

CITY OF KIRTLAND

RESOLUTION NUMBER 21-R-15

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 CHANGE ORDER NUMBER 1 FOR THE WISNER ROAD STREAMBANK STABILIZATION 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 recent change order approved by 21-R-7 for the Wisner Road Streambank Stabilization Project; and

WHEREAS, Kirtland Codified Ordinance 220.25 requires the posting of copies of enacted legislation for fifteen consecutive days in three places within the City, those being City Hall, the Kirtland Public Library, and the Kirtland Community Center; and

WHEREAS, due to the current state of emergency in Ohio stemming from the COVID-19 pandemic, at some point City Hall, the Kirtland Public Library, and the Kirtland Community Center have been closed in order to protect both the community and the staff from potential infection; and

WHEREAS, Kirtland Codified Ordinance 220.25 grants City Council the authority to modify the posting requirement.

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: The City Council, pursuant to its authority in Kirtland Codified Ordinance, Section 220.25 and due to the COVID-19 pandemic, hereby modifies the requirement to post this enacted legislation in three places and instead requires the following:

1. If City Hall, the Kirtland Public Library, and/or the Kirtland Community Center are open on the effective date of this enacted legislation, then the Clerk of Council is hereby

- directed to post the enacted legislation for fifteen (15) consecutive days after its effective date in each facility; and
2. Should any of the facilities listed above be closed on the effective date of the enacted legislation, then the Clerk of Council is not required to post the enacted legislation in that facility; and
 3. The Clerk of Council is hereby directed to post the enacted legislation on the City of Kirtland's website for fifteen (15) consecutive days after the effective date of this legislation.

SECTION IV:

(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
_____, 2021.

ATTEST:

Approved by the Mayor, this _____
day of _____, 2021.

Clerk of Council
MOU Re. Change Order #1 for Wisner Rd. Streambank Stabilization

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 _____, 2021, 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 stabilizing the streambank near 10133 Wisner Road "(Improvement and/or Project ") and

WHEREAS, the Wisner Road Streambank Stabilization 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 an additional \$61,642.00 in District funds to be added to the previously requested amount of \$103,000.00 by resolution and MOU dated July 18, 2019 for the Improvement due to an unforeseen circumstance resulting in additional streambank stabilization and referenced as Change Order No. 1, 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 streambank stabilization 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 Improvement cost.
4. To utilize District funds for the Improvement.
5. To return any District funds forwarded to the City not used on the Improvement to the District upon project closeout.
6. To notify the District prior to authorizing any cost overruns 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 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 \$61,642.00 in additional District funds to be deposited with the City as Change Order No. 1 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

John Plecnik, Commissioner

CITY OF KIRTLAND

Kevin F. Potter, Mayor

Matthew Lallo, Law Director

Approved as to form:

Lake County Prosecuting Attorney

Date