

Ordinance No. 7930

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO CONTRACT WITH THE GERKEN COMPANIES

WHEREAS, The construction of improvements within Diehl Park damaged pavements at the park entrance and in the immediate vicinity of the construction activities; and,

WHEREAS, Full depth repairs of the damaged pavements have been made; and,

WHEREAS, Undamaged pavements within the park require re-surfacing due to age and conditions; and,

WHEREAS, The City Engineer prepared suitable designs and material specification for re-pavement of all affected driveways within Diehl Park; and,

WHEREAS, The Gerken Companies submitted the lowest responsive and responsible bid to perform the work;

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 the Gerken Companies to repair and resurface all pavement sections identified by the bid solicitation in substantial conformity with the designs and material specifications therein recited, at the unit prices and on the contractual terms established by the bid received on June 20, 2017.

Section 2: The Finance Director is authorized to pay the base bid price of \$125,807.35 and all other costs incurred in accordance with the authorized contract from appropriated funds allocated for expenditure by Line 403-901-5-2-978-052 of the 2017 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 duly convened in accordance with law.

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

Passed: July 11, 2017

Peter M. Lundberg
President Pro-Tem of Council

Attest: Lisa Elders, Clerk

Approved: July 11, 2017

Michael McCann
Mayor

ORDINANCE NO. 7931

AN ORDINANCE AUTHORIZING A CONTRACT WITH MOSSER CONSTRUCTION, INC. AND DECLARING AN EMERGENCY

WHEREAS, Reconstruction of anaerobic digesters at the Water Pollution Control treatment plant is necessary to: achieve compliance with building code standards, correct deficiencies that have created an explosion hazard in the South digester, and prevent a like-kind failure of the North digester; and,

WHEREAS, Ordinance 7756 authorized engagement of AECOM to evaluate both digesters and design the improvements required to restore the South digester to service and prevent failure of the North digester; and,

WHEREAS, Bids were solicited to construct improvements conforming to the AECOM design and the lowest bid received exceeded 110% of the engineer's cost estimate; and,

WHEREAS, AECOM revised the designs and materials specifications in an effort to obtain the necessary improvements at an affordable cost; and,

WHEREAS, Bids were solicited to construct improvements conforming to the revised AECOM design and the lowest bid received again exceeded 110% of the engineer's cost estimate; and,

WHEREAS, the City Administrator determined that award of a Design-Build contract in conformity with the requirements of Ohio Revised Code Chapter 153 would encourage more accurate consideration of costs in the development of the designs and specifications needed to construct the required improvements; and,

WHEREAS, the City Administrator retained AECOM to serve as the "criteria engineer" and provide all services identified by Ohio Revised Code §153.65(l); and,

WHEREAS, the City Administrator announced the availability of a Design-Build Contract and evaluated the qualifications of all respondents in substantial conformity with statutory requirements; and,

WHEREAS, Mosser Construction, Inc., was selected as the most qualified respondent to undertake design and construction of the necessary improvements; and,

WHEREAS, Mosser Construction, Inc., agreed to design and build all improvements required by the Design-Build Criteria at a cost of \$2,186,275.00; and,

WHEREAS, Council is empowered by Article XVIII of the Constitution and Section 2.12(10) of the Charter to authorize the award of Design-Build contracts for the construction of public improvements and to determine the processes used in the award of such contracts; and,

WHEREAS, Council finds that the processes employed by the City Administrator were adequate to protect the municipality's interests and that the resulting contract should not be subject to challenge or invalidation based on any alleged non-compliance with statutory requirements;

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 Design-Build contract to Mosser Construction, Inc., incorporating the terms and conditions of service heretofore negotiated and at a cost of \$2,186,275.00.

Section 2: 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 3: This Ordinance is declared to be an emergency measure necessary to preserve the health and safety of the community for the reason that prompt commencement of the authorized work is required to minimize the risk that the Water Pollution Control Treatment Works will be disabled by failure of the North digester prior to completions of repairs of the disabled South digester, to minimize risks to the safety of municipal employees arising from antiquated electrical installations that are no longer

code compliant and to minimize the risk of explosion from ignition of methane gas accumulating within the North digester in close proximity to an active gas flare. As such, this Ordinance shall be effective immediately upon passage by an affirmative vote of not less than 5 Members of Council and approval of the Mayor.

Passed: July 11 _____, 2017

Peter M Lundberg _____
President Pro-Tem of Council

Votes in Favor of Adoption: 7 _____

Votes Opposed to Adoption: 0 _____

Attest: Lisa Elders _____, Clerk

Approved: July 11 _____, 2017

Michael McCann _____
Mayor