

Ordinance No. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO  
AWARD A CONTRACT FOR A MAINTENANCE TRUCK FOR THE  
WATER POLLUTION CONTROL DIVISION**

**WHEREAS**, the City Water Pollution Control Division relies upon a specially-equipped pickup truck equipped with a crane for lift station repairs; and,

**WHEREAS**, the current 2008 Ford F-550 is experiencing rusting and deterioration of the frame; and,

**WHEREAS**, the Water Pollution Control Superintendent solicited quotes from various automobile dealers and Mark Moats Ford of Defiance, OH submitted the lowest suitable quote of \$48,570.00 for a 2022 Ford Super Duty F-550;

**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 contract for a 2022 Ford Super Duty F-550 conforming to the specifications on file in the office of the Water Pollution Control Superintendent and at the quoted price of \$48,570.00.

**Section 2:** The Finance Director is authorized to pay the total cost of the vehicle quoted in Section 1 from Line 590-540-52-730117 of the 2021 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.

Passed: \_\_\_\_\_, 2021  
\_\_\_\_\_  
President of Council

Attest: \_\_\_\_\_, Clerk

Approved: \_\_\_\_\_, 2021  
\_\_\_\_\_  
Mayor

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING THE ENGAGEMENT OF BRICKER & ECKLER AS SPECIAL COUNSEL FOR PREPARING PROJECT DELIVERY CONTRACTS AND DECLARING AN EMERGENCY**

**WHEREAS**, Council authorized participation in the Ohio Division of Natural Resources' ("ODNR") H2Ohio program by approving property acquisition for wetland restoration in Ordinance No. 8293 on March 23, 2021 and by authorizing entry into the Grant Agreement with ODNR in Ordinance No. 8307 on May 11, 2021; and,

**WHEREAS**, the City is partnering with ODNR to construct a 34-acre floodplain wetland on the property in order to restore that cropland to its native habitat and improve water quality along the Maumee River Watershed; and,

**WHEREAS**, ODNR and City staff recommend the hiring of a law firm experienced in preparing the Design-Build request for proposals and contract documents in order to reduce errors and conflicts during construction; and,

**WHEREAS**, Council finds that this engagement will ensure that the City obtains a restored wetland in a manner that avoids costly design defects and delays;

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

**Section 1:** In accordance with Codified Ordinance §§151.02 and 151.03(e), the City Administrator is directed to execute the engagement contract for legal services with Bricker & Eckler now on file in the office of the Law Director according to the proposed fees at a fixed fee of \$24,000.00 for preparing the draft contract documents and at a rate of \$390.00 per hour to address any disputes or issues *after* the selection process and during or after construction. These fees are *not to exceed \$30,000.00* absent further legislation.

**Section 2:** The Finance Director shall pay this flat fee and any additional billable hour costs incurred in accordance with the agreement authorized by Section 1 from Line 403-901-52-979036 of the 2021 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 immediate commencement of the project is necessary in order to restore the wetland by the deadline from the grant-making authority. 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: \_\_\_\_\_, 2021  
\_\_\_\_\_  
President of Council

Votes in Favor of Adoption: \_\_\_\_\_  
Votes Opposed to Adoption: \_\_\_\_\_

Attest: \_\_\_\_\_, Clerk

Approved: \_\_\_\_\_, 2021  
\_\_\_\_\_  
Mayor

## ORDINANCE NO. \_\_\_\_\_

### AN ORDINANCE ADDING SECTION 151.06 AND AMENDING SECTION 151.03(d) OF THE CODIFIED ORDINANCES OF THE CITY OF DEFIANCE, OHIO AND DECLARING AN EMERGENCY

**WHEREAS**, the City of Defiance, Ohio (the "City") regularly engages in the construction of significant public improvements; and

**WHEREAS**, the Council of the City of Defiance, Ohio (the "Council") has determined that it is in the best interest of the City to construct its public improvements with the greatest efficiency, highest quality, and lowest cost; and

**WHEREAS**, the Council has determined that the construction of certain public improvements may be accomplished with the greatest efficiency, highest quality, and lowest cost by using the Design-Build delivery method, under which the Design-Builder is responsible both for the design and construction of a particular improvement; and

**WHEREAS**, the power to construct public improvements using the Design-Build delivery method, is authorized under the City Charter of this City, Section 151.03(d) of this City, and the general laws of the State of Ohio; and

**WHEREAS**, Council finds that the procurement process to select a Design-Builder shall be developed based on the needs of the City and the nature of the specific project, subject to certain requirements, but shall not be required to comply with Chapter 153 of the Ohio Revised Code;

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

**Section 1:** Section 151.06 of the Codified Ordinances of the City of Defiance is hereby created as follows:

#### 151.06 DESIGN-BUILD DELIVERY OF PUBLIC IMPROVEMENTS

(a)As used in this Section "Public Improvement" shall mean any construction, reconstruction, enlargement, alteration, repair, remodeling, rehabilitation, or renovation of a building, road, bridge, parklands, treatment works, water line, sewer, utility, stormwater or flood control infrastructure, or restoration or creation of wetlands, or stream restoration and associated appurtenances for all such items, or any other item or works generally considered to be a capital improvement.

(b)The Mayor of the City may elect to accomplish the construction of any Public Improvement by using a Design-Build delivery method that conforms to the following:

(1)The City will issue a Request for Proposals ("RFP") for design-build services that describes the proposed Public Improvement and requires each proposer to identify its qualifications, design fee, and other fees at the discretion of the City. The RFP will stipulate whether compensation for construction will be cost-plus fee subject to a Guaranteed Maximum Price ("GMP") else a lump sum price.

(2)The City will evaluate and rank the proposals and negotiate contract terms with the proposer determined to provide the best value, and then enter into the Design-Build Contract, at the City's sole discretion.

(3)If the City is unable to successfully conclude negotiations with the proposer deemed to provide the best value, the City may elect to negotiate with the next ranked proposer, and so on.

(4)The Request for Proposals shall identify the Control Estimate, which will be the City's estimated fair market cost of performing the construction of the Public Improvement.

(5)If not previously provided in response to the RFP, at the percentage of completion of the design identified in the Design-Build Contract, the Design-Builder will propose to the City either a lump sum price or GMP based on cost-plus fee pricing to construct the Public Improvement. In any case, the City may not accept a lump sum price or GMP that exceeds the Control Estimate without authorization from Council.

(6) If the City accepts the lump sum price or GMP, or negotiates a change to either, the City will execute a written amendment to the Design-Build Contract or enter into a separate agreement that authorizes the construction of the Public Improvement. The Design-Builder will be responsible for all costs above the lump sum price or GMP, subject to any adjustment to which the Design-Builder may be entitled under the Design-Build Contract.

(7) If the City does not accept either the lump sum price or GMP, the City may take possession of the design drawings and specifications prepared by the Design-Builder for the Public Improvement, and advertise for bids to construct the Public Improvement, or take another action deemed to be in the best interest of the City.

(8) The Design-Builder must provide a payment and performance bond in the full amount of the GMP or the lump sum price, as applicable, in the form prescribed by the City.

(9) Payment to the Design-Builder for construction work will be subject to 5% retainage, which will not be escrowed or bear interest.

(10) For Design-Build services, the City is not bound by any requirement of the Ohio Revised Code with respect to procuring a design professional or Design-Builder or contracting with a design professional or Design-Builder.

**Section 2:** Section 151.03(d) of the Codified Ordinances of the City of Defiance, Ohio is hereby amended to provide (~~deleted text stricken~~, newly added text underlined):

Expenditures for the performance of professional design, construction management or design- and-build services shall be exempt from competitive bidding requirements but shall require approval in accordance with Section 151.02 following selection of the professional to whom such contract is to be awarded in accordance with statutory procedures except that expenditures for design-build services shall be made in accordance with Section 151.06.

**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 this project delivery option could result in a significantly better quality of design and construction service for an upcoming project. 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: \_\_\_\_\_, 2021 David McMaster  
President of Council

Votes in Favor of Adoption: \_\_\_\_\_  
Votes Opposed to Adoption: \_\_\_\_\_

Attest: \_\_\_\_\_, Clerk

Approved: \_\_\_\_\_, 2021 \_\_\_\_\_  
Mayor

# ORDINANCE NO. \_\_\_\_\_

## AN ORDINANCE APPROVING CURRENT REPLACEMENT PAGES TO THE DEFIANCE CODIFIED ORDINANCES, AND DECLARING AN EMERGENCY

**WHEREAS**, certain provisions within the Codified Ordinances should be amended to conform with current State law as required by the Ohio Constitution; and,

**WHEREAS**, various ordinances of a general and permanent nature have been passed by Council which should be included in the Codified Ordinances; and,

**WHEREAS**, the City has heretofore entered into a contract with the American Legal Publishing to prepare and publish such revision which is before Council;

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

**Section 1:** The ordinances of the City of Defiance, Ohio, of a general and permanent nature, as revised, recodified, rearranged and consolidated into component codes, titles, chapters and sections within the 2021 Replacement Pages to the Codified Ordinances are hereby approved and adopted.

**Section 2:** The following sections and chapters are hereby added, amended or repealed as respectively indicated in order to comply with current State law:

### Traffic Code

301.183	Low-Speed Micromobility Device. (Added)
301.22	Pedestrian. (Amended)
301.51	Vehicle. (Amended)
331.211	Report of Vehicle Failing to Yield Right of Way to Public Safety Vehicle. (Amended)
331.37	Driving Upon Sidewalks, Street Lawns or Curbs. (Amended)
331.43	Wearing Earplugs or Earphones Prohibited. (Amended)
333.03	Maximum Speed Limits. (Amended)
335.02	Permitting Operation Without Valid License; One License Permitted. (Amended)
335.021	Ohio Driver's License Required for In State Residents. (Amended)
335.04	Certain Acts Prohibited. (Amended)
335.09	Display of License Plates or Validation Stickers: Temporary License Placard. (Amended)
335.091	Operating Without Dealer or Manufacturer License Plates. (Added)
351.03	Prohibited Standing of Parking Places. (Amended)
371.14	Operation of Personal Delivery Device on Sidewalks and Crosswalks. (Added)
371.15	Low-Speed Micromobility Devices. (Added)
373.10	Motorized Bicycle Operation. (Amended)
373.18	Electric Bicycles. (Amended)

### General Offenses Code

501.99	Penalties for Misdemeanors. (Amended)
505.071	Cruelty to Companion Animals. (Amended)
509.07	Making False Alarms. (Amended)
513.01	Drug Abuse Control Definitions. (Amended)
521.05	Littering and Deposit of Garbage, Rubbish, Junk, Etc. (Amended)
525.13	Interfering with Civil Rights. (Amended)
529.01	Liquor Control Definitions. (Amended)
529.07	Open Container Prohibited. (Amended)
533.08	Procuring; Engagement in Sexual Activity for Hire. (Amended)
533.09	Soliciting. (Amended)
533.091	Loitering to Engage in Solicitation. (Amended)
533.10	Prostitution. (Amended)
537.02	Vehicular Homicide and Manslaughter. (Amended)
537.17	Reserved. (Previously "Criminal Child Enticement")
541.04	Criminal Mischief. (Amended)
541.05	Criminal Trespass. (Amended)
541.051	Aggravated Trespass. (Amended)
545.03	Property Exceptions as Felony Offense. (Amended)
549.02	Carrying Concealed Weapons. (Amended)
549.06	Unlawful Transactions in Weapons. (Amended)
553.04	Railroad Vandalism. (Amended)

**Section 3:** The complete text of the sections of the Codified Ordinances listed above are set forth in full in the current replacement pages to the Codified Ordinances which are hereby attached to this ordinance as Exhibit A. The listing above of each new section by reference to its title shall constitute sufficient publication of new matter contained therein.

**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 there exists an imperative necessity for the earliest publication and distribution of current Replacement Pages to the officials and residents of the City, so as to facilitate administration, daily operation and avoid practical and legal entanglements. 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: \_\_\_\_\_, 2021

\_\_\_\_\_

President of Council

Votes in Favor of Adoption: \_\_\_\_\_

Votes Opposed to Adoption: \_\_\_\_\_

Attest: \_\_\_\_\_, Clerk

Approved: \_\_\_\_\_, 2021

\_\_\_\_\_

Mayor

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE REQUESTING THE DIRECTOR OF TRANSPORTATION TO PROCEED WITH THE PAVING PROJECT ON NORTH CLINTON STREET FROM ELLIOTT ROAD TO THE NORTHERN MUNICIPAL BOUNDARY AND DECLARING AN EMERGENCY**

**WHEREAS**, Council gave preliminary authorization for a proposal from the Ohio Department of Transportation to pave State Route 66 from Elliott Road to the Williams County line in Ordinance No. 8280 on February 2, 2021; and,

**WHEREAS**, part of the right-of-way contained in this repaving project lies within the municipal boundary; and,

**WHEREAS**, R.C. §5521.05 requires the legislative authority of a municipal corporation to adopt final legislation requesting the project after receiving maps, plans, profiles, specifications, and estimates; and,

**WHEREAS**, the cost share of the municipality for this project is a total of \$9,026.00; and,

**WHEREAS**, Council finds that final approval of this project will enhance the Connectivity Pillar of the Defiance Community Strategic Plan by maintaining a reliable transportation infrastructure network on State Route 66 from Elliott Road to points north of the municipal boundary and desires that the Director of Transportation proceed with the highway improvement;

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

**Section 1:** Council requests the Director of Transportation to proceed with the highway improvement.

**Section 2:** The estimated sum of \$9,026.00 is hereby appropriated for this highway improvement and the Finance Director is authorized to pay this amount upon the requisition of the Director of Transportation to pay the cost and expense of this improvement from Line 403-901-52-980874 of the 2021 annual budget.

**Section 3:** The City Administrator is authorized to execute a contract with the State of Ohio providing for the payment of the local cost share for the highway improvement.

**Section 4:** The Council Clerk shall transmit a fully-executed copy of this Ordinance to the Director of Transportation.

**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 is declared to be an emergency measure necessary to preserve the health, safety, or welfare of the community in order to meet the ODOT deadline for the submission of documents and payment. 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: \_\_\_\_\_, 2021

\_\_\_\_\_

President of Council

Votes in Favor of Adoption: \_\_\_\_\_

Votes Opposed to Adoption: \_\_\_\_\_

Attest: \_\_\_\_\_, Clerk

Approved: \_\_\_\_\_, 2021

\_\_\_\_\_

Mayor

Ordinance No. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING A CONTRACT FOR THE PURCHASE OF THREE NUTRIENT MONITORS FOR WATER QUALITY MEASUREMENTS NEAR THE WATER TREATMENT PLANT INTAKE**

**WHEREAS**, the City received a grant from the Great Lakes Observing System ("GLOS") to install data collection equipment and monitor this data on the Maumee River; and,

**WHEREAS**, Council desires to install real-time sensors to monitor nutrient levels near the intake at the Water Treatment Plant; and,

**WHEREAS**, Green Eyes LLC submitted a quote to sell three (3) nutrient monitors at a total price of \$38,318.73; and,

**WHEREAS**, Council finds that the data on nitrate, phosphate, and ammonia levels from these nutrient monitors will enable City staff to make sound decisions on when to pump water from the Maumee River into the water supply reservoir;

**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 Green Eyes LLC for three (3) NuLab nutrient monitors and associated equipment for the Upper Maumee Smart Watershed Pilot Project according to the quote on file in the office of the MS4 Coordinator and at the quoted price of \$38,318.73.

**Section 2:** The Finance Director is authorized to pay the contract price from Section 1 from appropriated funds allocated by expenditure from Line 591-537-52-980880 of the 2021 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.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
President of Council

Attest: \_\_\_\_\_, Clerk

Approved: \_\_\_\_\_, 2021

\_\_\_\_\_  
Mayor



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING A CONTRACT FOR WATER QUALITY MONITORING SERVICES NEAR THE WATER TREATMENT PLANT INTAKE**

**WHEREAS**, the City received a grant from the Great Lakes Observing System ("GLOS") to install data collection equipment and monitor this data on the Maumee River; and,

**WHEREAS**, Council desires to install real-time sensors to monitor nutrient levels near the intake at the Water Treatment Plant; and,

**WHEREAS**, LimnoTech submitted a proposal to provide support services for this project at a quoted price of \$48,530.00; and,

**WHEREAS**, Council finds that this data will enable City staff to make sound decisions on when to pump water from the Maumee River into the water supply reservoir;

**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 LimnoTech for monitoring services related to the Upper Maumee Smart Watershed Pilot Project according to the quote on file in the office of the MS4 Coordinator and at the quoted price of \$48,530.00.

**Section 2:** The Finance Director is authorized to pay the contract price from Section 1 from appropriated funds allocated by expenditure from Line 591-537-52-980880 of the 2021 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.

Passed: \_\_\_\_\_, 2021 \_\_\_\_\_  
President of Council

Attest: \_\_\_\_\_, Clerk

Approved: \_\_\_\_\_, 2021 \_\_\_\_\_  
Mayor