

RESOLUTION NO. 2010 - 51

A RESOLUTION AMENDING RESOLUTION NO. 2010-17, PASSED FEB. 17, 2010, STYLED, "A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF KENT AND KENT STATE UNIVERSITY FOR THE PURPOSE OF CONTINUING THEIR JOINT EFFORTS FOR THE IMPROVEMENT OF ERIE STREET GENERALLY LOCATED FROM LINCOLN STREET TO WATER STREET, AND DECLARING AN EMERGENCY", SO AS TO ALLOW THE CITY TO ADMINISTER THE CONTRACT, AND TO ALLOW THE CITY TO BE REIMBURSED FOR THE DESIGN AND CONSTRUCTION COSTS, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Kent and Kent State University wish to continue their joint efforts for the improvement of Erie Street generally located from Lincoln Street to Water Street; and

WHEREAS, the Kent City Council approved a Memorandum of Understanding (MOU) with Kent State University for the Esplanade - Erie Street Extension project; and

WHEREAS, the City received a grant for \$700,000, and the grant requires the City to administer the contract; and

WHEREAS, the City needs to appropriate the design costs of the project, and said monies will be reimbursed by Kent State; and

WHEREAS, the Memorandum of Understanding must be amended to allow for these changes, and time is of the essence to allow this project to continue on schedule.

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 execute an amendment to the Memorandum of Understanding between the City of Kent and Kent State University passed by Resolution No. 2010-17, on Feb. 17, 2010; for the Esplanade - Erie Street Extension project, said amendment to the Memorandum of Understanding 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: 06/16/2010
DATE

MAYOR AND PRESIDENT OF COUNCIL

ATTEST: _____
CLERK OF COUNCIL

I hereby certify that Ordinance No. 2010-51 was duly enacted this 16 day of
June, 2010, by the Council of the City of Kent, Ohio.

EXHIBIT "A"

ESPLANADE – ERIE STREET

MEMORANDUM OF UNDERSTANDING

Amendment 31

**KENT STATE UNIVERSITY
AND
THE CITY OF KENT
ALL PARTIES BEING IN THE COUNTY OF PORTAGE,
STATE OF OHIO**

This Amendment, dated _____ 2010, is by and between Kent State University ("KSU") and the City of Kent, Ohio, ("City"), duly formed under the laws of the State of Ohio.

WITNESSETH:

WHEREAS, The City and KSU agreed on March 5, 2010 to complete the design, construction and funding of the Esplanade Extension, SR 59 crossing and Erie Street upgrade, hereinafter referred to as the "project".

WHEREAS, The City obtained a \$700,000 grant for the Esplanade Extension which requires the City manage the design and construction of the project.

NOW, THEREFORE, in consideration of the mutual covenants, promises, conditions, and terms to be kept and performed, it is agreed between the parties that the City and KSU agree to collaborate on the design and construction of the Esplanade Extension ("Project"). Each Party shall be responsible for the following tasks to complete the "Project":

City:

- Manage the Local Public Agency (LPA) Agreement with ODOT.
- A City of Kent Engineer will be in responsible charge of the Project.
- Administer the contract involving the Design and Construction of the Project.

KSU:

- Reimburse the City all local share costs for design and construction.
- Assist the City's Engineer in responsible charge to complete the design and construction of the project within the approved frame.
- KSU will pay for all design expenses up to \$300,000.

City and KSU:

- KSU and City shall review and approve design plans and specifications.
- KSU and City shall both approve all Project invoices and expenses prior to payment.

In witness whereof, the Parties hereto have offered their hands and seals:

CITY OF KENT

Approved and Accepted by:

Dave Ruller
City of Kent, City Manager

Witness: _____

Witness: _____

Date: _____

Approved as to Form:

Jim Silver
City of Kent, Law Director

Date: _____

Certificate of City of Kent Director of Budget and Finance

It is hereby certified that the amount THREE HUNDRED THOUSAND Dollars (\$300,000) 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 General Fund free from any obligation or certificates now outstanding.

Dave Coffee, Director of Budget and Finance

Date

KENT STATE UNIVERSITY

Approved and Accepted by:

Gregg S. Floyd,
Vice President
for Finance and Administration

Witness: _____

Witness: _____

Date: _____