

ORDINANCE NO. 208 (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 FYDA Freightliner Western Star Zanesville of Zanesville, Ohio, for the purchase of one (1) Freightliner 108SD Dump Truck and warranties, and for the purchase of one (1) Galion 433U-10 Dump Body and accessories sold by Ace Equipment of Zanesville, Ohio, for use by the Public Works Department of the City of Marietta, Ohio, under the auspices of the Cooperative Purchasing Program, administered by the Ohio Department of Transportation, pursuant to Ohio Revised Code Section 5513.01 (B), in an amount not to exceed \$191,110.00; using American Rescue Plan Act Funds, and declaring an EMERGENCY.

WHEREAS, a need exists for the City of Marietta, Ohio to lease and/or purchase two (2) Dump Trucks for use in the Public Works Department; and

WHEREAS, following an analysis of the City's needs in this respect, and the alternatives available for the provision of those needs, the Director of Public Safety and Service recommended that the City enter into a contract with FYDA Freightliner Western Star Zanesville of Zanesville, Ohio, for the lease and/or purchase of two (2) Freightliner 108SD Dump Trucks and warranties sold by FYDA Freightliner Western Star Zanesville of Zanesville, Ohio; and for the lease and/or purchase of two (2) Galion 433U-10 Dump Bodies and accessories sold by Ace Equipment of Zanesville, Ohio, for use by the Public Works Department of the City of Marietta, Ohio, at a total cost not to exceed \$383,560.00; and

WHEREAS, on July 6, 1995, via passage of Resolution No. 75 (94-95); and via passage of Resolution No. 3 (22-23) on February 7, 2022; the Council of the City of Marietta, Ohio approved the City's voluntary participation in the use of State contracts (based upon State public bids) which the Ohio Department of Transportation has entered into, for the acquisition of certain machinery, materials, supplies and other articles, including Dump Trucks, warranties, Dump Bodies and accessories; and,

WHEREAS, the Director of Public Safety and Service determined that the Dump Trucks, Dump Bodies, accessories and warranties required by the City of Marietta, Ohio are listed within the Ohio Department of Transportation's Cooperative Purchasing Contract; and

ORDINANCE NO. 208 (22-23)
PAGE TWO

WHEREAS, the Director of Public Safety and Service determined that the acquisition of the two (2) Freightliner 108SD Dump Trucks and warranties from FYDA Freightliner Western Star Zanesville of Zanesville, Ohio, and the two (2) Galion 433U-10 Dump Bodies and accessories from Ace Equipment of Zanesville, Ohio, for the total acquisition cost of \$383,560.00, appeared to be the best proposal for the acquisition-lease and/or purchase of said two (2) Dump Trucks and warranties and said two (2) Dump Bodies and accessories; and

WHEREAS, on January 5, 2023, the Council of the City of Marietta, Ohio, passed Ordinance No. 179 (22-23) which allowed for the purchase and/or lease of the two (2) dump trucks and (2) dump bodies from FYDA Freightliner Western Star Zanesville and from Ace Equipment of Zanesville, for a total sum not to exceed \$383,560.00; and

WHEREAS, the City of Marietta, Ohio has now decided that it would like to utilize funds from the American Rescue Plan Act to purchase one (1) of the dump trucks and one (1) of the dump bodies, that was approved by Ordinance No. 179 (22-23), in an amount not to exceed \$191,100.00, according to the terms and conditions of the proposal attached hereto as Exhibit "A", which proposal is hereby adopted and approved; and

WHEREAS, the City has determined that it will continue to lease to purchase the remaining dump truck and dump body that was approved by Ordinance No. 179 (22-23); in accordance with the terms and conditions that were attached to Ordinance No. 179 (22-23); 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

ORDINANCE NO. 208 (22-23)
PAGE THREE

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.

ORDINANCE NO. 208 (22-23)
PAGE FOUR

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 purchasing one (1) Freightliner 108SD Dump Truck and warranties from FYDA Freightliner Western Star Zanesville, of Zanesville, Ohio, and one (1) Galion 433U-10 Dump

ORDINANCE NO. 208 (22-23)
PAGE FIVE

Body and accessories sold by Ace Equipment of Zanesville, Ohio, qualifies as a permitted use of the ARPA Funds, in direct support of governmental services.

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 contact with FYDA Freightliner Western Star Zanesville of Zanesville, Ohio, for the purchase of one (1) Freightliner 108SD Dump Truck and warranties; and for the purchase of one (1) Galion 433U-10 Dump Body and accessories sold by Ace Equipment of Zanesville, Ohio, for use by the Public Works Department of the City of Marietta, Ohio, in an amount not to exceed \$191,110.00, according to the terms and conditions of the proposal attached hereto as Exhibit "A", which proposal is hereby adopted and approved, using American Rescue Plan Act Funds, and declaring an EMERGENCY.
- Section 2: 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 purchase described herein serves the objectives of the Act by allowing the City of Marietta, Ohio, to provide services traditionally provided by a government, namely, the provision for public safety services, including the purchase of vehicles necessary to maintain safe roadways.
- Section 5: Accordingly, the purchase of the dump truck and dump body 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 because the dump truck and dump body is needed now for snow removal, spreading salt and/or ice melt and repairing streets within the City of Marietta, Ohio.

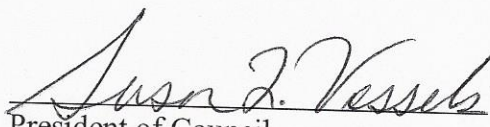
WHEREFORE, this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

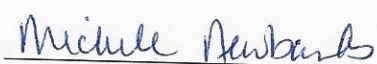
Introduced by the Streets & Transportation Committee, Susan Boyer, Chairwoman.

Passed this 2nd day of Feb, 2023.


Chairwoman

ATTEST:


President of Council


Clerk of Council

Approved this 2nd day of February, 2023.


Mayor

First Reading Feb. 2, 2023

Second Reading Suspended

Third Reading Suspended