

ORDINANCE NO. 19-3609

**AN ORDINANCE AUTHORIZING THE VILLAGE MANANGER TO ENTER INTO AN AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION FOR UPGRADES TO THE SIGNALIZED INTERSECTIONS OF MONTGOMERY ROAD WITH HIGHLAND AVENUE, PLAINFIELD ROAD, SAMPSON LANE, AND ELWYNNE DRIVE AND DECLARING AN EMERGENCY**

WHEREAS, the Village of Silverton is nearing completion of a major public roadway intersection improvement at the intersections of Montgomery Road and Stewart Road as well as Stewart Road and Euclid Avenue; and

WHEREAS, the Village of Silverton has been assisted in this project by the Ohio Department of Transportation (ODOT) and the Ohio Public Works Commission (OPWC) because the Montgomery and Stewart intersection is an important existing public roadway handling approximately 31,000 vehicles daily and has opportunities for significant safety and efficiency upgrades along with supporting future traffic needs through the almost-completed Montgomery and Stewart roadway project; and

WHEREAS, the Village of Silverton wishes to continue improvements along Montgomery Road with a second subsequent phase of traffic improvements to enable Montgomery Road in Silverton to be a “corridor of opportunity” connecting Kennedy Heights and Pleasant Ridge to the Kenwood area and Interstate 71 exchange; and

WHEREAS, the cost for Phase II of the Montgomery Road corridor improvements is estimated to be \$3,241,311, and the Ohio-Kentucky-Indiana (OKI) Council of Governments has provided \$2,374,945 of public funding through the competitive Congestion Mitigation and Air Quality (CMAQ) Improvement Program for construction to take place on or around January 1, 2022.

WHEREAS, the Village of Silverton is responsible to match or to obtain matching funds equal to 25% of the total project cost, or \$866,366, with the local funding to support preliminary engineering, right of way acquisition for a public purpose pursuant to Silverton’s policing powers (as needed), construction, and construction engineering; and

WHEREAS, the Village of Silverton wishes to enter into a Let Program Agreement (LPA) with ODOT to begin participation in this joint public project for the public good, health, safety, and welfare which is an extension of and second phase to the Montgomery and Stewart Roadway Improvement Project nearing completion; and

WHEREAS, the Village of Silverton Mayor and Council state their support for and commitment to this public project, and have determined the described public project to upgrade to the existing signalized intersections of Montgomery Road with Highland Avenue, Montgomery Road with Plainfield Road, Montgomery Road and Sampson Lane, and Montgomery Road and Elwynne Drive is needed for the public good, health, safety, and welfare . The project includes access management improvements and upgrades to existing sidewalk for Americans with Disability Act compliance.

**NOW THEREFORE, BE IT RESOLVED** by the Village Council of Silverton, that:

**SECTION I.**

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 II.**

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 LPA, if applicable, as well as any other agreements necessary to develop and construct the Project.

The LPA agrees to participate in the cost of the project. The Village of Silverton will be responsible for the non-Federal share of the project, not to exceed \_\_\_\_\_.

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 be 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.

The LPA agrees that if Federal Funds are used to pay the cost of any consultant contract, the LPA shall comply with 23 CFR 172 in the selection of its consultant and administration of the consultant contract. Further the LPA agrees to incorporate ODOT's "Specifications for Consulting Services" as a contract document in all of its consultant contracts. The LPA agrees to require, as a scope of services clause, that all plans prepared by the consultant must conform to ODOT's current design standards and that the consultant shall be responsible for ongoing consultant involvement during the construction phase of the Project. The LPA agrees to include a completion schedule acceptable to ODOT and to assist ODOT in rating the consultant's performance through ODOT's Consultant Evaluation System.

**SECTION III.**

The LPA hereby authorizes the Village Manager of the Village of Silverton to enter into and to execute contracts with the Director of Transportation 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, the Village Manager is also empowered to execute any appropriate documents to affect the assignment of all rights, title, and interests of the Village of Silverton to ODOT arising from any LPA 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 IV.**

The LPA agrees that all right-of-way required for the described public 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.

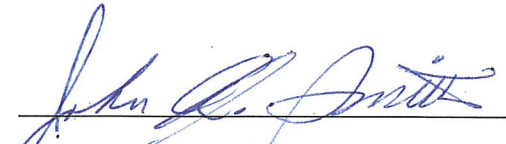
**SECTION V.**

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.

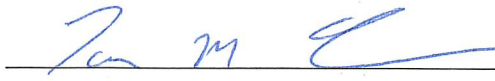
**SECTION VI.**

This Ordinance is declared to be an emergency measure necessary to preserve the public peace, health, safety and welfare of the citizens of the Village of Silverton; the reason for the emergency being the immediate need for the Village to enter into a contract to commence three years of planning and engineering to the Village can meet its goal of commencing construction in 2022. Accordingly, this Ordinance shall take effect and be in force from and after its passage and approval.

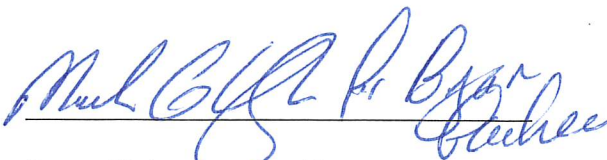
*Passed this 7<sup>th</sup> day of February, 2019.*

  
\_\_\_\_\_  
John A. Smith, Mayor

**ATTEST:**

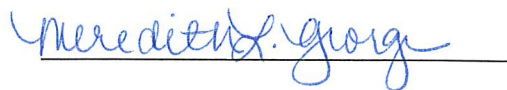
  
\_\_\_\_\_  
Thomas M. Carroll, Village Manager

*Approved as to form:*

  
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Bryan E. Pacheco, Village Solicitor

**CERTIFICATION:**

I, Meredith L. George, Clerk of Council of the Village of Silverton, County of Hamilton, State of Ohio; do hereby certify that there is no newspaper published in said municipality and that publication of the foregoing Ordinance No. 19-3609 has been duly made by posting true copies in two (2) places that are accessible by the public in said municipality, as determined by Council as follows: 1) Silverton Town Hall lobby area and Council Chambers foyer; and 2) Silverton's official website. Said posting was for a period of fifteen days commencing Feb 11, 2019.

  
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Meredith L. George  
Clerk of Council of Silverton, Ohio

No Seal is required to accompany the executed legislation