

# ORDINANCE NO. 7621

AN ORDINANCE APPROVING AND RATIFYING CONTRACTS WITH S & S DIRECTIONAL BORING, LTD., MILLER CONTRACTING GROUP, INC., AND POGGEMEYER DESIGN GROUP, INC.; APPROPRIATING FUNDS FOR PAYMENT OF EXPENSES INCURRED TO EFFECT EMERGENCY REPAIR OF THE WATER DISTRIBUTION SYSTEM; AUTHORIZING PAYMENT OF EXPENSES INCURRED AND DECLARING AN EMERGENCY

WHEREAS, two parallel, 10" water mains laid in close proximity to one another in exposed locations on the Maumee River bottom served as the primary water supply to areas north of the river for many years; and,

WHEREAS, infestation of local forests by the Emerald Ash Borer killed trees throughout the Maumee River watershed resulting in a marked increase in the size of debris and total volume of flotsam carried by the river; and,

WHEREAS, Ordinance 7354, passed February 7, 2012, authorized the engagement of Poggemeyer Design Group, Inc., to design a replacement river crossing consisting of a single 20" main bored beneath the river bottom to increase delivery capacity, alleviate a potential shortage of water available for delivery to locations north of the Maumee in the event of fire, reduce detention periods to inhibit trihalomethane formation in chlorinated water and protect the indispensable crossing from the foreseeable and greatly enhanced risk of impact damage; and,

WHEREAS, designs and material specifications were prepared by Poggemeyer Design Group, Inc. in anticipation of construction in 2014; and,

WHEREAS, the facility design was prepared in reliance on soil bores indicating that sedimentary soils of sufficient depth existed to permit installation of the replacement crossing without boring through bedrock; and,

WHEREAS, flood conditions in the late autumn of 2013 swept an exceptional amount of deadwood into the Maumee River resulting in a log jam beneath the Clinton Street bridge that altered river currents and diverted flotsam from the main river channel to shallower water adjacent to the north shore; and,

WHEREAS, a large tree floating in near shore waters of insufficient depth to protect the river crossing from impact struck and became entangled with one of the 10" crossing mains resulting in irreparable damage to the main; and,

WHEREAS, the City Administrator correctly concluded that the diminished capacity and uncertain reliability of the damaged main, coupled with the demonstrated vulnerability of the remaining main to damage by flotsam, constituted an emergency circumstance that compromised the municipality's ability to supply potable water to properties north of the Maumee, impaired the government's capacity to combat fire and threatened system wide contamination of the municipal water supplies necessitating immediate action to commence installation of a secure river crossing conforming to the designs previously prepared by Poggemeyer Design Group, Inc.; and,

WHEREAS, competitive price quotations were solicited from four contractors possessing the equipment and expertise required to bore a large diameter channel beneath the river and S & S Directional Boring, Ltd., submitted a proposal to undertake the work at a cost of \$375,289.00; and,

WHEREAS, subject to ratification by Ordinance, the Board of Control properly approved an award of a contract to S & S Directional Boring, Ltd. at the quoted price pursuant to Codified Ordinances §§151.03(c) and (d) and Ohio Revised Code §735.051 by Motion duly made, seconded and passed in public meeting on November 5, 2013; and,

WHEREAS, difficulties encountered in the course of construction including bedrock obstructions at higher elevations than indicated by soil bores of the river bottom and harsh winter weather delayed completion of the work and necessitated the payment of expenses for additional engineering services and the approval of a change order to pay additional costs to be incurred to bore through substrata comprised of rock; and,

WHEREAS, Bids were properly solicited to construct and install facilities necessary to connect the river crossing to the distribution system in conformity with plans and specifications prepared by Poggemeyer Design Group, Inc.; and,

WHEREAS, Miller Contracting Group, Inc., submitted the lowest responsive and responsible bid in the amount of \$208,791.25 and was awarded a contract to perform the required work subject to ratification by Ordinance; and,

WHEREAS, Council has been apprised of the progress of the work during the course of construction and legislative approval of the aforesaid contracts and contractual amendments is required to authorize expenditures made and to be made in amounts that exceed the discretionary spending authority vested in the Board of Control by Codified Ordinance 151.02; and,

WHEREAS, all work undertaken to alleviate the emergency conditions herein described has been substantially completed and the installed facilities have been satisfactorily pressure tested and properly sanitized for distribution of potable water;

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

Section 1: The Contract awarded to S & S Directional Boring, Ltd. is ratified and confirmed. The Finance Director is directed to pay contractual costs and expenses from 2013 budget line 591-538-5-2-980-880 and 2014 budget line 591-538-5-2-980-880 moneys encumbered by Purchase Orders 2013-02242 and 2014-00610.

Section 2: The Contract awarded to Poggemeyer Design Group, Inc., for engineering services supplemental to those rendered pursuant to Ordinances 7354 and 7490 is ratified and confirmed. The Finance Director is directed to pay contractual costs and expenses from 2013 budget line 591-538-5-2-980-880 moneys encumbered by Purchase Order 2013-02143.

Section 3: The Contract awarded to Miller Contracting Group, Inc., is ratified and confirmed. The Finance Director is directed to pay contractual costs and expenses incurred from 2014 budget line 591-538-5-2-980-880 moneys encumbered by Purchase Order 2014-00507.

Section 4: An additional and supplemental appropriation of Water Funds in the amount of \$535,750.00 is hereby made for expenditure through 2014 budget line 591-538-5-2-980-880.

Section 5: All actions taken by the Mayor, City Administrator, City Finance Director, City Law Director and City Engineer in response to the genuine and serious threat to public health and safety created by the emergency conditions described in this Ordinance including, but not limited to, actions to award contracts subject to post-award ratification by Ordinance and actions taken in connection with the administration of the contracts ratified by this Ordinance or the supervision of work undertaken pursuant to those contracts are approved, ratified and confirmed.

Section 6: 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 7: This Ordinance is declared to be an emergency measure necessary to the preservation of the health, safety and welfare of the community for the reason that prompt payment of charges incurred for the performance of work undertaken at the direction of administrative officials is essential to maintain the municipality's credit reputation and ability to secure necessary services when needed to respond to emergencies. 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: May 27 \_\_\_\_\_, 2014

Mike Ketcham  
\_\_\_\_\_  
President of Council (Pro Tem)

Votes in Favor of Adoption: 7 \_\_\_\_\_

Votes Opposed to Adoption: 0 \_\_\_\_\_

Attest: Lisa Elders \_\_\_\_\_, Clerk

Approved: May 28 \_\_\_\_\_, 2014

Bob Armstrong  
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Mayor

# Ordinance No. 7622

## AN ORDINANCE ACCEPTING THE ANNEXATION OF 1.549 ACRES OF LAND LOCATED NOBLE TOWNSHIP

Whereas, A Petition was filed seeking to annex 1.549 acres of land identified by Permanent Parcel Number I130023000600 to the City of Defiance; and,

Whereas, By Resolution adopted on February 25, 2014, Council declared the services to be provided the territory upon annexation, acknowledged the existence of an Annexation Agreement between the City and Noble Township, declared its intent to administer the territory in accordance with that agreement and consented to approval of the Petition by the Board of County Commissioners; and,

Whereas, The Board of County Commissioners approved the Petition and the Clerk of Council has made the Transcript of Proceedings and related documents available for public inspection in the manner and for the time required by law; and,

Whereas, Council finds that acceptance of the territory is in the best interests of the municipality;

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

Section 1: The Petition to annex 1.549 acres of land located in Noble Township and identified by Permanent Parcel Number I130023000600 is approved and the territory therein described is accepted upon the terms recited in the aforesaid Resolution of February 25, 2014, and terms established by the Annexation Agreement between the City and Noble Township. All municipal officials are authorized to execute such plats and other documents as may be appropriate to conclude the proceedings.

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 duly convened in accordance with law.

Section 3: This Ordinance shall be effective on the earliest date permitted by law.

Passed: May 27, 2014

Mike Ketcham  
President of Council (Pro Tem)

Attest: Lisa Elders, Clerk

Approved: May 28, 2014

Bob Armstrong  
Mayor

# Ordinance No. 7623

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO AN AGREEMENT WITH THE BOARD OF COUNTY COMMISSIONERS OF DEFIANCE COUNTY, BOARD OF COUNTY COMMISSIONERS OF PAULDING COUNTY AND MAUMEE VALLEY PLANNING ORGANIZATION TO CREATE THE MAUMEE VALLEY SOUTH CHIP CONSORTIUM

WHEREAS, The City of Defiance, Defiance County and Paulding County routinely make application for, receive and expend Federal funds allocated to the State of Ohio for distribution to local units of general government in furtherance of Federal purposes established by the Housing and Community Development Act of 1974 and Cranston-Gonzales National Affordable Housing Act of 1990; and,

WHEREAS, the City of Defiance, Defiance County and Paulding County individually contract with Maumee Valley Planning Organization to make application for and administer funds received to improve housing conditions for low income households; and,

WHEREAS, the General Assembly established the Ohio Housing Trust Fund as a flexible state funding source for local governments and others endeavoring to improve housing conditions for low income households and recent regulatory and policy revisions pertaining to the Ohio Housing Trust Fund now permit and encourage geographically contiguous units of general local government to act as a single unit of general local government for purposes of receiving and administering Community Housing Impact and Preservation Program funds; and,

WHEREAS, consolidation of the activities presently undertaken by the City and Counties into a single, jointly administered program will promote administrative efficiencies and encourage better coordination of local governmental activities to more effectively achieve the Federal purposes for which funding is allocated by Congress;

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

Section 1: The City Administrator is authorized to execute the proposed "Partnership Agreement Establishing the Maumee Valley South CHIP Consortium" among the City of Defiance, Defiance County, Paulding County and Maumee Valley Planning Organization now on file in the office of the City Law Director and to deliver executed copies of the same to all interested parties and State officials.

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 duly convened in accordance with law.

Section 3: This Ordinance shall be effective on the earliest date permitted by law.

Passed: May 27 \_\_\_\_\_, 2014

Mike Ketcham \_\_\_\_\_  
President of Council (Pro Tem)

Attest: Lisa Elders \_\_\_\_\_, Clerk

Approved: May 28 \_\_\_\_\_, 2014

Bob Armstrong \_\_\_\_\_  
Mayor

# Ordinance No. 7624

## AN ORDINANCE AUTHORIZING AGREEMENTS WITH MAUMEE VALLEY PLANNING ORGANIZATION TO PROVIDE ADMINISTRATIVE AND TECHNICAL SERVICES IN CONNECTION WITH THE AWARD, RECEIPT AND EXPENDITURE OF FUNDS GRANTED TO THE MUNICIPALITY FOR FEDERAL AND STATE PURPOSES

WHEREAS, Maumee Valley Planning Organization is an Ohio Regional Planning and Development Organization established as a nonprofit public agency of the State to provide planning and community development services in the areas of housing, economic development, downtown redevelopment and general community development in Defiance, Fulton, Henry, Paulding and Williams Counties; and,

WHEREAS, The City sponsored the effort to establish Maumee Valley Planning Organization and traditionally relies exclusively on Maumee Valley Planning Organization to provide technical advice, assistance and services necessary to the conduct of activities financed by Community Development Block Grant funds; and,

WHEREAS, it is often necessary to document Maumee Valley Planning Organization's authority to act as the City's agent in dealings with State and Federal agencies; and,

WHEREAS, the City periodically issues Requests for Applications and Statements of Qualifications conforming to Ohio Development Services Agency Program Policy Notice OCD 13-04 and Maumee Valley Planning Organization consistently proves to be the sole respondent; and,

WHEREAS, the recurrent need to adopt Ordinances authorizing municipal officials to award contracts to Maumee Valley Planning Organization for the provision of necessary technical and administrative services for which the City has a continuing need is an unnecessary burden on the City's legislative and administrative resources;

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

Section 1: The Mayor, City Administrator, Finance Director and Law Director, are granted continuing authority to execute and deliver such contracts, agreements, notices and other documents as may from time to time be appropriate to engage the services of Maumee Valley Planning Organization to make application for or assist in the administration of Federal and State funds allocated to the municipality by the Ohio Development Services Agency.

Section 2: In the event any action taken pursuant to the authority of Section 1 obligates the municipal government to expend funds, the obligation thereby created shall be approved in the manner required by Codified Ordinance §151.02 as enacted on the date the action creating the obligation is taken; provided, however, that contractual agreements to allocate a portion of granted funds to Maumee Valley Planning Organization in payment of administrative expenses calculated in accordance with applicable program guidelines and State or Federal regulations shall not be deemed a municipal expenditure within the meaning of Chapter 151 of the Codified Ordinances.

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: May 27, 2014

Mike Ketcham  
President of Council (Pro Tem)

Attest: Lisa Elders, Clerk

Approved: May 28, 2014

Bob Armstrong  
Mayor

ORDINANCE No. 7625

**AN ORDINANCE AMENDING ORDINANCE NO. 7563 PASSED  
DECEMBER 10, 2013 TO MAKE APPROPRIATIONS FOR  
CURRENT EXPENSES AND OTHER EXPENDITURES OF  
THE CITY OF DEFIANCE, OHIO, DURING THE PERIOD OF  
JANUARY 1, 2014 THROUGH DECEMBER 31, 2014.**

**WHEREAS**, the City Finance Director has determined that additional appropriations are necessary to provide for expenditures; and

**WHEREAS**, that in addition to approving the expenditure of all public funds, Council must approve the appropriation of all public funds;

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

**Section 1:** That, to provide for expenses of the City of Defiance, State of Ohio, during the period of January 1, 2014 through December 31, 2014, Ordinance No. 7563 is hereby amended by appropriation changes to the following accounts:

<b>101-General Fund</b>			
<b>136-Municipal Court</b>			
Operating	\$	3,224.00	
<b>TOTAL - 136-Municipal Court</b>			<b>\$ 3,224.00</b>
<b>TOTAL - General Fund</b>			<b>\$ 3,224.00</b>
<b>247-Probation Services Fund</b>			
Salary, Wages & Benefits	\$	600.00	
<b>TOTAL - 247-Probation Services Fund</b>			<b>\$ 600.00</b>
<b>591-Water Treatment Plant Fund</b>			
<b>538-Distribution</b>			
Operating	\$	205,000.00	
<b>TOTAL - 538-Distribution</b>			<b>\$ 205,000.00</b>
<b>TOTAL - Water Treatment Plant Fund</b>			<b>\$ 205,000.00</b>
<b>792-Fire &amp; Rescue Trust Fund</b>			
Operating	\$	40,000.00	
<b>TOTAL - 792-Fire &amp; Rescue Trust Fund</b>			<b>\$ 40,000.00</b>
<b>GRAND TOTAL - ALL FUNDS</b>			<b>\$ 248,824.00</b>

**RECAPITULATION OF APPROPRIATIONS**

101	General Fund	\$	3,224.00
247	Probation Services Fund	\$	600.00
591	Water Treatment Plant Fund	\$	205,000.00
792	Fire & Rescue Trust Fund	\$	40,000.00
<b>GRAND TOTAL - ALL FUNDS</b>			<b>\$ 248,824.00</b>

**Section 2:** It is found and determined that all formal actions of the Council concerning and relating to the adoption of this Ordinance were taken in open meetings of this Council and that all deliberations that resulted in such formal action being taken, including all deliberations conducted by Committees of the Council, were conducted in meetings open to the public duly convened in compliance with law.

**Section 3:** This Ordinance shall be in full force and effect from and after the earliest date permitted by law.

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Mike Ketcham  
President of Council  
(Pro Tem)

Passed: May 27, 2014

Attest: Lisa Elders, Clerk

Votes Approving Adoption: 7  
Votes Opposing Adoption: 0

Approved: May 28, 2014

By: Bob Armstrong, Mayor