

NOTICE OF PROCEEDINGS MEETING
City Council of the City of Defiance, Ohio
Charles D. Beard Council Chambers
City Hall, 631 Perry Street, Defiance, OH 43512

REGULAR MEETING OF COUNCIL
TUESDAY AUGUST 23, 2022
OPENING COMMENTS – 7:00 P.M.

PUBLIC HEARING: NONE

SPECIAL GUEST: NONE

FIRST READING: AN ORDINANCE AUTHORIZING A DESIGN-BUILD CONTRACT FOR THE MAUMEE RIVER WATERLINE CROSSING AND DECLARING AN EMERGENCY

FIRST READING: AN ORDINANCE AMENDING SECTION 921.06 OF THE CODIFIED ORDINANCES OF THE CITY OF DEFIANCE, OHIO

FIRST READING: AN ORDINANCE AUTHORIZING A LEASE AGREEMENT WITH THE DEFIANCE DEVELOPMENT AND VISITORS BUREAU, INC. FOR THE RIGHT-OF-WAY ON CLINTON AND WEST 3RD AND 4TH STREETS

FIRST READING: AN ORDINANCE AUTHORIZING THE PURCHASE OF MATERIALS FOR THE MAUMEE RIVER WATERLINE CROSSING AND DECLARING AN EMERGENCY

FIRST READING: AN ORDINANCE AUTHORIZING A CONTRACT FOR THE SUMMIT STREET STORM SEWER SEPARATION PROJECT AND DECLARING AN EMERGENCY

FIRST READING: AN ORDINANCE AUTHORIZING A CONTRACT FOR THE COMMERCE DRIVE EXTENSION CONSTRUCTION PROJECT AND DECLARING AN EMERGENCY

STUDY SESSION: NONE

CITIZEN CONCERNS: NAME & ADDRESS FOR THE RECORD (5 MINS)

LIAISON ASSIGNMENTS	TIME P.M.	DATE (2022)	AGENDA
COMMITTEE OF A WHOLE McMASTER	7:00	Tuesday – AUGUST	NO MEETING
BUILDING & LANDS EURESTE	7:00	Tuesday - AUGUST	NO MEETING
ECONOMIC DEVELOPMENT ENGEL	7:00	Tuesday - AUGUST	NO MEETING
FINANCE & BUDGET HANCOCK	7:00	Tuesday – AUGUST	NO MEETING
POLICE & FIRE KRUTSCH	7:00	Tuesday - AUGUST	NO MEETING
PUBLIC RELATIONS MAST	7:00	Tuesday - AUGUST	NO MEETING
PUBLIC UTILITIES, GAS & LIGHTS CORBITT	7:00	Tuesday – AUGUST	NO MEETING
SEWER & SANITATION CORBITT	7:00	Tuesday – AUGUST	NO MEETING
STREETS & SIDEWALKS MAST	7:00	Tuesday - AUGUST	NO MEETING
WATERWORKS – SERVICE WAXLER	5:30	Tuesday – AUGUST 23	SPECIAL MEETING AT THE WATER TREATMENT PLANT (WTP), MEET AT THE WTP
TRAFFIC COMMISSION: MACK. Mayor. Zeedyk. Shafer. Wilkins. Sprow. Waxler. Eureste. Krutsch	5:30	Tuesday – AUGUST	NO MEETING
BOARD OF CONTROL MEETING: MAYOR. Mack. O’Donnell. Lehner	1:30 P.M. MONDAY 9:00 A.M. THURSDAY	MONDAY and THURSDAY	POSTED AT 631 PERRY STREET MEETINGS IN FRONT CONFERENCE ROOM

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING A DESIGN-BUILD CONTRACT FOR THE MAUMEE RIVER WATERLINE CROSSING AND DECLARING AN EMERGENCY

WHEREAS, the City encountered a leak in the existing Maumee River waterline crossing necessitating complete reconstruction of the line; and,

WHEREAS, Council added Section 151.06 and amended Section 151.03(d) of the Codified Ordinances of Defiance, Ohio to allow for the design-build project delivery method for public improvements in Ordinance No. 8338 on September 28, 2021; and,

WHEREAS, the City Engineer issued a Request for Proposals ("RFP") to replace the 16" waterline crossing the Maumee River and a committee of City administrative staff ranked Hillabrand & Sons Construction, LLC of Northwood, OH as the most qualified firm to complete the project at a proposed price of \$1,850,000.00; and,

WHEREAS, the City offered a cash stipend of \$5,000.00 for the second and third-place proposals in an effort to generate more competitive proposals and potential cost savings for the City;

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

Section 1: The City Administrator is directed to award a design-build contract to Hillabrand & Sons Construction, LLC for the design and construction of the Maumee River Waterline Crossing Project No. 2206 in conformity with the terms established by the proposal dated August 5, 2022 and at the proposed price of \$1,850,000.00.

Section 2: The City Administrator is further directed to award \$5,000.00 stipend payments each to Jones & Henry and HPH and to Mosser and OHM Advisors as the second and third ranked proposals, respectively.

Section 3: The Finance Director is authorized to pay the cost of the design-build contract authorized by Section 1 and \$10,000.00 in total stipend payments authorized by Section 2 from Line 591-538-52-980880 of the 2022 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 complete this waterline crossing and in a cost-effective manner. 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: _____, 2022

President of Council

Votes in Favor of Adoption: _____

Votes Opposed to Adoption: _____

Attest: _____, Clerk

Approved: _____, 2022

Mayor

Ordinance No. _____

AN ORDINANCE AMENDING SECTION 921.06 OF THE CODIFIED ORDINANCES OF THE CITY OF DEFIANCE, OHIO

WHEREAS, the City maintains fire hydrants outside of the municipal boundaries for neighboring townships who have fire suppression connections to the municipal water system; and,

WHEREAS, Council finds that increased costs of the maintenance repair equipment warrants an increase in fees from the current \$37.50 per annum charge and will help preserve a functioning means of fire suppression for surrounding communities;

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

Section 1: Section 921.06 of the Codified Ordinances of the City of Defiance, Ohio is hereby amended to provide (deleted text stricken, newly added text underlined):

921.06 FIRE HYDRANTS OUTSIDE CITY; COSTS.

~~A maintenance service charge of thirty seven dollars and fifty cents (\$37.50) per year shall be made for each fire hydrant outside of the City having a connection with the City water system. This cost shall be paid by the responsible party after the year in which the service was supplied and within thirty days from the date of the bill as received from the City.~~

A maintenance service charge shall be established by the Board of Control, and amended from time-to-time, for each fire hydrant outside of the City that is connected to the City water system. The township where the fire hydrant lies shall be the responsible party for paying the cost of the annual maintenance for each fire hydrant within its boundaries upon receipt of an invoice from the City.

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 shall be effective on the earliest date permitted by law.

Passed: _____, 2022

President of Council

Attest: _____, Clerk

Approved: _____, 2022

Mayor

ORDINANCE NO. _____

**AN ORDINANCE AUTHORIZING A LEASE AGREEMENT WITH THE
DEFIANCE DEVELOPMENT AND VISITORS' BUREAU, INC. FOR THE
RIGHT-OF-WAY ON CLINTON AND WEST 3RD AND 4TH STREETS**

WHEREAS, Article II, Section 2.12(11) of the City Charter authorizes Council to lease public property to private persons or entities; and,

WHEREAS, the Defiance Development and Visitors' Bureau, Inc. ("DDVB") requested a leasehold interest in the City-owned right-of-way from September 24 through September 25, 2022; and,

WHEREAS, Council finds that a lease agreement will aid the DDVB in improving the perception of the City;

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

Section 1: The City Administrator, or his designee, is directed to execute the proposed Lease Agreement between the City and the DDVB currently on file in the office of the Law Director for one dollar.

Section 2: The City Administrator, or his designee, is further authorized to take any and all action required by the terms of the Lease Agreement, including the commencement of any action to enforce all legal and equitable rights afforded thereunder.

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.

Passed: _____, 2022 _____
President of Council

Attest: _____, Clerk

Approved: _____, 2022 _____
Mayor

LEASE AGREEMENT

This Agreement is made the ___ day of September, 2022 at the City of Defiance, Defiance County, Ohio, by and between the City of Defiance, a municipal corporation of the State of Ohio, hereinafter referred to as the Lessor, and the Defiance Development and Visitors' Bureau, Inc. a not-for-profit corporation organized under the laws of the State of Ohio, hereinafter referred to as Lessee, pursuant to Ordinance No. ___ of the City of Defiance, Ohio, enacted by the Council of the City of Defiance on the 23rd day of September, 2022.

Know all Men by these Presents that:

The City of Defiance, Ohio, in consideration of the sum of One Dollar (\$1.00) and the faithful performance of all promises, covenants and agreements hereinafter made by the Lessee, does hereby Lease the following described real estate to the Defiance Development and Visitors' Bureau, Inc. commencing September 24, 2022 and ending September 25, 2022:

Designated City-owned right-of-way on Clinton Street between the intersections of 4th Street and 2nd Street, 3rd Street between the intersections of Wayne Avenue and Perry Street, as further shown on Exhibit A.

Lessor Warrants that it is lawfully seized in fee of the described premises subject to streets, alleys, restrictions of record and easements of record or apparent; that it has good right to lease the same and that it will defend the title thereto on behalf of the Lessee against the lawful claims and demands of all persons. Lessor further covenants that during the continuance of this Lease and the faithful performance of all obligations herein undertaken to be performed by Lessee, Lessee shall peaceably and quietly enjoy possession of the premises without hindrance, molestation or interference by Lessor.

Lessee does, hereby, expressly acknowledge that it has had a full, fair and complete opportunity to inspect the premises and that it accepts said premises, and all structure, fixtures and other improvements thereon, in their present condition "as is" without reliance upon any representation by the Lessor, or by any officer, employee or agent of the Lessor, regarding the condition of the premises or of any structure, fixture or other improvement presently located thereon, and without warranty, express or implied, regarding the fitness or suitability of the premises or of an structure, fixture or other improvement located thereon for any purpose whatsoever including the intended uses contemplated by this agreement.

As a material Consideration for this Agreement, Lessee does hereby promise and agree that it shall, during the continuance of this lease, perform each of the following obligations:

1. Occupy the premises on a strictly not-for-profit basis and assure that programs and services provided through use of the Lessee or any sub-tenant of the Lessee are afforded to the general public without discrimination based upon age, ethnic origin, gender, physical handicap, race, religious affiliation or other legally impermissible basis;
2. Fully pay and hold the Lessor absolutely harmless against all cost and expenses to be incurred incident to the design and construction of such repairs, renovations, remodeling or other improvements to the premises necessary or appropriate to permit lawful and safe occupation of the premises by the Lessee or any sub-tenant of the Lessee, to include, without limitation, all costs associated with:
 - a. Any environmental remediation that may be required to permit occupancy of the premises in full compliance with standards established by the Ohio Environmental Protection Agency;
 - b. All electrical, plumbing, fire detection & suppression and lighting that may be required to permit occupancy of the premises in full compliance with all applicable building standards and fire safety Codes, lawful directions of the Building Commissioner of the City of Defiance and lawful Orders of the Fire Marshall or Chief of the Municipal Fire Department;
 - c. The provision of adequate facilities for parking of motor vehicles on presently improved and unimproved lands leased by this agreement;
 - d. The provision of adequate facilities to afford and access to and within the premises by disabled persons;
3. Fully pay and hold Lessor harmless against all costs and expenses that may be incurred to renovate, remodel or improve the premises as necessary to maintain compliance with all building standards, fire safety, environmental protection and similar laws or regulations that may become applicable to the premises during the term of Lessee's occupation thereof;
4. Maintain the premises, grounds, structures, fixtures and improvements so as to neither commit nor suffer the commission of any waste thereof, or permit any condition constituting a public or private nuisance to exist thereon, which obligations shall include the responsibility to maintain all grounds in an attractive and presentable condition consistent with that customary for public grounds to include: regular and timely removal of accumulations of

snow, ice and leaves; regular cutting of all grass lawns and periodic trimming and tending of trees, shrubs and flower beds;

And to fully pay and hold Lessor harmless against all costs and expenses incurred incident to such maintenance of the premises;

5. Indemnify the Lessor against any and all costs, including reasonable litigation expenses, incurred by Lessor directly or indirectly arising from any activity occurring on the premises during the term of this Lease including, without limitation: all claims, actions, suits, or demands predicated upon an allegation that any person suffered death, personal injury or property damage by reason of any condition existing on the premises or as the direct, indirect or proximate result of participation in any activity conducted on the premises. Lessee shall, at Lessee's sole expense, maintain in force at all times during the continuance of this Lease, a policy or policies of commercial general liability insurance which policy(ies) shall specifically name the Lessor as an additional insured. All liability insurance required by this Lease shall be written on forms approved by the City Law Director by a company or companies satisfactory to the City Board of Control. The City Board of Control shall not refuse approval of the Lessee's preferred insurance company if rated B+ or better by A.M. Best or AAA by Standard & Poor's. The City Board of Control shall not require insurance coverage in excess of the policy limits established for the Commercial General Liability and Premises Liability policies generally maintained by the municipality for governmentally occupied structures.

Lessor and Lessee do further mutually agree that:

1. Lessor shall have no liability to Lessee as the result of loss or damage to any personal property of Lessee or any sub-tenant of Lessee occasioned by any cause whatsoever.
2. Lessee may sub-let the premises, or a portion thereof, to one or more not-for-profit organizations, associations and/or corporations with consent of the City Administrator. Such consent shall not be withheld without cause. Cause for refusal to consent to sub-lease of the premises shall be deemed to exist where the rent to be charged is disproportionate to the use of the facility contemplated or where the anticipated use of the premises by the sub-tenant is inconsistent with the requirements imposed on the Lessee by the terms of this Lease.
3. No failure of the Lessor to enforce rights or seek remedies upon any default of the Lessee with respect to any obligation of this Lease shall prejudice the Lessor's legal or equitable capacity to enforce such rights or seek such remedies in the event of a subsequent default by Lessee.

In Witness Whereof, the Parties have executed this Agreement at the City of Defiance, Defiance County, Ohio, on the ___ day of September, 2022, in the presence of:

Witness:

The City of Defiance

By Ryan Mack
City Administrator

***Defiance Development and
Visitors' Bureau, Inc.***

By: Jennifer Rosebrock
President

State of Ohio,
County of Defiance, ss:

Before me, a notary public in and for the State of Ohio, personally came the authorized agents of the City of Defiance, Ohio, and Defiance Development and Visitors' Bureau, Inc., who did each, by and through their designated representatives, execute the foregoing instrument in my presence and acknowledge and declare their signing of the same to be their free corporate act and deed for the purposes therein mentioned.

In Witness whereof, I have hereunto subscribed my name and affixed my official seal at Defiance County Ohio, this ___ day of September, 2022.

Notary Public, State of Ohio
My Commission Expires: _____

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE PURCHASE OF MATERIALS FOR THE MAUMEE RIVER WATERLINE CROSSING AND DECLARING AN EMERGENCY

WHEREAS, the City has been acquiring materials for the Maumee River Waterline Crossing project ahead of construction in order to limit delays from supply chain disruptions and to prevent change orders due to inflation; and,

WHEREAS, the City solicited quotes for various materials from three sources and Ferguson Waterworks of Holland, OH submitted the sole quote for these materials at \$33,477.20; and,

WHEREAS, Council finds that the purchase of material in advance of this project will result in significant cost savings to the City;

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 Ferguson Waterworks for the provision of valves, gaskets, and other materials for the Maumee River Waterline Crossing project in the amount of \$33,477.20 and according to the specifications of the quote on file with the Water Distribution Superintendent.

Section 2: The Finance Director is authorized to pay the contract price from Section 1 from appropriated funds allocated by expenditure from Line 591-538-52-980880 of the 2022 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 for the reason that time is of the essence to complete this waterline crossing and in a cost-effective manner. 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: _____, 2022

President of Council

Votes in Favor of Adoption: _____

Votes Opposed to Adoption: _____

Attest: _____, Clerk

Approved: _____, 2022

Mayor

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING A CONTRACT FOR THE SUMMIT STREET STORM SEWER SEPARATION PROJECT AND DECLARING AN EMERGENCY

WHEREAS, the City submitted its Integrated Watershed Improvement Plan ("IWIP") to the Ohio Environmental Protection Agency ("OEPA") on July 29, 2022; and,

WHEREAS, completion of the Summit Street Storm Sewer Separation Project was part of the IWIP negotiations with OEPA and is included in the submitted IWIP; and,

WHEREAS, the City Engineer solicited bids to separate the storm sewer from the sanitary sewer covering fourteen acres of drainage area in the Summit Street corridor and Rensi Dirt Works & Hauling submitted the lowest and best bid in the amount of \$45,790.92; and,

WHEREAS, Council finds that the completion of this project will aid the City in reducing Combined Sewer Overflows ("CSOs") into the Maumee River Watershed;

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 Rensi Dirt Works & Hauling in the amount of \$45,790.92 to construct the Summit Street Storm Sewer Separation Project No. 2117 and according to the plans, specifications, terms, and conditions of the accepted bid on August 2, 2022.

Section 2: The Finance Director is authorized to pay the cost allocated by Section 1 from Line 589-540-52-980880 of the 2022 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 for the reason that R.C. §153.12(A) requires the award of a contract within sixty days after the date of the bid opening or the delay invalidates the entire competitive bidding proceedings. 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: _____, 2022

President of Council

Votes in Favor of Adoption: _____
Votes Opposed to Adoption: _____

Attest: _____, Clerk

Approved: _____, 2022

Mayor

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING A CONTRACT FOR THE COMMERCE DRIVE EXTENSION CONSTRUCTION PROJECT AND DECLARING AN EMERGENCY

WHEREAS, the City desires to improve and extend the Commerce Drive right-of-way from Carpenter Road to the Defiance, Napoleon & Western Railway; and,

WHEREAS, the City received a total of \$750,000.00 in state grants for this project; and,

WHEREAS, the City Engineer solicited bids to complete the road extension project and Vernon Nagel, Inc. of Napoleon, OH submitted the lowest and best bid in the amount of \$3,749,189.40; and,

WHEREAS, Council finds that the completion of Commerce Drive will aid the further economic development of the industrial park located at Commerce Drive and Domersville Road;

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 Vernon Nagel, Inc. in the amount of \$3,749,189.40 to construct the road extension of Commerce Drive from Carpenter Road to the railroad identified as Project No. 2106 and according to the plans, specifications, terms, and conditions of the accepted bid on August 2, 2022.

Section 2: The Finance Director is authorized to pay the contract price from Section 1 from the following line items of the 2022 annual budget:

- Line 403-901-52-979102: \$2,003,282.18; and
- Line 230-198-52-980880: \$1,745,907.22.

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 for the reason that R.C. §153.12(A) requires the award of a contract within sixty days after the date of the bid opening or the delay invalidates the entire competitive bidding proceedings. 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: _____, 2022

President of Council

Votes in Favor of Adoption: _____
Votes Opposed to Adoption: _____

Attest: _____, Clerk

Approved: _____, 2022

Mayor