

ORDINANCE NO. 48 (24-25)

An Ordinance to declare the existence of a real and present emergency arising in connection with the operation and maintenance of the Department of Public Service of the City of Marietta, Ohio, and its municipal utility, the Water Department, as a result of needed inventory of materials, and perhaps replacement of some of Marietta's water lines, to ensure that any lead piping that may be located within said water mains can be replaced, so as to prevent an unhealthy condition that could detrimentally affect the citizens of the City of Marietta, Ohio, and therefore, to authorize and direct the Director of Public Safety and Service to enter into a contract without formal bidding, advertising, and quality based selection, pursuant to Ohio Revised Code Sections 735.051 and 153.71(B), with Brown Equipment Company, of Evansville, Indiana, for the purchase of a 2023 Sewer-HX-9-TA Hydro-Vac truck at a cost not to exceed \$489,500.00 and declaring an EMERGENCY.

WHEREAS, in 2022, the United States Environmental Protection Agency (EPA) ordered municipalities throughout the United States to inventory their water lines to ensure that none of lines contained lead, and if lead was found in any of the lines, to replace those water lines by October 16, 2024; and

WHEREAS, in September, 2022, in anticipation of completing a water service lateral inventory by October 16, 2024, as required by the Ohio Environmental Protection Agency (EPA), the City of Marietta, Ohio nominated a \$400,000.00 Lead Service Line Investigation Project to Ohio EPA's, Office of Financial Assistance, for funding through EPA's Drinking Water Assistance Fund (DWAF) Program Year 2023; and

WHEREAS, in December of 2022, the City was awarded principal forgiveness funds in the amount of \$400,000.00; and

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WHEREAS, on May 18, 2023, the Council of the City of Marietta, Ohio passed Ordinance No. 269 (22-23), which was an Ordinance to declare the existence of a real and present emergency arising in connection with the operation and maintenance of the Department of Public Safety and Service of the City of Marietta, Ohio, and its municipal utility, the Water Department, as a result of needed inventorying of materials, and perhaps replacement of some of Marietta's water lines, to ensure that any lead piping that might be located could be replaced, so

as to prevent an unhealthy condition that could detrimentally affect the citizens of the City of Marietta, Ohio; and

WHEREAS, Ordinance No. 269 (22-23) authorized and directed the Director of Public Safety and Service to enter into a contract or contracts without formal bidding, advertising, and quality based selection, pursuant to Ohio Revised Code Sections 735.051 and 153.71(B), for the Marietta Lead Service Lines Investigations, Design and Construction Project at a price not to exceed \$400,000.00 which consisted of \$100,000.00 to be used to hire a consultant to develop a program to complete the service lateral inventory and to develop design standards and procedures for lead service line replacement, including water system and property records research, identification of potential areas to investigate, development of a customer survey and maps of areas that would be needed to complete Subsurface Utility Excavations (SUEs). The remaining \$300,000.00 was to be used for SUEs at locations where no other documentation existed. The SUEs were to be performed with a hydro excavation truck that uses a high pressure water spray and a vacuum to make ten to twelve inch (10" to 12") diameter round "potholes" to expose the water service lines so the lines could be checked for lead; and

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WHEREAS, F. H. Paschen, S.N. Nielson & Associates, LLC (Contractor) submitted Unit Prices for the task, and on June 29, 2023, entered into the City's standard construction contract for \$300,000.00; and

WHEREAS, after the execution of the contract, F. H. Paschen, S.N. Nielson & Associates, LLC and the City developed a disagreement over pricing; and

WHEREAS, Paragraph 1.2 of the Contract between the City of Marietta, Ohio and F. H. Paschen, S.N. Nielson & Associates, LLC, titled "COMPLETION" stated that [The Project shall be finally completed by November 1, 2023, to-wit: (the "Completion Date"); and

WHEREAS, to date, no work has been performed toward the project and the completion date has passed and this project must be completed by October 16, 2024; and

WHEREAS, on April 1, 2024, the City of Marietta, Ohio provided notice to F. H. Paschen, S.N. Nielson & Associates, LLC that the City was terminating Contract No. 27-23, pursuant to Paragraph 16.2 titled: (TERMINATION FOR THE CONVENIENCE OF THE OWNER); and

WHEREAS, in light of the disagreement over pricing with Paschen and the great cost of replacing all suspected water lines, the City needs to purchase a Hydro-Vac truck, wherein the Public Works Department will conduct excavation "potholing" of a representative

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number of water mains, corporation stops, and service laterals, by hydro excavating. These investigations will allow for replacement of any effected water lines and for the revision of records and maps, as well as provide locations for future replacement; and

WHEREAS, by purchasing a Hydro-Vac truck and then using City employees to conduct excavation "potholing" and City employees to replace any effected water lines, the City of Marietta will realize a considerable cost savings. Furthermore, by purchasing the Hydro-Vac truck, the City can perform future investigations such as locating clogged or collapsed water lines or sewer lines; and

WHEREAS, a real and present emergency exists, because the City of Marietta, Ohio must complete the inventorying of its water lines before October 16, 2024. The City had a contract with F. H. Paschen, S.N. Nielson & Associates, LLC (Contractor), who was to have the work completed by November 1, 2023, however the City ultimately had to terminate its contract with F. H. Paschen, S.N. Nielson & Associates, LLC (Contractor), due to a disagreement over pricing. As a result, the City is now over eight (8) months behind on the project with the mandatory completion date fast approaching; and

WHEREAS, a real and present emergency exists to authorize and direct the Director of Public Safety and Service to enter into a contract without formal bidding, advertising, and quality based selection, pursuant to Ohio Revised Code Sections 735.051 and 153.71(B), with Brown Equipment Company, of Evansville, Indiana, for the purchase of a 2023 Sewer-HX-9-TA Hydro-Vac truck at a cost not to exceed \$489,500.00 and declaring an EMERGENCY.

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WHEREAS, following an analysis of the City's needs in this respect, and the alternatives available for the provision of those needs, the Director of Public Safety and Service has recommended that the City enter into a purchase contract with Brown Equipment Company, of Evansville, Indiana, for the purchase of a 2023 Sewer-HX-9-TA Hydro-Vac truck; and,

WHEREAS, the acquisition of the 2023 Sewer-HX-9-TA Hydro-Vac truck from Brown Equipment Company, of Evansville, Indiana, for a total acquisition cost not to exceed \$489,500.00 appears to be the best proposal for the acquisition of the Hydro-Vac truck as determined by the Director of Public Safety and Service; and

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MARIETTA, OHIO:

- Section 1 : That the Council for the City of Marietta, Ohio hereby declares that a real and present emergency exists in connection with the operation of the Department of Public Service of the City of Marietta, Ohio, and its municipal utility the Water Department, and the facts giving rise to the emergency constitute a public exigency under 2 CRFR §200.320(c)(3).
- Section 2: That an inventory of Marietta's water service lines, needs to be completed as quickly as possible, to ensure that any lead pipe that may be located, and that is attached to said water mains, can be removed and replaced so as to prevent an unhealthy condition that detrimentally could affect the citizens of the City of Marietta, Ohio.

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- Section 3: That the Director of Public Safety and Service shall be and is hereby authorized and directed to enter into a purchase contract on behalf of the City of Marietta, Ohio, with Brown Equipment Company, of Evansville, Indiana, for the purchase of a 2023 Sewer-HX-9-TA Hydro-Vac truck for use by the Water Department and the Wastewater Department of the City of Marietta, Ohio, at a cost not to exceed \$489,500.00, according to the terms and conditions of the proposal attached hereto as Exhibit "A", which terms and conditions are hereby adopted and approved.
- Section 4: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 1221.22 of the Ohio Revised Code.
- Section 5: That this Ordinance is hereby declared to be an EMERGENCY measure necessary for the immediate preservation of the public peace, health, and safety of the City of Marietta, Ohio, and for the further reason that immediate action is required because the City must comply with the U. S. EPA's mandate that all municipalities inventory their water lines to check for lead by October 16, 2024 and the purchase of this Hydro-Vac truck will allow the City of Marietta the ability to meet the EPA's deadline.

WHEREFORE, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

Introduced by the Water, Sewer and Sanitation Committee, Ben Rutherford, Chairman.

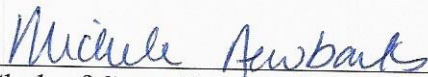
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Chairman

Passed this 4th day of April, 2024.


President of Council

ATTEST:


Clerk of Council

Approved this 4th day of April, 2024.


Mayor

First Reading April 4, 2024

Second Reading Suspended

Third Reading Suspended