

RESOLUTION NUMBER 24-075

RESOLUTION ADOPTING ASSESSMENT

WHEREAS, pursuant to proper notice duly given as required by law, the council previously met and heard proposed objections on the proposed assessment on July 9, 2024, for the following project (the "Project"):

PROJECT ST-009: W LYON ST. / N 3RD ST. RECONSTRUCTION PROJECT – This project consisted of: reconstruction and utility replacement on West Lyon Street from East College Drive to North 5th Street, and North 3rd Street from West Main Street to West Redwood Street. All utilities were replaced, including watermain, sanitary sewer, and storm sewer on West Lyon and North 3rd Streets. Other items of work included in this project are pavement removal, aggregate base, concrete surfacing, sidewalks, curb and gutter, streetscaping, and other minor work.

WHEREAS, Council on July 9, 2024, received one objection to the proposed assessment at the July 9, 2024, meeting on the Project from Dereck Deutz regarding property identified as Parcel Number 27-677104-0 ("Deutz Property" or the "Property") and

WHEREAS, Council passed Resolution 24-065 and accepted the assessment roll as attached to Resolution 24-065, and incorporated into Resolution 24-065 by reference, a copy of the roll, which is attached hereto as well, minus the proposed assessment for the Deutz Property and continued the Assessment hearing to August 12, 2024, at 5:30 p.m., and

WHEREAS, Council reflected the date and time certain for the continuation of the hearing in the minutes, for the limited purposes of considering the objection of the Deutz Property Assessment by Mr. Deutz; and

WHEREAS, pursuant to Minn. Stat. § 429.061, the Council may consider any objection to the amount of a proposed assessment as to a specific parcel of land at an adjourned hearing where it may hear further written or oral testimony on behalf of the objecting property owner and may consider further written or oral testimony from appropriate city officials and other witnesses as to the amount of the assessment; and

WHEREAS, upon the determination by Council of the amount of Deutz Property assessment, that amount shall become part of the adopted assessment roll.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF MARSHALL, MINNESOTA MAKES THE FOLLOWING FINDINGS:

1. City staff spent over a year working with the property owners to be affected by this project to get feedback from the property owners and to educate the public about the project, including facilitating discussion at Downtown Business Association meetings on a regular basis.
2. The feedback of the property owners included a desire for streetscaping, one-way street and other portions of the improvement in addition to the street, water, drainage, and sanitary sewer work.
3. Mr. Deutz, the current property owner of Parcel Number 27-677104-0 participated in these meetings as a tenant and knew about the project.
4. Mr. Deutz purchased the Property in April 2023, before the assessment, and providing him with the opportunity to address it with the seller of the property.
5. The Minnesota Supreme Court has stated that "the assessment roll represents prima facie evidence that the assessment does not exceed the special benefit and any contesting party has the burden of

introducing competent evidence to overcome this presumption.”

6. A number of initiatives and studies discuss the increase in value to property owners, and the benefit to public, when a city incorporates into public improvement projects design and construction of public streets and sidewalks improving the quality of life and environment, as well as protecting health and safety from having adequate sanitary sewer infrastructure and safe and operable streets and sidewalks. In fact, in 2022, the USDOT created a safe- streets-for-all initiative listing priorities similar to improvements made in the Project.
7. City staff has found cost to city for street improvement to equal \$210.71 per lineal foot. The Deutz property has 108 feet of street frontage which resulted in a cost of \$45,514.38. Because of the City’s current special assessment policy formula which limits street assessment amounts, the assessment for the Deutz property was only \$13,675.32. The Council finds that Mr. Deutz has not submitted evidence proving that the benefit to the Property from this infrastructure did not exceed the already discounted city assessment.
8. City staff found, from its meeting with business owners and public, that the community wanted a plaza area and electrical infrastructure to host events on that block. The newly constructed 28-foot-wide sidewalk and plaza is located along the Property’s frontage and the plaza and streetscaping draw attention to the Deutz business, as well as provides outdoor public seating adjacent to the business on the Property. All businesses on the Third Street block paid the same per foot rate for the assessment as Mr. Deutz. City staff found that the streetscaping cost the city \$986.67 per lineal foot and the City assessed only 20 percent of actual streetscaping costs, with the city picking up the other 80 percent of the costs. The Council finds that Mr. Deutz has not met his burden to prove that the benefit to the Property from this infrastructure did not exceed the already discounted city assessment.
9. The portion of the assessment for roof drainage solely benefits the Deutz property as the piping and connection allows roof drainage directly into the public drainage system. The Council finds that Mr. Deutz has not met his burden to prove that the benefit to the Property from this infrastructure did not exceed the assessment.
10. The portion of the assessment for sanitary service pipes solely benefits the Deutz Property as it provides necessary connection to the sewer main to serve as sewer service for the building. The Council finds that Mr. Deutz has not met his burden to prove that the benefit to the Property from this infrastructure did not exceed the assessment.

NOW THEREFORE BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF MARSHALL, MINNESOTA:

1. Such proposed assessment, a copy of which is attached hereto and made a part hereof, in the amount of \$39,716.78 for the specific parcel identified as 27-677104-0, is hereby accepted and shall become a part of the adopted assessment accepted in Resolution 2024-065 and shall constitute the special assessment against the lands named therein, and each tract of land therein included is hereby found to be benefited by the proposed improvement in the amount of the assessment levied against it.
2. Such proposed assessment shall be payable in equal annual principal installments extending over a period of eight (8) years and shall bear interest at the rate of five and twenty-seven one-hundredths percent (5.27%) per year
3. After the adoption of the assessment, the clerk shall transmit a certified duplicate of the assessment roll with each installment, including interest, set forth separately to the county auditor of the county to be extended on the proper tax lists of the county; but in lieu of such certification, the council may in its discretion direct the clerk to file all assessment rolls in the clerk’s office and to certify annually to the county auditor, on or before November 30 in each year, the total amount of installments of and interest on

assessments on each parcel of land in the municipality which are to become due in the following year. If any installment and interest has not been so certified prior to the year when it is due, the clerk shall forthwith certify the same to the county auditor for collection in the then succeeding year; and if the municipality has issued improvement warrants to finance the improvement, it shall pay out of its general funds into the fund of the improvement interest on the then unpaid balance of the assessment for the year or years during which the collection of such installment is postponed. All assessments and interest thereon shall be collected and paid over in the same manner as other municipal taxes.

4. The owner of any property so assessed may, at any time prior to certification of the assessment to the County Auditor, pay the whole of the assessment on such property, with interest accrued to the date of payment to the City of Marshall, except that no interest shall be charged if the entire assessment is paid within 30 days from the adoption of the assessment. They may at any time thereafter, pay to the City of Marshall, the entire amount of the assessment remaining unpaid, with interest accrued to December 31 of the year in which such payment is made. Such payment must be made before October 15 or interest will be charged through December 31 of the succeeding year.

5. The right to partially prepay the assessment to the City Clerk according to Ordinance No. 364, Second Series, is available.

6. The City Clerk shall forthwith transmit a certified duplicate of this assessment to the County Auditor to be extended on property tax lists of the County. Such assessments shall be collected and paid over in the same manner as other municipal taxes.

Passed and adopted by the council this 12th day of August 2024

Mayor

City Clerk

This Instrument Drafted by: Pamela Whitmore, City Attorney