

CALL TO ORDER

IN REGULAR SESSION, Monday, April 18, 2022 at 7:00 P.M., in the Council Chambers of City Hall, 323 West Michigan Avenue, Marshall, MI 49068. City Council was called to order by Mayor Caron.

ROLL CALL

Roll was called:

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

Also Present: City Manager Perry and Clerk Nelson

Absent: Member Gates, Rice, and Schwartz.

Moved Wolfersberger, supported Traver, to excuse the absence of Council Member Gates, Rice, and Schwartz. On a voice vote – **MOTION CARRIED.**

INVOCATION/PLEDGE OF ALLEGIANCE

Mayor Caron led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

Moved Wolfersberger, supported Underhill, to approve the agenda with the addition of the Michigan South Central Power Agency invoice in the amount of \$804,100.68 and the removal of item 16. Closed Session. On a voice vote – **MOTION CARRIED.**

PUBLIC COMMENT ON AGENDA ITEMS

None.

CONSENT AGENDA

Moved Underhill, supported Wolfersberger, to approve the Consent Agenda:

- A. Scheduled a public hearing for May 2, 2022 to consider several amendments of City Ordinance Chapter 70, Vehicle and Traffic Code, in particular, sections 70.008- Parking Regulations; 70.009- Stopping, Standing, Loading, Breakdowns, Dismantled and Inoperable Vehicles; 70.010- Parking Violations; and 70.011- Parking & Storage in Yard within Residential District;
- B. Approve the MDOT Performance Resolution for municipalities to authorize personnel to submit permits for work within the MDOT right-of-way;
- C. Approve the purchase of 8 (eight) Police Department mobile radios not-to-exceed the amount of \$52,102.04 from Tele-Rad, Inc.;
- D. Minutes of the City Council Work Session and Regular Session held on Monday, April 4, 2022;
- E. Approve city bills in the amount of \$ 2,303,902.07.

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

PRESENTATIONS AND RECOGNITION

None.

INFORMATIONAL ITEMS

None.

PUBLIC HEARINGS & SUBSEQUENT COUNCIL ACTION

None.

OLD BUSINESS

A. Special Event Request- Viking Warrior Festival:

Moved Traver, supported Wolfersberger, to approve the Special Event Request for the Viking Warrior Festival on June 17th-19th, subject to continued coordination with City staff, completion of the Special Event Liability Waiver, submittal of proper liability insurance coverage documents, approval of Michigan Liquor License, approved recreational fires per Ordinance Ch. 95, and a verified parking, trash, and restroom plan. On a roll call vote – ayes: Traver, Underhill, Wolfersberger, and Mayor Caron; nays: none. **MOTION CARRIED.**

REPORTS AND RECOMMENDATIONS

A. School Resource Officer Agreement with Marshall Public Schools:

Moved Traver, supported Underhill, to approve the School Resource Officer Agreement, in substantial form, between the City of Marshall and Marshall Public Schools and authorize the hiring of the 15th FTE sworn Patrol Officer. On a roll call vote – ayes: Wolfersberger, Mayor Caron, Traver, and Underhill; nays: none. **MOTION CARRIED.**

B. LDFA Bond Authorizing Resolution:

Moved Wolfersberger, supported Traver, to approve the Resolution Pledging Full Faith and Credit for the Local Development Finance Authority Local Development Bonds not to exceed \$6.8 million for the electric substation. On a roll call vote – ayes: Underhill, Wolfersberger, Mayor Caron, and Traver; nays: none. **MOTION CARRIED.**

CITY OF MARSHALL, MICHIGAN

RESOLUTION #2022-13

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

**RESOLUTION PLEDGING FULL FAITH AND CREDIT
FOR THE LOCAL DEVELOPMENT FINANCE AUTHORITY
LOCAL DEVELOPMENT BONDS
(LIMITED TAX GENERAL OBLIGATION) SERIES 2022**

A RESOLUTION TO APPROVE:

- Pledge of Full Faith and Credit as secondary security for LDFA Bonds issued to finance electric substation.

WHEREAS, the City of Marshall, County of Calhoun, State of Michigan (the "City") previously established the Local Development Finance Authority of the City of Marshall (the "Authority") under the provisions of Act No. 281, Public Acts of Michigan, 1986, which was repealed and replaced by the Recodified Tax Increment Financing Act, Act No. 57, Public Acts of Michigan, 2018 ("Act 57"); and

WHEREAS, the Authority and the City have approved a Development and Tax Increment Financing Plan, as amended (the "LDFA Plan"), and pursuant to the LDFA Plan, the Authority intends to acquire and construct additional public facilities (as defined in Part 4 of Act 57) comprised of an electric substation, together with any appurtenances and attachments thereto and any related site improvements (collectively, the "Project"); and

WHEREAS, the Authority intends to finance the Project through the issuance of its Local Development Bonds (Limited Tax General Obligation) Series 2022, in an amount not-to-exceed \$6,800,000 (the "Bonds"), and to repay the bonds from tax increment revenues to be collected under the LDFA Plan and deposited to a Debt Retirement Fund to be established for the Bonds; and

WHEREAS, Section 414(2) of Act 57 provides that the City may make a limited tax pledge to support the Authority's tax increment bonds; and

WHEREAS, it is in the best interest of the City that the bonds be secured by a limited tax pledge of the City so that the bonds may be marketed and sold at the lowest and most favorable interest cost.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City hereby irrevocably pledges its full faith and credit and resources to the payment of the Bonds. If at any time the Debt Retirement Fund established for the Bonds is insufficient to pay the principal of and interest on the Bonds as the same become due, the City, upon written notification by the Authority's Chairperson, Treasurer or Secretary, shall as a first budget obligation, advance from its available

funds a sufficient amount to pay said principal and interest, or in the event of insufficiency of the City's general funds, levy ad valorem taxes on all taxable property within the boundaries of the City in an amount sufficient to pay said principal and interest, provided that such tax levy shall be within applicable charter, statutory and constitutional limitations. The City shall be reimbursed for any such advance from tax increment revenues thereafter collected.

2. To the extent permitted by law, the City shall take all actions within its control necessary to maintain the exclusion of the interest on the Bonds from adjusted gross income for general federal income tax purposes under the Internal Revenue Code of 1986, as amended, including but not limited to, actions relating to the rebate of arbitrage earnings, if applicable, and the expenditure of proceeds of the Bonds and moneys deemed to be proceeds of the Bonds.

The City hereby designates the Bonds as "qualified tax-exempt obligations" for purposes of deduction of interest expense by financial institutions pursuant to the Internal Revenue Code.

3. The City hereby agrees to cooperate in preparation of preliminary and final official statements or other marketing circular describing the Bonds, and in any application for bond ratings and municipal bond insurance for the Bonds. The City hereby agrees to enter into a Continuing Disclosure Undertaking in order to enable the underwriters of the Bonds to comply with the requirements of Rule 15c2-12, as amended, promulgated by the Securities and Exchange Commission. The City Manager is authorized to offer such assistance and to execute and deliver final official statements, or other marketing circulars, and a Continuing Disclosure Undertaking.

4. The City hereby confirms that the posting required pursuant to Act 34, Public Acts of Michigan, 2001, as amended, as set forth in Exhibit A attached hereto, was done in due time and form as required by said act.

5. 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 adopted by the City Council of the City of Marshall, State of Michigan, at a Regular Meeting on Monday, April 18, 2022 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, as amended, 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, Traver, Underhill, and Wolfersberger and that the following Members were absent: Member Gates, Rice, and Schwartz.

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

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

I further certify that the Members voting for adoption of said resolution constitute at least a majority of the members of the City Council.

City Clerk

EXHIBIT A
Form of Notice pursuant to Section 308, Act 34,
Public Acts of Michigan, 2001, as amended

MEETING NOTICE
City Council of the City of Marshall
County of Calhoun, State of Michigan

At the Regular meeting of the City Council of the City of Marshall, Michigan to be held on Monday, April 18, 2022 at 7:00 p.m., Eastern Time, in the Council Chambers of City Hall, located at 323 West Michigan Avenue in Marshall, the City Council will discuss issuance of bonds by the Local Development Finance Authority of the City of Marshall. If issued, the bonds will contain a limited tax full faith and credit pledge of the City.

If the bonds are issued, it is anticipated that the bonds will be paid from tax increment revenues to be collected under the LDFA Plan.

THIS NOTICE is given pursuant to the requirements of Section 308, Act 34, Public Acts of Michigan, 2001, as amended.

Trisha Nelson
City Clerk, City of Marshall

C. Water Revenue Bonds Notice of Intent:

Moved Underhill, supported Wolfersberger, to authorize the City Clerk to sign the Notice of Intent Resolution for Water Supply System Revenue Bonds. On a voice vote

– MOTION CARRIED.

CITY OF MARSHALL, MICHIGAN

RESOLUTION #2022-14

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

**NOTICE OF INTENT RESOLUTION
WATER SUPPLY SYSTEM REVENUE BONDS**

A RESOLUTION TO APPROVE:

- Publication of a Notice of Intent to Issue Bonds and Right of Referendum for up to \$2,200,000 of Bonds to construct replacement water mains.
- Bonds to be payable solely from water system revenues.
- After the notice is published, voters will have a 45-day referendum period during which they could petition for referendum.
- Statement of intent to reimburse expenditures from bond proceeds required by Internal Revenue Code for tax-exempt debt.

PREAMBLE

WHEREAS, the City of Marshall, County of Calhoun, State of Michigan (the “City”) determines it to be necessary for the public health, safety and welfare of the City and its residents to acquire, construct, furnish and equip improvements to the City’s Water Supply System consisting generally of water main replacement, together with any appurtenances and attachments thereto and any related site improvements (the “Project”); and

WHEREAS, the Revenue Bond Act, Act 94, Public Acts of Michigan, 1933, as amended (“Act 94”), permits a City to borrow money to finance the acquisition, construction, improvement, enlargement, extension, and repair of public improvements through the issuance of revenue bonds; and

WHEREAS, the issuance of revenue bonds under Act 94 payable from revenues of the City’s Water Supply System in an amount to be determined prior to the sale of the Revenue Bonds, but in any event not to exceed Two Million Two Hundred Thousand Dollars (\$2,200,000) (the “Revenue Bonds”) for the purpose of financing all or a portion of the costs of acquisition and construction of the Project, the funding of reserve funds, and paying costs of issuing the Revenue Bonds, appears to be the most practical means to that end; and

WHEREAS, a notice of intent to issue revenue bonds must be published before the issuance of the Revenue Bonds in order to comply with the requirements of Section 33 of Act 94; and

WHEREAS, the Internal Revenue Service has issued Treasury Regulation § 1.150-2 pursuant to the Internal Revenue Code of 1986, as amended, governing proceeds of debt used for reimbursement, pursuant to which the City must declare official intent to reimburse expenditures with proceeds of such debt before making the expenditures.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Clerk is hereby authorized and directed to publish a notice of intent to issue the Revenue Bonds in the Marshall *Ad-Visor & Chronicle*, a newspaper of general circulation in the City.

2. The notice of intent shall be published as a one-quarter (1/4) page display advertisement and shall be in substantially the form shown on Exhibit A of this resolution.

3. The City Council hereby determines that the notice shown in Exhibit A of intent to issue the Revenue Bonds, and the manner of publication directed, is adequate notice to the electors of the City and the users of the Water Supply System and is the method best calculated to give them notice of the City's intent to issue the Revenue Bonds, the purpose of the Revenue Bonds, the source of payment of the Revenue Bonds, and the right of referendum of the electors with respect thereto. The City Council hereby determines that the newspaper named for publication is hereby determined to reach the largest number of persons to whom the notice is directed.

4. The City may incur expenditures for the Project prior to receipt of proceeds of the Revenue Bonds, and may advance moneys for that purpose from the funds of the Water Supply System to be reimbursed from proceeds of the Revenue Bonds when available. The City shall keep a specific record of all such expenditures.

5. The City hereby makes the following declaration of intent for the purpose of complying with the reimbursement rules of Treas. Reg. § 1.150-2 pursuant to the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code"):

(1) The City reasonably expects to reimburse itself with proceeds of debt to be incurred by the City for certain costs associated with acquisition and construction of the Project which were or will be paid subsequent to sixty (60) days prior to the date hereof from the general funds or capital fund of the City or the Water Supply System.

(2) As of the date hereof, the maximum principal amount of debt expected to be issued for reimbursement purposes, including reimbursement of debt issuance costs, is \$2,200,000, which debt may be issued in one or more series and/or together with debt for other purposes.

(3) A reimbursement allocation of the expenditures described in paragraph (1) above with the proceeds of the borrowing described herein will occur not later than 18 months after the later of (i) the date on which the

expenditure is paid, or (ii) the date the Project is placed in service or abandoned, but in no event more than three (3) years after the original expenditure is paid. A reimbursement allocation is an allocation in writing that evidences the City's use of the proceeds of the debt to be issued for the Project to reimburse the City for a capital expenditure made pursuant to this Resolution.

(4) The expenditures for the Project are "capital expenditures" as defined in Treas. Reg. § 1.150-1(b), which are any costs of a type which are properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of "placed in service" under Treas. Reg. § 1.150-2(c)) under general Federal income tax principles (as determined at the time the expenditure is paid).

(5) No proceeds of the borrowing paid to the City in reimbursement pursuant to this Resolution will be used in a manner described in Treas. Reg. § 1.150-2(h) with respect to abusive uses of such proceeds, including, but not limited to, using funds corresponding to the proceeds of the borrowing in a manner that results in the creation of replacement proceeds (within Treas. Reg. § 1.148-1) within one year of the reimbursement allocation described in paragraph (3) above.

6. The City hereby requests Miller, Canfield, Paddock and Stone, P.L.C. ("Miller, Canfield") to continue to serve as bond counsel to the City for the Revenue Bonds. The City recognizes that Miller, Canfield, Paddock and Stone, P.L.C., has represented from time to time, and currently represents, various underwriters, banks, and financial institutions, and other potential participants in the financing process for unrelated projects, any of which might offer to purchase the Revenue Bonds.

7. The City hereby requests that Bendzinski & Co., Registered Municipal Advisors with the Municipal Securities Rulemaking Board (the "Municipal Advisor") continue to serve the City as Municipal Advisor to advise the City on the marketing and sale of the Revenue Bonds.

8. The officers, administrators, agents and attorneys of the City are authorized and directed to take all other actions necessary and convenient to facilitate sale of the Revenue Bonds.

9. 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 April 18, 2022 at 7:00 p.m., Eastern Time, and that the meeting was conducted and public notice of the meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, as amended, and that the minutes of the meeting were kept and will be or have been made available as required by Act 267.

I further certify that the following Members were present at the meeting: Mayor Caron, Traver, Underhill, and Wolfersberger and that the following Members were absent: Member Gates, Rice, and Schwartz.

I further certify that Member Underhill moved for adoption of the resolution and that Member Wolfersberger supported the motion.

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

City Clerk

EXHIBIT A

NOTICE TO ELECTORS OF THE CITY OF MARSHALL AND TO USERS OF THE CITY'S WATER SUPPLY SYSTEM OF INTENT TO ISSUE REVENUE BONDS PAYABLE FROM THE REVENUES OF THE WATER SUPPLY SYSTEM AND RIGHT OF REFERENDUM

PLEASE TAKE NOTICE that the City Council of the City of Marshall, County of Calhoun, State of Michigan, intends to issue and sell the City's Water Supply System Revenue Bonds pursuant to Act 94, Public Acts of Michigan, 1933, as amended, in the maximum aggregate principal amount not to exceed Two Million Two Hundred Thousand Dollars (\$2,200,000) for the purposes of paying all or a portion of costs to acquire, construct, furnish and equip improvements to the City's water supply system, consisting generally of water main replacement, together with any appurtenances and attachments thereto and any related site improvements. Costs financed with proceeds of the Revenue Bonds shall include funding of required bond reserve funds and costs of issuance. The bonds may be issued in one or more series and combined with bonds for other purposes as shall be determined by the City Council. Each series of the bonds will mature in annual installments not to exceed the maximum permitted by law, with interest on the unpaid balance from time to time remaining outstanding on the bonds to be payable at rates to be determined at sale of the bonds but in no event to exceed such rates as may be permitted by law.

SOURCE OF PAYMENT OF REVENUE BONDS

THE PRINCIPAL OF AND INTEREST ON THE REVENUE BONDS SHALL BE PAYABLE SOLELY from the revenues received by the City from the operations of the City's water supply system (the "System"). The revenues will consist of rates, fees and charges billed to the users of the System, a schedule of which is on file at City Hall and posted at www.cityofmarshall.com. The rates, fees and charges may from time to time be revised to provide sufficient revenues to provide for the expenses of operating and maintaining the System, to pay the principal of and interest on the Revenue Bonds and any other bonds of the System, and to pay other obligations of the System.

RIGHT OF REFERENDUM

THE REVENUE BONDS WILL BE ISSUED WITHOUT A VOTE OF THE ELECTORS UNLESS A VALID PETITION REQUESTING AN ELECTION ON THE QUESTION OF ISSUING THE REVENUE BONDS, SIGNED BY NOT LESS THAN 10% OF THE REGISTERED ELECTORS OF THE CITY, IS FILED WITH THE CITY CLERK WITHIN FORTY-FIVE (45) DAYS AFTER THE DATE OF PUBLICATION OF THIS NOTICE. If such a petition is filed, the Revenue Bonds cannot be issued unless approved by a majority vote of the electors of the City voting on the question of their issuance.

THIS NOTICE is given pursuant to the requirements of Section 33 of Act 94, Public Acts of Michigan, 1933, as amended.

Further information concerning the matters set out in this notice may be secured from the City Clerk's office.

Trisha Nelson, City Clerk
City of Marshall

D. Industrial Road Kalamazoo Avenue Watermain Replacement:

Moved Wolfersberger, supported Traver, to approve the construction contract with Quality Excavators of Marshall, MI for the Industrial Road/Kalamazoo Avenue Watermain Replacement project in the amount of \$628,904 and approve a contingency of \$63,096 for a total project amount of \$692,000. On a roll call vote – ayes: Wolfersberger, Mayor Caron, Traver, and Underhill; nays: none. **MOTION CARRIED.**

E. 2022 Street Improvements #1 Contract:

Moved Wolfersberger, supported Rice, to approve the construction contract with Quality Excavators of Marshall, MI in the amount of \$824,488.39 with a contingency of \$100,511.61 for a total project amount of \$925,000. On a roll call vote – ayes: Underhill, Wolfersberger, Mayor Caron, and Traver; nays: none. **MOTION CARRIED.**

APPOINTMENTS/ELECTIONS

A. Zoning Board of Appeals Appointment:

Moved Wolfersberger, supported Traver, to approve the recommendation to appoint Arthur Hill to the Zoning Board of Appeals with a term expiring March 10, 2023. On a voice vote – **MOTION CARRIED.**

PUBLIC COMMENT ON NON-AGENDA ITEMS

None.

COUNCIL AND MANAGER COMMUNICATIONS

ADJOURNMENT

The meeting was adjourned at 7:51 p.m.

Joe Caron, Mayor

Trisha Nelson, City Clerk