

ORDINANCE NO. 100-19

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AMENDED AGREEMENT WITH O.R. COLAN ASSOCIATES, LLC TO PERFORM PROFESSIONAL REAL ESTATE EASEMENT ACQUISITION SERVICES FOR THE ELIZABETH AVENUE, PUTH DRIVE, JOSEPH STREET AND DETROIT ROAD SANITARY SEWER IMPROVEMENT PROJECT, PHASE 2 AND DECLARING AN EMERGENCY

WHEREAS, the City is in need of providing sanitary sewer service to all properties along Elizabeth Avenue, Puth Drive, Joseph Street pursuant to an Ohio EPA Consent Agreement, Ord. No. 37-13, passed April 1, 2013; and

WHEREAS, pursuant to Ordinance No. 27-18, passed April 9, 2018 Bramhall Engineering & Surveying Company (Bramhall) has prepared engineered construction plans and specifications to install a sanitary sewer system, a new watermain distribution system and intermittent storm drainage improvements along Elizabeth Avenue, Puth Drive, Joseph Street (EPJ) and an adjacent section of Detroit Road; and

WHEREAS, Bramhall originally identified twenty permanent easement areas along Detroit Road whose acquisition is necessary to construct the improvements noted in the Bramhall construction plans; and

WHEREAS, one of the permanent easements is in process of being provided by the property owner separately from the acquisition services described herein due to the independent development of commercial property at 34970 Detroit Road thus leaving nineteen properties from which permanent easements are required; and

WHEREAS, the City Engineer is also preparing plans and specifications to add a center turn lane to Detroit Road in the same vicinity as the upcoming EPJ improvements which will also need easement rights acquired over the same nineteen properties for the purposes of installing drainage improvements, performing grading, placing utility systems, and construction of any appurtenances thereto; and

WHEREAS, City Council passed Ordinance 81-19 on September 9, 2019 which authorized the hiring of O.R. Colan Associates, LLC (ORC) in the amount of \$78,880.00 to perform the necessary real estate acquisition services for the acquisition of permanent highway easements along Detroit Road with said permanent highway easements serving the easement needs of the EPJ project and a future Detroit Road center turn lane project; and

WHEREAS, upon commencement of their services O.R. Colan Associates, LLC identified that the certain zoning setback requirements, existing home locations and the acquisition of a standard highway easement twenty feet in width would require more complex appraisal methods and increased acquisition costs for many of the needed easements; and

WHEREAS, a letter from ORC, attached hereto and incorporated herein as "Exhibit A", presents a revised easement formulation of a ten feet wide Standard Highway Easement directly

adjacent to the existing Right-of-Way and an additional Sewer, Utility & Grading Easement, also ten feet in width, located contiguous to, but outside of the Standard Highway Easement each of the nineteen parcels; and

WHEREAS, Exhibit A also includes a revised fee summation for the ORC services in the amount of \$119,086.00 which is an increase of \$40,206.00 over the amount authorized in Ordinance 81-19; and

WHEREAS, the Avon Administration has reviewed the revised easement formulation and recommends its acceptance because it will result in lower property right acquisition costs to the City while maintaining sufficient provisions for the completion of the noted project; and

WHEREAS, City Council, having reviewed the revised proposal submitted by O.R. Colan Associates, LLC, finds that the increase being proposed and the circumstances calling for the revision are valid and that approving said revisions is in the best interests of the health, safety and welfare of the citizens of Avon in properly evaluating and acquiring the land needed for the construction of improvements along Detroit Road.

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

Section 1 - That upon the recommendation of the Administration, Avon City Council hereby authorizes a revision to its current agreement with O.R. Colan Associates, LLC (Ord. No. 81-19) to perform the necessary real estate acquisition services for the appropriation of permanent property rights in the form of Standard Highway and Sewer, Grading & Utility Easements along Detroit Road that are required to construct the Elizabeth Avenue, Puth Drive & Joseph Street Sanitary Sewer Improvement Project Phase 2, pursuant to the attached Exhibit A submitted by said firm, the final contract to be approved by the Law Director.

Section 2 - Payment in the amount of One Hundred Nineteen Thousand, Eighty-Six Dollars (\$119,086.00) shall be made from the Elizabeth Avenue, Puth Drive & Joseph Street Sanitary Sewer Improvement Project Phase 2 Fund No.436. Council authorizes the Finance Director to advance additional funds in the amount of Forty Thousand, Two Hundred, Six Dollars (\$40,206.00) from the Sanitary Sewer Replacement and Depreciation Fund No. 406 to meet the additional obligations incurred under the terms of Exhibit A.

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 obtain real estate easement acquisition services for the Elizabeth Avenue, Puth Drive & Joseph Street Sanitary Sewer Improvement Project Phase 2 in as timely a manner as possible because the City is under a Consent Decree with

Ordinance No. 100-19 (Con't)

the Ohio EPA to install these public improvements as quickly as possible; 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: _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

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