

### **CALL TO ORDER**

IN REGULAR SESSION Monday, November 4, 2019 at 7:00 P.M. in the Council Chambers of Town Hall, 323 West Michigan Avenue, Marshall, MI, the Marshall City Council was called to order by Mayor Caron.

### **ROLL CALL**

Roll was called:

Present: Council Members: Mayor Caron, McNeil, Metzger, Traver, Underhill, and Wolfersberger.

Also Present: City Manager Tarkiewicz and Clerk Nelson.

Absent: Council Member Gates.

**Moved** McNeil, supported Metzger, to excuse the absence of Council Member Gates. On a voice vote – **MOTION CARRIED.**

### **INVOCATION/PLEDGE OF ALLEGIANCE**

Richard Gerten of Family Bible Church gave the invocation and Mayor Caron led the Pledge of Allegiance.

### **APPROVAL OF THE AGENDA**

**Moved** Metzger, supported Wolfersberger, to approve the agenda as presented. On a voice vote – **MOTION CARRIED.**

### **PUBLIC COMMENT ON AGENDA ITEMS**

Barry Wayne Adams of 622 W. Green spoke regarding the issue of stray cats in the City of Marshall. He feels a municipality does not have the authority to enforce the issue of feeding stray cats.

Dee Nelson of 333 Westbrook Court spoke regarding the issues of cats and inquired how the issue came about. She provided information to the Council from different website regarding the cat issue.

### **CONSENT AGENDA**

**Moved** Metzger, supported McNeil, to approve the Consent Agenda:

- A. Scheduled a public hearing for Tuesday, December 3, 2019 to hear public comment on the proposed amendments to Chapter 50: Garbage and Rubbish of the Marshall City Code of Ordinances;
- B. Approve the bid for a 2000kva/480v transformer for Chelsea Milling to the low bidder – Solomon Corporation in the amount of \$31,150 with a delivery schedule of 6 to 8 weeks;
- C. Minutes of the City Council Work Session and Regular Session held on Monday, October 21, 2019;

- D. Approve city bills in the amount of \$ 883,452.02.

On a roll call vote – ayes: McNeil, Metzger, Traver, Underhill, Wolfersberger, and Mayor Caron; nays: none. **MOTION CARRIED.**

**PRESENTATIONS AND RECOGNITION**

None.

**INFORMATIONAL ITEMS**

None.

**PUBLIC HEARINGS & SUBSEQUENT COUNCIL ACTION**

**A. Proposed Amendment of City Ordinances 91.01 and 91.02:**

City Manager Tarkiewicz provided background regarding the proposed amendments to City Ordinances 91.01 and 91.02, establishing the Riverwalk as a city park and assign the park hours consistent with our other city parks. Also, to correct an error on the location of the Athletic Field listed in §91.01.

Mayor Caron opened the public hearing to hear comment regarding the proposed amendments to Ordinances 91.01 and 91.02.

Hearing no comment, the hearing was closed.

**Moved** McNeil, supported Traver, to approve the amendments to City Ordinances 91.01 and 91.02, establishing the Riverwalk as a city park, to assign it park hours consistent with other city parks, and to correct an error on the location of the Athletic Field. On a roll call vote – ayes: Metzger, Traver, Underhill, Wolfersberger, Mayor Caron, and McNeil; nays: none. **MOTION CARRIED.**

City of Marshall, Michigan  
Ordinance #2019-07

AN ORDINANCE AMENDING CITY OF MARSHALL CODE OF ORDINANCES,  
SECTIONS 91.01 AND 91.02

**WHEREAS**, the city has developed and maintained the “Riverwalk”, which consists of an elevated boardwalk and paved pathways extending along the Kalamazoo River and Rice Creek, from Kalamazoo Avenue to Stuart Landing; and

**WHEREAS**, Sections 91.01 and 91.02 address the establishment of city park and park hours; and

**WHEREAS**, the Section 91.01 does not designate the Riverwalk as a city park; and

**WHEREAS**, Section 91.02 does not establish hours of operation for Riverwalk; and

**WHEREAS**, the public health, safety and welfare is furthered by establishing Riverwalk as a city park and designating hours of operation;

**NOW, THEREFORE, THE CITY OF MARSHALL ORDAINS** that the current versions of Sections 91.01 and 91.02 be amended as set forth herein.

### **§ 91.01 ESTABLISHMENT OF CITY PARKS**

The following properties owned by the city are hereby designated as city parks:

- (A) Carver Park, located near the intersection of East Michigan Avenue and Exchange Street;
- (B) Brooks Memorial Fountain Park, located in the center of the traffic circle at West Michigan Avenue and Kalamazoo Avenue;
- (C) Marshall Athletic Fields, located on West Michigan Avenue near the **east-west** end of the city;
- (D) Ketchum Park, located on the north and south sides of Rice Creek, from South Marshall to eastern city limits;
- (E) Stuart Landing and Millpond Park, located on the south side of the Kalamazoo River, near Homer Road; and
- (F) The Brooks Nature Area, located along the shore of both Upper and Lower Brace (Stuart) Lake.
- (G) Shearman Park, located along N. Linden Street between W. Mansion Street and W. Prospect Street.
- (H) **Riverwalk, located along the Kalamazoo River and Rice Creek, between Kalamazoo Avenue and Stuart Landing.**

(Prior Code, § 19-1) (Ord. passed 6-7-1993; Am. Ord. 06-05, passed 4-17-2006; Am Ord. 07-02, passed 5-7-2007; Am. Ord. 08-08, passed 6-2-2008; Am. Ord. 2013-06 passed –2013, **Am. Ord 2019-07, passed 11-4-2019**)

### **§ 91.02 PARK HOURS**

Ketchum, Carver, Stuart Landing and Millpond Parks, the Brooks Nature Area, **the Riverwalk** and Shearman Park shall be open to the public daily between the hours of 7:00 a.m. and 10:00 p.m. of any one day. Marshall Athletic Fields shall be open to the public daily between the hours of 7:00 a.m. and 10:00 p.m., or ½ hour after the conclusion of any city-sanctioned event, whichever is later. It shall be unlawful for any person other than city personnel conducting city business therein to occupy or be present in the park during any hours in which the park is not open to the public.

(Prior Code, § 19-2) (Ord. passed 7-16-1979; Am. Ord. passed 9-17-1984; Am. Ord. passed 9-16-1991; Am. Ord. passed 6-7-1993; Am. Ord. 07-02, passed 5-7-2007;

Am. Ord. 08-08, passed 6-2-2008; Am. Ord. 2013-06, passed –2013; **Am. Ord. 2019-07, passed 11-4-2019**).

**REPEALER**

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect, and the City of Marshall City Code shall remain in full force and effect, amended only as specified above.

**SEVERABILITY**

If any section, clause or provision of this Ordinance shall be declared to be unconstitutional, void or illegal by any Court of competent jurisdiction, such section, clause or provision shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

**ENACTMENT**

This ordinance is declared to have been enacted by the City Council of the City of Marshall at a meeting called and held on the 4<sup>th</sup> day of November, 2019, and ordered to be given publication in the manner prescribed by law.

AYES: Mayor Caron, McNeil, Metzger, Traver, Underhill, and Wolfersberger.

NAYES: None.

ABSTENTIONS:

---

Joe Caron, Mayor

STATE OF MICHIGAN  
COUNTY OF CALHOUN

I, the undersigned, the qualified and acting City Clerk of the City of Marshall, Calhoun County, Michigan, do certify that the foregoing is a true and complete copy of the ordinance adopted by the City Council of the City of Marshall at a meeting called and held on the 4<sup>th</sup> day of November, 2019, the original of which is on file in my office.

---

Trisha Nelson, Clerk

Adopted: November 4, 2019  
Published: November 9, 2019

**OLD BUSINESS**

None.

**REPORTS AND RECOMMENDATIONS**

**A. Discussion on City Ordinance 91.04:**

Council was presented with the Ordinance language for §91.04: Usage of Parks. It was consensus by Council to discuss further at a City Council Work Session to be scheduled for the near future.

**B. Brooks Field Terminal Funding:**

**Moved** McNeil, supported Underhill, to approve the funding for the new Brooks Field Terminal by using the four years of available Federal and State funding, a loan of up to \$100,000 from the Michigan Department of Transportation, and borrow from another Airport's funding allocation to be paid in 2021 from the City's federal allocation. On a roll call vote – ayes: Traver, Underhill, Wolfersberger, Mayor Caron, McNeil, and Metzger; nays: none. **MOTION CARRIED.**

**C. Sale of Electric Utility System Revenue Bonds – Series 2019:**

**Moved** Traver, supported Metzger, to approve the Electric Utility System Revenue Bond Ordinance which authorizes and provides for the issuance of City of Marshall Electric System Revenue bonds under the provision of Act 94 of 1933, as amended. On a voice vote – **MOTION CARRIED.**

CITY OF MARSHALL, MICHIGAN  
ORDINANCE #2019-08

ELECTRIC UTILITY SYSTEM REVENUE BOND ORDINANCE

AN ORDINANCE TO AUTHORIZE AND PROVIDE FOR THE ISSUANCE OF CITY OF MARSHALL ELECTRIC UTILITY SYSTEM REVENUE BONDS UNDER THE PROVISIONS OF ACT 94, PUBLIC ACTS OF MICHIGAN, 1933, AS AMENDED, FOR THE PURPOSES OF PAYING COSTS OF ACQUISITION, CONSTRUCTION, IMPROVEMENT, ENLARGEMENT, EXTENSION OR REPAIR OF THE CITY OF MARSHALL ELECTRIC UTILITY SYSTEM; TO PROVIDE FOR THE COLLECTION OF REVENUES FROM THE SYSTEM SUFFICIENT FOR THE PURPOSE OF PAYING THE COSTS OF OPERATION AND MAINTENANCE OF THE SYSTEM AND TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS; TO PROVIDE FOR THE SEGREGATION AND DISTRIBUTION OF SYSTEM REVENUES; TO PROVIDE FOR THE RETIREMENT AND SECURITY OF THE BONDS HEREIN AUTHORIZED AND THE RIGHTS OF THE

HOLDERS OF THE BONDS IN ENFORCEMENT THEREOF; AND TO  
PROVIDE FOR RELATED MATTERS.

THE CITY OF MARSHALL ORDAINS:

Section 1. Definitions. All terms not defined herein shall have the meanings set forth in this Ordinance, and whenever used in this Ordinance, except when otherwise indicated by the context, the following terms shall have the following meanings:

(a) “acquire,” “acquiring” and “acquired” shall include acquisition by purchase, construction or any other method.

(b) “Act 34” means the revised Municipal Finance Act, Act 34, Public Acts of Michigan, 2001, as amended.

(c) “Act 94” means the Revenue Bond Act of 1933, Act 94, Public Acts of Michigan, 1933, as amended.

(d) “Additional Bonds” means any additional bonds of equal standing with the Series 2019 Bonds and any other outstanding Senior Lien Bonds to be issued pursuant to Section 20 of this Ordinance.

(e) “Adjusted Net Revenues” means for any operating year the excess of revenues over expenses for the System determined in accordance with generally accepted accounting principles, to which shall be added depreciation, amortization, interest expense on Bonds and any payments to the City in lieu of taxes, to which may be made the following adjustments.

(i) Revenues may be augmented by the amount of any rate increases adopted prior to the issuance of Additional Bonds or to be placed into effect before the time principal or interest on the Additional Bonds becomes payable from Revenues as applied to quantities of service furnished during the operating year or portion thereof that the increased rates were not in effect.

(ii) Revenues may be augmented by amounts which may be derived from rates and charges to be paid by new customers of the System.

The adjustment of revenues and expenses by the factors set forth in (i) and (ii) above shall be reported upon by professional engineers or certified public accountants or other experts not in the regular employment of the City.

(f) “Aggregate Debt Service” for any period means, as of any date of calculation by the City, the sum of the amounts of the debt service for such period with respect to all Outstanding Senior Lien Bonds. In the event that any of the Outstanding Senior Lien Bonds bear interest at a variable rate, each such series of variable rate Bonds shall, for purposes of calculating Aggregate Debt Service, be assumed by the City to be the rate established for such computation in writing by the Authorized Officer; provided, however, that such assumed rate shall not be less than the average rate borne by such variable rate Bonds during the twelve full calendar months immediately preceding the date on which such computation is made; and

provided further, however, that, to the extent such variable rate Bonds have not been Outstanding during the entirety of such twelve month period, the assumed rate shall not be less than the average rate on the SIFMA Index during such twelve month period.

(g) “Aggregate Debt Service Requirement” means for any period, and as of any date of calculation, Aggregate Debt Service for such period, less any capitalized interest to be paid from the proceeds of the Bonds.

(h) “Authorized Officer” means, with respect to the Series 2019 Bonds, either the Finance Director or the City Manager of the City or a person designated by an Authorized Officer, or, with respect to any series of Additional Bonds, the officer of the City designated at the time the Additional Bonds are authorized.

(i) “Bond Insurer” means a municipal bond insurance provider which is insuring any Outstanding Bonds or providing an insurance policy or surety bond to secure the Bond Reserve Account.

(j) “Bond Reserve Account” means the Bond Reserve Account of the Redemption Account established pursuant to Section 12(B) of this Ordinance.

(k) “Bond Reserve Requirement” means the lesser of (i) the maximum annual debt service requirements on the Outstanding Bonds, (ii) 125% of the average annual debt service requirements on the Outstanding Bonds, or (iii) the total of 10% of the original aggregate face amount of each series of the Outstanding Bonds, reduced by the net original issue discount, if any; provided, however, that the Reserve Requirement shall not at any time exceed the amount allowed to be invested at an unrestricted yield pursuant to Treas. Reg. Section 1.148-2(f)(2) or any successor provision thereto as applicable to the Bonds. For purposes of the Bond Reserve Requirement annual debt service on any variable rate Bonds shall not, after the issuance of such variable rate Bonds, be adjusted because of an adjustment to the interest rate borne by such variable rate Bonds.

(l) “Bonds” means the Series 2019 Bonds, any Additional Bonds, and any Junior Lien Bonds.

(m) “City” means the City of Marshall, Calhoun County, Michigan.

(n) “Consulting Engineers” means the engineer or engineering firm or firms appointed from time to time, and having a favorable reputation for skill and experience in the design and operation of municipal electric utilities at the time retained by the City, to perform the acts and carry out the duties provided for such Consulting Engineers in this Ordinance.

(o) “Council” or “City Council” means the City Council of the City.

(p) “Event of Default” shall refer to one of the Events of Default specified in Section 21 of this Ordinance.

(q) “General Obligation Debt Account” means the General Obligation Debt Account established pursuant to Section 12(D) of this Ordinance.

(r) “Government Obligations” means (i) direct obligations of (including obligations issued or held in book entry form on the books of) the United States of America, (ii) obligations the payment on which is guaranteed by the United States of America including, but not limited to, stripped interest components of obligations issued by the Resolution Funding Corporation (REFCORP) and non-callable, non-prepayable debt obligations of the United States Agency for International Development (US AID), which pay principal and interest at least three (3) business days prior to any respective escrow requirement dates, or (iii) non-callable, senior debt obligations of any government-sponsored enterprise or federal agency, corporation, or instrumentality of the United States of America created by an act of congress including, but not limited to, the Federal Home Loan Banks, Freddie Mac, Federal Farm Credit Banks Funding Corporation, and Fannie Mae.

(s) “Improvement Account” means the Improvement Account established pursuant to Section 12(E) of this Ordinance.

(t) “Internal Revenue Code” means the Internal Revenue Code of 1986, as amended.

(u) “Investment Obligations” means to the extent authorized by law, and if provided by an investment policy duly adopted by the City, one or more of the following: (i) bonds, securities and other obligations of the United States or an agency or instrumentality of the United States; (ii) certificates of deposit, savings accounts, deposit accounts, or depository receipts of a Financial Institution who is eligible to be a depository of funds belonging to the State; (iii) commercial paper rated at the time of purchase within the two highest classifications established by not less than two nationally recognized rating services and that matures not more than 270 days after the date of purchase; repurchase agreements consisting of instruments listed in subdivision (i) above; (iv) bankers’ acceptances of United States banks; (v) obligations of this State or any of its political subdivisions that at the time of purchase are rated as investment grade by not less than one nationally recognized rating service; (vi) mutual funds registered under the investment company act of 1940, title I of chapter 686, 54 Stat. 789, 15 U.S.C. 80a-1 to 80a-3 and 80a-4 to 80a-64, with authority to purchase only investments that are legal for direct investment by a public corporation; (vii) investment pools organized under the surplus funds investment pool act, 1982 PA 367, MCL 129.111 to 129.118; and (viii) investment pools organized under the local government investment pool act, 1985 PA 121, MCL 129.141 to 129.150.

(v) “Junior Lien Bonds” means bonds, bond anticipation notes issued under Act 34, Public Acts of Michigan, 2001, as amended, or other obligations which may be issued or incurred by the City to provide funds for any lawful purpose of the System which are of junior standing and priority of lien with respect to the Net Revenues to the claim of the Senior Lien Bonds.

(w) “Junior Lien Redemption Account” means the Junior Lien Bond and Interest Redemption Account established pursuant to Section 12(C) of this Ordinance.

(x) “Municipal Obligations” means any bonds or other obligations of the State of Michigan or of any agency, instrumentality or local governmental unit of the State of



Michigan (i) which are not callable at the option of the obligor prior to maturity or as to which irrevocable notice has been given by the obligor to call on the date specified in the notice, and (ii) which are fully secured as to principal and interest and redemption premium, if any, by a fund consisting only of cash or Government Obligations, which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (iii) which fund is sufficient, as verified by an independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this definition of Municipal Obligation on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to in sub-clause (i) of this definition of Municipal Obligation, as appropriate, and (iv) which are rated, based on the escrow, in the highest rating category of either two of the following three ratings agencies: Standard & Poor's Corporation, Fitch Ratings, and Moody's Investors Service, Inc. or any successors thereto.

(y) "Net Revenues" means the Revenues remaining after deducting the reasonable expenses of administration, operation, and maintenance of the System and shall be construed as defined in Section 3 of Act 94.

(z) "Operation and Maintenance Account" means the Operation and Maintenance Account established pursuant to Section 12(A) of this Ordinance.

(aa) "Ordinance" means this Ordinance and any other ordinance amendatory or supplemental hereto.

(bb) "Outstanding Bonds" means Bonds issued and delivered under this Ordinance except:

- (i) Bonds canceled by the Transfer Agent;
- (ii) Bonds (or portions of Bonds) for the payment or redemption of which moneys or Government Obligations, equal to the principal amount or redemption price thereof, as the case may be, with interest to the date of maturity or redemption date, shall be held in trust under this Ordinance and set aside for such payment or redemption (whether at or prior to the maturity or redemption date), provided that if such Bonds (or portion of Bonds) are to be redeemed, notice of redemption shall have been given as provided in this Ordinance or provision satisfactory to the Transfer Agent shall have been made for the giving of such notice;
- (iii) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and delivered; and
- (iv) Bonds no longer deemed to be Outstanding Bonds as provided in Section 7 of this Ordinance.

(cc) "Project" means the Series 2019 Project and/or any additional acquisition, installation and construction of upgrades, improvements and extensions of the System,

together with any appurtenances and attachments thereto and any related site acquisition or improvements to be acquired and constructed pursuant to this Ordinance.

(dd) “Rebate Account” means the Rebate Account established pursuant to Section 13 of this Ordinance.

(ee) “Receiving Fund” means the Receiving Fund established pursuant to Section 12 of this Ordinance.

(ff) “Redemption Account” means the Bond and Interest Redemption Account established pursuant to Section 12(B) of this Ordinance.

(gg) “Registered Owner” means the owner of a Bond as shown by the registration records as kept by the Transfer Agent.

(hh) “Revenues” and “Net Revenues” shall mean the revenues and net revenues of the City derived from the operation of the System and shall be construed as defined in Section 3 of Act 94, including with respect to “Revenues,” the earnings derived from the investment of moneys in the various funds and accounts established by this Ordinance.

(ii) “Senior Lien Bonds” means the Series 2019 Bonds, while they remain outstanding, and any Additional Bonds.

(jj) “Series 2019 Bonds” means the Electric Utility System Revenue Bonds, Series 2019 authorized by Section 4 of this Ordinance. If the Series 2019 Bonds are sold in two or more series then the term “Series 2019 Bonds” shall be construed to refer to all series.

(kk) “Series 2019 Construction Account” means the Electric Utility System Revenue Bonds Series 2019 Construction Account created under Section 18 of this Ordinance.

(ll) “Series 2019 Project” refers to improvements and extensions of the System, together with any appurtenances and attachments thereto and any related site acquisition or improvements to be acquired and constructed as part of the System with proceeds of the Series 2019 Bonds.

(mm) “Sufficient” means with respect to (i) cash or (ii) Government Obligations or (iii) Municipal Obligations, or any combination thereof, not redeemable at the option of the issuer thereof, the principal and interest payments upon which, without reinvestment of the interest, come due at such times and in such amounts, as to be fully sufficient to pay the interest as it comes due on the Bonds or any portion thereof and the principal and redemption premium, if any, on the Bonds or any portion thereof as they come due whether on the stated maturity date or upon earlier redemption. Securities representing such obligations or cash shall be placed in trust with a bank or trust company, and if any of the Bonds are to be called for redemption prior to maturity, irrevocable instructions to call the Bonds for redemption shall be given to the Transfer Agent.

(nn) “System” means the complete electric utility system of the City, including all electric generating units, plants, works, instrumentalities and properties, used or useful in connection with the generation and distribution of electricity, together with the Project and all additions, extensions and improvements existing or hereafter acquired and all facilities.

(oo) “Transfer Agent” means The Huntington National Bank, or such other bank selected by the City for payment of each series of the Bonds.

(pp) “Trustee” means The Huntington National Bank, or such other bank or trust company named as Trustee by the City to serve as Trustee pursuant to this Ordinance upon occurrence of an Event of Default, or any successor Trustee appointed pursuant to Section 31 of this Ordinance.

Section 2. Necessity; Approval of Plans and Specifications. It is hereby determined to be necessary for the public health and welfare of the City to acquire the Series 2019 Project in accordance with the plans and specifications heretofore prepared by the Consulting Engineers which plans and specifications are hereby approved.

Section 3. Costs of Series 2019 Project; Useful Life. The aggregate cost of the Series 2019 Project is estimated to be an amount not-to-exceed Five Million Seven Hundred Fifty Thousand Dollars (\$5,750,000) subject to the taking of construction bids, including the payment of capitalized interest, if any, and legal, engineering, financial and other expenses incident thereto and incident to the issuance and sale of the Series 2019 Bonds, and deposit of monies to the Bond Reserve Account as necessary to meet the Bond Reserve Requirement, which estimate of cost is hereby approved and confirmed. The period of usefulness of the Series 2019 Project is estimated to be not less than thirty (30) years.

Section 4. Series 2019 Bonds Authorized. The City shall issue the Series 2019 Bonds pursuant to the provisions of Act 94 in one or more series in the aggregate principal amount of not-to-exceed Five Million Seven Hundred Fifty Thousand Dollars (\$5,750,000) as finally determined by the Authorized Officer at the time of sale, for the purposes of paying the costs of acquiring and constructing the Series 2019 Project, including payment of legal, engineering, financial and other expenses incident thereto and incident to the issuance and sale of the Series 2019 Bonds, capitalized interest, if any, in the amount to be determined at the time of sale of the Series 2019 Bonds, and deposit of monies to the Bond Reserve Account as necessary to meet the Bond Reserve Requirement. The Series 2019 Bonds shall not be a general obligation of the City but shall be payable solely out of the Net Revenues of the System. The Authorized Officer is hereby authorized to determine, based upon the advice of bond counsel and the municipal advisor, whether to sell a portion of the Series 2019 Bonds as taxable bonds.

The capitalized interest, if any, to be paid from proceeds of the Series 2019 Bonds shall not exceed the amount necessary to pay interest for three years, as finally determined at the time of sale of the Series 2019 Bonds by the Authorized Officer.

Section 5. Series 2019 Bond Data. The Series 2019 Bonds shall be designated as the ELECTRIC UTILITY SYSTEM REVENUE BONDS, SERIES 2019, with any additional

series designations as determined by the Authorized Officer to distinguish different series of bonds. The Series 2019 Bonds shall be issued as term bonds or serial bonds as determined at the time of sale of the Series 2019 Bonds, in fully-registered form in denominations of \$5,000 or integral multiples thereof, not exceeding the amount of bonds maturing on the same date such bond matures, and shall be numbered in consecutive order of authentication from 1 upwards. The Series 2019 Bonds shall be dated as of such date as may be determined at the time of sale, and shall mature on August 1 in the years 2020 to 2039, inclusive, or such other dates as shall be determined at the time of sale, provided, however, that the Series 2019 Bonds shall mature within 20 years of the date of issuance thereof.

The Series 2019 Bonds shall bear interest at the rate or rates to be determined at the time of sale of the Series 2019 Bonds, not exceeding 6.00% per annum, payable semi-annually on August 1, 2020 and semi-annually thereafter, or on such other dates as approved at the time of sale thereof provided that the first interest installment shall be payable not later than 10 months following the delivery date of the Series 2019 Bonds. Interest on the Series 2019 Bonds shall be payable, by check drawn on the Transfer Agent and mailed to the registered owner at the registered address, as shown on the registration books of the City maintained by the Transfer Agent. Interest shall be payable to the registered owner of record as of the fifteenth day of the month prior to the payment date for each interest payment. The date of determination of registered owner for purposes of payment of interest as provided in this paragraph may be changed by the City to conform to market practice in the future. The principal of the Series 2019 Bonds shall be payable at the designated office of the Transfer Agent.

The Series 2019 Bonds may be subject to redemption prior to maturity at the times and prices finally determined at the time of sale. In the event that any of the Series 2019 Bonds shall be issued as term bonds, the mandatory redemption requirements for such term bonds shall be specified at the time of sale.

Unless waived by any registered owner of bonds to be redeemed, official notice of redemption shall be given by the Transfer Agent on behalf of the City. Such notice shall be dated and shall contain at a minimum the following information: original issue date; maturity dates; interest rates; CUSIP numbers, if any; certificate numbers (and in the case of partial redemption) the called amounts of each certificate; the place where the bonds called for redemption are to be surrendered for payment; and that interest on the bonds or portions thereof called for redemption shall cease to accrue from and after the redemption date.

In addition, further notice shall be given by the Transfer Agent in such manner as may be required or suggested by regulations or market practice at the applicable time, but no defect in such further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as prescribed herein.

The Series 2019 Bonds shall be signed by the manual or facsimile signature of the Mayor and countersigned by the manual or facsimile signature of the City Clerk. The Series 2019 Bonds shall have the corporate seal of the City impressed or printed thereon. If any of the Series 2019 Bonds shall be signed by the facsimile signature of both the Mayor and the

City Clerk then such bond shall not be valid until authenticated by an authorized officer of the Transfer Agent. The Series 2019 Bonds shall be delivered to the Transfer Agent for authentication and be delivered by the Transfer Agent to the purchaser in accordance with instructions from the City upon payment of the purchase price therefor in accordance with the bond purchase agreement with the purchaser of the Series 2019 Bonds. Executed blank bonds for registration and issuance to transferees shall simultaneously, and from time to time thereafter as necessary, be delivered to the Transfer Agent for safekeeping.

The Series 2019 Bonds may be issued in book-entry-only form through The Depository Trust Company in New York, New York (“DTC”), and any official of the City is authorized to execute such custodial or other agreement with DTC as may be necessary to accomplish the issuance of the Series 2019 Bonds in book-entry-only form and to make such changes in the bond form within the parameters of this Ordinance as may be required to accomplish the foregoing. If the Series 2019 Bonds are held in book-entry form by DTC, payment of principal of and interest shall be made in the manner prescribed by DTC.

Any Series 2019 Bond may be transferred upon the books of the City maintained by the Transfer Agent by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of the bond for cancellation, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the Transfer Agent. Whenever any Series 2019 Bond or Bonds shall be surrendered for transfer, the Transfer Agent shall authenticate and deliver a new bond or bonds of the same series for like aggregate principal amount. The Transfer Agent shall require the payment by the bondholder requesting the transfer of any tax or other governmental charge required to be paid with respect to the transfer. The Transfer Agent shall not be required (i) to issue, register the transfer of, or exchange any bond during a period beginning at the opening of 15 business days before the day of the mailing of a notice of redemption of bonds selected for redemption prior to maturity and ending at the close of business on the day of that mailing, or (ii) to register the transfer of or exchange any bond so selected for redemption in whole or in part, except the unredeemed portion of bonds being redeemed in part. Notwithstanding the foregoing, if the Series 2019 Bonds are held by DTC in book-entry form, the transfer of the Series 2019 Bonds shall be made in the manner prescribed by DTC.

Section 6. Senior Lien Bond Form. The Senior Lien Bonds, including the Series 2019 Bonds, shall be in substantially the following form with such revisions, additions and deletions as may be advisable or necessary to comply with the final terms established upon sale thereof.

UNITED STATES OF AMERICA  
STATE OF MICHIGAN  
COUNTY OF CALHOUN  
CITY OF MARSHALL  
ELECTRIC UTILITY SYSTEM REVENUE BOND  
[SERIES DESIGNATION]

Interest Rate	Date of Maturity	Date of Original Issue	CUSIP
---------------	------------------	------------------------	-------

Registered Owner:

Principal Amount:

The CITY OF MARSHALL, County of Calhoun, State of Michigan (the “City”), acknowledges itself to owe, and for value received hereby promises to pay to the Registered Owner specified above, or registered assigns, but only out of the hereinafter described Net Revenues, the Principal Amount specified above, in lawful money of the United States of America, on the Date of Maturity specified above, unless prepaid prior thereto as hereinafter provided, with interest thereon (computed on the basis of a 360-day year of twelve 30-day months) from the Date of Original Issue specified above or such later date to which interest has been paid, until paid, at the Interest Rate per annum specified above, first payable on [first payment date] and semiannually thereafter. Principal of this bond is payable at the designated corporate trust office of [Transfer Agent], or such other transfer agent as the City may hereafter designate by notice mailed to the Registered Owner of record not less than sixty (60) days prior to an interest payment date (the “Transfer Agent”). Interest on this bond is payable to the Registered Owner of record as of the fifteenth (15th) day of the month preceding the interest payment date as shown on the registration books of the City kept by the Transfer Agent by check or draft mailed by the Transfer Agent to the Registered Owner of record at the registered address. The date of determination of Registered Owner for purposes of payment of interest may be changed by the City to conform to market practice in the future. For the prompt payment of the principal of and interest on this bond, the revenues of the electric utility system of the City including all enlargements, extensions, repairs and improvements thereto hereafter made (the “System”), after provision has been made for reasonable and necessary expenses of operation, maintenance and administration (the “Net Revenues”), and certain funds and accounts established by the Ordinance (defined below), are irrevocably pledged and a statutory lien thereon has been created. [This bond and the series of which it is one are of equal standing and priority of lien as to the Net Revenues of the System with the City’s outstanding [series bonds] (collectively, the “Senior Lien Bonds”).

This bond is one of a series of bonds of even Date of Original Issue aggregating the principal sum of \$[principal amount], issued pursuant to Ordinance No. [ordinance number] (the “Ordinance”) duly adopted by the City Council of the City, and under and in full compliance with the Constitution and statutes of the State of Michigan, including specifically Act 94, Public Acts of Michigan, 1933, as amended (“Act 94”) for the purposes of acquiring and constructing improvements to the System[, to fund the bond reserve account for the bonds,] and to pay costs of issuance of the bonds.

For a complete statement of the revenues from which and the conditions under which this bond is payable, a statement of the conditions under which additional bonds of equal standing as to the Net Revenues may hereafter be issued, and the general covenants and provisions pursuant to which this bond is issued, reference is made to the Ordinance. The City has reserved the right to issue additional bonds of equal standing with the bonds of this issue on the conditions stated in the Ordinance. Copies of the Ordinance are on file at the office of the City Clerk and at the designated corporate trust office of The Huntington National Bank, as Trustee (the "Trustee"), and reference is made to the Ordinance and any and all supplements thereto and modifications and amendments thereof, if any, and to Act 94 for a more complete description of the pledges and covenants securing the bonds, the nature, extent and manner of enforcement of such pledges, the rights and remedies of the registered owners of the bonds with respect thereto and the terms and conditions upon which the bonds are issued and may be issued thereunder. To the extent and in the manner permitted by the terms of the Ordinance, the provisions of the Ordinance or any resolution or agreement amendatory thereof or supplemental thereto, may be modified or amended by the City, except in specified cases, only with the written consent of the registered owners of at least fifty-one percent (51%) of the principal amount of the bonds then outstanding.

Bonds maturing in the years [maturity dates of bonds which can't be prepaid] inclusive, shall not be subject to redemption prior to maturity at the option of the City.

Bonds or portions thereof in multiples of \$5,000 maturing on or after [first maturity date of bonds which can be prepaid], will be subject to redemption prior to maturity at the option of the City on any date occurring on or after [first date bonds can be prepaid], in such order as the City may determine and within any maturity by lot at par plus accrued interest to the date fixed for redemption.

[If Term Bonds are sold, provisions describing  
mandatory sinking fund redemption of Term Bonds]

In case less than the full amount of an outstanding bond is called for redemption the Transfer Agent, upon presentation of the bond called in part for redemption, shall register, authenticate and deliver to the registered owner a new bond of the same maturity and interest rate in the principal amount of the portion of the original bond not called for redemption.

Notice of redemption shall be given to each registered owner of bonds or portions thereof to be redeemed by mailing such notice not less than thirty (30) days prior to the date fixed for redemption to the registered owner at the address of the registered owner as shown on the registration books of the City. Bonds shall be called for redemption in multiples of \$5,000, and bonds of denominations of more than \$5,000 shall be treated as representing the number of bonds obtained by dividing the denomination of the bonds by \$5,000, and such bonds may be redeemed in part. The notice of redemption for bonds redeemed in part shall state that, upon surrender of the bond to be redeemed, a new bond or bonds in the same aggregate principal amount equal to the unredeemed portion of the bonds surrendered shall be issued to the registered owner thereof with the same interest rate and maturity. No further interest on bonds or portions of bonds called for redemption shall accrue after the date fixed

for redemption, whether the bonds have been presented for redemption or not, provided funds are on hand with the Transfer Agent to redeem the bonds or portion thereof.

This bond is transferable only upon the books of the City kept for that purpose at the office of the Transfer Agent by the Registered Owner hereof in person, or by the Registered Owner's attorney duly authorized in writing, upon the surrender of this bond together with a written instrument of transfer satisfactory to the Transfer Agent duly authorized in writing and thereupon a new registered bond or bonds in the same aggregate principal amount and of the same maturity shall be issued to the transferee in exchange therefor as provided in the Ordinance, and upon the payment of the charges, if any, therein prescribed. The Transfer Agent shall not be required (i) to issue, register the transfer of, or exchange any bond during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption of bonds selected for redemption under the Ordinance and ending at the close of business on the date of that mailing, or (ii) to register the transfer of or exchange any bond so selected for redemption in whole or in part, except the unredeemed portion of bonds being redeemed in part.

THIS BOND IS A SELF-LIQUIDATING BOND AND IS NOT A GENERAL OBLIGATION OF THE CITY AND DOES NOT CONSTITUTE AN INDEBTEDNESS OF THE CITY WITHIN ANY CONSTITUTIONAL, STATUTORY OR CHARTER LIMITATION, AND IS PAYABLE BOTH AS TO PRINCIPAL AND INTEREST SOLELY FROM THE NET REVENUES OF THE SYSTEM AND CERTAIN FUNDS AND ACCOUNTS ESTABLISHED UNDER THE ORDINANCE. THE PRINCIPAL OF AND INTEREST ON THIS BOND ARE SECURED BY THE STATUTORY LIEN HEREINBEFORE DESCRIBED.

The City has covenanted and agreed in the Ordinance that the City will at all times fix, establish, maintain and collect rates, fees and charges for the sale of the output, capacity, use or service of the System which, together with other income, are reasonably expected to yield Net Revenues equal to at least 110% of the aggregate debt service requirement on all Senior Lien Bonds payable from the Net Revenues of the System as and when the same become due and payable, and in addition to maintain a bond and interest redemption account (including a bond reserve account) therefor, to provide for the payment of expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the same in good repair and working order, and to provide for such other expenditures and funds for the System as are required by the Ordinance.

It is hereby certified and recited that all acts, conditions and things required by law to be done precedent to and in the issuance of this bond and the series of bonds of which this is one have been done and performed in regular and due time and form as required by law.

This bond is not valid or obligatory for any purpose until the Transfer Agent's Certificate of Authentication on this bond has been executed by the Transfer Agent.

IN WITNESS WHEREOF, the City of Marshall, County of Calhoun, State of Michigan, by its City Council, has caused this bond to be signed in the name of said City [by]



/ [with the facsimile signatures of] its Mayor and its City Clerk and the City seal or a facsimile thereof to be [manually impressed/printed], all as of the Date of Original Issue.

CITY OF MARSHALL

By \_\_\_\_\_  
[facsimile]  
Mayor

(Seal)

Countersigned:

By \_\_\_\_\_  
[facsimile]  
City Clerk

*[STANDARD FORM OF AUTHENTICATION CERTIFICATE  
AND ASSIGNMENT TO APPEAR ON DEFINITIVE BOND]*

Section 7. Payment of Bonds; Defeasance. The Bonds and the interest thereon shall be payable solely from the Net Revenues (except to the extent payable from the proceeds of bond insurance or other credit enhancement or from the proceeds of Bonds), and to secure such payment, there is hereby created a statutory lien upon the whole of the Net Revenues which shall be a first lien. Pursuant to provisions of Act 94, the City hereby pledges to the repayment of principal of, interest on and redemption premiums, if any, on the Bonds, the funds and accounts established by this Ordinance other than the Rebate Account, and a statutory lien is hereby created on such funds and accounts. The liens and pledge provided above shall continue until payment in full of the principal of and interest on all Bonds payable from Net Revenues, or, until Sufficient cash, Sufficient Government Obligations, Sufficient Municipal Obligations or any combination thereof shall have been deposited in trust for payment in full of the principal of and the interest on all Bonds to be paid or defeased to their maturity, or, if called or if irrevocable instructions have been given to call for redemption, to the date fixed for redemption together with the amount of the redemption premium, if any. Upon deposit of Sufficient cash, Sufficient Government Obligations, Sufficient Municipal Obligations or any combination thereof, as provided in the previous sentence, the statutory lien herein created shall be terminated with respect to the Bonds to be defeased, the Registered Owners of these Bonds shall have no further rights under this Ordinance except for payment from the deposited funds and for rights of replacement, registration and transfer, and such Bonds shall no longer be considered to be Outstanding Bonds under this Ordinance.

As provided in Section 12(F) of this Ordinance, the City may use surplus moneys to establish a defeasance account to be held in escrow by the Transfer Agent to provide for defeasance of any portion of the Bonds. Any maturity of the Bonds shall be considered to be defeased based upon on the verification report of an independent certified public accountant stating that the cash balance on deposit in the defeasance account, or successive receipts of the principal of and interest on any escrowed securities in the defeasance account, will be sufficient to pay the principal of and interest on the defeased Bonds as the same become due or as they are redeemed prior to their maturity.

Section 8. Management; Operating Year. The operation, repair and management of the System and the acquisition and construction of the Series 2019 Project shall be under

the supervision and control of the City Council. The City Council, in accordance with the relevant provisions of the City Charter, may employ such person or persons in such capacity or capacities as it deems advisable to carry on the efficient management and operation of the System. The City Council may make such rules and regulations as it deems advisable and necessary to assure the efficient management and operation of the System. The System shall be operated on the basis of an operating year which is the same as the fiscal year of the City.

Section 9. Rates and Charges. The rates and charges for service furnished by and the use of the System and the methods of collection and enforcement of the collection of the rates shall be those in effect on the date of adoption of this Ordinance.

Section 10. No Free Service or Use. No free service or use of the System, or service or use of the System at less than cost, shall be furnished by the System to any person, firm or corporation, public or private, or to any public agency or instrumentality, including the City.

Section 11. Fixing and Revising Rates; Rate Covenant. The rates now in effect are estimated to be sufficient to provide for the payment of the expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the System in good repair and working order, to provide for the payment of the principal of and interest on the Bonds as the same become due and payable, and the maintenance of the reserve therefor and to provide for all other obligations, expenditures and funds for the System required by law and this Ordinance. In addition, it is agreed that the City will at all times fix, establish, maintain and collect rates, fees and charges for the sale of the output, capacity, use or service of the System which, together with other income, are reasonably expected to yield Net Revenues equal to at least 110% of the Aggregate Debt Service Requirement on the Senior Lien Bonds for the forthcoming twelve (12) month period plus such amount as is necessary to comply with all covenants in this Ordinance and to pay all charges and liens whatsoever payable out of Net Revenues in such period. In calculating Net Revenues under this section the City shall not include any investment earnings to be received from investment of the Bond Reserve Account.

Section 12. Funds and Accounts; Flow of Funds. All Revenues of the System shall be set aside as collected and credited to a fund to be designated ELECTRIC UTILITY SYSTEM RECEIVING FUND. The Revenues so credited are pledged for the purpose of the following funds and shall be transferred or debited from the Receiving Fund periodically in the manner and at the times hereinafter specified:

A. OPERATION AND MAINTENANCE ACCOUNT:

Out of the Revenues credited to the Receiving Fund there shall be first set aside in, or credited to an account hereby ordered to be established, maintained and designated OPERATION AND MAINTENANCE ACCOUNT, a sum sufficient to provide for the payment of the expenses of administration and operation of the System including such current expenses for the maintenance of the System as may be necessary to preserve the System in good repair and working order.

A budget, showing in detail the estimated costs of administration, operation and maintenance of the System for the next ensuing operating year, shall be prepared by the City at least 30 days prior to the commencement of each ensuing operating year. No payments shall be made to the City from moneys credited to the Operation and Maintenance Account except for services directly rendered to the System by the City or its personnel.

**B. BOND AND INTEREST REDEMPTION ACCOUNT:**

There shall be established and maintained a separate depository account designated BOND AND INTEREST REDEMPTION ACCOUNT, the moneys on deposit therein from time to time to be used solely, except for required deposits to the Rebate Account, for the purpose of paying the principal of, redemption premiums (if any) and interest on the Senior Lien Bonds.

Out of the Revenues remaining in the Receiving Fund, after provision for the credit or deposit to the Operation and Maintenance Account, there shall next be set aside, monthly, in the Redemption Account a sum proportionately sufficient to provide for the payment of the principal of, mandatory redemption requirements, if any, and interest on the Senior Lien Bonds as and when the same become due and payable, subject to any credit therefor as provided in this Section 12(B). If there shall be any deficiency in the amount previously required to be set aside, then the amount of such deficiency shall be added to the next succeeding month's requirements.

No further payments need be made into the Redemption Fund after enough of the Senior Lien Bonds have been retired so that the amount then held in the Redemption Fund (including the Bond Reserve Account) is equal to the entire amount of principal and interest which will be payable at the time of maturity of all Outstanding Senior Lien Bonds and the monies so held shall be used solely to pay the principal of and interest on the Senior Lien Bonds including redemption premiums, if any, as the Senior Lien Bonds become due either by maturity or by redemption prior to maturity.

A redemption requirement for the Senior Lien Bonds may be satisfied by calling the Senior Lien Bonds as provided in this Ordinance or by the purchase and surrender to the Transfer Agent of Senior Lien Bonds of the same issue and maturity from moneys allocated therefor as provided herein, or purchased with other funds legally available therefor. The City shall elect the manner in which it intends to satisfy a redemption requirement not less than forty five days prior to the date of redemption.

There is hereby established in the Redemption Account a separate account to be known as the BOND RESERVE ACCOUNT. From the proceeds of the sale of the Series 2019 Bonds or other moneys available to the City there shall be deposited an amount in the Bond Reserve Account which shall cause the amount on deposit in the Bond Reserve Account to equal the Bond Reserve Requirement. The City may meet the Bond Reserve Requirement by cash, a letter of credit, a surety bond, or an insurance policy if the provider or issuer thereof shall be rated by a nationally recognized bond rating agency as high or higher than the Senior Lien Bonds. Except as hereinafter provided, the moneys credited to the Bond Reserve Account shall be used solely for the payment of the principal of, redemption premiums (if any) and interest on the Senior Lien Bonds as to which there would otherwise be a default. If

at any time it shall be necessary to use the moneys or the surety bond credited to the Bond Reserve Account for such payment, then the moneys so used shall be replaced or repaid over a period of not more than 5 years, or such other period as required by the letter of credit, surety bond, or insurance policy securing the Bond Reserve Account, from the Net Revenues first received thereafter which are not required for current principal and interest requirements. If at any time there is any excess in the Bond Reserve Account over the Bond Reserve Requirement, such excess may be transferred to such fund or account as the City shall direct. If Additional Bonds are issued, each ordinance authorizing such Additional Bonds shall provide for additional deposits to the Redemption Account for credit to the Bond Reserve Account from the proceeds of such Additional Bonds, or other moneys available to the City, in such an amount as will result in the total credited to the Bond Reserve Account being equal to the Bond Reserve Requirement.

**C. JUNIOR LIEN BOND AND INTEREST REDEMPTION ACCOUNT:**

If the City shall ever issue Junior Lien Bonds, there shall be established and maintained a separate depository account designated JUNIOR LIEN BOND AND INTEREST REDEMPTION ACCOUNT for the purpose of paying the principal, redemption premiums, if any, and interest on such Junior Lien Bonds as they come due. Revenues remaining in the Receiving Fund, after provision has been made for the requirements of the Operation and Maintenance Account and the Redemption Account including the Bond Reserve Account, shall be set aside, but not more often than monthly, in the Junior Lien Redemption Account in accordance with the ordinance authorizing the issuance of the Junior Lien Bonds. Additionally, a separate account may also be established within the Junior Lien Redemption Account as a bond reserve account to be funded on a junior lien basis in accordance with the ordinance authorizing the issuance of the Junior Lien Bonds. The detail of the establishment and maintenance of the Junior Lien Redemption Account shall be provided in the ordinance of the City Council authorizing the issuance of such Junior Lien Bonds.

**D. GENERAL OBLIGATION DEBT ACCOUNT:**

Out of the remaining Revenues in the Receiving Fund, there may be next set aside in or credited to monthly after meeting the requirements of the foregoing Account, to an account designated GENERAL OBLIGATION DEBT ACCOUNT, or from other available moneys such sums as shall be necessary to pay debt service on presently existing or future general obligation bond issues of the City or general obligations or contractual obligations of the City incurred or to be incurred for System purposes.

**E. IMPROVEMENT ACCOUNT:**

There next shall be established and maintained an account designated IMPROVEMENT ACCOUNT. Except as hereinafter provided, the money credited thereto shall be used solely for the purpose of making major repairs, replacements and improvements to the System. There shall next be set aside in or credited to the Improvement Account, after provision is made for the requirements of the foregoing funds and accounts, such additional funds as the City may deem advisable. If at any time it shall be necessary to use moneys in the Improvement Account the moneys so used shall be replaced from any moneys in the Receiving Fund which are not required by this Ordinance to be used for the Rebate Account,

Operation and Maintenance Account, Redemption Account (including the Bond Reserve Account), or the Junior Lien Redemption Account.

F. SURPLUS MONEYS:

Thereafter, any Revenues in the Receiving Fund after satisfying all the foregoing requirements of this Section 12 may, at the discretion of the City, be used for any of the following purposes:

1. Transferred to the Improvement Account.
2. Transferred for deposit to a defeasance account to be held in escrow by the Transfer Agent to provide for defeasance of any portion of the Bonds pursuant to Section 7 of this Ordinance.
3. Transferred to the Redemption Account and used for the purchase of Bonds on the open market at not more than the fair market value thereof or used to redeem Bonds prior to maturity pursuant to this Ordinance.
4. Any other use permitted by law.

Section 13. Rebate Account. There shall be established and maintained an account designated the REBATE ACCOUNT. Moneys representing investment earnings or profits shall be transferred annually from all funds and accounts established under this Ordinance and deposited in the Rebate Account in an amount sufficient to enable the City to rebate investment earnings to the federal government, if necessary, in accordance with the requirements of the Internal Revenue Code. Funds on deposit in the Rebate Account are not pledged as security for the Bonds. Monies shall be deposited in the Rebate Account and shall be rebated to the federal government unless the City has received an opinion of nationally recognized bond counsel that failure to take such actions will not adversely affect the exclusion from gross income for federal income tax purposes of the interest on such Bonds.

Section 14. Segregation of Accounts; Funds on Hand. Moneys in the several funds and accounts established pursuant to this Ordinance, except moneys in the Redemption Account (including the Bond Reserve Account), the Junior Lien Redemption Account, the General Obligation Debt Account, and the Rebate Account, and moneys derived from the proceeds of sale of the Bonds, may be kept in one deposit account, in which event the moneys in said account shall be allocated on the books and records of the City or deposited to the funds and accounts herein established, in the manner and at the times provided in this Ordinance.

Section 15. Priority of Funds. In the event the moneys in the Receiving Fund are insufficient to provide for the current requirements of the Operation and Maintenance Account, the Redemption Account, or the Junior Lien Redemption Account, any moneys or securities in other funds of the System, except the proceeds of sale of the Bonds, shall be credited or transferred, first, to the Operation and Maintenance Account, second, to the

Redemption Account, to the extent of any deficit therein, and third, to the Junior Lien Redemption Account.

Section 16. Investments. Moneys in the funds and accounts established herein may be invested by the City in Investment Obligations, provided, however, that moneys deemed to be proceeds of tax-exempt Bonds shall be invested in accordance with the requirements of Section 33 of this Ordinance. Investment of moneys in the Redemption Account being accumulated for payment on the next maturing principal or interest payment on the Bonds shall be limited to Government Obligations bearing maturity dates prior to the date of the next maturing principal or interest payment respectively on the Bonds. Investment of moneys in any other funds or accounts, including moneys derived from the proceeds of sale of the Bonds, shall be limited to obligations bearing maturity dates or subject to redemption, at the option of the holder thereof, not later than the time estimated by the City when the moneys from such investments will be required. In the event investments are made, any securities representing the same shall be kept on deposit with the bank or trust company having on deposit the fund or funds or accounts from which such purchase was made. Earnings or profits on any investment of funds in any fund or account established in this Ordinance shall be deposited in or credited to the Rebate Account to extent necessary as required by Section 13 of this Ordinance and any earnings or profits remaining in the Receiving Fund, Operation and Maintenance Account, Redemption Account, Junior Lien Redemption Account, General Obligation Debt Account, and, at any time after they are fully funded, the Bond Reserve Account and the Improvement Account, shall be deposited in or credited to the Receiving Fund provided, however, that any earning or profit on the Bond Reserve Account received prior to the completion of the Project shall be deposited in the Construction Account.

The City shall value investments in the Bond Reserve Account at fair market value and marked to market at least once per year. The average duration of investments in the Bond Reserve Account may not have maturities extending beyond 5 years.

Section 17. Applicable Law. The Bonds shall be sold and the proceeds applied in accordance with the provisions of Act 94.

Section 18. Establishment of Construction Account; Proceeds of Series 2019 Bonds. There shall be established and maintained a separate depository account designated as the ELECTRIC UTILITY SYSTEM REVENUE BONDS SERIES 2019 CONSTRUCTION ACCOUNT in a bank qualified to act as depository of the proceeds of sale of revenue bonds under the provisions of Section 15 of Act 94. If the Series 2019 Bonds are sold as both a tax exempt series and a taxable series then separate accounts shall be established within the Series 2019 Construction Account for proceeds of each series. Monies in the Series 2019 Construction Account shall be applied solely in payment of the cost of the Series 2019 Project and any costs of engineering, legal, bond issuance and other expenses incident thereto and to the issuance of the Series 2019 Bonds. Any unexpended balance of the proceeds of sale of the Series 2019 Bonds remaining in the Series 2019 Construction Account after completion of the Series 2019 Project may, in the discretion of the Authorized Officer, be used for meeting requirements, if any, of the Bond Reserve Account, or for further improvements, enlargements and extension to the System. Any balance remaining after such expenditure shall be paid into the Redemption Account.

From the proceeds of sale of the Series 2019 Bonds there first shall be immediately deposited in the Redemption Account an amount equal to the accrued interest, if any, received on delivery of the Series 2019 Bonds, and the City may take credit for the amount so deposited against the amount required to be deposited in the Redemption Account for payment of the next maturing interest. All or a portion of any premium received upon delivery of the Series 2019 Bonds may be deposited in either the Redemption Account or the Series 2019 Construction Account, as determined by the Authorized Officer in consultation with bond counsel.

There shall next be deposited from the proceeds of sale of the Series 2019 Bonds to the Bond Reserve Account an amount, if any, designated by the Authorized Officer at the time of sale as necessary to meet the requirements of this Ordinance.

The capitalized interest, if any, shall next be deposited in the Redemption Account, and the Board may take credit for the amount so deposited against the amount required to be deposited in the Redemption Account for payment of interest on the Series 2019 Bonds.

The remaining proceeds of sale of the Series 2019 Bonds shall be deposited to the Series 2019 Construction Account.

Section 19. Covenants. The City covenants and agrees with the Registered Owners of the Bonds that so long as any of the Bonds remain as Outstanding Bonds and unpaid as to either principal or interest:

(a) The City will maintain the System in good repair and working order and will operate the same efficiently and will faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the State of Michigan and this Ordinance.

(b) The City will maintain and keep proper books of record and account separate from all other records and accounts of the City in accordance with Act 2, Public Acts of Michigan, 1968, as amended. The City will cause an annual audit of the books of record and account of the System for the preceding operating year each year by a recognized independent certified public accountant. The audit shall be completed and so made available in accordance with Act 2, Public Acts of Michigan 1968, as amended.

(c) The City shall maintain and carry, for the benefit of the Registered Owners of the Bonds, insurance on all physical properties of the System and liability insurance, of the kinds and in the amounts normally carried by public utility companies and municipalities engaged in the operation of electric utility systems. All moneys received for losses under any such insurance policies shall be applied solely to the replacement and restoration of the property damaged or destroyed, and to the extent not so used, shall be placed in the Redemption Account and used for the purpose of redeeming or purchasing Bonds.

(d) The City will not sell, lease, mortgage or otherwise dispose of any part of the System, except for sales or exchanges of property or facilities (1) which are not useful in the operation of the System, or (2) for which the proceeds received are, or the fair market value of the subject property (as certified by the Consulting Engineers) is, less than 1% of the

Revenues of the preceding fiscal year, or (3) as to which the Consulting Engineers certify that the ability of the City to comply with the rate covenant described in Section 11 of this Ordinance will not be impaired.

(e) The City will not grant any franchise or other rights to any person, firm or corporation to operate a system that will compete with the System and the City will not operate a system that will compete with the System.

(f) The City will use its best efforts to enforce any contracts to which it is a party regarding providing of electrical service.

(g) The City will cause the Series 2019 Project to be acquired and constructed promptly and in accordance with the plans and specification therefor.

(h) Any bonds issued by the City payable from the Net Revenues of the System shall be issued under this Ordinance.

Section 20. Additional Bonds. The right is reserved, in accordance with the provisions of Act 94, to issue additional bonds payable from the Revenues of the System which shall be of equal standing and priority of lien on the Net Revenues of the System with the Senior Lien Bonds but only for the following purposes and under the following terms and conditions.

(a) To complete the Project in accordance with the plans and specifications therefor. Such Bonds shall not be authorized unless the Consulting Engineers shall execute a certificate evidencing the fact that additional funds are needed to complete the Project in accordance with the plans and specifications therefor and stating the amount that will be required to complete the Project. If such certificate shall be so executed and filed with the City, it shall be the duty of the City Council to provide for and issue Additional Bonds in the amount stated in said certificate to be necessary to complete the Project in accordance with the plans and specifications plus in accordance with the plans and specifications plus an amount necessary to pay the cost of issuing such Bonds or to provide for part or all of such amount from other sources legally available therefor.

(b) For subsequent repairs, extensions, enlargements and improvements to the System or for the purpose of refunding a part of any Outstanding Bonds (unless such partial refunding is done in compliance with (c) below) and paying costs of issuing such Additional Bonds including deposits which may be required to be made to the Bond Reserve Account. Bonds for such purposes shall not be issued pursuant to this subparagraph (b) unless the Adjusted Net Revenues of the System for the then last two (2) preceding 12-month operating years, or the Adjusted Net Revenues of the System for the then last preceding 12-month operating year, if the same shall be lower than the average, shall be equal to at least 125% of the maximum Aggregate Debt Service in any future operating year on the then Outstanding Bonds and on the Additional Bonds then being issued. If the Additional Bonds are to be issued in whole or in part for the purpose of refunding Outstanding Bonds, the maximum Aggregate Debt Service shall be determined by deducting from the principal and interest requirements for each operating year the annual Aggregate Debt Service Requirements of any Bonds to be refunded



from the proceeds of the Additional Bonds. For purposes of this subparagraph (b) the City may elect to use as the last preceding operating year any operating year ending not more than sixteen months prior to the date of delivery of the Additional Bonds and as the next to the last preceding operating year, any operating year ending not more than twenty-eight months prior to the date of delivery of the Additional Bonds.

Net Revenues may be augmented as follows for the purposes of this subsection (b):

- 1) If the System rates, fees or charges shall be increased at or prior to the time of authorizing the Additional Bonds, the Net Revenues may be augmented by an amount which in the opinion of the Consulting Engineers will reflect the effect of the increase had the System's billings during such time been at the increased rates.
- 2) The actual Net Revenues may be augmented by the estimated increase in Net Revenues which in the opinion of the Consulting Engineers will accrue (a) as a result of new customers who have been identified by an agreement to purchase service from the System who had not been serviced during the preceding 12 months or (b) as a result of any other new customer or expansion of service to any existing customers or (c) as a result of potential customers which exist in a new service area who will be serviced by the acquisition of the repairs, extensions, enlargements and improvements to said System which have been made during the preceding twelve months or which will be acquired in whole or in part from the proceeds of the Additional Bonds to be issued.
- 3) If the Bond Reserve Account is to be fully funded to an amount equal to the Bond Reserve Requirement funded from the proceeds of Additional Bonds then the actual Net Revenues may be augmented by an amount equal to the investment income representing interest on investments estimated to be received each operating year from the addition to the Bond Reserve Account to be funded from the proceeds of the Additional Bonds being issued.

No Additional Bonds of equal standing as to the Net Revenues of the System shall be issued pursuant to the authorization contained in subparagraphs (b) or (d) if the City shall then be in default in making its required payments to the Operating and Maintenance Account or the Redemption Account.

(c) For refunding all of the Outstanding Bonds and paying costs of issuing such Additional Bonds including deposits which may be required to be made to the Bond Reserve Account. For refunding a part of the Outstanding Bonds and paying costs of issuing such Additional Bonds, if after giving effect to the refunding the maximum amount of Aggregate Debt Service in each future fiscal year shall be less than the Aggregate Debt Service in each future fiscal year prior to giving effect to the refunding.

(d) Additional Bonds may be issued without meeting any of the conditions and tests set forth in subsection (b) above for any one or more of the following purposes:

- (i) the cost of acquisition and construction of any repairs, replacements, betterments, improvements, major renewals or corrections of any damage or loss to the

System necessary, in the opinion of the Consulting Engineers, to keep the System in good operating condition or to prevent a loss of Revenues therefrom to the extent that the cost thereof cannot reasonably be paid from the Improvement Account or from insurance proceeds, or

(ii) the cost of decommissioning, disposal or termination of any part of the System.

Determination by the City Council as to existence of conditions permitting the issuance of Additional Bonds shall be conclusive, provided this shall not eliminate any requirement for any other approval required herein.

As long as any Outstanding Bonds are insured, or any policy costs thereon are owed to a Bond Insurer, the City shall get the prior written consent of the Bond Insurer, if any, before the issuance of Additional Bonds under subsections (a) and (d) of this Section 20, which consent shall not be unreasonably withheld.

Notwithstanding the foregoing requirements of this Section 20, the City reserves the right to issue Junior Lien Bonds payable as provided herein.

Section 21. Events of Default. Each of the following events, with respect to an issue of Bonds, is hereby declared an "Event of Default":

(a) default in the payment of the principal of or interest, or redemption premium, if any, on any Bond after the same shall become due, whether at maturity or upon call for redemption; or

(b) default by the City in the performance or observance of any other of the covenants, agreements or conditions on its part in this Ordinance, or contained in the Bonds; provided, no such default shall constitute an Event of Default until written notice thereof shall have been given by the Registered Owners of not less than twenty percent (20%) in principal amount of the Outstanding Bonds to the City and the City shall have had sixty (60) days after receipt of such notice to correct such default or cause the same to be corrected and shall not have corrected such default or caused the same to be corrected within such period; and provided, further, that if the default be such that it cannot be corrected within such period, it shall not constitute an Event of Default if action to correct the same is instituted within such period and diligently pursued until the default is corrected. The City shall forward a copy of any such notice as described in this Section 21(b) to the Trustee and to any Bond Insurer which is insuring Bonds subject to an Event of Default.

The Transfer Agent shall notify the Trustee and any Bond Insurer which is insuring Bonds subject to an Event of Default if the Transfer Agent lacks sufficient funds for the payment of the principal of, or interest, or redemption premium, if any, on any Bond when the same shall become due whether at maturity or upon call for redemption.

If any of the Bonds subject to an Event of Default are insured, then (a) the Bond Insurer, if any, shall have the right to consent to pursuit of any available legal remedy before the Trustee or the Bondholder shall be permitted to take such action, and (b) the Bond Insurer,

if any, shall have the same rights as the Trustee or any Bondholder to pursue any legal remedy in an Event of Default.

Section 22. Accounting and Examination of Records After Default. The City covenants that (i) if an Event of Default shall have happened and shall not have been remedied, the books of record and account of the City and all other records relating to the System shall at all times be subject to the inspection and use of the Trustee and of its agents and attorneys, and (ii) if an Event of Default shall have happened and shall not have been remedied, the City, upon demand of the Trustee, will account, as if it were the trustee of an express trust, for all Revenues and other moneys, securities and funds pledged or held under this Ordinance for such period as shall be stated in such demand.

Section 23. Application of Revenues and Other Moneys After Default. The City covenants that if an Event of Default shall happen and shall not have been remedied, the City, upon the demand of the Trustee, shall pay over or cause to be paid over to the Trustee (i) forthwith, all moneys, securities and funds then held by the City in any fund or account established under this Ordinance, and (ii) all Revenues as promptly as practicable after receipt thereof. During the continuance of an Event of Default, the Trustee shall apply all moneys, securities, funds and Revenues received by the Trustee pursuant to any right given or action taken under the provisions of this section as follows and in the following order:

(a) To the payment of the reasonable and proper charges, expenses and liabilities of the Trustee, and to the payment of the amounts required for operation and maintenance expenses and for the reasonable renewals, repairs and replacements of the System necessary in the judgment of the Trustee to prevent loss of Revenues. For this purpose the books of record and accounts of the City relating to the System shall at all times be subject to the inspection of the Trustee and its representatives and agents during the continuance of such Event of Default; and

(b) To the payment of the interest and principal or redemption price then due on the Bonds, as follows:

First: To the payment to the persons entitled thereto of all installments of interest then due in the order of the maturity of such installments, together with accrued and unpaid interest on the Bonds theretofore called for redemption, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; and

Second: To the payment to the persons entitled thereto of the unpaid principal or redemption price of any Bonds which shall have become due, whether at maturity or by call for redemption, in the order of their due dates, and, if the amount available shall not be sufficient to pay in full all the Bonds due on any date, then to the payment thereof ratably, according to the amounts of principal or redemption price due on such date, to the persons entitled thereto, without any discrimination or preference.

If and whenever all overdue installments of interest on all Bonds, together with the reasonable and proper charges, expenses and liabilities of the Trustee, and all other sums payable by the City under this Ordinance, including the principal and redemption price of and accrued unpaid interest on all Bonds which shall then be payable by declaration or otherwise, shall either be paid by or for the account of the City, or provisions satisfactory to the Trustee shall be made for such payment, and all defaults under this Ordinance or the Bonds shall be made good or secured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall be made therefor, the Trustee shall pay over to the City, all moneys, securities and funds then remaining unexpended in the hands of the Trustee (except moneys, securities and funds deposited or pledged, or required by the terms of this Ordinance to be deposited or pledged, with the Trustee), and thereupon the City and the Trustee shall be restored, respectively, to their former positions and rights under this Ordinance. No such payment over to the City by the Trustee nor such restoration of the City and the Trustee to their former positions and rights shall extend to or affect any subsequent default under this Ordinance or impair any right consequent thereon.

Section 24. Appointment of Receiver and Statutory Rights. In the event of a default in the punctual payment of principal of and interest on the Bonds when due, the Trustee shall have the right to apply in an appropriate proceeding for the appointment of a receiver of the System in accordance with the provisions of Act 94. Subject to the provisions of Section 26 of this Ordinance, the Registered Owners of Bonds representing in the aggregate not less than twenty percent (20%) of all Outstanding Bonds, may protect and enforce the statutory lien and pledge of the funds and accounts and Net Revenues created by Act 94, and enforce and compel the performance of all duties of the officials of the City, including the fixing of sufficient rates, the collection of Revenues, the proper segregation of Revenues, and the proper application of Revenues. In addition to the rights conferred to Registered Owners by this Ordinance, the Registered Owners shall have all the rights conferred by the Act 94; provided, however, that the Registered Owner of each Bond agrees to enforce such right subject to the provisions of Section 26. The statutory lien upon the Net Revenues, however, shall not be construed to compel the sale of the System or any part thereof.

Section 25. Proceedings Brought by Trustee. If an Event of Default shall happen and shall not have been remedied, then and in every such case, the Trustee, by its agents and attorneys, may proceed, and upon written request of the Registered Owners of not less than 20% in principal amount of the Outstanding Bonds shall proceed, to protect and enforce its rights and the rights of the Registered Owners of the Bonds under this Ordinance forthwith by a suit or suits in equity or at law, whether for the specific performance of any covenant herein contained, or in aid of the execution of any power herein granted, or for an accounting against the City as if the City were the trustee of an express trust, or in the enforcement of any other legal or equitable right as the Trustee, being advised by counsel, shall deem most effectual to enforce any of its rights or to perform any of its duties under this Ordinance.

All rights of action under this Ordinance may be enforced by the Trustee without the possession of any of the Bonds or the production thereof at the trial or other proceedings, and any such suit or proceedings instituted by the Trustee shall be brought in its name.

Subject to the provisions of Section 26, the Registered Owners of not less than twenty percent in principal amount of the Outstanding Bonds may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, provided that the Trustee shall have the right to decline to follow any such direction if the Trustee shall be advised by counsel that the action or proceeding so directed may not lawfully be taken, or if the Trustee in good faith shall determine that the action or proceeding so directed would involve the Trustee in personal liability or be unjustly prejudicial to the Registered Owners not parties to such direction.

Upon commencing a suit in equity or upon other commencement of judicial proceedings by the Trustee to enforce any right under this Ordinance, the Trustee shall be entitled to exercise any and all rights and powers conferred in this Ordinance and provided to be exercised by the Trustee upon the concurrence of any Event of Default.

Regardless of the happening of an Event of Default, the Trustee shall have power to, but unless requested in writing by the Registered Owners of not less than 20% in principal amount of the Outstanding Bonds, and furnished with reasonable security and indemnity, shall be under no obligation to, institute and maintain such suits and proceedings as it may be advised shall be necessary or expedient to prevent any impairment of the security under this Ordinance or any acts which may be unlawful or in violation of this Ordinance, and such suits and proceedings as the Trustee may be advised shall be necessary or expedient to preserve or protect its interests and the interests of the Registered Owners.

Section 26. Restriction on Registered Owner's Action. No Registered Owner of any Bond shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of any provision of this Ordinance or the execution of any trust under this Ordinance or for any remedy under this Ordinance, unless such Registered Owner shall have previously given to the Trustee written notice of the happening of an Event of Default, as provided in this Ordinance, and the Registered Owners of at least 20% in principal amount of the Outstanding Bonds shall have filed a written request with the Trustee, and shall have offered it reasonable opportunity, either to exercise the powers granted in this Ordinance or by Act 94 or by the laws of the State of Michigan or to institute such action, suit or proceeding in its own name, and unless such Registered Owners shall have offered to the Trustee adequate security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee shall have refused to comply with such request for a period of 60 days after receipt by it of such notice, request and offer of indemnity, it being understood and intended that no one or more Registered Owners of Bonds shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the liens or pledge created by this Ordinance, or to enforce any right under this Ordinance, except in the manner therein provided; and that all proceedings at law or in equity to enforce any provision of this Ordinance shall be instituted, had and maintained in the manner provided in this Ordinance and for equal benefit of all Registered Owners of the Outstanding Bonds; provided, however, nothing herein shall be construed as impairing any right granted to Registered Owners pursuant to the provisions of Act 94.

Section 27. Remedies Not Exclusive. No remedy by the terms of this Ordinance conferred upon or reserved to the Trustee or the Registered Owners is intended to be exclusive

of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Ordinance or existing at law or in equity or by statute on or after the date of this Ordinance.

Section 28. Effect of Waiver and Other Circumstances. No delay or omission of the Trustee or any Registered Owner to exercise any right or power arising upon the happening or an Event of Default shall impair any right or power or shall be construed to be a waiver of any such Event of Default or be an acquiescence therein; and every power and remedy given by this Ordinance to the Trustee or to the Registered Owners may be exercised from time to time and as often as may be deemed expedient by the Trustee or by the Registered Owners.

The Registered Owners of not less than 20% in principal amount of the Bonds at the time outstanding, or their attorneys in fact duly authorized, may on behalf of the Registered Owners of all of the Bonds waive any past default under this Ordinance and its consequences, except a default in the payment of interest on or principal of or premium (if any) on any of the Bonds. No such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Section 29. Notice to Trustee of Default. The Trustee shall not be obliged to take notice or be deemed to have notice or knowledge of any Event of Default hereunder, unless specifically notified in writing of such Event of Default by the Transfer Agent or by the Registered Owners of not less than twenty percent (20%) in aggregate principal amount of the Outstanding Bonds in default.

Section 30. Notice to Registered Owners of Default. The Trustee shall promptly mail written notice of the occurrence of any Event of Default to each Registered Owner of Outstanding Bonds at the address appearing upon the books kept by the Transfer Agent for each series of Bonds.

Section 31. Acceptance by Trustee of Trust and Duties. The Trustee shall evidence its acceptance of the trusts and duties imposed upon it by this Ordinance upon the occurrence of an Event of Default by filing a written acceptance thereof with the City. The Trustee shall execute the trusts and duties imposed upon it by this Ordinance upon the occurrence of an Event of Default but only upon the terms and conditions set forth in and subject to the provisions of this Ordinance. The Trustee shall, prior to having knowledge of any Event of Default as defined in this Ordinance and after the curing of all such Events of Default which may have occurred, perform such duties and only such duties of the Trustee as are specifically set forth in this Ordinance. The Trustee shall, during the existence of any such Event of Default (which has not been cured) exercise such of the rights and powers vested in it by this Ordinance and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

No such provision of this Ordinance shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(a) prior to any such Event of Default hereunder, and after the curing of any such Events of Default which may have occurred:

(1) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Ordinance and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Ordinance, and no implied covenants or obligations shall be read into this Ordinance against the Trustee, and

(2) in the absence of bad faith on its part the Trustee may conclusively rely, as to the accuracy of the statements and the correctness of the opinions expressed therein, upon any certificate or opinion furnished to it conforming to the requirements of this Ordinance; and

(b) at all times, regardless of whether or not any such Event of Default shall exist:

(1) the Trustee shall not be liable for any error of judgment made in good faith by a responsible officer or officers of the Trustee unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts:

(2) the Trustee may consult with counsel (who may be counsel for any Registered Owner) and the written advice of such counsel or any opinion of counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon; and

(3) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys.

None of the provisions contained in this Ordinance shall require the Trustee to expend or risk its own funds or otherwise incur individual financial liability in the performance of any of its duties or in the exercise of any of its rights or powers.

The Trustee may at any time resign and be discharged of the duties and obligations created by this Ordinance, by giving at least sixty days written notice to the City and to any Bond Insurer insuring Outstanding Bonds. The successor Trustee shall be appointed by the City and shall be a national banking association or a bank or trust company organized under the laws of the United States of America or any state of the United States of America having a reported capital and surplus aggregating at least \$50,000,000, and shall be willing and able to accept the office on reasonable and customary terms, and shall be authorized by law to perform all the duties imposed on it by this Ordinance. Appointment of the successor Trustee shall be subject to approval of any Bond Insurer if required by such company.

Section 32. Amendments; Consent of Registered Owners.

(a) The City, from time to time and at any time, subject to the conditions and restrictions contained in this Ordinance, may enact one or more supplemental or amendatory ordinances or resolutions or both which thereafter shall form a part hereof, for any one or more or all of the following purposes:

- (i) To issue Additional Bonds or Junior Lien Bonds;
- (ii) To add to the covenants and agreements of the City contained in this Ordinance, other covenants and agreements thereafter to be observed or to surrender, restrict or limit any right or power herein reserved to or conferred upon the City (including but not limited to the right to issue Additional Bonds);
- (iii) To make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provisions contained in this Ordinance, or in regard to matters or questions arising under this Ordinance, as the City may deem necessary or desirable and not inconsistent with this Ordinance and which shall not have material, adverse effect on the interests of the Registered Owners of the Bonds;
- (iv) To increase the size or scope of the System;
- (v) To make such modifications in the provisions hereof as may be deemed necessary by the City to accommodate the issuance of Additional Bonds or junior lien bonds which (a) are “Capital Appreciation Bonds” or “Zero Coupon Bonds” to the extent permitted by law or (b) are variable rate bonds, but only if such modifications, in the written opinion of nationally recognized bond counsel filed with the City, do not result in materially diminishing the security hereby granted to the Registered Owners of any Outstanding Bonds;
- (vi) To make such modifications in the provisions hereof as may be deemed advisable by the City, provided that the City has confirmed in writing with each rating agency rating Outstanding Bonds to which the provision will apply that the adoption of such provision will not result in the reduction or withdrawal of any rating on such Bonds; and
- (vii) To make such modifications in the provisions hereof as may be deemed necessary to maintain the exemption of interest from gross income for federal income tax purposes on any series of tax-exempt bonds issued under this Ordinance.

Any amendment or supplemental ordinance or resolution authorized by the provisions of this Section 32(a) may be enacted by the City without the consent of or notice to the Registered Owners of any of the Outstanding Bonds, notwithstanding any of the provisions of Section 32(b) below.

(b) With the consent of the Registered Owners of not less than 51% in principal amount of the Bonds then outstanding and with the written consent of any Bond Insurer insuring Outstanding Bonds, which consent shall not be unreasonably withheld, the City may from time to time and at any time adopt an ordinance or ordinances supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Ordinance or of any supplemental ordinance, provided, however, that no such supplemental ordinance shall (i) extend the fixed maturity of any Bond, change a Mandatory Redemption Requirement for any series of Bonds or reduce the rate of interest thereon or extend the time of payment of interest, or reduce the amount of the principal



thereof, or reduce or extend the time for payment of any premium payable on the redemption thereof, without the consent of the Registered Owner of each Bond so affected, or (ii) reduce the aforesaid percentage of Registered Owners of the Bonds required to approve any such supplemental ordinance, or (iii) deprive the Registered Owners of the Bonds (except as aforesaid) of the right to payment of the Bonds from the Net Revenues, without the consent of the Registered Owners of all the Outstanding Bonds or, (iv) cause any modification or reduction of the lien on or pledge of the Net Revenues or the funds or accounts established hereunder.

It shall not be necessary for the consent of the Registered Owners under this Section 32(b) to approve the particular form of any proposed supplemental ordinance, but it shall be sufficient if such consent shall approve the substance thereof.

Promptly after the enactment by the City of any supplemental ordinance pursuant to the provisions of this Section 32(b), the City shall cause the Transfer Agent to mail a notice by registered or certified mail to the Registered Owners of all Outstanding Bonds at their addresses shown on the bond register or at such other address as is furnished in writing by such Registered Owner to the Transfer Agent setting forth in general terms the substance of such supplemental ordinance.

Section 33. Non-Arbitrage Covenant. For any series of Bonds issued under this Ordinance on a tax-exempt basis, the City covenants and agrees that as long as any of the tax-exempt bonds remain outstanding and unpaid as to either principal or interest, the City shall not invest, reinvest or accumulate any moneys deemed to be proceeds thereof pursuant to the Internal Revenue Code in such a manner as to cause the tax-exempt bonds to be “arbitrage bonds” within the meaning of the Internal Revenue Code. The City hereby covenants that, to the extent permitted by law, it will take all actions within its control and that it shall not fail to take any action as may be necessary to maintain the exemption of interest on any series of tax-exempt Bonds from gross income for federal income tax purposes, including but not limited to, actions relating to the rebate of arbitrage earnings, if applicable, and the expenditure and investment of bond proceeds and moneys deemed to be bond proceeds, all as more fully set forth in the Non-Arbitrage and Tax Compliance Certificate to be delivered by the City with the tax-exempt bonds.

Section 34. Sale of Series 2019 Bonds. The City will authorize sale of the Series 2019 Bonds by separate resolution. The City determines to sell the Series 2019 Bonds through competitive sale, provided that the City may reject all bids and carry out a negotiated sale as provided in the sale resolution.

Section 35. Municipal Bond Insurance. For any series of Bonds issued under this Ordinance, the Authorized Officer is hereby authorized, based upon the advice of the municipal advisor, to apply for qualification for municipal bond insurance or negotiate with insurers on behalf of the City for municipal bond insurance (including an insurance policy or surety bond to secure the Bond Reserve Account), and to select an insurer and determine which Bonds, if any, shall be insured. The Authorized Officer is hereby authorized to enter into an agreement with the Bond Insurer regarding notices to be provided to the Bond Insurer, filing of annual financial information to be provided to the Bond Insurer, consents or

approvals to be obtained from the Bond Insurer, the dates of receipt by the Transfer Agent of bond payments, and other requirements which the City may be obliged to meet in order to obtain municipal bond insurance.

Section 36. Repeal. All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this Ordinance are repealed, including the following ordinances which authorized issuance of electric utility system revenue bonds which are no longer outstanding: Ordinance No. 4.5(a) titled “An ordinance authorizing acquisition and construction of improvements to the existing electric utility system of the City of Marshall; authorizing and providing for the issuance of revenue bonds to defray the cost thereof; providing for the retirement and security of said bonds, and to provide for other matters relative to said system and said bonds” adopted on June 29, 1972 as amended, including by Ordinances adopted on July 19, 1976 and May 5, 1980; Ordinance No. 4.6 titled “An ordinance authorizing and providing for the issuance of revenue bonds of equal standing and priority of lien with outstanding revenue bonds issued under the provisions of Act 94, Public Acts of Michigan, 1933, as amended, and Ordinance No. 4.5(a) of the City of Marshall, for the purpose of acquiring and constructing extensions and improvements to the existing electric utility system of the City of Marshall” adopted on August 9, 1976; and Ordinance No. 99-4 titled “An ordinance to authorize and provide for the issuance of revenue bonds to pay the cost of acquisition and construction of improvements, extensions, and repairs to the city’s electric utility system under the provisions of Act 94, Public Acts of Michigan, 1933, as amended; to prescribe the form of the revenue bonds; providing that the revenue bonds shall be of equal standing and priority of lien with outstanding electric utility system revenue bonds of the city issued under the provisions of Act 94, Public Acts of Michigan, 1933, as amended, and Ordinance No. 4.5(a) and Ordinance No. 4.6; to provide an adequate reserve fund for the revenue bonds; and to provide for other matters relative to the system and the revenue bonds” adopted on May 17, 1999.

Section 37. Transfer of Funds. The Finance Director is hereby authorized to transfer monies from the funds and accounts created under the ordinances repealed by Section 36 as appropriate to the funds and accounts established under this Ordinance.

Section 38. Necessary Actions. In the event that the Authorized Officer is not available to undertake responsibilities delegated to the Authorized Officer under this Ordinance, then the City Manager or a person designated by the Authorized Officer or the City Manager is authorized to take such actions. Any one or more of the officers, administrators, agents and attorneys of the City are authorized and directed to execute and deliver all other agreements, documents and certificates and to take all other actions necessary or convenient to complete the issuance and delivery of the Series 2019 Bonds in accordance with this Ordinance.

Section 39. Ordinance to Constitute Contract. In consideration of the purchase and acceptance of any and all of the Bonds authorized to be issued hereunder by those who shall hold the same from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the City and the Registered Owners from time to time of the Bonds; and the lien and pledge made in this Ordinance and the covenants and agreements therein set forth to

be performed on behalf of the City shall be for the equal benefit, protection and security of the Registered Owners of any and all of the Bonds, all of which, regardless of the time or times of their authentication and delivery or maturity, shall be of equal rank without preference, priority or distinction of any of the Bonds over any other thereof except as expressly provided in or permitted by this Ordinance.

Section 40. Severability and Paragraph Headings. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance. The paragraph headings in this Ordinance are furnished for convenience of reference only and shall not be considered to be a part of this Ordinance.

Section 41. Publication and Recordation. This Ordinance shall be published in full in *Marshall Ad-Visor & Chronicle*, a newspaper of general circulation in the City of Marshall qualified under State law to publish legal notices, promptly after its adoption, and shall be recorded in the Ordinance Book of the City and such recording authenticated by the signatures of the Mayor and the City Clerk.

Section 42. Effective Date. As provided in Act 94, this Ordinance shall be effective immediately upon its adoption.

Passed and adopted by the City Council of the City of Marshall, County of Calhoun, State of Michigan, on November 4, 2019.

Signed: \_\_\_\_\_  
Mayor

Signed: \_\_\_\_\_  
City Clerk

I hereby certify that the foregoing is a true and complete copy of an Ordinance duly enacted by the City Council of the City of Marshall, County of Calhoun, State of Michigan, at a Regular meeting held on November 4, 2019, at 7:00 p.m., Eastern Time, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976. I further certify that the minutes of said meeting were kept and will be or have been made available as required by said Act 267.

I further certify that the following Council Members were present at said meeting: Mayor Caron, McNeil, Metzger, Traver, Underhill, and Wolfersberger and that the following Council Members were absent: Member Gates.

I further certify that Council Member Traver moved for adoption of said Ordinance and that Council Member Metzger supported said motion.

I further certify that the following Council Members voted for adoption of said Ordinance: Mayor Caron, McNeil, Metzger, Traver, Underhill, and Wolfersberger and that the following Council Members voted against adoption of said Ordinance: None.

I further certify that said Ordinance has been recorded in the Ordinance Book and that such recording has been authenticated by the signature of the Mayor and the City Clerk.

Signed: \_\_\_\_\_  
City Clerk

**Moved** Wolfersberger, supported McNeil, to approve the resolution authorizing the issuance and sale of Electric Utility System Revenue Bonds-Series 2019 in an amount not to exceed \$5,750,000 and to grant the City Manager or the City Finance Director the authority to sell and deliver the bonds without further Council action. On a voice vote – **MOTION CARRIED.**

**City of Marshall, Michigan  
County of Calhoun, State of Michigan**

Resolution #2019-29

**RESOLUTION AUTHORIZING SALE OF  
ELECTRIC UTILITY SYSTEM REVENUE BONDS, SERIES 2019**

A RESOLUTION TO PROVIDE FOR:

- Sale of \$5,750,000 of Bonds to construct electric utility system improvements.
- Publication of Official Notice of Sale in *The Bond Buyer*;
- Delegation of Sale of Bonds to Authorized Officer without further approval of City Council;
- Other matters necessary to prepare for sale and delivery of Bonds.

**PREAMBLE**

WHEREAS, the City of Marshall, County of Calhoun, State of Michigan (the “City”) has by an Ordinance duly adopted on the date hereof (the “Ordinance”) authorized the issuance and sale of not to exceed Five Million Seven Hundred Fifty Thousand Dollars (\$5,750,000) in principal amount of the City’s Electric Utility System Revenue Bonds, Series 2019 (the “Bonds”); and

WHEREAS, Bendzinski & Co., Registered Municipal Advisors with the Municipal Securities Rulemaking Council, Municipal Advisor to the City (the “Municipal Advisor”) has recommended that the City sell the Bonds by competitive sale through publication of a Notice of Sale; and

WHEREAS, the City Council wishes to authorize either the Finance Director or the City Manager of the City (the “Authorized Officer”) to award sale of the Bonds to the lowest

bidder, and to deliver and receive payment for the Bonds without the necessity of the City Council taking further action prior to sale and delivery of the Bonds.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Preliminary Official Statement. The Authorized Officer is directed to approve circulation of a preliminary official statement describing the Bonds and, once the Bonds are sold, to deem such preliminary official statement “final” for purposes of compliance with Securities and Exchange Commission Rule 15c2-12.

2. Ratings and Bond Insurance. The Authorized Officer is authorized to apply for one or more ratings on the Bonds as shall be recommended by the Municipal Advisor. If the Municipal Advisor recommends that the City consider qualification for approval for municipal bond insurance or purchase of municipal bond insurance, then the Authorized Officer is hereby authorized and directed, on behalf of the City, to apply for municipal bond insurance, to negotiate with insurers regarding acquisition of municipal bond insurance, and, in consultation with the Municipal Advisor, to select an insurer and determine which Bonds, if any, shall be insured.

3. Notice of Sale. The Authorized Officer shall, in consultation with the Municipal Advisor, fix a date of sale for the Bonds, approve circulation of a Preliminary Official Statement describing the Bonds, and publish the Notice of Sale of the Bonds in *The Bond Buyer*, New York, New York, or such other newspaper as may fulfill the requirements of state law. The Notice of Sale for the Bonds shall be in substantially the following form, with such revisions as the Authorized Officer may determine to be in the best interests of the City within the parameters set forth in Section 5 of this resolution, in consultation with the Municipal Advisor and Miller, Canfield, Paddock and Stone, P.L.C. (“Bond Counsel”).

OFFICIAL NOTICE OF SALE

\$5,750,000\*

CITY OF MARSHALL

County of Calhoun, State of Michigan

ELECTRIC UTILITY SYSTEM REVENUE BONDS, SERIES 2019

\*Preliminary; subject to change

**BID OPENING:** Bids for the purchase of the above bonds (the “Bonds”) will be publicly opened and read by an agent of the City of Marshall on \_\_\_\_day, \_\_\_\_\_, 2019 and may be submitted until \_\_\_\_ .m. Eastern Time.

**SEALED BIDS** for the purchase of the Bonds will be received at the office of Bendzinski & Co., Municipal Finance Advisors, 17000 Kercheval Ave., Suite 230, Grosse Pointe, Michigan 48230.

**FAXED BIDS**, signed by the bidder may be submitted by fax to Bendzinski & Co. at fax number (313) 961-8220 provided that faxed bids must arrive before the time of bid opening, and the bidder bears all risks of transmission failure.

**ELECTRONIC BIDS:** Electronic bids will be received by Bidcomp/Parity as agent of the undersigned. Further information about Bidcomp/Parity, including any fee charged, may be obtained from Bidcomp/Parity, Anthony Leyden or Client Services, 1359 Broadway, Second Floor, New York, New York 10018, (212) 849-5021. If any provision of this Official Notice of Sale shall conflict with information provided by Bidcomp/Parity, as the approved provider of electronic bidding services, this Official Notice of Sale shall control. No change of the dated date will be allowed for the computation of the winning bid.

Bidders may choose any means to present bids but a bidder may not present a bid by more than one means. The City will award or reject bids on the date of the bid opening.

**BOND DETAILS:** The Bonds will be registered bonds of the denomination of \$5,000 or integral multiples thereof up to the principal amount of that maturity, originally dated as of the date of delivery thereof (currently anticipated to be \_\_\_\_\_, 2019), and will bear interest from their date payable on August 1, 2020, and semiannually thereafter.

The Bonds will mature on August 1 of each year, as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>
2020	\$_____	2027	\$_____	2034	\$_____
2021	_____	2028	_____	2035	_____
2022	_____	2029	_____	2036	_____
2023	_____	2030	_____	2037	_____
2024	_____	2031	_____	2038	_____
2025	_____	2032	_____	2039	_____
2026	_____	2033	_____		

**\*ADJUSTMENT TO MATURITIES:** The City reserves the right to decrease the aggregate principal amount of the Bonds after receipt of the bids and prior to final award, if necessary, so that (1) the purchase price of the Bonds will provide an amount by the City to be sufficient to construct the project and to pay cost of issuance of the Bonds and/or (2) to reduce the “issue price” of the Bonds (within the meaning of Sections 1273 and 148 of the Internal Revenue Code of 1986, as amended) in order to maintain qualification of the bonds as “qualified tax exempt obligations” for purposes of deduction of interest expense by financial institutions. The adjustments, if necessary, will be in increments of \$5,000. The purchase price will be adjusted proportionately to the increase or decrease in issue size, but the interest rates specified by the successful bidder for all maturities will not change. The successful bidder may not withdraw its bid as a result of any changes made within these limits.

**TERM BOND OPTION:** Bidders shall have the option of designating the Bonds maturing in the years 2020 through 2039, inclusive, as term bonds or serial bonds or both. The bid must designate whether each of the principal amounts shown above for the years 2020 through 2039, inclusive, represent a serial maturity or a mandatory redemption requirement for a term bond maturity. In any event, the above principal amount schedule for the years 2020 through 2039, inclusive, shall be represented by either serial bond maturities or

mandatory redemption requirements, or a combination of both. Any such designation must be made at the time bids are submitted.

If the term bond option is selected, then the principal amount of the term bonds of a maturity to be redeemed on the dates set forth above may be reduced by the principal amount of the term bonds of the same maturity which have been previously redeemed or called for redemption (other than as a result of a mandatory redemption) or purchased or acquired by the City and delivered to the transfer agent. The City may satisfy mandatory redemption requirements by the purchase and surrender of term bonds in lieu of the calling of such term bonds for redemption.

**PRIOR REDEMPTION OF BONDS:** The Bonds maturing or subject to mandatory redemption on or before August 1, 20\_\_ are not subject to optional redemption prior to maturity.

Bonds or portions of Bonds in multiples of \$5,000 maturing or subject to mandatory redemption on or after August 1, 20\_\_ shall be subject to redemption prior to maturity at the option of the City in such order of maturity as the City shall determine and within any maturity by lot, on any date on or after August 1, 20\_\_, at par and accrued interest to the date fixed for redemption.

Notice of redemption of any Bond or portion thereof shall be given by the transfer agent at least thirty (30) days prior to the date fixed for redemption by mail to the registered owner at the registered address shown on the registration books kept by the transfer agent. No further interest on a Bond or portion thereof called for redemption shall accrue after the date fixed for redemption, whether presented for redemption or not, provided funds are on hand with the transfer agent to redeem the Bond or portion thereof. In case less than the full amount of an outstanding Bond is called for redemption, the transfer agent, upon presentation of the Bond called for redemption, shall register, authenticate and deliver to the registered owner of record a new Bond in the principal amount of the portion of the original Bond not called for redemption.

**INTEREST RATE AND BIDDING DETAILS:** The Bonds shall bear interest at a rate or rates not exceeding 6.00% per annum, to be fixed by the bids therefor. The interest on any one Bond shall be at one rate only and all Bonds maturing in any one year must carry the same interest rate. The difference between the highest and lowest interest rate on the Bonds shall not exceed 2.00% per annum. No proposal for the purchase of less than all of the Bonds or at a price less than 99.00% of their par value will be considered. In submitting a bid for the Bonds, the bidder agrees to the representation of the City by Miller, Canfield, Paddock and Stone, P.L.C. as bond counsel.

**AWARD OF BONDS - TRUE INTEREST COST:** The Bonds will be awarded to the bidder whose bid produces the lowest true interest cost determined in the following manner: the lowest true interest cost will be the single interest rate (compounded on \_\_\_\_\_ 1, 20\_\_ and semi-annually thereafter) necessary to discount the debt service payments from their respective payment date to \_\_\_\_\_, 2019 in an amount equal to the price bid. \_\_\_\_\_, 2019 is the anticipated date of delivery of the Bonds. In the event there is an election to

exercise the Term Bond option, true interest cost shall be calculated by applying the interest rate of such Term Bonds to each mandatory sinking fund redemption for such Term Bonds.

**BOOK-ENTRY-ONLY:** The Bonds will be issued in book-entry-only form as one fully registered bond per maturity and will be registered in the name of Cede & Co., as bondholder and nominee for The Depository Trust Company (“DTC”), New York, New York. An authorized agent of DTC will act as securities depository for the Bonds. Purchase of the Bonds will be made in book-entry only form, in the denomination of \$5,000 or any integral multiple of \$5,000, and bondholders will not receive certificates representing their interest in Bonds purchased. The book-entry-only system is described further in the preliminary Official Statement for the Bonds. It will be the responsibility of the purchaser to obtain DTC eligibility. Failure of the purchaser to obtain DTC eligibility shall not constitute cause for a failure or refusal by the purchaser to accept delivery of and pay for the Bonds.

**TRANSFER AGENT AND REGISTRATION:** Principal shall be payable at the corporate trust office of The Huntington National Bank, Grand Rapids, Michigan, or other designated office, or such other transfer agent as the City may hereafter designate by notice mailed to the registered owner of record not less than 60 days prior to any interest payment date. As long as The Depository Trust Company or its nominee, Cede & Co., is the bondholder, payments will be made directly to DTC. Disbursement of such payments to the DTC Participants is the responsibility of DTC and disbursement of such payments to the beneficial owners of the Bonds is the responsibility of the DTC Participants and Indirect Participants as described in the preliminary official statement for the Bonds. Interest shall be paid by check or draft mailed to the registered owner of record as shown on the registration books kept by the transfer agent as of the 15th day of the month prior to an interest payment date. The Bonds will be transferred only upon the registration books of the City kept by the transfer agent.

**PURPOSE AND SECURITY:** The bonds are issued under the provisions of Act 94, Public Acts of Michigan, 1933, as amended, and an Ordinance adopted by the City Council on June 17, 2019 (the “Ordinance”) for the purpose of defraying the cost of acquiring and constructing improvements and extensions to the City’s Electric Utility System (the “System”) including the funding of a bond reserve fund. The bonds are payable solely and only from the Net Revenues of the System, and a statutory first lien on said Net Revenues has been established by the Ordinance. The City has covenanted and agreed that while any bonds payable solely and only from the Net Revenues of the System shall be outstanding that the City shall fix and maintain at all times such rates for service furnished by the System as shall be sufficient to provide for payment of the necessary expenses of operation, maintenance and administration of the System, to produce net revenues equal to one-hundred ten percent (110%) of the annual principal and interest on all of said bonds when due, to maintain a bond reserve account therefor, and to provide for such other expenditures and funds for the System as are required by the Ordinance. The rights or remedies of bondholders may be affected by bankruptcy, insolvency, fraudulent conveyance or other laws affecting creditors’ rights generally, now existing or hereafter enacted, and by the application of general principles of equity including those relating to equitable subordination.



**ADDITIONAL BONDS:** For the terms upon which additional bonds of equal standing with the bonds of this issue as to the Net Revenues of the System may be issued, reference is made to the Ordinance.

**GOOD FAITH:** A good faith deposit in the form of a certified or cashier's check drawn upon an incorporated bank or trust company, or wire transfer, in the amount of \$\_\_\_,000 payable to the order of the Treasurer of the City, will be required of the successful bidder. **THE SUCCESSFUL BIDDER IS REQUIRED TO SUBMIT ITS GOOD FAITH DEPOSIT TO THE CITY AS INSTRUCTED BY THE CITY OR THE MUNICIPAL ADVISOR NOT LATER THAN NOON, EASTERN TIME, ON THE NEXT BUSINESS DAY FOLLOWING THE SALE.** The good faith deposit will be applied to the purchase price of the Bonds. In the event the purchaser fails to honor its accepted bid, the good faith deposit will be retained by the City. No interest shall be allowed on the good faith check. The good faith check of the successful bidder will be cashed and payment for the balance of the purchase price of the Bonds shall be made at the closing.

**TAX MATTERS:** In the opinion of Miller, Canfield, Paddock and Stone, P.L.C., bond counsel, under existing law, assuming compliance with certain covenants and the issue price rules set forth below, interest on the bonds is excludable from gross income for federal income tax purposes as described in the opinion, and the bonds and interest thereon are exempt from all taxation by the State of Michigan or any taxing authority within the State of Michigan except inheritance and estate taxes and taxes on gains realized from the sale, payment or other disposition thereof.

**ISSUE PRICE:** The winning bidder will be required to assist the City in establishing the issue price of the Bonds and shall execute and deliver to the City at closing an "issue price" or similar certificate setting forth the reasonably expected initial offering price to the public or the sales price or prices of the Bonds, together with the supporting pricing wires or equivalent communications, substantially in the form attached either as Appendix \_\_\_ or \_\_\_ of the preliminary Official Statement, with such modifications as may be appropriate or necessary, in the reasonable judgment of the winning bidder, the City and Bond Counsel.

The City intends that the provisions of Treasury Regulation Section 1.148-1(f)(3)(i) (defining "competitive sale" for purposes of establishing the issue price of the Bonds) will apply to the initial sale of the Bonds (the "Competitive Sale Requirements") because:

- a. the City is disseminating this Notice of Sale to potential underwriters in a manner that is reasonably designed to reach potential underwriters;
- b. all bidders shall have an equal opportunity to bid;
- c. the City anticipates receiving bids from at least three underwriters of municipal bonds who have established industry reputations for underwriting new issuances of municipal bonds; and
- d. the City anticipates awarding the sale of the Bonds to the bidder who submits a firm offer to purchase the Bonds at the lowest true interest cost, as set forth in this Notice of Sale.

Any bid submitted pursuant to this Notice of Sale shall be considered a firm offer for the purchase of the Bonds, as specified in the bid.

In the event that all of the Competitive Sale Requirements are not satisfied, the City shall so advise the winning bidder. The City will not require bidders to comply with the “hold-the-offering price rule,” and therefore does not intend to use the initial offering price to the public as of the sale date of any maturity of the Bonds as the issue price of that maturity, though the winning bidder, in consultation with the City, may elect to apply the “hold-the-offering price rule” (as described below). Bids will not be subject to cancellation in the event the Competitive Sale Requirements are not satisfied. Unless a bidder intends to apply the “hold-the-offering price rule” (as described below), bidders should prepare their bids on the assumption that all of the maturities of the Bonds will be subject to the 10% Test (as described below). The winning bidder must notify the City of its intention to apply either the “hold-the-price rule” or the 10% Test at or prior to the time the Bonds are awarded.

If the winning bidder does not request that the “hold-the-offering price rule” apply to determine the issue price of the Bonds, then the following two paragraphs shall apply:

- a. The City shall treat the first price at which 10% of a maturity of the Bonds (the “10% Test”) is sold to the public as the issue price of that maturity, applied on a maturity-by-maturity basis. The winning bidder shall advise the City if any maturity of the Bonds satisfies the 10% Test as of the date and time of the award of the Bonds; and
- b. Until the 10% Test has been satisfied as to each maturity of the bonds, the winning bidder agrees to promptly report to the City the prices at which the unsold bonds of that maturity have been sold to the public. That reporting obligation shall continue, whether or not the closing date has occurred, until either (i) all bonds of that maturity have been sold or (ii) the 10% Test has been satisfied as to the bonds of that maturity, provided that, the winning bidder’s reporting obligation after the closing date may be at reasonable periodic intervals or otherwise upon request of the City or bond counsel.

If the winning bidder does request that the “hold-the-offering price rule” apply to determine the issue price of the Bonds, then the following three paragraphs shall apply:

- a. The winning bidder, in consultation with the City, may determine to treat (i) pursuant to the 10% Test, the first price at which 10% of a maturity of the Bonds is sold to the public as the issue price of that maturity and/or (ii) the initial offering price to the public as of the sale date of any maturity of the Bonds as the issue price of that maturity (the “hold-the-offering price rule”), in each case applied on a maturity-by-maturity basis. The winning bidder shall advise the City if any maturity of the Bonds satisfies the 10% Test as of the date and time of the award of the Bonds. The winning bidder shall promptly advise the City, at or before the time of award of the Bonds, which maturities of the Bonds shall be subject to the 10% Test or shall be subject to the hold-the-offering price rule or both.
- b. By submitting a bid, the winning bidder shall (i) confirm that the underwriters have offered or will offer the Bonds to the public on or before the date of the award at the

offering price or prices (the “initial offering price”), or at the corresponding yield or yields, set forth in the bid submitted by the winning bidder, and (ii) if the hold-the-offering-price rule applies, agree, on behalf of the underwriters participating in the purchase of the Bonds, that the underwriters will neither offer nor sell unsold Bonds of any maturity to which the hold-the-offering-price rule shall apply to any person at a price that is higher than the initial offering price to the public during the period starting on the sale date and ending on the earlier of the following:

- i. the close of the fifth (5th) business day after the sale date; or
- ii. the date on which the underwriters have sold at least 10% of that maturity of the Bonds to the public at a price that is no higher than the initial offering price to the public;

The winning bidder shall promptly advise the City when the underwriters have sold 10% of that maturity of the Bonds to the public at a price that is no higher than the initial offering price to the public, if that occurs prior to the close of the fifth (5th) business day after the sale date.

- c. The City acknowledges that, in making the representation set forth above, the winning bidder will rely on (i) the agreement of each underwriter to comply with the requirements for establishing issue price of the bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the bonds, as set forth in an agreement among underwriters and the related pricing wires, (ii) in the event a selling group has been created in connection with the initial sale of the bonds to the public, the agreement of each dealer who is a member of the selling group to comply with the requirements for establishing issue price of the bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the bonds, as set forth in a selling group agreement and the related pricing wires, and (iii) in the event that an underwriter or dealer who is a member of the selling group is a party to a third-party distribution agreement that was employed in connection with the initial sale of the bonds to the public, the agreement of each broker-dealer that is a party to such agreement to comply with the requirements for establishing issue price of the bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the bonds, as set forth in the third-party distribution agreement and the related pricing wires. The City further acknowledges that each underwriter shall be solely liable for its failure to comply with its agreement regarding the requirements for establishing issue price of the bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the bonds, and that no underwriter shall be liable for the failure of any other underwriter, or of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a third-party distribution agreement to comply with its corresponding agreement to comply with the requirements for establishing issue price of the bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the bonds.

By submitting a bid, each bidder confirms that:

- a. any agreement among underwriters, any selling group agreement and each third-party distribution agreement (to which the bidder is a party) relating to the initial sale of the bonds to the public, together with the related pricing wires, contains or will contain language obligating each underwriter, each dealer who is a member of the selling group, and each broker-dealer that is a party to such third-party distribution agreement, as applicable, (A)(i) to report the prices at which it sells to the public the unsold bonds of each maturity allocated to it, whether or not the closing date has occurred, until either all bonds of that maturity allocated to it have been sold or it is notified by the winning bidder that the 10% Test has been satisfied as to the bonds of that maturity, provided that, the reporting obligation after the closing date may be at reasonable periodic intervals or otherwise upon request of the winning bidder, and (ii) to comply with the hold-the-offering-price rule, if applicable, if and for so long as directed by the winning bidder and as set forth in the related pricing wires, (B) to promptly notify the winning bidder of any sales of bonds that, to its knowledge, are made to a purchaser who is a related party to an underwriter participating in the initial sale of the bonds to the public (each such term being used as defined below), and (C) to acknowledge that, unless otherwise advised by the underwriter, dealer or broker-dealer, the winning bidder shall assume that each order submitted by the underwriter, dealer or broker-dealer is a sale to the public.
- b. any agreement among underwriters or selling group agreement relating to the initial sale of the bonds to the public, together with the related pricing wires, contains or will contain language obligating each underwriter or dealer that is a party to a third-party distribution agreement to be employed in connection with the initial sale of the bonds to the public to require each broker-dealer that is a party to such third-party distribution agreement to (i) report the prices at which it sells to the public the unsold bonds of each maturity allocated to it, whether or not the closing date has occurred, until either all bonds of that maturity allocated to it have been sold or it is notified by the winning bidder or such underwriter that the 10% Test has been satisfied as to the bonds of that maturity, provided that, the reporting obligation after the closing date may be at reasonable periodic intervals or otherwise upon request of the winning bidder or such underwriter, and (ii) comply with the hold-the-offering-price rule, if applicable, if and for so long as directed by the winning bidder or the underwriter and as set forth in the related pricing wires.
- c. Sales of any Bonds to any person that is a related party to an underwriter shall not constitute sales to the public for purposes of establishing issue price.

Further, for purposes of this Notice of Sale:

- a. “public” means any person other than an underwriter or a related party,
- b. “underwriter” means (A) any person that agrees pursuant to a written contract with the City (or with the lead Underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the public and (B) any person that agrees pursuant to a

- written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Bonds to the public (including a member of a selling group or a party to a third party distribution agreement participating in the initial sale of the Bonds to the public);
- c. a purchaser of any of the Bonds is a “related party” to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (i) more than 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other); and
- d. “sale date” means the date that the Bonds are awarded by the City to the winning bidder.

**QUALIFIED TAX EXEMPT OBLIGATIONS:** The City has designated the Bonds as “qualified tax exempt obligations” for purposes of deduction of interest expense by financial institutions pursuant to the Internal Revenue Code of 1986, as amended.

**LEGAL OPINION:** Bids shall be conditioned upon the approving opinion of Miller, Canfield, Paddock and Stone, P.L.C., attorneys of Lansing and Detroit, Michigan. The opinion will be furnished without expense to the purchaser of the Bonds at the delivery thereof. The fees of Miller, Canfield, Paddock and Stone, P.L.C., for services rendered in connection with such approving opinion are expected to be paid from Bond proceeds. Except to the extent necessary to issue its approving opinion as to the validity of the Bonds, Miller, Canfield, Paddock and Stone, P.L.C. has not been requested to examine or review and has not examined or reviewed any financial documents, statements or materials that have been or may be furnished in connection with the authorization, issuance or marketing of the Bonds, and accordingly will not express any opinion with respect to the accuracy or completeness of any such financial documents, statements or materials.

**DELIVERY OF BONDS:** The City will furnish executed Bonds to be delivered at its expense to an authorized agent of DTC. The usual closing documents, including a certificate that no litigation is pending affecting the issuance of the Bonds, will be delivered at the time of delivery of the Bonds. If the Bonds are not tendered for delivery by twelve o’clock noon, Eastern Time, on the 45th day following the date of sale, or the first business day thereafter if said 45th day is not a business day, the successful bidder may on that day, or any time thereafter until delivery of the Bonds, withdraw its proposal by serving notice of cancellation, in writing, on the undersigned in which event the City shall promptly return the good faith deposit. Payment for the Bonds shall be made in immediately available funds.

**BOND INSURANCE AT PURCHASER’S OPTION:** If the Bonds qualify for issuance of any policy of municipal bond insurance or commitment therefor at the option of the

bidder/purchaser, the purchase of any such insurance policy or the issuance of any such commitment shall be at the option and expense of the purchaser of the Bonds. Any increased costs of issuance of the Bonds resulting from such purchase of insurance shall be paid by the purchaser, except that, if the City has requested and received a rating on the Bonds from a rating agency, the City will pay for the requested rating. Any other rating agency fees shall be the responsibility of the purchaser of the insurance. **FAILURE OF THE MUNICIPAL BOND INSURER TO ISSUE THE POLICY AFTER THE BONDS HAVE BEEN AWARDED TO THE PURCHASER SHALL NOT CONSTITUTE CAUSE FOR FAILURE OR REFUSAL BY THE PURCHASER TO ACCEPT DELIVERY OF THE BONDS FROM THE CITY.**

**CUSIP NUMBERS:** CUSIP identification numbers will be printed on the Bonds, but neither the failure to print such numbers on any Bonds nor any error with respect thereto shall constitute cause for a failure or refusal by the purchaser of the Bonds to accept delivery of and pay for the Bonds. Application for CUSIP numbers will be made by the Municipal Advisor. The CUSIP Service Bureau charge for the assignment of such numbers shall be the responsibility of and shall be paid for by the purchaser of the Bonds.

**OFFICIAL STATEMENT:** A preliminary Official Statement that the City deems to be final as of its date, except for the omission of information permitted to be omitted by Rule 15c2-12 of the Securities and Exchange Commission, has been prepared and may be obtained from Bendzinski & Co., at the address and telephone listed under REGISTERED MUNICIPAL ADVISOR below. The City will provide the winning bidder with 50 final Official Statements within 7 business days from the date of sale so as to permit the underwriter to comply with Rule 15c2-12. Additional copies of the Official Statement will be supplied by Bendzinski & Co. upon request and agreement by the purchaser of the bonds to pay the cost of additional copies. Requests for additional copies should be made to Bendzinski & Co. within 24 hours of the date of sale.

**CONTINUING DISCLOSURE:** As described more fully in the Official Statement, the City will execute and deliver prior to delivery of the bonds a written continuing disclosure undertaking in order to enable the underwriters of the bonds to comply with the requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission.

**REGISTERED MUNICIPAL ADVISORS:** Bendzinski & Co. Municipal Finance Advisors, Grosse Pointe, Michigan (the "Municipal Advisor") is a Registered Municipal Advisor in accordance with the rules of the Municipal Securities Rulemaking Council ("MSRB"). The Municipal Advisor has been retained by the City to provide certain financial advisory services relating to the planning, structuring and issuance of the Bonds. The Municipal Advisor is not engaged in the business of underwriting, trading, marketing or the distribution of securities or any other negotiable instruments. The Municipal Advisor's duties, responsibilities and fees arise solely as a Registered Municipal Advisor to the City and it has no secondary obligation or other responsibility. Further information relating to the bonds may be obtained from Bendzinski & Co. Municipal Finance Advisors, 17000 Kercheval Ave., Suite 230, Grosse Pointe, Michigan 48230, Telephone (313) 961-8222.

**BIDDER CERTIFICATION - NOT “IRAN LINKED BUSINESS”:** In submitting a bid for the Bonds, the bidder represents that it is not an “Iran linked business” within the meaning of the Iran Economic Sanctions Act, Act 517 of the Public Acts of Michigan of 2012.

THE RIGHT IS RESERVED TO REJECT ANY OR ALL BIDS.

**ENVELOPES** containing the bids should be plainly marked “Proposal for Electric Revenue Bonds.”

Jon Bartlett, Finance Director  
City of Marshall, Michigan

4. Bank Qualified Bonds. If the Authorized Officer determines that the City does not intend to issue, or to authorize to be issued on its behalf, tax-exempt obligations totaling an aggregate issue price of \$10,000,000 or more within the calendar year in which the Bonds are issued, then the City designates the Bonds as “qualified tax-exempt obligations” for purposes of deduction of interest expense by financial institutions under the Internal Revenue Code of 1986, as amended. Any such designation shall be evidenced by execution of the Non-Arbitrage and Tax Compliance Certificate or other certificate to be delivered by the City in connection with delivery of the Bonds.

5. Award of Sale. The Authorized Officer is hereby authorized on behalf of the City, subject to the provisions and limitations of this Resolution, to award sale of the Bonds to the bidder whose bid meets the requirements of law and which produces the lowest true interest cost to the City computed in accordance with the terms of the Notice of Sale as published. If fewer than three (3) bids are received from underwriters (as defined by the Internal Revenue Code of 1986, as amended) at the time set for competitive sale, the City may reject all bids and carry out a negotiated sale to comply with the regulations of Treas. Reg. § 1.148-1(f).

This authorization includes, but is not limited to, determination of original principal amount of the Bonds; the interest rates and prices at which the Bonds are sold; the date of the Bonds; the schedule of principal maturities and whether the Bonds shall mature serially or as term bonds; the provisions for early redemption including mandatory redemption of term bonds, if any, and payment dates of the Bonds, provided that the Bonds shall bear interest at a rate or rates not exceeding 6.00% per annum, the purchase price for the Bonds, exclusive of any original issue discount or premium, shall not be less than 99.00% of the principal amount of the Bonds plus accrued interest if any, and the Bonds shall mature in annual installments not to exceed twenty (20) in number. In making such determinations the City is authorized to rely upon data and computer runs provided by the Municipal Advisor.

6. Continuing Disclosure Undertaking Agreement. After awarding sale of the Bonds, the Authorized Officer is authorized to prepare, execute and deliver a final Official Statement describing the Bonds. The City hereby agrees to execute a Continuing Disclosure Undertaking Agreement in order to enable the underwriters of the Bonds to comply with the requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission.

7. Bond Reserve Requirement. The Authorized Officer is hereby authorized on behalf of the City, to determine, based on the recommendation of the Municipal Advisor, whether to meet the Bond Reserve Requirement by cash, a letter of credit, a surety bond, or an insurance policy.

8. Other Actions. In the event that an Authorized Officer is not available at the time that it becomes necessary to take actions directed or authorized under this resolution, then a person designated by an Authorized Officer is authorized to take the actions delegated to an Authorized Officer by this Resolution. The officers, administrators, agents and attorneys of the City are authorized and directed to take all other actions necessary and convenient to facilitate sale and delivery of the Bonds and expenditure of Bond proceeds, and to execute and deliver all other agreements, documents and certificates and to take all other actions necessary or convenient to complete the issuance, sale, and delivery of the Bonds and expenditure of Bond proceeds in accordance with this resolution, including payment of costs of issuance including bond counsel fees, municipal advisor fees, rating agency fees, costs of printing the Bonds and the preliminary and final official statements, publication of the Notice of Sale, and any other costs necessary to accomplish sale and delivery of the Bonds.

9. Rescission. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution are hereby rescinded.

I hereby certify that the foregoing is a true and complete copy of a resolution duly adopted by the City Council of the City of Marshall, County of Calhoun, State of Michigan, at a Regular meeting held on Monday, November 4, 2019 at 7:00 p.m., Eastern Time, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act 267.

I further certify that the following Members were present at said meeting: Mayor Caron, McNeil, Metzger, Traver, Underhill, and Wolfersberger and that the following Members were absent: Gates.

I further certify that Member Wolfersberger moved for adoption of said resolution and that Member McNeil supported said motion.

I further certify that the following Members voted for adoption of said resolution: McNeil, Metzger, Traver, Underhill, Wolfersberger, and Mayor Caron and that the following Members voted against adoption of said resolution: None.

---

City Clerk



**D. 1<sup>st</sup> Quarter Financial Report:**

**Moved** Metzger, supported McNeil, to accept and place on file the 1<sup>st</sup> Quarter Financial Report as presented. On a voice vote – **MOTION CARRIED.**

**E. 1<sup>st</sup> Quarter Investment Portfolio:**

**Moved** Metzger, supported Underhill, to accept and place on file the 1<sup>st</sup> Quarter Investment Portfolio Report as presented. On a voice vote – **MOTION CARRIED.**

**F. 1<sup>st</sup> Quarter Cash & Investment Position Report:**

**Moved** McNeil, supported Metzger, to accept and place on file the 1<sup>st</sup> Quarter Cash Position Report as presented. On a voice vote – **MOTION CARRIED.**

**APPOINTMENTS/ELECTIONS**

**A. Airport Board Appointments:**

**Moved** McNeil, supported Underhill, to approve the reappointment of David Mead and Scott Southwell to the Airport Board with terms expiring October 1, 2022. On a voice vote – **MOTION CARRIED.**

**PUBLIC COMMENT ON NON-AGENDA ITEMS**

Mike Murphy of 1001 S. Kalamazoo read a prepared statement for the record:

It is proposed that the creation of the South Neighborhood Improvement Authority is necessary and in the City of Marshall's best interest to meet the perceived need for additional affordable housing and to help spur residential development and promote economic growth. Following public hearing on November 18, if the City Council establishes the new district, additional deliberations, meetings, and another hearing upon the details of a financing and development plan seem likely. Ultimately, however, whether the plan succeeds or fails depends upon whether under the law it constitutes a public purpose, is feasible, reasonable and necessary; and that the plan will be adequate and not overburden public services. It is reported that there is now a developer for the property. That seems like a good thing. My wife and I have lived at the same address within the district for more than 30 years and our sons attended Marshall Public Schools, beginning with Hughes School, then Marshall Middle School, and both are graduates of Marshall High School. Our experience with the schools and the City has been very positive and we are confident that any new Authority will exercise the necessary care and attention to shepherd the newly proposed development, gradually if necessary, throughout what may be a long

Marshall City Council, Regular Session  
Monday, November 4, 2019

process so that it works out in the best interests of all the affected persons in the City.

**COUNCIL AND MANAGER COMMUNICATIONS**

**ADJOURNMENT**

The meeting was adjourned at 8:12 p.m.

---

Joe Caron, Mayor

---

Trisha Nelson, City Clerk