

ORDINANCE NO. 8100

AN ORDINANCE GRANTING TO OHIO POWER COMPANY, ITS SUCCESSORS AND ASSIGNS, A NONEXCLUSIVE FRANCHISE RIGHT TO ACQUIRE, CONSTRUCT, MAINTAIN, AND OPERATE IN THE STREETS, THOROUGHFARES, ALLEYS, BRIDGES, AND PUBLIC PLACES OF THE CITY OF DEFIANCE, OHIO, AND ITS SUCCESSORS, LINES FOR THE TRANSMISSION AND DISTRIBUTION OF ELECTRIC ENERGY TO THE CITY OF DEFIANCE, OHIO, AND THE INHABITANTS THEREOF FOR LIGHT, HEAT, POWER, AND OTHER PURPOSES, AND FOR THE TRANSMISSION AND DISTRIBUTION OF THE SAME, THROUGH, OR ACROSS THE CITY OF DEFIANCE, OHIO AND DECLARING AN EMERGENCY

WHEREAS, Council has the authority to lease and license the real property of the City under Section 2.12(11) of the Charter; and,

WHEREAS, the Ohio Power Company (“AEP”) approached the City Administration with this proposed agreement in order to secure competitive rates for City residents, businesses, and AEP customers; and,

WHEREAS, Council finds that nonexclusive franchise agreements with utility providers will make the City more competitive and attractive for economic development;

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

Section 1: Council hereby grants the Ohio Power Company, its successors, and assigns (“Grantee”) the right, privilege, franchise, and authority to acquire, construct, maintain, and operate in, above, under, across, and along the streets, thoroughfares, alleys, bridges, and public places (as the same now exist or may hereafter be laid out) of the City of Defiance, State of Ohio, lines for the transmission and distribution of electric energy, either by means of overhead or underground conductors, with all the necessary or desirable appurtenances and appliances, including electric substations, to render public utility service in said City and to the inhabitants thereof by supplying electric energy to said City and the inhabitants thereof, and persons or corporations beyond the limits thereof for light, heat, power, or any other purposes or purpose for which electric energy is now or may hereafter be used, and the transmission and distribution of the same within, through, or across said City of Defiance, State of Ohio.

Section 2: The lines, appurtenances, and appliances shall be constructed so as to interfere as little as possible with the traveling public in its use of the streets, thoroughfares, alleys, bridges, and public places.

Section 3: The rights, privileges, and franchise hereby granted shall be in force and effect for a period of ten (10) years from the date of the passage of this Ordinance. Thereafter this franchise shall continue for successive one-year terms, unless either party hereto provides written notice of its intention not to renew at least one year prior to the term expiration.

Section 4: The rights, privileges, and franchise hereby granted shall not be construed to be exclusive and the Council of the City of Defiance hereby reserves the power to grant similar rights, privileges, and franchises to any other person or persons, firm or firms, corporation or corporations.

Section 5: Grantee shall indemnify and save the City and its public officials, officers, employees, and agents harmless from any and all liability arising in any way from Grantee's negligence in the erection, maintenance, or operation of said lines for the distribution and transmission of electric energy, except to the extent such liability arises out of the willful misconduct of the City.

Section 6: Whenever said Grantee shall begin the erection or installation of any lines or equipment, it shall promptly and diligently prosecute the work to completion and leave the streets, thoroughfares, alleys, bridges, and public places where such work is done in as good condition of repair as before such work was commenced.

Section 7: Wherever in this Ordinance, reference is made to the City or the Grantee, it shall be deemed to include the respective successors or assigns of either; and all rights, privileges, franchises, and obligations herein contained by or on behalf of said City, or by or on behalf of said Grantee, shall be binding upon, and inure to the benefit of the respective successors or assigns of said City, or of said Grantee, whether so expressed or not.

Section 8: This Ordinance shall be accepted by the Grantee within sixty (60) days from the date of the passage upon written execution by a duly authorized officer of the Grantee and both this Ordinance and the Acceptance by the Grantee shall constitute the Agreement.

Section 9: 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 10: This Ordinance is declared to be an emergency measure necessary to preserve the health, safety or welfare of the community for the reason that time is of the essence to secure competitive electricity rates for residents and businesses. As such, this Ordinance shall be effective immediately upon passage by an affirmative vote of not less than five (5) Members of Council and approval of the Mayor.

Passed: March 5 _____, 2019 David McMaster _____
President of Council

Votes in Favor of Adoption: 6
Votes Opposed to Adoption: 0

Attest: Lisa Elders _____, Clerk

Approved: March 5 _____, 2019 Michael McCann _____
Mayor

ORDINANCE NO. 8101

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO CONTRACT FOR THE SEALING OF CRACKS IN STREET PAVEMENTS AND DECLARING AN EMERGENCY

WHEREAS, annual sealing of pavement cracks to minimize water intrusion and subsequent ice damage has proven to be a cost effective means to prolong the service life of asphalt pavement; and,

WHEREAS, the priority list for 2019 was established by the City Engineer and Street Superintendent and proposals were solicited to perform the necessary work; and,

WHEREAS, the lowest and best proposal was submitted by Bituminous Pavement Systems of Columbus, Ohio on February 12, 2019;

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

Section 1: The City Administrator is authorized to award a contract to Bituminous Pavement Systems to seal pavement cracks at the locations and in conformity with the methods and materials established by the proposal dated February 12, 2019, and at the quoted price of \$36,756.42.

Section 2: The Finance Director is authorized to pay the costs of the contract authorized by Section 1 from Line 403-901-5-2-980.008 of the 2019 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 is declared to be an emergency measure necessary to preserve the health, safety, or welfare of the community and to allow the contractor to begin crack seal operations as soon as possible in order for the cracks to be filled during cooler weather conditions while the cracks are more open allowing the crack sealing program to be more effective. As such, this Ordinance shall be effective immediately upon passage by an affirmative vote of not less than five Members of Council and approval of the Mayor.

Passed: March 5, 2019

David McMaster
President of Council

Votes in Favor of Adoption: 6

Votes Opposed to Adoption: 0

Attest: Lisa Elders, Clerk

Approved: March 5, 2019

Michael McCann
Mayor