

SPONSOR: E. Brown / Elliott

## ORDINANCE NO. 39-09

AN ORDINANCE FINDING A REAL AND PRESENT EMERGENCY CONCERNING THE CITY'S RICHLAND RAIL ROAD TUNNEL, AND AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT BETWEEN THE CITY OF JACKSON, OHIO, AND THE W.M. BRODE COMPANY, 100 ELIZABETH STREET, P. O. BOX 299, NEWCOMERSTOWN, OHIO 43832, FOR REPAIRS TO THE RICHLAND TUNNEL, WITHOUT FORMAL BIDDING AND ADVERTISING, AND DECLARING AN EMERGENCY.

WHEREAS, the Richland Tunnel located on the City owned railroad line is in dire need of repairs, and there is a strong possibility the tunnel could cave in at any time unless necessary repairs are made; and

WHEREAS, the time required for formal bidding would create a substantial risk that the tunnel could collapse unless repairs are made immediately; and

WHEREAS, Jackson City Council now declares and finds a real and present emergency exists in that the tunnel must be repaired immediately to ensure the safe and continued traffic on the City owned rail line, and finds the contract for repairs to the tunnel should be made in accordance with Ohio Revised Code Section 735.051, without formal bidding.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JACKSON, STATE OF OHIO, as follows:

**Section One.** Jackson City Council hereby finds a real and present emergency exists concerning the Richland Tunnel on the City owned rail line, and unless repairs are made immediately the tunnel may cave in and cause great havoc and hardship on the rail traffic on the railroad line.

**Section Two.** Jackson City Council authorizes the City to enter into an agreement between the City of Jackson, Ohio and W.M. Brode Company, 100 Elizabeth Street, P.O. Box 299, Newcomerstown, Ohio 43832 for the repairs to the Richland Tunnel. This Agreement shall be in an amount of Three Hundred Seventeen Thousand One Hundred Thirty-five and No/100 Dollars (\$ 317,135.00) and shall include the information in the attached letter and specifications. This contract shall be paid from the Railroad Rehab Project Expense, line item 735-7570-53064, which is the moneys the City has received in a grant from the Ohio Rail Development Commission (ORDC). The Service Director is authorized to enter into this Agreement as soon as possible.

**Section Three.** This contract shall be entered into pursuant to Revised Code Section 735.051, as this Council finds that a real and present emergency exists in that the tunnel must be repaired as quickly as possible as it could fall in at any time. Therefore, this contract shall be made without formal bidding and advertising.

**Section Four.** This Ordinance is hereby declared to be an emergency Ordinance necessary for the immediate preservation of the public peace, health, or safety of the City of Jackson, in that it is necessary to enter into this agreement as soon as possible. Therefore, this Ordinance shall go into effect upon passage and approval by the Mayor, as provided in Ohio Revised Code Section 731.30.

**Section Five.** In the event this Ordinance receives a majority vote for passage but fails to receive the required number of votes to pass as an emergency, then this Ordinance shall be deemed to have passed but with no emergency clause and shall take effect at the earliest time permitted by law.

**Section Six.** This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council and that all deliberations of this Council that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

Date: 6-5-09

  
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**PRESIDENT OF COUNCIL**

  
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**CLERK OF COUNCIL**

Approved:

Date: 6-8-09

  
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**MAYOR**