

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE SETTLEMENT OF A PENDING LEGAL CLAIM AND DECLARING AN EMERGENCY

WHEREAS, the City is in a dispute with Helms & Sons Excavating, Inc. over the contractual requirements of the College Place Improvement Project No. 1626 and the parties propose to resolve their differences by parting ways; and,

WHEREAS, Council finds that it is in the best interest of the municipality to settle certain contractual and property claims by paying a portion of the remaining retainage to the general contractor; and,

WHEREAS, Section 133.05(d)(2) of the Codified Ordinances of Defiance, Ohio require Council authorization by ordinance for the settlement of all claims in excess of \$2,500.00;

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

Section 1: The Law Director is authorized to enter into a settlement agreement with Helms & Sons Excavating, Inc. on behalf of the City under terms to be negotiated with counsel for the general contractor.

Section 2: The Finance Director is authorized to pay the sum of \$37,500.00 to Helms & Sons Excavating, Inc. in full and complete settlement of any remaining contractual or legal claims by either party from Project No. 1626, subject to the remaining warranties, punchlist items, and terms and conditions of a forthcoming settlement agreement.

Section 3: The Finance Director shall draw payment from the retainage for Project No. 1626 from Line 589-011-5-2-977.100 of the 2020 annual budget.

Section 4: 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 5: 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 accept the negotiated settlement in order to avoid the costs and risks of protracted litigation. 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: _____, 2020

President of Council

Votes in Favor of Adoption: _____

Votes Opposed to Adoption: _____

Attest: _____, Clerk

Approved: _____, 2020

Mayor

Ordinance No. _____

**AN ORDINANCE AUTHORIZING THE PURCHASE OF REAL PROPERTY
LOCATED AT QUALITY DRIVE IN THE AUDITOR'S PLAT OF LOTS
BETWEEN THE MAUMEE AND AUGLAIZE RIVERS AND
APPROPRIATING FUNDS FOR THAT PURPOSE**

WHEREAS, the City seeks to acquire property for a new salt storage facility; and,

WHEREAS, the City Administration identified a 0.38-acre parcel along the platted Pacific Street, n.k.a. Quality Drive, between two City-owned parcels that will help fulfill this need; and,

WHEREAS, the target property is located at Quality Drive, Defiance, OH 43512 and is identified by the Defiance County Auditor as Permanent Parcel Number B01-1107-0049-00; and,

WHEREAS, the parties desires to enter into a contract to purchase the real property in the amount of \$10,000.00; and,

WHEREAS, Council finds that fee simple ownership of this property will enable the City to maintain safe and reliable streets during the winter in a cost-effective manner;

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

Section 1: The City Administrator is directed to enter into a contract with the owner of the real property located at Pacific Street, n.k.a. Quality Drive, and identified as Permanent Parcel Number B01-1107-0049-00 at the purchase price of \$10,000.00.

Section 2: The conveyance of a general warranty deed from the real property owner is hereby accepted.

Section 3: The Finance Director is authorized to pay the purchase price of \$10,000.00, plus all settlement charges, closing costs, title insurance premiums, and prorated real property taxes to the date of closing, from Line 403-901-5-2-978.098 of the 2020 annual budget.

Section 4: All municipal officers are authorized to take such actions as may be necessary or appropriate to secure marketable title to the real property and record the ownership interest of the municipality with the Recorder of Defiance County, Ohio.

Section 5: 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 6: This Ordinance shall be effective on the earliest date permitted by law.

Passed: _____, 2020

President of Council

Attest: _____, Clerk

Approved: _____, 2020

Mayor