

ORDINANCE NO. 216 (22-23)

An Ordinance to approve the authorization of expenditures from the American Rescue Plan Act Funds and to enter into an agreement with the Peoples Bank Theater for a Renovation Project and Declaring an EMERGENCY.

WHEREAS, the City of Marietta, Ohio needs to have certain improvements performed within the City to promote tourism and to provide cultural education and events within the community; and

WHEREAS, the Peoples Bank Theater (the "Theater") would like to complete three (3) projects using ARPA funds. The first project consists of removal of a pair of doors, repairing damaged concrete under said doors so a new overhead door can be installed, installation of two new fabric canopies, removal of existing lights above the doors, installation of new small LED lights under the canopies, and installation of noise reduction panels, for a total of \$13,876.00. The second project consists of Horizon Fiber Optic installation for a total of \$11,482.00. The third project consists of installation of Kinetic Networking for a total of \$9,740.00. The total ARPA fund request is for \$50,441.00.

The Peoples Bank Theater has suffered greatly during the pandemic because of restrictions on public gatherings and the need for social distancing, i.e. educational and/or cultural events had to be cancelled/stopped at the Theater, due to the pandemic, thus the Theater suffered a huge loss in revenue. The City of Marietta also suffered a huge loss in hotel/motel tax revenue due to the closure of the Theater and/or the cancellation of the various shows and programs at the Theater. Also, restaurants, downtown business and the local hotels suffered income loss from the Theater being closed due to the pandemic. The Theater is in desperate need of replacing deteriorated doors, installing energy efficient lighting, installing noise reduction panels, repairing concrete, installing Fiber Optics and Kinetic Networking. The Peoples Bank Theater is a valuable asset to the community for tourism and provides many cultural and educational opportunities for local residents of the community. The economic impact on the Theater, due to the pandemic, has made it challenging for the Theater to fund the needed repairs; 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. 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 identified a project which, in the judgment of the City, qualifies as a permitted use of the ARPA Funds, in direct support of governmental services, which consists of the following:

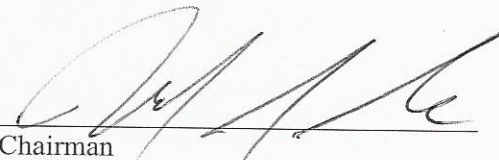
Peoples Bank Theater Renovation Project.

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

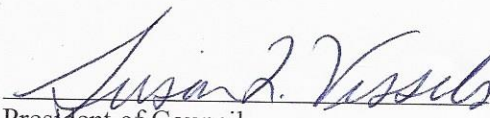
- Section 1: The City of Marietta, Ohio elects to use the standard allowance by way of Ordinance No. 21 (22-23) and its presumption of revenue loss due to the public health emergency and to use the amount authorized herein to fund government services.
- Section 2: The Project is hereby authorized and shall be paid for from the ARPA Funds in an amount not to exceed Fifty Thousand, Four Hundred, Forty-One and No/100 Dollars (\$50,441.00).
- Section 3: The Project described herein serves the objectives of the Act by providing services traditionally provided by a government, namely:
1. The providing of educational and cultural events for the City of Marietta, Ohio and the Community.
  2. The providing of income revenue for the City of Marietta, Ohio, and various hotels, restaurants, and businesses in Marietta.

- Section 4: Accordingly, the Project is in the best interests of the City of Marietta, Ohio and is deemed a priority for the citizens of Marietta, Ohio and the community.
- Section 5: No obligations paid under the authority of this Resolution were incurred prior to March 3, 2021.
- Section 6: 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 7: 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 the Theater provides many educational and cultural opportunities for the citizens of the City of Marietta, Ohio and the Community, and provides income to the City of Marietta, Ohio, and its hotels, restaurants, and businesses. WHEREFORE, this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

Introduced by the Finance & Taxation Committee, Michael Scales, Chairman.

  
Chairman

Passed this 16<sup>th</sup> day of Feb, 2023.

  
President of Council

ATTEST:

  
Clerk of Council

Approved this 16<sup>th</sup> day of Feb., 2023.



Mayor

First Reading Feb. 16, 2023

Second Reading Suspended

Third Reading Suspended