

**VILLAGE OF YELLOW SPRINGS, OHIO
RESOLUTION 2023-56**

**TERMINATING CONTRACT OF JNT EXCAVATING, LLC FOR THE TWO INCH
GALVANIZED WATER MAIN REPLACEMENTS PROJECT**

WHEREAS, the Village of Yellow Springs, Ohio ("the Village") entered into a contract (the "Contract") with JNT Excavating, LLC ("JNT Excavating") on or about January 19, 2023, for the Two-Inch Galvanized Water Main Replacements Project ("the Project"); and

WHEREAS, Section 16.02(A) of the EJCDC C-700 Standard General Conditions of the Construction Contract for the Project ("General Conditions") authorizes the Village to consider declaring a default by JNT Excavating and justify termination of the Contract for cause should JNT Excavating fail to perform the Work on the Project in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment, or failure to adhere to the Progress Schedule); and

WHEREAS, Section 16.02(B) of the General Conditions authorizes the Village to declare a default by JNT Excavating and terminate the Contract should the Village give JNT Excavating and its surety, United Fire Group ("UFG"), 10 days' written notice that the Village is considering a declaration that JNT Excavating is in default and termination of the Contract; and

WHEREAS, Section 16.02(D) of the General Conditions authorizes the Village to terminate the Contract should JNT Excavating fail to correct its failure to perform and proceed diligently to cure such failure within seven (7) days of receipt of the Village's notice of intent to terminate the Contract; and

WHEREAS, JNT Excavating is in default of the Contract by failing to supply sufficient skilled workers on the Project; and

WHEREAS, JNT Excavating is in default of the Contract by failing to supply sufficient suitable materials or equipment on the Project; and

WHEREAS, the Village has given repeated notice to JNT Excavating and UFG that JNT Excavating is in default of the Contract; and

WHEREAS, the Village has demanded that JNT Excavating take corrective action to remedy its default of the Contract; and

WHEREAS, the Village has given the contractual 10 days' written notice to JNT Excavating and UFG of the Village's intent to declare JNT Excavating to be in default and terminate the Contract; and

WHEREAS, JNT Excavating failed to correct its failure to perform and proceed diligently to cure such failure; and

WHEREAS, the Village wishes to terminate its Contract with JNT Excavating on the Project for cause and enforce its rights available under the performance bond.

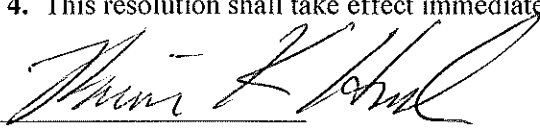
NOW, THEREFORE, be it resolved by Council for the Village of Yellow Springs, Ohio as follows:

Section 1. Pursuant to Section 16.02(A) of the General Conditions, the Village hereby recognizes that JNT Excavating continues to be in default of the Contract for the reasons stated herein.

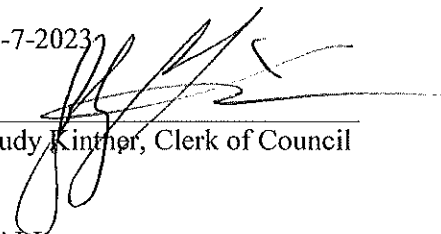
Section 2. Pursuant to Section 16.02(B) of the General Conditions, the Village hereby declares JNT Excavating in default and terminates the Contract for cause.

Section 3. Pursuant to Section 16.02(C) of the General Conditions, the Village excludes JNT Excavating from the Project site beginning on August 7, 2023 and to take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by JNT Excavating on August 7, 2023.

Section 4. This resolution shall take effect immediately upon approval by Council.

Signed: 
Brian Housh, President of Council

Passed: 8-7-2023

Attest: 
Judy Kintner, Clerk of Council

ROLL CALL:

Brian Housh __Y__ Marianne MacQueen __Y__ Kevin Stokes __Y__

Carmen Brown __ABSENT__

Gavin DeVore-Leonard __Y__