

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF KENT AND THE PORTAGE COUNTY BOARD OF COMMISSIONERS FOR THE REALIGNMENT OF CRAIN AVENUE BETWEEN NORTH MANTUA STREET AND NORTH WATER STREET, INCLUDING THE REPLACEMENT OF THE CRAIN AVENUE BRIDGE OVER THE CUYAHOGA RIVER AND THE CSX RAILROAD, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Kent and the Portage County Board of Commissioners expressed their intent to realign Crain Avenue between North Mantua Street and North Water Street, including the replacement of the Crain Avenue Bridge over the Cuyahoga River and the CSX Railroad; and

WHEREAS, the City agrees that the work will be performed as a joint project between the City and the County, provided that Federal Funds would be available for this improvements, and that the terms of the agreement need to be reduced to writing; and

WHEREAS, this is a continuation of the project that began in the year 2000.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Kent, Portage County, Ohio, at least three-fourths (3/4) of all members elected thereto concurring:

SECTION 1. That the Kent City Council does hereby authorize the City Manager, or his designee to sign the agreement between Portage County and the City of Kent for the realignment of Crain Avenue, including the replacement of the Crain Avenue Bridge, said agreement as described in Exhibit "A", attached hereto and incorporated herein.

SECTION 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this resolution were adopted 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 of Section 121.22 of the Ohio Revised Code.

SECTION 3. That this resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the residents of this City, for which reason and other reasons manifest to this Council this resolution is hereby declared to be an emergency measure and shall take effect and be in force immediately after passage.

PASSED: 2/18/2009
DATE

PRESIDENT PRO TEM

ATTEST: _____
CLERK OF COUNCIL

I hereby certify that Resolution No. 2009-30 was duly enacted this 18th day of February, 2009, by the Council of the City of Kent, Ohio.

CLERK OF COUNCIL

MEMORANDUM OF UNDERSTANDING
EXTENDING CURRENT AGREEMENT BETWEEN
PORTAGE COUNTY COMMISSIONERS
AND
THE CITY OF KENT, COUNTY OF PORTAGE
STATE OF OHIO

THIS Memorandum of Understanding, dated _____ 2009, is made and entered into extending the current Agreement between The County of Portage, Ohio (the "County") and the City of Kent, Ohio, duly formed under the laws of the State of Ohio (the "City").

WITNESSETH:

WHEREAS, the City and County desire to continue their joint efforts for the replacement of the Crain Avenue bridge over the Cuyahoga River and the CSX Railroad and the realignment of Fairchild Avenue from the intersection of Fairchild Avenue and North Mantua Street to the intersection of Water Street; known as the Crain Avenue Bridge Project (also known as The Fairchild Avenue Bridge Project) the "Project", and;

WHEREAS, the County and City are utilizing their best efforts to obtain Federal funding to finance a majority of the construction cost for this Project; and

WHEREAS, the parties desire to unite in their efforts for the better utilization of funds and the completion of the Project; and

WHEREAS, it is further agreed that the City of Kent, as lead agency, has obtained and will continue the services of **Arcadis** to provide design and funding application support for the design of the proposed Project.

WHEREAS, the County and City desire to continue with their Agreement to set out their respective covenants and understandings relating to the design of the Project and the construction contracts required therefore; and

WHEREAS, the County, by Resolution No. 00-091, attached hereto as Exhibit "A", has previously accepted the construction agreement for the project by said Resolution; and

WHEREAS, the City, by Ordinance No. 2000-13, attached hereto as Exhibit "B", has previously accepted the construction agreement for the project by Ordinance No. 2003-13; and

NOW, THEREFORE, in consideration of the promises and covenants contained in this Memorandum of Understanding and the previous Agreement between the County and the City, the County's Resolution and City's Ordinance, the parties hereto agree as follows:

Section 1. Construction of the Project

A. The City shall undertake the Project in a workmanlike manner, as set forth in Exhibit "C" "Letter of Intent" attached hereto and incorporated herein as if fully rewritten except as specified below or subject to any written modifications not inconsistent with the promises and covenants contained in the Agreement of August 7, 1997 and this Memorandum of Understanding.

i). The intent of the planned realignment in the "Letter of Intent" dated August 7,

1997 shall be changed. The intent of the planned realignment shall be to eliminate the Crain Avenue/North Mantua Street Intersection by extending Fairchild Avenue over the Cuyahoga River and CSX Railroad Tracks to a new intersection at Water Street.

- B. The City and County agree that the Ohio Department of Transportation (ODOT) will administer the construction of the project. The City and County both agree to adhere to the Ohio Department of Transportation standard processes for administering a local public agency ODOT-Let construction project.
- C. The parties to this Memorandum of Understanding and the Agreement of August 7, 1997 covenant that all construction and improvements with respect to the Project are made in reliance on the Agreement and this Memorandum of Understanding.
- D. The local share for the construction and construction inspection costs will be split 35% County, 65% City. The City and County will provide the local match for the project directly to the Ohio Department of Transportation when requested by the Department.

Section 2. Design of the Project

- E. The City shall undertake the Project in a workmanlike manner, as set forth in Exhibit "C" "Letter of Intent" attached hereto and incorporated herein as if fully rewritten, subject to any written modifications not inconsistent with the promises and covenants contained in the Agreement of August 7, 1997 and this Memorandum of Understanding.
- F. The City hereby agrees that all contracts for the design of the Project shall be entered into in compliance with the applicable provisions of state and local laws including Federal requirement for the procurement of professional services.
- G. The parties to this Memorandum of Understanding and the Agreement of August 7, 1997 covenant that all design with respect to the Project are made in reliance on the Agreement and this Memorandum of Understanding.
- H. The cost of the professional engineering services will be split 35% County 65% City. The City will be invoiced and pay for the professional services and the County will reimburse the City its share of the total cost when the City invoices the County for said professional services that are the County's portion.

IN WITNESS WHEREOF, the parties hereto have offered their hands and seals.

CITY OF KENT, OHIO

WITNESSES:

Reviewed and Recommended by:

James Bowling, P.E.
City Engineer

Date

WITNESSES:

Approved and Accepted by:

Dave Ruller
City Manager

Date

Approved as to form:

James R. Silver, Law Director
City of Kent

Certificate of Director of Budget and Finance

It is hereby certified that the amount six million one hundred seventy thousand dollars (\$6,170,000) of which four million nine hundred thousand (\$4,900,000) has been expended and/or encumbered previously and the remaining one million two hundred seventy thousand (\$1,270,000) required to meet the contract, agreement, obligation, payment or expenditure, for the above, has been lawfully appropriated or authorized or directed for such purpose and is in the City Treasury or in the process of collection to the credit of the Capital, Water, Sewer and Storm Drainage Funds free from any obligation or certificates now outstanding.

Barbara Rissland, Director of Budget and Finance Date

IN WITNESS WHEREOF, the parties hereto have offered their hands and seals.

COUNTY OF PORTAGE, OHIO

Maureen T. Frederick, Commissioner

Christopher Smeiles, Commissioner

Charles W. Keiper II, Commissioner

WITNESSES:

Reviewed and Recommended by:_____

Michael A. Marozzi
Portage County Engineer

Date

Approved as to Form:

Prosecuting Attorney
Portage County, Ohio

Date

AUDITOR'S CERTIFICATE

I hereby certify that the amount of \$_____ required to meet the obligation for the above Contract has lawfully been appropriated for such purposes and is in the treasury to the credit of Fund #_____ free from any obligation or certificate now outstanding.

DATE

JANET ESPOSITO
Portage County Auditor