

RESOLUTION NO. R-16-16

A RESOLUTION AMENDING RESOLUTION NO. R-4-16 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, on March 14, 2016, the City of Avon, Ohio (the “Council”) enacted Resolution No. R-4-16, declaring it necessary to improve City of Avon (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; and

WHEREAS, the Council wishes to amend Resolution No. R-4-16 to clarify the method of levying the special assessment.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF AVON, COUNTY OF LORAIN AND STATE OF OHIO:

Section 1 – That Paragraph 6 of Resolution No. R-4-16, as amended by R-8-16, which currently reads as follows:

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. The costs of the Public Improvements 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 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.

shall be amended to read as follows: (New language in bold print)

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. The costs of the Public Improvements shall be assessed upon the Property **in proportion to the benefits which may result from the improvement as specifically** set forth in the Petition, the assessment for such purpose is estimated to be Seven Million Three 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 2 – That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all such deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including the City's Charter, Codified Ordinances and any applicable provisions 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 City, and for the further reason that the immediate issuance and sale of the Bonds herein authorized is necessary to realize savings to the City; 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

Resolution No. 16-16 (Con't)

DATE APPROVED BY THE MAYOR: _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director

ATTEST:

Ellen R. Young
Clerk of Council

Posted: _____
In Five Places as
Provided by Council

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