

# ORDINANCE NO. 7998

## AN ORDINANCE AUTHORIZING A CONTRACT WITH BUCKEYE PUMPS, INC., TO PURCHASE AND INSTALL UPGRADED CONTROLLERS FOR SEWAGE LIFT STATIONS IN THE CITY.

**WHEREAS**, each sewage lift station that is part of the city sewer system has a controller that controls the pump outputs, level controls, alarms, flooding conditions, and pump amp draws; and,

**WHEREAS**, the controllers on four (4) of the lift stations, to wit: Karnes Avenue, Maumee East, North Clinton and Carter Road, are outdated and lack the operator interface for ease of programming and the controllers need to be upgraded to Multismart Station Manager's controllers for more efficient and safer operation of the lift stations; and,

**WHEREAS**, the City solicited bids to purchase four (4) Multismart Station Manager's controls and to have said controls installed and Buckeye Pumps, Inc., of Galion, Ohio submitted the lowest *responsive*, responsible, and only bid in the amount of \$25,000.00;

**Now therefore**, be it enacted by the Council of the Municipality of Defiance, Ohio, that:

**Section 1:** The City Administrator is authorized to enter into a contract with Buckeye Pumps, Inc., to furnish all labor, materials and equipment required for the City to upgrade the controllers on four (4) lift stations to the Multismart Station Manager's controller as set forth in the Quotation from Buckeye Pumps, Inc., dated February 1, 2018 and being quotation number 3216-020118-KM1 at the price and on the terms of service established by the accepted bid.

**Section 2:** The Finance Director is authorized to pay the price of \$25,000.00 and such incidental expenses as may be incurred in accordance with the authorized contract from Line 590-540-52980880 of the 2018 annual budget.

**Section 3:** It is found and determined that all legislative actions pertaining to the adoption of this Ordinance were taken in Public Session and that all deliberations that affected or influenced any such legislative act, including all deliberations in Committee, were conducted in Public Session or in Executive Session duly convened in accordance with law.

**Section 4:** This Ordinance shall be effective on the earliest date permitted by law.

David McMaster  
President of Council

Passed: March 6, 2018

Attest: Lisa Elders, Clerk

Approved: March 14, 2018

Michael McCann  
Mayor

ORDINANCE NO. 7999

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF A \$2,000,000 TAXABLE ECONOMIC DEVELOPMENT BONDS FOR THE PURPOSE OF ASSISTING IN ACQUIRING CERTAIN PROPERTY LOCATED IN THE CITY, PROVIDING FOR THE SECURITY FOR SUCH BOND, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Defiance, Ohio (the "City") is authorized by virtue of the laws of the State of Ohio, including, without limitation, Section 13 of Article VIII of the Ohio Constitution and Chapter 165 of the Revised Code, among other things, (a) to issue its revenue bonds to acquire, construct, equip, or improve one or more projects (as defined in Section 165.01 of the Revised Code) for the purpose of creating or preserving jobs and employment opportunities and improving the economic welfare of the people of the City and of the State of Ohio; (b) to secure such Bonds by nontax revenues, provided herein; and (c) to enact this Ordinance and enter into related agreements, upon the terms and conditions provided herein; and

WHEREAS, to create and preserve jobs and employment opportunities, the City has determined to provide funds for the acquisition of certain real property (the "Site") located at the East end of Commerce Drive (the "Project") for disposition to a private developer for development with commercial and industrial projects; and

WHEREAS, the Community Improvement Corporation of Defiance County (dba Defiance County Economic Development Office) (the "CIC"), pursuant to its designation as the City's agent pursuant to Revised Code Section 1724.10, has certified to the City that the Project is in accordance with the City's plan and agreement for industrial, commercial, distribution and research development; and

NOW, THEREFORE, BE IT ENACTED by the Council of the Municipality of Defiance, that:

Section 1. Determination of Project. This Council hereby determines that the Project is consistent with the purposes of Section 13 of Article VIII, Ohio Constitution, the utilization of the Project will benefit the people of the City and of the State by creating and preserving jobs and employment opportunities and improving the economic welfare of the people of the City and of the State; and that the amount necessary to pay costs of acquiring the Site will require the issuance, sale and delivery of the Bonds, which Bonds shall be payable and secured as provided herein.

Section 2. Authorized Principal Amount and Purpose; Bond Terms. It is necessary to issue and thus Council determines that the Bonds shall be issued in the principal amount of \$2,000,000 to provide funds to pay the costs of the acquisition of the Site, together with issuance costs and costs related to the acquisition of the Site. The Bonds shall be designated "Taxable Land Acquisition Bonds (Commerce Drive Industrial Park Project)".

The Bonds shall be issued as a manuscript bond in fully registered form, registered as to both principal and interest, in a single denomination representing the entire principal amount of the issue. The Bonds shall be dated the date of its issuance and shall bear interest from its date of issuance at the rate of two and seventy-five one hundredths percent (2.75%) per year calculated on the basis of a 365-day year. Principal shall be paid in thirty (30) consecutive semi-annual installments of Sixty-six Thousand Six Hundred Sixty-six Dollars and Sixty-seven Cents (\$66,666.67) each, due on the first day of June and December (each, a "Payment Date"), commencing December 1, 2018. Interest on the unpaid principal amount of the Bonds accruing after the date of issuance of the Bonds shall also be due on each Payment Date. Each such installment of principal and interest will be applied first to the payment of interest on the unpaid principal sum. All semi-annual payments of interest and principal shall be due and payable in full, with the final installment due and payable on June 1, 2033; provided that the final installment shall in any event be sufficient to pay in full the outstanding balance of the principal sum of the Bonds. Principal on the Bonds shall be subject to optional prepayment at the option of the City, as set forth in Section 3 hereof.

Section 3. Prepayment Provisions. The Bonds shall be subject to prepayment prior to stated maturity, by and at the sole option of the City, in whole on any date or in part on any Payment Date, at a prepayment price equal to the principal amount prepaid, plus interest accrued to the optional prepayment date. Any such prepayment prior to maturity shall be made by payment of the prepayment price to the registered owner on the optional prepayment date. The City's right of optional prepayment shall be exercised by delivering a notice of optional prepayment, stating the optional prepayment date and the amount to be prepaid, to the registered owner not less than seven days prior to the optional prepayment date. If less than all of the outstanding principal of the Bonds is to be prepaid at one time, the principal installments of the Bonds shall be prepaid in inverse order of their maturities. If money for the prepayment of all or a portion of the principal amount of the Bonds is paid to the registered owner on the applicable prepayment date, interest on the principal amount prepaid shall cease to accrue on the prepayment date.

Section 4. Bond Registrar; Execution of Bonds. The Finance Director of the City is hereby appointed to act as the bond registrar, transfer agent and paying agent for the Bonds (the "Bond Registrar"). As the Bond Registrar the Finance Director shall keep all the books and records necessary for the registration, transfer and payment of the Bonds (the "Bond Register"). So long as the Bonds remains outstanding, the Bond Registrar shall keep and maintain at its office the Bond Register, on which it shall maintain a current and accurate record of the names and addresses of the owner of the Bonds, and shall perform such registration, transfer and paying agent functions as are in accordance with this ordinance and the applicable requirements of Section 9.96 of the Revised Code. Pursuant to and in accordance with Section 9.96, Ohio Revised Code, the City may hereafter designate a different person to serve as Bond Registrar and enter into a contract for the provision by that person as Bond Registrar of any of the services described in Division (C) of Section 9.96.

The principal of and interest on the Bonds shall be payable in lawful money of the United States without deduction for the services of the Bond Registrar as paying agent. The principal installments on the Bonds shall be paid when due upon presentation to the Bond Registrar of the Bonds for proper endorsement on the payment schedule of principal paid, and interest on the Bonds shall be paid on each Payment Date by check or draft mailed to the person in whose name the Bond is registered, and to that person's address appearing on the Bond Register on that Payment Date. The Bond Registrar, with the approval of the Finance Director (if the Finance Director is not the Bond Registrar), may agree to make all payments of principal and interest to an owner of the Bonds (other than any payment of the entire unpaid principal amount of the Bonds) in a manner other than as provided in this Ordinance, without presentation of the Bond, provided that payment in any event must be to the owner of the Bond as reflected on the Bond Register, on that Payment Date.

The person in whose name the Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond. Payment of or on account of the principal of and interest on the Bonds shall be made only to or upon the order of that person; neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as hereinafter provided. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bonds, including interest, to the extent of the amount or amounts to be paid. The Bond may be transferred as described in Section 8 hereof.

The Bond shall be a negotiable instrument, subject to provisions therein restricting transfer, and shall express on its face the purpose for which it is issued and such other statements or legends as may be required by law.

The Bonds shall be signed by the Mayor and the Finance Director, in the name of the City and in their official capacities, provided that one of those signatures may be a facsimile. In case any officer whose signature shall appear on the Bonds shall cease to be such officer before the issuance or delivery of the Bonds, such signature shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until that time.

Section 5. Award and Sale of Bonds. The Bonds are hereby awarded and sold to ProMedica Health System, Inc. (the "Original Purchaser"), pursuant to terms provided in this Ordinance, and at the purchase price of par. The Finance Director shall cause the Bonds to be prepared and have the Bonds signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Bonds, if requested by the Original Purchaser, to the Original Purchaser upon payment of the purchase price. The Mayor and the Finance Director are authorized and directed to make, on behalf of the City, the necessary arrangements with the Original Purchaser,

to establish the date, location, procedure and conditions for the delivery of the Bonds to the Original Purchaser, and to take all steps necessary to effect due signing and delivery to the Original Purchaser of the Bonds under the terms of this Ordinance.

It is hereby determined that the purchase price of and the terms of the Bonds, and the sale thereof, all as provided in this Ordinance, are in the best interests of the City and consistent with all legal requirements.

The Mayor, the Finance Director, the Clerk of Council, the Law Director and other Village officials, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements, and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance.

Section 6. Application of Bond Proceeds. The proceeds from the sale of the Bonds shall be paid into the proper fund and those proceeds are appropriated and shall be used for the purpose for which the Bonds are being issued.

Section 7. Payment and Security of the Bonds. The Bonds are special obligations of the City, and the principal and interest on the Bonds are payable solely from, and such payment is secured by a pledge of and lien on, those Nontax Revenues established by and as provided in this Ordinance which are on deposit in the Bond Fund, as described below.

There is hereby created by the City a separate fund named the "Commerce Drive Fund" (the "Bond Fund") into which Nontax Revenues shall be deposited in accordance with the following provisions. "Nontax Revenues", as used herein, means, all moneys of the City which are not moneys raised by taxation, to the extent available for such purposes, including, but not limited to the following: (a) grants from the United States of America and the State of Ohio; (b) payments in lieu of taxes now or hereafter authorized by State statute; (c) fines and forfeitures which are deposited in the City's General Fund; (d) fees deposited in the City's General Fund from properly imposed licenses and permits; (e) investment earnings on the City's General Fund and which are credited to the City's General Fund; (f) investment earnings of other funds of the City that are credited to the City's General Fund; (g) proceeds from the sale of assets which are deposited in the City's General Fund; (h) rental income which is deposited in the City's General Fund; and (i) gifts and donations.

The City hereby covenants and agrees that on or before each Payment Date it shall deposit in the Bond Fund from Nontax Revenues selected by the City, an amount equal to the amount of principal and interest due on Bonds on that Payment Date, less, in the discretion of the City, any interest earnings or other moneys accumulated in the Bond Fund which have not theretofore been used as a credit against a prior payment obligation. Moneys in the Bond Fund shall be used solely and exclusively to pay principal and interest on the Bonds when due.

The City hereby covenants and agrees that so long as the Bonds are outstanding, it will appropriate and maintain sufficient Nontax Revenues each year to make each payment due under this Section and to pay principal and interest when due; provided, however, the payments due hereunder and under the Bonds are payable solely from Nontax Revenues, which Nontax Revenues are hereby selected by the City as moneys that are not raised by taxation. The Bonds are not secured by an obligation or pledge of any moneys raised by taxation. The Bonds do not and shall not represent or constitute a debt or pledge of the faith or credit or taxing power of the City, and the owner of the Bonds has no right to have taxes levied by the City for the payment of principal and interest on the Bonds.

Nothing herein shall be construed as requiring the City to use or apply to the payment of principal and interest on the Bonds any funds or revenues from any source other than Nontax Revenues. Nothing herein, however, shall be deemed to prohibit the City, of its own volition, from using, to the extent that it is authorized by law to do so, any other resources for the fulfillment of any of the terms, conditions or obligations of this Ordinance or of the Bonds.

Section 8. Transfer of Bonds. The Bonds shall be subject to restrictions on transfer consistent with certain securities laws and such restrictions shall be acknowledged by the Original Purchaser.

The Bonds may be transferred only upon the books kept by the Bond Registrar for the registration and transfer of the Bonds, and only upon surrender thereof at the office of the Bond Registrar together with an assignment duly signed by the registered owner or his duly authorized attorney in such form as shall be satisfactory to the Bond Registrar. Upon such transfer and request to the Bond Registrar, the City shall sign in the name of the transferee on the Bond Register and, if requested by the new owner, the Bond Registrar shall deliver a new fully registered Bond in form substantially the same form as the Bond as initially issued and delivered and in aggregate principal amount equal to the unmatured and unredeemed principal amount of such Bond, and otherwise bearing interest at the same rate and maturing on the same dates. The Bond Registrar may make a charge for every such transfer of Bonds sufficient to reimburse the City for any tax, fee or other governmental charge required to be paid with respect to such transfer and the City may charge a sum sufficient to reimburse it for all other costs and expenses incurred in connection with such transfer, and such charge or charges shall be paid before any such new Bond shall be delivered. Neither the City nor the Bond Registrar shall be required to make any such transfer of any Bond during the 15 days next preceding a Payment Date.

Section 9. Other Documents. The Mayor, the Finance Director, the Director of Law and the Clerk of Council are each hereby authorized and directed to take any and all other actions and to execute any and all other instruments, certificates and documents as may in their judgment be necessary, desirable, advisable or appropriate in connection with the issuance of the Bonds in order to give effect to the transactions contemplated to be performed on the part of the City under this Ordinance, including, but not limited to, any agreement with the CIC or a developer related to the Project or the development of the Site or to revenues that may be available for the Project or that the official or officials executing such document and the Director of Law shall have determined to be necessary and appropriate in connection with the issuance and delivery of the Bonds and otherwise in the best interests of the City, all of which shall be conclusively evidenced by the signing thereof by those officials

Section 10. Retention of Bond Counsel. The legal services of Squire Patton Boggs (US) LLP, as bond counsel, be and are hereby retained. The legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the issuance and sale of the Bonds and the rendering of the necessary legal opinion upon the delivery of the Bonds. In rendering those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. That firm shall be paid just and reasonable compensation for those legal services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those legal services. The Finance Director is authorized to provide for the payment of those fees and any reimbursements from the proceeds of the Bonds to the extent available and otherwise is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm.

Section 11. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the enactment of this Ordinance were taken in an open meeting of this Council or committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

Section 12. Captions and Headings. The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

Section 13. Declaration of Emergency; Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to sell the Bonds at the earliest possible date, which is necessary to provide for additional jobs and employment opportunities and to improve the economic welfare of the City and its residents; wherefore, this Ordinance shall be in full force and effect immediately upon its enactment and approval by the Mayor.

Enacted: March 13, 2018

Attest: Lisa Elders

David McMaster  
President of Council

Approved: March 13, 2018

Michael McCann  
Mayor

Abstract of  
City of Defiance, Ohio  
Ordinance No. 7999

This is a summary of Ordinance No. 7999 (the Ordinance), enacted by the Council of the City of Defiance on March 13, 2018, providing for the issuance and sale of nontax revenue bonds in the principal amount of \$2,000,000, for the purpose of providing funds to pay the costs of the acquisition of certain real property located at the east end of Commerce Drive for disposition to a private developer for development with commercial and industrial projects, all to create and preserve jobs and employment opportunities in the City.

The bonds are to be dated the date of issuance and shall bear interest from their date of issuance at the rate of two and seventy-five one hundredths percent (2.75%) per year calculated on the basis of a 365-day year. Principal shall be paid in thirty (30) consecutive semi-annual installments. The ordinance provides for the sale of the bonds to ProMedica Health System, Inc., pursuant to terms provided in the ordinance, and at the purchase price of par. The ordinance provides for the manner of payment of the bonds, their form and signing and the application of the proceeds. The ordinance also provides for the pledge of and lien on the nontax revenues of the City to secure the payment of the principal of and interest on the bonds. The ordinance authorizes the Mayor, the Finance Director, the Director of Law and the Clerk of Council to take any actions and to execute any other documents as may be necessary in connection with the issuance of the bonds and the transactions contemplated by the ordinance.

The complete text of the ordinance may be obtained or viewed at the office of the Clerk of Council. The ordinance was declared to be an emergency measure.