

ORDINANCE NO. 23-011

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH MOSSER CONSTRUCTION, INC. OF FREMONT, OHIO, FOR EMERGENCY REPAIRS RESULTING FROM THE TRAIN DERAILMENT AT THE COLUMBUS AVENUE UNDERPASS IN SANDUSKY; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, on October 8, 2022, a train derailed at the Columbus Avenue underpass in Sandusky, which caused damage to the Columbus Avenue Lift Station and surrounding area and further damage was done during the cleanup process performed by the railroad and its contractors; and

WHEREAS, with permission from Norfolk Southern, on October 11, 2022, the City engaged Mosser Construction, Inc. to perform emergency work involving shoring of the Columbus Avenue Lift Station and to perform Design/Build services for the necessary repairs on the structure and surrounding area since they were already under contract for the Columbus Avenue Lift Station Improvements Projects; and

WHEREAS, the purpose of this MOU will allow Mosser Construction, Inc. to perform further Design/Build repairs on the Columbus Avenue Lift Station and surrounding areas, once a scope of work is defined, and ensure Mosser Construction, Inc. is compensated for their efforts and establish payment terms; and

WHEREAS, all cost estimates and final construction costs will be provided to City Commission, including total reimbursements from Norfolk Southern; and

WHEREAS, this Ordinance should be passed as an emergency measure under suspension of the rules and in accordance with Section 14 of the City Charter in order to expedite repairs so the Columbus Avenue Underpass can open, and to restart the lift station; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of Municipal Departments, including the Department of Public Works, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into a Memorandum of Understanding with Mosser construction, Inc., of Fremont, Ohio,

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for emergency repairs resulting from the train derailment at the Columbus Avenue underpass in Sandusky, substantially in the same form as Exhibit "A", a copy of which is attached to this Ordinance and is specifically incorporated as if fully rewritten herein, together with such revisions or additions as are approved by the Law Director as not being adverse to the City and as being consistent with carrying out the terms of this Ordinance and authorizes the City Manager and/or Finance Director to lawfully expend funds as required pursuant to the agreement.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.



RICHARD R. BRADY
PRESIDENT OF THE CITY COMMISSION



ATTEST: _____
CATHLEEN A. MYERS
CLERK OF THE CITY COMMISSION

Passed: January 23, 2023

Memorandum of Understanding

Memorandum of Understanding

Between

The City of Sandusky
(Owner)

and

Mosser Construction, Inc.
(Contractor)

This Memorandum of Understanding (MOU) sets the terms and understanding between the Owner and the Contractor to perform Design/Build Services for the Columbus Avenue Railroad Derailment Repairs Project.

Background

On October 8th, 2022, a train derailed at the Columbus Avenue underpass in Sandusky, OH and it caused damage to the Columbus Avenue Lift Station and surrounding area. Further damage was done during the cleanup process performed by the railroad and its contractors. The City of Sandusky contacted Mosser Construction, Inc. on October 11th, 2022 to perform emergency shoring of the Columbus Avenue Lift Station and to perform Design/Build services for the necessary repairs on the structure and surrounding area. The temporary shoring and associated engineering were performed prior to this MOU, but will be compensated as part of this project.

Purpose

This MOU will allow Mosser Construction, Inc. to perform the necessary design/build repairs on the Columbus Avenue Lift Station and surrounding areas owned by the City of Sandusky. This MOU will also ensure Mosser Construction, Inc. is compensated for their efforts and will establish the payment terms.

The above goals will be accomplished by undertaking the following procedure:

- The Owner and Contractor will communicate to determine the scopes of work desired by the Owner. Multiple scopes or packages may be developed to accommodate the schedule of the project.
- Once a scope of work is defined, the Contractor will submit a lump sum quotation for approval by the Owner. A time and materials with guaranteed maximum price (T&M) quotation may be used in-leu of a lump sum quotation. If a T&M style reimbursement is utilized, all rates will be established before the scope of work commences.
- The Owner will then review the quotation and either approve or reject the quotation.
- The Contractor will perform design/build services for the various scopes of work after the quotations have been approved by the Owner.

Reporting/Inspection

Evaluation of the design/build services will be performed by the Owner or his designee. The Owner will have access to the worksite during the entire project to ensure compliance with their standards.

Funding

The Owner received confirmation from Norfolk Southern Corporation (NS), that NS will compensate the Owner for the damage that occurred due to the derailment and their cleanup efforts in a letter dated 12-20-22 from Jody Solgot. The Contractor is to submit invoices to the Owner so that the Owner can gather costs and submit periodic requests for reimbursement to NS. If NS fails to compensate the Contractor within 60 days of the Contractor’s invoice date, the Owner agrees to compensate the Contractor in full within 30 days of being notified by the Contractor of NS’s failure to compensate the Contractor. Any legal issues regarding reimbursement are between the Owner and NS.

Duration

This MOU is at-will and may be modified by mutual consent of authorized officials from the Owner and the Contractor. This MOU shall become effective upon signature by the authorized officials from the Owner and the Contractor and will remain in effect until modified or terminated by any one of the partners by mutual consent. In the absence of mutual agreement by the authorized officials this MOU shall end on 12-31-23, but not until the Contractor has been compensated in full for all invoices. The MOU can also be extended by mutual consent.

Contact Information

Owner: The City of Sandusky
Owner Representative: Aaron Klein
Position: Director, Public Works
Address: 240 Columbus Avenue, Sandusky, OH 44870
Telephone: 419-627-5829
E-mail: aklein@cityofsandusky.com

Contractor: Mosser Construction, Inc.
Contractor Representative: Nicholas Steyer
Position: Water/Wastewater Department Manager
Address: 122 South Wilson Avenue, Fremont, OH 43420
Telephone: 419-355-3266
E-mail: nsteyer@mossergrp.com

(Owner Signature) (Date) (Printed Name and Title)

(Contractor Signature) (Date) (Printed Name and Title)