

**CITY OF KIRTLAND**

**RESOLUTION NUMBER 20-R-4**

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE BOARD OF LAKE COUNTY COMMISSIONERS THROUGH THE LAKE COUNTY DEPARTMENT OF UTILITIES, STORMWATER MANAGEMENT DIVISION, RELATING TO FUNDING FOR THE STATE ROUTE 306 RESURFACING AND SAFETY IMPROVEMENT PROJECT, AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City of Kirtland and the Board of Lake County Commissioners, through the Lake County Department of Utilities, Stormwater Management Division, desire to enter into a Memorandum of Understanding, relating to funding for the State Route 306 Resurfacing and Safety Improvement Project;

**NOW, THEREFORE, IT IS HEREBY RESOLVED** by the Council of the City of Kirtland, County of Lake and State of Ohio, that:

**SECTION I:** The Mayor be and he is hereby authorized and directed to enter into a Memorandum of Understanding with the Board of Lake County Commissioners, the terms and conditions of which are set forth in Exhibit "A" attached hereto and made a part hereof.

**SECTION II:** The Clerk of Council is hereby authorized and directed to transmit a certified copy of this Resolution to the Board of Lake County Commissioners.

**SECTION III:**

(a) It is found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

(b) This Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that it is necessary to provide for the needs of the municipality; wherefor, this Resolution shall be in full force and effect immediately upon its passage by the affirmative vote of five (5) members of Council and approval by the Mayor, otherwise this Resolution shall be in effect from and after its adoption at the earliest period allowed by law.

First Reading: \_\_\_\_\_  
Second Reading: \_\_\_\_\_  
Third Reading: \_\_\_\_\_

DATE PASSED: \_\_\_\_\_

\_\_\_\_\_  
President of Council

Submitted to the Mayor for his  
Approval on this \_\_\_\_\_ day of  
\_\_\_\_\_, 2020.

ATTEST:

Approved by the Mayor, this \_\_\_\_\_  
day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Clerk of Council  
Bd. of Comm. MOU Re. SR 306 Resurfacing & Safety Improv.

\_\_\_\_\_  
Mayor Kevin F. Potter

**MEMORANDUM OF UNDERSTANDING  
BOARD OF LAKE COUNTY COMMISSIONERS**

**AND**

**THE CITY OF KIRTLAND**

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by and between the City of Kirtland ("City") and the Board of Lake County Commissioners through the Lake County Department of Utilities, Stormwater Management Division ("District").

WHEREAS, the parties to this agreement are parties to a separate Memorandum of Understanding by the terms of which the City has agreed to participate as a member community in the storm water management program of the District ("User Agreement") and

WHEREAS, the City is Improving the safety of SR 306 by resurfacing the roadway and enclosing deep drainage ditches and other drainage work to enhance safety "(Improvement and/or Project "), and

WHEREAS, the drainage portion of the work on the SR 306 Resurfacing and Safety Improvement is a stormwater project authorized for funding by the District; and

WHEREAS, pursuant to Sections 6117.41 through and including 6117.44 of the Revised Code, the County and City are authorized to collaborate with each other for the acquisition and completion of the Improvement and to provide assistance for the financing of and compensation for the Improvement; and

WHEREAS, the City, has requested the use of an additional \$34,760.00 in District funds to be added to the previously agreed to amount of \$200,000 by resolution and MOU dated July 18, 2019 for additional work related to the drainage portion of the Improvement, and

WHEREAS, the District has agreed to fund the drainage portion of the Improvement in a total revised amount of \$234,760.00, and

WHEREAS, the City has bid the Improvement and the District, from District funds, has agreed to forward the funds to the City for those costs associated with the drainage portion of the Improvement in accordance with the terms and conditions of this MOU.

NOW THEREFORE, the parties hereby agree as follows:

**Duties of the City:**

The City agrees to do the following:

1. To prepare, submit and obtain the necessary permits for the Improvement.

2. To undertake construction of the Improvement located in the City as described herein in accordance with the Improvement Plans and all County requirement for such projects and in accordance with the final Improvement cost estimate.
3. To determine the final drainage portion of the Improvement cost.
4. To utilize District funds for the drainage portion of the Improvement.
5. To return any District funds forwarded to the City not used on the drainage portion of the Improvement to the District upon project closeout.
6. To notify the District prior to authorizing any cost overruns of the drainage portion of the Improvement that the City would request District funds to pay for.
7. In the event the City withdraws from the District during any period of time during which the Improvement is still under construction, the City agrees:
  - a. To pay any remaining obligations of the Improvement.
  - b. To hold the County harmless from liability undertaken by the City for the Improvement.
  - c. To release and hold the County harmless from the liability to the City for all obligations to the City imposed by the terms and conditions contemplated by this Agreement.

**Duties of the District:**

The District has determined that the drainage portion of the Improvement is eligible for funding under the District's Operations and Maintenance Plan. The District, therefore, agrees:

1. To assist the City in determining final Improvement cost.
2. To encumber \$34,760.00 in additional District funds to be deposited with the City for use on this Improvement based on the bids received and City Engineer recommendation to the City.

**Duties of Parties:**

The parties jointly agree to do the following:

1. Work jointly with the other party to reduce the amount of the final project cost by exploring options for direct participation by the District; any such participation shall be of such nature and in such amount as shall be jointly agreed to by the parties.

2. Each party agrees and acknowledges that this MOU is entered into pursuant to the authority granted to each party by the Ohio Revised Code, the Charter and Ordinances of the City of Kirtland and that authorizing legislation has been passed by each party.

IN WITNESS WHEREOF, the parties have affixed their hands and seals in Lake County, Ohio this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

**BOARD OF LAKE COUNTY COMMISSIONERS**

\_\_\_\_\_  
John Hamercheck, Commissioner

\_\_\_\_\_  
Ron Young, Commissioner

\_\_\_\_\_  
Jerry Cirino, Commissioner

**CITY OF KIRTLAND**

\_\_\_\_\_  
Kevin F. Potter, Mayor

\_\_\_\_\_  
Daniel F. Richards, Law Director

**Approved as to form:**

\_\_\_\_\_  
Lake County Prosecuting Attorney

\_\_\_\_\_  
Date