



CITY OF KETTERING

DONALD E. PATTERSON, MAYOR • TONY KLEPACZ, VICE MAYOR
BRUCE E. DUKE • JACQUE FISHER • BILL LAUTAR • ROBERT SCOTT • JOSEPH D. WANAMAKER

KETTERING COUNCIL AGENDA

February 11, 2020

Kettering Government Center – South Building
3600 Shroyer Rd. Kettering, Ohio 45429

6:30 P.M. **WORKSHOP** Kettering Room
7:30 P.M. **REGULAR MEETING** Council Chambers

PLEDGE OF ALLEGIANCE

INVOCATION

APPROVAL OF MINUTES

January 28, 2020- Council Meeting & Workshop Minutes

PROCLAMATIONS, SPECIAL PRESENTATIONS, AWARDS, SPECIAL RESOLUTIONS, APPOINTMENTS TO BOARDS AND COMMISSION

PUBLIC HEARINGS

PUBLIC COMMENT ON LEGISLATION

(5 Minute Limit per Speaker)

ORDINANCES IN SECOND READING

1. Imposing a one-year moratorium on the placement or operation of shared mobility devices in any public right-of-way or on public property, and offering the same for use anywhere in the city.
2. To amend Chapter 402 of the Codified Ordinances to address traffic violations involving autonomous vehicles.

RESOLUTIONS

3. Authorizing the City Manager to use competitive bargaining and negotiated quotes to contract for insurance and other related benefits and administrative services for the employees of the City of Kettering, Kettering Municipal Court, and the Office of the Clerk of the Kettering Municipal Court.
4. Authorizing the City Manager to use competitive bargaining and negotiated quotes to contract for improvements to the restroom facilities at Indian Riffle Park.
5. Authorizing the City Manager to use competitive bargaining and negotiated quotes to contract for repair, cleaning, and painting of various park amenities and structures.
6. Authorizing the City Manager to use competitive bargaining and negotiated quotes to contract for repair and maintenance of paths at Pondview Park.
7. Authorizing the City Manager to use competitive bargaining and negotiated quotes to contract for repair and renovation of hardscape surfaces at Polen Farm.
8. Authorizing the City Manager to use competitive bargaining and negotiated quotes to contract for removal and replacement of fencing at Polen Farm and JF Kennedy Park.
9. Authorizing the City Manager to contract with Rozzi's Famous Fireworks for the purchase and display of fireworks for the annual Go 4th! celebration at Delco Park.
10. Authorizing the City Manager to use competitive bargaining and negotiated quotes to contract for tree services.

- 11. Authorizing the City Manager to use competitive bargaining and negotiated quotes to contract for landscape installation services for the Schantz Avenue Bridge landscape renovation project.
- 12. Authorizing the City Manager to enter into an agreement with LWC Incorporated for design services for renovation of Rosewood Art Centre.
- 13. Authorizing the City Manager to accept and administer a grant from the State of Ohio for renovation of the Rosewood Arts Centre.
- 14. Declaring as surplus and approving an agreement to exchange city-owned property located at 250 West Dorothy Lane.
- 15. Authorizing the City Manager to purchase equipment through sealed bids, negotiated quotes, or a cooperative purchasing program.

ORDINANCES IN FIRST READING

CERTIFICATIONS AND PETITIONS

MANAGER’S REPORT/COMMUNITY UPDATE

OTHER BUSINESS NOT ON WRITTEN AGENDA

Audience Participation (5 Minute Limit per Speaker)

CITY COUNCIL REPORT/UPDATE

The City of Kettering wishes to make certain that all citizens have the opportunity to actively participate in their local government. If you have a disability and require accommodations to participate in a Council meeting, please contact the Clerk of Council at 296-2416 so that reasonable modifications can be made.

KETTERING CITY CALENDAR
2020

February 10	7:00 p.m. 7:00 p.m.	Board of Zoning Appeals Board of Community Relations
February 11	4:00 p.m. 6:30 p.m. 7:30 p.m.	Partners for Healthy Youth Council Workshop City Council Meeting
February 17	All Day	Government Center Closed
February 19	8:00 a.m.	Volunteer Advisory Council
February 24	7:00 p.m. 7:30 p.m.	Board of Zoning Appeals Sister Cities
February 25	6:00 p.m. 7:30 p.m.	Council Workshop City Council Meeting

**CITY OF KETTERING, OHIO
AN ORDINANCE**

By:

No.

**IMPOSING A ONE-YEAR MORATORIUM ON THE
PLACEMENT OR OPERATION OF SHARED
MOBILITY DEVICES IN ANY PUBLIC RIGHT-OF-
WAY OR ON PUBLIC PROPERTY, AND OFFERING
THE SAME FOR USE ANYWHERE IN THE CITY**

WHEREAS, dockless electric scooters and bicycles, available to be rented on demand from unstaffed locations (“shared mobility devices”), have arrived in many cities suddenly and unexpectedly, and have since proliferated rapidly. These shared mobility devices are largely unregulated; and

WHEREAS, shared mobility devices cannot be used legally on sidewalks due to their status as “motor vehicles” under state law nor can they be used legally on streets due to equipment limitations and the lack of adequate mechanisms for titling, registering, and insuring them; and

WHEREAS, the Ohio General Assembly and a number of other state legislatures are considering possible frameworks for regulation of shared mobility devices. Until the General Assembly determines a path forward for Ohio, the problems inherent with shared mobility devices must be addressed by local government; and

WHEREAS, in cities where shared mobility devices are available, they are frequently abandoned by users in streets, sidewalks, and other public places, creating visual clutter and serious safety concerns, especially for the most vulnerable pedestrians. Moreover, due to the spontaneous nature of these rentals and their appeal to young people, shared mobility devices are nearly always operated by users—often minors— without helmets; and

WHEREAS, City Council requires time to research and consider the benefits and consequences related to the operation of shared mobility devices in the public right-of-way or on public property and whether such activities should be allowed, limited, or entirely prohibited; and

WHEREAS, City staff requires time to make informed recommendations to City Council regarding potential changes to the City’s Codified Ordinances based on City Council’s determination whether to allow, limit, or prohibit these activities within City limits; and

WHEREAS, a moratorium of one year on the operation of shared mobility devices in any public right-of-way or on public property, and offering the same for use anywhere in the City will allow City Council and staff time to accomplish the City’s goals stated herein and will help ensure the public peace, health, safety, and welfare.

NOW, THEREFORE, Be It Ordained by the Council of the City of Kettering, State of Ohio, at least five members concurring, that:

Section 1. City Council imposes a moratorium of one year on the operation of shared mobility devices in any public right-of-way or on public property, and offering the same for use anywhere in the City. The purpose of this moratorium is to allow City Council and staff time to study the operation of shared mobility devices in any public right-of-way or on public property, and offering the same for use anywhere in the City limits as set forth in the recital paragraphs above and to prepare any necessary changes to the City’s Codified Ordinances.

Section 2. City Council instructs the City Manager and staff to begin study of potential shared mobility device operation within the City. City staff shall then make

recommendations regarding any potential changes to the City's Codified Ordinances related to these activities for City Council's consideration.

Section 3. New Chapter 478 of Title Ten of the Codified Ordinances of Kettering is enacted to read as follows:

CHAPTER 478 SHARED MOBILITY DEVICES

478.01. Purpose. The purpose of this chapter is to prohibit Shared Mobility Devices from being placed in the public right-of-way or on public property, operated in the public right-of-way or on public property, or offered for use anywhere in the City, so as to allow for adequate vehicle and pedestrian traffic flow and to promote public safety and eliminate visual blight.

478.02. Definition. For purposes of this chapter, "Shared Mobility Device" means any wheeled device, other than an automobile or motorcycle, that is powered by a motor; is accessed on-demand, whether via a smartphone application, membership card, or similar method; is operated by a private entity that owns, manages, and maintains devices for shared use by members of the public; and is available to members of the public in unstaffed, self-service locations.

478.03. Prohibitions.

(a) No person shall park, leave standing, leave lying, abandon, or otherwise place a shared mobility device in a public right-of-way or on public property anywhere within the City.

(b) No person shall operate a shared mobility device in a public right-of-way or on public property anywhere within the City.

(c) No person shall provide or offer for use a shared mobility device anywhere within the City.

478.04 Violations.

(a) Violation of this Chapter shall be punishable as an unclassified misdemeanor. In addition, any violation of Section 478.03(c) shall constitute a public nuisance, and the Law Director is authorized to file for injunctive and/or other relief on the city's behalf as necessary to abate the nuisance. Nuisance abatement costs may be recovered through any available legal process, including under ORC 715.261 and certification to the Montgomery or Greene County Auditor for collection the same as other taxes and assessments are collected.

(b) Police Officers, Code Enforcement Officers, other city officials designated by the City Manager, and any party contracted by the City to specifically impound shared mobility devices are authorized to impound any shared mobility device that has been offered for use, placed in a public right-of-way or on public property, or operated in a public right-of-way or on public property in violation of this Chapter. Impounded devices shall be subject to impound and storage fees established by the City Manager in the same manner as other city fees.

478.05. Sunset Provision. This Chapter shall remain in full force and effect until February 28, 2021, at which time it shall become ineffective and shall be removed from the Codified Ordinances of the city of Kettering, Ohio, unless Council acts to readopt or otherwise continue the provisions herein.

Section 4. If any section, subsection, sentence, clause, phrase, or portion of Chapter 402 is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 5. As provided in Section 4-8 of the City Charter, this Ordinance shall be effective two weeks after adoption.

Passed by Council this _____ day of _____ 2020.

TONY KLEPACZ, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

(Requested by: Law Department)

CITY OF KETTERING, OHIO

AN ORDINANCE

By:

No.

**TO AMEND CHAPTER 402 OF THE CODIFIED
ORDINANCES TO ADDRESS TRAFFIC
VIOLATIONS INVOLVING AUTONOMOUS
VEHICLES**

WHEREAS, changes to Codified Ordinances Chapter 402 are necessary in order to address traffic violations involving autonomous vehicles;

NOW, THEREFORE, Be It Ordained by the Council of the City of Kettering, State of Ohio, at least five of the members concurring, that:

Section 1. Chapter 402 of the Codified Ordinances is amended by enacting new Sections 402.56, 402.57, and 402.58 to read as follows:

SECTION 402.56 OPERATE.

“Operate” means to cause or have caused movement of a vehicle, streetcar, or trackless trolley. A person who is in the driver’s position of an autonomous vehicle that is moving or has moved is deemed to cause or have caused the movement of the autonomous vehicle. If no person is present in the driver’s position of an autonomous vehicle that is moving or has moved, the person who caused the vehicle’s autonomous technology to engage is deemed to cause or have caused the movement of the autonomous vehicle.

SECTION 402.57 AUTONOMOUS VEHICLE.

"Autonomous vehicle" means a motor vehicle that is equipped with technology that is capable of operating the motor vehicle without the active control of a human operator. "Autonomous vehicle" does not include a motor vehicle that is equipped with any active safety system or a system for driver assistance, including a system to provide electronic blind spot detection, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keeping assistance, lane departure warning, or traffic jam and queuing assistance, unless any such system, alone or in combination with another system, enables the motor vehicle on which the system is installed to be driven without the active control of a human operator.

SECTION 402.58 AUTONOMOUS TECHNOLOGY.

"Autonomous technology" means technology that is installed on a motor vehicle and that has the capability to assist, make decisions for, or replace an operator.

Section 2. If any section, subsection, sentence, clause, phrase, or portion of Chapter 402 is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. As provided in Section 4-8 of the City Charter, this Ordinance shall be effective two weeks after adoption.

Passed by Council this _____ day of _____ 2020.

TONY KLEPACZ, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

(Requested by: Law Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

AUTHORIZING THE CITY MANAGER TO USE COMPETITIVE BARGAINING AND NEGOTIATED QUOTES TO CONTRACT FOR INSURANCE AND OTHER RELATED BENEFITS AND ADMINISTRATIVE SERVICES FOR THE EMPLOYEES OF THE CITY OF KETTERING, KETTERING MUNICIPAL COURT, AND THE OFFICE OF THE CLERK OF THE KETTERING MUNICIPAL COURT

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. On the basis that the City can often obtain lower prices and more favorable purchasing conditions through competitive bargaining and negotiated quotations than through sealed bids, the City Manager is hereby authorized to use such bargaining and negotiation procedures and to enter into one or more contracts to provide benefits for the employees of the City of Kettering, Kettering Municipal Court, and the Office of the Clerk of the Kettering Municipal Court including life, medical, drug, dental, and other ancillary and voluntary benefits including, but not limited to, vision and short and long term disability insurance, and administrative services including, but not limited to, plan administration, wellness program administration and services, actuarial services, Patient Protection & Affordable Care Act (PPACA) services, general consulting services, COBRA, HSA, HRA, and FSA administration, and stop loss insurance; such contracts may also include agreements with one or more brokers or consultants setting the level of commissions or fees for professional services in acquiring and administering these insurance programs. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____, 2020

TONEY KLEPACZ, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI
Clerk of Council

THEODORE A. HAMER III
Law Director

(Requested by: Human Resources Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO USE COMPETITIVE
BARGAINING AND NEGOTIATED QUOTES TO CONTRACT
FOR IMPROVEMENTS TO THE RESTROOM FACILITIES AT
INDIAN RIFFLE PARK**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. On the basis that the City can often obtain lower prices and more favorable purchasing conditions through competitive bargaining and negotiated quotations than through sealed bids, the City Manager is hereby authorized to use such bargaining and negotiation procedures and to enter into one or more contracts for the construction and renovation of the restroom facilities at Indian Riffle Park. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2020.

TONY KLEPACZ, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$40,000.00
Amount Budgeted: \$40,000.00
Acct. No.: 6100-77750

(Requested by: Parks, Recreation & Cultural Arts Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO USE COMPETITIVE
BARGAINING AND NEGOTIATED QUOTES TO CONTRACT
FOR REPAIR, CLEANING, AND PAINTING OF VARIOUS PARK
AMENITIES AND STRUCTURES**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. On the basis that the City can often obtain lower prices and more favorable purchasing conditions through competitive bargaining and negotiated quotations than through sealed bids, the City Manager is hereby authorized to use such bargaining and negotiation procedures and to enter into one or more contracts for repair, cleaning, and painting of various park amenities and structures. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2020.

TONY KLEPACZ, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$75,000.00
Amount Budgeted: \$75,000.00
Acct. No.: 6100-77750

(Requested by: Parks, Recreation & Cultural Arts Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

AUTHORIZING THE CITY MANAGER TO USE COMPETITIVE BARGAINING AND NEGOTIATED QUOTES TO CONTRACT FOR REPAIR AND MAINTENANCE OF PATHS AT PONDVIEW PARK

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. On the basis that the City can often obtain lower prices and more favorable purchasing conditions through competitive bargaining and negotiated quotations than through sealed bids, the City Manager is hereby authorized to use such bargaining and negotiation procedures and to enter into one or more contracts for the repair and maintenance of ADA accessible pathways and detectable warnings at Pondview Park. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2020.

TONY KLEPACZ, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$100,000.00
Amount Budgeted: \$100,000.00
Acct. No.: 6100-77750

(Requested by: Parks, Recreation & Cultural Arts Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO USE COMPETITIVE
BARGAINING AND NEGOTIATED QUOTES TO CONTRACT
FOR REPAIR AND RENOVATION OF HARDSCAPE SURFACES
AT POLEN FARM**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. On the basis that the City can often obtain lower prices and more favorable purchasing conditions through competitive bargaining and negotiated quotations than through sealed bids, the City Manager is hereby authorized to use such bargaining and negotiation procedures and to enter into one or more contracts for the repair and renovation of hardscape surfaces at Polen Farm. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2020.

TONY KLEPACZ, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$75,000.00
Amount Budgeted: \$75,000.00
Acct. No.: 6103-77750

(Requested by: Parks, Recreation & Cultural Arts Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO USE COMPETITIVE
BARGAINING AND NEGOTIATED QUOTES TO CONTRACT
FOR REMOVAL AND REPLACEMENT OF FENCING AT POLEN
FARM AND JF KENNEDY PARK**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. On the basis that the City can often obtain lower prices and more favorable purchasing conditions through competitive bargaining and negotiated quotations than through sealed bids, the City Manager is hereby authorized to use such bargaining and negotiation procedures and to enter into one or more contracts for the removal and replacement of fencing at Polen Farm and JF Kennedy Park. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2020.

TONY KLEPACZ, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$115,000.00
Amount Budgeted: \$115,000.00
Acct. No.: 6103-77750

(Requested by: Parks, Recreation and Cultural Arts Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO CONTRACT WITH
ROZZI'S FAMOUS FIREWORKS FOR THE PURCHASE AND
DISPLAY OF FIREWORKS FOR THE ANNUAL GO 4TH!
CELEBRATION AT DELCO PARK**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager is hereby authorized, pursuant to Subsection "I" of Section 152.02 of Chapter 152 of the Codified Ordinances of the City of Kettering, to enter into one or more contracts with Rozzi's Famous Fireworks for the purchase and display of fireworks for the annual Go 4th! Celebration at Delco Park. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2020.

TONY KLEPACZ, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$45,000.00
Funds Available: \$45,000.00
Acct. No.: 2416-72550

(Requested by: Parks, Recreation and Cultural Arts Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO USE COMPETITIVE
BARGAINING AND NEGOTIATED QUOTES TO CONTRACT
FOR TREE SERVICES**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. On the basis that the City can often obtain lower prices and more favorable purchasing conditions through competitive bargaining and negotiated quotations than through sealed bids, the City Manager is hereby authorized to use such bargaining and negotiation procedures to contract for tree services including, but not limited to, inventory, risk assessment, management, treatment, removal, planting, and replacement. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2020.

TONY KLEPACZ, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D.KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$150,000.00
Amount Budgeted: \$150,000.00
Acct. No.: 6502-77750

(Requested by: Parks, Recreation and Cultural Arts Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO USE COMPETITIVE
BARGAINING AND NEGOTIATED QUOTES TO CONTRACT
FOR LANDSCAPE INSTALLATION SERVICES FOR THE
SCHANTZ AVENUE BRIDGE LANDSCAPE RENOVATION
PROJECT**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. On the basis that the City can often obtain lower prices and more favorable purchasing conditions through competitive bargaining and negotiated quotations than through sealed bids, the City Manager is hereby authorized to use such bargaining and negotiation procedures and to enter into one or more contracts for landscape installation services for the Schantz Avenue Bridge landscape renovation project. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2020.

TONY KLEPACZ, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$141,000.00
Amount Budgeted: \$141,000.00
Acct. No.: 5258-77750

(Requested by: Parks, Recreation and Cultural Arts Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO ENTER INTO AN
AGREEMENT WITH LWC INCORPORATED FOR DESIGN
SERVICES FOR RENOVATION OF ROSEWOOD ART CENTRE**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. Pursuant to Subsection "I" of Section 152.02 of the Codified Ordinances of the City of Kettering, the City Manager is hereby authorized to enter into an agreement with LWC Incorporated for design services for the renovation of Rosewood Art Centre. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2020.

TONY KLEPACZ, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL:

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$316,900.00
Amount Budgeted: \$316,900.00
Acct. No.: 6120-77750

(Requested by: Facilities Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO ACCEPT AND
ADMINISTER A GRANT FROM THE STATE OF OHIO FOR
RENOVATION OF THE ROSEWOOD ARTS CENTRE**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager is hereby authorized to accept a grant from the State of Ohio or its subdivisions for renovation of the Rosewood Arts Centre and to take all necessary and proper action to do so, including, without limitation, entering into one or more agreements. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate. Furthermore, this Council hereby affirms all matters and statements included in the grant application.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2020.

TONY KLEPACZ, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$450,000.00
Funds Budgeted: \$450,000.00
Acct. No.: 6120-77750

(Requested by: Parks, Recreation and Cultural Arts Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**DECLARING AS SURPLUS AND APPROVING AN
AGREEMENT TO EXCHANGE CITY-OWNED
PROPERTY LOCATED AT 250 WEST DOROTHY LANE**

WHEREAS, the City owns certain real property located at 250 West Dorothy Lane, Kettering, Ohio for which it no longer has a use; and

WHEREAS, the Kettering City School District Board of Education is interested in acquiring the property;

NOW THEREFORE, Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. Council hereby approves the Real Estate Purchase Agreement attached hereto as Exhibit A. The City Manager is hereby authorized to enter into that agreement on behalf of the City of Kettering and to dispose of the real estate described in Exhibit A, and to take any and all additional action necessary and proper to do so. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. The real property described in Exhibit A is hereby declared as surplus property and no longer required for municipal purposes effective as of the date of closing.

Section 3. As provided in Section 4-8 of the City Charter, this Resolution shall take full force and effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2020.

TONY KLEPACZ, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNA H. D. KACZYNSKI
Clerk of Council

THEODORE A. HAMER III,
Law Director

(Requested by: City Manager's Office)

EXHIBIT A

(8 total pages, including this page)

REAL ESTATE PURCHASE AGREEMENT

This Real Estate Purchase Agreement ("Agreement") is made and entered into between the City of Kettering, Ohio, ("City"), a municipal corporation organized pursuant to the laws of the State of Ohio and whose address is 3600 Shroyer Road, Kettering, Ohio 45429 and Kettering City School District Board of Education ("Board"), whose address is 580 Lincoln Park Boulevard, Kettering, Ohio 45429. The Board and the City may hereinafter be referred to individually as a "Party", or collectively as the "Parties".

RECITALS

WHEREAS, the City owns certain real property located at 250 West Dorothy Lane, Kettering, Ohio (Auditor's Parcel No. N64 03410 0996) ("City Property"); and

WHEREAS, the Board owns certain real property located at 2655 Olson Drive, Kettering, OH (Auditor's Parcel No. N64 03402 0073) ("Board Property"); and

WHEREAS, the Board leases the Board Property to the City and the City leases the City Property to the Board; and

WHEREAS, the City no longer has a use for the City Property and the Board no longer has a use for the Board Property; and

WHEREAS, the Parties desire to exchange the Board Property for the City Property.

STATEMENT OF AGREEMENT

1. Exchange and Conveyance of Property.

- 1.1 Subject to the terms and conditions of this Agreement, the City hereby agrees:
 - 1.1.1 to convey to Board, and the Board hereby agrees to accept from the City, all of the City's right, title, and interest in the City Property; and
 - 1.1.2 to accept fee title to the Board Property as consideration for the conveyance of the City Property to the Board.
- 1.2 Subject to the terms and conditions of this Agreement, the Board hereby agrees:
 - 1.2.1 to convey to City, and the City hereby agrees to accept from the Board, all of the Board's right, title, and interest in the Board Property; and
 - 1.2.2 to accept fee title to the City Property as consideration for the conveyance of the Board Property to the City.
- 1.3 As used in this Agreement, the City Property and Board Property includes: the land, along with any building and all other improvements, facilities, and fixtures

located on the land and all appurtenances, easements, rights, licenses, privileges, and benefits owned by the transferring Party which relate to the land, of every kind, character and description, now existing or existing at Closing.

- 1.4 At Closing, and in accordance with the terms and conditions set forth in this Agreement, the transferring Party will convey to the receiving Party good and marketable fee simple title in the real property being transferred.

2. **Due Diligence.**

- 2.1 The Parties are familiar with and have already inspected the respective property they will receive and do not require further due diligence.
- 2.2 The Parties may purchase title insurance for the property they are to receive and any closing deadline may be extended to accommodate a title exam.

3. **Representations and Warranties.** The City represents and warrants to the Board that the following statements are true as of the Effective Date and will be true at the Closing:

- 3.1 Subject to obtaining approval by the Kettering, Ohio City Council, the City possesses full right, power and authority to execute, deliver and perform this Agreement, and no legal or administrative proceeding is in effect which would prohibit the City's execution of this Agreement.

- 3.2 At the Closing, the City shall have good, marketable and indefeasible fee simple absolute title to the City Property, free, clear and unencumbered, with the exception of any Permitted Encumbrances (as defined elsewhere in this Agreement).

The Board represents, warrants, and covenants to the City that the following statements are true as of the Effective Date and will be true at the Closing:

- 3.3 The Board possesses full right, power and authority to execute, deliver and perform this Agreement and no legal or administrative proceeding is in effect which would prohibit the Board's execution of this Agreement.

- 3.4 At the Closing, the Board shall have good, marketable and indefeasible fee simple absolute title to the Board Property, free, clear and unencumbered, with the exception of any Permitted Encumbrances (as defined elsewhere in this Agreement).

4. **Condition of the Property; Assumption of Risk.**

- 4.1 Except as expressly provided in this agreement, no Party hereto is making any representations or warranties regarding the respective property being transferred by such party, express or implied. Without limiting the foregoing, except as expressly provided in this agreement, each Party acknowledges that each property is being conveyed "as is," "where is" and "with all faults," without representation, recourse or warranty, and that all warranties of merchantability or fitness for a particular purpose are disclaimed.

5. **Closing.**
 - 5.1 The time and place for conveyance of title to each Property, payment of the Purchase Price and the closing of the transactions under this Article II (the "**Closing**") will be on or before 5:00 p.m. (prevailing Eastern Time) on such date to be mutually agreed upon by the Parties, at such place as may be designated by mutual agreement of the Parties.
 - 5.2 At the Closing, the Parties will exchange (i) such documents or other evidence needed to satisfy a Party's title insurer; (ii) title affidavit, mechanics' lien affidavit; (iii) information necessary for reporting the sale of the Property to any tax authorities; and (iv) limited warranty deeds.
6. **Closing Prorations; Expenses.**
 - 6.1 There will be no proration of taxes and assessments. Each Party will pay the next tax bill due for the property they are acquiring.
 - 6.2 Each party will pay the recording fees, conveyance fees, and transfer fees relating to the transfer of the property they are acquiring.
 - 6.3 Each Party will be responsible for its own legal fees and title insurance fees including closing costs, if any.
7. **Limitation of Liability.** The Parties agree that in no event shall any Party be liable under this Agreement to another Party for punitive, special, consequential, or indirect damages of any type and regardless of whether such damages are claimed under contract, tort (including negligence and strict liability) or any other theory of law.
8. **Time of Essence.** Time is of the essence in this Agreement.
9. **Brokers.** Each Party represents to the other Party that no real estate broker, consultant, finder or like agent has any interest in this transaction with respect to the sale, conveyance and transfer of either the City Property or the Board Property.
10. **Entire Agreement; Assignability.** The Parties hereto acknowledge and agree that this Agreement constitutes their entire agreement and supersedes all prior negotiations regarding the subject matter hereof. This Agreement may not be modified except by an instrument in writing executed by all Parties hereto. This Agreement will be binding upon the successors and assigns of the Parties hereto.
11. **Governing Authority.** This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Ohio. The state and federal courts located in Montgomery County, Ohio shall be the proper forums for any legal controversy between the Parties arising in connection with this Agreement, which courts shall be the exclusive forums for all such suits, actions or proceedings.

12. Miscellaneous.

- 12.1 The captions in this Agreement are inserted only for the purpose of convenient reference and in no way define, limit or prescribe the scope or intent of this Agreement or any part hereof.
- 12.2 This Agreement may be executed by the Parties in counterparts, each of which shall be deemed an original, but all of such counterparts taken together will constitute one and the same Agreement. Copies of duly executed counterparts shall have the same legal effect as an original. Facsimile signatures or signatures transmitted by email or other electronic means shall be sufficient to bind the Parties.
- 12.3 If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.
- 12.4 All warranties, representations, covenants, obligations and agreements contained in this Agreement will survive the Closing and the conveyance of the respective Property and all performances hereunder.
- 12.5 No provisions of this Agreement shall be construed by any court or other judicial authority against any Party hereto by reason of such Party's being deemed to have drafted or structured such provisions.
- 12.6 All covenants, obligations and agreements of the Parties contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation, or agreement of any present or future member, officer, agent or employee of the any Party other than in his or her official capacity, and neither the members of the legislative body of the City nor any official executing this Agreement shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of the execution thereof or by reason of the covenants, obligations, or agreements of any Party contained in this Agreement.
- 12.7 The Parties acknowledge and agree that the facts and circumstances as described in the Recitals hereto are an integral part of this Agreement and as such are incorporated herein by reference. Further, the Parties acknowledge and agree that the Exhibits hereto are an integral part of this Agreement and as such are incorporated herein by reference.

- 12.8 Except as otherwise provided in this Agreement, no waiver of any of the provisions of this Agreement shall be deemed, nor shall the same constitute a waiver of any other provision, whether or not similar, nor shall any such waiver constitute a continuing waiver. No waiver shall be binding, unless executed, in writing, by the Party making the waiver.
- 12.9 Nothing in this Agreement, express or implied, is intended to or shall confer upon any other person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

CITY OF KETTERING

.....
Steven E. Bergstresser,
Acting City Manager

KETTERING CITY SCHOOL DISTRICT
BOARD OF EDUCATION

By:
James T. Ambrose, President

.....
Daniel Schall, Treasurer

Board Property Legal Description

Located in Section 17, Town 2, Range 6 M.R.S., City of Kettering, Montgomery County, State of Ohio, and being a tract of land described as follows:

Beginning at a point on the east line of Rosewood Gardens, Section Two at the centerline of Olson Drive as recorded in Book TT, Page 9 in the Plat Records of Montgomery County, Ohio;

Thence with the east line of said Rosewood Gardens, Section Two and its extension, said extension being the east line of Rosewood Gardens, Section one as recorded in Book PP, Page 52 in the Plat Records of Montgomery County, Ohio, North three degrees thirty-seven minutes twenty-five seconds ($3^{\circ} 37' 25''$) East for six hundred fifty-six and $94/100$ (656.94) feet to the northwest corner of land conveyed to the City of Kettering as recorded in Book 2176, Page 711 in the Deed Records of Montgomery County, Ohio;

Thence with the north line of said City of Kettering land, South sixty-eight degrees twenty-two minutes twenty-five seconds ($68^{\circ} 22' 25''$) East for six hundred twenty and $00/100$ (620.00) feet; thence South fourteen degrees thirty-one minutes forty-three seconds ($14^{\circ} 31' 43''$) West for four hundred seventy-three and $88/100$ (473.88) feet;

Thence North eighty-six degrees twenty-two minutes thirty-five seconds ($86^{\circ} 22' 35''$) West for five hundred and $00/100$ (500.00) feet to the point of beginning containing seven and $117/1000$ (7.117) acres, more or less; subject, however, to all legal highways and easements of record.

Prior Deed Reference: Book 2204, Page 442.

City Property Legal Description

Located in the County of Montgomery, State of Ohio, and being Lot 1 of the Record Plan For 250 West Dorothy Lane as recorded in Plat Book 234, Page 57 of the plat records in the Montgomery County, Ohio Recorder's Office.

Said premises are conveyed subject to all restrictions, conditions, and covenants of record and to all legal highways and easements.

Prior Deed Reference: Book 2059, Page 260; MF 73 240D01.

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO PURCHASE
EQUIPMENT THROUGH SEALED BIDS, NEGOTIATED QUOTES,
OR A COOPERATIVE PURCHASING PROGRAM**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager is hereby authorized to use sealed bids, competitive bargaining and negotiated quotes, or an approved cooperative purchasing program, to purchase the following listed vehicles and equipment needed for City use. For each purchase, the City Manager may use whichever method the City Manager deems appropriate.

Police	(3) Marked Vehicles	\$120,000
Police	(1) Unmarked vehicle	\$25,000
Fire	(1) Aerial Ladder Truck	\$1,098,000
Fire	(1) Staff Car	\$53,000
Streets	(1) Heavy Dump	\$210,000
Streets	(1) Flatbed Pick-up	\$80,000
Streets	(1) Portable Gas Monitoring Device	\$35,000
Facilities	(1) ¾ Ton Pick-up	\$45,000
PRCA	Fitness Equipment	\$128,000
Parks Maintenance	(2) Crew Cabs	\$100,000
Parks Maintenance	(2) Mowers	\$50,000

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2020.

TONY KLEPACZ, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III
Law Director

Estimated Cost: \$1,944,000.00
Amount Budgeted: \$1,944,000.00
Acct. No.: Various - 77740

(Requested by: Finance Department)