

## RESOLUTION NO. 41-2022

A RESOLUTION BY THE CITY OF NEW PHILADELPHIA, TUSCARAWAS COUNTY, OHIO TO AUTHORIZE THE SERVICE DIRECTOR TO ENTER INTO A LPA FEDERAL ODOT LET PROJECT AGREEMENT AND ANY OTHER NECESSARY AGREEMENTS FOR THE MILLING AND FILLING OF PORTIONS OF CR 21/16TH STREET SW, MILL AVENUE SW/7TH STREET SW, RAY AVENUE NE, AND WABASH AVENUE SW, (PID 114061) (CRS: TUS NEW PHILA PAVING PHASE 1) (AGREEMENT NO: 37316), AND DECLARING AN EMERGENCY.

### **SECTION 1. - Project Description**

**WHEREAS**, the City of New Philadelphia, Tuscarawas County, Ohio, hereinafter referred to as the Local Public Agency (LPA) has determined the need for the below described project:

Milling and filling of portions of CR 21/16th Street SW, Mill Avenue SW/7th Street SW, Ray Avenue NE, and Wabash Avenue SW. ADA compliant curb ramps will also be installed as required within the project limits.

**NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW PHILADELPHIA, OHIO:**

### **SECTION 2. – Consent Statement**

Being in the public interest, the LPA gives consent to the Director of Transportation to complete the above described project as detailed in the LPA-ODOT-Let Agreement entered into between the parties, if applicable.

### **SECTION 3. – Cooperation Statement**

The LPA shall cooperate with the Director of Transportation in the development and construction of the above described project and shall enter into a LPA Federal ODOT Let Project Agreement, if applicable, as well as any other agreements necessary to develop and construct the Project.

*The LPA agrees to assume and bear the cost of the improvements which exceed the Federal fund maximums for Construction and Construction Engineering as allocated by the State, which are outline in the LPA Federal ODOTLet Project Agreement (No. 37316).*

*The LPA further agrees to pay 100% of the cost of those features requested by the LPA which are determined by the State and Federal Highway Administration to by unnecessary for the Project.*

*The LPA further agrees that change orders and extra work contracts required to fulfill the construction contracts shall be processed as needed. The State shall not approve a change order or extra work contract until it first gives notice, in writing, to the LPA. The LPA shall contribute its share of the cost of these items in accordance with other sections herein.*

**PID No.: 114061**

**SECTION 4. - Authority to Sign**

The LPA hereby authorizes Service Director Ron McAbier of said City of New Philadelphia to (Signature authority) enter into and execute contracts with the Director of Transportation which are necessary to develop plans for and to complete the above-described project; and to execute contracts with ODOT pre-qualified consultants for the preliminary engineering phase of the Project.

Upon request of ODOT, Service Director Ron McAbier is also empowered to execute any appropriate documents to affect the assignment of all rights, title, and interests of the City of New Philadelphia to ODOT arising from any agreement with its consultant in order to allow ODOT to direct additional or corrective work, recover damages due to errors or omissions, and to exercise all other contractual rights and remedies afforded by law or equity.

**SECTION 5. – Utilities and Right-of-Way Statement**

The LPA agrees that all right-of-way required for the described project will be acquired and/or made available in accordance with current State and Federal regulations. The LPA also understands that right-of-way costs include eligible utility costs.

The LPA agrees that all utility accommodation, relocation and reimbursement will comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.

**SECTION 6. – Maintenance**

Upon completion of the Project, and unless otherwise agreed, the LPA shall: (1) provide adequate maintenance for the Project in accordance with all applicable State and Federal law, including, but not limited to, Title 23, U.S.C., Section 116; (2) provide ample financial provisions, as necessary, for the maintenance of the Project; (3) maintain the right-of-way, keeping it free of obstructions; and (4) hold said right-of-way inviolate for public highway purposes.

**SECTION 7. – Emergency Measure**

This Resolution is hereby declared to be an emergency measure, and its immediate passage is necessary in order to preserve, protect, and maintain the health, safety and welfare of the citizens of the City of New Philadelphia, Ohio.

**SECTION 8. - Effective Date**

This Resolution shall take effect and be in force immediately upon its passage and approval.

PASSED: January 9, 2023

Donald C Kemp  
DONALD C. KEMP  
PRESIDENT OF COUNCIL

ATTEST:

Julie Courtright  
JULIE COURTRIGHT  
CLERK OF COUNCIL

APPROVED:

Joel B. Day  
MAYOR JOEL B. DAY

SPONSORED BY: PUBLIC WORKS AND ECONOMIC DEVELOPMENT COMMITTEE