

***RESOLUTION NO. \_\_\_\_\_***

**RESOLUTION RESCINDING RESOLUTION 93880-0617 AND ADOPTING  
THE REVISED RESOLUTION ACCEPTING COMPLETED WORK  
PERFORMED UNDER THE  
WEST HILL SEWER SEPARATION PROJECT  
PHASE 3B**

WHEREAS, the City of Muscatine approved the Plans, Specifications, and Form of Contract for the West Hill Sewer Separation Project Phase 3B; and

WHEREAS, the City of Muscatine entered into a contract for said project with Hagerty Earthworks LLC for \$1,645,093.60 with 10 change orders and actual bid quantity and unit price calculations, for a total contract amount of \$1,476,401.04; and

WHEREAS, work under the contract has been completed by Hagerty Earthworks, LLC and approved and accepted by the City Engineer and appears to meet the requirements of the Plans and Specifications heretofore adopted by this Council, as evidenced by the Project Engineer's Certificate; and

WHEREAS, the amount of \$1,388,804.26 has been previously paid to Hagerty Earthworks, LLC and a calculated balance of \$87,596.78 including the 5% retainage remains due and payable; and

WHEREAS, Article 4, section 4.2 of the construction contract provides that the project be substantially completed by November 18, 2016 and ready for final payment by December 23, 2016; and

WHEREAS, Article 4, section 4.3 provides for liquidated damages for not meeting the substantial and final completion dates; and

WHEREAS, the substantial and final completion dates were not met by Hagerty Earthworks, LLC and the liquidated damages total \$61,300;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MUSCATINE, that the City of Muscatine accepts the completed work under the West Hill Sewer Separation Project Phase 3B. The calculated balance of the contract is \$26,296.78 which represents the \$87,596.78 contract balance and retainage less the liquidated damages of \$61,300. The \$26,296.78 balance has been applied to the \$92,113.86 amount Hagerty Earthworks LLC owes the City for Phase 3A of the contract and therefore no funds will be paid to Hagerty Earthworks LLC for final work and the retainage on Phase 3B. The net amount owed by Hagerty Earthworks LLC for Phase 3A and 3B is \$65,817.08.

PASSED, APPROVED, AND ADOPTED THIS 6th DAY OF JULY, 2017.

CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA

BY: \_\_\_\_\_  
Diana Broderson, Mayor

ATTEST:

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Gregg Mandsager, City Clerk