

**Jean Birmingham Council
Chambers, City Hall**
401 South Alamo
Marshall, TX 75670
903-935-4421



Members
Amy Ware, District 4 - Mayor
Risa Jordan-Anderson, District 1
Leo Morris, District 2
Dathaniel Campbell, District 3
Reba Godfrey, District 5
Amanda Abraham, District 6
Micah Fenton, District 7

PLEASE SILENCE ALL DEVICES
REGULAR CITY COUNCIL MEETING
October 24, 2024
6:00 PM

1. Call to Order and Roll Call

2. Invocation and Pledges

3. Presentations & Proclamations

- A. Presentation of the Employee of the Month - October. (Employee Engagement Committee)

4. Recess to conduct the City of Marshall Employee Benefits Trust meeting

5. Reconvene the City Council Meeting

6. Citizen Comments

Texas Government Code, Sec. 551.007 requires that a governmental body must allow each member of the public who desires to address the body regarding an item on the agenda the opportunity to do so before or during the body's consideration of the item. The "Citizens Comments" portion of the meeting meets the requirements of this law and is the public's opportunity to speak on any item on the agenda. Those who wish to speak are requested to fill out a public comment form and will have three (3) minutes to speak unless additional time has been requested.

7. Items to be Withdrawn From Consent Agenda

8. Consent Agenda

The items on the Consent Agenda require little or no deliberation by the Council. Approval of the Consent Agenda authorizes the City Manager or his designee to proceed with conclusion of each in accordance with staff recommendations, a copy of which is filed with the minutes of the meeting. A Councilmember may remove items from the Consent Agenda by making such request prior to a motion and vote on the Consent Agenda.

- A. Consider approval of the minutes from the September 23, 2024 Special-Called meeting and the September 26, 2024 Regular Council meeting. (City Secretary)
- B. Consider approval of a resolution authorizing an annexation, service, and development agreement between the City of Marshall, Texas and the Marshall Economic Development Corporation. (Economic Development & Strategic Initiatives; Marshall EDC)
- C. Consider approval of a resolution updating bank signatory on tender for payment. (Finance)

- D. Consider approval of an expenditure in excess of \$50,000 for the removal of silt\sediment at WTP clearwells. (Public Works)
- E. Consider approval of a contract with New In Blue for electronic citation writer software for Police, Fire Marshal and Code Enforcement. (Police)
- F. Consider approval of an oil and gas lease with RFE ETX IV, LLC, on 96.698 gross acres of City of Marshall Property in various tracts. (City Attorney)
- G. Consider approval of a contract to May Recreation for adding an inclusive play area & equipment at Lions Park. (Parks & Recreation)
- H. Consider approval for awarding Half the task of developing a Master Plan and site plans for the City Arena. (Parks & Recreation)

9. Consideration of Items Withdrawn From the Consent Agenda

10. Public Hearing & Ordinance

- A. Conduct a public hearing and consider approval of a petition to institute annexation proceedings to enlarge and extend the boundary limits of said city to include the following described territory, to-wit: Tract 1: All that certain 6.0 acre tract of land in the S SHOTO Survey Abst 632, described in that Warranty Deed from Home and Garden Party, Ltd., et al to Marshall Economic Development Corporation, dated October 24, 2006 and recorded at Vol. 3474, Page 144; and Tract 2: All that certain 72.55 acre tract of land in the S SHOTO Survey Abst 632, described in that Warranty Deed from Unitex Properties, Inc., et al to Marshall Economic Development Corporation, dated 10/24/2006 and recorded at Vol. 3474, Page 169. (Economic Development & Strategic Initiatives; Marshall EDC)
- B. Consider approval of an ordinance annexing the hereinafter described territory to the City of Marshall, Harrison County, Texas, and extending the boundary limits of said City so as to include said hereinafter described property within said city limits, and granting to all the inhabitants of said property all the rights and privileges of other citizens and binding said inhabitants by all of the acts, ordinances, resolutions, and regulations of said City; and adopting a service plan or agreement. (Economic Development & Strategic Initiatives; Marshall EDC)
- C. Conduct a public hearing and consider approval of an ordinance regarding a rezoning request for 3306 Meadow Lane from Agriculture and Estate (AE) to Multi-Family Residential (MF) (Z-24-05). (Planning & Development)

11. Ordinance

- A. Consider Approval of an Ordinance Amending the FY24 Annual Budget. (Finance)

12. City Manager Reports and Requests for City Council Consideration

- A. Discussion concerning End of the Year One-Time Payments to Employees. (Council)
- B. Discussion concerning roaming dogs in the City. (Council)
- C. Consider a Request from Councilmembers Jordan - Anderson and Morris to Direct Staff to Study the possibility of changing Washington St. to One-way beginning at Grand Ave. (Council)
- D. Wonderland of Lights 2024 Update. (Main Street)
- E. Consider approval of a contract for WWTP Excess Overflow Pump Installation. (Public Works)

- F. Report regarding Raw Water Pump Station Update. (Public Works)
- G. Consider approval of project acceptance and closeout - Streetscape Project on 300/400 block of N Washington. (Public Works)
- H. Consider Providing Direction on Hours Worked per Week by the Interim City Manager. (Administration)
- I. Consider approval for an adjustment in funding of \$175,000 for the Water Meter Replacement Project. (Finance)
- J. Consider the approval of an expenditure for the repairs and testing of the Convention Center water shedding and drainage. (Support Services)

13. Adjournment

Posted: October 21, 2024
5:00 PM
N. Smith

This meeting will be conducted in accordance with the Americans with Disabilities Act. Requests for sign interpretive services will be available with at least 72-hour notice prior to the meeting. To make arrangements for these services, please call the City Secretary's Office at 903-935-4446.



TO: City Council
DATE: October 24, 2024
ITEM #: 3.A
SUBJECT: Presentation of the Employee of the Month -
October. (Employee Engagement Committee)

Recommendation for Action:

Executive Summary: The Employee Engagement Committee is a dedicated assembly of employees who have voluntarily united with the common goal of orchestrating and executing activities aimed at engaging and motivating their fellow colleagues. Their primary mission is to cultivate a positive and productive workplace culture while actively enhancing the employer-employee relationship. Among the initiatives employed is the recognition of outstanding contributions through the Employee of the Month program. The committee diligently reviews nominations, carefully deliberates, and collectively decides on the deserving individual to receive this esteemed acknowledgment.

Budget Cost:

Staff Contact:

Attachments: None



TO: City Council
DATE: October 24, 2024
ITEM #: 8.A
SUBJECT: Consider approval of the minutes from the September 23, 2024 Special-Called meeting and the September 26, 2024 Regular Council meeting. (City Secretary)

Recommendation for Action: Consider approval of the minutes from the September 23, 2024 Special-Called meeting and the September 26, 2024 Regular Council meeting.

Executive Summary: Minutes from the Special-Called meeting held on September 23, 2024, and the Regular meeting held on September 26, 2024.

Budget Cost: N/A

Staff Contact: Nikki Smith, City Secretary

Attachments:

1. 9-23-2024 Minutes
2. 9-26-2024 Minutes

**Jean Birmingham Council
Chambers, City Hall**
401 South Alamo
Marshall, TX 75671
903-935-4421



Members
Amy Ware, District 4 - Mayor
Risa Jordan-Anderson, District 1
Leo Morris, District 2
Dathaniel Campbell, District 3
Reba Godfrey, District 5
Amanda Abraham, District 6
Micah Fenton, District 7

MINUTES
PLEASE SILENCE ALL DEVICES
SPECIAL-CALLED CITY COUNCIL MEETING
September 23, 2024
1:00 PM

1. Call to Order and Roll Call

Mayor Amy Ware called the Regular meeting to order in the Council Chambers, City Hall at 01:04 PM.

PRESENT:

Mayor and Council Members:

Mayor Amy Ware
Councilmember Leo Morris
Councilmember Reba Godfrey
Councilmember Amanda Abraham
Councilmember Micah Fenton
Councilmember Dathaniel Campbell
Councilmember Risa Jordan-Anderson

ADMINISTRATIVE STAFF PRESENT:

Terrell Smith, City Manager

Scott Rectenwald, City Attorney

2. Citizen Comments

Texas Government Code, Sec. 551.007 requires that a governmental body must allow each member of the public who desires to address the body regarding an item on the agenda the opportunity to do so before or during the body's consideration of the item. The "Citizens Comments" portion of the meeting meets the requirements of this law and is the public's opportunity to speak on any item on the agenda. Those who wish to speak are requested to fill out a public comment form and will have three (3) minutes to speak unless additional time has been requested.

There were no citizen comments.

3. Executive Session

Council convened into Executive Session.

- A. An Executive Session pursuant to the Open Meetings Act, Chapter 551 of the Texas Government Code under Section 551.074 Personnel Matters: Interviews with Interim City Manager candidates.

Council reconvened from Executive Session following interviews with Interim City Manager candidates.

4. Action Item Following Executive Session

- A. Consider authorizing the City Attorney to begin contract negotiations with the Interim City Manager candidate as discussed in the Executive Session.
Council agreed to authorize the City Attorney to negotiate a contract with the selected candidate.

5. Adjournment

Councilmember Fenton made a motion for adjournment. Councilmember Abraham seconded the motion, which passed by a vote of 7:0.

APPROVED:

Mayor of the City Council
of the City of Marshall, Texas

ATTEST:

City Secretary

**Jean Birmingham Council
Chambers, City Hall**
401 South Alamo
Marshall, TX 75670
903-935-4421



Members
Amy Ware, District 4 - Mayor
Risa Jordan-Anderson, District 1
Leo Morris, District 2
Dathaniel Campbell, District 3
Reba Godfrey, District 5
Amanda Abraham, District 6
Micah Fenton, District 7

MINUTES
PLEASE SILENCE ALL DEVICES
REGULAR CITY COUNCIL MEETING
September 26, 2024
6:00 PM

1. Call to Order and Roll Call

Mayor Amy Ware called the Regular meeting to order in the Council Chambers, City Hall at 6:00 PM.

PRESENT:

Mayor and Council Members:

Mayor Amy Ware
Councilmember Leo Morris
Councilmember Reba Godfrey
Councilmember Amanda Abraham
Councilmember Micah Fenton
Councilmember Dathaniel Campbell

ABSENT: Councilmember Risa Jordan-Anderson **Motion to Excuse: Councilmember Abraham Second: Councilmember Godfrey Vote: 6:0**

ADMINISTRATIVE STAFF PRESENT:

Terrell Smith, City Manager	Dawn Jones, Finance Director
Eric Powell, Public Works Director	Scott Rectenwald, City Attorney
Randy Pritchard, Support Services Director	
Nikki Smith, City Secretary/Payroll Accountant	
Marina Garcia-Heredia, Parks & Recreation Director	
Anna Lane, Community & Neighborhood Services Director	
Alex Agnor, Economic Development & Strategic Initiatives Director	

2. Invocation and Pledges

Mayor Ware.

3. Presentations & Proclamations

- A. Recognition of the September Yard of the Month winners.
Anna Lane, Community & Neighborhood Services Director, recognized the September 2024 Yard of the Month recipients; residential property 200 Shirley Street owned by Clark & Marty Kambrick & the commercial property 1210 E. Pinecrest Drive, Austin

Bank. Anna Lane stated this is the last month for this award for 2024 and mentioned other ways to keep Marshall beautiful.

- B. Proclamation designating October 1, 2024 as National Night Out in Marshall, TX. Mayor Ware read the proclamation designating October 1, 2024 as National Night Out in Marshall, Texas and presented it to members of the Marshall Police Department.

Jeff Boyd, Assistant Chief of Police, provided information regarding the background for National Night Out and activities held during the event at the Marshall Convention Center on October 1, 2024.

- C. Presentation of the Employee of the 3rd Quarter 2024. (Employee Engagement)
Demond Williams, Employee Engagement Committee, presented Edward Irving, Parks & Recreation, with the Employee of the 3rd Quarter 2024 award. Demond Williams thanked KMHT for being the sponsor for the Employee of the 3rd Quarter 2024.
- D. Presentation of a proclamation declaring the month of October 2024 as "Domestic Violence Awareness Month" in the City of Marshall. (Mayor Ware)
Mayor Ware read the proclamation declaring the month of October 2024 as "Domestic Violence Awareness Month" in the City of Marshall, Texas and presented it to members of the Women's Center of East Texas.

4. Citizen Comments

Texas Government Code, Sec. 551.007 requires that a governmental body must allow each member of the public who desires to address the body regarding an item on the agenda the opportunity to do so before or during the body's consideration of the item. The "Citizens Comments" portion of the meeting meets the requirements of this law and is the public's opportunity to speak on any item on the agenda. Those who wish to speak are requested to fill out a public comment form and will have three (3) minutes to speak unless additional time has been requested.

There were no citizen comments.

5. Items to be Withdrawn From Consent Agenda

Items D, E, F and G were withdrawn.

6. Consent Agenda

The items on the Consent Agenda require little or no deliberation by the Council. Approval of the Consent Agenda authorizes the City Manager or his designee to proceed with conclusion of each in accordance with staff recommendations, a copy of which is filed with the minutes of the meeting. A Councilmember may remove items from the Consent Agenda by making such request prior to a motion and vote on the Consent Agenda.

Councilmember Abraham made a motion to approve the Consent Agenda.

Councilmember Fenton seconded the motion, which passed by a vote of 6:0.

- A. Consider approval of the minutes from the September 12, 2024 Regular Council meeting. (City Secretary)
- B. Consider approval of a contract for Chief Wastewater Plant Operator 2024. (Public Works)

- C. Consider approval of the design and construction services agreement with Schaumburg and Polk for engineering services related to the TWDB CWSRF project. (Public Works)

7. Consideration of Items Withdrawn From the Consent Agenda

- D. Consider approval of the acceptance of the 2024 Street Improvement Program and release of retainage. (Public Works)
Councilmember Godfrey stated her reasons for pulling this item from the Consent Agenda.

Councilmembers asked questions and discussed.

Eric Powell, Public Works Director, provided information regarding the completion of the 2024 Street Improvement Program and release of retainage.

Councilmember Godfrey made a motion to approve the acceptance of the 2024 Street Improvement Program and release of retainage. Councilmember Abraham seconded the motion, which passed by a vote of 6:0.

- E. Consider approval of the purchase of a new mid-size sewer jetting truck for the Distribution and Collection Division from a Buy Board vendor. (Public Works)
Councilmember Godfrey stated her reasons for pulling this item.

Eric Powell provided information regarding the purchase of a new mid-sized sewer jetting truck.

Councilmember Godfrey made a motion to approve the purchase of a new mid-size sewer jetting truck for the Distribution and Collection Division from a Buy Board vendor. Councilmember Abraham seconded the motion, which passed by a vote of 6:0.

- F. Consider approval of a contract for Sports LED Lighting Improvements at Airport Park. (Parks & Recreation)

Marina Garcia-Heredia provided background information on the lighting improvements at a cost of \$1,059,000.00. Marina Garcia-Heredia provided warranty information and an installation timeline.

Councilmembers asked questions and discussed.

Councilmember Godfrey made a motion to approve a contract for Sports LED Lighting Improvements at Airport Park. Councilmember Fenton seconded the motion, which passed by a vote of 6:0.

- G. Consider approval of a contract for Fencing Improvements at Airport Park. (Parks & Recreation)

Marina Garcia-Heredia provided information regarding a contract for fencing improvements at Airport Park with T & N Fence Construction at a cost of \$260,690. Marina Garcia-Heredia provided company information and a timeline for completion of installation.

Councilmembers asked questions and discussed.

Jeremy Northum, T & N Fence Construction provided information regarding the materials used.

Councilmember Godfrey made a motion to approve a contract for Fencing Improvements at Airport Park. Councilmember Fenton seconded the motion, which passed by a vote of 6:0.

8. Public Hearing & Ordinance

- A. Conduct a public hearing and consider approval of an ordinance to adopt the annual budget of the City of Marshall, Texas for the 2025 fiscal year. (Finance)
Kristina Hamilton, Assistant Finance Director, provided information regarding updates to the fiscal year 2025 budget. Kristina Hamilton stated the total budget amount is \$48,958,831.

Mayor Ware opened the public hearing.

No one came forward to speak.

Mayor Ware closed the public hearing.

Councilmembers asked questions and discussed.

Terrell Smith, City Manager, stated the budget would be reviewed at the end of the year to determine if a one-time bonus would be available to employees.

Councilmember Abraham made a motion to approve an ordinance to adopt the annual budget of the City of Marshall, Texas for the 2025 fiscal year. Councilmember Fenton seconded the motion, which passed by the following vote:

**Ayes: 5, Mayor Ware, Councilmembers Abraham, Fenton, Morris and Campbell
Nays: 1, Councilmember Godfrey**

- B. Conduct a public hearing and consider approval of an ordinance affixing and levying 2024 ad valorem taxes for the use and support of the municipal government of the City of Marshall for the 2025 fiscal year at a rate of \$0.579079 per \$100 of property value, *which is effectively a 5.47 percent increase in the tax rate. The tax rate of \$0.579079 will raise more taxes for maintenance and operations than last year's tax rate.* (Economic Development & Strategic Initiatives)
Alex Agnor, Economic Development & Strategic Initiatives Director, asked for approval of an ordinance affixing and levying 2024 ad valorem taxes for the use and support of the municipal government of the City of Marshall, Texas, for the 2025 fiscal year at a rate of \$0.579079 per \$100 of property value, *which is effectively an 5.47 percent increase in the tax rate. The tax rate of \$0.579079 will raise more taxes for maintenance and operations than last year's tax rate.* Alex Agnor explained the breakdown of the M&O and I&S rates.

Mayor Ware opened the public hearing.

No one came forward to speak.

Mayor Ware closed the public hearing.

Councilmembers asked questions and discussed.

Mayor Ware moved that the property tax rate be increased by the adoption of a tax rate of \$0.579079, which is effectively a 5.47 percent increase in the tax rate. Councilmember Fenton seconded the motion, which passed by the following vote:

**Ayes: 5, Mayor Ware, Councilmembers Abraham, Fenton, Morris and Campbell
Nays: 1, Councilmember Godfrey**

9. Ordinance

- A. Consider approval of an ordinance adopting the 2025 Comprehensive Fee Schedule. (Finance)

Kristina Hamilton provided information regarding the comprehensive fee schedule. Kristina Hamilton summarized the various increases and additions in fees for Fiscal Year 2025 and asked the Council for approval of the ordinance setting the fees for Fiscal Year 2025.

Councilmembers asked questions and discussed.

Councilmember Fenton made a motion to approve an ordinance adopting the 2025 Comprehensive Fee Schedule. Councilmember Morris seconded the motion, which passed by a vote of 6:0.

- B. Discuss and consider adoption of an ordinance authorizing the Issuance of City of Marshall, Texas Utility System Revenue Bonds, Series 2024, in the principal amount of \$11,350,000 and awarding the sale of such Bonds to the Texas Water Development Board. (Finance)

Kristina Hamilton provided background information on the application process and projects for funding. Kristina Hamilton introduced John Martin, Hilltop Securities, who provided information regarding an ordinance authorizing the issuance of City of Marshall, Texas Utility System Revenue Bonds, Series 2024, in the amount of \$11,350,000 and awarding the sale of such bonds to the Texas Water Development Board.

Councilmembers asked questions and discussed.

Councilmember Godfrey made a motion to approve an ordinance authorizing the Issuance of City of Marshall, Texas Utility System Revenue Bonds, Series 2024, in the principal amount of \$11,350,000 and awarding the sale of such Bonds to the Texas Water Development Board. Councilmember Abraham seconded the motion, which passed by a vote of 6:0.

10. Resolution

- A. Discuss and consider adoption of a resolution authorizing and directing the establishment of a Construction Account with Depository Bank pursuant to a Bond Ordinance; appointing Authorized Signatories with respect to such account; and resolving other matters relating to the subject. (Finance)
This item was withdrawn.

11. City Manager Reports and Requests for City Council Consideration

- A. Presentation of the City of Marshall Audit Report for the 2023 Fiscal Year. (Finance)
Dawn Jones, Finance Director, stated Pattillo, Brown & Hill conducted the City of Marshall audit report for the 2023 fiscal year and provided a recap of the 2022 fiscal year audit and an overview of the 2023 audit findings.

Travis Rogers, CPA and Audit Manager for Pattillo, Brown & Hill, LLP, provided an unmodified opinion of the 2023 fiscal year audit. Travis Rogers stated there was one (1) finding in the audit; the timely reconciliation of the cash which is a carryover from the previous year. The issue has been addressed and improved upon.

Councilmembers asked questions and discussed.

- B. Consider authorizing the City Attorney to begin contract negotiations with the Interim City Manager candidate.
This item was addressed at the Special-Called meeting.

12. Adjournment

Councilmember Godfrey made a motion for adjournment. Councilmember Abraham seconded the motion, which passed by a vote of 6:0.

APPROVED:

Mayor of the City Council
of the City of Marshall, Texas

ATTEST:

City Secretary



TO: City Council
DATE: October 24, 2024
ITEM #: 8.B
SUBJECT: Consider approval of a resolution authorizing an annexation, service, and development agreement between the City of Marshall, Texas and the Marshall Economic Development Corporation.
(Economic Development & Strategic Initiatives; Marshall EDC)

Recommendation for Action: Consider approval of a resolution authorizing an annexation, service, and development agreement between the City of Marhsall and the Marshall Economic Development Corporation.

Executive Summary: On September 25, 2024, the Marshall Economic Development Corporation Board of Directors voted unanimously for consensual annexation of property it owns along Brown Road just outside of the city limits. A petition requesting the annexation was also submitted to the City.

The area subject to annexation is described as follows:

Tract 1: All that certain 6.0 acre tract of land in the S SHOTO Survey Abst 632, described in that Warranty Deed from Home and Garden Party, Ltd., et al to Marshall Economic Development Corporation, dated October 24, 2006 and recorded at Vol. 3474, Page 144.

Tract 2: All that certain 72.55 acre tract of land in the S SHOTO Survey Abst 632, described in that Warranty Deed from Unitex Properties, Inc., et al to Marshall Economic Development Corporation, dated 10/24/2006 and recorded at Vol. 3474, Page 169.

Texas Local Government Code Chapter 43 Section 43.0672 requires the governing body of the municipality that elects to annex an area to negotiate and enter into a written agreement with the owner(s) of land in the area for the provision of services in the area. Marshall Economic Development Corporation is the sole property owner of the area subject to the proposed annexation. Per the agreement, the City will begin providing all routine, customary city services to the annexed area upon the effective date of the annexation ordinance.

The following city services are to be provided to Tracts 1 and 2:

A. Fire. Fire response will be provided by the City at the same level as is provided throughout the City;

B. Police. The City will extend regular and routine patrols to Tracts 1 and 2;

C. Animal Control. The City will provide animal control services at the same level as is provided throughout the City.

D. Solid Waste Services. The City will provide solid waste collection (trash) services in accordance with existing City ordinances and policies.

E. Water Services. The City will provide access to potable water at the property line in conjunction with applicable TCEQ and EPA requirements.

F. Sanitary Sewer Service. Landowner will, at their expense, have the opportunity to connect to the City's sanitary sewer service as needed.

G. Code Compliance. The City will provide education, enforcements, and abatements relating to code violations within the property in accordance with applicable ordinance, laws, rules, and regulations.

Notice of the public hearing on the proposed annexation was published in the Marshall News Messenger on October 9, 2024, and said notice was also provided to Emergency Services District No. 3 that serves the property subject to the proposed annexation.

Per Health and Safety Code Chapter 775 that governs Emergency Services Districts (ESDs), if a municipality removes territory from a district that the municipality has annexed, the municipality shall compensate the district immediately after disannexation of the territory in an amount equal to the annexed territory's pro rata share of the district's bonded and other indebtedness computer according to formulas detailed in the code.

Budget Cost: Upon approval of the annexation and removal of the territory from Emergency Services District No. 3, the City shall make a payment to the district as required by Health and Safety Code Chapter 775. The district anticipates the payment for the proposed annexation to be \$593.

Staff Contact: Alex Agnor, Director of Economic Development & Strategic Initiatives

Attachments:

1. R-24-XX Annexation Service Agreement
2. CITY OF MARSHALL.Service Agreement for MEDCO Annexation

**A RESOLUTION AUTHORIZING AND APPROVING A SERVICE AGREEMENT
BETWEEN THE CITY OF MARSHALL, TEXAS AND THE MARSHALL ECONOMIC
DEVELOPMENT CORPORATION IN CONNECTION WITH ANNEXATION**

WHEREAS, the Marshall Economic Development Corporation has petitioned the City of Marshall to annex certain properties wholly owned by it; and

WHEREAS Texas Local Govt. Code §43.0672 requires a municipality to enter into a service agreement with the owner of property being annexed; and

WHEREAS, the City of Marshall, Texas will conduct a public hearing on the petition of the Marshall Economic Development Corporation and will consider an ordinance annexing the properties which are the subject of the Marshall Economic Development Corporation's petition; and

WHEREAS, the proposed service agreement between The City of Marshall, Texas and the Marshall Economic Development Corporation is contingent upon the adoption of an ordinance annexing the property the subject of the Marshall Economic Development Corporation's petition;

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

1. The City Council for the City of Marshall hereby authorizes the City Manager to execute and enter into the service agreement attached to this resolution as Exhibit A.

PASSED AND APPROVED this 24th day of October, 2024.

AYES: _____

NOES: _____

ABSTAINED: _____

APPROVED:

Mayor of the City Council
of the City of Marshall, Texas

EXHIBIT A

**ANNEXATION, SERVICE, AND DEVELOPMENT AGREEMENT BETWEEN THE
CITY OF MARSHALL, TEXAS, AND THE MARSHALL ECONOMIC
DEVELOPMENT CORPORATION**

STATE OF TEXAS

COUNTY OF HARRISON

This Annexation, Service, and Development Agreement (the “Agreement”) is made and entered into as of the ____ day of _____, 2024, by and between the City of Marshall, Texas (the “City”), and The Marshall Economic Development Corporation, a Texas economic development corporation (the “Landowner,” and together with the City, the “Parties”).

RECITALS

WHEREAS, the City Council of Marshall, Texas (the “City Council”) will receive a petition from the Landowner for annexation of land in the described as follows:

Tract 1:

All that certain 6.0 acre tract of land in the S SHOTO Survey Abst 632, described in that Warranty Deed from Home and Garden Party, Ltd., et al to Marshall Economic Development Corporation, dated October 24, 2006 and recorded at Vol. 3474, Page 144;

Tract 2

All that certain 72.55 acre tract of land in the S SHOTO Survey Abst 632, described in that Warranty Deed from Unitex Properties, Inc., et al to Marshall Economic Development Corporation, dated 10/24/2006 and recorded at Vol. 3474, Page 169

AND WHEREAS, in exchange for the annexation of Tracts 1 and 2, the City agrees to provide Municipal Services to Tracts 1 and 2; and

WHEREAS, the Parties desire to enter into this Agreement to provide the terms and conditions under which the Landowner will annex Tracts 1 and 2 to the City and the City will provide Municipal Services.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, obligations, and benefits hereinafter set forth, the City and the Landowner contract and agree as follows:

ARTICLE I

ANNEXATION

Section 1.01. Petitions for Annexation and Other Required Documents :

The Landowner has or shall execute and submit to the City Council a petition for annexation (the “Annexation Petition”) in accordance with Section 2.03 of the Code of Ordinances for the City of Marshall, in form satisfactory to the City. Thereafter, the Landowner shall provide the City with such supporting documentation as the City may require as necessary to complete the annexation.

In the event the Landowner fails to execute the Annexation Petition within one (1) month of the effective date of this Agreement or fails to provide other required documents within 30 days after receipt of a written request therefor, or if the annexation of Tracts 1 and 2 into the City fails to occur for any reason, then this Agreement shall terminate.

Section 1.02. Costs of Annexation.:

The City must pay all costs for the annexation of Tracts 1 and 2.

Section 1.03. Effect of Annexation on Tracts 1 and 2:

The Parties understand and agree that the following matters will affect Tracts 1 and 2 after they are annexed to the City:

- A. Tracts 1 and 2 will be subject to customary taxes levied by the City including the payment of sales tax for commercial operations on Tracts 1 and 2;
- B. the City will provide services to Tracts 1 and 2 in accordance with Article II.

ARTICLE II

SERVICE

Section 2.01. Service.

Upon, the effective date of the annexation ordinance, the City will provide all routine, customary city services (“Municipal Services”) to Tracts 1 and 2, including but not limited to the following services:

- A. Fire. Fire response will be provided by the City at the same level as is provided throughout the City;
- B. Police. The City will extend regular and routine patrols to Tracts 1 and 2;
- C. Animal Control. The City will provide animal control services at the same level as is provided throughout the City.
- D. Solid Waste Services. The City will provide solid waste collection (trash) services in accordance with existing City ordinances and policies.
- E. Water Services. The City will provide access to potable water at the property line in conjunction with applicable TCEQ and EPA requirements.
- F. Sanitary Sewer Service. Landowner will, at their expense, have the opportunity to connect to the City’s sanitary sewer service as needed.
- G. Code Compliance. The City will provide education, enforcements, and abatements

relating to code violations within the property in accordance with applicable ordinance, laws, rules, and regulations.

ARTICLE III **MISCELLANEOUS**

Section 3.01. Authority:

The City and Landowner represent and warrant to the other that (i) each Party has the right and authority to enter into, and perform its obligations under this Agreement and (ii) all necessary government or corporate action has been taken as necessary to authorize this Agreement.

Section 3.02. Severability:

The provisions of this Agreement are severable, and if any provision or part of this Agreement or the application thereof to any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other persons or circumstances shall not be affected thereby.

Section 3.03. Modification:

This Agreement shall be subject to change or modification only with the mutual written consent of the Landowner and the City.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in multiple copies, each of equal dignity, as of the date and year set forth on the first page hereof.

The City of Marshall, Texas

By:

Name:

Title:

The Marshall Economic Development Corporation

By: Name:

Title:



TO: City Council
DATE: October 24, 2024
ITEM #: 8.C
SUBJECT: Consider approval of a resolution updating bank signatory on tender for payment. (Finance)

Recommendation for Action: Staff recommends that City Council approve a resolution to update bank signatories to align with current leadership, authorizing the removal of former City Manager Terrell Smith and adding Interim City Manager Melissa Vossmer.

Executive Summary: N/A

Budget Cost: N/A

Staff Contact: Kristina Hamilton, Assistant Director of Finance

Attachments: 1. Resolution to Update Bank Signatories

RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MARSHALL
RESOLUTION NO.

A resolution of the governing body of the City of Marshall passed and approved at a meeting of the City Council held on October 24, 2024. The meeting was duly posted and advertised and at which a quorum of the council was present. The purpose of this resolution being the authorization of City of Marshall banking signatories.

WHEREAS, the city council of the City of Marshall recognizes the need to update signatories for City of Marshall banking purposes; and

WHEREAS, per audit recommendations, two signatures should appear on all checks issued by the City of Marshall, there are situations arise where two signers are not always available.

THEREFORE LET IT BE RESOLVED that the City Council of Marshall, Texas, effective October 24,2024, does hereby authorize Melissa Vossmer, Dawn I. Jones and Kristina Hamilton as signatories for City of Marshall banking purposes, and that all checks issued by the city must require two signatures before they are to be negotiated at the bank.

Passed and approved this 24th day of October 2024.

APPROVED:

Amy Ware, Mayor
City of Marshall, Texas

ATTEST:

Nikki Smith, City Secretary



TO: City Council
DATE: October 24, 2024
ITEM #: 8.D
SUBJECT: Consider approval of an expenditure in excess of \$50,000 for the removal of silt\sediment at WTP clearwells. (Public Works)

Recommendation for Action: Approval of the expenditure in excess of \$50,000 for the hiring of CONSOR Engineers, LLC dba US Underwater for the removal of all silt\sedimentation in the two clear wells at the Water Treatment Plant (WTP)

Executive Summary: There are two ground level clear wells at the City's WTP that each hold 1.5 million gallons of potable water. Over time, these clearwells have silt and sediment collected on the floor of each vessel and build up to a point where they need to be removed from operation and cleaned out. This activity has not been undertaken for a number of years and has now resulted in a notice from TCEQ (see attached documents) that requires the City to perform this function. City staff contacted CONSOR Engineering (US Underwater) for assistance with evaluation and costs to perform the silt\sediment removal. US Underwater is the same company that performed the silt\sediment removal in the summer of 2023 at the Raw Water Intake Station on Caddo Lake. US Underwater evaluated the site and provided a scope of work with an estimated cost of \$73,650 to perform all the work necessary to satisfy the TCEQ notices. US Underwater is using an existing Texas Buy Board Cooperative Purchasing contract to provide the services and costs which satisfies the public bidding requirement due to the overall cost in excess of \$50,000.

Existing operating budget funds will be used to cover the expenditure.

Budget Cost: \$73,650 (current operating funds)

Staff Contact: Eric Powell, Director and Cory Owen, Assistant Director - Treatment Services.

Attachments: 1. SCAN0122



MEMO

TO: Eric Powell, PE, Director of Public Works

FROM: Cory Owen, Assistant Director of Public Works – Water Utilities *CO*

DATE: September 9, 2024

SUBJECT: TCEQ Required Clearwell Cleanings

The TCEQ is requiring the City to remove the sediment and debris out of the bottom of both of its 3 million gallon clearwells. This is a current TCEQ Violation and must be addressed as soon as possible as the compliance due date was November 29, 2023. Attached is a quote from U.S. Underwater in the amount of \$73,650.00. I will be using a fund balance transfer to cover the cost.

Sanitary Defect - Submittal Required	
No.	Description of sanitary defect, required corrective action, and compliance documentation.
1	Failure to properly maintain a tank. During the assessment review, it could not be determined if the system is maintaining its ground storage tanks (GST) as required by 30 TAC §290.46(m). The system noted that issues found during tank inspections had been resolved. However, the system provided tank inspection reports from March 14, 2023, that indicated excess sediment, approximately 1-6 inches, in the 2.0 MG clearwell and uncovered anode openings on ST5043 (KARNACK HWY - 1.0 MG - EL). The system was not responsive to multiple requests for verification that these tank issues were resolved. The system must provide a receipt or work order for clearwell cleaning and replacement of the anode coverings completed on the elevated storage tank.

I will be using account number 40-0305-20-42 for the funds. Thank you for your consideration with this request.



Service Quote

Account Name	City of Marshall	Date	9/5/2024
Contact Name	Cory Owen	Prepared By	Will Trejo
Email	owen.cory@marshalltexas.net	Email	will.trejo@usunderwaterservices.com
Quote Number	00013297	Quote Name	Cleanings- 2024
		Expiration Date	11/4/2024

Product	Line Item Description	Sales Price	Quantity	UOM	Total Price
In-Service Diver Cleaning (4 Man Team)	WTP Clearwell 1- 2 to 6 inches, 100% coverage	\$525.00	65.00	hour	\$34,125.00
In-Service Diver Cleaning (4 Man Team)	WTP Clearwell 2- 2 to 6 inches, 100% coverage	\$525.00	65.00	hour	\$34,125.00
Mobilization/Demobilization	3 trip @ 360 miles/round trip	\$5.00	1,080.00	mile	\$5,400.00

Estimated Total Project Cost

Total Price \$73,650.00

Total Price is based off our best, good faith evaluation of the effort required to complete the scope of work given the information available at the time of the quote. We reserve the right to adjust prices due to changes in the work scope, errors or omission of information.

Description In-service sediment removal utilizing commercial divers while tanks remain in service and full of water. Sediment to be discharged onsite. Pricing per Buy Board contract #662-22.

Standard Terms & Conditions

CLARIFICATIONS

Service Quote is contingent upon availability of personnel and equipment.

Standard payment terms are Net 30 days.

Scope of work will be performed by ADCI certified commercial divers and will meet all American Water Works Association (AWWA) requirements and OSHA 29 CFR specifications, including AWWA current standards (ANSI/AWWA c652-92) regarding disinfection procedures when conducting underwater activities in potable water storage facilities. All equipment used will be for potable water only.

Water access hatches must have dimensions of 24" x 24" or greater for diver entry.

Client is responsible for coordinating the turning off of all radio frequency (RF) antennas/transmitters which could create an unsafe work environment. USU will charge \$450.00 per hour for all downtime caused by delays related to unsafe RF activity.

To efficiently complete work, USU requires 10 hours access to tank sites per day. If tanks are not accessible for at least the 10-hour minimum, Client may be subject to additional fees and/or mobilization charges. Client must have tanks full prior to arrival of the dive team. Additional onsite delays not caused by USU will be subject to an hourly charge of \$450.00. This includes but is not limited to: waiting on Client to arrive, waiting for keys, insect infestations, tanks not being full and baffle walls not revealed to USU prior to agreement in scope of work. Baffle walls create a larger scope of work; please disclose whether a tank has baffle walls so that USU may properly estimate the job.

Dive Supervisor will consult with the client representative on the final decision regarding safe working conditions.

If additional mobilization is required to complete a project caused by customer related downtime, USU will invoice additional mobilization fees.

Should contractor be inhibited or denied access to a facility to perform a dive inspection, contractor will complete a standard exterior inspection checklist and client will be billed for full inspection price.

Unless otherwise noted, standpipes will be diver inspected to 60', and the remainder will be inspected by drop camera.

Inspection reports will include a proposal of recommendations for compliance with applicable AWWA and OSHA standards/requirements. Unless otherwise specified, USU will provide digital copies of the completed report. Paper copies of the report can be obtained by Client request.

Sediment Removal Clause, if applicable: Sediment removal prices are based on the sediment level indicated in the quote line item. Should Client require the sediment hauled offsite, USU must reconsider the scope of work and adjust pricing accordingly. In the event sediment exceeds levels quoted, USU will immediately contact Client to discuss rates for excess sediment removal. Unless otherwise stated, rock & other debris are not included in standard sediment removal. Should these items be found, USU will notify Client and adjust the price according to the new scope of work. Client must be able to maintain a full water level during the sediment removal process. If the water level cannot be maintained, USU will charge the applicable hourly rate while tank is being filled. If Client fails to disclose discharge location at the time of estimate, additional charges may be incurred.

5. Upon arrival at the site, the applicator shall drain tank and open manways prior to use. Client shall be responsible for demobilization. If the tank is not drained/opened, USU will charge the applicable hourly rate while waiting for tank access.

Pressure Tank Clause, if applicable: A full internal (if accessible) and external inspection will be conducted. Client understands tanks must be drained, de-pressurized and opened prior to inspection. Client is responsible for resealing hatches and drains as well as replacing gaskets. If client requires a third party onsite for the project, it is the responsibility of the client to pre-arrange arrival to coincide with the commencement of the work. Any delays caused waiting on a client-required third party [i.e. health department, engineering firm, management company] will be billed at a standby rate of \$450.00 per hour.

Unless otherwise specified, pricing does not include site specific training. If a pre-project orientation/training is required to access the site, Client must notify USU prior to quote acceptance. Additional charges may apply for site specific orientation/training.

Tank Mixer Clause, if applicable: Install includes mixer placement and topside tie-in of electrical components. Client is responsible for running power to the tank, and must provide electrician to make final connection at panel. USU recommends cleaning tank prior to mixer install.

Tank Product/Repair Clause, if applicable: Client is responsible for removing all obstructions to install custom products.

STANDARD OF CARE. USU will perform its Services using the care and skill ordinarily exercised by professionals performing similar services under similar conditions in the same or similar locality as Project.

INSURANCE. USU shall procure and maintain insurance as follows: Worker's compensation and employer's liability as required by applicable law; comprehensive general liability (\$1,000,000 per occurrence / \$2,000,000 aggregate); professional liability (\$1,000,000 per occurrence / \$2,000,000 aggregate); and automobile liability (\$1,000,000 - combined single limit).

LIMITATION OF CONSEQUENTIAL DAMAGES & LIABILITY. USU shall not be liable to Client for, and Client waives entitlement to and recovery of, consequential damages against USU however caused. USU's total liability to Client for any and all liability arising out of related to this Agreement and/or the services performed by USU, whether in contract, tort, indemnity, or any other cause of action or theory of liability, shall not exceed the available proceeds of USU's insurance. The foregoing limitations shall survive expiration and/or termination of the Agreement.

I hereby certify that I have read and agree to the above terms and conditions of this service quote.

Quote Acceptance Information

Signature _____

Title _____

Printed Name _____

Date _____

Purchase Order # _____ Please provide copy of purchase order, if applicable.

Vendor	Address Line 1	City	State	ZIP	Effective	Expiration	Contract
Turf Tank (Intelligent Marking USA, Inc.)(E)(I)(T)	8790 F Street, Suite 830	Omaha	NE	68127	6/1/2023	5/31/2026	Grounds Maintenance Equipment, Parts, and Supplies 706-23
Turfcare of Texas(E)(I)(T)	1400 Berwick Ct.	McKinney	TX	75070	6/1/2023	5/31/2026	Field and Turf Irrigation Products, Landscaping Products, and Specialty Conditioners/Soils 705-23
Turning Technologies(E)(I)(T)	255 W Federal St	Youngstown	OH	44503-1207	11/1/2021	10/31/2024	Instructional Materials and Classroom Teaching Supplies and Equipment 653-21
Turning Technologies(E)(I)(T)	255 W Federal St	Youngstown	OH	44503-1207	1/1/2022	12/31/2024	Technology Equipment, Products, Services and Software 661-22
Tuxedo Connect(E)(I)(T)	3515 Sycamore School Road, Suite 125/Pmb 350	Fort Worth	TX	76133	6/1/2022	5/31/2025	Uniforms and Accessories 670-22
Tuxedo Wholesaler(E)(I)(T)	1331 W. Melinda Lane	Phoenix	AZ	85027	6/1/2022	5/31/2025	Uniforms and Accessories 670-22
Twin Flooring & Finishes, LLC(E)(I)(T)	22503 Katy Freeway, Suite 8	Katy	TX	77450	6/1/2024	5/31/2027	Carpet and Tile Flooring, Stage Floor Refinishing, Concrete Polishing, Grinding and Staining 736-24
Twincrest Technologies(E)(I)(T)	PO Box 34716	Fort Worth	TX	76162	4/1/2023	3/31/2026	Traffic Signal Systems & Safety Barrier Products 695-23
TXAT, LLC(M)(E)(I)(T)	3200 Kirby Drive, Ste. 801	Houston	TX	77098	4/1/2023	3/31/2026	Public Safety and Firehouse Supplies and Equipment 698-23
TYMCO, Inc.(E)(I)(T)	225 E. Industrial Blvd.	Waco	TX	76705	12/1/2022	11/30/2025	Construction, Road and Bridge, and Other Related Equipment 685-22
U.S. Underwater(E)(I)(T)	123 Sentry Drive	Mansfield	TX	76063	4/1/2022	3/31/2025	Water Storage Tank Maintenance and Rehabilitation and Trenchless Pipe Repair Systems 662-22
UniFirst Corp.(E)(I)(T)	3067 E. Commerce Street	San Antonio	TX	78220	6/1/2022	5/31/2025	Uniforms and Accessories 670-22
Unify Energy Solutions, LLC(E)(I)(T)	13221 Lockwood Road, Ste 108	Houston	TX	77044	12/1/2021	11/30/2024	Building Maintenance, Repair, and Operations Supplies and Equipment 657-21
Unify Energy Solutions, LLC(E)(I)(T)	13221 Lockwood Road, Ste 108	Houston	TX	77044	12/1/2023	11/30/2026	HVAC Equipment, Supplies, and Installation of HVAC Equipment 720-23
Unipak Corporation(E)(I)(T)	PO Box 332	West Long Branch	NJ	07764	10/1/2024	9/30/2027	Custodial Supplies and Equipment 747-24
United Ag & Turf (formerly Austin Turf and Tractor)(E)(I)(T)	809 Steve Hawkins Parkway	Marble Falls	TX	78654	6/1/2023	5/31/2026	Grounds Maintenance Equipment, Parts, and Supplies 706-23

(M) - MWBE (E) - EDGAR Received (D) - Designated Dealer (I) - No Israel Boycott (T) - No Foreign Terrorist Orgs



TO: City Council
DATE: October 24, 2024
ITEM #: 8.E
SUBJECT: Consider approval of a contract with New In Blue for electronic citation writer software for Police, Fire Marshal and Code Enforcement. (Police)

Recommendation for Action: Approve contract between the City of Marshall and New In Blue

Executive Summary: The current electronic citation software is provided by Tyler Technology. Tyler has become difficult to contact and do business with. There are some concerns as to the accuracy of their citation data. The Police Department and Finance have determined that changing to New In Blue is advantageous to the City. This contract has been approved by the City Attorney.

Budget Cost: The total cost for this project is \$62,051.12. This includes startup of \$44,322.20 and yearly fees of \$17,728.92. \$33,241.73 will be paid with FY 2024 funds and the remaining \$28,809.39 will be paid with FY 2025 funds.

Staff Contact: Cliff Carruth - Chief of Police

Attachments: 1. Marshall City Police Department, TX & NIB agreement



New In Blue - Services Authorization Agreement

THIS AGREEMENT is made between the Marshall City Police Department, TX (hereinafter **CLIENT**) located at 2101 E End Blvd N, Marshall, TX 75670 and New In Blue INC. (hereinafter **NIB**) located at 1720 S. Edmonds Lane Suite 206 Lewisville, Texas 75067. NIB and CLIENT may be referred to individually as PARTY or collectively as PARTIES.

NIB and the CLIENT agree to the following terms and conditions: NIB will provide the PRODUCTS and SERVICES, that are selected in Annexure A attached herewith, that will be used by the CLIENT and their end- users.

TERM OF AGREEMENT: The term for NIB PRODUCTS and SERVICES will commence on the Effective Date and will remain in effect for one (1) year from the date of the first Live transaction through the PRODUCT and/or SERVICE. Thereafter, the term will automatically renew for additional one (1) year terms at the rate detailed in Annexure “A” unless terminated in writing by either party at least thirty (30) days prior to the end of the current term. Your right to access or use the NIB Products and Services will terminate at the end of the term for NIB Products and Services.

EARLY TERMINATION: The CLIENT may terminate this agreement without cause. To terminate the agreement, the CLIENT shall provide NIB with sixty (60) days written notice.

PAYMENT OF FEES FOR USE OF NIB PRODUCTS AND SERVICES:

Associated costs for NIB for the PRODUCTS that the CLIENT selects to subscribe to or use are listed in Annexure “A”.

Product and Service fees are invoiced annually, the first 75% due upon the execution of this agreement with the remaining 25% due beginning on the Effective ‘Live’ Date. Your Products and Service Fees will remain unchanged over the term of the Agreement for NIB Products and Services.

The one-time implementation fee is due upon the execution of this Agreement.

NIB’S RESPONSIBILITIES:

1. NIB shall provide the CLIENT with PRODUCTS and SERVICES including ONLINE ACCESS to reports of activities and transactions.
2. NIB retains all ownership and intellectual property rights to the Products and Services, the NIB Software, and anything developed by us under this Agreement.
3. The Documentation is licensed to you and may be used and copied by your employees for internal, non-commercial reference purposes only

4. NIB acknowledges that you retain all ownership and intellectual property rights to the Data.
5. All law enforcement data will be hosted in a CJIS Compliant cloud environment (Amazon Web Services – Gov Cloud).
6. The CLIENT’S employees will receive one-on-one training, timely service for any questions concerning transactions and other activities.
7. CLIENT support will be provided 24/7/365 to address all concerns in a timely manner and ensure limited downtime.

THE CLIENT’S RESPONSIBILITIES:

1. The CLIENT shall provide NIB with API information for NIB’s products to integrate with their Court and Police Systems.
2. The Client shall make timely payments on all invoices for Products and Services received.

CONFIDENTIALITY And NON-DISCLOSURE: Both parties agree that any confidential information will not be disclosed to anyone without the prior written consent of the other party. To the extent authorized by the law, the parties may wish, from time to time, in connection with work contemplated under this Agreement, to disclose confidential information to each other (“Confidential Information”). Each party will prevent the disclosure of any of the other party’s Confidential information to third parties.

ARBITRATION: Any dispute, controversy, or claim arising out of or relating in any way to the agreement including without limitation any dispute concerning the construction, validity, interpretation, enforceability, or breach of the agreement, shall be exclusively resolved by binding arbitration upon a Party’s submission of the dispute to arbitration.

AMENDMENTS TO AGREEMENT: Any modification of this agreement or additional obligation assumed by either party in connection with this agreement shall be binding only if placed in writing and signed by both parties.

GOVERNING LAW: This Agreement is governed by, and is to be construed in accordance with, the laws of the State of Texas, without regard to conflict of laws rules. Any action brought to enforce the terms of this Agreement shall be brought in the federal and state courts of Texas.

ANNEXURE A

Please choose the packages you would like to sign up for below by checking the appropriate boxes in the first column.

Select	Service(s) Description	Startup (One-time)	ANNUAL	Remarks
☐	Option 1 - TICKETS ON THE GO - BASIC (<i>Ticket Writer</i>) Included is eCitation, Parking, Towed Vehicle, Field Interview, and Trespass. - One (1) interface is included.(ex. COURTS) Additional interfaces will be charged at \$2000 per interface ONE-TIME (ex. POLICE)	\$36,630.00	\$12,820.50	75% of startup cost due upon execution of this agreement. The balance 25% of startup and the first year annual fee is due when the project goes live.
☐	Option 2 - TICKETS ON THE GO - FLEX (<i>Ticket Writer</i>) Included is eCitation, Parking, Towed Vehicle, Field Interview, and Trespass (Add one additional: (Driver's Exchange, Code Enforcement, Animal Control). One (1) interface is included. (ex. COURTS) Additional interfaces will be charged at \$2,000 per interface ONE-TIME (ex. POLICE)	\$40,293.00	\$14,102.55	75% of startup cost due upon execution of this agreement. The balance 25% of startup and the first year annual fee is due when the project goes live.
☐	Option 3 - TICKETS ON THE GO - PLATINUM (<i>Ticket Writer</i>) Included is eCitation, Parking, Towed Vehicle, Field Interview, Trespass, Driver's Exchange, Code Enforcement, and Animal Control) One (1) interface is included.. (ex. COURTS) Additional interfaces will be charged at \$2,000 per interface ONE-TIME (ex. POLICE)	\$44,322.30	\$17,728.92	75% of startup cost due upon execution of this agreement. The balance 25% of startup and the first year annual fee is due when the project goes live.
☐	REVIEW THE BLUE (RTB)	\$7,500.00	\$3,000.00	75% of startup cost due upon execution of this agreement. The balance 25% of startup and the first year annual fee is due when the project goes live.
☐	ADD-ON OPPORTUNITIES - CRASH State Compliant Crash Report Software with Drawing Tool and NIB Hosting Fee.	NO STARTUP FEES (\$0)	\$603.00 per user	75% of startup cost due upon execution of this agreement. The balance 25% of startup and the first year annual fee is due when the project goes live.

	Marshall City Police Department, TX	New In Blue
Signature		
Name		Mansur Plumber
Title		CTO
Date		04/02/2024



TO: City Council
DATE: October 24, 2024
ITEM #: 8.F
SUBJECT: Consider approval of an oil and gas lease with RFE ETX IV, LLC, on 96.698 gross acres of City of Marshall Property in various tracts. (City Attorney)

Recommendation for Action: Requesting approval of an oil and gas lease with RFE ETX IV, LLC, on 96.698 gross acres of City of Marshall Property in various tracts.

Executive Summary:

Budget Cost:

Staff Contact: Scott Rectenwald, City Attorney

Attachments: 1. CITY OF MARSHALL. RFE Lease w Exhibits

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

TEXAS STANDARD FORM
PAID UP OIL AND GAS LEASE

THIS LEASE AGREEMENT is made as of the _____ day of _____, 2024, between, The City of Marshall, Texas a Home Rule Municipality (hereinafter called "Lessor") as Lessor (whether one or more) whose address is 401 S. Alamo, Marshall, Texas 75670, and RFE ETX IV, LLC, whose address is: 8333 Douglas Avenue, Suite 975, Dallas, Texas 75225 (hereinafter called "Lessee"), as Lessee. All printed portions of this lease were prepared by the party hereinabove named as Lessee, but all other provisions (including the completion of blank spaces) were prepared jointly by Lessor and Lessee.

1. In consideration of a cash bonus in hand paid and the covenants herein contained, Lessor hereby grants, leases and lets exclusively to Lessee the following described land, hereinafter called leased premises: (use Exhibit "A" for long description):

See Property Description attached hereto as Exhibit "A"

FOR ADDITIONAL PROVISIONS SEE EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF

in the County of Harrison, State of Texas, containing 96.698 gross acres, more or less (~~including any interests therein which Lessor may hereafter acquire by reversion, prescription or otherwise~~), for the purpose of exploring for, developing, producing and marketing oil and gas, along with all hydrocarbon and nonhydrocarbon substances produced in association therewith. The term "gas" as used herein includes helium, carbon dioxide and other commercial gases, as well as hydrocarbon gases. ~~In addition to the above described leased premises, this lease also covers accretions and any small strips or parcels of land now or hereafter owned by Lessor which are contiguous or adjacent to the above described leased premises;~~ and, in consideration of the aforementioned cash bonus, Lessor agrees to execute at Lessee's request any additional or supplemental instruments for a more complete or accurate description of the land so covered. ~~Lessor and Lessee agree that this lease covers all interest currently owned by Lessor and any future interest obtained by Lessor, by any means, in the leased premises.~~ For the purpose of determining the amount of any shutin royalties hereunder, the number of gross acres above specified shall be deemed correct, whether actually more or less.

2. This lease, which is a "paidup" lease requiring no rentals, shall be in force for a primary term of five years from the date hereof, and for as long thereafter as oil or gas or other substances covered hereby are produced in paying quantities from the leased premises or from lands pooled

therewith or this lease is otherwise maintained in effect pursuant to the provisions hereof.

3. Royalties on oil, gas and other substances produced and saved hereunder shall be paid by Lessee to Lessor as follows: (a) For oil and other liquid hydrocarbons separated at Lessee's separator facilities, the royalty shall be one-fourth (1/4 th) of such production, to be delivered at Lessee's option to Lessor at the wellhead or to Lessor's credit at the oil purchaser's transportation facilities, provided that Lessee shall have the continuing right to purchase such production at the wellhead market price then prevailing in the same field (or if there is no such price then prevailing in the same field, then in the nearest field in which there is such a prevailing price) for production of similar grade and gravity; (b) for gas (including casinghead gas) and all other substances covered hereby, the royalty shall be one-fourth (1/4 th) of the proceeds realized by Lessee from the sale thereof, less a proportionate part of ad valorem taxes and production severance, or other excise taxes ~~and the costs incurred by Lessee in delivering, processing or otherwise marketing such gas or other substances~~, provided that Lessee shall have the continuing right to purchase such production at the prevailing wellhead market price paid for production of similar quality in the same field (or if there is no such price then prevailing in the same field, then in the nearest field in which there is such a prevailing price) pursuant to comparable purchase contracts entered into on the same or nearest preceding date as the date on which Lessee commences its purchases hereunder; and (c) if at the end of the primary term or any time thereafter one or more wells on the leased premises or lands pooled therewith are capable of producing oil or gas or other substances covered hereby in paying quantities, but such well or wells are either shut in or production therefrom is not being sold by Lessee, such well or wells shall nevertheless be deemed to be producing in paying quantities for the purpose of maintaining this lease. If for a period of 90 consecutive days such well or wells are shut in or production therefrom is not being sold by Lessee, then Lessee shall pay shutin royalty of one dollar per acre then covered by this lease, such payment to be made to Lessor or to Lessor's credit in the depository designated below, on or before the end of said 90 day period and thereafter on or before each anniversary of the end of said 90day period while the well or wells are shut in or production therefrom is not being sold by Lessee; provided that if this lease is otherwise being maintained by operations, or if production is being sold by Lessee from another well or wells on the leased premises or lands pooled therewith, no shutin royalty shall be due until the end of the 90day period next following cessation of such operations or production. Lessee's failure to properly pay shutin royalty shall render Lessee liable for the amount due, but shall not operate to terminate this lease.

4. All shutin royalty payments under this lease shall be paid or tendered to Lessor or to Lessor's credit in DIRECT TO LESSOR AT ABOVE ADDRESS or its successors, which shall be Lessor's depository agent for receiving payments regardless of changes in the ownership of said land. All payments or tenders may be made in currency, or by check or by draft and such payments or tenders to Lessor or to the depository by deposit in the U.S. Mails in a stamped envelope addressed to the depository or to the Lessor at the last address known to Lessee shall constitute proper payment. If the depository should liquidate or be succeeded by another institution, or for any reason fail or refuse to accept payment hereunder, Lessor shall, at Lessee's request, deliver to Lessee a proper recordable instrument naming another institution as depository agent to receive payments.

5. If Lessee drills a well which is incapable of producing in paying quantities (hereinafter called "dry hole") on the leased premises or lands pooled therewith, or if all production (whether or not in paying quantities) permanently ceases from any cause, including a revision of unit boundaries pursuant to the provisions of Paragraph 6 or the action of any governmental authority, then in the event this lease is not otherwise being maintained in force it shall nevertheless remain in force if Lessee commences operations for reworking an existing well or for drilling an additional well or for otherwise obtaining or restoring production on the leased premises or lands pooled therewith within 90 days after completion of operations on such dry hole or within 90 days after such cessation of all production. If at the end of the primary term, or at any time thereafter, this lease is not otherwise being maintained in force but Lessee is then engaged in drilling, reworking or any other operations reasonably calculated to obtain or restore production therefrom, this lease shall remain in force so long as any one or more of such operations are prosecuted with no cessation of more than 90 consecutive days, and if any such operations result in the production of oil or gas or other substances covered hereby, as long thereafter as there is production in paying quantities from the leased premises or lands pooled therewith. After completion of a well capable of producing in paying quantities hereunder, Lessee shall drill such additional wells on the leased premises or lands pooled therewith as a reasonably prudent operator would drill under the same or similar circumstances to (a) develop the leased premises as to formations then capable of producing in paying quantities on the leased premises or lands pooled therewith, or (b) to protect the leased premises from uncompensated drainage by any well or wells located on other lands not pooled therewith. There shall be no covenant to drill exploratory wells or any additional wells except as expressly provided herein.

6. Lessee shall have the right but not the obligation to pool all or any part of the leased premises or interest therein with any other lands or interests, as to any or all depths or zones, and as to any or all substances covered by this lease, either before or after the commencement of production, whenever Lessee deems it necessary or proper to do so in order to prudently develop or operate the leased premises, whether or not similar pooling authority exists with respect to such other lands or interests. The unit formed by such pooling for an oil well which is not a horizontal completion shall not exceed 80 acres plus a maximum acreage tolerance of 10%, and for a gas well or a horizontal completion shall not exceed 640 acres plus a maximum acreage tolerance of 10%; provided that a larger unit may be formed for an oil well or gas well or horizontal completion to conform to any well spacing or density pattern that may be prescribed or permitted by any governmental authority having jurisdiction to do so. For the purpose of the foregoing, the terms "oil well" and "gas well" shall have the meanings prescribed by applicable law or the appropriate government authority, or, if no definition is so prescribed, "oil well" means a well with an initial gas-oil ratio of less than 100,000 cubic feet per barrel, and "gas well" means a well with an initial gas-oil ratio of 100,000 cubic feet or more per barrel, based on a 24-hour production test conducted under normal producing conditions using standard lease separator facilities or equivalent testing equipment; and the term "horizontal completion" means an oil or gas well in which the horizontal component of the gross completion interval in the reservoir exceeds the vertical component thereof. In exercising its pooling rights hereunder, Lessee shall file of record a written declaration describing the unit and stating the effective date of pooling. Production, drilling or reworking operations anywhere on a unit which includes all or any part of the leased premises shall be treated as if it were production, drilling or reworking operations on

the leased premises, except that the production of which Lessor's royalty is calculated shall be that proportion of the total unit production which the net acreage covered by this lease and included in the unit bears to the total gross acreage in the unit, but only to the extent such proportion of unit production is sold by Lessee. Pooling in one or more instances shall not exhaust Lessee's pooling rights hereunder, and Lessee shall have the recurring right but not the obligation to revise any unit formed hereunder by expansion or contraction or both, either before or after commencement of production, in order to conform to the well spacing or density pattern prescribed or permitted by the governmental authority having jurisdiction, or to conform to any productive acreage determination made by such governmental authority or whenever Lessee deems it necessary or proper to do so in order to prudently operate or develop the leased premises. In making such a revision, Lessee shall file of record a written declaration describing the revised unit and stating the effective date of revision. To the extent that any portion of the leased premises is included in or excluded from the unit by virtue of such revision, the proportion of unit production on which royalties are payable hereunder shall thereafter be adjusted accordingly. In the absence of production in paying quantities from a unit, or upon permanent cessation thereof, Lessee may terminate the unit by filing of record a written declaration describing the unit and stating the date of termination. Pooling hereunder shall not constitute a cross-conveyance of interests.

7. If Lessor owns less than the full mineral estate in all or any part of the leased premises, the royalties and shut-in royalties payable hereunder for any well on any part of the leased premises or lands pooled therewith shall be reduced to the proportion that Lessor's interest in such part of the leased premises bears to the full mineral estate in such part of the leased premises.

8. The interest of either Lessor or Lessee hereunder may be assigned, devised or otherwise transferred in whole or in part, by area and/or by depth or zone, and the rights and obligations of the parties hereunder shall extend to their respective heirs, devisees, executors, administrators, successors and assigns. No change in Lessor's ownership shall have the effect of reducing the rights or enlarging the obligations of Lessee hereunder, and no change in ownership shall be binding on Lessee until 60 days after Lessee has been furnished the original or certified or duly authenticated copies of the documents establishing such change of ownership to the satisfaction of Lessee or until Lessor has satisfied the notification requirements contained in Lessee's usual form of division order. In the event of the death of any person entitled to shutin royalties hereunder, Lessee may pay or tender such shutin royalties to the credit of decedent or decedent's estate in the depository designated above. If at any time two or more persons are entitled to shutin royalties hereunder, Lessee may pay or tender such shutin royalties to such persons or to their credit in the depository, jointly or separately in proportion to the interest which each owns. If Lessee transfers its interest hereunder in whole or in part Lessee shall be relieved of all obligations thereafter arising with respect to the transferred interest, and failure of the transferee to satisfy such obligations with respect to the transferred interest shall not affect the rights of Lessee with respect to any interest not so transferred. If Lessee transfers a full or undivided interest in all or any portion of the area covered by this lease, the obligation to pay or tender shutin royalties hereunder shall be divided between Lessee and the transferee in proportion to the net acreage interest in this lease then held by each.

9. Lessee may, at any time and from time to time, deliver to Lessor or file of record a written

release of this lease as to a full or undivided interest in all or any portion of the area covered by this lease or any depths or zones thereunder, and shall thereupon be relieved of all obligations thereafter arising with respect to the interest so released. If Lessee releases all or an undivided interest in less than all of the area covered hereby, Lessee's obligation to pay or tender shutin royalties shall be proportionately reduced in accordance with the net acreage interest retained hereunder.

10. In exploring for, developing, producing and marketing oil, gas and other substances covered hereby on the leased premises or lands pooled or unitized therewith, in primary and/or enhanced recovery, Lessee shall have the right of ingress and egress along with the right to conduct such operations on the leased premises as may be reasonably necessary for such purposes, including but not limited to geophysical operations, the drilling of wells, and the construction and use of roads, canals, pipelines, tanks, water wells, disposal wells, injection wells, pits, electric and telephone lines, power stations, and other facilities deemed necessary by Lessee to discover, produce, store, treat and/or transport production. Lessee may use in such operations, free of cost, any oil, gas, water and/or other substances produced on the leased premises, except water from Lessor's wells or ponds. ~~In exploring, developing, producing or marketing from the leased premises or lands pooled therewith, the ancillary rights granted herein shall apply (a) to the entire leased premises described in Paragraph 1 above, notwithstanding any partial release or other partial termination of this lease; and (b) to any other lands in which Lessor now or hereafter has authority to grant such rights in the vicinity of the leased premises or lands pooled therewith. When requested by Lessor in writing,~~ Lessee shall bury its pipelines below ordinary plow depth on cultivated lands. No well shall be located less than 200 feet from any house or barn now on the leased premises ~~or other lands used by Lessee hereunder~~, without Lessor's consent, and Lessee shall pay for damage caused by its operations to buildings and other improvements now on the leased premises or such other lands, and to commercial timber and growing crops thereon. Lessee shall have the right at any time to remove its fixtures, equipment and materials, including well casing, from the leased premises or such other lands during the term of this lease or within a reasonable time thereafter.

11. Lessee's obligations under this lease, whether express or implied, shall be subject to all applicable laws, rules, regulations and orders of any governmental authority having jurisdiction including restrictions on the drilling and production of wells, and the price of oil, gas and other substances covered hereby. When drilling, reworking, production or other operations are prevented or delayed by such laws, rules, regulations or orders, or by inability to obtain necessary permits, equipment, services, material, water, electricity, fuel, access or easements, or by fire, flood, adverse weather conditions, war, sabotage, rebellion, insurrection, riot, strike or labor disputes, or by inability to obtain a satisfactory market for production or failure of purchasers or carriers to take or transport such production, or by any other cause not reasonably within Lessee's control, this lease shall not terminate because of such prevention or delay, and at Lessee's option, the period of such prevention or delay shall be added to the term hereof. Lessee shall not be liable for breach of any express or implied covenants of this lease when drilling, production or other operations are so prevented, delayed or interrupted.

12. ~~In the event that Lessor, during the primary term of this lease, receives a bona fide offer~~

~~which Lessor is willing to accept from any party offering to purchase from lessor a lease covering any or all of the substances covered by this lease and covering all or a portion of the land described herein, with the lease becoming effective upon expiration of this lease, Lessor hereby agrees to notify Lessee in writing of said offer immediately, including in the notice the name and address of the offeror, the price offered and all other pertinent terms and conditions of the offer. Lessee, for a period of fifteen days after receipt of the notice, shall have the prior and preferred right and option to purchase the lease or part thereof or interest therein, covered by the offer at the price and according to the terms and conditions specified in the offer.~~

13. No litigation shall be initiated by Lessor with respect to any breach or default by Lessee hereunder, for a period of at least 90 days after Lessor has given Lessee written notice fully describing the breach or default, and then only if Lessee fails to remedy the breach or default, within such period. In the event the matter is litigated and there is a final judicial determination that a breach or default has occurred, this lease shall not be forfeited or cancelled in whole or in part unless Lessee is given a reasonable time after said judicial determination to remedy the breach or default and Lessee fails to do so.

14. Lessor hereby ~~warrants and agrees to defend title conveyed to Lessee hereunder, and agrees~~ that Lessee at Lessee's option may pay and discharge any taxes, mortgages or liens existing, levied or assessed on or against the leased premises. If Lessee exercises such option, Lessee shall be subrogated to the rights of the party to whom payment is made and, in addition to its other rights, may reimburse itself out of any royalties or shut-in royalties otherwise payable to Lessor hereunder. In the event Lessee is made aware of any claim inconsistent with Lessor's title, Lessee may suspend the payment of royalties and shut-in royalties hereunder, without interest, until Lessee has been furnished satisfactory evidence that such claim has been resolved.

IN WITNESS WHEREOF, this lease is executed to be effective as of the date first written above, but upon execution shall be binding on the signatory and the signatory's heirs, devisees, executors, administrators, successors and assigns, whether or not this lease has been executed by all parties hereinabove named as Lessor.

LESSOR (WHETHER ONE OR MORE)

The City of Marshall, Texas
a Home Rule Municipality

By: Amy Ware
Its: Mayor

ACKNOWLEDGEMENT

THE STATE OF TEXAS §
COUNTY OF HARRISON §

This instrument was acknowledged before me on the day of _____, 2024, by Amy Warte, Mayor of The City of Marshall, Texas a Home Rule Municipality, in the capacity stated herein.

Notary Public, State of Texas

LESSEE
RFE ETX IV, LLC

By: Robert Boisvert
Its: Vice President of Land

ACKNOWLEDGEMENT

THE STATE OF TEXAS §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the day of _____, 2024, by Robert Boisvert as Vice President of Land for RFE ETX IV, LLC, in the capacities stated herein.

Notary Public, State of Texas

EXHIBIT A

City of Marshall Tract Descriptions

Tract 1: 45 acres, more or less, in the James A. Chaffin Survey, A-134, Harrison County, Texas and being described in that certain Warranty Deed dated May 15, 1958, from the City of Marshall to George Prendergast, Jr., recorded in Volume 512, Page 529 of the Deed Records of Harrison County, Texas.

Tract 2: 20 acres, more or less, in the Peter Whetstone Survey, A-756, Harrison County, Texas and being described in that certain Cemetery Deed dated October 10, 1949, from G. P. Rains and Mrs. Myrtle Rains to the Marshall Greenwood Cemetery Association, recorded in Volume 345, Page 225 of the Deed Records of Harrison County, Texas and also being the same land shown as Outlot No. 271, according to the official map of the City of Marshall located at the City Engineering Office.

Tract 3: 0.903 acres of land, more or less, in the Peter Whetstone Survey, A-756, Harrison County, Texas and being the same land described in that certain Warranty Deed dated August 27, 1998, from Wal-Mart Real Estate Business Trust to the City of Marshall, recorded in Volume 1835, Page 65 of the Deed Records of Harrison County, Texas.

Tract 4: 0.057 acres, more or less, in the Peter Whetstone Survey, A-756, Harrison County, Texas and being described in that certain Warranty Deed dated February 6, 2001, from Penelope Harris Jones, whose husband is Charles W. Jones to the City of Marshall, recorded in Volume 2200, Page 67 of the Official Public Records of Harrison County, Texas.

Tract 5: 0.878 acres of land, more or less, in the Peter Whetstone Survey, A-756, Harrison County, Texas and being described in that certain Warranty Deed dated January 25, 1916, from Harry Harter to the City of Marshall, Texas, recorded in Volume 91, Page 299 of the Deed Records of Harrison County, Texas.

Tract 6: 7.7 acres, more or less, part of the M. L. Woods Survey, A-782, Harrison County, Texas and being described in that certain Warranty Deed dated October 19, 1934, from Ed Hodge, et al, to the City of Marshall and recorded in Volume 201, Page 440 of the Deed Records of Harrison County, Texas.

Tract 7: 4.15 acres, more or less, part of the Thomas Iden Survey, A-354, Harrison County, Texas and being described in that certain Warranty Deed dated June 1, 1951, from M. A. Kelly and husband, Will Kelly, to the City of Marshall and recorded in Volume 381, Page 323 of the Deed Records of Harrison County, Texas.

Tract 8: 5.7 acres, more or less, part of the Peter Whetstone Survey, A-756, Harrison County, Texas, being more fully described in that certain Deed dated September 15, 1939, between N.D Goldberg, as Receiver and The City of Marshall, recorded in Volume 236, Page 395 of the Deed Records of Harrison County, Texas.

Tract 9: 0.578 acres of land, more or less, situated in the Peter Whetstone Survey, A-756, Harrison County, Texas, and being described in Tract No. 1, being a part of Outlot 173 S.E. and Lots 6, 7, 13 and 14, of Block 2 of the A. L. Elliott First Addition to the City of Marshall, described in that certain Warranty Deed dated September 23, 1949, from A. L. Elliott joined herein by James Wells and wife, Margrett Wells to City of Marshall, a Municipal Corporation, recorded in Volume 343, Page 89 of the deed Records of Harrison County, Texas.

Tract 10: 5.816 acres of land, more or less, situated in the Peter Whetstone Survey, A-756, Harrison County, Texas and being the same lands described in the following six Outlots to wit:

Being 1.399 acres of land, more or less, out of the Peter Whetstone Survey, A-756, Harrison County, Texas, and being the same land described as Outlot 199 SE in that certain Warranty Deed dated April, 20, 1948, from Bertha Foster and husband Green Foster to The City of Marshall, a municipal corporation recorded in Volume 335, Page 511 of the Deed Records of Harrison County, Texas.

Being 0.334 acres of land, more or less, out of the Peter Whetstone Survey, A-756, Harrison County, Texas, and being the same land described as Outlot 200 SE in that certain Warranty Deed dated February 10, 1938, from Roberta Anderson, sole surviving heir of Jake Hill, deceased, joined pro forma by her

husband Calvin Anderson to The City of Marshall, a municipal corporation recorded in Volume 228, Page 506 of the Deed Records of Harrison County, Texas.

Being 0.275 acres of land, more or less, out of the Peter Whetstone Survey, A-756, Harrison County, Texas, and being the same land described as Outlot 201 SE in that certain Warranty Deed dated July, 8, 1947, from M. E. Butler to The City of Marshall, a municipal corporation recorded in Volume 313, Page 433 of the Deed Records of Harrison County, Texas.

Being approximately 3.114 acres of land, more or less, out of the Peter Whetstone Survey, A-756, Harrison County, Texas, and being the same land shown as Outlot 202 SE as per Carter & Cook Map of the City of Marshall dated September 1915, Harrison County, Texas.

Being 0.447 acres of land, more or less, out of the Peter Whetstone Survey, A-756, Harrison County, Texas, and being the same land described as Outlot 203A SE in that certain Warranty Deed dated May 13, 1937, from B. A. Cargill to The City of Marshall, a municipal corporation recorded in Volume 221, Page 592 of the Deed Records of Harrison County, Texas.

Being 0.247 acres of land, more or less, out of the Peter Whetstone Survey, A-756, Harrison County, Texas, and being the same land described as Outlot 203B SE in that certain Warranty Deed dated May 11, 1937, from B. A. Cargill to The City of Marshall, a municipal corporation recorded in Volume 221, Page 632 of the Deed Records of Harrison County, Texas.

Tract 11: 1.322 acres of land, more or less, situated in the Peter Whetstone Survey, A-756, Harrison County, Texas, and being described as Lots 1, 2, 3, and 4 of Block 13 of the Original Townsite to the City of Marshall, described in that certain Special Warranty Deed dated September 1, 1993, from Pacific Southwest Bank, F.S.B., a federal savings bank, formerly known as Pacific Southwest Savings Bank, F.S.B.(transferee of certain assets from the FSLIC as receiver for Charter Savings and Loan Association, successor by merger to First Federal Savings and Loan Association of Marshall, Texas) to City of Marshall, recorded in Volume 1341, Page 823 of the Deed Records of Harrison County, Texas.

Tract 12: 1.208 acres of land, more or less, situated in the Peter Whetstone Survey, A-756, Harrison County, Texas and being a part of Block 69 of the Ward Addition (East) to said City, described in that certain Warranty Deed dated October 19, 1973, from Friends of a Public Library, Marshall, Texas, a non-profit Texas corporation to City of Marshall, recorded in Volume 737, Page 236 of the Deed Records of Harrison County, Texas.

Tract 13: 0.912 acres of land, more or less, situated in the Peter Whetstone Survey, A-756, Harrison County, Texas and being the same lands described in the following five Outlots to wit:

Being 0.590 acres of land, more or less, out of the Peter Whetstone Survey, A-756, Harrison County, Texas and being the same land described as Outlots 184, 184A and 184B SE in that certain Warranty Deed dated July 17, 1950, from Catherine Spann and husband Howard Spann, Jr. and Essie Lee Wadlington and husband, Robert Wadlington to The City of Marshall, Texas, a municipal corporation recorded in Volume 362, Page 137 of the Deed Records of Harrison County, Texas.

Being 0.207 acres of land, more or less, out of the Peter Whetstone Survey, A-756, Harrison County, Texas, and being the same land described as Outlot 184C SE in that certain Warranty Deed dated June 1, 1950, from Robert Whitten and wife Emma Whitten to the City of Marshall, Texas, a municipal corporation recorded in Volume 358, Page 292 of the Deed Records of Harrison County, Texas.

Being 0.115 acres of land, more or less, out of the Peter Whetstone Survey, A-756, Harrison County, Texas, and being the same land described as Outlot 190 SE in that certain Warranty Deed dated April 20, 1950, from Sam Smith and wife, Hettie Mae Smith to the City of Marshall, a municipal corporation in Volume 354, Page 343 of the Deed Records of Harrison County, Texas.

Tract 14: 0.441 acres of land, more or less, situated in the Peter Whetstone Survey, A-756, Harrison County, Texas and being a Outlot 191 S.E. within the City Limits of the City of Marshall, described in that certain Warranty Deed dated December 29, 1949, from Richmond Love, a single man to City of

Marshall, a Municipal Corporation, recorded in Volume 348, Page 317 of the Deed Records of Harrison County, Texas.

Tract 15: 0.331 acres of land, more or less, situated in the Peter Whetstone Survey, A-756, Harrison County, Texas and being the same lands described in the following three lots to wit:

Being 0.083 acres of land, more or less, out of the Peter Whetstone Survey, A-756, Harrison County, Texas, and being the same lands described as Outlot 188 SE in that certain Warranty Deed dated May 2, 1950, from Luvenia Dooley, a feme sole to City of Marshall, a Municipal Corporation recorded in Volume 356, Page 73, of the Deed Records of Harrison County, Texas.

Being 0.083 acres of land, more or less, out of the Peter Whetstone Survey, A-756, Harrison County, Texas, and being the same lands described as Outlot 188A SE in that certain Warranty Deed dated July 11, 1950, from Charles E. Berry to City of Marshall, a Municipal Corporation recorded in Volume 361, Page 10, of the Deed Records of Harrison County, Texas.

Being 0.165 acres of land, more or less, out of the Peter Whetstone Survey, A-756, Harrison County, Texas, and being the same lands described as Outlot 189 SE in that certain Warranty Deed dated June 30, 1950, from Tim Turner, surviving husband of Valerie Turner and Josie Alford, a feme sole to City of Marshall, a Municipal Corporation recorded in Volume 362, Page 473, of the Deed Records of Harrison County, Texas.

Tract 16: 1.25 acres of land, more or less, situated in the Peter Whetstone Survey, A-756, Harrison County, Texas and being the same lands described in the following three tracts to wit:

Being 0.948 acres of land, more or less, out of the Peter Whetstone Survey, A-756, Harrison County, Texas and being the same land described as Lots 9, 10, 11, 12 Block 2 and Lots 6 and 7 Block 1 in the A. L. Elliott First Addition and being the same land described in that certain Warranty Deed dated November 25, 1980, from Arthur L. Elliott, Jr. and wife, Lanelle Elliott to the City of Marshall, Texas, recorded in Volume 968, Page 311 of the Deed Records of Harrison County, Texas.

Being 0.187 acres of land, more or less, out of the Peter Whetstone Survey, A-756, Harrison County, Texas and being the same land described as Lot 8 Block 2, in the A. L. Elliott First Addition and being the same land described in that certain Warranty Deed dated December 6, 1962, from Dorothy H. Jones to the City of Marshall, Texas, recorded in Volume 937 Page 340 of the Deed Records of Harrison County, Texas.

Being 0.115 acres of land, more or less, out of the Peter Whetstone Survey, A-756, Harrison County, Texas and being the same land described as Lot 5 Block 2 in the A. L. Elliott First Addition and being the same land described in that certain Warranty Deed dated November 25, 1980 from James Reed and wife, Lenora Reed to the City of Marshall, Texas, recorded in Volume 968, Page 313 of the Deed Records of Harrison County, Texas.

Tract 17: 0.452 acres of land, more or less, out of the Peter Whetstone Survey, A-756, Harrison County, Texas, and being the same tract of land more fully described in that certain Warranty Deed dated September 2, 1889, from A. J. Booty to Jake Rose, recorded in Volume 27, Page 392, of the Deed Records, Harrison County, Texas.

EXHIBIT "B"

Attached to and made a part of that certain Oil and Gas Lease (the "Lease") dated _____, 2024 by and between The City of Marshall, Texas a Home Rule Municipality, as Lessor, and RFE ETX IV, LLC, as Lessee. THE PROVISIONS SET FORTH IN THIS ADDENDUM SHALL SUPERSEDE AND GOVERN OVER THE PROVISIONS SET FORTH IN THE PRINTED FORM TEXT OF THE OIL, GAS AND MINERAL LEASE AND SHALL INURE TO THE BENEFIT OF, AND BE BINDING UPON, THE PARTIES HERETO AND THEIR RESPECTIVE HEIRS, REPRESENTATIVES, SUCCESSORS AND/OR ASSIGNS. TO THE EXTENT ANY OF THE TERMS OF THIS ADDENDUM ARE IN CONFLICT WITH PROVISIONS SET FORTH IN PARAGRAPHS 1 THROUGH 14 OF THE OIL, GAS AND MINERAL LEASE, LESSOR AND LESSEE STIPULATE, ACKNOWLEDGE AND AGREE THAT THE PROVISIONS SET FORTH IN THIS ADDENDUM CONTROL AND THAT THE PROVISIONS IN PARAGRAPHS 1 THROUGH 14 OF THE OIL, GAS AND MINERAL LEASE ARE NOT INTENDED TO BE HARMONIZED WITH THE PROVISIONS SET FORTH IN THIS ADDENDUM, BELOW, WHETHER OR NOT SAID PROVISIONS ARE SPECIFICALLY STRICKEN FROM THE OIL, GAS AND MINERAL LEASE.

ADDITIONAL PROVISIONS:

15. BONUS:

As a lease signing bonus for the initial five (5) year primary term, LESSEE shall pay LESSOR the sum of One Thousand Five Hundred and No/100 dollars (\$1,500.00) per net mineral acre of ownership covered by this Lease.

16. LIMITATION TO OIL, GAS AND HYDROCARBONS:

Notwithstanding anything to the contrary contained herein, it is understood and agreed that this lease covers only oil and gas, which includes sulphur, dry gas, casinghead gas, distillate, condensate, and all other hydrocarbons and other gaseous substances, but does not include any other minerals, of any kind or character, wether metallic, non-metallic or otherwise. Accordingly, the words "oil, gas", when used herein, shall mean oil, gas, sulphur and associated liquid or liquefiable hydrocarbons, and the words "all other minerals" whenever used herein shall be stricken from this Lease so that such "all other minerals" are reserved to the Lessor.

17. LIMITATION TO LAND DESCRIBED:

Notwithstanding anything to the contrary contained herein, this Lease covers only the land particularly described herein and specifically excludes any land of LESSOR that is adjacent or contiguous thereto and which is not specifically described herein.

18. ROYALTY:

LESSEE agrees to pay or cause to be paid to LESSOR, his heirs and assigns, royalties as follows:

- A. On oil, 25% (undivided one-fourth) of the market value of gross production produced and saved from the Leased Premises.
- B. On gas, including casinghead gas, carbon dioxide, and other gaseous or vaporous

substance, 25% (undivided one-fourth) of the market value of gross production produced and saved from the Leased Premises. The market value of such gas shall be the gross proceeds actually received by LESSEE from the sale of such gas or casinghead gas from an unaffiliated third party.

C. On all other minerals, expressly including sulphur mined and marketed, helium, carbon dioxide and other associated products, Lessor shall be paid 25% (undivided one-fourth) part of the current market price of the gross production produced when sold by LESSEE.

D. The market value of any gas, condensate or other products of oil or gas shall never be less than the gross proceeds received by LESSEE or by any affiliated or subsidiary company by reason of the sale of such oil, gas, condensate or other products. The total proceeds received shall include, but not be limited to, the fair value of all consideration received by LESSEE or by any affiliated or subsidiary company related to the marketing and/or dedication of oil, gas, condensate or other products or reserves (such as take or pay payment, take or pay settlements and awards, dedication payments, advance payments, contract adjustments, contract buy out/buy down payment or similar consideration.) IN NO EVENT WILL THE PRICE PAID LESSOR FOR LESSOR'S ROYALTY SHARE OF OIL, GAS, AND OTHER SUBSTANCES PRODUCED FROM THE LEASED PREMISES OR LANDS POOLED THEREWITH BE LESS, OR MORE, THAN THE PRICE PAID LESSEE FOR LESSEE'S SHARE OF OIL AND GAS. LESSEE FURTHER STIPULATES, ACKNOWLEDGES AND AGREES THAT LESSEE SHALL BE PROHIBITED FROM SELLING OIL AND/OR GAS TO ANY AFFILIATED THIRD PARTY WITHOUT FIRST PROVIDING WRITTEN NOTICE OF SAID SALE TO LESSOR.

E. LESSOR'S royalty shall be calculated free and clear of costs and expenses for exploration, drilling, development and production, including, but not limited to, dehydration, storage, compression, separation by mechanical means and product stabilization and administrative or other "overhead" charges. All pre-wellhead and post-wellhead costs to the point of sale to a non-affiliated third party, including, but not limited to, all costs to process and render marketable any product, compression, transportation, and marketing costs, shall be paid by LESSEE. Royalties payable on gas and gaseous substances, including casing head gas, shall be free of all costs, charges, or deductions of producing, treating, compressing, transporting, and marketing said gas to such purchaser, which royalty however, shall be subject to such production and severance taxes as are properly allocable thereto. Royalties on oil shall be free of all costs of transportation and production costs, and treatment to make same marketable.

Notwithstanding any definition of market value expressed herein or implied at law, it is controllingly provided that payments to Lessor for Lessor's royalty share shall never bear or be charged with, either directly or indirectly, any part of the costs or expenses of production, gathering, dehydration, compression, transportation, manufacturing, processing, treating, post production expenses, or marketing of the oil or gas from the leased premises nor any part of the costs of construction, operation or depreciation of any plant or other facilities or equipment for processing or treating said oil or gas produced from the Leased Premises. It is intended that the terms of this section or paragraph of this

lease be controlling, and not merely surplusage.

F. Notwithstanding anything contained herein to the contrary, this Lease shall terminate at the end of the primary term (or any extension thereof pursuant to Paragraph 22), and thereafter terminate from time to time, as to all land which is not included within a unit that is:

- (a) Producing oil, gas or other minerals in commercially paying quantities; or,
- (b) An existing well in process of being completed or reworked; or,
- (c) Currently involved in actual drilling with a rig and equipment capable of achieving total permitted depth; or
- (d) Completed and awaiting completion of pipeline facilities to remove oil, gas or other minerals from said unit.

G. Commencement of all royalty payments, payable in money on account of oil and gas produced from any well shall not be delayed beyond ninety (90) days after the last day of the month during which production commences from such well. After the commencement of royalty payments from any well, all royalty payable in money on account of oil and gas produced from such well during each calendar month shall be paid by LESSEE'S check mailed to the LESSOR on or before sixty (60) days after the last day of the month during which production accrued. Such payment shall be accompanied by a statement showing the gross amount of oil produced since the last report and the gross production of all gas, casinghead gas and plant products produced from the Leased Premises, or lands pooled therewith, and that which was sold or used for the manufacture of gasoline and other products, and the market value of the same. Royalties not paid when due shall bear interest at the rate of twelve percent (12%) per annum, or the highest rate allowed by law, whichever is less, from their due date until paid, unless said royalty is withheld due to a bona fide dispute or a good faith question of royalty entitlement.

H. If royalty is not paid by such due date, and a bona fide dispute or a good faith question of royalty entitlement does not exist, LESSOR may give LESSEE written notice by Certified Mail and Personal Service under the Texas Rules of Civil Procedure to the address set out herein, of nonpayment of royalty; and if LESSOR'S royalty is not paid on or before the expiration of ninety (90) days from LESSEE'S receipt of such notice, LESSOR may, upon written notice, immediately terminate this lease and evict LESSEE forthwith as to as to any acreage held by production from the lands made the subject of this lease or lands pooled therewith.

I. However, if there is a bona fide dispute or a good faith question of royalty entitlement, LESSEE may withhold payment of royalty with respect to that portion of any royalty interest the title to which is in question. If the parties claiming title agree upon and retain a trustee to hold the withheld royalty, LESSEE may, at no cost or expense of LESSEE, pay such withheld royalty to the trustee selected and compensated by both parties claiming title. If the claiming parties do not, or cannot agree on a trustee, LESSEE may tender the royalty into a court of competent jurisdiction by Bill of Interpleader, to be so held by the court clerk under the direction of the court. If the royalty is so paid to such

trustee or to the court within the time provided, the LESSEE shall owe no interest on such royalties, and the interest and principal accrued in any account into which such royalties are deposited shall be the property of the party thereafter determined to be entitled to the corresponding royalty.

J. LESSOR shall have the right during regular business hours and upon ten (10) days prior written notice to LESSEE, personally or by representative, to inspect in Lessee's office the books, accounts, contracts, records and data of LESSEE pertaining to the development, production, sales, expenses, saving, transporting, and marketing of oil, gas and all other substances produced from the Leased Premises or lands pooled therewith; provided, however, that (i) LESSOR or LESSOR's representative agree to keep all information gathered from any such inspection strictly confidential and to not disclose any such information without LESSEE's prior written consent, which shall not be unreasonably withheld, conditioned or delayed, and (ii) LESSEE shall not be required by this provision to breach any confidentiality obligations owed to a contractual counterparty. The rights granted under this Paragraph shall not be exercised by LESSOR more than once per calendar year.

K. At any time while there is a gas well on the Leased Premises capable of producing gas in paying quantities, LESSEE may shut-in any such well. The term "gas well" as used in this paragraph, shall include wells which are defined as gas wells under Texas Railroad Commission Regulations and the Statutes of Texas. The shut-in provision of this lease shall apply only during the life of a gas well capable of producing in paying quantities. After the expiration of the primary term hereof and notwithstanding any prior payments or any other terms of this lease, this lease shall terminate as to the acreage and depths applicable to such shut-in well, (a) sixty (60) days from the date any such well is shut-in, or (b) in the case of a pooled gas unit, sixty (60) days from the date all unit wells within a pooled gas unit, are shut-in, unless on or before the expiration of any such sixty (60) day period described in (a) or (b), LESSEE or any assignee hereunder pays or tenders a sum equal to fifty dollars (\$50.00) per net mineral acre held by the applicable well or wells shut-in, and if such payment or tender is made, this lease shall continue in force as to the applicable acreage and depths, and it shall be considered that gas is being produced from the applicable portion of the Leased Premises in paying quantities for one (1) year from the date such well or pooled gas unit is shut-in, and in like manner subsequent shut-in payments may be made or tendered each year on or before the anniversary of the date each such well is shut-in, and this lease shall continue in force, and it will be considered that gas is being produced from the applicable portion of the Leased Premises in paying quantities during any annual period for which such shut-in payment is paid or tendered, provided, however, LESSEE shall have no right to keep this lease in force solely by shut-in well payments for a period of more than twenty-four (24) consecutive months or for lesser, non-consecutive periods which aggregate together no more than twenty-four (24) months in a three (3) year period. The amount paid as shut-in gas well payment shall not be treated as advance royalty and shall not in any way be deducted from LESSOR'S royalty on production under this lease. The payment or tender of shut-in gas well payments hereunder may be made by check of LESSEE, mailed or delivered to the parties

entitled thereto or to the bank named as depository herein for the credit of LESSOR on or before the due date of payment. In the event of the death of any person entitled to receive any such payment, LESSEE may pay or tender same to the credit of the deceased at such bank.

L. If, by reason of assignment of undivided interest in LESSEE'S interest in this lease, more than one party becomes entitled to gas produced under this lease, and if any or all such co-owners elect to take their share of gas in kind, resulting in split-stream deliveries of gas to different purchasers, then, LESSOR shall be entitled, at LESSOR'S election, to require the operator of the Leased Premises to pay and account to LESSOR for all royalties due on gas production from the well or wells from which such split- stream deliveries are being made, so that LESSOR shall not receive royalties from more than one purchaser or party on gas to be credited to LESSOR'S royalty. If LESSOR exercises such election, the operator of the Leased Premises, or that portion of the Leased Premises upon which the split-stream production is located, shall pay to LESSOR all royalties due on such gas production and shall provide timely gas balancing statements between working interest owners and production statements from all purchasers of such gas showing the amounts sold and the price paid on such gas production, with any applicable adjustments. Such election, if made, shall not relieve any party otherwise liable for payment of royalties from such liability. All parties owning an undivided interest in all or any portion of this lease shall be and remain jointly and severally liable for the payment of all royalties due LESSOR on production therefrom.

M. During the term of this Lease, LESSEE shall pay LESSOR royalty as provided herein on all oil and gas produced from all future well(s) situated on the Leased Premises or on lands pooled therewith and sold or used off the Leased Premises or lands pooled therewith from the date of first production from such well(s) regardless of whether or not such oil and gas are produced to the credit of LESSEE or sold under a contract executed by or binding on LESSEE.

N. LESSOR hereby retains a security interest in (a) their royalty share of the oil, gas, and other substances produced and saved from the Leased Premises or lands pooled therewith, under and pursuant to this lease, and (b) their royalty share of proceeds of sale of such oil and gas and all accounts arising therefrom (the "Collateral"), to secure LESSEE'S payment of royalties to LESSOR. In addition to any other remedies provided in this lease or under law, LESSOR, as a secured party, may in the event of LESSEE'S default of the obligation to pay royalties under this lease proceed under the Texas Uniform Commercial Code (the "Code") as to the Collateral, and in any manner permitted by the Code. In the event of default by LESSEE, LESSOR shall have the right to take possession of the Collateral, and to receive the proceeds attributable thereto and to hold same as security for LESSEE'S obligations or to apply it on the amounts owing to LESSOR hereunder.

O. There shall be no personal liability to LESSOR for overpayment of royalties to LESSOR by LESSEE, its successors and/or assigns.

19. DUTY OF DEVELOPMENT.

LESSEE shall adequately and promptly protect the oil and gas in and under the Leased Premises from drainage by wells drilled after the date hereof on adjoining or adjacent tracts or leases and shall drill such wells as may be necessary for effective protection against such drainage. Neither the royalties nor shut-in gas well royalties paid or to be paid hereunder, nor any other provisions of this lease, shall relieve LESSEE of the obligation to promptly and adequately protect the oil and gas in and under the leased premises from drainage by wells on adjoining lands or leases as a reasonably prudent operator would in the same or similar circumstances. In the event a well (an "offsetting well") producing oil or gas is completed on adjacent land with a producing wellbore located within three hundred thirty feet (330) of the Leased Premises and is draining the Leased Premises, LESSEE must, within 180 days after the initial production from the offsetting well, commence operations for the drilling of an offset well on the Leased Premises and must diligently pursue those operations to the horizon in which the offsetting well is producing, or at the option of LESSEE: (i) execute and deliver to LESSOR a release in recordable form of the acreage nearest to the offsetting well; or (ii) pay LESSOR as a royalty each month a sum equal to the royalty that would be payable under this Lease if the production from the offsetting well had come from the Leased Premises. In the event the acreage is released pursuant to (i) above, the release will cover a size and shape so as to permit a producing well, if drilled on the released acreage, provided the total number of acres not then included in a drilling or production unit is sufficient to permit designation or declaration of a drilling or production unit conforming to the spacing rules then in effect, to be allocated the same maximum production allowable as the offsetting well. Notwithstanding the aforementioned, a producing well in which the productive lateral of such well is located within such a distance from the Leased Premises so as to require a Rule 37 exception in order to permit such well will be presumed to be draining the Leased Premises. In the event a sufficient number of acres for the establishment of a drilling or production unit are unavailable, then under the terms of (i) above, LESSEE shall release to LESSOR all acreage covered by this lease directly abutting the offset well production unit line not included in extant drilling or production units. Notwithstanding the foregoing, LESSEE shall have no obligations pursuant to this paragraph if the offsetting well is located on or producing from land with which the Leased Premises is pooled.

20. SEPARATION:

All oil, gas, condensate, liquid, and other liquefiable hydrocarbons produced from the Leased Premises described herein, or Lands pooled therewith, shall, to the extent a reasonable prudent operator would do so, be run through properly functioning field-type (conventional) separating equipment for the purpose of separating, extracting and saving the condensate, liquid, and other liquefiable hydrocarbons therefrom, by such means, before the oil, gas, condensate, liquid, and other liquefiable hydrocarbons are sold, disposed of, or used for any purpose by Operator and/or LESSOR, and measured and accounted for to LESSOR at the wellhead on the Leased Premises, or if the Leased Premises is included in a producing unit with other tracts, at the wellhead of each respective well located on such unit.

21. POOLING:

A) LESSEE is hereby granted the right and power at any time and from time to time to pool or unitize this lease and the land covered by it or any part thereof (except as otherwise provided below) for the production of oil and gas, or either of them, with any other land, leases, or mineral estates contiguous to and in the immediate vicinity thereof to the extent hereinafter stipulated. Each unit shall be limited to such subsurface strata which is capable of commercial production or to which such production relates.

B) Units pooled for gas (including Condensate) shall not exceed 640 acres plus 10% tolerance or the unit size prescribed or permitted by any governmental authority (specifically the Texas Railroad Commission) for maximum allowable purposes as to the strata to which such production relates.

C) Units pooled for oil (including casinghead gas) shall not exceed the greater of 80 acres, or, the unit size prescribed or permitted by any governmental authority (specifically the Texas Railroad Commission) for maximum allowable purposes as to the strata to which such production relates.

D) LESSEE shall file a written unit designation in the county in which the Leased Premises are located. The unit shall become effective on the date provided in the designation, or upon the date it is filed for record, whichever is later. Such units may be designated any time either before or after the completion of a well or wells or production therefrom; and LESSEE may in order to comply with above mentioned maximum production allowable, reduce, enlarge, modify or dissolve such unit or units at any time prior to the discovery of gas on the pooled acreage or after discovery of same, at any time subsequent to the cessation of production thereof, by filing a written declaration to such effect in the same county, but any such modification shall not reduce LESSOR'S proportional interest in the unit.

E) The entire acreage pooled into a unit shall be treated, for all purposes, as if it were included in this lease. For the purpose of computing the royalties to which owners of royalties and payments out of production and each of them shall be entitled on production of oil and gas from the pooled unit, there shall be allocated to the land covered by this lease and included in said unit a pro rata portion of the oil and gas produced from the pooled unit. Such allocation shall be on an acreage basis, that is to say, there shall be allocated to the acreage covered by this lease and included in the pooled unit that pro rata portion of the oil and gas produced from the pooled unit, which the number of surface acres covered by this lease and included in the pooled unit bears to the total number of surface acres included in the pooled unit. Royalties hereunder shall be computed on the portion of such production so allocated to the land covered by this lease and included in the unit just as though such production were from such land. ~~With regard to the tracts or parcels of land included as a part of this Lease which make up the Leased Premises, LESSEE shall include all of said tracts in the same pooled unit and is prohibited from pooling or unitizing only a portion of any particular tract or parcel of land or only one or more of the tracts or parcels of land into a pooled unit. In short, LESSEE must pool all of~~

~~LESSOR's tracts included in this lease into the same pooled unit and may not pool or unitize only a portion of these tracts into a pooled unit.~~ After pooling or unitization, LESSEE shall not have the right to release any of the Leased Premises from a pool or unit without LESSOR's written consent.

F) If this lease covers a less interest in the oil, gas, sulphur, or other minerals in all or any part of said land than the entire and undivided fee simple estate (whether LESSOR's interest is herein specified or not), or no interest therein, then the royalties and other moneys accruing from any part as to which this lease covers less than such full interest, shall be paid only in the proportion which the interest covered by this lease (whether or not owned by LESSOR), if any, bears to the entirety of the mineral estate.

G) If a termination occurs under this Lease, to acknowledge it of record, LESSEE shall execute and deliver a release in recordable form, releasing all of the acreage covered hereby at depths other than that retained as herein provided and the acreage retained under this lease as to each producing well as hereinabove provided shall be contiguous. If LESSEE fails to deliver such release(s) within a period of sixty (60) days after the date on which automatic termination occurs, LESSOR shall have the right to make LESSOR'S own designation as to the depths as to which the lease is terminated and the acreage to be retained as to each producing well, and file the same of record, which shall be binding on LESSEE as to the automatic termination. However, LESSOR agrees to give to LESSEE sixty (60) days written notice via certified mail (as described in Paragraph 33) prior to filing such designation and such notice shall (i) have attached a copy of the designation LESSOR desires to file of record and (ii) shall be consistent with the terms herein. Notwithstanding anything to the contrary herein, if LESSEE provides LESSOR written notice of a good faith and bona fide dispute regarding automatic termination under the terms of this Lease, no designation filed by LESSOR hereunder shall act to waive any rights of LESSEE hereunder with regard to such dispute.

22. PUGH CLAUSE:

If at any time after the expiration of the Primary Term, this lease is in force and effect as to any land covered hereby and Lessee allows more than one hundred twenty (120) days to elapse between the completion or abandonment of a well on the Leased Premises or lands pooled therewith and the commencement of actual drilling of a succeeding well thereon, then (1) this lease shall automatically terminate as to all of the acreage covered hereby, SAVE AND EXCEPT (a) as to each producing oil well situated on the Leased Premises and the oil rights in forty (40) acres around each such well (provided that in the event governmental authority having jurisdiction prescribed a larger amount of acreage for maximum allowable purposes then the retained acreage surrounding any such oil well shall be that amount of acreage necessary to obtain said maximum allowable for such oil well); (b) as to each producing gas well and the gas (including condensate) rights in 640 acres around said well situated on unpooled acreage within the Leased Premises; (c) as to each producing oil well for which a pooled unit has been established and the oil rights in that part of the leased premises which is included within the pooled unit; and (d) as to each producing gas well for which a pooled unit has been established and the gas (including condensate) rights in that part of the Leased Premises which is included

within the pooled unit (each of (a)-(d), as applicable, being a "Production Unit"); and (2) notwithstanding (1)(a)(b)(c) and (d), above, this lease shall automatically terminate as to all of the acreage covered hereby as to all depths, as set forth in Paragraph 23, below. In the event automatic termination occurs and portions of this lease are included in multiple units or multiple tract wells or units, termination shall be effective separately for each Production Unit or tract. In the event LESSEE commences actual drilling operations on any well less than one hundred twenty (120) days from the date of completion or abandonment of a prior well, then LESSEE shall be entitled to add such number of days less than one hundred twenty (120) within which such drilling operations are commenced as a credit to increase the number of days within which the next well must be commenced to avoid the operation of this paragraph. After partial termination as above provided, LESSEE shall have and retain such easements over the lands originally covered by this lease as shall be necessary to enable LESSEE to develop and operate the portion of the lease then in effect. When such automatic termination occurs, to acknowledge it of record, LESSEE shall execute and deliver a release in recordable form releasing all of the acreage covered hereby at depths greater than that retained as herein provided, and the acreage retained under this lease as to each producing well, as hereinabove provided, shall be contiguous. If LESSEE fails to deliver such release(s) within a period of sixty (60) days after the date of which automatic termination occurs, LESSOR shall have the right to make LESSOR's own designation as to the depth below which the lease is terminated and the acreage to be retained as to each producing well, and file the same of record which shall be binding on LESSEE as to the automatic termination. However, LESSOR agrees to give LESSEE thirty (30) days written notice and the opportunity to comment prior to making such designation, within which notice period LESSEE may prepare and file the requisite release(s) or respond with modifications required in LESSEE's reasonable discretion to more accurately describe the retained and released depths, based on supporting geotechnical data provided to LESSOR with LESSEE's requested modifications. At such time as an automatic termination of this lease occurs under the provisions of this paragraph, each such Production Unit and the oil or gas rights retained thereunder as to which said lease has not terminated shall be considered as a separately leased tract in the same manner as if LESSOR had executed separate and distinct leases covering each such tract and the applicable oil or gas rights thereunder. If two or more wells are situated in proximity to one another in such a manner that LESSEE cannot form Production Units around each well in accordance with the provisions hereof without having the acreage so held by one well overlapping with acreage so held by the other well, such fact shall not entitle the LESSEE to alter the shape of the boundaries of such acreage, by making units consisting of non-contiguous tracts or by making units without the appropriate well being physically located in accordance with the provisions set forth above, in an effort to avoid such overlapping and to increase the total number of acres continued to be held by the lease. Notwithstanding any provisions in this lease to the contrary, if a part of the leased premises is pooled or unitized with other land so as to form a pooled unit or units, operations on, completion of a well upon or production from such unit or units will not maintain this lease in force as to any other portions of the leased premises not included in such unit or units.

23. VERTICAL PUGH CLAUSE (Depth Limitation):

A) At the end of the primary term, as to each well then producing or being drilled or reworked (whether in a pooled unit or a proration unit) or as otherwise provided in

Paragraph 22, above, this lease shall continue with respect to the included acreage and intervals related thereto, so long as the production, drilling or reworking operations are continued with no cessation of more than one hundred eighty (180) consecutive days.

B) Upon expiration of the primary term or any extension thereof, this Lease shall terminate as to all depths lying one hundred (100) feet below the stratigraphic equivalent of the base of the deepest geologic formation from which production in paying quantities has been established during the primary term or any extension thereof as provided in this lease, on acreage described herein or on acreage with which the Leased Premises is pooled, determined from time to time on a pooled unit by unit basis. Lessor, or its successors and assigns, reserves the non-exclusive rights of ingress and egress to explore, produce, remove, transport and market oil, gas and other minerals from the interests released herefrom. Additionally, on the date that is five (5) years after the end of the primary term or any extension thereof, this Lease shall automatically terminate as to all depths from the surface of the earth to one hundred (100) feet above the stratigraphic equivalent of the shallowest geologic formation producing oil and/or gas into any wellbore producing from the leased premises or lands pooled therewith.

24. SEISMIC OPERATIONS:

In the event geophysical exploratory operations are conducted under this lease, LESSEE agrees to promptly plug and cover to the surface all shot holes and restore the surface of the Leased Premises to substantially the same condition as prevailed prior to the commencement of such operations. In the event that this lease lapses as to any horizon or zone, whether due to the foregoing Vertical Pugh Clause or for non- production of a previously productive zone, LESSOR shall have the right to purchase from LESSEE, at LESSEE's proportionate cost, such seismic data, well logs, production data and related technical data that is specifically relevant to the potential future productivity of such zone or zones affecting the Leased Premises, and provided that LESSEE is not subject to any third-party confidentiality obligations or other transfer restrictions prohibiting the sale of such data to LESSOR or subjecting LESSEE to potential liability as a result thereof. By way of example, if the seismic data cost LESSEE the sum of \$100,000.00 for seismic on 640 acres and the Leased Premises being released totals 100 acres of the 640 acres, LESSOR would pay the sum of \$15,625.00 for said seismic data should LESSOR seek to purchase same. With respect to any data conveyed to LESSOR, such data shall remain confidential with the LESSOR, their agents and representatives, and shall be shared with any third party only upon the written consent of LESSEE, such consent not to be unreasonably withheld.

25. RELEASES:

LESSEE may at any time and from time to time, execute and deliver to the LESSOR or place of record, a release or releases covering any portion or portions of the above described premises and thereby surrender this lease as to such portion or portions and be relieved of all subsequent operations as to acreage surrendered. Such release shall not thereby relieve the LESSEE of any liabilities or obligations which may have accrued in connection with the lease prior to the surrender of such acreage. Further in case LESSEE does not wish to develop any one or more

strata or formation, LESSEE may at any time and from time to time, execute and deliver to LESSOR or place of record a release or releases covering any one or more strata or formation under any portion or portions of the above described premises and thereby surrender this lease as to the strata or formation under the portion of the acreage described in said release and thereby releasing LESSEE of development of the area released and all subsequent obligations to the area surrendered, however, such release shall not thereby relieve the LESSEE of any liabilities or obligations which may have accrued in connection with the lease prior to the surrender of the strata or formation.

26. FORCE MAJEURE:

LESSEE shall not be liable for delays or defaults in its performance of any agreement or covenant in this Lease due to force majeure. The term "force majeure" shall mean: any act of God including, but not limited to storms, floods, washouts, landslides, and lightening; acts of the public enemy; wars, blockades, insurrection or riots; strikes or lockouts; epidemics or quarantine regulations; laws, acts, orders, or requests of federal, state, municipal or other governments or other governmental officers or agents under color of authority; freight embargoes or failures; exhaustion or unavailability or delays in delivery of any product, labor, service or material. If LESSEE is required, ordered, or directed by any federal, state, or municipal law, executive order, rule, regulation, or request enacted or promulgated under color of authority to cease drilling operations, reworking operations or producing operations on the lands covered by this Lease, or if LESSEE by force majeure is prevented from conducting drilling operations, reworking operations, or producing operations, then until such time as such law, order, rule, regulation, request, or force majeure is terminated and for a period of ninety (90) days after such termination each and every provision of this Lease that might operate to terminate it or the estate conveyed by it shall be suspended and inoperative and this Lease shall continue in full force. If any period of suspension occurs during the Primary Term, that time shall be added to the Primary Term. Written notice of any alleged force majeure must be given to LESSOR, within 30 days of the alleged force majeure. A force majeure under this paragraph shall not include any state or federal orders which are a result of LESSEE's actions or inactions.

27. INDEMNITY:

LESSEE AGREES TO INDEMNIFY, PROTECT AND HOLD HARMLESS THE PARTIES HEREIN DESIGNATED AS "LESSOR", THEIR HEIRS, REPRESENTATIVES, SUCCESSORS AND ASSIGNS, (AND SURFACE OWNER, IF DIFFERENT FROM LESSORS) OF AND FROM ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, DAMAGES, COSTS, ARISING OUT OF INJURY TO PERSONS (INCLUDING DEATH) AND INJURY OR DAMAGE TO OR LOSS OF ANY PROPERTY OR IMPROVEMENTS CAUSED BY LESSEE, ITS AGENTS, EMPLOYEES, SERVANTS, CONTRACTORS OR ANY PERSON ACTING UNDER ITS DIRECTION OR CONTROL, ARISING OUT OF; OR INCIDENTAL TO, OR RESULTING FROM THE OPERATIONS OF OR FOR THE LESSEE HEREUNDER, INCLUDING ANY AND ALL PENALTIES, FINES, RESPONSE COSTS OR CLEAN-UP COSTS ARISING OUT OF OR BY VIRTUE OF ANY ENVIRONMENTAL LAW, STATUTE, RULE, REGULATION OR JUDICIAL DECISION

(WHETHER STATE, FEDERAL OR LOCAL), ARISING OUT OF OR INCIDENTAL TO, LESSEE'S OPERATIONS OF OR IN CONNECTION WITH THE LEASE BY LESSEE OR ITS AGENTS, EMPLOYEES, SERVANTS, OR INDEPENDENT CONTRACTORS OR ANY PERSON OR ENTITY ACTING UNDER LESSEE'S DIRECTION OR CONTROL, ARISING OUT OF THE OPERATIONS, WHETHER SAID ACT OR OMISSION IS THE PROXIMATE CAUSE OF INJURY OR NOT (EXCEPT AGAINST LOSS OR LIABILITY FOR DAMAGE THAT IS CAUSED BY OR RESULTS FROM THE SOLE OR CONCURRENT NEGLIGENCE OF LESSORS OR SURFACE OWNER, THEIR AGENTS, SERVANTS, OR EMPLOYEES OR AN INDIVIDUAL CONTRACTOR DIRECTLY RESPONSIBLE TO LESSORS OR SURFACE OWNER). LESSEE AGREES TO CARRY BODILY INJURY AND PROPERTY DAMAGE INSURANCE SUFFICIENT TO PROTECT LESSORS OR SURFACE OWNERS FROM ALL HAZARDS ARISING FROM LESSEE'S OPERATIONS HEREUNDER. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, AT NO TIME SHALL LESSEE BE REQUIRED TO INDEMNIFY LESSOR FOR ANY CLAIM WHATSOEVER IN NATURE ARISING OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LESSOR OR LESSOR'S INVITEES.

28. CONSENT TO ASSIGN:

Notwithstanding anything contained hereinabove to the contrary, this Lease may not be assigned to any party by the LESSEE without the express written consent of the LESSOR, which consent shall not be unreasonably delayed, conditioned or withheld. Request for monetary consideration in exchange for a consent to assign of this Lease shall, for the purposes of this paragraph, be considered unreasonable. Failure of LESSOR to respond to LESSEE in writing within thirty (30) days of receipt of written notice of LESSEE'S intent to assign or otherwise transfer all or any portion of this lease, shall be deemed to be LESSORS consent to any such assignment. In the event LESSEE should sub-lease, transfer or assign this Lease, in whole or in part, or enter into a joint operation with any third party, all parties holding under LESSEE shall be liable to the LESSOR for the agreements and provisions imposed by the Lease upon the LESSEE. LESSEE shall furnish to LESSOR a copy of any assignment made pursuant to this section, with the recording data reflected thereon. The term "assignment," as used herein, shall include, without limitation, any sublease, farm out, or other agreement by which any share of the rights granted by this lease are assigned or conveyed or agreed to be assigned or conveyed, to any other party.

29. RATIFICATION, WAIVER, AND/OR ESTOPPEL BY LESSOR EXPRESSLY DENIED:

Neither the acceptance of royalties, shut-in royalties or other payments by LESSOR (regardless of any notation thereon or instrument accompanying same), nor LESSOR'S execution of any division order or transfer order or similar instrument, shall ever constitute or be deemed to effect (a) a ratification, renewal or amendment of this lease filed by LESSEE purporting to exercise the pooling rights, if any, granted to LESSEE in the lease, or (b) a waiver of the rights granted to LESSOR, or the obligations imposed upon LESSEE, express, or implied, by the terms of this lease, or remedies for LESSEE'S breach thereof, or (c) an estoppel against LESSOR preventing LESSOR from enforcing LESSOR'S right or LESSEE'S obligations hereunder, express or implied, or from seeking damages for LESSEE'S breach thereof LESSOR'S agreement to accept

royalties from any purchaser shall not affect LESSEE'S obligations to pay royalties pursuant to this Lease. No instrument executed by LESSOR shall be effective to constitute a ratification, renewal, extension or amendment of this lease unless the instrument is clearly titled to indicate its purpose and intent.

30. COMMON LAW DUTIES NOT LIMITED:

To the extent that LESSOR and LESSEE have contracted herein for the performance of certain duties upon the LESSEE which are otherwise implied by law, it is not the intention of LESSOR and LESSEE to limit the duties implied by law upon the LESSEE, but LESSOR and LESSEE expressly agree and intend that LESSEE'S duties under such implied covenants be those contracted herein or those implied by law, whichever is the greater duty upon the LESSEE.

31. NO WARRANTY OF TITLE:

It is expressly agreed between the parties hereto that no warranty or covenant of title to the land covered hereby or to the oil and gas therein or produced therefrom is made by LESSOR, and that no warranty, covenant, or guarantee of title shall be created or arise from this Lease, except as to claims by, through or under LESSOR, but not otherwise.

32. APPLICABLE LAW CONSTRUCTION OF CONTRACT:

This lease shall be construed under the laws of Texas. Time is hereby expressly declared to be of the essence of this lease and of each and every provision hereof, and each and every provision hereof is hereby declared to be and made a material, essential and necessary part of this lease. The waiver by LESSOR of any breach of LESSEE of any provision hereby shall not be deemed a waiver of such provision or a waiver of any other prior or subsequent breach thereof of a waiver of any breach of any other provisions of this lease. Neither the acceptance of royalty after notice or knowledge of a breach of any provision hereof, nor any other action of LESSOR hereunder except an express waiver in writing shall be deemed a waiver by LESSOR of any breach of any provision hereof by LESSEE.

33. NOTICES:

Any notice or demand by either party to the other in connection with this lease shall be deemed to have been fully given or made when mailed for delivery by a recognized overnight carrier, certified or registered mail, addressed to a party at its address set out herein with a return receipt requested or with such other evidence so as to reasonably confirm its delivery to the addressed party or when actually received by the party to whom it is directed. Either party may change its address by giving the other party written notice of its new address as hereinabove provided.

34. SEVERABILITY:

If any clause or provision of this Lease is invalid or unenforceable at any time under then current laws, the remainder of this Lease shall not be affected thereby, and this Lease shall be modified

so that in place of each such clause or provision of this Lease there will be added as a part of this Lease a legal, valid, and enforceable clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible.

35. MEMORANDUM:

LESSOR and LESSEE hereby agree that this Oil, Gas and Mineral Lease may be placed of record by filing a Memorandum of Oil, Gas and Mineral Lease, providing for the term hereof and description of the lands covered hereby. The parties agree that this Lease shall not be placed of record without the consent of LESSOR and LESSEE.

36. NO SURFACE USE:

It is hereby agreed and understood that there shall be no surface operations of any kind on the Leased Premises without the prior, written permission from the then surface owner, which permission may be withheld for any or no reason. Absent a surface use agreement executed by the parties hereto, or their respective successors and assigns, LESSEE stipulates, acknowledges and agrees that LESSEE shall be prohibited from using the surface of the Lease Premises in its operations for any reason whatsoever.

37. LEASE STIPULATION.

LESSOR and LESSEE stipulate that this Lease only covers _____ net mineral acres in the Leased Premises, as follows:

To the extent that it is determined that LESSOR owns a greater interest or more net mineral acres in the Leased Premises as shown above, upon notice of this fact and payment of additional bonus (calculated on the same terms as the bonus has been paid herein), LESSOR agrees to amend this Lease to cover the additional interest or acreage. Prior to the leased premises being included in a producing unit, should an actual survey of the leased premises disclose that the land contains a different acreage amount than set forth herein, the surveyed acreage shall be the acreage utilized in the formation of the unit and in determining the portion of any production from said unit to be allocated to the leased premises or any portion thereof.

LESSOR: LESSEE:

The City of Marshall, Texas
a Home Rule Municipality

RFE ETX IV, LLC

By: Amy Ware.
Its: Mayor

By: Robert Boisvert
Its: Vice President of Land

END OF EXHIBIT "B"



TO: City Council
DATE: October 24, 2024
ITEM #: 8.G
SUBJECT: Consider approval of a contract to May Recreation for adding an inclusive play area & equipment at Lions Park. (Parks & Recreation)

Recommendation for Action: Approval of contract to May Recreation for adding an inclusive play area & equipment at Lions Park.

Executive Summary: The Capital Improvement Plan budget will be used to purchase equipment.

Budget Cost: \$ 79,982.00

Staff Contact: Marina Garcia-Heredia, Parks & Recreation Director

Attachments: 1. MayRec.CityofMarshall.LionsParkInclusivePlayground.9-24-24

May Recreation Equipment & Design, L.P.

Park and Playground Design, Supply and Installation

"We Speak Playground!"

Spring, Texas

bigbie@mayrecreation.com www.mayrecreation.com

Toll Free: (800) 964-6301 • Phone: (903) 539-9992 • Fax: (888) 349-9146

Today's Date:	9-24-24
Project Name:	Lions Park Inclusive Playground
Client Name:	City of Marshall
Contact Name:	Marina Garcia-Heredia
Phone:	903.720.2956

May Recreation Equipment & Design, L.P. is pleased to present the following job estimate based upon plans and/or requests made by the client listed above.

Quantity	Description	Extended
	<u>Miracle Recreation Equipment</u>	
1	#686 Alta Glide Inclusive Glider	\$20,000.00
1	#453-3 Dynamics Lab	\$10,290.00
	<u>Percussion Play Equipment</u>	
1	Penta Post	\$2,358.00
1	Rainbow Bongos	\$2,364.00
	<u>No Fault Safety Surfacing</u>	
1,200sf	Poured-in-place rubber safety surfacing including: - 30' x 40' concrete base with 6" perimeter curb - 1.75" PIP depth for up to 4' cfh - 1/2" PIP color cap - 50% standard color / 50% black - 6' x 25' sidewalk to parking area	\$44,970.00
(*)	All pricing is turnkey and includes professional installation labor & materials and all shipping costs	
	BuyBoard Contract 679-22	
	Shipping address:	
	Marshall, TX 75670	

TOTAL PROJECT ESTIMATE: \$ 79,982.00

Please Note: This proposal is valid for **(30)** days from today's date. Pricing is subject to change without notice thereafter.

Payments will be made according to the following and will be determined by credit information received from customer:

Amount due with acceptance of proposal	PO
Amount due upon completion of project	\$79,982.00

Quote Prepared by: *Jeff Bigbie* (May Recreation Equipment & Design, L.P.)

Proposal Acceptance

I hereby authorize **May Recreation Equipment & Design, L.P.** to ship the equipment listed above for which I agree to pay the total amount specified. Payment is due upon receipt of invoice unless otherwise specified. Non-taxable customers will provide proper tax exemption certificate to May Recreation upon request. Purchase orders and payments should be made payable to the order of **May Recreation Equipment & Design, L.P.**

Client Signature	Date
------------------	------

Notes for project: Unless otherwise noted, this proposal does **not** include taxes, site preparation, surfacing or installation. We will make every effort to avoid damaging underground utilities (i.e. cable, water, electric, fax/data lines, and irrigation systems). However, we will not be held responsible for any damages to these items.

We also offer the following products for your project

- **Playground Equipment**
- **Pavilion Shelters/Gazebos**
- **Engineered Wood Fiber Surfacing**
- **Soccer Goals/Nets**
- **Picnic Tables/Benches**
- **Bicycle Racks**
- **Splash Pads/Spray Grounds**
- **Rubberized Playground Surfacing**
- **Drinking Fountains**
- **Waterslides**
- **Park Grills**
- **Shade Structures**





TO: City Council
DATE: October 24, 2024
ITEM #: 8.H
SUBJECT: Consider approval for awarding Halff the task of developing a Master Plan and site plans for the City Arena. (Parks & Recreation)

Recommendation for Action: Recommendation to award Halff with the contract to provide a plan and designs for the priorities, including rehabilitating the existing restrooms, drainage from the arena to the pond, and roof repair.

Executive Summary: Halff will provide a scope of work to develop a master plan and design documents for the City Arena site at 3310 Poplar Street.

Task 1: Project Management
Task 2: Project Meetings
Task 3: Development of Site and Area Master Plan
Task 4: Topographic Survey*
Task 5: Design/Construction Documents
Task 6: Funding Resources Services**
Task 7: Architectural Design Services*
Task 8: Bid/Construction Administration and Construction Inspection Services**

*Denotes subcontracted services

**If desired by the City of Marshall

Budget Cost: \$ 189,650.00

Staff Contact: Marina Garcia-Heredia, Director

Attachments: 1. P57795.003 - City of Marshall Arena Park Scope of Work - 10-16-24



EXHIBIT A SCOPE OF SERVICES

City of Marshall
City Arena Improvements, Marshall, Harrison County, Texas
October 16, 2024

Project Introduction and Understanding

The City of Marshall (City) has engaged Halff to provide a scope of work to develop a master plan and design documents for the City Arena site located at 3310 Poplar Street in Marshall, Harrison County, Texas.

The City has discussed this project with Halff on a series of phone calls and requested that a scope of work be prepared and submitted to them for review. The scope described below includes services typically included for a project of this nature and accounts for the City's priority projects within the site; however, Halff will add or remove services requested by the City upon notification from them following a review of the scope of work.

Project Scope Outline & Contents

The following is a list of tasks that will be included in this project's 50% scope of work. Each task listed below is described in detail in the scope narratives.

- Task 1: Project Management
- Task 2: Project Meetings
- Task 3: Development of Site and Area Master Plan
- Task 4: Topographic Survey*
- Task 5: Design/Construction Documents
- Task 6: Funding Resources Services**
- Task 7: Architectural Design Services*
- Task 8: Bid/Construction Administration and Construction Inspection Services**

*Denotes subcontracted services

**If desired by the City of Marshall



SCOPE OF WORK

TASK 1: Project Management

1. Field Visits – Halff will conduct a site visit to the subject property to verify field conditions prior to the commencement of the Site and Area Master Plan and 30% Design Documents.
2. Progress Reports and Invoicing – This task includes review and preparation of monthly invoices and progress reports, which will accompany each invoice.
3. Miscellaneous Project Management/Coordination – This item includes all phone calls, conference calls, email correspondence, internal team coordination, and miscellaneous tasks necessary for the completion of the project with REV and/or other stakeholders or authorities having jurisdiction.
4. Coordination of Roof Repair – Halff will guide and assist the City in the coordination of the repairs to the arena roof.
5. Coordination of Restroom Rehabilitation – Halff will guide and assist the City in the coordination of the rehabilitation of the existing restrooms at the arena.

Task 2: Project Meetings

Meetings – This task includes four (4) meetings:

- A project kickoff meeting with the City to discuss the vision and schedule of the project.
- A design review meeting following the City's review of the Site and Area Master Plan to discuss elements which the City would like to include in design of the site improvements.
- A presentation to the Marshall City Council to lay forth the vision for the site improvements and project progress.
- A 90%-100% design review meeting following the City's review of the 90%-100% Design Documents.

These meetings may take place in person or virtually via Microsoft Teams. Meetings in addition to those described above will be considered additional services and will be billed to the City at an hourly rate.

Task 3: Development of Site and Area Master Plan

As a part of this design package, Halff will prepare a Site and Area Master Plan for the City Arena and the surrounding grounds. This Master Plan is intended to serve as a guide for future development and improvements of the arena and site surrounding it. Some elements that could be included in this master plan are:

- Parking and parking lot planning (to include provisions for overflow parking)
- Perimeter trail and trail amenities
- Reconfiguration and alignment of RV parking spaces
- Planning for new utility pedestals and utility services to RV parking spaces
- Locations and conceptual layout of new restroom and shower facilities near the RV parking spaces

- Location and conceptual rendering(s) of monument-style entrance sign
- Improvements to existing lake:
 - Find ways to incorporate drainage improvements on site and near the arena into the functioning of the lake
 - Investigate the use of water from the existing lake to irrigate portions of the site and planned/future landscape
 - Addition of fishing pier
 - Addition of pavilion

Task 4: Topographic Survey

Halff will subcontract a land surveyor to complete a topographic survey of the site, with particular attention paid to elevations around the perimeter of the existing arena, existing RV parking area, and a determination of the approximate water surface elevation of the existing lake. This survey data will in turn be used to develop design documents and ultimately construction plans for site improvements.

Task 5: Design/Construction Documents

Once the design review meeting following the submittal of the Site and Area Master Plan has taken place and comments delivered to Halff, the preparation of Design/Construction Documents will commence. Halff will incorporate comments and input from the City into the design of the site improvements. The package will include:

1. Cover Sheet – prepare plan set cover sheet which will include an index of sheets, vicinity map, and contact information of authorities having jurisdiction, owner, and engineer of record.
2. General Notes and Survey Legend- prepare project general note sheet that includes the survey legend. (Boundary and topographic survey to be prepared by others, as mentioned in **Task 4**).
3. Horizontal Control Plan- the plan that includes the project survey data and provides control information and alignment data.
4. Site Design – develop site layout based upon the facilities footprint.
 - Dimension control will be included in this plan.
 - Site facilities layout, access driveway alignment, and parking additions/improvements
 - Driveways and maneuvering space within the site will be designed using Autoturn. A design vehicle will be selected based upon the typical traffic profile utilizing the various facilities at the site. Halff's geometric design of driveways and maneuvering space will be based upon this design vehicle.
5. Demolition Plan – a demolition plan addressing affected facilities and surfaces will be prepared during this phase of the project.
6. Grading Plan – prepare a grading plan for the extents of the project:
 - Proposed selected critical portions of the developed site facilities areas (i.e. RV parking spaces, proposed restroom/shower facility, driveways, areas near existing lake where improvements are being considered.
 - Develop grading design to facilitate proposed drainage improvements near the arena and on site.
 - Proposed critical grading areas along the proposed access driveway(s).

7. Drainage Maps and Plans – develop existing and proposed drainage area maps and associated hydrological calculations.
8. Storm Sewer Plan – prepare storm sewer system plans showing proposed horizontal alignments of pipes, flow lines, hydraulic calculations, and details.
9. SWPPP Site Map – a site map addressing erosion and sediment control prepared per TCEQ requirements and standards will be prepared and completed at this phase of the project.
10. Landscape and Irrigation Plans – prepare landscape and irrigation plans based upon input from the City. Plans will include plant selection and placement and irrigation system layout and details.
11. Utility Plan – prepare conceptual-level utility plan showing water and sanitary sewer horizontal alignments.
12. Standard Details – compile relevant standard details for items included in the design of the project's improvements.
13. Engineer's Opinion of Probable Construction Cost (EOPCC) – Halff will prepare a concept level EOPCC as a part of this task to provide guidance to the City with project decision-making.
14. Review & Comments – Halff will submit deliverables (see below) to the City for review and comment.

Task 5: Design/Construction Documents Deliverables

- One (1) .pdf copy of the Design/Construction Documents drawing package.
- Paper copies of these documents will be provided upon request
- 100% Design Document quantities takeoff and EOPCC

Task 5: Design/Construction Documents Assumptions

- The City will provide guidance on desired facilities and site improvements for inclusion in the during this phase of the project.
- The City will provide any relevant record drawings and/or as-built plans of the site.
- Any coordination with franchise utilities for any services required for the facility will be conducted by Halff with guidance and input from the City.
- Bid administration and construction services are excluded from this scope of work, but could be added upon request of the City of Marshall.

Task 6: Funding Resources Services

If the City of Marshall would like to pursue outside funding sources, Halff's Funding Resources Team will assess the project and recommend federal and/or state funding programs that could provide funding assistance for the completion of the designed improvements. Upon the identification of the most appropriate funding programs, Halff will confer with the City of Marshall to discuss the preparation of grant application(s) under an add-service option to this contract.

Task 7: Architectural Design Services

Halff has engaged SC Architecture to provide architectural design services for this project. Their proposal is included in this scope of work as **Exhibit B**. Halff will apply a service markup of 10% for subcontracted services.

Task 8: Bid/Construction Administration and Construction Inspection Services

A. Bid Administration

Upon approval and permitting of the construction documents by the City, Halff will assist the City during the bidding process for the project. Services include:

- Solicitation – assist the City with preparing and organizing proposal solicitation for competitive sealed proposals (bids).
- Pre-proposal Conference – attend and assist the City with one (1) virtual pre-proposal conference
- Halff will address Requests for Information (RFIs) from bidders and prepare/issue addenda accordingly.
- Halff will attend and assist the City with bid opening and tabulation. Halff will assist the City in qualifying the bidders and selection of a contractor.
- Halff will attend the City council meeting at which the bid is awarded.

B. Construction Administration

Halff will assist the City during the construction of the proposed improvements. Halff shall endeavor to secure compliance by the contractor to the plans and specifications. Halff shall not be responsible for construction means, methods, techniques, sequences, or procedures in connection with the work, and Halff shall not be responsible for the contractor's errors or omissions or failure to carry out the work in accordance with the contract documents. This task will include the following:

- Pre-construction meeting. Attend and assist the City in conducting and overseeing a pre-construction meeting with the awarded contractor.
- Construction observation. Prepare and process requests for information (clarifications to plans/specifications), change proposals, change orders, change directives, field orders, review/approval of shop drawings, submittals, samples and mock-ups (as required).
- Conduct and oversee bi-monthly progress meetings (up to 16). Halff will record and keep minutes of all meetings and distribute within 72 hours of the meeting date.
- Review and approve contractor's monthly application and certification for payment.
- Attend and assist the City with a substantial completion inspection and wall-through including concurrent TAS inspection (inspection by others). Issue a punch list for incomplete items including time for completion and issue a letter of substantial completion.
- Attend and assist the City with final inspection for acceptance of project and issue a letter of concurrence.
- Assist the City in acquiring final close-out documents, warranties, accurate as-built drawings, and other documents from contractor required to close-out project.
- Review and approve contractor's final application and certification for payment including retainage.
- Prepare record drawings from contractors as-builts.

C. Construction Inspection

Halff will provide construction inspection services for the planned improvements. Halff shall not be responsible for construction means, methods, techniques, sequences, or procedures in connection with the work, and Halff shall not be responsible for the contractor's errors or omissions or failure to carry out the work in accordance with the contract documents.

Materials testing is not included in this scope of work and may be subcontracted by the contractor or contracted directly with the City. This task will include the following:

- **Halff will provide inspection services for this project on an hourly, not-to-exceed basis in accordance with the attached hourly rate sheet (Exhibit C).**
- Halff will conduct inspections on a frequency dictated by the City of Marshall. Inspections will be conducted in accordance with City of Marshall standards and requirements.
- Inspection services will include coordination of requisite laboratory and field testing and reporting.
- Inspection reports will be prepared following each site visit and made available to the City of Marshall and the contractor.
- For the purposes of this scope of work, Halff assumes that the services included in this task will last for the duration of construction activities, which is estimated to be approximately six (6) months.



EXHIBIT A.1 PROJECT LIMITS

City of Marshall
City Arena Improvements, Marshall, Harrison County, Texas
October 16, 2024

The attached aerial exhibit delineates the project limits, as discussed during meetings and phone conversations with the City of Marshall.

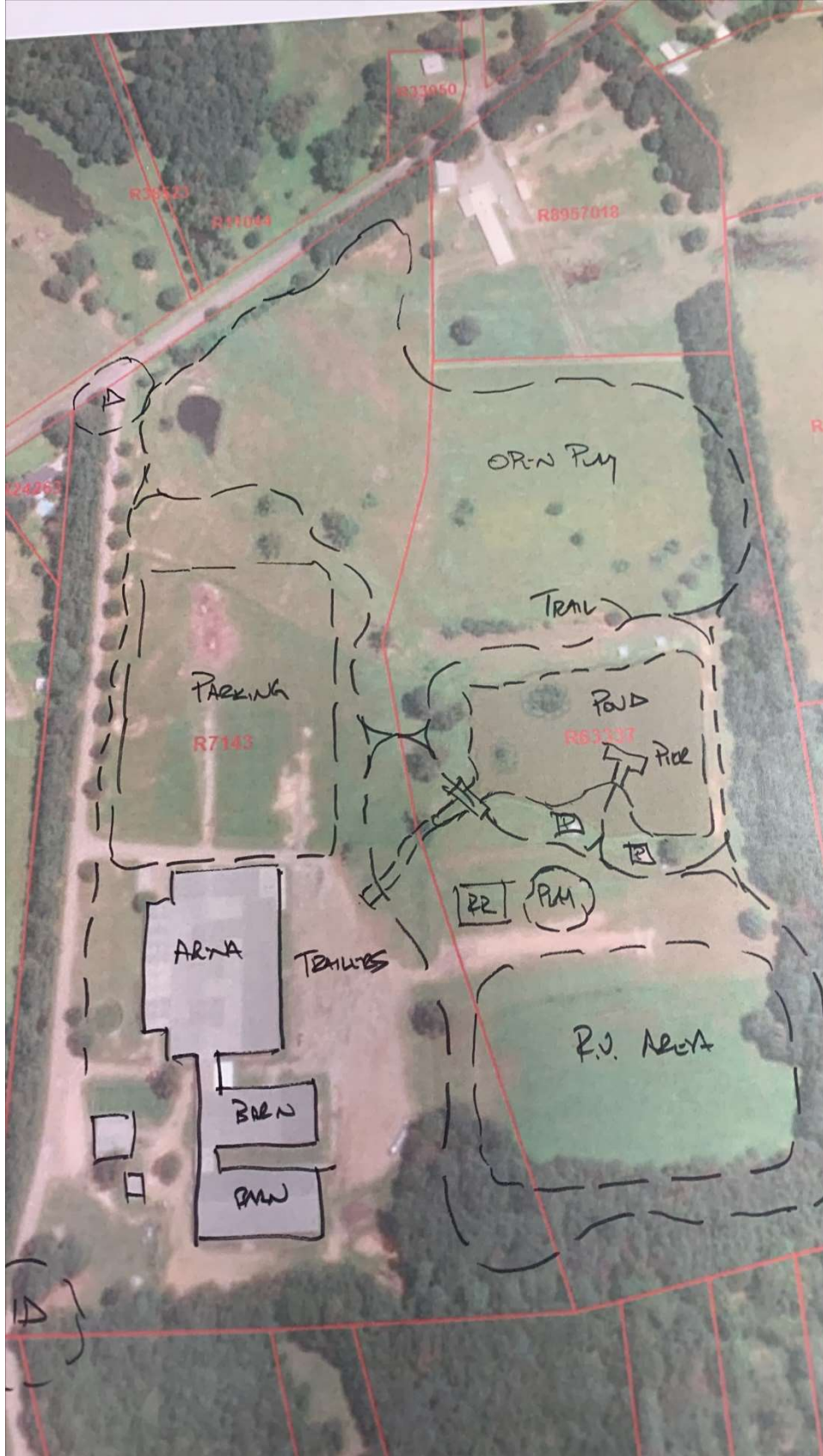




EXHIBIT A.2 FEE SUMMARY

City of Marshall
City Arena Improvements, Marshall, Harrison County, Texas
October 16, 2024

Fee Breakdown by Task

TASK 1: PROJECT MANAGEMENT	\$12,000.00
TASK 2: PROJECT MEETINGS	\$7,500.00
TASK 3: DEVELOPMENT OF SITE AND AREA MASTER PLAN	\$9,500.00
TASK 4: TOPOGRAPHIC SURVEY*	\$11,000.00
TASK 5: DESIGN/CONSTRUCTION DOCUMENTS	\$72,000.00
TASK 6: FUNDING RESOURCE SERVICES**	\$12,000.00
TASK 7: ARCHITECTURAL DESIGN SERVICES*	\$12,650.00
TASK 8: BID/CONSTRUCTION ADMINISTRATION AND CONSTRUCTION INSPECTION SERVICES**	
• TASK 8a: BID ADMINISTRATION**	\$5,000.00
• TASK 8b: CONSTRUCTION ADMINISTRATION**	\$15,000.00
• TASK 8c: CONSTRUCTION INSPECTION (Estimated; not-to-exceed)**	\$30,000.00
<u>DIRECT EXPENSES: (as needed and authorized by City)***</u>	<u>\$3,000.00</u>
Project Total	\$189,650.00

*Denotes subcontracted services.

**If desired by the City of Marshall

***This figure includes reimbursable items from Task 8 Services, which are shown as optional services. If the City elects to not authorize Task 8, this direct expenses total will be reduced.

Client agrees to pay monthly invoices or their undisputed portions within 30 days of receipt. Payment later than 30 days shall include interest at 1 ½ percent per month or lesser maximum enforceable interest rate, from the date the Client received the invoice until the date the Engineer receives payment. Such interest is due and payable when the overdue payment is made. Tasks are lump sum unless otherwise noted.

Direct expenses, subcontracted services, and direct costs will be billed at actual cost plus a service charge of 10 percent.

Mileage will be charged at the current IRS mileage rate.

EXHIBIT A.3 EXCLUSIONS

City of Marshall City Arena Improvements, Marshall, Harrison County, Texas October 16, 2024

The following services are not included in the scope of work for this phase of the project:

- Construction staking
- Geotechnical engineering
- Structural engineering
- Electrical engineering
- Lighting design
- Coordination and design of any franchise utilities or related appurtenances
- Platting
- Processing contractor pay applications
- TDLR permitting and coordination
- Shop drawing preparation
- Design of any elements associated with the proposed restroom facility
- Quality control and materials testing services
- Section 404 permitting or U.S. Army Corps of Engineering coordination
- Storm water detention design
- Request for a Conditional Letter of Map Revision (CLOMR) based on the conceptual hydraulic mitigation concept
- FEMA permitting (i.e., Letter of Map Revision (LOMR), etc.)
- Environmental investigations, reports, or permitting
- Right of way acquisition services
- Right of way and/or easement documents
- Traffic Impact Analysis or any related traffic study
- Detailed traffic control plans
- Highway or street improvement construction plans
- Storm water detention design and plans
- Pavement section design
- Storm water detention design and plans
- Addressing client or agency comments beyond those identified in this scope.
- Special investigations involving detailed consideration of operations, maintenance, and overhead expenses; preparation of rate schedules, earning, and expense statements; special feasibility studies; appraisals, valuations; and material audits or inventories required for certification of force account construction performed by the Owner is excluded.
- Performing detailed investigations, studies and analyses of substitutions of equipment and/or materials or deviations from the drawings and specifications.
- Providing basic or additional services on an accelerated time schedule. The scope of this service include cost for overtime wages of employees and consultants, inefficiencies in work sequence and plotting or reproduction costs directly attributable to an accelerated time schedule directed by the City.
- Providing services made necessary because of unforeseen, concealed, or differing site conditions or due to the presence of hazardous substances in any form.



EXHIBIT B
ARCHITECTURAL DESIGN SERVICES

City of Marshall
City Arena Improvements, Marshall, Harrison County, Texas
October 16, 2024



ARCHITECTURE

September 30, 2024

Mr. Mark Priestner
Halff Engineering
1121 ESE Loop 323
Suite 117
Tyler, Tx. 75707

Re: Architectural & Engineering Services for the Schematic design, Construction Documents, Bidding & Permitting and Construction Administration for a new Restroom facility for The City of Marshall Arena

Dear Mr. Priestner,

SC Architecture, LTD (Architect) is excited for the opportunity to provide this proposal for the Architectural & Engineering Services for the Restroom facility described above. This proposal also includes the renovations to the existing Restroom facility. The following proposal documents our understanding of the scope of the project, our services, contract terms and fee.

Description of Project:

It is our understanding that the project will be comprised of the design of a restroom facility of approximately 500-600sf. The building will be constructed of CMU block with a wood framed roof system and standing seam metal roof. In addition to the new building we will be renovating the existing Restroom facility to provide new plumbing fixtures as well as new finishes.

Scope of Services:

The scope of services are outlined below.

Schematic Design / Design Development

- Programming
- Site field investigation for as-built conditions of exiting building
- Development of the Schematic Floor Plans & Exterior Elevations for review and approval prior to moving to CD's phase.
- Code analysis as well as a pre-development meeting with the City to discuss any potential issues and requirements.
- Coordinate the design with national, state and local codes, regulations & ordinances.
- Engage engineering consultants as required.

Construction Documents

Below is a list of the anticipated A&E drawing package. All work performed by consultants will be reviewed and coordinated in conjunction with the overall

design intent of the project. The Construction Documents will consist of but are not limited to the following:

- Cover sheet including all Code information & Project Requirements
- Texas Accessibility Sheets & Details
- Dimensioned & Noted Floor Plans
- Plan Details & Enlarged Plans
- Roof Plan & Roof Details
- Reflected Ceiling Plan
- Exterior Elevations
- Building Sections & Wall Sections
- Enlarged Wall Section Details
- Enlarged Details / Special Conditions
- Window & Door Elevations, Schedules & Details
- Interior Elevations and Millwork Sections
- Room Finish Schedule
- Specifications
- Building Envelope ComCheck
- Structural Engineering Drawings to include the following:
 - Design of the Foundation of the building
 - Design of the superstructure roof framing
 - Review of all structural shop drawings associated with the Foundation and superstructure, as well as submittals associated with the Foundation and superstructure during construction.
 - Exclusions:
 - Design of post-tensioned concrete slab on grade
 - Design of signage and support foundations
 - Design of all site paving
 - Value engineering requiring redesign of building
- Mechanical, Electrical & Plumbing Drawings to include the following:
 - Mechanical Design drawings
 - Electrical Design drawings
 - Plumbing Design drawings
 - Energy code calculations and documentation for Lighting and HVAC ComCheck (if required)
 - Coordination with Civil and Structural Engineers as needed.
 - MEP drawing specifications
 - C/A includes RFI responses, phone assistance and review of shop drawings
 - Fees include licensed engineer's sign & seal on original documents, as well as, all re-sealed documents.
 - Exclusions:
 - LEED certifications
 - Commissioning

Bidding & Permitting

- We will coordinate dispersion of drawings & specifications via to bidders.
- We will clarify the content of the drawings and specifications when questions arise via RFI's.
- We will assist with answering any questions from the City during the permitting phase. Modifications will be made to the Construction Documents per City comments.
- We will assist with answering questions from bidders during the bidding process.
- We will register the project with Texas Department of Licensing and Regulation and coordinate the submission of Construction Documents to the TAS plan reviewer for review and approval as required by the state of Texas. (Fees to be paid separately by owner)

Construction Administration

Review Submittals, Shop drawings & Request for Information:

We will review all submittals from the CMR for compliance with specifications to ensure consistency and job quality as well as respond to all RFI's. We will also work with fabricators and installers to refine minor details during construction.

Applications for Payment:

We will review & process monthly Applications for Payment from the General Contractor.

Punch List:

We will conduct a thorough final punch list of the facility upon substantial completion of the facility. All items will be sent to the General Contractor for distribution to all subs for correcting issues and a copy will be given to the owner.

Compensation:

Schematic Design / Construction Documents/ Bidding & Permitting / Construction Administration

For the phases of work listed above and within the noted categories we propose a lump sum fee of \$11,500.00. A \$2,500.00 retainer is due upon execution of this contract and prior to starting any work with the remainder of the fee to be paid prior to the final drawings being released. An invoice will be sent to the owner for final payment upon completion of the Construction Documents. See payment terms under General Conditions below for further information.

Additional Services:

Additional Services are those requested or required beyond the Basic Scope as outlined above. These will be performed following the authorization of the Client or Contractor. This will be invoiced on an hourly basis as described below. Any Additional Services by Consultants will be invoiced as a reimbursable cost.

Hourly Rates:

Principal	\$180.00
Project Manager	\$95.00
Technician/Drafter	\$60.00

Not included in Scope of Work:

- Fees associated with TAS plan review & inspections. These fees will be paid directly by the owner.
- City required plan review fees.
- Building permit & associated fees.
- Drawing reproduction & shipping expenses.
- Mileage/travel expenses shall be invoiced separately based on .67 cents per mile
- Any other consultant's fees including Civil engineering, soils testing, etc.

We are very excited about working with you on your new facility and we sincerely appreciate the opportunity!

Sincerely,

Todd Colvin

Todd Colvin
Partner
SC Architecture

CLIENT'S ACCEPTANCE AND NOTICE TO PROCEED:

Agreed to, this _____ day of _____, 2024

By: _____ (signature)

_____ (printed)

Company: _____

General Conditions:

1. The following Terms and Conditions govern and apply to this Proposal and upon acceptance of this Proposal shall apply to and become a part of the Contract between SC Architecture, Ltd. and Client.
2. It is agreed that this Proposal and these Terms and General Conditions shall constitute a binding contract when signed by the authorized representatives of SC Architecture, Ltd. and the Client. In the event the parties hereto sign any other agreement covering the work herein proposed, this Proposal and these Terms and General Conditions shall become a part of any such agreement and be attached thereto, provided however, that no such agreement shall operate to supersede this

- Proposal and these Terms and Conditions. This Proposal and these Terms and General Conditions shall not be waived or amended unless agreed to in writing by both parties.
3. Cancellation – The Client agrees that two weeks written notice to SC Architecture, LTD is required to cancel the Contract. In the event the Client cancels the Contract, the Client agrees to reimburse SC Architecture, LTD for all work completed to date for the project, including all expenses as a result of the Client’s cancellation.
 4. Scope of Work – The scope of work to be performed by SC Architecture, LTD is limited to that specifically set for in this Proposal. Any additions to the work set forth in this Proposal shall constitute extras and shall be an additional charge to the Client over and above the contract price. Such extras shall include but not limited to:
 - a. Any additional work requested by the Client and provided by SC Architecture, LTD which is not specifically mentioned in this Proposal.
 5. Payment Terms – The Client shall be invoiced upon the completion of each phase of work outlined above as a percentage of the total contract amount. The Client agrees to pay each invoice within (10) ten days of the invoice date. Final Construction Documents WILL NOT be released for Bidding or Permitting until the entire balance for that phase is paid in full. The Client further agrees to pay interest on all amounts invoiced and not paid within said (10) ten-day period at the maximum interest rate permitted under applicable law, until paid, except to the extent such invoice is objected to for valid cause in writing. The Client agrees to pay SC Architecture, LTD costs of collection of all amounts due and unpaid after sixty (60) days, including court costs and reasonable attorney’s fees. SC Architecture, LTD shall not be bound by any provision or agreement conditioning SC Architecture’s right to receive payment for its Work upon payment to the Client by any third party.
 6. Delays, Liability, Indemnification - SC Architecture, LTD assumes no responsibility for delays or defaults in the performance of the work set forth in this Proposal due to causes SC Architecture’s control including, but not limited to, acts of God, armed conflicts, embargoes, strikes, shortage of labor, or transportation. SC Architecture, LTD assumes no liability for work performed by other consultants regarding this project. The Client shall indemnify SC Architecture, LTD against any loss or damage it sustains at the work site.
 7. Limit of Liability – In recognition of the relative risks and benefits of the Project to both the Client and the Consultant, the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit the liability of the Consultant, SC Architecture, LTD and its officers, partners, employees, of any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorney’s fees and cost and expert-witness fees and costs, so that the total aggregate liability of the Consultant and Consultants officers, partners and employees shall not exceed the fee for the Consultants services as shown above.
 8. This Proposal and these Terms and General Conditions constitute the entire understanding and agreement between SC Architecture, LTD and the Client. No other agreement, oral or written, expressed or implied shall limit or qualify the terms of this Proposal or these Terms and General Conditions. Said agreement shall not be modified or changed unless in writing and signed by SC Architecture, LTD and the Client.

TO: City Council
DATE: October 24, 2024
ITEM #: 10.A
SUBJECT: Conduct a public hearing and consider approval of a petition to institute annexation proceedings to enlarge and extend the boundary limits of said city to include the following described territory, to-wit: Tract 1: All that certain 6.0 acre tract of land in the S SHOTO Survey Abst 632, described in that Warranty Deed from Home and Garden Party, Ltd., et al to Marshall Economic Development Corporation, dated October 24, 2006 and recorded at Vol. 3474, Page 144; and Tract 2: All that certain 72.55 acre tract of land in the S SHOTO Survey Abst 632, described in that Warranty Deed from Unitex Properties, Inc., et al to Marshall Economic Development Corporation, dated 10/24/2006 and recorded at Vol. 3474, Page 169. (Economic Development & Strategic Initiatives; Marshall EDC)



Recommendation for Action: Consider approval of a petition to institute annexation proceedings to enlarge and extend the boundary limits of said city to include the following described territory, to-wit: Tract 1: All that certain 6.0 acre tract of land in the S SHOTO Survey Abst 632, described in that Warranty Deed from Home and Garden Party, Ltd., et al to Marshall Economic Development Corporation, dated October 24, 2006 and recorded at Vol. 3474, Page 144; and Tract 2: All that certain 72.55 acre tract of land in the S SHOTO Survey Abst 632, described in that Warranty Deed from Unitex Properties, Inc., et al to Marshall Economic Development Corporation, dated 10/24/2006 and recorded at Vol. 3474, Page 169.

Executive Summary: On September 25, 2024, the Marshall Economic Development Corporation Board of Directors voted unanimously for consensual annexation of property it owns along Brown Road just outside of the city limits. A petition requesting the annexation was also submitted to the City.

The area subject to annexation is described as follows:

Tract 1: All that certain 6.0 acre tract of land in the S SHOTO Survey Abst 632, described in that Warranty Deed from Home and Garden Party, Ltd., et al to Marshall Economic Development Corporation, dated October 24, 2006 and recorded at Vol. 3474, Page 144.

Tract 2: All that certain 72.55 acre tract of land in the S SHOTO Survey Abst 632, described in that Warranty Deed from Unitex Properties, Inc., et al to Marshall Economic Development Corporation, dated 10/24/2006 and recorded at Vol. 3474, Page 169.

Texas Local Government Code Chapter 43 Section 43.0672 requires the governing body of the municipality that elects to annex an area to negotiate and enter into a written agreement with the owner(s) of land in the area for the provision of services in the area. Marshall Economic Development Corporation is the sole property owner of the area subject to the

proposed annexation. Per the agreement, the City will begin providing all routine, customary city services to the annexed area upon the effective date of the annexation ordinance.

Notice of the public hearing on the proposed annexation was published in the Marshall News Messenger on October 9, 2024, and said notice was also provided to Emergency Services District No. 3 that serves the property subject to the proposed annexation.

Per Health and Safety Code Chapter 775 that governs Emergency Services Districts (ESDs), if a municipality removes territory from a district that the municipality has annexed, the municipality shall compensate the district immediately after disannexation of the territory in an amount equal to the annexed territory's pro rata share of the district's bonded and other indebtedness computer according to formulas detailed in the code.

Budget Cost: Upon approval of the annexation and removal of the territory from Emergency Services District No. 3, the City shall make a payment to the district as required by Health and Safety Code Chapter 775. The district anticipates the payment for the proposed annexation to be \$593.

Staff Contact: Alex Agnor, Director of Economic Development & Strategic Initiatives

Attachments: 1. Petition for Annexation

**PETITION REQUESTING ANNEXATION BY AREA LANDOWNERS
TO THE MAYOR OF THE GOVERNING BODY OF MARSHALL TEXAS:**

The undersigned owner of the hereinafter described tract of land, which is vacant and without residents, or on which fewer than three qualified voters reside, hereby petitions your honorable Body to extend the present city limits so as to include as part of the City of Marshall, Texas, the following described territory, to wit:

All those lots, tracts or parcels of land described as follows:

Tract 1:

All that certain 6.0 acre tract of land in the S SHOTO Survey Abst 632, described in that Warranty Deed from Home and Garden Party, Ltd., et al to Marshall Economic Development Corporation, dated October 24, 2006 and recorded at Vol. 3474, Page 144;

Tract 2

All that certain 72.55 acre tract of land in the S SHOTO Survey Abst 632, described in that Warranty Deed from Unitex Properties, Inc., et al to Marshall Economic Development Corporation, dated 10/24/2006 and recorded at Vol. 3474, Page 169

I certify that the above described tract of land is within the extraterritorial jurisdiction of the City, is adjacent to the City of Marshall, Texas, and that this petition is signed and duly acknowledged by each and every person having an interest in said land.

Marshall Economic Development Corporation

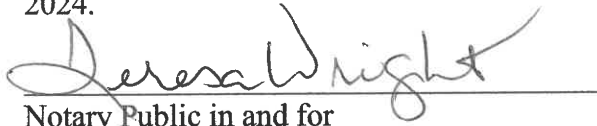
By: _____

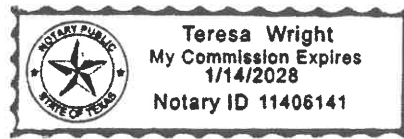
Keith Hill, Chairman

THE STATE OF TEXAS
COUNTY OF HARRISON

BEFORE ME, the undersigned authority, on this day personally appeared Keith Hill, Chairman of the Marshall Economic Development Corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same as the act and deed of the Marshall Economic Development Corporation for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 4th day of October, 2024.


Notary Public in and for
Harrison County, Texas.





TO: City Council
DATE: October 24, 2024
ITEM #: 10.B
SUBJECT: Consider approval of an ordinance annexing the hereinafter described territory to the City of Marshall, Harrison County, Texas, and extending the boundary limits of said City so as to include said hereinafter described property within said city limits, and granting to all the inhabitants of said property all the rights and privileges of other citizens and binding said inhabitants by all of the acts, ordinances, resolutions, and regulations of said City; and adopting a service plan or agreement. (Economic Development & Strategic Initiatives; Marshall EDC)

Recommendation for Action: Consider approval of an ordinance annexing the hereinafter described territory to the City of Marshall, Harrison County, Texas, and extending the boundary limits of said City so as to include said hereinafter described property within said city limits, and granting to all the inhabitants of said property all the rights and privileges of other citizens and binding said inhabitants by all of the acts, ordinances, resolutions, and regulations of said City; and adopting a service plan or agreement

Executive Summary: On September 25, 2024, the Marshall Economic Development Corporation Board of Directors voted unanimously for consensual annexation of property it owns along Brown Road just outside of the city limits. A petition requesting the annexation was also submitted to the City.

The area subject to annexation is described as follows:

Tract 1: All that certain 6.0 acre tract of land in the S SHOTO Survey Abst 632, described in that Warranty Deed from Home and Garden Party, Ltd., et al to Marshall Economic Development Corporation, dated October 24, 2006 and recorded at Vol. 3474, Page 144.

Tract 2: All that certain 72.55 acre tract of land in the S SHOTO Survey Abst 632, described in that Warranty Deed from Unitex Properties, Inc., et al to Marshall Economic Development Corporation, dated 10/24/2006 and recorded at Vol. 3474, Page 169.

Texas Local Government Code Chapter 43 Section 43.0672 requires the governing body of the municipality that elects to annex an area to negotiate and enter into a written agreement with the owner(s) of land in the area for the provision of services in the area. Marshall Economic Development Corporation is the sole property owner of the area subject to the proposed annexation. Per the agreement, the City will begin providing all routine, customary city services to the annexed area upon the effective date of the annexation ordinance.

The following city services are to be provided to Tracts 1 and 2:

A. Fire. Fire response will be provided by the City at the same level as is provided throughout

the City;

B. Police. The City will extend regular and routine patrols to Tracts 1 and 2;

C. Animal Control. The City will provide animal control services at the same level as is provided throughout the City.

D. Solid Waste Services. The City will provide solid waste collection (trash) services in accordance with existing City ordinances and policies.

E. Water Services. The City will provide access to potable water at the property line in conjunction with applicable TCEQ and EPA requirements.

F. Sanitary Sewer Service. Landowner will, at their expense, have the opportunity to connect to the City's sanitary sewer service as needed.

G. Code Compliance. The City will provide education, enforcements, and abatements relating to code violations within the property in accordance with applicable ordinance, laws, rules, and regulations.

Notice of the public hearing on the proposed annexation was published in the Marshall News Messenger on October 9, 2024, and said notice was also provided to Emergency Services District No. 3 that serves the property subject to the proposed annexation.

Per Health and Safety Code Chapter 775 that governs Emergency Services Districts (ESDs), if a municipality removes territory from a district that the municipality has annexed, the municipality shall compensate the district immediately after disannexation of the territory in an amount equal to the annexed territory's pro rata share of the district's bonded and other indebtedness computer according to formulas detailed in the code.

Budget Cost: Upon approval of the annexation and removal of the territory from Emergency Services District No. 3, the City shall make a payment to the district as required by Health and Safety Code Chapter 775. The district anticipates the payment for the proposed annexation to be \$593.

Staff Contact: Alex Agnor, Director of Economic Development & Strategic Initiatives

Attachments:

1. Ordinance Annexation - MEDCO - October 2024
2. CITY OF MARSHALL.Service Agreement for MEDCO Annexation of 31 Property-Updated

ORDINANCE ANNEXING TERRITORY

AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED TERRITORY TO THE CITY OF MARSHALL, HARRISON COUNTY, TEXAS, AND EXTENDING THE BOUNDARY LIMITS OF SAID CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN SAID CITY LIMITS, AND GRANTING TO ALL THE INHABITANTS OF SAID PROPERTY ALL THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID INHABITANTS BY ALL OF THE ACTS, ORDINANCES, RESOLUTIONS, AND REGULATIONS OF SAID CITY; AND ADOPTING A SERVICE PLAN OR AGREEMENT.

WHEREAS, §2.03 of the Charter of the City of Marshall, Texas, an incorporated city, authorizes the annexation of territory, subject to the laws of this state.

WHEREAS, the procedures prescribed by the (Texas Local Government Code and/or Charter) of the City of Marshall, Texas, and the laws of this state have been duly followed with respect to the following described territory, to wit:

All those lots, tracts or parcels of land described as follows:

Tract 1:

All that certain 6.0 acre tract of land in the S SHOTO Survey Abst 632, described in that Warranty Deed from Home and Garden Party, Ltd., et al to Marshall Economic Development Corporation, dated October 24, 2006 and recorded at Vol. 3474, Page 144, to be included in the City limits upon annexation.

Tract 2:

All that certain 72.55 acre tract of land in the S SHOTO Survey Abst 632, described in that Warranty Deed from Unitex Properties, Inc., et al to Marshall Economic Development Corporation, dated 10/24/2006 and recorded at Vol. 3474, Page 169, to be included in the City limits upon annexation.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARSHALL, TEXAS:

1. That the heretofore described property is hereby annexed to the City of Marshall, Harrison County, Texas, and that the boundary limits of the City of Marshall be and the same are hereby extended to include the above described territory within the city limits of the City of Marshall, and the same shall hereafter be included within the territorial limits of said city, and the inhabitants thereof shall hereafter be entitled to all the rights and privileges of other citizens of the City of Marshall and they shall be bound by the acts, ordinances, resolutions, and regulations of said city.
2. A service plan or agreement for the area is hereby adopted and attached as exhibit A.

The City Secretary is hereby directed to file with the County Clerk of Harrison, Texas, a certified copy of this ordinance.

PASSED by an affirmative vote of all members of the City Council, this the 24th day of October, 2024.

APPROVED:

Mayor

ATTEST:

City Secretary

**ANNEXATION, SERVICE, AND DEVELOPMENT AGREEMENT BETWEEN THE
CITY OF MARSHALL, TEXAS, AND THE MARSHALL ECONOMIC
DEVELOPMENT CORPORATION**

STATE OF TEXAS

COUNTY OF HARRISON

This Annexation, Service, and Development Agreement (the “Agreement”) is made and entered into as of the ____ day of _____, 2024, by and between the City of Marshall, Texas (the “City”), and The Marshall Economic Development Corporation, a Texas economic development corporation (the “Landowner,” and together with the City, the “Parties”).

RECITALS

WHEREAS, the City Council of Marshall, Texas (the “City Council”) will receive a petition from the Landowner for annexation of land in the described as follows:

Tract 1:

All that certain 6.0 acre tract of land in the S SHOTO Survey Abst 632, described in that Warranty Deed from Home and Garden Party, Ltd., et al to Marshall Economic Development Corporation, dated October 24, 2006 and recorded at Vol. 3474, Page 144;

Tract 2

All that certain 72.55 acre tract of land in the S SHOTO Survey Abst 632, described in that Warranty Deed from Unitex Properties, Inc., et al to Marshall Economic Development Corporation, dated 10/24/2006 and recorded at Vol. 3474, Page 169

AND WHEREAS, in exchange for the annexation of Tracts 1 and 2, the City agrees to provide Municipal Services to Tracts 1 and 2; and

WHEREAS, the Parties desire to enter into this Agreement to provide the terms and conditions under which the Landowner will annex Tracts 1 and 2 to the City and the City will provide Municipal Services.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, obligations, and benefits hereinafter set forth, the City and the Landowner contract and agree as follows:

ARTICLE I

ANNEXATION

Section 1.01. Petitions for Annexation and Other Required Documents :

The Landowner has or shall execute and submit to the City Council a petition for annexation (the “Annexation Petition”) in accordance with Section 2.03 of the Code of Ordinances for the City of Marshall, in form satisfactory to the City. Thereafter, the Landowner shall provide the City with such supporting documentation as the City may require as necessary to complete the annexation.

In the event the Landowner fails to execute the Annexation Petition within one (1) month of the effective date of this Agreement or fails to provide other required documents within 30 days after receipt of a written request therefor, or if the annexation of Tracts 1 and 2 into the City fails to occur for any reason, then this Agreement shall terminate.

Section 1.02. Costs of Annexation.:

The City must pay all costs for the annexation of Tracts 1 and 2.

Section 1.03. Effect of Annexation on Tracts 1 and 2:

The Parties understand and agree that the following matters will affect Tracts 1 and 2 after they are annexed to the City:

- A. Tracts 1 and 2 will be subject to customary taxes levied by the City including the payment of sales tax for commercial operations on Tracts 1 and 2;
- B. the City will provide services to Tracts 1 and 2 in accordance with Article II.

ARTICLE II

SERVICE

Section 2.01. Service.

Upon, the effective date of the annexation ordinance, the City will provide all routine, customary city services (“Municipal Services”) to Tracts 1 and 2, including but not limited to the following services:

- A. Fire. Fire response will be provided by the City at the same level as is provided throughout the City;
- B. Police. The City will extend regular and routine patrols to Tracts 1 and 2;
- C. Animal Control. The City will provide animal control services at the same level as is provided throughout the City.
- D. Solid Waste Services. The City will provide solid waste collection (trash) services in accordance with existing City ordinances and policies.
- E. Water Services. The City will provide access to potable water at the property line in conjunction with applicable TCEQ and EPA requirements.
- F. Sanitary Sewer Service. Landowner will, at their expense, have the opportunity to connect to the City’s sanitary sewer service as needed.
- G. Code Compliance. The City will provide education, enforcements, and abatements

relating to code violations within the property in accordance with applicable ordinance, laws, rules, and regulations.

ARTICLE III **MISCELLANEOUS**

Section 3.01. Authority:

The City and Landowner represent and warrant to the other that (i) each Party has the right and authority to enter into, and perform its obligations under this Agreement and (ii) all necessary government or corporate action has been taken as necessary to authorize this Agreement.

Section 3.02. Severability:

The provisions of this Agreement are severable, and if any provision or part of this Agreement or the application thereof to any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other persons or circumstances shall not be affected thereby.

Section 3.03. Modification:

This Agreement shall be subject to change or modification only with the mutual written consent of the Landowner and the City.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in multiple copies, each of equal dignity, as of the date and year set forth on the first page hereof.

The City of Marshall, Texas

By:

Name:

Title:

The Marshall Economic Development Corporation

By: Name:

Title:



TO: City Council
DATE: October 24, 2024
ITEM #: 10.C
SUBJECT: Conduct a public hearing and consider approval of an ordinance regarding a rezoning request for 3306 Meadow Lane from Agriculture and Estate (AE) to Multi-Family Residential (MF) (Z-24-05). (Planning & Development)

Recommendation for Action: Recommended approval of the rezoning of Agriculture and Estate (AE) to Multi-Family Residential (MF) located at 3306 Meadow Lane Parcel #R44195

Executive Summary: Applicant Tommy and Allison Goforth
Property Owner Tommy and Allison Goforth
Surrounding Property 29 Notices sent within the 200' radius of the property
Notices 9 Negative responses
P&Z Vote 5-0 in favor with 2 Commissioners not present

Budget Cost: 0

Staff Contact: Chief Cooper

Attachments:

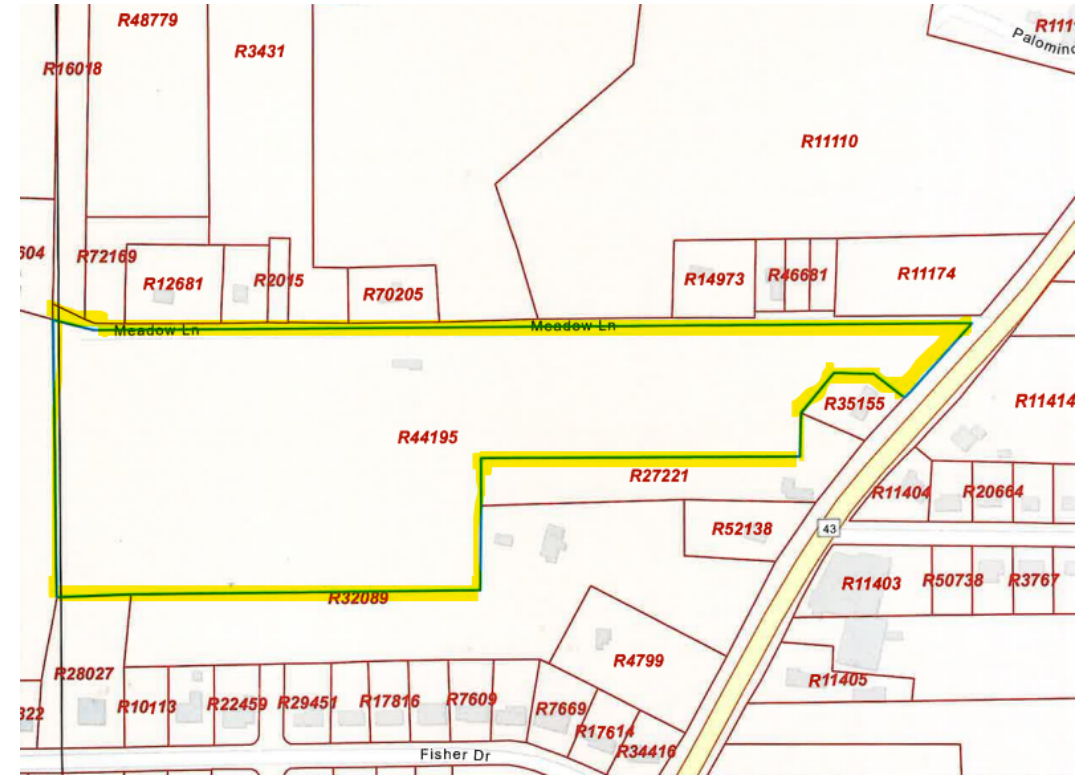
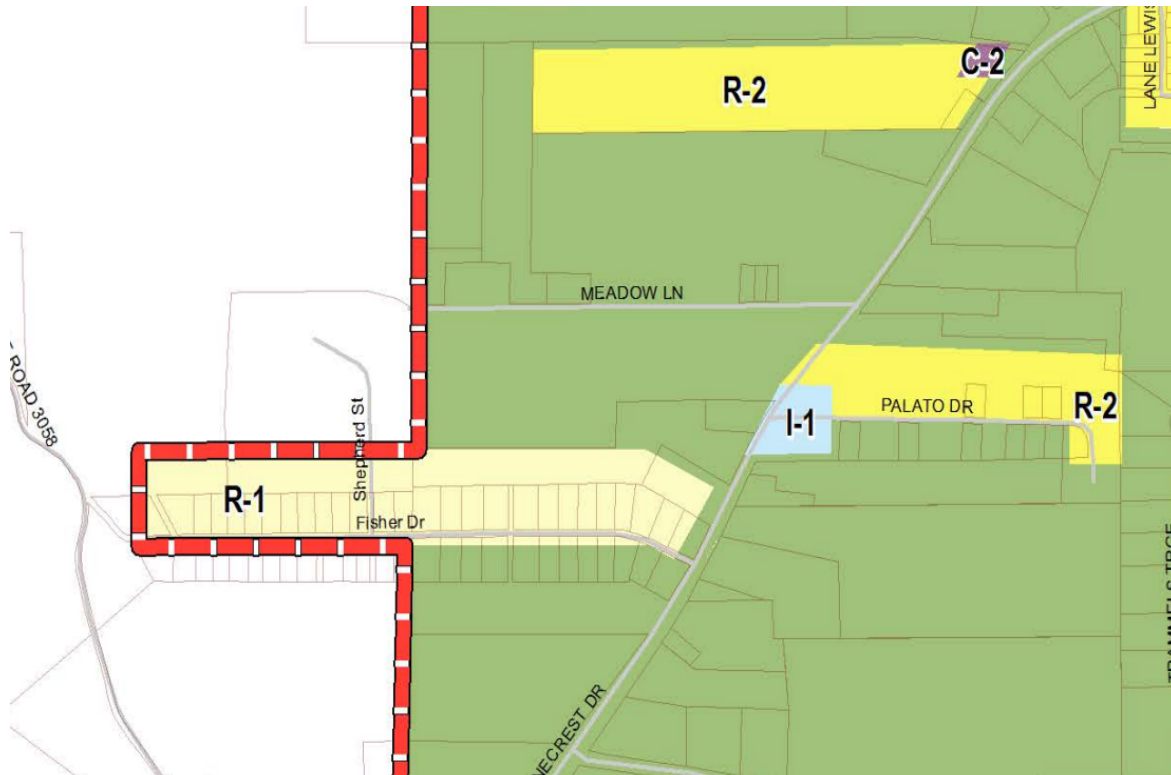
1. 10-23-24 Council 10C Meadow Street Rezoning Request
2. 3306 Meadow Lane
3. HarrisonCAD Map 3306 MEADOW LANE
4. Street level Meadow Lane relation to Fisher Dr.
5. Aerial 2024-09-04 150813
6. Street level Meadow from Pinecrest Drive.
7. Street level Meadow Street 1
8. Zoning Map View Meadow Street
9. Rezone 3306 Meadow Lane from AE to MF



Planning & Development



Z-24-05: Conduct a public hearing and make a recommendation to the City Council regarding a rezoning request for a 21.91-acre tract of land at/on the 747 A Whetstone Subdivision at 3306 Meadow Lane. Parcel #R000044195. From Agriculture and Estate (AE) to Multi-Family Residential (MF) R6.







Questions?

Meadow Street Project
Applicant: Tommy and Allison Goforth
Address: 3306 Meadow Lane

The applicant is requesting a change in zoning from Agriculture and Estate (AE) to Multi-Family Residential District (MF) containing 21.91 acres (3306 Meadow Lane – R44195). The applicant intends to build attached single-family and duplex residences.

Section 20

Zoning District Purposes and Prohibited Uses

20.01 A-E Agriculture and Estate District.

- A. The Agriculture and Estate District is designed to accommodate agricultural and rural activities that are frequently found in less developed areas of the city. It is also an area in which future development might occur. It is intended that this district be used to hold agricultural and rural land in those uses as long as is practical, reasonable, and economical; have as permitted uses certain activities which are normally expected to take place in a rural or urban-fringe area; and be identified as an area in which the zoning may be changed in the future to accommodate urban development.
- B. Prohibited Uses:
 - 1. Any building erected or land used for other than one or more of the uses specified as permitted in this District in Section 21
 - 2. On and off-premises signs, portable signs, animated or illuminated signs, except as permitted in Section 22.
 - 3. Any use of property that does not meet the yard, lot, and area requirements as specified in Section 23.

20.08 MF Multifamily Residential District

- A. The Multifamily Residential District is established to manage the density of population and to provide adequate space and site diversification for higher density residential development in which adequate streets and other community facilities are available for present and future needs. This District is also established for the following additional purposes:
 - 1. To protect residential areas against pollution, environmental hazards, and other objectionable influences.
 - 2. To protect residential areas as far as possible, against heavy and through traffic.
 - 3. To manage the density of population and protect against congestion by providing for off-street parking spaces and by requiring the provision of open space in residential areas in order to open areas for rest and

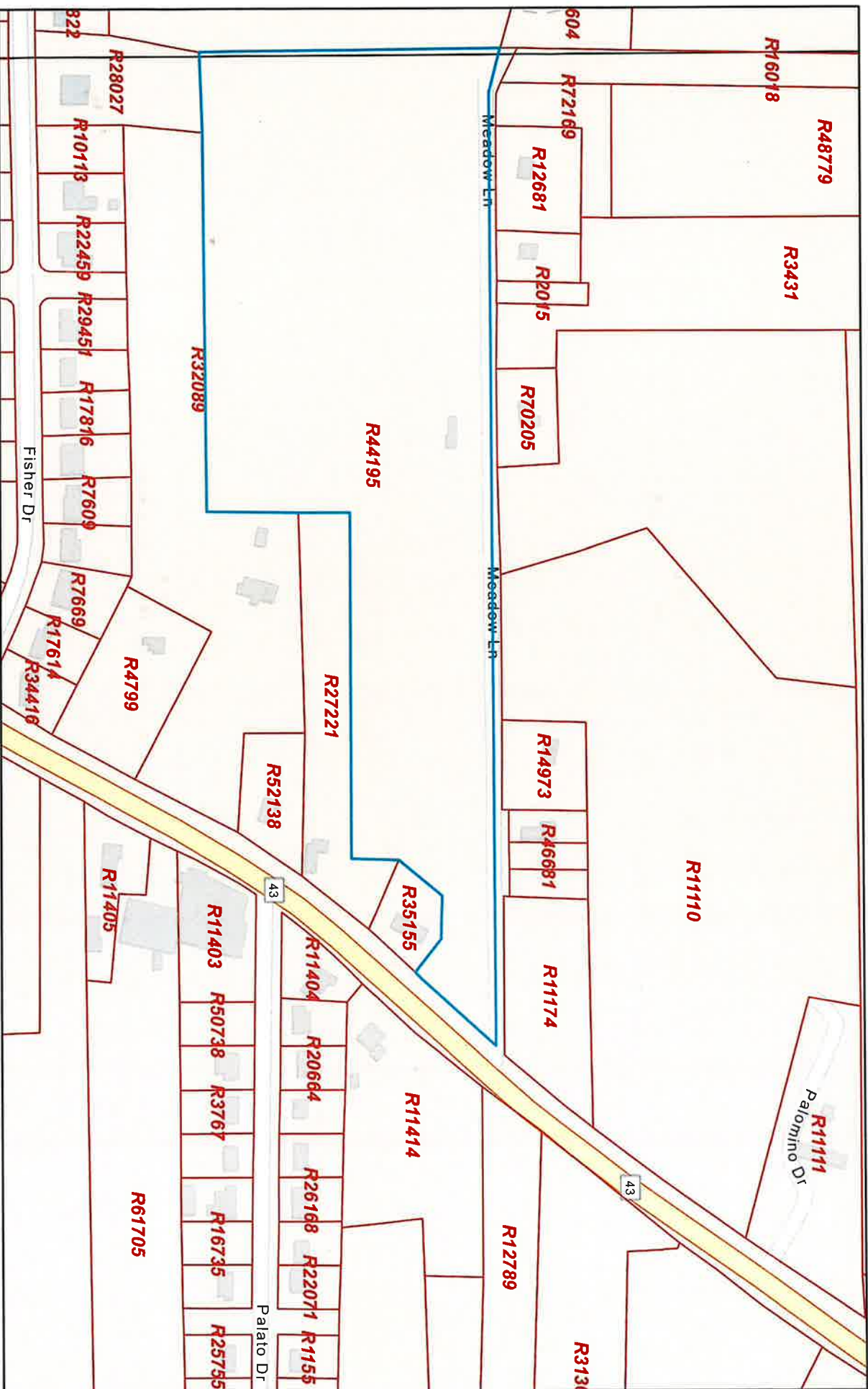
recreation and to break the monotony of continuous building bulk, thus providing a more desirable environment for urban living.

4. To provide for privacy and access of light and air to windows, as far as possible, through controls over the spacing and height of buildings and other structures.
5. To promote the most desirable use of land and direction of building development in accordance with the Comprehensive Plan and not in conflict with the adopted policies of the city; to promote stability of development; to protect the character of the district; to conserve the value of land and buildings; and to protect the city's tax base.
6. To promote the most efficient use of city facilities and services.

B. Prohibited Uses:

1. Any building erected or land used for other than one or more of the uses specified as permitted in this District in Section 21
2. On and off-premises signs, portable signs, animated or illuminated signs, except as permitted in Section 22.
3. Any use of property that does not meet the yard, lot, and area requirements as specified in Section 23.

3306 Meadow Lane



9/4/2024, 2:32:55 PM

Parcels

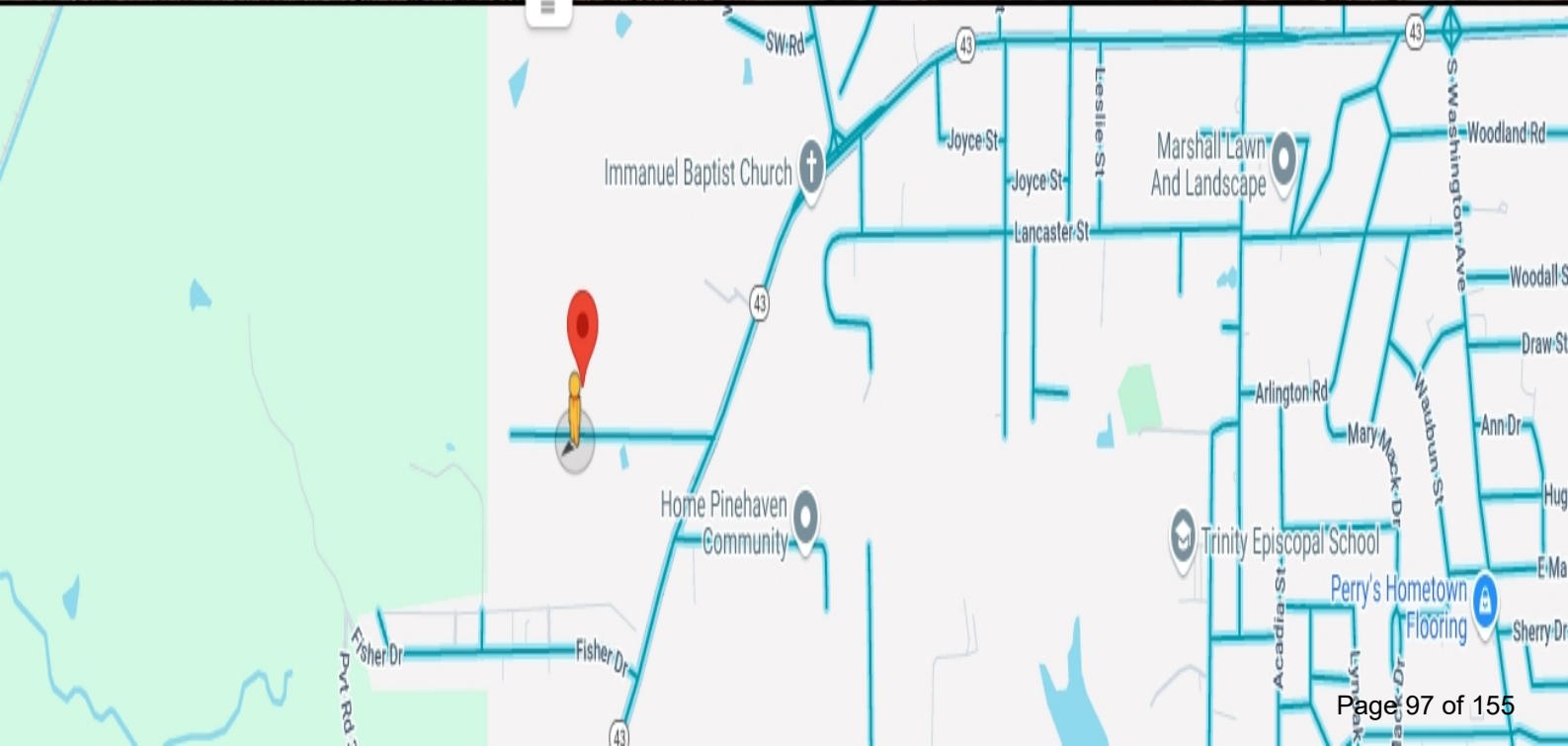
Abstracts

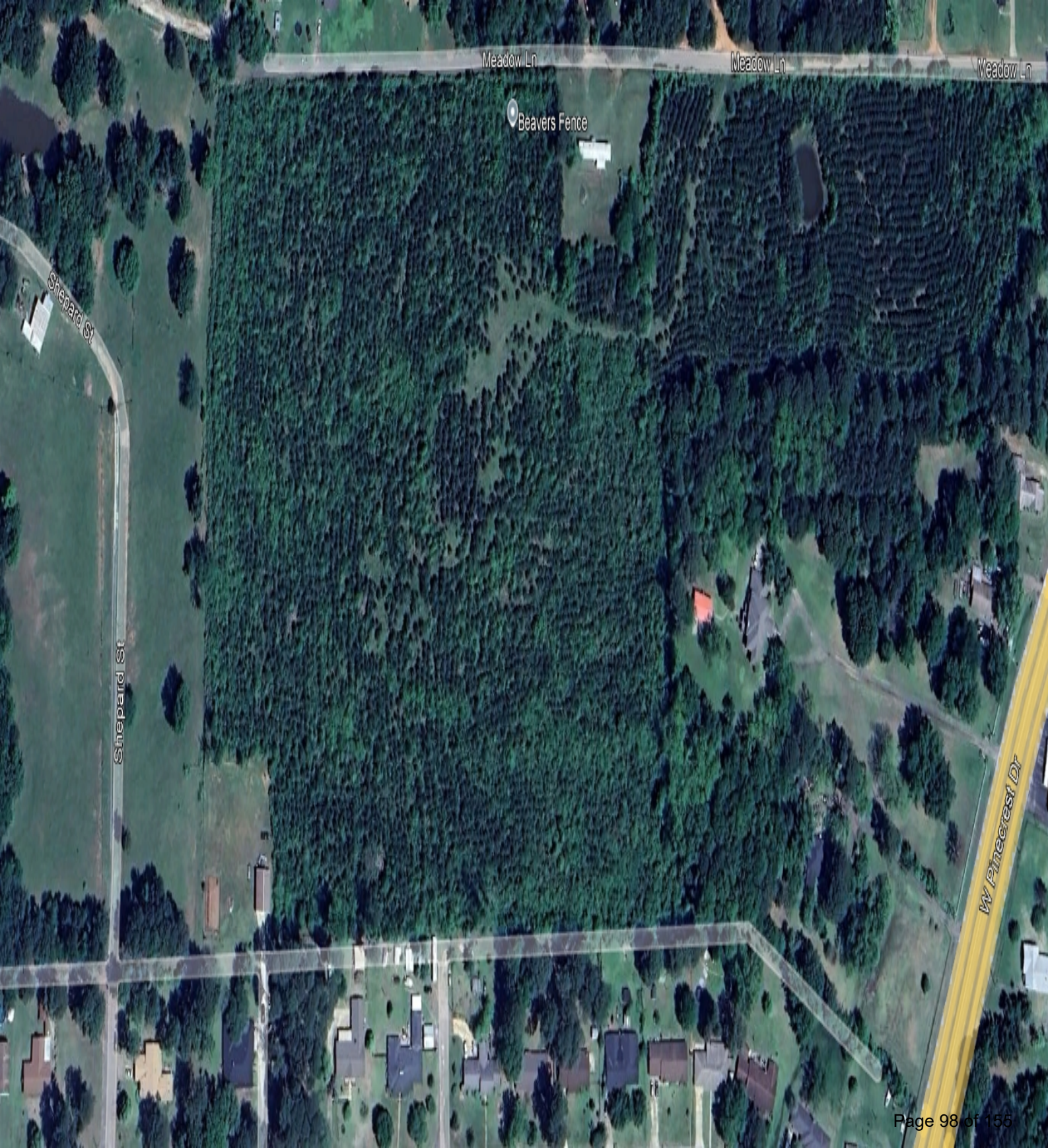
1:4,514

Esri Community Maps Contributors, Texas Parks & Wildlife, ©
OpenStreetMap, Microsoft, CONANP, Esri, TomTom, Garmin, SafeGraph,

Harrison County Appraisal District, BIS Consulting - www.bisconsulting.com

Disclaimer: This product is for informational purposes only and has not been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of boundaries.



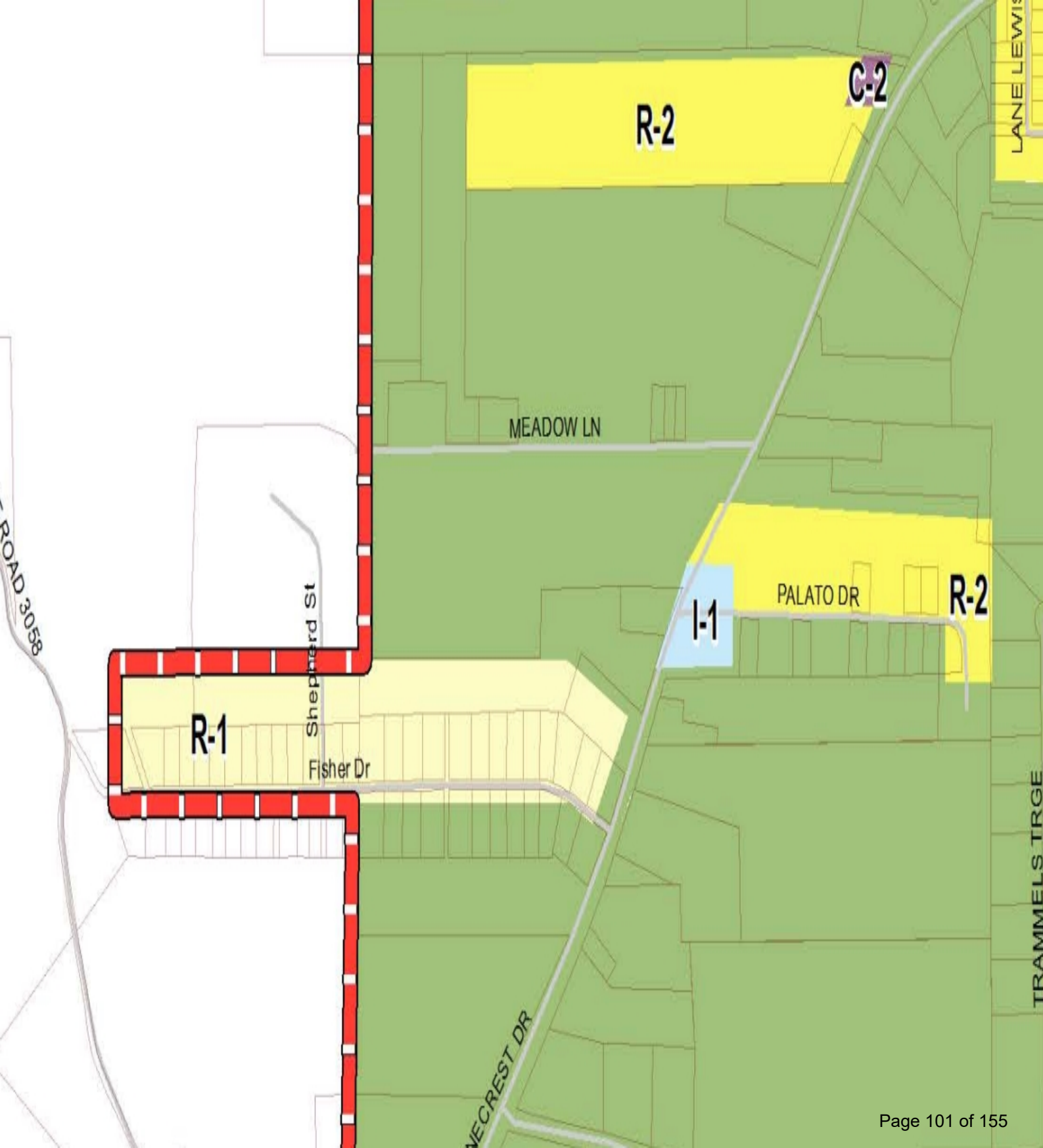




Meadow Ln



Meadow Ln



ORDINANCE NO

An Ordinance Amending Ordinance No. 0-87-13 To Rezone an approximately 21.91 acres from AE (Agriculture and Estate) to MF (Multi-Family Residential). Located at 3306 Meadow Lane –R44195.

WHEREAS, the City of Marshall enacted zoning on December 13, 1951 and amended said ordinance on July 7, 1963 and on March 26, 1987 repealed and replaced all ordinance with Ordinance No. 0-87-13 amending the Code of Ordinances of the City of Marshall to add Chapter 32 regarding Zoning; and

WHEREAS, a Zoning District Map was adopted as a part of Ordinance No. 0-87-13; and

WHEREAS, Chapter 32, Section 14 of the Code of Ordinances established a procedure for a property owner, his agent, or the City to request zoning district map amendments; and

WHEREAS, the Planning & Zoning Commission, after due and proper notice in the manner and for the length of time required by law, held a public hearing for the purpose of considering proposed changes to the Zoning District Map; and

WHEREAS, after the close of said public hearing and pursuant thereto, the Planning & Zoning Commission filed a written report with the City Council, recommending changes in the Zoning District Map; and

WHEREAS, pursuant to said report and after notice in the manner and for the length of time required by law, the City Council held a public hearing in Marshall, Texas at City Hall on the 14th day of October, 2024 at 6:00pm for the purpose of considering the requested Zoning Map change, and at which hearing all property owners, interested parties, and interested citizens had an opportunity to be heard; and

WHEREAS, the City Council, after considering the proposed changes and after hearing all parties and citizens desiring to be heard, deems that the following changes are necessary and for the best interest of the general welfare of the citizens of the City of Marshall, Texas.

NOW, THEREFORE, BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF MARSHALL, TEXAS THAT:

Section 1. The facts and opinions in the preamble of this ordinance are true and correct.

Section 2. THAT THE ZONING MAP ESTABLISHED BY ORDINANCE NO. 087-13 IS HEREBY AMENDED TO REZONE THAT CERTAIN To Rezone an approximately 21.91 acres from AE (Agriculture and Estate) to MF (Multi-Family Residential). Located at 3306 Meadow Lane –R44195.

Section 3. All ordinances and agreements and parts of ordinances and agreements in conflict herewith are hereby repealed to the extent of the conflict only.

PASSED on the ____ day of _____, 2024.

AYES:

NOES:

ABSTAINED:

MAYOR OF THE CITY COUNCIL
OF THE CITY OF MARSHALL, TEXAS

ATTEST:

CITY SECRETARY



TO: City Council
DATE: October 24, 2024
ITEM #: 11.A
SUBJECT: Consider Approval of an Ordinance Amending the
FY24 Annual Budget. (Finance)

Recommendation for Action: Staff recommends Council approve an ordinance amending the FY24 Annual Budget.

Executive Summary: See attachment

Budget Cost: See attachment

Staff Contact: Kristina Hamilton, Assistant Director of Finance

Attachments: 1. Budget Amendment Memo

#

AGENDA MEMORADUM

To: Members of the City Council
From: Kristina Hamilton, Assistant Director of Finance
cc: Melissa Vossmer, Interim City Manager
Nikki Smith, City Secretary
Date: 10/16/2024
Re: Ordinance Amending the FY24 Annual Budget

Purpose

This executive summary outlines the rationale for utilizing the fund balance and increasing revenues to address unforeseen expenses that have arisen. This strategic approach will ensure continued operational effectiveness and financial stability.

Background

Unexpected expenses can significantly impact an organization's budgetary framework. Recent events have led to unforeseen costs that were not anticipated during the initial budgeting process. These expenses could hinder our ability to deliver services, meet operational needs, and uphold our commitments to stakeholders.

Proposal

1. **Utilization of Fund Balance:**
 - The fund balance serves as a financial safety net, providing liquidity and stability in times of unanticipated financial demands.
 - Drawing from the fund balance will enable the organization to cover essential expenses without compromising ongoing operations.
 - This proactive measure supports immediate needs while maintaining the integrity of long-term financial planning.
2. **Increase to Revenue:**
 - Identifying and allocating existing revenue streams will help offset the unforeseen expenses.

- Potential sources may include grants, donations, or reallocating existing resources.
- This increase in revenue will not only cover the current shortfall but can also contribute to future financial resilience.

Benefits

- **Operational Continuity:** Addressing unforeseen expenses promptly will prevent service disruptions and maintain stakeholder confidence.
- **Financial Stability:** Strategic use of fund balance and increased revenue will mitigate the risks associated with unplanned financial challenges.
- **Enhanced Flexibility:** By leveraging both fund balance and excess revenue, the organization can remain agile and responsive to changing circumstances.

Conclusion

Utilizing the fund balance in conjunction with increasing revenues is a prudent strategy to manage unforeseen expenses. This approach will ensure the organization remains operationally effective while maintaining financial integrity. It is essential to adopt these measures promptly to safeguard against further financial challenges and uphold our commitments to stakeholders.

Budget Impact:

General Fund -

- Increase in Budgeted Revenue for -
 - Ambulance Fees –
 - Adopted Budget \$1,400,000
 - Recommendation \$1,581,108 (Current Revenue to-date \$1,656,065)
 - Interest Earned –
 - Adopted Budget \$ 353,246
 - Revised Budget \$415,246
 - Recommendation \$887,246 (Current Revenue to-date \$ 892,816)
- Impact to General Fund Balance -
 - Uncommitted Reserves \$ 11,675,800 (Per 12/31/2023 Audit)
 - Uncommitted Reserves after adjustments \$ 10,812,577
 - Reserve Recommendation (4 Months) \$ 8,833,851
 - Reserves in excess of 4-Month Recommendation \$ 1,978,726
 - **No Impact**

Hotel Occupancy Tax Fund -

- Increase Use of Fund Balance –
 - Use of Fund Balance –
 - Adopted Budget \$30,000
 - Recommendation \$152,000
- Impact to HOT Fund Balance -
 - Uncommitted Reserves \$ 1,034,017 (Per 12/31/2023 Audit)

- Uncommitted Reserves after adjustments \$ 1,004,017
- Reserve Recommendation (4 Months) \$ 381,364
- Reserves in excess of 4-Month Recommendation \$ 622,653
 - *If Approved – Reserves in Excess of 4-Month Recommendation \$ 500,653*

Water & Wastewater Utility -

- Increase in Budgeted Revenue for -
 - Water Sales –
 - Adopted Budget \$5,545,000
 - Recommendation \$5,745,000 (Current Revenue to-date \$ 4,762,853)
 - Interest Earned –
 - Adopted Budget \$ 34,200
 - Recommendation \$ 369,200 (Current Revenue to-date \$ 365,338)
- Increase Use of Fund Balance –
 - Use of Fund Balance –
 - Adopted Budget \$ 0
 - Recommendation \$ 201,412
- Impact to Water/Wastewater Utility Fund Balance -
 - Uncommitted Reserves \$ 7,300,891 (Per 12/31/2023 Audit)
 - Uncommitted Reserves after adjustments \$ 7,300,891
 - Reserve Recommendation (4 Months) \$ 3,471,133
 - Reserves in excess of 4-Month Recommendation \$ 3,829,758
 - *If Approved – Reserves in Excess of 4-Month Recommendation \$ 3,628,346*

Debt Related Projects Fund -

- Increase in Budgeted Revenue for -
 - Interest Earned –
 - Adopted Budget \$ 0
 - Recommendation \$ 2,081

Local/Private Grants Fund -

- Increase in Budgeted Revenue for Bring Love Home Grant -
 - Local/Private Grant Revenue –
 - Adopted Budget \$ 0
 - Recommendation \$ 5,000
- Increase in Budgeted Revenue for Wal-Mart Grant -
 - Local/Private Grant Revenue –
 - Adopted Budget \$ 0
 - Recommendation \$ 2,000



TO: City Council
DATE: October 24, 2024
ITEM #: 12.A
SUBJECT: Discussion concerning End of the Year One-Time Payments to Employees. (Council)

Recommendation for Action:

Executive Summary: This item is placed on the agenda for discussion at the request of Councilmembers Godfrey and Morris. During the FY25 budget discussions where a 4% cost of living (COL) was ultimately approved as part of the budget, there was concern expressed that this amount was not reflective of the experience City employees were having with actual inflation. Councilmembers Godfrey and Morris would like an opportunity to continue the discussion prior to the end of the fiscal year.

I was not present for the Council discussions on this issue at the meeting in September, but the City's revenue picture for the current fiscal year has not changed from what was presented to the City Council. The end of the year reconciliation is currently underway, and it is not yet known what the end of the year budget amendment will represent in terms of revenue and expenditure adjustments.

Budget Cost:

Staff Contact: Melissa Byrne Vossmer, Interim City Manager

Attachments: None



TO: City Council
DATE: October 24, 2024
ITEM #: 12.B
SUBJECT: Discussion concerning roaming dogs in the City.
(Council)

Recommendation for Action:

Executive Summary: This item is on the agenda at the request of Councilmembers Godfrey and Morris. There has been concern expressed about roaming dogs and dogs running in packs in the neighborhoods. The roaming animals present potential health and safety challenges with chasing cars, bicycles, runners and children playing in the neighborhoods. The Councilmembers would like to provide a forum for comments and discussion with residents.

A report on the activity of Animal Services is scheduled for the November 14 City Council meeting.

Budget Cost:

Staff Contact: Melissa Byrne Vossmer, Interim City Manager

Attachments: None



TO: City Council
DATE: October 24, 2024
ITEM #: 12.C
SUBJECT: Consider a Request from Councilmembers Jordan - Anderson and Morris to Direct Staff to Study the possibility of changing Washington St. to One-way beginning at Grand Ave. (Council)

Recommendation for Action:

Executive Summary: Councilmember Jordan- Anderson asked to include an ordinance for consideration that would change the traffic flow on Washington beginning at Grand Ave. to a one-way road. This request was seconded by Councilmember Morris. To effectively consider such an ordinance, it is recommended that a traffic study is completed. Any change to the road system such as introducing a one-way road has an immediate effect on the road system in the immediate area and understanding those impacts and making other adjustments as might be necessary is desirable and can be accomplished with the assistance of a Traffic Engineer. The request for consideration of this item was received the evening of 10/16/24 and Staff did not have sufficient time to prepare any analysis and / or an ordinance for Council consideration.

Budget Cost: The use of a Traffic Engineer will require some funding for the study. How much would be required is unknown at this time.

Staff Contact: Melissa Byrne Vossmer, Interim City Manager

Attachments: None



TO: City Council
DATE: October 24, 2024
ITEM #: 12.D
SUBJECT: Wonderland of Lights 2024 Update. (Main Street)

Recommendation for Action: No Action Required

Executive Summary: A brief update on Wonderland of Lights 2024.

Budget Cost:

Staff Contact: Lacy Burson, Marshall Main Street

Attachments: None



TO: City Council
DATE: October 24, 2024
ITEM #: 12.E
SUBJECT: Consider approval of a contract for WWTP Excess Overflow Pump Installation. (Public Works)

Recommendation for Action: Award of Contract

Executive Summary: On Thursday, September 19, 2024, the City received three (3) bids for the Excess Flow Pump Installation project. The bids are listed below:

1. RBIS, Inc. - \$149,700
2. McKinney & Moore - \$165,639
3. Rayford's Truck and Tractor - \$200,000

The lowest responsive and responsible bidder for the pump installation was RBIS, LLC from Texarkana, Texas with a total bid price of \$149,700.00. The City's design firm Stokes and Associates has worked with RBIS, LLC on numerous projects and considers them a competent and qualified contractor capable of completing this project to the satisfaction of both the City of Marshall and the Engineer. It is the staff's recommendation that the City accept the total bid price and award the contract to RBIS, LLC in the amount of \$149,700.00. ARPA - Covid Fiscal Relief Grant funds will be used to cover this expenditure.

Budget Cost: \$149,700

Staff Contact: Eric Powell, Director and Cory Owen, Assistant Director - Treatment Services.

Attachments: 1. Award Recommendation - Pump Install



September 24, 2024

Mr. Eric Powell P.E.
Director of Public Works and Utilities
City of Marshall
605 East End Boulevard South
Marshall, Texas 75670

Re: Wastewater Treatment Plant - Excess Flow Pump Installation
Bid Summary / Recommendation to Award

Dear Mr. Powell:

On Thursday, September 19, 2024, the City received three (3) bids for the Excess Flow Pump Installation project. Attached is a copy of the bid minutes for your review and consideration.

The low bidder for the pump installation was RBIS, LLC from Texarkana, Texas with a total bid price of \$149,700.00. This firm has worked with RBIS, LLC on numerous projects and considers them a competent and qualified contractor capable of completing this project to the satisfaction of both the City of Marshall and the Engineer. It is this Firm's recommendation that the City accept the total bid price and award the contract to RBIS, LLC in the amount of \$149,700.00.

Also, I wanted to note that this project is being utilized as a settlement with the Texas Commission on Environmental Quality (TCEQ) for effluent violations at the wastewater treatment plant that were cited in a previously issued Administrative Order. Specifically, a Supplemental Environmental Project (SEP) was submitted by this firm on the City's behalf to allow this project to offset a penalty of \$33,000.00. This allows the City to spend the penalty amount on a project that will actually benefit the City.

If you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,

Steve Wick, P.E.

encl

cc: Mr. Cory Owen, Assistant Director of Public Works – Water Utilities
Mr. Billy Krack, President, RBIS



City of Marshall
Southside Wastewater Treatment Plant
Excess Flow Pump Installation
Bid Tabulation - September 19, 2024

Item	Qty	Unit	Description	RBIS, LLC		McKinney & Moore of Texas		Rayford's Truck & Tractor	
				Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
1	1	LS	Excess Flow Pump Installation	\$41,850.00	\$41,850.00	\$66,714.60	\$66,714.60	\$95,000.00	\$95,000.00
2	1	LS	Electrical Wiring and Controls	\$107,850.00	\$107,850.00	\$98,925.00	\$98,925.00	\$105,000.00	\$105,000.00
			Total Bid		\$149,700.00		\$165,639.60		\$200,000.00



TO: City Council
DATE: October 24, 2024
ITEM #: 12.F
SUBJECT: Report regarding Raw Water Pump Station Update.
(Public Works)

Recommendation for Action: No action needed

Executive Summary: Public Works staff will provide an update of the Raw Water Pump station and the current status of pump repairs, temporary pumping, any issues at the Water Production Plant as well as the current conservation order.

Budget Cost: None

Staff Contact: Eric Powell, PE Director and Cory Own, Assistant Director - Treatment Services

Attachments: 1. Emergent Condition - Pump Station Update10172024



MEMO

TO: Eric Powell, PE, Director of Public Works

FROM: Cory Owen, Assistant Director of Public Works – Water Utilities

DATE: October 17, 2024

SUBJECT: Update – Raw Water Pump Station

Today's test run on shutting down the pump station and bypass pumping worked out as was hoped. Pump #3 was shutoff and the valves to the transmission lines were closed to see if they would hold. The schedule below will continue as planned.

Timeline of events for work to be completed at the pump station:

1. **Thursday October 17** – Test run on bypassing the pump station completely with shutting vertical turbine #3 off. This is to see if valves will hold and the bypass pump will keep sufficient flow going to Caddo Jr.
2. **Monday October 28** – Officially shut down the pump station with bypass pumping as needed. RBIS will be on site to rebuild check valves and field fabricate piping, etc.
3. **Tuesday October 29 and Wednesday October 30**– Continuation from Monday until work is complete.
4. **Thursday October 31** – Red River to install the rebuilt vertical turbine into pump #4 spot.
5. Installation of the VFD for pump spot #2 to be scheduled once purchase order has been received.

Currently the plant has continued to operate efficiently with our reservoir, clearwells, and elevated towers maintaining proper levels with only the single vertical turbine running assisted by the bypass pump setup.



TO: City Council
DATE: October 24, 2024
ITEM #: 12.G
SUBJECT: Consider approval of project acceptance and closeout - Streetscape Project on 300/400 block of N Washington. (Public Works)

Recommendation for Action: Accept completion of project and release contractor retainage.

Executive Summary: The Streetscape project at the 300/400 blocks of N Washington is substantially complete and all related walkthrough\punchlist items have been addressed. The contractor, Casey Slone Construction, has completed all required work based on the plans and specifications and has satisfied all items relating to the walkthrough and punchlists. The design engineer has provided his letter summarizing his findings during the walkthrough and the recommendation to release retainage.

Budget Cost: \$50,290.77

Staff Contact: Eric Powell, PE Director of Public Works

Attachments:

1. SubstantialCompletionCert10092024
2. 12G_ProjectCloseout2024Streetscape10242024

CERTIFICATE OF SUBSTANTIAL COMPLETION

Owner: City of Marshall, Tx	Owner's Contract No.:
Contractor: Casey Slone Construction, LLC	Contractor's Project No.:
Engineer: Hayes Engineering, Inc	Engineer's Project No.: MA-21-01
Project: 300 and 400 Blk N Washington Ave. Redevelopment	Contract Name:

This Final Certificate of Substantial Completion applies to:

☒ All Work ☐ The following specified portions of the Work:

September 23, 2024

Date of Substantial Completion

The Work to which this Certificate applies has been inspected by authorized representatives of Owner, Contractor, and Engineer, and found to be substantially complete. The Date of Substantial Completion of the Work or portion thereof designated above is hereby established, subject to the provisions of the Contract pertaining to Substantial Completion. The date of Substantial Completion in the final Certificate of Substantial Completion marks the commencement of the contractual correction period and applicable warranties required by the Contract.

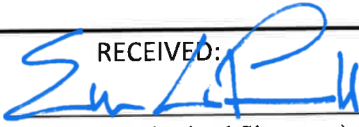
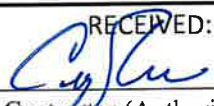
A punch list of items to be completed has been provided to the contractor and has been completed. This list may not be all-inclusive, and the failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract.

The responsibilities between Owner and Contractor for security, operation, safety, maintenance, heat, utilities, insurance, and warranties upon Owner's use or occupancy of the Work shall be as provided in the Contract.

Amendments to Owner's responsibilities: ☒ None
☐ As follows

Amendments to Contractor's responsibilities: ☒ None
☐ As follows:

This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, nor is it a release of Contractor's obligation to complete the Work in accordance with the Contract.

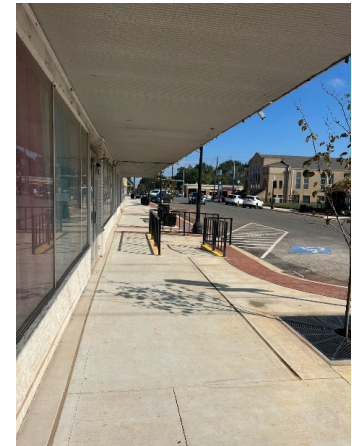
EXECUTED BY ENGINEER:		RECEIVED:	RECEIVED:
By: 	By: 	By: 	
(Authorized signature)	Owner (Authorized Signature)	Contractor (Authorized Signature)	
Title: President	Title: Public Works Dir/City Engineer	Title: President	
Date: 10-5-2024	Date: 10/9/2024	Date: 10/7/24	

2024 Streetscape Project

300\400 blocks of N. Washington

Project Closeout

Presented by: Eric Powell, PE
Director of Public Works



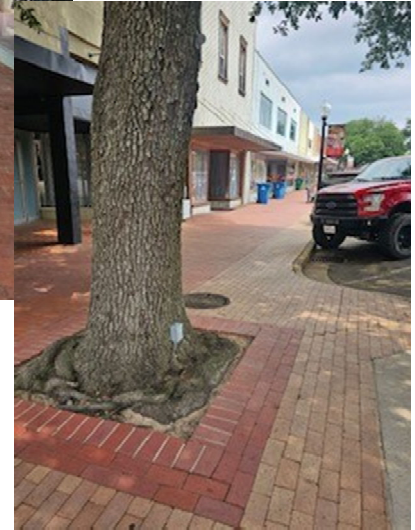
Background

- Project timeline and milestones:
 - Bids were received and opened on November 15, 2023 @ 2:00pm
 - Bids reviewed by Hayes Engineering with recommendation of award to Casey Slone Construction for the bid amount of \$890,000
 - Contract award at the December 14, 2023 Council Meeting
 - Work began in late January of 2024
 - Original completion date – September 13, 2024
 - Change Order #1 approved at the March 7, 2024 Council Meeting
 - Amended completion date due to change order #1 – October 13, 2024
 - Date of Substantial Completion – September 23, 2024

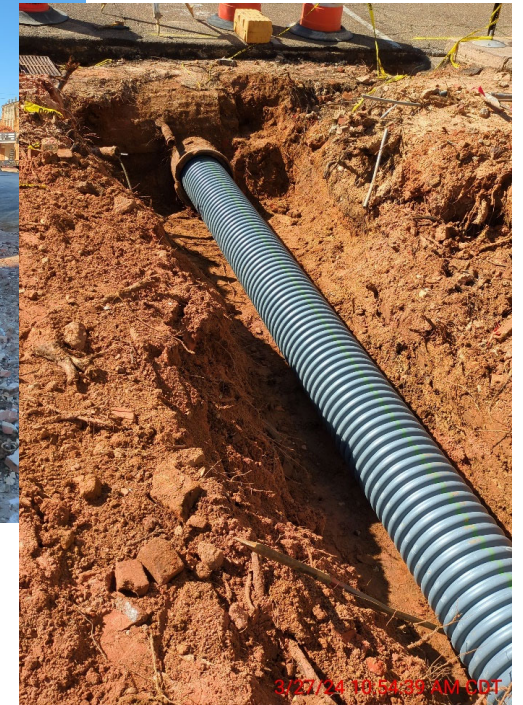
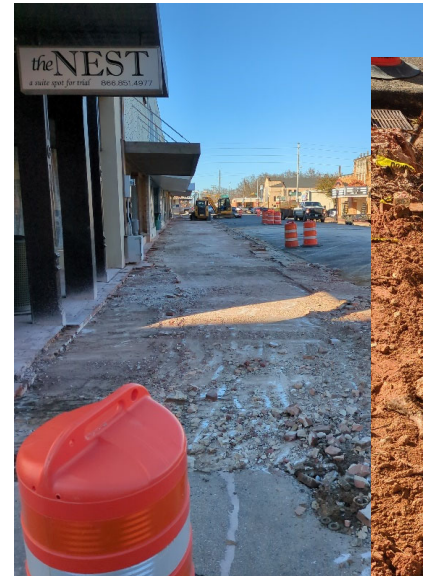


Item #12 G – Public Works

Before Construction Photos



Progress Photos – February\March 300 block



Progress Photos – April\May 300 block



Item #12 G – Public Works

Progress Photos – June\July 300 and 400 blocks



300 block



400 block



Progress Photos – August\September 300 and 400 blocks



400 block



300 block



Progress Photos –September 300 and 400 blocks



300 block



400 block

Staff Recommendation

- Accept completion certificate from Hayes Engineering
- Release retainage in the amount of \$50,290.77



Item #12 G – Public Works



TO: City Council
DATE: October 24, 2024
ITEM #: 12.H
SUBJECT: Consider Providing Direction on Hours Worked per Week by the Interim City Manager. (Administration)

Recommendation for Action: Provide directions to the Interim City Manager on the maximum number of hours to work each week as provided for in the Agreement.

Executive Summary: At the September 26, 2024, City Council Meeting, Council directed the City Attorney to develop the Agreement with Strategic Government Resources (SGR) for Interim City Manager services on behalf of the City. In the agreement, copy attached, page 1, section Terms and Conditions provides that the Interim City Manager will work a maximum of 40 hours per week unless approved by the City. This is standard language. The purpose of this item on the agenda is to provide clarification and direction on the maximum hours to be worked each week by the Interim City Manager.

Based on experience, the hours worked by the City Manager, interim or permanent, exceed 40 hours per week. Given a typical day of nine (9) to ten (10) hours in the office, not to mention after hours and weekends, I would suggest that approval be given to work the hours required to perform the duties and meet the responsibilities of the position and expectations of the City Council. The number of hours will depend on the week, what is going on and the work load. It really depends on how effectively the Council wants the Interim City Manager to be addressing the work that needs to be done and keep the organization moving forward in preparation for the new City Manager. If the permanent City Manager was in place, the expectation was to work the hours necessary as dictated by the work – that doesn't change because it is an Interim designation. As a source of information, my previous two Interim positions where I was in the City Manager's Office generally worked between 45 – 55 hours. As an Interim Library Director, I generally worked 45 hours a week.

If the Council does not believe there is a need or wants me to work more than forty (40) hours maximum, I will certainly tailor my schedule to those hours identified by the City Council. I would appreciate direction from the City Council.

Budget Cost:

Staff Contact: Melissa Byrne Vossmer, Interim City Manager

Attachments: 1. SGR - Marshall TX - Interim City Manager Services Agreement Fully Executed



Date: August 22, 2024

City of Marshall, Texas
Terrell Smith, City Manager
Smith.Terrell@marshalltexas.net

Strategic Government Resources
Wendle Medford, President
Interim, Consulting, and Embedded Services
WendleMedford@GovernmentResource.com

("City")

("SGR")

Scope of Services. The City of Marshall, Texas, (referred to as "City") seeks an Interim City Manager to perform related duties for City. Strategic Government Resources (referred to as "SGR") will provide a highly experienced local government professional to serve as Interim City Manager for City.

Recommended Candidate. SGR and City will work together to determine a final candidate for consideration. Should City wish to consider an alternate candidate, SGR can provide other experienced local government professionals for City to interview. City may interview candidate(s) by phone, Skype, or in person. City will reimburse all travel, lodging, and per diem expenses for any in-person interviews.

If at any time during the assignment, City wishes to have another candidate provided to serve as Interim City Manager, SGR will produce additional experienced local government professionals to fill the position, to the satisfaction of City, pending availability of suitable candidates.

Directions and Control. The City is responsible for the direction, supervision, and control of the contractor. It is the City's responsibility to provide a safe workplace and to furnish the contractor with any equipment/ training needed to perform their role.

Terms and Conditions. SGR will provide an Interim City Manager at a rate of \$110.00 per hour. The Interim City Manager will work a maximum of 40 hours per week unless approved by City. Any hours worked in excess of 40 hours per week will be billed at the standard contract rate of \$110.00 per hour.

City Contact for Invoicing:

Name: Christol Hall

Email: Hall.Christol@marshalltexas.net

Phone: 903-935-4425

1. SGR will perform a Comprehensive Media Search on the candidate selected by City and provide a comprehensive media report to City. This media report is compiled from information gathered using our proprietary online search process. This is not an automated process and produces far superior results than a standard media or simple Google search. The report length may be as long as 350 pages and may include news articles, links to video interviews, blog posts by residents, etc.

2. The City's final approval of the interim candidate will be dependent upon client acceptance of results of the media and background searches conducted, and we recommend a start date after completion of all elements of our background checking process.

Should an organization choose to start an interim candidate prior to completion of media searches and/or any other elements of the standard background investigation, SGR will be held harmless for any unexpected findings.

3. SGR will perform a comprehensive background investigation on the candidate selected by the City. SGR uses a licensed private investigation firm for these services. Through SGR's partnership with FirstCheck, we are able to provide our clients with comprehensive background screening reports that include detailed information such as:

- Social Security number trace
- Address history
- Driving history/motor vehicle records
- Credit report
- Federal criminal search
- National criminal search
- Global homeland security search
- Sex offender registry search
- State criminal search (for current and previous states of residence)
- County criminal search (for every county in which candidate has lived or worked)
- County civil search (for every county in which candidate has lived or worked)
- Education verification

4. City is responsible for the cost of any drug screening that City may require.
5. All routine business expenses incurred by SGR's representative in their role as Interim City Manager, will be reimbursed under the same terms and conditions that such expenses would be reimbursed for any other employee of City, such as mileage, hotel, and per diem when traveling at the request of City, and business meals incurred for local meetings. Commute time will not be billed by SGR.
6. The City will provide temporary housing, such as a local hotel, direct billed to City, with a round-trip mileage/travel reimbursement of four times per month between Interim City Manager's permanent residence and City. Mileage is reimbursed by City at the current IRS mileage reimbursement rate.
7. City will be billed bi-weekly for the previous 2 week's work and any travel/housing reimbursement. Payment will be due within 14 days of each billing. Balances that are unpaid after the payment deadline are subject to a fee of 5% per month or the maximum lawful rate, whichever is less, on the owed amount every month, charged monthly until the balance is paid. SGR will not be compensated for holidays, vacation time, sick leave, etc.
8. If City hires the candidate placed as Interim City Manager for a permanent position during the term of this agreement or within 12 months after the conclusion of this agreement, City will pay SGR an

employment placement fee of \$10,000.00. This fee is waived if SGR conducts a full-service executive search for this position.

9. City or SGR may terminate the agreement for Interim City Manager Services with a fourteen (14) day written notice, without cause or penalty. If City does not provide a minimum of fourteen (14) days' written notice of termination of the agreement, City agrees to pay for Interim City Manager Services for a period not to exceed fourteen (14) days following the date of notice.
10. City grants SGR permission to use any name, logo, or other identifying mark of City in SGR's social media content to refer to the relationship established by this agreement.

Cost Summary. SGR will provide Interim City Manager Services to City as follows:

Interim City Manager Services	\$110.00 per hour
Comprehensive Media Search Report	\$500.00
Background Investigation	\$400.00
Mileage/Temporary Housing	TBD*
Travel expenses for in-person interviews, if needed	TBD
Per diem for in-person interview, if needed	\$15 breakfast, \$20 lunch, \$30 dinner

**Mileage will be billed at the Standard Mileage Reimbursement Rate established by the IRS. City will provide temporary housing or a housing stipend, if necessary.*

Confidentiality Agreement. The Interim City Manager will perform services for City which may require City to disclose confidential and proprietary information to Interim City Manager or which may require City to grant authorization to the Interim City Manager to make financial and legal transactions on behalf of the City. Confidential information includes, but is not limited to, any information of any kind, nature, or description concerning any matters affecting or relating to Interim City Manager's services for City, the business or operations of City, and/or the products, projects, drawings, plans, processes, or other data of City. Financial and legal information includes, but is not limited to, financial institution wire transfers, deposits, withdrawals, cash handling, investment handling, real property transactions, or other financial or legal transactions of City. The Interim City Manager, through his/her contract with SGR agrees:

- To hold any and all confidential information received from City in strict confidence and shall exercise a reasonable degree of care to prevent disclosure to others.
- Not to disclose or divulge, either directly or indirectly, the confidential information to others unless first authorized to do so in writing by City. For financial and legal transactions, Interim City Manager must receive authorization from City verbally and in writing, other than by email, and Interim City Manager shall maintain reasonable data security controls to protect Interim City Manager and City from social engineering attacks.
- Not to reproduce the confidential information, nor use this information commercially, or for any purpose other than the performance of his/her duties for City.

- That upon request or upon termination of his/her relationship with City, deliver to City, any drawings, notes, documents, equipment, and materials received from City or originating from his/her activities for City.
- That City shall have the sole right to determine the treatment of any information that is part or project specific received from Interim City Manager, including the right to keep the same as confidential and proprietary.

Venue. The venue for any disputes shall reside in Harrison County, Texas.

Applicable law. This agreement shall be governed by the laws of the State of Texas.

This agreement represents the full and complete agreement between Strategic Government Resources and the City of Marshall, Texas, and supersedes any and all prior written or verbal agreements. This agreement may be modified or amended only by a written instrument signed by the parties.

Approved and Agreed to on September 27, 2024, by and between Strategic Government Resources and the City of Marshall, Texas.



Terrell Smith, City Manager
City of Marshall, Texas



Wendle Medford, President
Interim, Consulting, and Embedded Services
Strategic Government Resources



TO: City Council
DATE: October 24, 2024
ITEM #: 12.1
SUBJECT: Consider approval for an adjustment in funding of \$175,000 for the Water Meter Replacement Project. (Finance)

Recommendation for Action: Staff recommendation is to approve an adjustment in funding of \$175,000 for the Water Meter Replacement Project.

Executive Summary: The project cost has exceeded the original ODA by \$74,026, and with the project currently at 70% completion, the contractor, PSI, anticipates a total overage of \$157,000.

To ensure the successful completion of this project and to accommodate any additional unforeseen expenses, staff believes that an adjusted total of \$175,000 will adequately provide the necessary funding to cover what is required to complete the project.

Budget Cost: \$175,000

Staff Contact: Dawn Jones

Attachments: None



TO: City Council
DATE: October 24, 2024
ITEM #: 12.J
SUBJECT: Consider the approval of an expenditure for the repairs and testing of the Convention Center water shedding and drainage. (Support Services)

Recommendation for Action: Staff recommends approving an expenditure not exceeding \$122,000 for repairs to the water shedding and drainage system at the Marshall Convention Center.

Executive Summary: The original estimate of \$26,946 for foundation repairs, which was included in the existing project, has revealed additional potential issues requiring further investigation and testing. There are concerns about water beneath the foundation and possible damage to the drainage system from the roof and building. The proposed work will cover the engineering and installation of a new French drain and sump pump, as well as testing the integrity of the existing roof drainage and any subsurface drainage systems.

Budget Cost: \$122,000.00

Staff Contact: Randy Pritchard, Support Services Director

Attachments:

1. c Initial Report - 2501 E End Blvd S 7.30.24
2. Drainage Estimate (5)
3. Marshall Convention Center - Plumbing Test- Storer Proposal (3)

Date: August 2, 2024

Attention: Groundworks Foundation Repair & More (via email) & Property Owner

Subject: Pre-Repair Foundation Repair Evaluation
Slab Foundation
2501 E End Blvd S, Marshall, TX

Good Afternoon:

Crosstown Engineering (CE) was retained to inspect the subject foundation and to provide an opinion regarding the performance of the foundation and opine as to whether or not Groundworks Foundation Repair & More (the contractor) has prepared a reasonable limited repair plan. This report provides our reasonable professional opinion of the condition of the foundation on the date of our inspection and does not take into consideration any changes in the condition of the foundation or soils after that date. The contents of this report supersede any verbal comments made regarding the structure before, during or after the inspection.

Scope of Work Limitations:

This report is for informational purposes only and is not intended to provide a detailed inventory of defects or a technical evaluation of the property. The inspection excludes the framed superstructure, detached buildings, privacy or retaining walls, general site drainage away from the structure, material and soil sampling/testing, and verification of concrete reinforcement or knowledge of the location of interior grade beams, boxed structural members not in plain sight or previous repair work. Removal of floor coverings or performance of invasive tests or procedures is not included.

Document Review:

The contractor provided a limited repair plan that included the pier locations and pre-lift elevations for the structure for our review. No other information was provided regarding prior engineering reports, recommendations for foundation repairs or construction documents relative to this structure. If existing piers are shown in the limited repair plan, their locations were provided by the client and are approximated. We do not certify their performance or existence. If the reader would like to determine if they are present, they must contact the owner or contractor to obtain an engineering certificate for them.

General Observations:

For the purposes of this report directions will be described using the terms left, right, front, and back with the front referring to the side of the structure indicated on the limited repair plan.

The structure is a two story tall with a floating slab foundation. The primary structural system of the structure is a metal framed system with exterior brick veneer, interior wallpaper and interior drywall with various finishes. The foundation was exposed during our inspection and was covered with various floor-covering types.

Grading, Drainage, Erosion and Vegetation Observations:

The terrain immediately surrounding the structure was visually observed during the inspection. We observed the following:

- The gutter system is adequate.
- The drainage system is inadequate and needs improvement.
- The terrain is landscaped with grass, several trees, and some shrubbery. No trees and/or shrubs are close to the foundation.

Floor Elevation Discussion:

A relative elevation floor survey was performed using a Zipline Pro-2000B to map the surface topography of the floor of the living area and garage (if present). The floor plans and the elevations are illustrated on the limited repair plan. The elevations were adjusted based on the flooring type encountered to be on the same plane as the base point floor type. If a garage was present, the garage ceiling was measured and adjusted to be on the same plane as the foundation. Garage floors are designed to slope and are not as effective in measuring foundation movement.

Visual Observations:

Drywall cracks, floating slab cracks, brick joint separations and a possible plumbing heave were observed. Based on our observations of the structure, the structure's physical damage, and review of the elevation map, we believe the structure has experienced foundation movement over the life of the structure, resulting in differential movement of the slab-on-grade foundation.

Foundation Repair Recommendations:

Groundworks Foundation Repair & More has recommended performing the following in the approximate locations of the structure as indicated on the limited repair plan:

- Installing 20 exterior pilings.
- Installing a surface drain system with exit line tied into a storm drain.
- Installing 9 collection boxes.

We recommend installing 3 additional collection boxes, installing 2 additional pilings, checking the existing surface and French drains for proper operation and obtaining a current plumbing leak test.

Upon review of the contractor's elevation drawing and evaluation of the property and our visual inspection and verified elevation map, we believe the proposed limited repair plan to be a reasonable solution. This does not rule out the possibility of needing a limited foundation repair plan in the future should damages or foundation movement worsen or change. Re-evaluation of the structure in the future may be prudent.

Maintenance Opportunities:

We recommend pre-lift and post-lift plumbing tests be performed on the sewer and potable plumbing lines. The results of the tests should be immediately provided to our office.

Maintaining a fully functioning gutter system will minimize ponding, soil loss and erosion, and will help control seasonal movement near the foundation. The gutter system should direct storm-water discharge away from the foundation through downspouts to a well-drained area that is graded away from the foundation. Optimally, we recommend the gutter system discharge via in-ground solid pipe to a low-lying area far away from the foundation.

Vegetation maintenance and a foundation and yard-watering program will also help control seasonal movement. Maintaining consistent moisture levels in supporting soils at all times of the year is necessary. It is important that the soils be stabilized and maintained with grass or ground cover around the perimeter of the structure to prevent erosion and an exposed or improperly embedded foundation. Large to medium-sized trees, and even large or numerous shrubs, growing too close to a foundation can dramatically effect the moisture content of the soils within the zone of influence beneath the structure. Root systems extract large quantities of water from underlying soils and result in large volumetric changes in the soils (shrinkage). As the tree absorbs water from the soil and the soil volume decreases, the foundation will settle in unsupported. If problematic roots are observed, we recommend removal or installation of tree root barriers.

Grading of the soils around the foundation is a critical element to your foundations health. Sloping the soils away from the home and preventing water from ponding near the foundation is needed to prevent soil "heave". If ponding is noticed near the foundation during the rainy season, consult with an engineer or a drainage contractor immediately. Over-saturated soils can cause "heave" or settlement and contribute to foundation movement.

Expectations:

The proposed limited repair plan is intended to provide a reasonable repair to improve the performance of the foundation and is not intended to level the foundation. The contractor shall determine the amount of elevation correction needed based on the reaction of the structure during the lift in order to minimize damages and additional stress. The purpose of the piling installations is to support the failed areas and improve elevations in areas of differential settlement. Please see the limited repair plan for more information.

Because the structure has endured pre-repair foundation differential movement, residual differential elevation and perceptible floor slope or some leaning door frames/windows or other noticeable issues may remain following the foundation repairs.

The soils beneath and surrounding the structure are known to shrink and swell as the seasonal soil moisture content fluctuates. Moving forward, we anticipate that some cracks in the interior and exterior walls will surface due to seasonal movement within the soils, even after foundation repair. Periodic repair of this type of cracking may be needed.

Underpins (a.k.a. Pilings or Piers) are constructed of steel or concrete and cost and performance will vary. Generally speaking, the deeper a piling is installed, the better it will perform. Shallow installations may be acceptable if they are terminated into rock. This information is meant to serve as a guideline and the owner must decide a reasonable cost/benefit on the property. Piling design is best done with data from a site-specific soils investigation. Such an investigation was not provided and is not a part of this scope of work but we strongly recommend obtaining this data. If this data is not provided, our pier design is only intended to be a minimum standard based solely upon average soil conditions in the general location of the property and as such, may not necessarily provide maximum performance.

Disclaimer:

We do not warrant the future performance of the subject foundation and the reader is urged to review the Disclosure & Disclaimer for other limitations and standard recommendations. The limit of liability is limited to the fee paid for this opinion. No further agreement shall be made, altered, or varied except by written instrument.

Neither Crosstown Engineering, its sub-contractors, nor Adam Green, P.E., are responsible for liability to the owner or others for acts or omissions of the contractor to carry out the repairs in accordance with their agreement or for the construction means, methods, techniques, sequences, procedures or the safety precautions incident thereto. The contractor is solely responsible for the warranty of the work they performed in accordance with their agreement.

Please see the pier specifications (if provided) and limited repair plan for more information.

Sincerely,

Crosstown Land Development Services
Texas Engineering Firm (F-15944)

Adam Green, P.E., MBA
Professional Engineer (TX #116597)



8/2/2024



DISCLOSURE & DISCLAIMER

It is known to knowledgeable professional engineers that the soils in this area are subject to movement due to expansion, contraction or densification of the soils etc. This soil movement could possibly cause the foundation to move after the remediation plan within the attached report has been implemented and may impact the stability of the foundation and cause damage.

NO WARRANTY IS EXPRESSED OR IMPLIED BY THIS ENGINEER AS TO THE PERFORMANCE OF THIS FOUNDATION OR THE REPAIRS THERETO. Diligent foundation maintenance to maintain consistent soil conditions along the perimeter should reduce further problems after the recommendations within this report have been implemented. However, seasonal moisture variations, water leaks, erosion and other factors may affect the stability of the foundation and put it in danger of further damage.

REPORT LIMITATIONS

This report is written for informational purposes only and is not intended to be a detailed technical evaluation of the property or an inventory of defects. The opinions expressed in this report are based on a visual evaluation of current conditions observed at the time of the inspection. THERE IS NO WARRANTY, EXPRESSED OR IMPLIED, CONCERNING THIS ENGINEERING REPORT.

The information in this report supersedes any verbal comments, expressed or implied, made by Crosstown Land Development Services or its principals, agents or employees. The client agrees that neither CLDS nor its employees or owners will be responsible for:

1. Knowledge of the subsurface conditions without extensive geotechnical data obtained from onsite drilling and testing of the recovered samples,
2. Knowledge of cracks, vertical differential displacement of floors without uncovering of the floor by the client; and
3. Any other element such as joists or beams and other structural members that is boxed or otherwise not readily available to CE for viewing, and releases CE from any liability attributable to such knowledge or conditions.

Any prescribed repair or maintenance plan detailed by this report is based on observations of apparent performance of the facility at the time of this structural survey. Compliance with any code or specification other than as expressly noted is specifically excluded.

The provided Floor Elevation Map and resulting recommendations are based on conditions as they now exist and DOES NOT IMPLY OR WARRANT THAT OTHER PROBLEMS AND OR AREAS MAY NOT MANIFEST IN THE FUTURE.

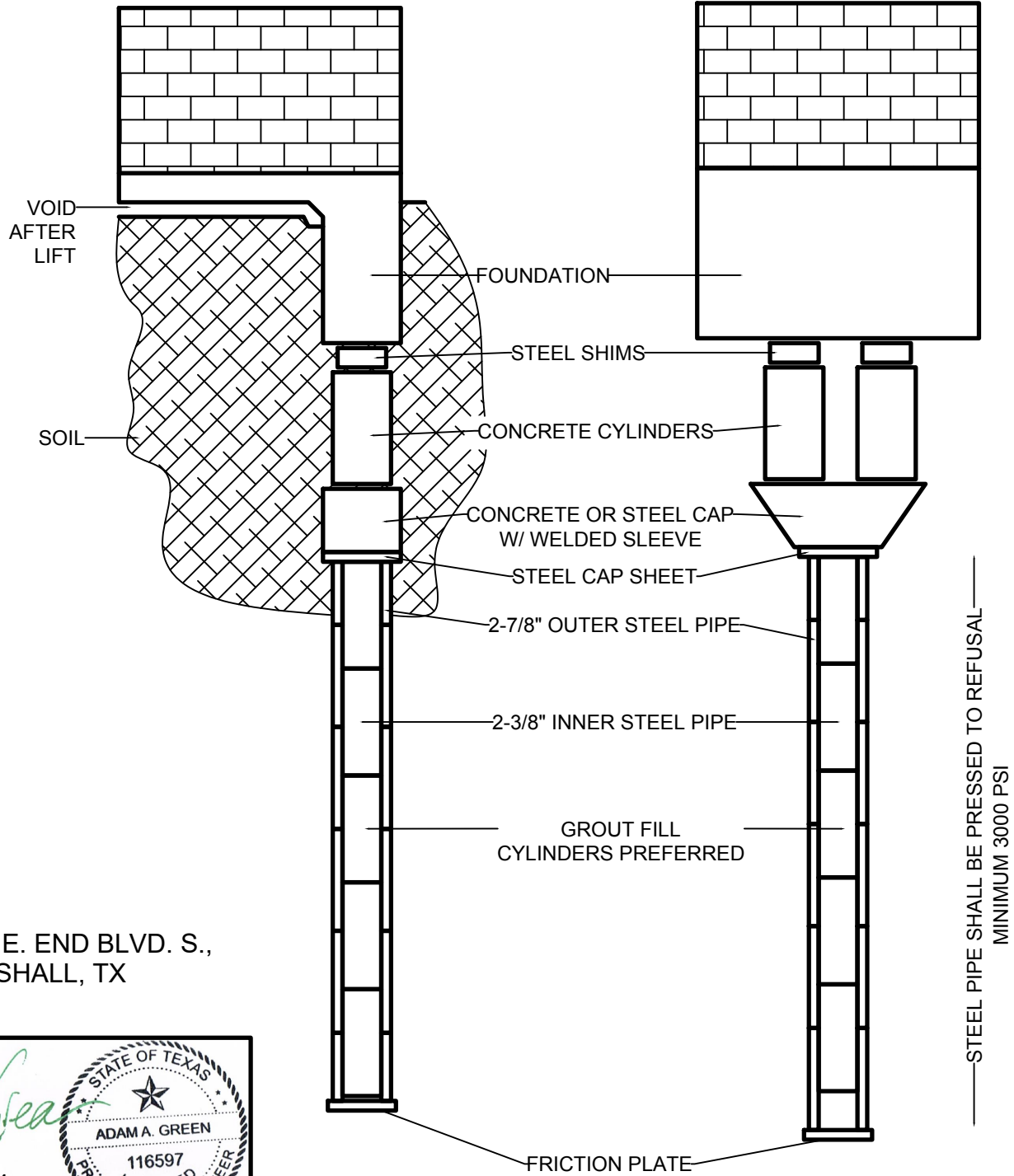
This report was prepared expressly for the client and expressly for the purposes indicated by the client. Permission for use by any other person for any purpose, or by the client for different purpose is denied unless otherwise stated in writing by CE.

CE SHALL HAVE NO LIABILITY FOR ACTS OR OMISSIONS BY THE CONTRACTOR OR HIS SUBCONTRACTORS PERFORMING WORK ON THIS PROJECT, OR THE FAILURE OF THE CONTRACTOR TO PERFORM THE WORK IN ACCORDANCE WITH THE REPAIR PLAN. CE IS NOT RESPONSIBLE FOR THE CONSTRUCTION MEANS, METHODS, TECHNIQUES, SEQUENCE OR PROCEDURES OR THE PRECAUTIONS INCIDENTAL THERETO.

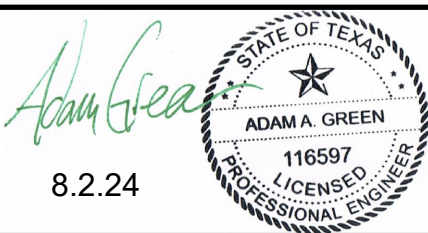
CE expressly DISCLAIMS ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE and the client expressly disclaims that it has contracted for or received any warranty of fitness for a particular purpose with respect to this report. THE REPORT UNDER THIS AGREEMENT IS THE OPINION OF CE AND THERE ARE NO WARRANTIES THAT EXTEND BEYOND THE DESCRIPTION ON THE FACE OF THIS AGREEMENT.

FRONT VIEW

SIDE VIEW



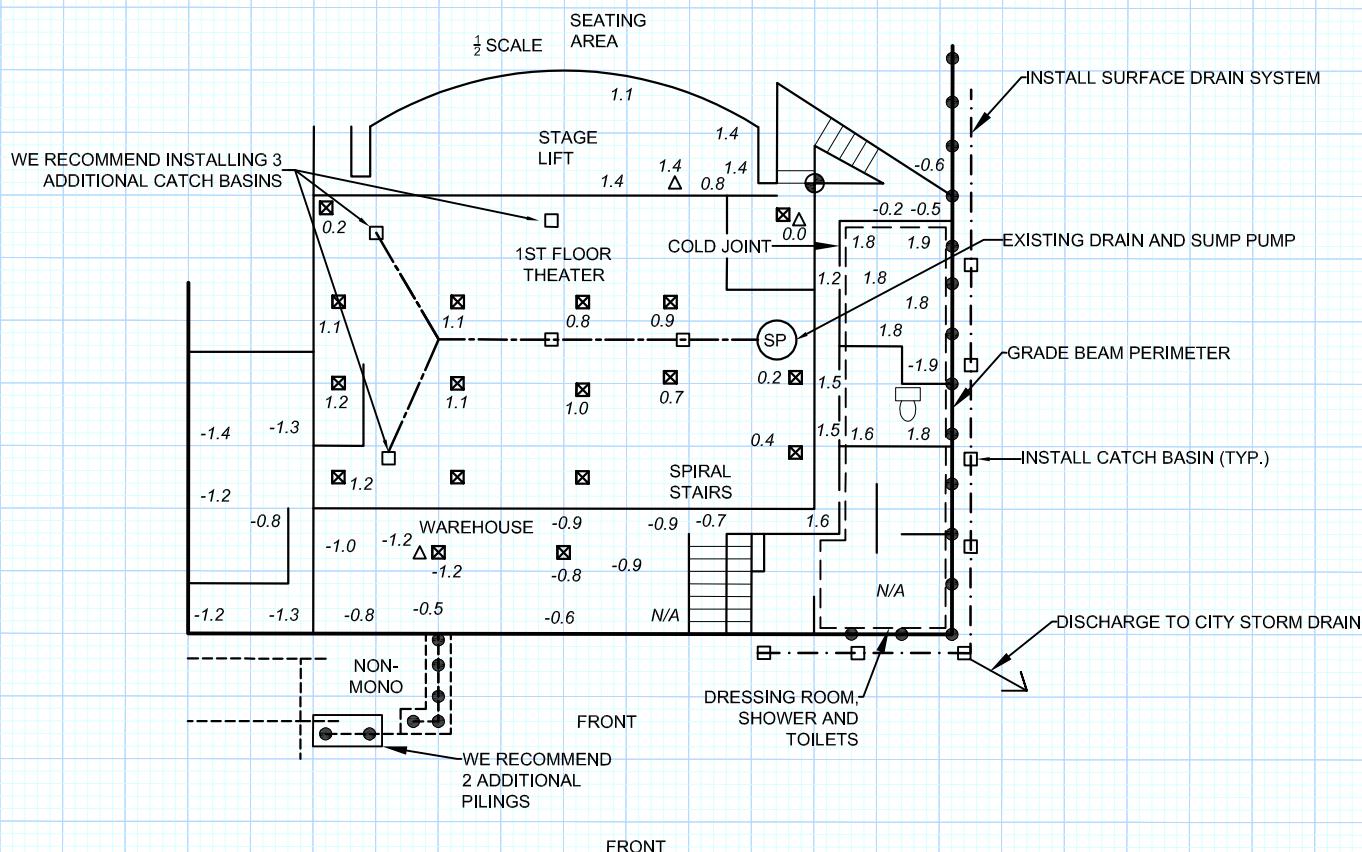
2501 E. END BLVD. S.,
MARSHALL, TX



CROSSTOWN ENGINEERING
 FBPE FIRM F-15944 - WWW.CROSSTOWNENGINEERING.COM
 ((469))533-9203 - DALLAS METROPLEX
 751-7694

STEEL PRESSED PILING DIAGRAM

PLEASE NOTE: IF EXISTING PILINGS ARE SHOWN ON THIS MAP, THEIR LOCATION WAS PROVIDED BY THE CLIENT AND IS APPROXIMATE. CE DOES NOT CERTIFY THEIR PERFORMANCE OR EXISTENCE. IF THE READER WOULD LIKE TO DETERMINE IF THEY ARE ACTUALLY PRESENT, THEY MUST CONTACT THE OWNER OR CONTRACTOR TO OBTAIN AN ENGINEERING CERTIFICATE FOR THEM.



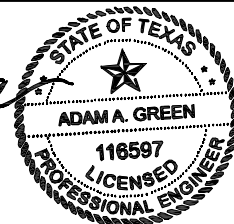
- INSTALL 20 EXTERIOR PILINGS.
- INSTALL A SURFACE DRAIN SYSTEM WITH EXIT LINE TIED INTO A STORM DRAIN.
- INSTALL 9 COLLECTION BOXES.
- WE RECOMMEND INSTALL 3 ADDITIONAL COLLECTION BOXES.
- WE RECOMMEND INSTALLING 2 ADDITIONAL PILINGS.
- WE RECOMMEND CHECKING THE EXISTING SURFACE AND FRENCH DRAINS FOR PROPER OPERATION.
- WE RECOMMEND OBTAINING A CURRENT PLUMBING LEAK TEST.

NOT TO SCALE - ALL LOCATIONS APPROXIMATE

POST-LIFT ELEVATIONS BY CE (_____) (X.X)

 ELEVATION BASEPOINT
 PROPOSED PAD/BLOCK
 EXISTING PIER
 PROPOSED BEAM
 EXISTING PAD/BLOCK
 PROPOSED BREAKOUT
 EXISTING BEAM
 PROPOSED PIER
 EXISTING BREAKOUT

Adam Gea



CROSSTOWN ENGINEERING
TBPE FIRM F-15944 - WWW.CROSSTOWNENGINEERING.COM
(469)-751-7694 - DALLAS METROPLEX

2501 E. END BLVD. S., MARSHALL, TX



CONTRACT

Prepared for:

Performance Services
Attn: Jackie Gilcrease

Marshall, TX
jgilcrease@performanceservices.com
(469) 833-6131

August 7, 2024**No. 4175**

Groundworks Commercial | Michael Gordon
2411 Thomas Rd, Suite 100, Haltom City, TX 76117
P: (817) 222-2200 | michael.gordon17@gmail.com

2501 E End Blvd Convention Center- Drainage

Scope of Work**Total****Sump Pump****\$3,500.00T**

Sump pump to be installed in basement in order to lift water up to street level. Sump pump wiring is not included in this bid. A licensed electrician will need to be contacted to wire in.

Perimeter French Drain**\$30,000.00T**

French Drain to be installed along the perimeter of the building replacing the existing drain.

12x12 Catch Basin**\$3,000.00T**

12x12 catch basins to be installed above french drain at surface to gather surface water during rains.

4" Surface Drain Line**\$3,750.00T**

4 Inch PVC surface drain line, this line will serve as an exit line to take liquid from the French drain to city storm drain or other discharge point.

Engineering Permit Letter**\$800.00T**

Engineering permit letter to be obtained per local requirements

Local Construction Permit**\$500.00T**

Local permit to be obtained per local requirements

4 Inch Drain Line (Basement)**\$12,500.00T**

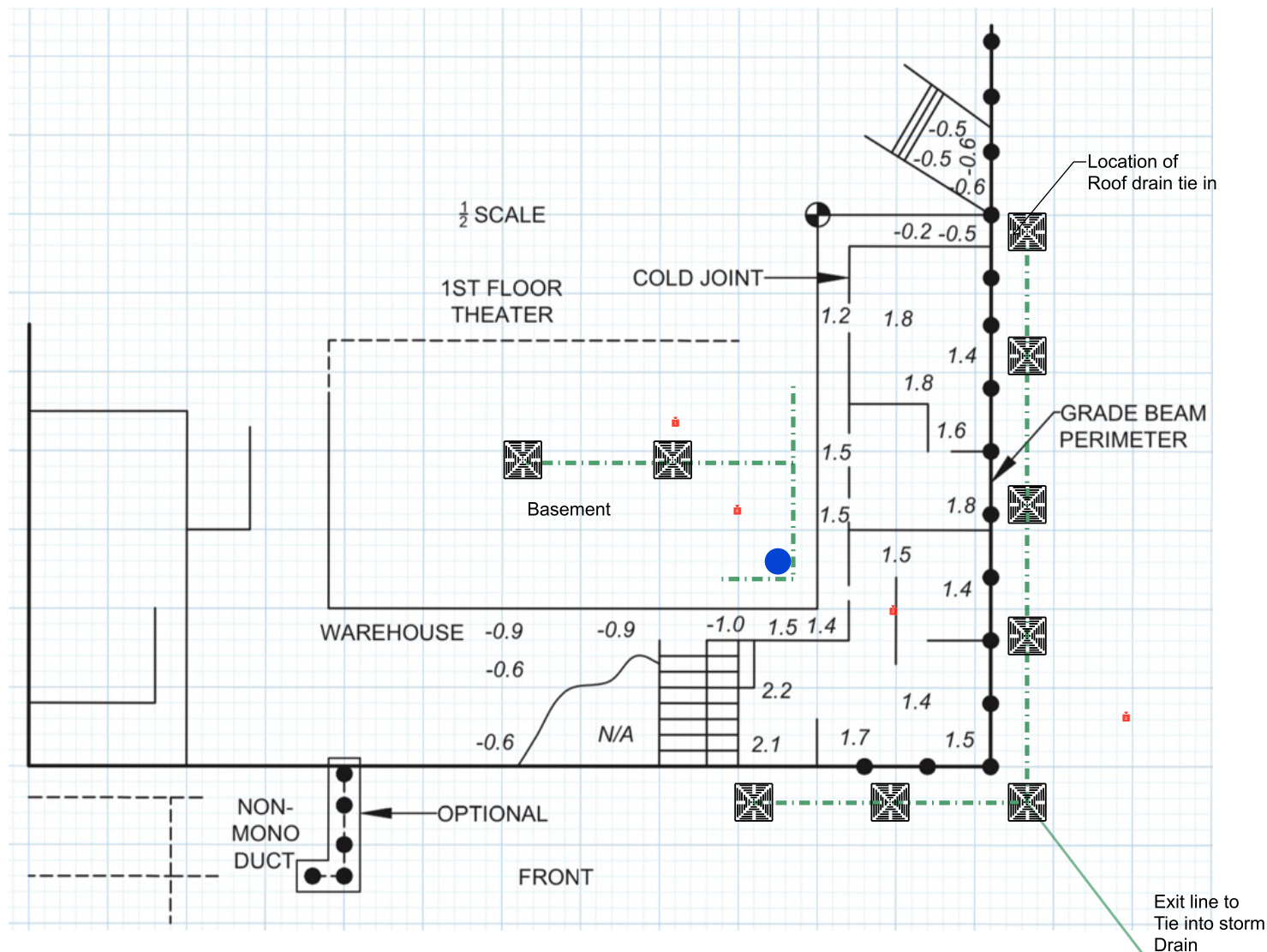
4 Inch PVC drain line to be installed in basement per engineers recommendations. This will terminate at existing sump pump.

Concrete Demo and Repour**\$3,750.00T**

Demolition and Repour of concrete needed to tie the drainage system to the city sewer.

\$57,800.00

- 4" Surface Drain
- - - French Drain
- 20 Steel Pressed Piers
- Sump Pump
-  12x12 Catch Basin



Customer: Jackie Gilcrease

Property Address: 2501 E End Blvd Marshall, TX

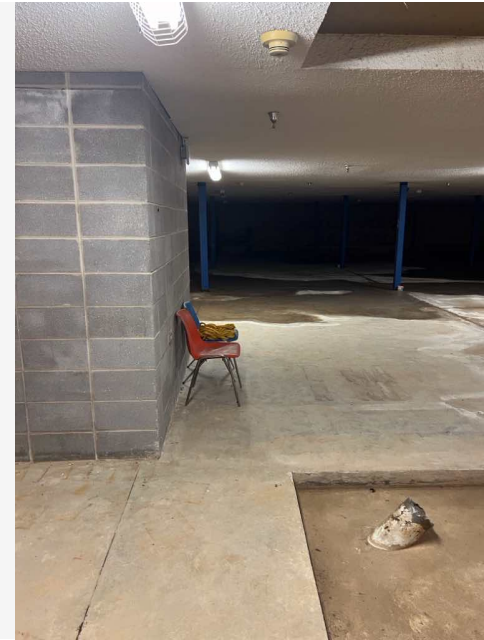
Customer Contact Phone: XXX

Tenant Name: Marshall Convention Center

Date of Report: XXX



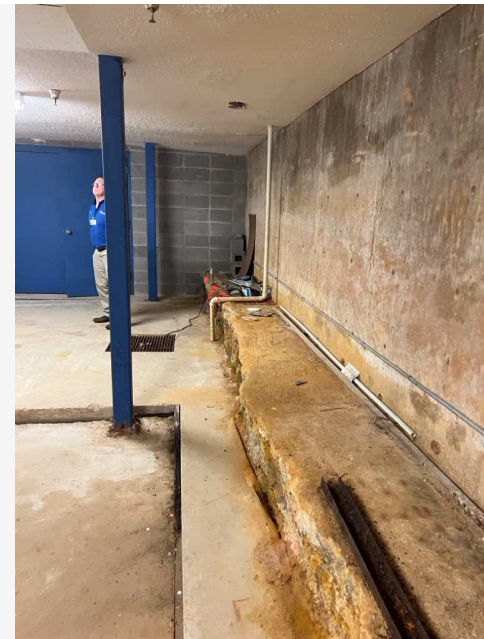
1-1



1-2



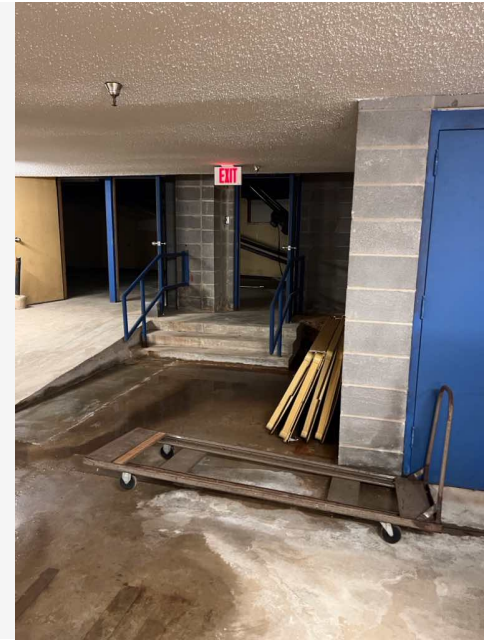
1-3



1-4



1-5



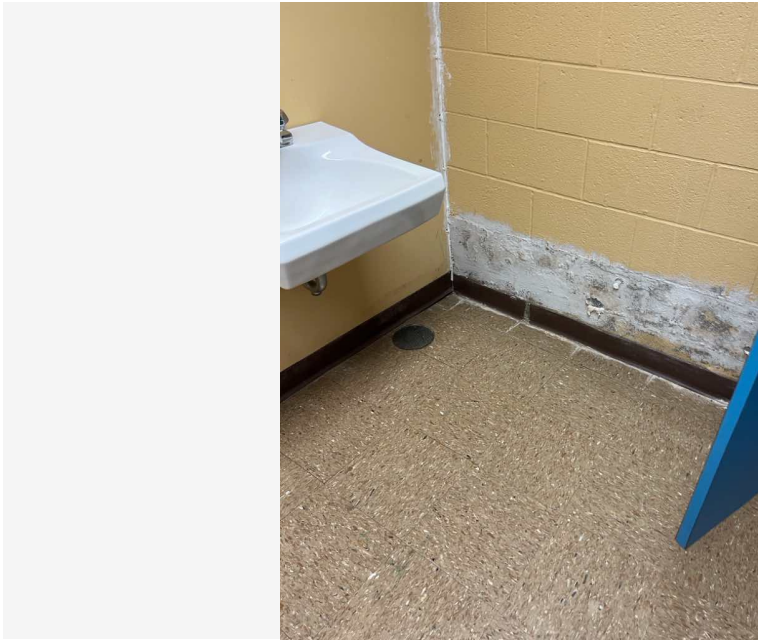
1-6



1-7



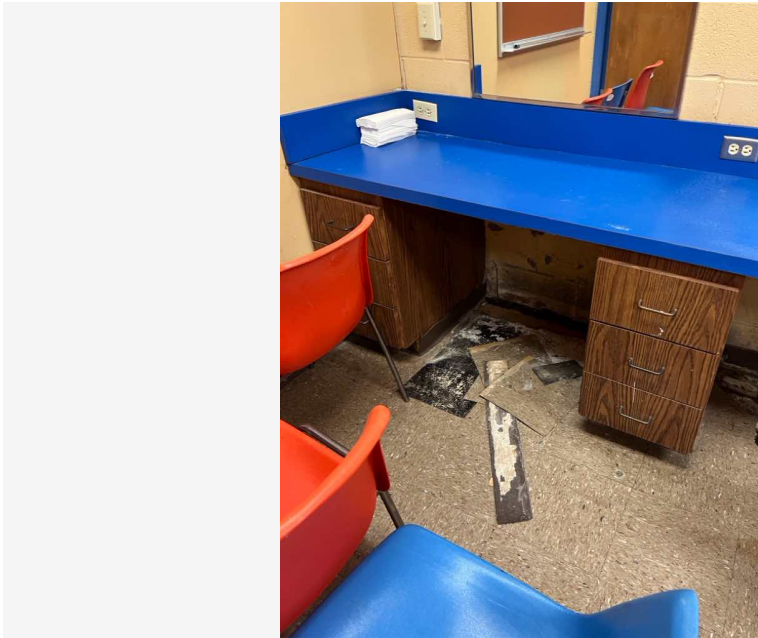
1-8



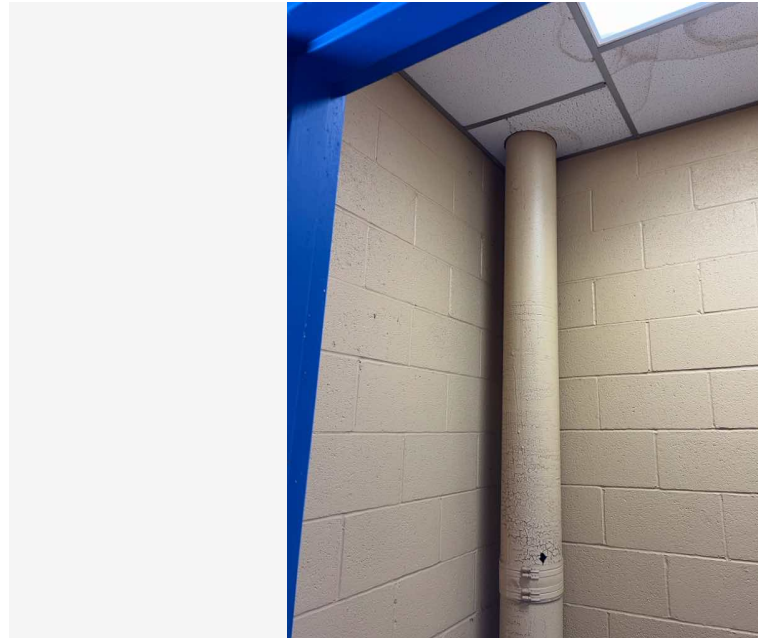
2-1



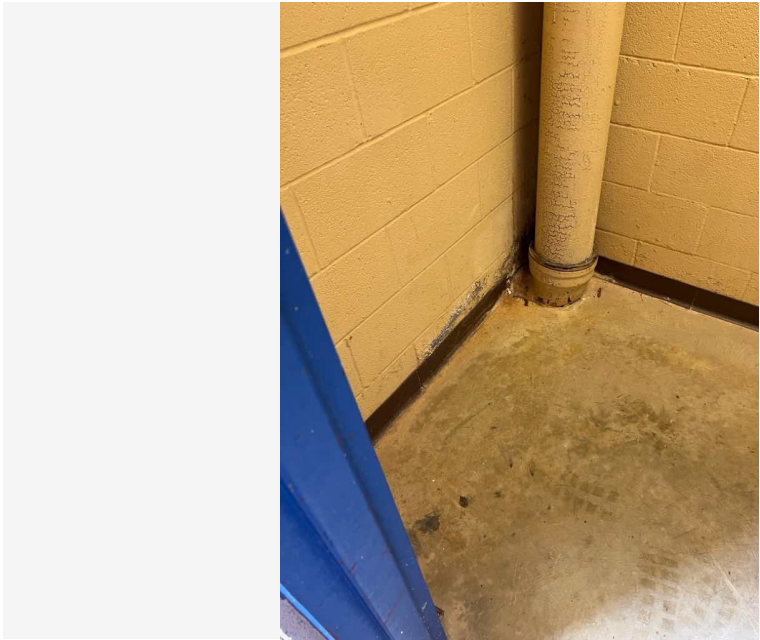
2-2



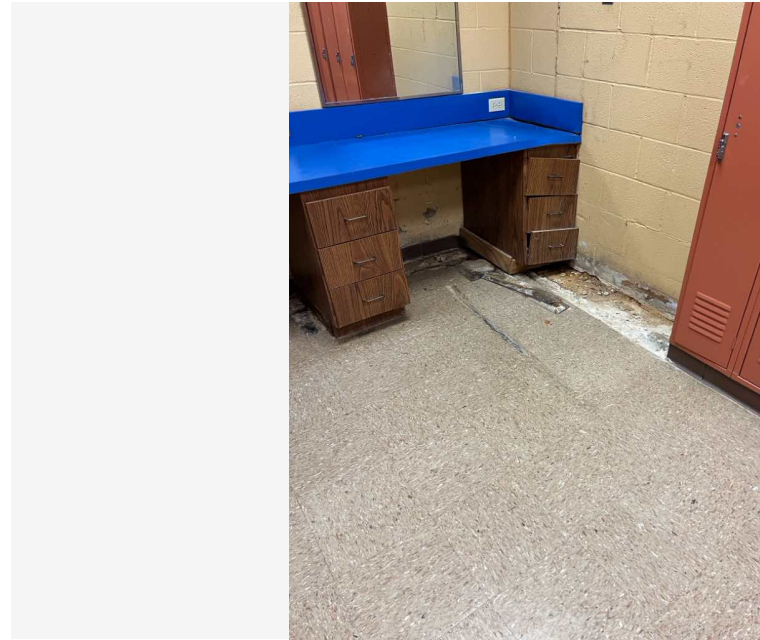
2-3



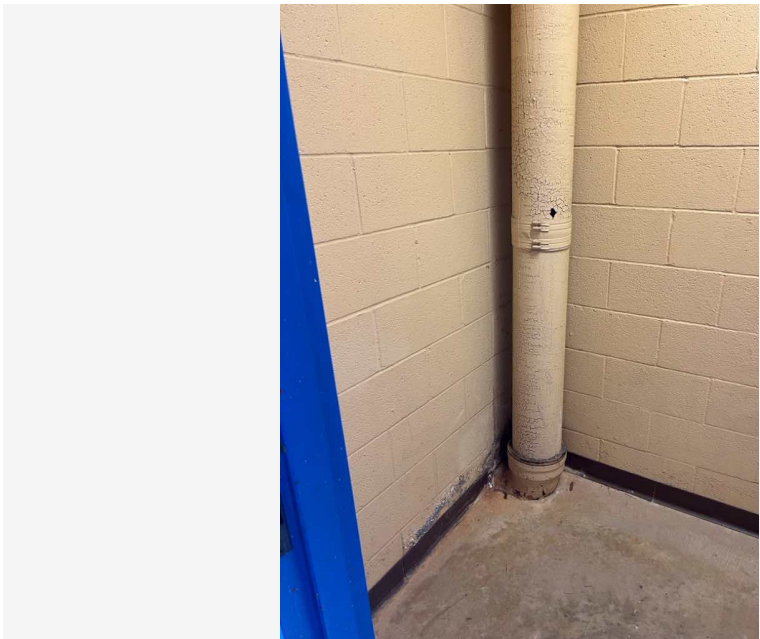
2-4



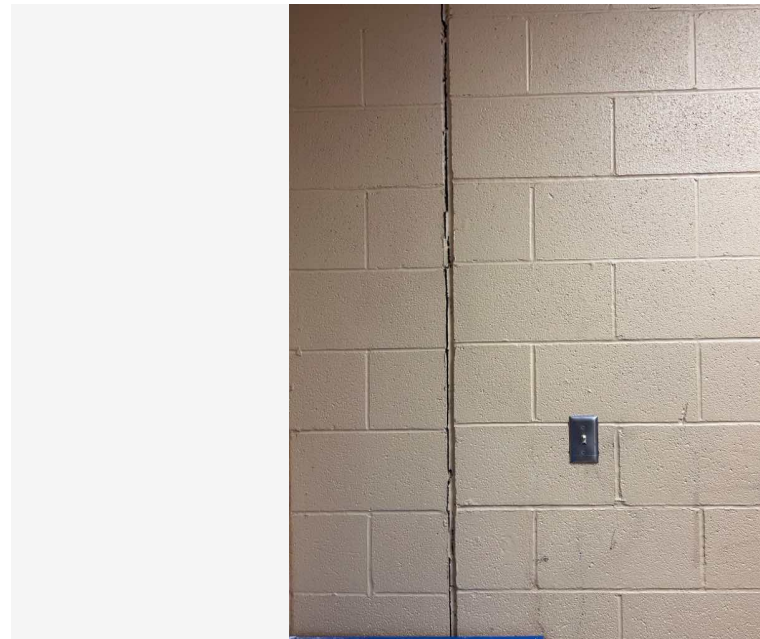
2-5



2-6



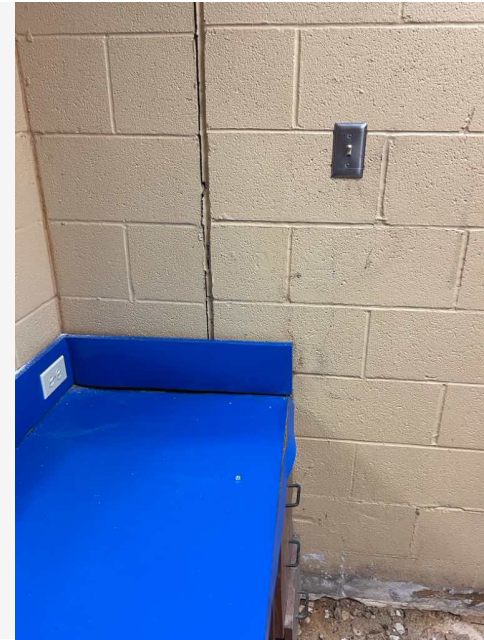
2-7



2-8



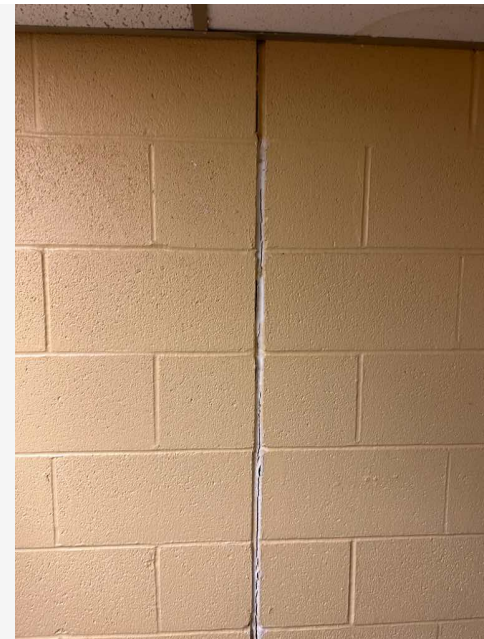
2-9



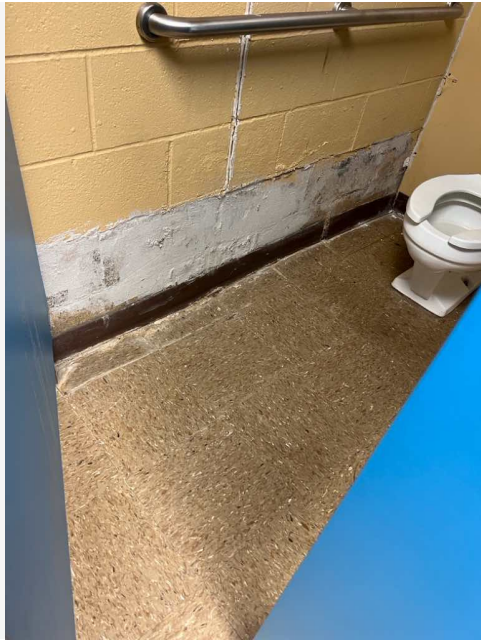
2-10



2-11



2-12



2-13



2-14



3-1



3-2



3-3



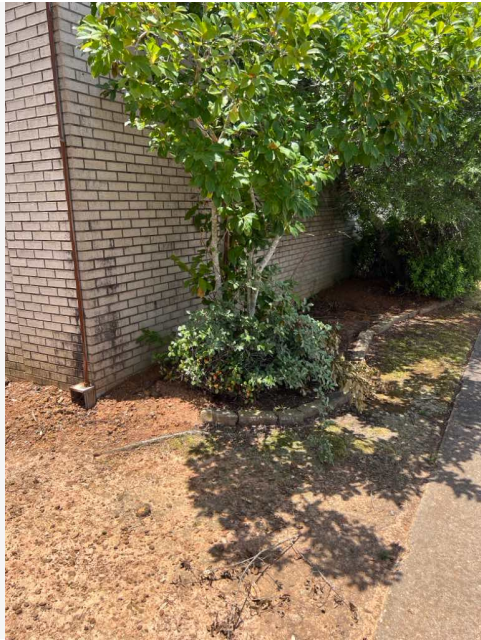
3-4



3-5



3-6



3-7



3-8



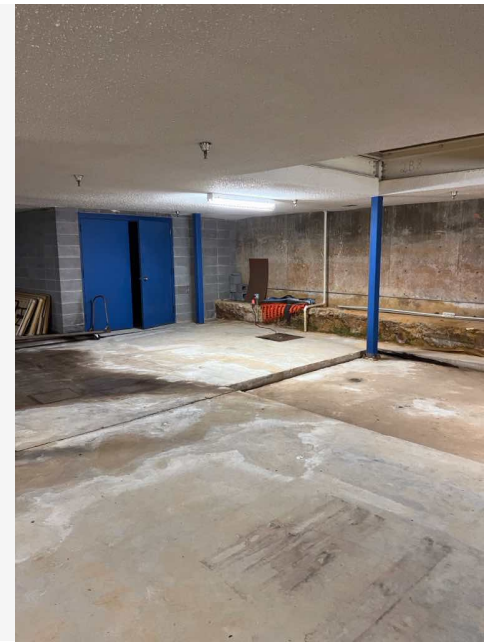
3-9



3-10



3-11



4-1



4-2



Contractor Licenses
AR1052130 AR MP693
TACLA29157C TX RMP43729
LA66407 LMP5237
LMNGF10630 MS25910-SC
504 West 67th, Shreveport, LA 71106
(318) 865-1466 - storerservices.com

Prepared For: Jackie Gilcrease (Performance Services)

Date: 09/18/2024

Job Name: Marshall Convention Center - Replace RTUs CO1

Proposal Number: 240647

Delivery Terms: Freight Allowed and Prepaid - F.O.B. Factory

Payment Terms: Net 30 Days

Storer is pleased to provide the enclosed **lump sum** proposal for your review and approval.

Scope of work: Option A

- Work to be performed during normal business hours Monday-Friday
- Scope roof drains on East roof and evaluate integrity of pipe. Locate where the roof drains tie into main drain and determine if it is in good connection
- Pull 3 toilets and scope drain lines to determine if there are any underground issues
- Reinstall 3 toilets
- Check operation of sump pump and snake drain line for sump pump in basement
- Check domestic water for any underground leaks
- Will provide report on plumbing inspection

Scope of work: Option B

- Work to be performed during normal business hours Monday-Friday
- Using mini excavator to cut in tee to main line
- Plug main sewer line and perform hydrostatic test

Exclusions

- Integrity of existing piping
- Grass or sod replacement
- Weekends or overtime
- Repairs of water or sewer piping

Total Net Price (Excluding Sales Tax) *Option A*..... \$ 17,485

240647 - Marshall Convention Center - Replace RTUs CO1

This proposal is subject to your acceptance of the attached Storer Equipment terms and conditions

Total Net Price (Excluding Sales Tax) *Option B*..... \$ 17,731

**Note: above pricing is based on issuance of Tax Exempt Agency Certificate issued by (customer) to Storer. If a Tax Exempt Agency Certificate is not be issued to Storer, the Total Net Price shall be increased to cover applicable sales taxes.*

Sincerely,

Hunter Stephens - Account Manager
Chance Pettey - Project Estimator

Storer Services
504 W 67th Street
Shreveport, LA 71106

ACCEPTANCE OF PROPOSAL — The above prices, specifications and conditions are satisfactory and are hereby accepted.

Signature: _____ P.O. # _____ Date: _____

Storer Proposal Terms and Conditions

Acceptance. A Proposal made upon these terms is subject to acceptance within thirty days from date and the prices are subject to change without notice prior to acceptance by Customer. If your order is an acceptance of a written Proposal, on a form provided by Storer Equipment Company, Ltd., without the addition of any other terms and conditions of sale or any other modification, this document shall be treated solely as an acknowledgment of such order, subject to credit approval. If your order is not such an acceptance, then this document is Storer's offer, subject to credit approval, to provide the goods and/or Work solely in accordance with the following terms and conditions of sale. If we do not hear from you within two weeks from the date hereof, Storer shall rely upon your silence as an acceptance of these terms and conditions and performance will be made in accordance herewith. Customer's acceptance of goods and/or Work by Storer on this order will in any event constitute an acceptance by Customer of these terms and conditions.

Exclusions From Work. Storer's obligation is limited to the Work as defined and does not include any modifications to the Premises under the Americans With Disabilities Act or any other law or building code(s). Optional software applications, EnergyLogix, TrendView, and EcoRate that may be offered as part of this agreement are subject to BLX Solutions END USER software licensing agreement and annual software maintenance fees.

Construction Procedures. Storer shall supervise and direct the Work using its best skill and attention and have exclusive control over construction means, methods, techniques, sequences and procedures.

Payment Terms and Taxes. Customer shall pay Storer's invoices within net thirty (30) days of invoice date. Storer may invoice Customer for all equipment or material furnished, whether delivered to the installation site or to an off-site storage facility and for all work performed on-site or off-site. No retention shall be withheld from any payments except as expressly agreed in writing by Storer, in which case retention shall be reduced per the Proposal documents and released no later than the date of substantial completion. Under no circumstances shall any retention be withheld for the equipment portion of the order. If payment is not received as required hereby, Storer may suspend performance and the time for completion shall be extended for a reasonable period of time not less than the period of suspension. Customer shall be liable to Storer for all reasonable shutdown, standby and start-up costs as a result of the suspension. All amounts outstanding 10 days beyond the due date are subject to a service charge not to exceed 1.5% per month on the unpaid balance due or the maximum allowable legal interest rate, retroactive to the due date. Customer shall pay all taxes not legally required to be paid by Storer or alternatively, shall provide Storer with acceptable tax exemption certificates. Customer shall pay all costs (including attorneys' fees) incurred by Storer in attempting to collect amounts due and otherwise enforcing these terms and conditions. Any after-hours services shall be billed according to then prevailing overtime or emergency rates.

Time For Completion. Except to the extent otherwise expressly agreed in writing signed by an authorized representative of Storer, all dates provided by Storer or its representatives for commencement, progress or completion are estimates only. While Storer shall use commercially reasonable efforts to meet such estimated dates, Storer shall not be responsible for any damages for its failure to do so.

Access. Storer and its contractors or subcontractors shall be provided access to the Premises during regular business hours, or such other hours as may be requested by Storer and acceptable to the Premises' owner or tenant for the performance of the Work, including sufficient areas for staging, mobilization, and storage. Storer's access to correct any emergency condition shall not be restricted.

Permits And Governmental Fees. Storer shall secure (with Customer's assistance) and pay for building and other permits and governmental fees, licenses, and inspections necessary for proper performance and completion of the Work, which are legally required when bids from Storer's subcontractors are received, negotiations thereon concluded, or the effective date of a relevant Change Order, whichever is later. Customer is responsible for necessary approvals, easements, assessments and charges for construction, use or occupancy of permanent structures or for permanent changes to existing facilities.

Utilities During Construction. Storer shall be provided without charge all water, heat, and utilities during performance of the Work.

Concealed Or Unknown Conditions. In the performance of the Work, if Storer encounters conditions at the Premises that are (i) subsurface or otherwise concealed physical conditions that differ materially from those indicated on drawings expressly incorporated herein or (ii) unknown physical conditions of an unusual nature that differ materially from those conditions ordinarily found to exist and generally recognized as inherent in construction activities of the type and character as the Work, Storer shall notify Customer of such conditions promptly, prior to significantly disturbing same. If such conditions differ materially and cause an increase in Storer's cost of, or time required for, performance of any part of the Work, Storer shall be entitled to, and Customer shall consent by Change Order to, an equitable adjustment in the Proposal Price, Proposal time, or both.

Asbestos, Mold, Mildew, And Hazardous Materials. Storer's Work and other services in connection with this Agreement expressly excludes any identification, abatement, cleanup, control, disposal, removal or other work connected with asbestos, mold, mildew, bacteria, fungus, polychlorinated biphenyl ("PCB"), or other hazardous materials (hereinafter, collectively, "Hazardous Materials"). Customer warrants and represents that, except as set forth in a writing signed by Storer, there are no Hazardous Materials on the Premises that will in any way affect Storer's Work and Customer has disclosed to Storer the existence and location of any Hazardous Materials in all areas within which Storer will be performing the Work. Should Storer become aware of or suspect the presence of Hazardous Materials, Storer may immediately stop work in the affected area and shall notify Customer. Customer will be responsible for taking any and all action necessary to correct the condition in accordance with all applicable laws and regulations. Customer shall be exclusively responsible for any claims, including the payment thereof, arising out of or relating to any Hazardous Materials on or about the Premises, not brought onto the Premises by Storer. Storer shall be required to resume performance of the Work in the affected area only in the absence of Hazardous Materials or when the affected area has been rendered harmless. In no event shall Storer be obligated to transport or handle Hazardous Material, to provide any notices to any governmental agency, or to examine the Premises for the presence of Hazardous Materials.

Conditions Beyond Control Of Parties. If Storer shall be unable to carry out any material obligation under this Agreement due to events beyond its control, such as acts of God, governmental or judicial authority, insurrections, riots, labor disputes, labor or material shortages, fires, or explosions, this Agreement shall at Storer's election (i) remain in effect but

Storer's obligations shall be suspended until the uncontrollable event terminates; or (ii) be terminated upon ten (10) days notice to Customer, in which event Customer shall pay Storer for all parts of the Work furnished to the date of termination.

Customer's Breach. Each of the following events or conditions shall constitute a breach by Customer and shall give Storer the right, without an election of remedies, to terminate this Agreement by delivery of written notice declaring termination, upon which event Customer shall be liable to Storer for all Work furnished to date and all damages sustained by Storer (including lost profit and overhead): (1) Any failure by Customer to pay amounts due more than thirty (30) days after the date of the invoice therefor; or (2) Any failure by Customer to perform or comply with any material provision of this Agreement.

Indemnification. Storer and Customer shall indemnify, defend and hold each other harmless from any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, resulting from death or bodily injury or damage to real or personal property, to the extent caused by the negligence or misconduct of their respective employees or other authorized agents in connection with their activities within the scope of this Agreement. However, neither party shall indemnify the other against claims, damages, expenses or liabilities to the extent attributable to the negligence or misconduct of the other party. If the parties are both at fault, the obligation to indemnify shall be proportional to their relative fault. The duty to indemnify will continue in full force and effect, notwithstanding the expiration or early termination hereof, with respect to any claims based on facts or conditions that occurred prior to expiration or termination. **NOTWITHSTANDING ANY CONTRARY PROVISION, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES.**

Liability and Warranty. Labor provided under this proposal is warranted for twelve months from date of completion. Except for any written warranty given by the Manufacturer of the products described in this quotation, Storer Equipment Company and Buyer expressly agree that Storer Equipment Company neither assumes nor authorizes any person to assume for it any other liability in connection with the sale or use of its product, including the goods purchased hereunder. THE MANUFACTURER'S WARRANTY, IF ANY, IS IN LIEU OF, AND STORER EQUIPMENT COMPANY DISCLAIMS ANY AND ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESSED OR IMPLIED, ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USE OF TRADE OR OTHERWISE, INCLUDING WITHOUT LIMITATION ALL WARRANTIES AS TO THE PRODUCTS CONDITION, USE, OPERATION, DESIGN, QUALITY, CAPACITY, WORKMANSHIP, INSTALLATION, SERVICING, LATENT DEFECTS, COMPLIANCE WITH ANY LAW, ORDINANCE, REGULATION, RULE, CONTRACT OR SPECIFICATION, "MERCHANTABILITY", FITNESS FOR ANY PARTICULAR PURPOSE, AND ALL OTHER QUALITIES AND CHARACTERISTICS WHATSOEVER. Storer shall not be obligated to pay for the cost of lost refrigerant.

THE WARRANTY AND LIABILITY SET FORTH IN THE PRECEDING PARAGRAPH ARE IN LIEU OF ALL OTHER WARRANTIES AND LIABILITIES, WHETHER IN PROPOSAL OR IN NEGLIGENCE, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL STORER BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES. IN NO EVENT SHALL STORER BE LIABLE FOR ANY DAMAGES RESULTING FROM MOLD, FUNGUS, BACTERIA, MICROBIAL GROWTH, OR OTHER CONTAMINATES OR AIRBORNE BIOLOGICAL AGENTS.

Applicable Law. This Agreement is made and shall be interpreted and enforced in accordance with the laws of the state in which the Work is performed.

Assignment. Customer may not assign, transfer, or convey this Agreement, or any part hereof, or its right, title or interest herein, without the written consent of Storer. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of Customer's successors and assigns.

Complete Agreement. This Agreement shall constitute the entire Agreement between both parties and this Agreement may not be amended, modified or terminated except by a writing signed by the parties hereto. No documents shall be incorporated herein by reference except to the extent Storer is a signatory thereon.

Price Increases. Prices stated are F.O.B point of shipment. Except as otherwise provided below, buyer agrees to pay all other expenses including without limitation taxes, duties, insurance, licenses, permits and freight. Following acceptance by buyer, the prices stated will be increased by the percentage increase in list prices from those effective on the date of buyer's acceptance to those effective on the date of shipment unless prices are stated to be firm on the face of this quotation and any conditions of the firm price quotation are met. Prices stated to be firm is provided that notification of release for immediate production and shipment is received at the factory not later than two months from order receipt. If such release is received later than two months from order receipt date but within five months of order receipt date, prices will be increased a straight 1% (not compounded) for each one-month period (or part thereof) beyond the two-month firm price period up to the date of receipt of such release. If such release is not received within five months after date of order receipt, the prices are subject to renegotiation or at Storer's option, the order will be cancelled. If for any reason Customer delays shipment after release, prices are subject to increase as stated herein.

Insurance. Storer agrees to carry insurance in the following minimum amounts during the term of this contract:

Commercial General Aggregate Liability \$2,000,000
Automobile Liability (CSL) \$1,000,000
Workers Compensation Statutory Limits

Notices. All notices or other communications under this Agreement shall be in writing and may be delivered in person, or may be sent by receipted courier, facsimile transmission, express mail, e-mail, or postage prepaid certified or registered mail, addressed to the party for whom it is intended, at the addresses set forth in this Agreement. Either party may change its address for notice by giving written notice to the other party of the change. Any notice or other communication shall be deemed given no later than the date actually received.