,051.45	
32 PIERCE MANUFACTURING, INC.	2014 PUMPER TANKER TRUCK	FIRE	CAPITAL	\$ 524,500.00	
33 PITNEY BOWES, INC.	RED INK CARTRIDGES	CLK / UTL	GEN / UTL	\$ 151.18	
34 PRINCIPAL LIFE INSURANCE CO.	EMPLOYEE LIFE INSURANCE PREMIUM 2/1 - 2/28/14	ALL	ALL	\$ 319.30	
35 QUILL CORPORATION	MINI USB	CLERK	GEN	\$ 30.99	
36 REGIONAL CHAMBER	ECONOMIC FORECAST MEETING 2/6/14 (HILL, MANSELL, REIDER, JONES BLANK, GRIMM, DUGAN, MILHOAN)	ALL	GEN / M&R	\$ 200.00	
37 REGIONAL CHAMBER	GOVERNMENT LEADERSHIP ACADEMY COURSE (SHEELY, DUGAN, MILHOAN, LERCH)	COUN / POL / TAX / P&Z	GEN	\$ 1,040.00	
38 SHARON VIGORITO	TRANSCRIPTION OF COUNCIL MEETING 1/21/14	CLK	GEN	\$ 100.00	

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE LORDSTOWN VILLAGE ZONING MAP TO RECLASSIFY A PORTION OF THE TEN (10) ACRES OF REAL PROPERTY OWNED BY ANDREA C. HOSPODOR SITUATED AT 1229 SALT SPRINGS ROAD, LORDSTOWN, OHIO, PARCEL NO. 45-007979 FROM B-2 (HIGHWAY BUSINESS) TO R-1 (RESIDENTIAL).

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF LORDSTOWN, TRUMBULL COUNTY, OHIO:

Section 1: That Andrea C. Hospodor owns approximately ten (10) acres of real property, Parcel No. 45-007970, situated within the Village of Lordstown, County of Trumbull, State of Ohio, at 1229 Salt Springs Road and being further described as follows:

as being in and a part of original lot No. 54 of said township. Beginning at an iron pin set in the center of the Carson- Salt Springs Road, said iron pin marks the division between lands of Geo. Roos and land formerly owned by Geo. Schmitt, now owned by this Grantor, Karl A. Schmitt;

thence S. 0 degrees 26 ' E. along the division between lands of George Roos and lands of this Grantor, Karl A. Schmitt, a distance of 1499.50 feet to an iron pin;

thence N. 89 degrees 08' E. along the division between lands of said Geo. Roos and lands of this Grantor, Karl A. Schmitt, a distance of 290.03 feet to a sump stock;

thence N. 0 degrees 26' W. a distance of 1500.30 feet to an iron pin set in the center of the said Carson-Salt Springs Road;

thence S. 88 degrees 58' W. along the center of the said Carson-salt Springs Road a distance of 290.30 feet to an iron pin, being the place of beginning, but subject to all existing legal highways.

Containing within said bounds approximately 10 acres.

Section 2: That Andrea C. Hospodor has requested that the Planning Commission of the Village of Lordstown rezone a portion of Parcel No. 45-007970, to-wit:

Comprised of 290.03 feet of frontage at 1229 Salt Springs Road to a depth of 500 feet south from B-2 (Highway Business) to R-1 (Residential) and being further described as follows:

as being in and part of original lot No. 54 of said township. Beginning at an iron pin set in the center of the Carson Salt Springs

Road, said iron pin marks the division between lands of Geo. Roos and land formerly owned by Geo. Schmitt, now owned by this Grantor, Karl A. Schmitt;

thence south a distance of 30 feet to a point at the edge of the Carson Salt Springs Road Right of Way;

thence east a distance of 290.30 feet to a point along the edge of the Carson Salt Springs Road Right of Way;

thence south a distance of 500 feet to a point;

thence west a distance of 290.30 feet to a point;

thence north a distance of 500 feet to the starting point at the edge of the Carson Salt Springs Road Right of way;

Containing within said bounds approximately 3.332 acres.

Section 3: That the Planning Commission of the Village of Lordstown hereby reclassifies the real property more specifically described in Section 2 hereof comprised of 290.03 feet of frontage along 1229 Salt Springs Road to a depth of 500 feet to the south from B-2 (Highway Business) to R-1 (Residential); provided, however, the remainder of Parcel No. 45-007970 not subject to this change in zoning classification shall remain classified as R-1 (Residential).

Section 4: That the Lordstown Zoning Administrator is hereby authorized and directed to amend the Lordstown Village Zoning Map so that the same conforms to the provisions of this Ordinance.

Section 5: That the passage of this Ordinance and all deliberations relating to the passage of this Ordinance were held in open meetings in accordance with the provisions of the Ohio Revised Code Section 121.22.

Passed in Council this _____ day of _____, 2014

_____, Mayor

_____, Clerk

First reading on January 6, 2014
Second reading on January 21, 2014

FINANCE COMMITTEE
Mansell
Reider
Radtka

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE VILLAGE OF LORDSTOWN TO ENTER INTO AN AGREEMENT WITH USM STUDIOS, A FLORIDA CORPORATION, OF 6250 CORAL RIDGE DRIVE, CORAL SPRINGS, FLORIDA, TO PRODUCE AND MARKET A FIVE MINUTE SEGMENT HIGHLIGHTING LORDSTOWN AS ONE OF THE "BEST PLACES TO LIVE, WORK AND PLAY" AS PART OF COMMUNITIES OF DISTINCTION'S "AMERICA TODAY" SERIES AND DECLARING AN EMERGENCY.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF LORDSTOWN, COUNTY OF TRUMBULL, STATE OF OHIO:

Section I: That the Mayor and Clerk are hereby authorized and empowered to enter into an Agreement with USM Studios to produce and market a five (5) minute segment highlighting Lordstown as one of the "Best Places To Live, Work and Play" as part of Communities of Distinction's "America Today" series, a copy of which is attached hereto as **Exhibit "A"**, the terms of which are incorporated by reference and made a part of this Ordinance.

Section II: That the cost of the production and marketing services shall not exceed Nineteen Thousand Eight Hundred and 00/100 Dollars (\$19,800.00) which shall be paid from the 101.111.52239 Council Miscellaneous Contractual Account.

Section III: That this Ordinance is hereby declared to be an emergency measure necessary for the public health, safety and welfare and for the further reason that the Agreement must be implemented in a timely manner.

Section IV: That the passage of this Ordinance and all deliberations relating to the passage of this Ordinance were held in open meetings in accordance with the provisions of Revised Code §121.22.

Passed in Council this _____ day of _____, 2014.

_____, Mayor
_____, Clerk

PARTICIPATION AGREEMENT

Date: January 10, 2014
Participant: **Village of Lordstown, OH**
Authorized by: Mayor Arno Hill
Market: National (*See Distribution Checklist*)
Show: **Communities of Distinction**

Project No: CDn-14117ad/kj
Associate Producer: Anthony DiMellio
Feature: 5 minute feature
Host: Terry Bradshaw

Communities of Distinction ("PRODUCTION COMPANY"):

- 1) PRODUCTION COMPANY will provide a complete licensed and insured production and scriptwriting team (field production, graphics, music, voice-overs, program editing, set design and lighting) for domestic taping and completion of feature for PARTICIPANT.
- 2) PRODUCTION COMPANY will provide PARTICIPANT with a copy of its segment, and hereby grants the PARTICIPANT complete licensing rights for legal and marketing/promotional purposes.
- 3) This feature will be used on the *Communities of Distinction* show airing one (1) time nationally on FOX Business Network, and 19 times regionally through a combination ABC and/or FOX Broadcast Stations and/or Regional News Networks through local cable providers in up to 15 markets as indicated on the distribution checklist. All airings to occur 6:00 a.m. to 11:00 p.m.
- 4) PRODUCTION COMPANY will include the PARTICIPANT in conjunction with the promotions of the series in any available editorial articles, as well as, press releases distributed to relevant industry organizations targeting consumer and business networking sites.
- 5) In collaboration with PARTICIPANT, content to include but not limited to: **filming of visuals to be obtained at a pre-determined and mutually agreed upon location as indicated by PARTICIPANT and studio; participating village spokesperson interviews intended to communicate important information to viewers pertaining to village/industry details, and if possible, third party interviews applicable to village story and subject matter.**

Village of Lordstown, OH ("PARTICIPANT"):

- 1) PARTICIPANT will provide input into the scripting by filling out a PARTICIPANT questionnaire, reviewing and signing off on feature outline for accuracy, filling out and approving production schedules and providing literature as well as background information. **PARTICIPANT is required to sign off and approve script and final edited segment before going to network.** All press releases must be pre-approved by both parties prior to release.
- 2) PARTICIPANT understands and acknowledges that the PRODUCTION COMPANY will immediately begin work on certain aspects of the PARTICIPANT'S feature and delegate personnel in association with the development, promotion, scheduling, pre-production and production with the goal to have the script developed within thirty to forty-five days upon PARTICIPANT returning the Editorial Information Form.
- 3) \$19,800 USD is the total scheduling fee. PARTICIPANT will incur no additional cost relating to the parameters of this agreement.
- 4) PARTICIPANT acknowledges and agrees to pay the total scheduling fee as follows: 1/2 due thirty days from agreement execution, and 1/2 due sixty days from agreement execution.
- 5) PARTICIPANT, if appropriate, will provide end user for testimonial, company spokesperson, talent and products for shooting.

The parties agree that Florida law applies and the jurisdiction and venue for any action regarding this agreement shall lie exclusively in the courts of Broward County, Florida. Once both parties authorize this agreement, Participant does irrevocably commit to participate in the television program described above and does further agree to provide the questionnaire and literature in a timely manner. All aspects of the agreement will be completed within twelve months or sooner of agreement execution assuming Participant does not withhold reasonable approvals. As stated, Communities of Distinction and its national television show has no direct affiliation with the networks on which they air. Communities of Distinction purchases the time through cable providers, networks and/or other media sellers. This agreement contains the full and complete understandings between the parties whether written or oral, pertaining thereto, and cannot be modified except by a written instrument signed by each party hereto.

Authorized Representative - Participant

Company /Position/ Print name

Date

Communities of Distinction Representative

CEO of Communities of Distinction

Date

**Mansell
Radtka
Reider**

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE CLERK TO MAKE THE FOLLOWING TRANSFER FROM THE DEPOSIT TRUST FUND INTO THE GENERAL FUND AND DECLARING AN EMERGENCY.

NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF LORDSTOWN, COUNTY OF TRUMBULL, STATE OF OHIO:

Section I: That the Clerk is hereby authorized to transfer the sum of \$50.00 from the 806.166.54000 (Deposit Trust Transfer) Account within the Deposit Trust Fund into the 101.000.49020 (Transfer in) Account within the General Fund.

Section II: This Ordinance is hereby declared to be an emergency measure necessary for the public health, safety and welfare and for the further reason this legislation is necessary in order to comply with state auditing standards.

Section III: That the passage of this Ordinance and all deliberations relating to the passage of this Ordinance were held in open meetings in accordance with the provisions of the Ohio Revised Code Section 121.22.

Passed in Council this _____ day of _____, 2014.

_____, Mayor

_____, Clerk

ORDINANCE NO. _____

**AN ORDINANCE AMENDING AND RESTATING ORDINANCE NO. 86-2007
ADOPTING THE VILLAGE OF LORDSTOWN'S PUBLIC RECORDS POLICY
AND DESIGNATING WILLIAM BLANK, CLERK, TO SERVE AS THE RECORDS
CUSTODIAN, AND DECLARING AN EMERGENCY.**

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF
LORDSTOWN, COUNTY OF TRUMBULL, STATE OF OHIO:**

Section I: That Substitute House Bill 9 which amends and restates Ohio Revised Code Section 149.43, Ohio's Public Records Law, requires that all public agencies such as the Village of Lordstown adopt a Public Records Policy and designate an employee of the public agency to serve as its Records Custodian.

Section II: That the Council of the Village of Lordstown hereby adopts a Public Records Policy (a copy of which is attached hereto as Exhibit "A", the terms of which are incorporated by reference and made a part of this Ordinance).

Section III: That William Blank, Clerk, is hereby designated to serve as Records Custodian for the Village of Lordstown pursuant to Substitute House Bill 9/Ohio Revised Code Section 149.43, et al.

Section IV: That this Ordinance is hereby declared to be an emergency measure necessary for the public health, safety and welfare and for the further reason that this Ordinance must be enacted to enable the Village of Lordstown to comply with Substitute House Bill 9/Ohio Revised Code Section 149.43.

Section V: That the passage of this Ordinance and all deliberations relating to the passage of this Ordinance were held in open meetings in accordance with the provisions of Revised Code §121.22.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2014

_____, Mayor

_____, Clerk

VILLAGE OF LORDSTOWN

PUBLIC RECORDS POLICY

Introduction:

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

Section 1. Public Records.

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

Section 1.1.

It is the policy of the Village of Lordstown that, as required by Ohio law, records will be organized and maintained so that they are readily available for inspection and copying (See Section 4 for the e-mail record policy). Record retention schedules are to be updated regularly and posted prominently.

Section 2. Record Requests.

Each request for public records should be evaluated for a response using the following guidelines:

Section 2.1.

Although no specific language is required to make a request, the requester must at least identify the records requested with sufficient clarity to allow the Village of Lordstown to identify, retrieve, and review the records. If it is not clear what records are being sought, the records custodian must contact the requester for clarification, and should assist the requester in revising the request by informing the requester of the manner in which the Village of Lordstown keeps its records.

Section 2.2.

The requester does not have to put a records request in writing, and does not have to provide his or her identity or the intended use of the requested public record. It is the Village of Lordstown's general policy that this information is not to be requested.

Section 2.3.

Public records are to be available for inspection during regular business hours, with the exception of published holidays. Public records must be made available for inspection promptly. Copies of public records must be made available within a reasonable period of time. "Prompt" and "reasonable" take into account the volume of records requested; the proximity of the location where the records are stored; and the necessity for any legal review of the records requested.

Section 2.4.

Each request should be evaluated for an estimated length of time required to gather the records. Routine requests for records should be satisfied immediately if feasible to do so. Routine requests include, but are not limited to, meeting minutes (both in draft and final form), budgets, salary information, forms and applications, personnel rosters, etc. If fewer than 20 pages of copies are requested or if the records are readily available in an electronic format that can be e-mailed or downloaded easily, these should be made as quickly as the equipment allows. If more copies are requested, an appointment should be made with the requester on when the copies or computers files can be picked up. All requests for public records must either be satisfied (see Section 2.4) or be acknowledged in writing by the Village of Lordstown within three business days following the Village of Lordstown's receipt of the request. If a request is deemed significant beyond "routine", such as seeking a voluminous number of copies or requiring extensive research, the acknowledgement must include the following:

Section 2.4a

An estimated number of business days it will take to satisfy the request.

Section 2.4b

An estimated cost if copies are requested.

Section 2.4c

Any items within the request that may be exempt from disclosure.

Section 2.5.

Any denial of public records requested must include an explanation, including legal authority. If portions of a record are public and portions are exempt, the exempt portions are to be redacted

and the rest released. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority.

Section 3. Costs for Public Records.

Those seeking public records will be charged only the actual cost of making copies.

Section 3.1.

The charge for paper copies is **10 cents per page. Double sided 20 cents per page. Faxes 75 cents per page.**

Section 3.2.

The charge for downloading computer files to a compact disc is **\$5 per disc.**

Section 3.3.

There is no charge for documents e-mailed. **However, if required, we will charge for scanning documents at the photocopy rate contained in Section 3.1.**

Section 3.4.

Requesters may ask that documents be mailed to them. They will be charged the actual cost of the postage and mailing supplies.

Section 4. E-Mail.

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

Section 4.1.

Records in private e-mail accounts used to conduct public business are subject to disclosure, and all employees or representatives of the Village of Lordstown are instructed to retain their e-mails that relate to public business (see Section 1 Public Records) and to copy them to their business e-mail accounts and/or to the Village of Lordstown's records custodian.

Section 4.2.

The records custodian is to treat the e-mails from private accounts as records of the Village of Lordstown, filing them in the appropriate way, retaining them per established schedules and making them available for inspection and copying in accordance with the Public Records Act.

Section 5. Failure to Respond to a Public Records Request.

The Village of Lordstown recognizes the legal and non-legal consequences of failure to properly respond to a public records request. In addition to the distrust in government that failure to comply may cause, the Village of Lordstown's failure to comply with a request may result in a court ordering the Village of Lordstown to comply with the law and to pay the requester attorney's fees and damages.

FINANCE COMMITTEE

Mansell

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ORDINANCE NO. _____

AN ORDINANCE ADOPTING AN EXPENDITURE OF PUBLIC FUNDS/PROPER "PUBLIC PURPOSE" POLICY RECOMMENDED BY THE AUDITOR OF THE STATE OF OHIO FOR THE VILLAGE OF LORDSTOWN AND DECLARING AN EMERGENCY.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF LORDSTOWN, COUNTY OF TRUMBULL, STATE OF OHIO:

Section I: That the Auditor of the State of Ohio has determined that the Village of Lordstown does not have a formal policy for expending monies for the purchase of coffee, meals, refreshments and other amenities.

Section II: That the Auditor of the State of Ohio has recommended that the Village of Lordstown formally adopt an Expenditure of Public Funds/Proper "Public Purpose" Policy to ensure compliance with Auditor of State Bulletin 2003-004 and the Ohio Attorney General Opinion 82-006 a copy of which is attached hereto as **Exhibit "A"** (the terms and conditions of which are incorporated by reference and made a part of this Ordinance).

Section III: That the Clerk and the Finance Committee of the Village of Lordstown concur with the recommendation of the Auditor of the State of Ohio and hereby recommend that the Village Council adopt an Expenditure of Public Funds/Proper "Public Purpose" Policy, a copy of which is attached hereto as **Exhibit "B"** (the terms and conditions of which are incorporated by reference and made a part of this Ordinance).

Section IV: That the Council of the Village of Lordstown concurs with the recommendation of the Clerk and the Finance Committee and hereby adopts the Policy, **Exhibit "B"**, to be effective upon adoption of this Ordinance.

Section V: That this Ordinance is hereby declared to be an emergency measure in the interest of the public health, safety and welfare, and for the further reason that it must be enacted in a timely manner.

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Section VI: That the passage of this Ordinance and all deliberations relating to the passage of this Ordinance were held in open meetings in accordance with the provisions of Ohio Revised Code Section 121.22.

Passed in Council this _____ day of _____, 2014.

_____, Mayor

_____, Clerk

Auditor of State Bulletin

Date Issued: October 20, 2003

TO: All County Auditors, Commissioners & Prosecutors
All City Auditors, Finance Directors, Council Members & Treasurers
All Independent Public Accountants
All School District Treasurers
All Township Clerks & Trustees
All Village Fiscal Officers, Council Members & Clerks

SUBJECT: Expenditure of Public Funds/Proper "Public Purpose"

As you may know, government entities may not make expenditures of public monies unless they are for a valid public purpose. This Bulletin addresses the requirements necessary to ensure that an entity's expenditure of public funds is for a proper public purpose.

Ohio Attorney General Opinion 82-006, which is attached for reference, addresses the expenditure of funds for public purposes. This opinion, citing the Ohio Supreme Court case of State ex rel. McClure v. Hagerman, 155 Ohio St. 320 (1951), provides guidance as to what may be construed as a public purpose. There are two criteria that demonstrate whether an expenditure is for a public purpose. First, the expenditure is required for the general good of all inhabitants. As stated in McClure, "[g]enerally, a public purpose has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity, and contentment of all the inhabitants" Id. at 325. Second, the primary objective of the expenditure is to further a public purpose, even if an incidental private end is advanced.

The determination of what constitutes a public purpose is primarily a legislative function. As such, the decision to expend public funds "... must be made in accordance with the procedural formalities governing the exercise of legislative power. **Specifically, the decision must be memorialized by a duly enacted ordinance or resolution and may have prospective effect only.**" 1982 Op. Atty. Gen. No. 82-006 (emphasis added). With due deference to local control generally, the Auditor of State's Office will only question expenditures where the legislative determination of a public purpose is manifestly arbitrary and incorrect. The Auditor of State's Office does not view the expenditure of public funds for alcoholic beverages as a proper public purpose and will issue findings for recovery for such expenditures as manifestly arbitrary and incorrect.

Thus, to avoid an audit finding, the Auditor of State's Office will require that expenditures of public funds for coffee, meals, refreshments, or other amenities have prior authorization by the appropriate legislative authority. If such prior authorization has been given, the Auditor of State's Office will not question the expenditure in the course of an audit unless there is a clear indication that the legislative determination is arbitrary and incorrect. **Please note, however, the use of public funds to purchase alcohol will be considered arbitrary and incorrect and will be cited by the Auditor of State's Office.**

Also note, for offices that do not have a legislative approval process for these types of expenditures, these principles still apply.

Questions concerning this bulletin should be address to the Legal Division of the State Auditor's Office at (800) 282-0370.

Sincerely,

Betty Montgomery
Ohio Auditor of State

OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF OHIO

OPINION No. 82-006

1982 Ohio AG LEXIS 99

March 1, 1982

Syllabus:

1. Coffee, meals, refreshments and other amenities are fringe benefits which may properly be provided by units of local government to their employees as a form of compensation, if authorized by the officer or body having the power to fix the compensation of such employees.
2. Municipal funds may be expended to purchase coffee, means, refreshments or other amenities for municipal officers, employees or other persons, if the legislative body of the municipality has determined that such expenditures are necessary to further a public purpose and if its determination is not manifestly arbitrary or unreasonable.
3. The governing body of a political subdivision other than a municipality may expend public funds to purchase coffee, meals, refreshments and other amenities for its officers or employees or other persons if it determines that such expenditures are necessary to perform a function or to exercise a power expressly conferred upon it by statute or necessarily implied therefrom and if its determination is not manifestly arbitrary or unreasonable.
4. Since the decision to expend public funds to purchase coffee, meals, refreshments or other amenities is a legislative decision, [*2] it must be memorialized by a duly enacted ordinance or resolution and may have prospective effect only.

Request by: William J. Brown, Attorney General

**Opinion:
The Honorable Thomas E. Ferguson
Auditor of State
88 East Broad Street, 5th Floor
Columbus, Ohio 43215**

I have before me your request to clarify two opinions of this office which address the expenditure of public funds by local political subdivisions for the purchase of meals, refreshments, and other amenities for public officers and employees. Your specific questions are as follows:

1. Is the analysis set forth in 1981 Op. Att'y Gen. No. 81-052 applicable to units of local government other than boards of education, thus enabling them to provide coffee, meals, refreshments, and other amenities to their employees as fringe benefits?
2. Does the analysis set forth in 1975 Op. Att'y Gen. No. 75-008 correctly require that under no circumstances may public moneys be expended by a political subdivision for meals, refreshments or other amenities for officers and employees of the political subdivision or third parties, in the local area?
3. If the answer to the preceding question is in the negative, what criteria should be applied by the Bureau [*3] of Inspection and Supervision of Public Offices in determining, as required by R.C. 117.10, whether "public money has been illegally expended" as a result of such expenditures?

You have indicated that your first question arises as a result of paragraph three of the syllabus of 1981 Op. Att'y Gen. No. 81-052, which states: "A board of education, pursuant to its general power to compensate its teaching employees, may expend public funds to provide its teaching employees with free lunches at the school cafeteria or with cash payments for early retirement or for longevity of tenure with the employing school district." Your specific question is, therefore, whether employees of the various public employers throughout the state may be given fringe benefits, such as coffee, meals, and refreshments, as part of their compensation.

My conclusion in Op. No. 81-052 that a board of education could expend public funds to provide its teaching employees with certain amenities or benefits rested in large part on the Ohio Supreme Court's decision in *Ebert v. Stark County Board of Mental Retardation*, 63 Ohio St. 2d 31, 406 N.E.2d 1098 (1980). As I noted in Op. No. 81-052, the Ebert court [*4] spoke in general, unlimited terms and the rationale in Ebert, accordingly, "necessarily extends to any creature of statute and establishes the proposition that the power to employ includes the power to fix any fringe benefit — absent constricting statutory authority." n1 Op. No. 81-0552 at 2-202.

n1 I recently noted, however, one exception to this general rule. In 1981 Op. Att'y Gen. No. 81-056 I opined that Ebert does not extend to state agencies since the General Assembly has not given individual state agencies the power to determine the compensation payable to their employees.

Of course, because a municipality is not a creature of statute, the analysis in Ebert does not apply to the fixing of compensation by a municipal corporation for its employees. Because compensation is a matter of substantive local self-government, a municipal ordinance concerning compensation of municipal employees would supersede any statutory provision in conflict with the ordinance. See *Northern Ohio Patrolmen's Benevolent Association v. City of Parma*, 61 Ohio St. 2d 375, 402 N.E.2d 519 (1980). The rationale set forth in Op.

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No. 81-052 does not, therefore, apply to municipalities [*5] as a restriction on their authority to compensate municipal employees.

In order to answer your first question, it is necessary to determine whether meals, refreshments and other amenities n2 (including coffee) are fringe benefits which may properly be provided to employees of local government units as "compensation," provided, of course, that there are no constricting statutory provisions. As I noted in 1977 Op. Att'y Gen. No. 77-090, there is no precise statutory or common law definition of the term "fringe benefit" as it relates to public employees. I indicated therein, however, that a fringe benefit is commonly understood to mean something that is provided at the expense of the employer and is intended to directly benefit the employee so as to induce him to continue his current employment. *Madden v. Bower*, 20 Ohio St. 2d 135, 254 N.E.2d 357 (1969). I am unable to be any more precise at this time. I do not, however, believe this imprecision is problematic with respect to your inquiry, since I am confident that there is little room for doubt in concluding that the illustrative amenities set forth in your request are properly viewed as fringe benefits when provided by an [*6] employer as an inducement to his employees to continue their current employment. See, e.g., 1981 Op. Att'y Gen. No. 81-082 (dental and eye care insurance as a fringe benefit); 1981 Op. Att'y Gen. No. 81-052 (free lunches and cash payments for early retirement or for longevity of tenure as fringe benefits).

n2 After receiving your request, I contacted your office to seek clarification of what might be encompassed by the term "other amenities." It is my understanding that this term was intended as a reference to such non-food items as flowers for sick employees or relatives of employees, token retirement gifts, or meritorious service awards.

In response to your first inquiry, it is, therefore, my opinion that coffee, meals, refreshments and other amenities are fringe benefits which may properly be provided by units of local government to their employees as a form of compensation, provided that there is no overriding statutory restriction to the contrary. Of course, in order for such benefits to be properly provided, they must be properly authorized by the local officer or body having the power to fix the compensation for such employees, and should be uniformly granted [*7] to all similarly situated employees. See *Berenguer v. Dunlavey*, 352 F. Supp. 444 (D. Delaware 1972), vacated as moot, 414 U.S. 895 (1973); Op. No. 81-082.

Your second question seeks clarification of the circumstances under which a political subdivision may expend public moneys for meals, refreshments and other amenities for its officers, employees or third parties. Since I have already discussed in response to your first question the legal basis for providing such amenities to employees as a form of compensation, I shall assume for the purposes of this inquiry that these amenities are not intended to be provided to the employees of the political subdivision as a form of compensation.

You specifically seek clarification of Op. No. 75-008, where I concluded that a board of education may not expend public funds for lunches or dinners for persons attending a local meeting of such board. Only two factual assumptions were evident in that opinion. First, the meals were being provided to members of the board of education, who are public officers. Second, the meetings in question took place in the home district and did not involve travel away from headquarters. Assuming [*8] no additional facts, I still am of the opinion that the provision of meals in such situation would not constitute a valid public purpose. This is not the same as saying, however, that under no circumstances may public moneys be expended by a political subdivision for meals, refreshments or other amenities, in the local area.

You have asked what criteria should, then, be applied in determining, as required by R.C. 117.10, whether "public money has been illegally expended" as a result of such expenditures. The relevant inquiry is whether the expenditure in question constitutes a "public purpose." Unfortunately, the problem of deciding what constitutes a public purpose has always been difficult. The courts have attempted no absolute judicial definition of a public purpose but have left each case to be determined by its own peculiar circumstances. The Ohio Supreme Court has, however, offered the following general guidelines to be applied in determining whether a particular expenditure constitutes a public purpose. *State ex rel. McClure v. Hagerman*, 155 Ohio St. 320, 98 N.E.2d 835 (1951). First, the test is whether the expenditure is required for the general good of all the [*9] inhabitants. "Generally, a public purpose has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity, and contentment of all the inhabitants..." *Id.* at 325, 98 N.E.2d at 838. Second, if the primary objective is to further a public purpose, it is immaterial that, incidentally, private ends may be advanced. Third, the determination of what constitutes a public purpose is primarily a legislative function, and a legislative determination of a public purpose will not be disturbed except where such determination is palpable and manifestly arbitrary and incorrect. Asked to consider whether a municipal corporation could expend its funds to pay the cost of membership in an association of municipal finance officers, the McClure court summarized the proper inquiry as follows:

"There is no universal test for distinguishing between a purpose which is public or municipal and, therefore, a proper object of municipal expenditure and one which is private and, therefore, an improper object to which to devote public money. Each case must be decided in the light of existing conditions, with respect to the objects sought to be accomplished, [*10] the degree and manner in which that object affects the public welfare, and the nature and character of the thing to be done; but the court will give weight to a legislative determination of what is a municipal purpose, as well as widespread opinion and general practice which regard as city purposes some things which may not be such by absolute necessity, or on a narrow interpretation of constitutional provisions. * * * It has been laid down as a general rule that the question whether the performance of an act or the accomplishment of a

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specific purpose constitutes a 'public purpose' for which municipal funds may be lawfully disbursed rests in the judgment of the municipal authorities, and the courts will not assume to substitute their judgment for that of the authorities unless the latter's exercise of judgment or discretion is shown to have been unquestionably abused."

McClure, 155 Ohio St. at 325-26, 98 N.E.2d at 838 (quoting 64 C.J.S. 334, 335, § 1835b). Thus, the provision of meals, refreshments or other amenities, although invariably conferring a private benefit, may be a permissible expenditure of public funds, if the legislative authority has determined that the expenditure [*11] is necessary to further a public purpose. Confronted with a situation in which such a legislative determination has been made, you may not find that public money has been illegally expended, within the meaning of R.C. 117.10, unless you have reason to believe that such determination is "palpable and manifestly arbitrary and incorrect." McClure, 155 Ohio St. at 325, 98 N.E.2d at 838 (quoting 37 Am. Jur. 734-35, § 120). On the other hand, if you have reason to believe that the legislative body has abused its discretion in determining that a public purpose has been served by the expenditures in question, then it is your duty to make a finding in accordance with R.C. 117.10 so that a court may review the matter.

Reference is made throughout the foregoing analysis to the question conferred upon "legislative bodies" to determine what constitutes a public purpose. This terminology is understandable because the public purpose cases have traditionally been concerned with the power of municipalities to undertake certain functions. I understand your present inquiry to be broader, however, and to include counties, townships, school districts and other political subdivisions. It is, [*12] therefore, necessary to determine whether the term "legislative bodies" can encompass the governing bodies in political subdivisions other than municipalities.

In its strictest sense the term "legislative bodies" refers to the traditional bodies empowered to make laws, such as Congress, state legislatures and municipal councils. Courts have recognized, however, that the governing bodies of other political subdivisions are at times called upon to exercise legislative powers or functions. For example, in *Stein v. Erie County Commissioners*, 16 Ohio Misc. 155, 241 N.E.2d 300 (C.P. Erie County 1968), the court held that, when creating a regional airport authority under the provisions of R.C. Chapter 308, the county commissioners were acting in a legislative capacity. Similarly, in *Morgan County Commission v. Powell*, 292 Ala. 300, 305, 293 So.2d 830, 834 (1974), the court held that, "[i]n the aspect of appropriating money from the county treasury, a county governing body must be deemed as exercising a legislative power." Similarly, the adoption of zoning ordinances and maps is traditionally regarded as a "legislative act." See, e.g., *County of Pasco v. J. Dico, Inc.*, [*13] 343 So.2d 83 (Fla. App. 1977); *Board of Supervisors v. Lerner*, 221 Va. 30, 267 S.E.2d 100 (1980). One court has found a board of education to be a "legislative body." *Andeel v. Woods*, 174 Kan. 556,

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258 P.2d 285 (1953). In *Allstate Insurance Co. v. Matropolitan Sewerage Commission*, 80 Wis.2d 10, 258 N.E.2d 148 (1977), the court held that the decisions of a matropolitan sewerage commission with respect to planning and designing sewer systems were "legislative acts" for which the commission was immune from tort liability. As these cases suggest, legislative power can mean something broader than the usual power to enact laws. A governmental body may be deemed to exercise a legislative function when it promulgates policies, standards, regulations or rules of general application and prospective operation and when the body's decision is appropriately based on considerations similar to those a legislature could have invoked. *Board of Supervisors v. Department of Revenue*, 263 N.W.2d 227, 239 (Iowa 1978).

Relying on this broader definition of what constitutes a legislative function, I find no reason to restrict the public purpose analysis, illustrated by *McClure*, [*14] to municipalities only. It is my opinion that a decision properly made by the appropriate governing body of a county, township, school district or other political subdivision to expend public funds to provide coffee, meals, refreshments or other amenities is to be subjected to the same analysis. This does not mean, however, that other political subdivisions are on exactly the same footing a municipalities. Political subdivisions other than municipalities are creatures of statute and have only such powers as are expressly granted or necessarily implied. See, e.g., *State ex rel. Shriver v. Board of Commissioners*, 148 Ohio St. 277, 74 N.E.2d 248 (1947) (board of county commissioners, as creature of statute, has only powers expressly conferred by statute). Consequently, such political subdivisions may make "legislative" decisions only with respect to matters in which they have been authorized to act by the General Assembly. The provision of meals, refreshments and other amenities by such political subdivisions is permissible, therefore, only if the governing body has reasonably determined that the provision of such amenities is necessary to the performance of a function [*15] or duty or to the exercise of a power expressly conferred by statute or necessarily implied therefrom. See 1930 Op. Att'y Gen. No. 2170, vol. II, p. 1241.

Additionally, since the decision to expend public funds for meals, refreshments or other amenities for persons other than employees is in a sense a legislative decision, it must be made in accordance with the procedural formalities governing the exercise of legislative power. Specifically, the decision must be memorialized by a duly enacted ordinance or resolution and may have prospective effect only. See *Department of Revenue*, 263 N.W.2d at 239. See, e.g., *McClure*, *supra*.

In specific response to your questions, it is, therefore, my opinion, and you are advised, that:

1. Coffee, meals, refreshments and other amenities are fringe benefits which may properly be provided by units of local government to their employees as a form of compensation, if authorized by the officer or body having the power to fix the compensation of such employees.

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2. Municipal funds may be expended to purchase coffee, meals, refreshments or other amenities for municipal officers, employees or other persons, if the legislative [*16] body of the municipality has determined that such expenditures are necessary to further a public purpose and if its determination is not manifestly arbitrary or unreasonable.
3. The governing body of a political subdivision other than a municipality may expend public funds to purchase coffee, meals, refreshments and other amenities for its officers or employees or other persons if it determines that such expenditures are necessary to perform a function or to exercise a power expressly conferred upon it by statute or necessarily implied therefrom and if its determination is not manifestly arbitrary or unreasonable.
4. Since the decision to expend public funds to purchase coffee, meals, refreshments or other amenities is a legislative decision, it must be memorialized by a duly enacted ordinance or resolution and may have prospective effect only.

EXPENDITURE OF PUBLIC FUNDS/PROPER “PUBLIC PURPOSE” POLICY

The following Policy has been adopted by the Village of Lordstown in order to ensure that the expenditure of public monies is for a proper public purpose.

As stated in *State ex rel. McClure v Hagerman*, 155 Ohio St. 320 (1951), there are two criteria that demonstrate whether expenditure is for a public purpose. First, the expenditure is required for the general good of all inhabitants. As stated in *McClure*, “[g]enerally, a public purpose has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity, and contentment of all the inhabitants....” Second, the primary objective of the expenditure is to further a public purpose, even if an incidental private end is advanced.

An expenditure for alcoholic beverage is not a proper public purpose.

Municipal funds may be expended to purchase coffee, meals, refreshments and other amenities for municipal officers, employees or other persons, if the legislative body of the municipality has determined that such expenditures are necessary to further a public purpose and if its determination is not manifestly arbitrary or unreasonable.

Village Department Heads are not permitted to purchase donuts, meals, coffee or other amenities; that such purchases shall be made through the Clerk’s office.

Any and all amenities must have prior approval by Resolution of Village Council before making an expenditure. If an employee expends money without approval by Village Council, said employee will not be reimbursed for such expenditure.

Upon adoption of this Policy, the Council of the Village of Lordstown authorizes the Clerk to establish any standards and procedures which may be necessary for its implementation. The Clerk shall review this Policy at least annually and make any recommendation for changes to the Finance Committee of Village Council.

Exhibit “B”

SAFETY COMMITTEE
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Bond
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ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE PURCHASE OF ONE NEW 2014 PIERCE PUMPER TANKER TRUCK THROUGH THE OHIO COOPERATIVE PURCHASING PROGRAM FROM PIERCE MANUFACTURING, INC., 2600 AMERICAN DRIVE, APPLETON, WI 54912 AND DECLARING AN EMERGENCY.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF LORDSTOWN, COUNTY OF TRUMBULL, STATE OF OHIO, TWO-THIRDS OF THE MEMBERS ELECTED THERETO CONCURRING:

Section I: That the Village of Lordstown hereby agrees to purchase one new 2014 Pierce Pumper Tanker motor vehicle as per the attached **Exhibit "A"** in accordance with Resolution No. 3-88 authorizing the Village of Lordstown to participate in the State of Ohio Cooperative Purchasing Program.

Section II: That the Mayor and Clerk are hereby authorized and directed to execute on behalf of the Village of Lordstown the purchase order for said motor vehicle and to pay the vendor a sum not to exceed Five Hundred Twenty-Four Thousand Five Hundred and 00/100 Dollars (\$524,500.00) under the state contract in which the Village participates for the purchase of the aforementioned motor vehicles.

Section III: That the cost of said motor vehicles shall not exceed Five Hundred Twenty-Four Thousand Five Hundred and 00/100 (\$524,500.00) which sum shall be paid from the 303.220.55001 Account of the Vehicle Replacement Fund.

Section IV: That this Ordinance is hereby declared to be an emergency measure necessary for the public health, safety and welfare, and for the further reason that said motor vehicles must be ordered for a build out date early in 2014.

Section V: That the passage of this Ordinance and all deliberations relating to the passage of this Ordinance were held in open meetings in accordance with the provisions of Ohio Revised Code Section 121.22.

Passed in Council this _____ day of _____, 2014.

_____, Mayor

_____, Clerk

{00148832-1}



PERFORM. LIKE NO OTHER.

This Purchase Agreement (together with all attachments referenced herein, the "Agreement"), made and entered into by and between Pierce Manufacturing Inc., a Wisconsin corporation ("Pierce"), and The Lordstown Fire Department, a Village FD ("Customer") is effective as of the date specified in Section 3 hereof.

1. Definitions.

- a. "**Product**" means the fire apparatus and any associated equipment manufactured or furnished for the Customer by Pierce pursuant to the Specifications.
- b. "**Specifications**" means the general specifications, technical specifications, training, and testing requirements for the Product contained in the Pierce Proposal for the Product prepared in response to the Customer's request for proposal.
- c. "**Pierce Proposal**" means the proposal provided by Pierce attached as Exhibit C prepared in response to the Customer's request for proposal.
- d. "**Delivery**" means the date Pierce is prepared to make physical possession of the Product available to the Customer.
- e. "**Acceptance**" The Customer shall have fifteen (15) calendar days of Delivery to inspect the Product for substantial conformance with the material Specifications; unless Pierce receives a Notice of Defect within fifteen (15) calendar days of Delivery, the Product will be deemed to be in conformance with the Specifications and accepted by the Customer.

2. Purpose. This Agreement sets forth the terms and conditions of Pierce's sale of the Product to the Customer.

3. Term of Agreement. This Agreement will become effective on the date it is signed and approved by Pierce's authorized representative pursuant to Section 22 hereof ("Effective Date") and, unless earlier terminated pursuant to the terms of this Agreement, it will terminate upon the Customer's Acceptance and payment in full of the Purchase Price.

4. Purchase and Payment. The Customer agrees to purchase the Product specified on Exhibit A for the total purchase price of \$545431.00 ("Purchase Price"). Prices are in U.S. funds.

5. Future Changes. Various state or federal regulatory agencies (e.g. NFPA, DOT, EPA) may require changes to the Specifications and/or the Product and in any such event any resulting cost increases incurred to comply therewith will be added to the Purchase Price to be paid by the Customer. In addition, any future drive train upgrades (engine, transmission, axles, etc.), or any other specification changes have not been calculated into our annual increases and will be provided at additional cost. To the extent practicable, Pierce will document and itemize any such price increases for the Customer.

6. Agreement Changes. The Customer may request that Pierce incorporate a change to the Products or the Specifications for the Products by delivering a change order to Pierce; provided, however, that any such change order must be in writing and include a description of the proposed change sufficient to permit Pierce to evaluate the feasibility of such change ("Change Order"). Within [seven (7) business days] of receipt of a Change Order, Pierce will inform the Customer in writing of the feasibility of the Change Order, the earliest possible implementation date for the Change Order, of any increase or decrease in the Purchase Price resulting from such Change Order, and of any effect on production scheduling or Delivery resulting from such Change Order. Pierce shall not be liable to the Customer for any delay in performance or Delivery arising from any such Change Order. A Change Order is only effective when counter-signed by Pierce's authorized representative.

7. Cancellation/Termination. In the event this Agreement is cancelled or terminated by a party before completion, Pierce may charge a cancellation fee. The following charge schedule based on costs incurred may be applied: (a) 10% of the Purchase Price after order is accepted and entered by Pierce; (b) 20% of the Purchase Price after completion of approval drawings, and; (c) 30% of the Purchase Price upon any material requisition. The cancellation fee will increase accordingly as costs are incurred as the order progresses through engineering and into manufacturing. Pierce endeavors to mitigate any such costs through the sale of such Product to another purchaser; however Customer shall remain liable for the difference between the Purchase Price and, if applicable, the sale price obtained by Pierce upon sale of the Product to another purchaser, plus any costs incurred by Pierce to conduct any such sale.

8. Delivery, Inspection and Acceptance. (a) Delivery. Delivery of the Product is scheduled to be within 10 months of the Effective Date of this Agreement, F.O.B. Pierce's plant, Appleton, Wisconsin. Risk of loss shall pass to Customer upon Delivery. (b) Inspection and Acceptance. Upon Delivery, Customer shall have fifteen (15) days within which to inspect the Product for substantial conformance to the material Specifications, and in the event of substantial non-conformance to the

material Specifications to furnish Pierce with written notice sufficient to permit Pierce to evaluate such non-conformance ("Notice of Defect"). Any Product not in substantial conformance to material Specifications shall be remedied by Pierce within thirty (30) days from the Notice of Defect. In the event Pierce does not receive a Notice of Defect within fifteen (15) days of Delivery, Product will be deemed to be in conformance with Specifications and Accepted by Customer.

9. Notice. Any required or permitted notices hereunder must be given in writing at the address of each party set forth below, or to such other address as either party may substitute by written notice to the other in the manner contemplated herein, by one of the following methods: hand delivery; registered, express, or certified mail, return receipt requested, postage prepaid; or nationally-recognized private express courier:

Pierce Manufacturing, Inc.
Director of Order Management
2600 American Drive
Appleton WI 54912
Fax (920) 832-3080

Customer

10. Standard Warranty. Any applicable Pierce warranties are attached hereto as Exhibit B and made a part hereof. Any additional warranties must be expressly approved in writing by Pierce's authorized representative.

a. Disclaimer. OTHER THAN AS EXPRESSLY SET FORTH IN THIS AGREEMENT, NEITHER PIERCE, ITS PARENT COMPANY, AFFILIATES, SUBSIDIARIES, LICENSORS OR SUPPLIERS, THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS OR REPRESENTATIVES, MAKE ANY EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE PRODUCTS PROVIDED HEREUNDER OR OTHERWISE REGARDING THIS AGREEMENT, WHETHER ORAL OR WRITTEN, EXPRESS, IMPLIED OR STATUTORY. WITHOUT LIMITING THE FOREGOING, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, THE IMPLIED WARRANTY AGAINST INFRINGEMENT, AND THE IMPLIED WARRANTY OR CONDITION OF FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED AND DISCLAIMED. STATEMENTS MADE BY SALES REPRESENTATIVES OR IN PROMOTIONAL MATERIALS DO NOT CONSTITUTE WARRANTIES.

b. Exclusions of Incidental and Consequential Damages. In no event shall Pierce be liable for consequential, incidental or punitive damages incurred by Customer or any third party in connection with any matter arising out of or relating to this Agreement, or the breach thereof, regardless of whether such damages arise out of breach of warranty, tort, contract, strict liability, statutory liability, indemnity, whether resulting from non-delivery or from Pierce's own negligence, or otherwise.

11. Insurance. Pierce maintains the following limits of insurance with a carrier(s) rated A- or better by A.M. Best:

Commercial General Liability Insurance:

Products/Completed Operations Aggregate: \$1,000,000

Each Occurrence: \$1,000,000

Umbrella/Excess Liability Insurance:

Aggregate: \$25,000,000

Each Occurrence: \$25,000,000

The Customer may request: (x) Pierce to provide the Customer with a copy of a current Certificate of Insurance with the coverages listed above; (y) to be included as an additional insured for Commercial General Liability (subject to the terms and conditions of the applicable Pierce insurance policy); and (z) all policies to provide a 30 day notice of cancellation to the named insured

12. Indemnity. The Customer shall indemnify, defend and hold harmless Pierce, its officers, employees, dealers, agents or subcontractors, from any and all claims, costs, judgments, liability, loss, damage, attorneys' fees or expenses of any kind or nature whatsoever (including, but without limitation, personal injury and death) to all property and persons caused by, resulting from, arising out of or occurring in connection with the Customer's purchase, installation or use of goods sold or supplied by Pierce which are not caused by the sole negligence of Pierce.

13. Force Majeure. Pierce shall not be responsible nor deemed to be in default on account of delays in performance due to causes which are beyond Pierce's control which make Pierce's performance impracticable, including but not limited to civil wars, insurrections, strikes, riots, fires, storms, floods, other acts of nature, explosions, earthquakes, accidents, any act of government, delays in transportation, inability to obtain necessary labor supplies or manufacturing facilities, allocation

regulations or orders affecting materials, equipment, facilities or completed products, failure to obtain any required license or certificates, acts of God or the public enemy or terrorism, failure of transportation, epidemics, quarantine restrictions, failure of vendors (due to causes similar to those within the scope of this clause) to perform their contracts or labor troubles causing cessation, slowdown, or interruption of work.

14. Default. The occurrence of one or more of the following shall constitute a default under this Agreement: (a) the Customer fails to pay when due any amounts under this Agreement or to perform any of its obligations under this Agreement; (b) Pierce fails to perform any of its obligations under this Agreement; (c) either party becomes insolvent or become subject to a bankruptcy or insolvency proceedings; (d) any representation made by either party to induce the other to enter into this Agreement is false in any material respect; (e) the Customer dissolves, merges, consolidates or transfers a substantial portion of its property to another entity; or (f) the Customer is in default or has breached any other contract or agreement with Pierce.

15. Manufacturer's Statement of Origin. It is agreed that the manufacturer's statement of origin ("MSO") for the Product covered by this Agreement shall remain in the possession of Pierce until the entire Purchase Price has been paid. If more than one Product is covered by this Agreement, then the MSO for each individual Product shall remain in the possession of Pierce until the Purchase Price for that Product has been paid in full. In case of any default in payment, Pierce may take full possession of the Product, and any payments that have been made shall be applied as payment for the use of the Product up to the date of taking possession.

16. Independent Contractors. The relationship of the parties established under this Agreement is that of independent contractors and neither party is a partner, employee, agent, or joint venturer of or with the other.

17. Assignment. Neither party may assign its rights and obligations under this Agreement unless it has obtained the prior written approval of the other party.

18. Governing Law; Jurisdiction. Without regard to any conflict of laws provisions, this Agreement is to be governed by and under the laws of the state of Ohio.

19. Facsimile Signatures. The delivery of signatures to this Agreement by facsimile transmission shall be binding as original signatures.

20. Entire Agreement. This Agreement shall be the exclusive agreement between the parties for the Product. Additional or different terms proposed by the Customer shall not be applicable, unless accepted in writing by Pierce's authorized representative. No change in, modification of, or revision of this Agreement shall be valid unless in writing and signed by Pierce's authorized representative.

21. Conflict. In the event of a conflict between the Customer Specifications and the Pierce Proposal, the Pierce Proposal shall control. In the event there is a conflict between the Pierce Proposal and this Agreement, the Pierce Proposal shall control.

22. Signatures. This Agreement is not effective unless and until it is approved, signed and dated by Pierce Manufacturing, Inc.'s authorized representative.

Accepted and agreed to:

PIERCE MANUFACTURING, INC.

CUSTOMER: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A

PURCHASE DETAIL FORM

Pierce Manufacturing, Inc.
 Director of Order Management
 2600 American Drive
 Appleton WI 54912
 Fax (920) 832-3080

Date: February 3, 2014

Customer Name: Village Of Lordstown

Quantity	Chassis Type	Body Type	Price per Unit
1	Impel FR	PUC Pumper/Tanker	\$545431
			\$
			\$
			\$
			\$

A discount of (\$20,931) shall be applied if the Village of Lordstown Prepays within 15 days of the contract signing a total of \$524,500 IAW with State of Ohio STS pricing.

Warranty Period: Per specifications

Training Requirements: One day with factory trained representative.

Other Matters: _____

This contract is available for inter-local and other municipal corporations to utilize with the option of adding or deleting any Pierce available options, including chassis models. Any addition or deletion may affect the unit price.

Payment Terms: Within 15 days of Contract signing.

[NOTE: If deferred payment arrangements are required, the Customer must make such financial arrangements through a financial institution acceptable to Pierce.] All taxes, excises and levies that Pierce may be required to pay or collect by reason of any present or future law or by any governmental authority based upon the sale, purchase, delivery, storage, processing, use, consumption, or transportation of the Product sold by Pierce to the Customer shall be for the account of the Customer and shall be added to the Purchase Price. All delivery prices or prices with freight allowance are based upon prevailing freight rates and, in the event of any increase or decrease in such rates, the prices on all unshipped Product will be increased or decreased accordingly. Delinquent payments shall be subject to a carrying charge of 1.5 percent per month or such lesser amount permitted by law. Pierce will not be required to accept payment other than as set forth in this Agreement. However, to avoid a late charge assessment in the event of a dispute caused by a substantial nonconformance with material Specifications (other than freight), the Customer may withhold up to five percent (5%) of the Purchase Price until such time that Pierce substantially remedies the nonconformance with material Specifications, but no longer than sixty (60) days after Delivery. If the disputed amount is the freight charge, the Customer may withhold only the amount of the freight charge until the dispute is settled, but no longer than sixty (60) days after Delivery. Pierce shall have and retain a purchase money security interest in all goods and products now or hereafter sold to the Customer by Pierce or any of its affiliated companies to secure payment of the Purchase Price for all such goods and products. In the event of nonpayment by the Customer of any debt, obligation or liability now or hereafter incurred or owing by the Customer to Pierce, Pierce shall have and may exercise all rights and remedies of a secured party under Article 9 of the Uniform Commercial Code (UCC) as adopted by the state of Wisconsin.

THIS PURCHASE DETAIL FORM IS EXPRESSLY SUBJECT TO THE PURCHASE AGREEMENT TERMS AND CONDITIONS DATED AS OF February 3rd, 2014 BETWEEN PIERCE MANUFACTURING INC. AND Village of Lordstown WHICH TERMS AND CONDITIONS ARE HEREBY INCORPORATED IN, AND MADE PART OF, THIS PURCHASE DETAIL FORM AS THOUGH EACH PROVISION WERE SEPARATELY SET FORTH HEREIN, EXCEPT TO THE EXTENT OTHERWISE STATED OR SUPPLEMENTED BY PIERCE MANUFACTURING INC. HEREIN.

EXHIBIT B
WARRANTY

PER SPECIFICATIONS.

EXHIBIT C

PIERCE PROPOSAL

FINANCE COMMITTEE

Mansell

Radtko

Reider

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING ARNO A. HILL, MAYOR FOR THE VILLAGE OF LORDSTOWN, TO PREPARE AND SUBMIT AN APPLICATION TO PARTICIPATE IN THE OHIO PUBLIC WORKS COMMISSION STATE CAPITAL IMPROVEMENT AND LOCAL TRANSPORTATION IMPROVEMENT PROGRAM FOR THE PALMYRA ROAD RESURFACING AND SAFETY UPGRADE PROJECT AND TO EXECUTE CONTRACTS AS REQUIRED, REPEALING RESOLUTION NO. 10-2013, AND DECLARING AN EMERGENCY.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF LORDSTOWN, COUNTY OF TRUMBULL, STATE OF OHIO, AT LEAST THREE-FOURTHS (3/4) OF ALL MEMBERS ELECTED THERETO CONCURRING:

WHEREAS, the State Capital Improvement Program and the Local Transportation Improvement Program both provide financial assistance to political subdivisions for capital improvements to public infrastructure, and

WHEREAS, the Village of Lordstown is planning to make capital improvements to Palmyra Road with a resurfacing and safety upgrade project; and

WHEREAS, the infrastructure improvement hereinabove described is considered to be a priority need for the community and is a qualified project under OPWC programs.

Section 1: That Mayor Arno A. Hill is hereby authorized to apply on behalf of the Village of Lordstown to the OPWC for a grant to fund the Palmyra Road Resurfacing and Safety Upgrade Project.

Section 2: That Mayor Arno A. Hill is further authorized to execute any agreements on behalf of the Village of Lordstown as may be necessary and appropriate for obtaining such financial assistance.

Section 3: That Resolution No. 10-2013 shall be repealed in its entirety.

Section 4: That this Resolution is hereby declared to be an emergency measure necessary for the public health, safety, and welfare, and for the further reason that the OPWC Grant Application must be submitted in a timely manner.

Section 5: The passage of this Resolution and all deliberations relating to the passage of this Resolution were held in open meetings in accordance with the provisions of Ohio Revised Code Section 121.22.

Passed in Council this _____ day of _____, 2014.

_____, Mayor

_____, Clerk

FINANCE COMMITTEE

Mansell

Reider

Radtka

RESOLUTION NO. _____

A RESOLUTION PROCLAIMING THE VILLAGE OF LORDSTOWN'S SUPPORT OF THE ISSUE ON THE MAY 2014 BALLOT WHICH AUTHORIZES THE RENEWAL OF THE SALE OF BONDS BY THE STATE OF OHIO TO FUND THE STATE CAPITAL IMPROVEMENT PROGRAM (SCIP) AS ADMINISTERED BY THE OHIO PUBLIC WORKS COMMISSION (OPWC) AND ENCOURAGING THE VOTERS OF OHIO TO VOTE YES ON THE ISSUE AND DECLARING AN EMERGENCY.

WHEREAS, the Eastgate Regional Council of Governments (Eastgate) is the administrative agency for the District 6 Public Works Integrating Committee (D6PWIC) which consists of all of the communities in Mahoning and Trumbull Counties, Ohio; and

WHEREAS, the D6PWIC has annually reviewed and selected projects to receive SCIP funding since 1988; and

WHEREAS, since 1988 there have been over 600 SCIP funded water, sewer, highway, and bridge projects in Mahoning and Trumbull Counties and these projects have used over \$134,000,000; and

WHEREAS, these SCIP funds were matched with over \$141,000,000 in local, state, and federal funds and these monies were used to repair, replace, and construct vital infrastructure projects in every city, village and township in Mahoning and Trumbull Counties.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF LORDSTOWN, COUNTY OF TRUMBULL, STATE OF OHIO:

Section I: That the Council of the Village of Lordstown hereby expresses its support for the issue on the May 2014 ballot that renews the sale of bonds by the State of Ohio to fund the State Capital Improvement Program (SCIP) and encourages Village residents to support the issue.

Section II: That this Resolution is hereby declared to be an emergency measure necessary for the public health, safety and welfare and for the further reason that this Resolution must be implemented in a timely manner.

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Section III: That the passage of this Ordinance and all deliberations relating to the passage of this Ordinance were held in open meetings in accordance with the provisions of Revised Code §121.22.

Passed in Council this _____ day of _____, 2014.

_____, Mayor

_____, Clerk