

ORDINANCE NO. 89-18

AN ORDINANCE TO APPROVE A CONSTRUCTION CONTRACT CHANGE ORDER RESULTING FROM THE EXPANSION OF THE JOSEPH, PUTH, ELIZABETH & DETROIT SANITARY SEWER PROJECT, PHASE 1 CONSTRUCTION LIMITS AND DECLARING AN EMERGENCY

WHEREAS, the City desires to provide sanitary sewer service to several properties along Detroit, Joseph, Puth and Elizabeth roads (hereinafter referenced to as the "affected area") pursuant to an Ohio EPA Consent Agreement, Ord. No. 37-13, passed April 1, 2013; and

WHEREAS, Sitetech, Inc. (hereinafter referred to as "Sitetech"), a residential subdivider of land has received the necessary approvals and entered into a Subdivider's Agreement, Ordinance 21-17, to develop a subdivision of land to be known as the West Wickham Subdivision on acreage it owns in an area along the western edge of the Nagel Road Sanitary Sewer District as revised by Ordinance 89-16; and

WHEREAS, David A. and Kimberly A. Horwedel and Roy A. and Norma A. James own land on the north side of Detroit Road that abuts the southern end of the proposed West Wickham Subdivision where temporary and permanent easements were established via Ord. 8-17 which allow for the City of Avon to make a sanitary sewer connection from the West Wickham Subdivision to the Detroit Road Right-of-Way; and

WHEREAS, the connection from the West Wickham Subdivision to the Detroit Road Right-of-Way is hereby known as the Joseph, Puth, Elizabeth & Detroit Road Sanitary Sewer Project, Phase 1; and

WHEREAS, the original scope of the project consisted of the following: necessary tree clearing; installation of approximately 650 feet of sanitary sewer; removal of existing septic tanks; installation of sanitary cleanouts and manholes; and installation of a gravel access driveway as detailed in easement agreements with Horwedel & James and memorialized in Ordinance 8-17; and

WHEREAS, Avon City Council passed Ordinance 13-18, on February 12, 2018, awarding a construction contract for the Joseph, Puth, Elizabeth & Detroit Road Sanitary Sewer Project Phase 1 to KMU Trucking & Excavating, Inc.; and

WHEREAS, subsequent to the awarding of construction contract and upon the advice of the Avon Service Director and Utilities Superintendent, the City Engineer directed the Project Engineer, Bramhall Engineering & Surveying Company to prepare revised project plans and solicited a corresponding cost proposal from the Project Contractor, KMU Trucking & Excavating, Inc., to extend the proposed sanitary sewer an additional 70 feet (approximate) southward under Detroit Road so that a sanitary manhole and sanitary sewer stub for future use can be placed on the south side of Detroit Road; and

WHEREAS, the City Engineer has reviewed the revised project plans and corresponding cost proposal provided by the Project Contractor in the net amount of \$68,143.20 which includes \$38,000.00 in contingency items should rock excavations be required, thus leaving a potential net cost of \$30,143.20 if rock formations are not encountered, as detailed in the attached Exhibit A, and found them to be reasonable and acceptable; and

WHEREAS, Council finds that it is in the best interest of the health, safety and welfare of the Community that the City amend the construction contract amount with KMU Trucking & Excavating, Inc. established in Ordinance 13-18 from \$93,610.00 to \$161,753.20 for the construction of the Joseph, Puth, Elizabeth & Detroit Road Sanitary Sewer Project, Phase 1 as per the amended plans on file in the office of the Clerk of Council and the attached Exhibit A.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON, LORAIN COUNTY, OHIO:

Section 1 - That the contract to construct the Joseph, Puth, Elizabeth & Detroit Road Sanitary Sewer Project, Phase 1, be and the same is hereby expanded to include all work set forth in the Plan Revision Proposal attached hereto as Exhibit A and incorporated herein by this reference. Further, Council authorizes a revision of the construction contract with KMU Trucking & Excavating, LLC from \$93,610.00 to \$161,753.20.

Section 2 – That the expanded work (aka change order) shall immediately proceed and be paid for from the Sanitary Sewer Replacement and Depreciation Fund No. 406 pursuant to directives of the Finance Director. Said payment shall be made separate and apart from any other costs associated with the project that the City contemplates will be assessed to all property owners fronting the improvement at a future date. Furthermore, the Finance Director is authorized to increase the appropriation by a reasonable amount for engineering and legal fees associated with this project.

Section 3 - That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance 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 actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4 - That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare of the citizens of the City of Avon, the immediate emergency being the necessity to facilitate the start of construction at the earliest possible time upon the completion and acceptance of the West Wickham Subdivision; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____ DATE SIGNED: _____

By: _____
Craig L. Witherspoon, Council President

DATE APPROVED BY THE MAYOR: _____

APPROVED AS TO FORM: _____
Bryan K. Jensen, Mayor

John A. Gasior, Law Director

ATTEST:

Barbara Brooks
Clerk of Council

Posted: _____
In Five Places as
Provided by Council

Prepared By:
John A. Gasior, Esq.
Law Director