

CALL TO ORDER

IN REGULAR SESSION Monday, March 18, 2013 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 Dyer.

ROLL CALL

Roll was called:

Present: Council Members: Mayor Dyer, Mankerian, Metzger, Miller, Reed, Revore and Williams.

Also Present: City Manager Tarkiewicz.

Absent: None.

INVOCATION/PLEDGE OF ALLEGIANCE

Mayor Dyer led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

Moved Metzger, supported Williams, to approve the agenda with the addition of the MSCPA invoice and item 18 Closed Session to discuss pending litigation. On a voice vote – **MOTION CARRIED.**

PUBLIC COMMENT ON AGENDA ITEMS

None.

CONSENT AGENDA

Moved Miller, supported Mankerian, to approve the Consent Agenda:

- A. Adopt resolutions in support of the submittal of a grant from the Michigan Department of Transportation Local Bridge Program for the Monroe Street over Rice Creek and Marshall Avenue Bridge over the Kalamazoo River;
- B. Approve the request by the American Legion to conduct their Annual Poppy Sales on May 17 and 18,, 2013;
- C. Approve minutes of the City Council Regular Session held on Monday, March 18, 2013;
- D. Approve city bills in the amount of \$1,046,569.20.

On a roll call vote – ayes: Mankerian, Metzger, Miller, Reed, Revore, Williams, and Mayor Dyer; nays: none. **MOTION CARRIED.**

PRESENTATIONS AND RECOGNITIONS

A. **Airport Board Update:**

David Mead, Airport Board Chair, provided an update on the airport activities.

INFORMATIONAL ITEMS

City Manager Tarkiewicz provided an update on the Cronin Building Redevelopment.

PUBLIC HEARINGS & SUBSEQUENT COUNCIL ACTION

A. Calhoun County Consolidated Dispatch Authority Funding Resolution:

Moved Metzger, supported Reed, to support the presentation of the resolution to support the placement of a telephone surcharged based funding mechanism for the CCCDA on the August 2013 Countywide ballot. On a voice vote – **MOTION DEFEATED.**

B. Memorandum of Understanding with the Marshall Area Firefighters Ambulance Authority:

Moved Metzger, supported Mankerian, to authorize the Clerk to sign the Memorandum of Understanding with the Marshall Area Firefighters Ambulance Authority. On a voice vote – **MOTION CARRIED.**

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF MARSHALL, MICHIGAN
AND THE MARSHALL AREA FIREFIGHTERS AMBULANCE AUTHORITY**

WHEREAS, The Marshall Area Firefighters Ambulance Authority (MAFAA) provides emergency medical services to the City of Marshall;

WHEREAS, The Calhoun County Consolidated Dispatch Authority (CCFDA) provides dispatch services for the City and MAFAA;

WHEREAS, On July 1, 2013 the City will be billed on a “call for service” formula which will include emergency medical service calls;

WHEREAS, The City of Marshall supports the concept that local municipalities participating in the Marshall Area Firefighters Ambulance Authority (MAFAA) will be responsible for fees related to EMS “calls for service” and assessed by the Calhoun County Consolidated Dispatch Authority (CCFDA) as authorized by the Calhoun County 911 plan;

WHEREAS, The fees are based upon the number of calls received by CCFDA from the public requesting emergency pre-hospital care and/or transport from within the boundaries of each participating municipality.

NOW, THEREFORE, The City of Marshall and the Marshall Area Firefighters Ambulance Authority agree:

That the City of Marshall will not be responsible for any costs incurred by CCCDA or another entity as a result of requests from a licensed acute care hospital for the services of MAFAA, or any other licensed ambulance service provider, to transport a patient from that facility to another licensed hospital facility; and

Any “call for service” or dispatch fees related to this type of “inter-facility transport” service provided by MAFAA or any other licensed ambulance service are the responsibility of the ambulance service.

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum of Understanding to be executed on this 18th day of March, 2013.

For the City of Marshall
Trisha Nelson, City Clerk

For the Marshall Area Firefighters Ambulance Authority

C. Regional Law Enforcement Center and Fire Station/City Hall Renovations Project:

Moved Miller, supported Mankerian, to adopt the resolution initiating the forty five day referendum period prior to the sale of the bonds and the resolution of intent of entering into limited tax-supported contracts of lease. On a roll call vote – ayes: Metzger, Miller, Reed, Revore, Williams, Mayor Dyer, and Mankerian; nays: none. **MOTION CARRIED.**

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

RESOLUTION #2013-14

RESOLUTION APPROVING
BUILDING AUTHORITY CONTRACTS AND NOTICE

A RESOLUTION TO PROVIDE FOR:

- Up to \$5,500,000 of Building Authority Bonds to finance:
- the City’s share of the Law Enforcement Center,
- Fire Station / City Hall Renovation;

- Publication of Notice of Intent to enter into Contracts with Building Authority to issue Bonds;
- City Payments to be Limited Tax Full Faith and Credit General Obligation.

WHEREAS, it is necessary for the public health, safety and welfare of the residents of the City of Marshall, County of Calhoun, State of Michigan (the "City") to acquire and construct a new facility to jointly house the City of Marshall Police Department and the Michigan State Police (the "Law Enforcement Center"); and

WHEREAS, the City has previously established the Marshall Building Authority (the "Authority") under the provisions of Act 31, Public Acts of Michigan (First Extra Session), 1948, as amended ("Act 31"), with full powers to acquire, construct, equip and finance buildings such as the Law Enforcement Center; and

WHEREAS, the Authority is willing to acquire and construct the Law Enforcement Center and lease it to the City; and

WHEREAS, the City anticipates that the State of Michigan (the "State") will sublease the portion of the Law Enforcement Center to be occupied by the Michigan State Police, and pay rental to the City in an amount sufficient to pay for the State's share of the Law Enforcement Center; and

WHEREAS, the Authority intends to prepare two contracts of lease for the Law Enforcement Center: (1) a lease of the City's share of the Law Enforcement Center which will pledge the City's limited tax full faith and credit, and (2) a lease of the State's share of the Law Enforcement Center which will pledge only sublease payments to be made by the State; and

WHEREAS, under the provisions of Act 31, the Authority can finance costs of acquiring, constructing and equipping buildings such as the Law Enforcement Center through issuance of building authority bonds to be repaid from rental payments made by the City to the Authority under a contract of lease; and

WHEREAS, the Authority anticipates issuance of two series of bonds to finance the Law Enforcement Center: (1) a series of bonds which pledge lease payments secured by the City's limited tax full faith and credit pledge, and (2) a series of revenue bonds which pledge lease payments secured solely by sublease payments received from the State; and

WHEREAS, it is necessary for the public health, safety and welfare of the residents of the City to acquire and construct improvements to Fire Station and City Hall including, but not limited to, replacement of the existing fire apparatus bay and quarters and renovation of City Hall offices (the "Fire Station / City Hall Improvements"); and

WHEREAS, the Authority is willing to acquire and construct the Fire Station / City Hall Improvements for lease to the City under a contract of lease pledging

the City's limited tax full faith and credit, and to finance the Fire Station / City Hall Improvements through the issuance of building authority bonds; and

WHEREAS, the Authority intends to finance the City's share of the Law Enforcement Center and the Fire Station / City Hall Improvements (collectively, the "Projects") through issuance of its bonds in one or more series in the aggregate principal amount of not-to-exceed \$5,500,000 (the "Bonds") in anticipation of rentals secured by the City's limited tax full faith and credit pledge; and

WHEREAS, the City and the Authority will enter into one or more Limited Tax Full Faith and Credit General Obligation Contracts of Lease (collectively, the "Contracts") to provide for the financing of the Projects through the issuance of the Bonds, and a proposed form of the Contracts has been prepared; and

WHEREAS, the City Council will adopt a separate resolution to approve the contract of lease for the State's share of the Law Enforcement Center; and

WHEREAS, this City Council desires to publish a notice of its intention of entering into the Contracts so as to begin the statutory referendum period; and

NOW, THEREFORE, BE IT RESOLVED THAT:

Necessity. The City Council hereby determines it to be necessary for the public health, safety and welfare of the City to acquire and construct the Projects for the use of the City.

Building Authority Financing. The City Council deems it to be in the best interest of the City to finance the cost of the Projects through the Authority in accordance with the provisions of Act 31, which cost is not expected to exceed Five Million Five Hundred Thousand Dollars (\$5,500,000).

Publication of Notice of Intent. The City Clerk is hereby authorized and directed to publish a Notice of Intention of Entering into Limited Tax-Supported Contracts of Lease in *The Marshall Advisor/Chronicle*, a newspaper of general circulation in the City. The Notice shall appear as a display advertisement at least one-quarter (1/4) page in size and shall be in substantially the following form:

NOTICE OF INTENTION OF ENTERING INTO
LIMITED TAX-SUPPORTED CONTRACTS OF LEASE
AND OF RIGHT TO PETITION FOR REFERENDUM THEREON

TO THE TAXPAYERS AND ELECTORS OF THE CITY OF MARSHALL,
MICHIGAN:

PLEASE TAKE NOTICE that the City of Marshall intends to approve and execute one or more Limited Tax Full Faith and Credit General Obligation Contracts of Lease with the Marshall Building Authority pursuant to Act 31, Public Acts of Michigan, 1948 (First Extra Session), as amended. The Contracts will provide, among other things, that the Building Authority will acquire and construct a new facility to jointly house the City of Marshall Police Department and the Michigan State Police, including the site therefor (the "Law Enforcement Center"), and acquire and construct improvements to the Fire Station and City Hall including, but not limited to, replacement of the existing fire apparatus bay and quarters, and renovation of City Hall offices (the "Fire Station / City Hall Improvements") and WILL ISSUE ITS BONDS to finance the estimated cost of the City's share of the Law Enforcement Center and the Fire Station / City Hall Improvements (collectively, the "Projects") FOR THE BENEFIT OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$5,500,000. The bonds may be issued in one or more series, and each series when issued will mature in not to exceed 30 annual installments and will bear interest on the outstanding principal balance at interest rates not exceeding the maximum rates permitted by law.

The Contracts will further provide that the City will lease the Projects from the Building Authority and WILL PAY AS RENTAL TO THE BUILDING AUTHORITY ALL SUMS NECESSARY TO RETIRE THE PRINCIPAL OF AND INTEREST ON THE BONDS, TOGETHER WITH ALL COSTS OF OPERATING AND MAINTAINING THE PROJECTS AND ALL COSTS of the Building Authority in connection therewith regardless of whether the Projects are tenantable. The principal amount to be borrowed by the Building Authority will be indebtedness of the City for purposes of charter, statutory and constitutional debt limitations. The State's share of the Law Enforcement Center will be paid only from sublease payments to be made by the State under a separate contract of lease and will not be an obligation of the City.

CITY'S CONTRACT OBLIGATION

BY VIRTUE OF THE PROPOSED CONTRACTS AND ACT 31, ALL OF THE CITY'S REQUIRED PAYMENTS UNDER THE CONTRACTS TO THE BUILDING AUTHORITY WILL BE A LIMITED TAX FULL FAITH AND CREDIT GENERAL OBLIGATION OF THE CITY PAYABLE FROM ANY AVAILABLE FUNDS OF THE CITY, AND THE CITY WILL BE REQUIRED TO LEVY AD VALOREM TAXES ON ALL TAXABLE PROPERTY WITHIN ITS BOUNDARIES TO THE EXTENT NECESSARY TO MAKE THE PAYMENTS REQUIRED TO

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RETIRE THE BONDS AND INTEREST THEREON IF OTHER FUNDS FOR THAT PURPOSE ARE NOT AVAILABLE, AND AS LIMITED BY LAW. THE OBLIGATION TO LEVY TAXES IS LIMITED BY APPLICABLE CONSTITUTIONAL, STATUTORY AND CHARTER TAX RATE LIMITATIONS.

IN THE EVENT THAT A VALID PETITION REQUIRING AN ELECTION WITH RESPECT TO THE CONTRACTS IS FILED AS DESCRIBED BELOW, AND THE CONTRACTS ARE APPROVED BY VOTE OF THE ELECTORS, THE OBLIGATION TO LEVY AD VALOREM TAXES TO PAY THE PART OF THE CITY'S RENTAL OBLIGATION THAT WILL BE USED TO PAY DEBT SERVICE ON THE BUILDING AUTHORITY'S BONDS SHALL BE WITHOUT LIMITATION AS TO RATE OR AMOUNT.

THE PROPOSED CONTRACTS SHALL BECOME EFFECTIVE WITHOUT VOTE OF THE ELECTORS OF THE CITY, AS PERMITTED BY LAW, 60 DAYS FOLLOWING THE DATE OF PUBLICATION OF THIS NOTICE, UNLESS A VALID PETITION REQUESTING AN ELECTION ON THE QUESTION OF WHETHER SUCH CONTRACTS SHOULD BE EFFECTIVE, SIGNED BY NOT LESS THAN 10% OF THE REGISTERED ELECTORS OF THE CITY, IS FILED WITH THE CITY CLERK WITHIN 45 DAYS FOLLOWING THE DATE OF PUBLICATION OF THIS NOTICE. If a valid petition is so filed, the Contracts described in such petition shall not be effective without an approving vote by a majority of electors of the City voting on the question.

This Notice is given pursuant to the requirements of Section 8b of the Act 31, Public Acts of Michigan, 1948 (First Extra Session), as amended. Further information concerning the details of the Contracts, the Projects being financed and the matters set out in this Notice may be secured from the City Clerk's office. A copy of the Contracts will be on file in the office of the City Clerk for public inspection.

Trisha Nelson, City Clerk

4. Sufficiency of Notice and Designated Newspaper. The City Council hereby determines that the designated newspaper is a newspaper of general circulation within the City which can and does publish legal notices and which reaches the largest number of persons to whom the Notice is directed, and that publication of the Notice in the designated newspaper represents the most practical and feasible means of informing the taxpayers and electors of the City of the Projects and the financing thereof. A copy of the form of the Contracts shall be placed on file in the office of the City Clerk and shall be available for public examination.

5. Approval of Contracts. The City Council hereby approves the form of Contract. The Mayor and the City Clerk are authorized to execute one or more Contracts for the Projects and deliver each executed Contract to the City. The Contracts shall become effective upon the expiration of sixty (60) days following the date of publication of the Notice, unless, under the provisions of Section 8b of Act 31, the effectiveness of the Contracts is stayed by reason of the filing of a petition for referendum thereon within forty-five (45) days after such publication and the resultant necessity of prior approval thereof by the qualified electors of the City.

The Mayor and the City Clerk are authorized to make such changes and insertions to the form of Contract in consultation with bond counsel as may be necessary or desirable to effectuate the sale and delivery of the Bonds, permitted by Act 31 and otherwise by law, and not materially adverse to the City.

6. Limited Tax Full Faith and Credit General Obligation. All of the City's required payments under the Contracts will be a limited tax full faith and credit general obligation of the City payable from any available funds of the City. The City Council does hereby ratify and confirm its covenant in the Contracts to levy ad valorem taxes against all taxable property in the City to the extent necessary to meet the obligations of the City thereunder in the event revenues from other sources are insufficient for any reason whatsoever. Any such taxes levied to pay the Cash Rentals under the Contracts shall be limited as to rate or amount in the manner provided by law.

7. IRS Required Declaration of Intent. 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 or the Authority with proceeds of debt to be incurred by the Authority for certain costs associated with acquisition of the Projects 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 Authority.

(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 \$5,500,000, 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 Projects are 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 use of the proceeds of the debt to be issued for the Projects to reimburse the City or the Authority for a capital expenditure made pursuant to this Resolution.

(4) The expenditures for the Projects 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 or the Authority 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 (3) above.

8. IRS Required Covenant. The City hereby covenants to take all action within its control to the extent permitted by law necessary to maintain the exclusion of the interest on the Bonds from gross income for federal income tax purposes under the Internal Revenue Code, including but not limited to, actions relating to the rebate of arbitrage earnings and the expenditure and investment of proceeds of the Bonds and moneys deemed to be proceeds of the Bonds. The Finance Director or the City Manager are hereby authorized and directed to execute and deliver such documents, instruments and certificates, including without limitation documents, instruments and certificates necessary or desirable to satisfy the requirements of the Internal Revenue Code in relation to arbitrage or rebate.

9. Financial Advisor. The City hereby approves the request by the Authority to retain Bendzinski & Co., Registered Municipal Advisors with the Municipal Securities Rulemaking Board, to act as Financial Advisor to the Authority for the Bonds.

10. Bond Counsel. The City hereby approves the request by the Authority that Miller, Canfield, Paddock and Stone, P.L.C. continue to serve the Authority as bond counsel for the Bonds. The City recognizes that Miller, Canfield, Paddock and Stone, P.L.C. has represented from time to time, and currently represents, various underwriters, financial institutions, and other potential participants in the bond financing process, in matters not related to the issuance and sale of the Bonds, and approves them notwithstanding the potential concurrent representation of any other participant in the bond financing process in any unrelated matters.

11. Continuing Disclosure Required by SEC Rules. In order to enable underwriters of the Bonds to comply with the requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission, the City hereby agrees to undertake Continuing Disclosure on behalf of itself as an obligated person of the Bonds, and on behalf of the Authority as the issuer of the Bonds. Either the Finance Director or the City Manager shall execute such Continuing Disclosure Undertaking on behalf of the City in such form as he or she shall, in consultation with bond counsel, determine to be appropriate.

12. Other Actions. Any officer of the City is hereby authorized to take such actions, including preparation and circulation of an Official Statement describing the Bonds, and preparation of applications for a rating on the Bonds and, if recommended by the Financial Advisor, insurance on the bonds, and any officer of the City is hereby authorized to execute any and all agreements, certificates and documents necessary to effectuate issuance of the Bonds.

13. Conflicting Resolutions. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution are 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 March 18, 2013, 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, and that the minutes of the meeting were kept and will be or have been made available as required by the Act 267.

I further certify that the following Members were present at the meeting: Mayor Dyer, Mankerian, Metzger, Miller, Reed, Revore, and Williams and that the following Members were absent: None.

I further certify that Member Miller moved for adoption of the resolution and that Member Mankerian supported the motion.

I further certify that the following Members voted for adoption of the resolution: Metzger, Miller, Reed, Revore, Williams, Mayor Dyer, Mankerian and that the following Members voted against adoption of the resolution: None

Trisha Nelson
City Clerk

D. Michigan Department of Transportation Agreement – Mansion Street:

Moved Williams, supported Reed, to approve the resolution authorizing the Clerk to sign the contract with the Michigan Department of Transportation for the Reconstruction of Mansion Street from Plum Street to N. Kalamazoo Avenue. On a roll call vote – ayes: Miller, Reed, Revore, Williams, Mayor Dyer, Mankerian, and Metzger; nays: none. **MOTION CARRIED.**

**CITY OF MARSHALL, MICHIGAN
RESOLUTION 2013-15**

WHEREAS, the City Council of the City of Marshall has reviewed attached Contract 13-5044 for federal project STP 1313(356) for job number 117002 with the Michigan Department of Transportation for the reconstruction of Mansion Street from Plum Street to N. Kalamazoo Avenue.

WHEREAS, the City Council agrees to utilize the combination of federal, state and local funding to cause paving and other related improvements as stated within contract 13-5044 to be performed; and

WHEREAS, the estimated expense of the project is \$442,100 and the Michigan Department of Transportation is willing to provide a maximum of \$361,900, or 80% of the overall project, whichever sum is less; and

WHEREAS, the City will be responsible for a match estimated at \$80,200, or 20%

of the project, whichever is applicable with bid costs; and

WHEREAS, the City Council understands and agrees to the contract and its attached conditions.

NOW THEREFORE BE IT RESOLVED that based upon a motion made by Williams, and supported by Reed that the Clerk be authorized to sign contract 13-5044 for federal project STP 1313(356).

Voting for: Mayor Dyer, Mankerian, Metzger, Miller, Reed, Revore, and Williams.

Voting Against: None.

Absent: None.

CERTIFICATION OF CITY CLERK

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 at a regular meeting held on the 18th day of March, 2013.

City Clerk

Date

OLD BUSINESS

None.

REPORTS AND RECOMMENDATIONS

None.

APPOINTMENTS / ELECTIONS

None.

PUBLIC COMMENT ON NON-AGENDA ITEMS

None.

COUNCIL AND MANAGER COMMUNICATIONS

CLOSED SESSION

Moved Williams, supported Mankerian, to enter into closed session under the Michigan Open Meetings Act section 8(e)(h) to discuss attorney client privileged communication from the City Attorney. On a roll call vote – ayes: Reed, Revore, Williams, Mayor Dyer, Mankerian, Metzger, and Miller; nays: none. **MOTION CARRIED**

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Moved to closed session at 8:17 p.m.

Returned to open session at 9:05 p.m.

Moved, Metzger, support Williams, to approve the settlement agreement between the City of Marshall vs. POMA Glass and Specialty Windows as presented by the City Attorney in closed session. On a voice vote – **MOTION CARRIED.**

ADJOURNMENT

The meeting was adjourned at 9:06 p.m.

James L. Dyer, Mayor

Trisha Nelson, City Clerk