

RESOLUTION NO. R-4-16

A RESOLUTION DECLARING IT NECESSARY TO IMPROVE THE CITY BY THE CONSTRUCTION AND RECONSTRUCTION OF A PORTION OF CHESTER ROAD, FROM A TWO (2) LANE TO A FIVE (5) LANE ROADWAY, TOGETHER WITH ALL APPURTENANCES AND RELATED IMPROVEMENTS THERETO, AND DECLARING AN EMERGENCY

WHEREAS, the owner of more than seventy-five percent (75%) of the lots and lands to be assessed for the public improvement described in Section 2 hereof, has executed and filed with this Council a petition dated March 11, 2016, attached to this Resolution as Exhibit A (the "Petition") requesting such public improvement;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Avon, Lorain County, Ohio:

Section 1 - Each capitalized term not otherwise defined herein or by reference to another document shall have the meaning assigned to it in the Petition, which Petition is hereby accepted.

Section 2 - It is hereby declared necessary to improve the City by the construction and reconstruction of a portion of Chester Road, from a two (2) lane to a five (5) lane roadway, as more particularly described in Exhibit B to the Petition (the "Public Improvements"), together with all necessary appurtenances and related improvements thereto.

Section 3 - The Public Improvements shall be constructed as shown on the plans hereinafter referred to and now on file in the office of the Clerk of this Council.

Section 4 - It is hereby determined and declared that said Public Improvements are conducive to the public health, convenience and welfare of the City and the inhabitants thereof.

Section 5 - The plans, specifications, estimate of cost and profiles of the Public Improvements, heretofore prepared by Chagrin Valley Engineering, Ltd. (the "Design Engineer") and now on file in the office of the Clerk of this Council, are hereby approved.

Section 6 - The total cost of the Public Improvements shall include the cost of preliminary and other surveys, plans, specifications, profiles and estimates and of printing, serving and publishing notices, resolutions and ordinances, the amount of damages resulting from the improvement assessment in favor of any owner of land affected by the improvement and the interest thereon, the cost incurred in connection with the preparation, levy and collection of the special assessments, the cost of purchasing, appropriating, and otherwise acquiring therefor any required real estate or interests therein, expenses of legal services including obtaining an approving legal opinion in connection with the issuance of bonds and notes to finance the improvement, the cost of labor and material, and interest on bonds and notes issued in anticipation of the levy and collection of the special assessments together with all other necessary expenditures. The total estimated costs of the Public Improvements are set forth in Exhibit C attached to the Petition. Said total cost shall be assessed upon the Property and, as set forth in the Petition, the assessment for such purpose is estimated to be Seven Million Three

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Hundred Seventy-Four Thousand Seven Hundred Fifty-Seven Dollars and Sixty-Two Cents (\$7,374,757.62) (the "Special Assessments") (less the amount of any credit due to Property Owner for costs advanced by the Property Owner in accordance with the terms of the Financing Agreement to be entered into by and between the City and the Property Owner), which amount shall be paid as specified in the Petition. Such Special Assessments shall be levied and collected even though the Project has not commenced. The provisions of the Petition are hereby ratified, adopted and approved, and incorporated into this Resolution as if set forth in full herein.

Section 7 - The Design Engineer is hereby authorized and directed to prepare and file in the office of the Clerk of Council the estimated assessments of the cost of the Public Improvements.

Section 8 - As set forth in the Petition, the Special Assessments to be levied shall be paid in twenty (20) annual installments (each annual installment to be payable semi-annually at the time real estate taxes in Lorain County, Ohio are payable), with interest on deferred payments at the same rate as shall be borne by the bonds to be issued in anticipation of the collection thereof.

Section 9 - Bonds of the City shall be issued in anticipation of the collection of the Special Assessments by installments and in an amount equal thereto and notes of said City shall be issued in anticipation of the issuance of such bonds and the levy of such Special Assessments.

Section 10 - The remainder of the entire cost of the Public Improvements, after application of the Special Assessments herein provided, shall be paid by the issuance of bonds in the manner provided by law or from other funds lawfully available for this purpose.

Section 11 - 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 citizens of Avon the immediate emergency being the reasons set forth herein and together with the necessity of the City to begin construction as soon as possible within the current construction season; therefore, this Resolution shall be in full force and effect immediately upon passage of Council by the required three-fourths majority and approval by the Mayor.

PASSED: _____ DATE SIGNED: _____

By: _____
Craig Witherspoon, Council President

DATE APPROVED BY MAYOR: _____

Bryan K. Jensen, Mayor

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APPROVED AS TO FORM:

John A. Gasior, Law Director

ATTEST:

Ellen R. Young,
Clerk of Council

POSTED: _____
In five places as provided by Council.