

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO BOTH TERMINATE THE CONTRACT WITH ECLIPSE COMPANY, LLC AND RETURN THE PREVIOUSLY AWARDED GRANT FUNDING TO THE OHIO DEPARTMENT OF TRANSPORTATION FOR THE VETERANS TRAIL PHASE 3 IMPROVEMENT PROJECT (PID NO. 97856); AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Resolution No. 14-145, passed by this Council on December 3, 2014, the City entered into an LPA Agreement with the Ohio Department of Transportation (“ODOT”) for the Veteran’s Trail Phase 3 Improvement Project (“Project”); and

WHEREAS, pursuant to Resolution No. 19-19, passed by this Council on February 19, 2019, the City advertised and awarded a contract to Eclipse Company, LLC (“Contractor”) for the construction of the Project in the amount of One Million Two Hundred Ninety-Two Thousand Four Hundred Eighty-Three Dollars and Seventy-Nine Cents (\$1,292,483.79) (“Contract”); and

WHEREAS, due to concerns relative to the Project that arose after the City entered into the Contract, this Council determines that the Contract should be terminated, and the Project be submitted to City Staff for further review; and

WHEREAS, pursuant to the Contract, the City may terminate the Contract with seven (7) days written notice to the Contractor; and

WHEREAS, pursuant to the Contract, upon termination by the City, the Contractor shall be paid for certain items (as outlined in the Contract) related to costs the Contractor incurred prior to the date of termination; and

WHEREAS, due to the Contract not moving forward, the City must return previously awarded and accepted funds to ODOT in the amount of Five Hundred Thousand Dollars (\$500,000.00).

NOW, THEREFORE, BE IT RESOLVED by the Council of Hudson, Summit County, State of Ohio, that:

Section 1. The City Manager is authorized and directed to both notify ODOT that it is the City’s desire to return the awarded funds for the Project and return said funds in the amount of Five Hundred Thousand Dollars (\$500,000.00).

Section 2. The City Manager is authorized and directed to both terminate the Contract

with Eclipse Company, LLC in the amount of One Million Two Hundred Ninety-Two Thousand Four Hundred Eighty-Three Dollars and Seventy-Nine Cents (\$1,292,483.79) and to pay to Eclipse Company, LLC such funds as are required pursuant to the terms of the Contract upon termination of the Contract by the City.

Section 3. 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 any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4. This Resolution is determined to be an emergency measure necessary to further the public health, safety and general welfare and for the further reason that it is necessary to immediately notify the Contractor of the termination of the Contract so as to not incur any additional costs relative to the project and to immediately notify ODOT of the City's intention to return funds previously accepted and awarded; wherefore, this Resolution shall be in effect immediately upon its passage provided it receives the affirmative vote of five (5) members of Council except that six (6) affirmative votes shall be required if all members are present; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED:

\_\_\_\_\_  
Craig Shubert, Mayor

ATTEST:

\_\_\_\_\_  
Elizabeth Slagle, Clerk of Council

I certify that the foregoing Resolution No. 20-15 was duly passed by the Council of said Municipality on \_\_\_\_\_, 2020.

\_\_\_\_\_  
Elizabeth Slagle, Clerk of Council