

**CITY OF KIRTLAND**

**RESOLUTION NUMBER 24-R-29**

**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 AND/OR PRE-FUNDING FOR THE PHEASANT LANE CULVERT REPLACEMENT, 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 and/or pre-funding for the Pheasant Lane Culvert Replacement Project; and

**WHEREAS**, the City Engineer has estimated the cost of the said project to be approximately \$32,150.00; and

**WHEREAS**, the Division has agreed to fund the construction of the culvert replacement in an amount of \$32,150.00 but not to exceed \$50,000.00; and

**WHEREAS**, the City is a member community in the Stormwater Management Division and would like to obtain pre-funding for said project from the Division; and

**WHEREAS**, the process by which the Stormwater Management Division pre-funds projects contains seven steps: (1) the City makes a request to the County Stormwater Department for the funds needed, (2) the County will draft a MOU to outline the details of the fund transfer and what the funds are to be used for, (3) the MOU will need to be reviewed and approved by both the County and City's legal counsel, (4) the City will need to pass legislation to enter into the MOU, (5) the County will need to pass legislation to enter into the MOU, (6) once the MOU is signed by all parties, the County will open a purchase order, (7) at the next scheduled Commissioner's meeting, the check can be issued; and

**WHEREAS**, the City has already made said request to fund the Pheasant Lane Culvert Replacement Project, the County has drafted an MOU, and both the County and City have approved of said MOU; and

**WHEREAS**, the Memorandum of Understanding, which is attached hereto as Exhibit A, outlines the agreement between the County and City for said project and is necessary to pass to obtain the necessary funding for the award of a bid and to commence this 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 maintain the streets and roads of the City; 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  
\_\_\_\_\_, 2024.

ATTEST:

Approved by the Mayor, this \_\_\_\_\_  
day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Clerk of Council  
MOU with Stormwater Re: Pre-Funding for Pheasant Lane Culvert

\_\_\_\_\_  
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 \_\_\_\_\_, 2024 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 preparing plans and specifications for the culvert replacement and repair for the Pheasant Lane Culvert Replacement Project (“Improvement and/or Project “), and

WHEREAS, the Pheasant Lane Culvert Replacement Project 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 \$32,150.00.00 in District funds for the Improvement, and

WHEREAS, the District has agreed to fund the construction of the culvert replacement in an amount of \$32,150.00 but not to exceed \$50,000.00, and

WHEREAS, the District, from District funds, has agreed to forward the funds to the City for those costs associated with the replacement of the culvert 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 the preparation of plans and specifications of the Improvement located in the City as described herein in accordance with all County requirement for such projects and in accordance with the final Improvement cost estimate.
3. To determine the final Improvement cost.
4. To utilize District funds for the Improvement.
5. To return any District funds forwarded to the City not used on the culvert replacement project to the District upon project closeout.
6. To notify the District prior to authorizing any cost overruns of the culvert outfall project 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 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 \$32,150.00 in District funds to be deposited with the City for use on this Improvement based on the City Engineer's estimated cost. Any mutually agreed cost overruns, not to exceed \$50,000.00 in total construction cost may be paid to the City through the use of this MOU.

**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 T. Plecnik, President Board of County Commissioners

\_\_\_\_\_  
John R. Hamercheck, Commissioner

\_\_\_\_\_  
Ricard Regovich, Commissioner

**CITY OF KIRTLAND**

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

\_\_\_\_\_  
Matthew Lallo, Law Director

**Approved as to form:**

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

\_\_\_\_\_  
Date