

ORDINANCE NO. 206 (22-23)

An Ordinance to authorize and direct the Director of Public Safety and Service for the City of Marietta, Ohio, to enter into a contract with Merco Marine of Wellsburg, West Virginia for the Indian Acres Boat Dock Replacement Project, in an amount not to exceed \$28,762.07; using American Rescue Plan Act Funds, and declaring an EMERGENCY.

WHEREAS, the City of Marietta, Ohio needs to replace the boat dock that extends into the Muskingum River, at Indian Acres Park, in the City of Marietta, Ohio. The boat dock needs to be replaced, so as to provide safe access to recreational boat owners for launching their boats into the river. The project is referred to as the Indian Acres Boat Dock Replacement Project (the "Project"); and

WHEREAS, the City of Marietta, Ohio, received a quote for replacing the boat dock at Indian Acres Park in the City of Marietta, Ohio, from Merco Marine of Wellsburg, West Virginia; and

WHEREAS, the City of Marietta, Ohio wishes to enter into a contract with Merco Marine, 60 Merco Road, Wellsburg, West Virginia 26070, for construction services necessary to replace the boat dock located at Indian Acres Park, in an amount not to exceed \$28,762.07, per Exhibit "A" attached hereto and incorporated herein; and

WHEREAS, the City of Marietta, Ohio, agrees to seek grant funding for the Indian Acres Boat Dock Replacement Project from the Ohio Department of Natural Resources. If grant monies are awarded to the City for this project, any unused A.R.P.A. funds allocated and/or spent on the Indian Acres Boat Dock Replacement Project, will be returned to the City's American Rescue Plan Act Fund; and

WHEREAS, the City of Marietta, Ohio has received a distribution of monies (the "ARPA Funds") from the American Rescue Plan Act of 2021 ("ARPA" or the "Act"); and

WHEREAS, Congress passed the Act effective March 11, 2021; and

WHEREAS, Section 603 created the Coronavirus Local Fiscal Recovery Fund which, among other things, appropriated money to cities, nonentitlement units of local government, and counties to mitigate the fiscal effects stemming from the public health emergency with respect to the Coronavirus Disease (COVID-19); and

WHEREAS, Section 603(c) generally provides that:

- (1) USE OF FUNDS. Subject to paragraph (2), and except as provided in paragraphs (3) and (4), a metropolitan city, nonentitlement unit of local

government, or county shall only use the funds provided under a payment made under this section to cover costs incurred by the metropolitan city, nonentitlement unit of local government, or county, by December 31, 2024 -

(A) to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;

(B) to respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the metropolitan city, nonentitlement unit of local government, or county that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;

(C) for the provision of government services to the extent of the reduction in revenue of such metropolitan city, nonentitlement unit of local government, or county due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year of the metropolitan city, nonentitlement unit of local government, or county prior to the emergency; or

(D) to make necessary investments in water, sewer, or broadband infrastructure.

WHEREAS, Department of Treasury Final Rule, published on January 6, 2022, and effective April 1, 2022, provides in part that:

Treasury presumes that up to \$10 million in revenue has been lost due to the public health emergency and recipients are permitted to use that amount (not to exceed the award amount) to fund "government services." [The "standard allowance"].

WHEREAS, the Rule further observes that:

The standard allowance provides an estimate of revenue loss that is based on an extensive analysis of average revenue loss across states and localities, and offers a simple, convenient way to determine revenue loss particularly for Coronavirus State and Local Fiscal Recovery Fund's smallest recipients.

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This change is intended to promote administrative efficiency and simplify revenue loss calculation for smaller recipients.

WHEREAS, the Rule further clarifies that recipients can use:

SLFRF funds on government services up to the revenue loss amount, whether that be the standard allowance amount or the amount calculated using the [Final Rule four-step process]. Government services generally include any service traditionally provided by a government, unless treasury has stated otherwise.

WHEREAS, some common examples of “government services” expressly recognized by Treasury are as follows:

- Road building and maintenance, and other infrastructure
- Health services
- General government administration, staff, and administrative facilities
- Environmental remediation
- Provision of police, fire, and other public safety services (including purchase of fire trucks and police vehicles)
- Maintenance or pay-go funded building infrastructure
- Modernization of cybersecurity, including hardware, software, and protection of critical infrastructure

WHEREAS, “Government services is [deemed by Treasury] the most flexible eligible use category under the SLFRF program, and funds are subject to streamlined reporting and compliance requirements;” and

WHEREAS, funds utilized pursuant to the standard revenue loss allowance continue to have certain restrictions, including:

- Deposit into pension funds
- Satisfaction of settlements or judgments
- Contributions to financial reserves or “rainy day” funds

WHEREAS, the City of Marietta, Ohio has determined, in the judgment of the City, that the Hadley Fields Softball Complex Renovation Project qualifies as a permitted use of the ARPA Funds, in direct support of governmental services.

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

- Section 1: That the Director of Public Safety and Service for the City of Marietta, Ohio, is hereby authorized and directed to enter into a contract with Merco Marine of Wellsburg, West Virginia for the Indian Acres Boat Dock Replacement Project, in an amount not to exceed \$28,762.07, per Exhibit "A" attached hereto and incorporated herein; using American Rescue Plan Act Funds.
- Section 2: The City of Marietta, Ohio, agrees to seek grant funding for the Indian Acres Boat Dock Replacement Project from the Ohio Department of Natural Resources. If grant monies are awarded to the City for this project, any unused A.R.P.A. funds allocated and/or spent on the Indian Acres Boat Dock Replacement Project, will be returned to the City's American Rescue Plan Act Fund; and
- Section 3: The City of Marietta, Ohio elects to use the standard allowance by way of Ordinance 21(22-23) and its presumption of revenue loss due to the public health emergency and to use the amount authorized herein to fund government services.
- Section 4: The Project described herein serves the objectives of the Act by providing services traditionally provided by a government, namely, public infrastructure support.
- Section 5: Accordingly, the Project is in the best interests of the City of Marietta, Ohio and is deemed a priority for the community.
- Section 6: No obligations paid under the authority of this Ordinance were incurred prior to March 3, 2021.
- Section 7: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.
- Section 8: That this Ordinance shall be and is hereby declared to be an EMERGENCY measure necessary for the immediate preservation of the public peace, health and safety of the City of Marietta, Ohio, and for the further reason that immediate action is necessary so the boat dock can be replaced before the boating season commences which will be approximately three months from now.

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

Introduced by the Public Lands and Buildings Committee, William Farnsworth, Chairman.

William Farnsworth  
Chairman

Passed this 2nd day of Feb, 2023.

Susan K. Kissel  
President of Council

ATTEST:

Michelle Neubanks  
Clerk of Council

Approved this 2nd day of February, 2023.

[Signature]  
Mayor

First Reading Feb. 2, 2023

Second Reading Suspended

Third Reading Suspended