

**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
February 13, 2025
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 - February (Employee Engagement Committee)
- B. Fire Chief's Commendation and Medal of Valor presentation. (Fire)

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.

5. Items to be Withdrawn From Consent Agenda

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.

- A. Consider approval of a correction to the minutes from the January 16, 2025 Special-Called Council meeting. (City Secretary)
- B. Consider approval of the minutes from the January 23, 2025 Regular Council meeting. (City Secretary)
- C. Consider approval of a lease with American Tower Corporation. (Support Services)
- D. Consider approval of authorization to the Finance Director to execute, on behalf of the City, a Master Interlocal Purchasing Agreement with the North Central Texas Council of Governments (NCTCOG) for participation in TXShare. (Finance)
- E. **R-25-04** Consider approval of a resolution adopting the City of Marshall 2025 Investment Policy. (Finance)

- F. Consider approval of the renewal of a contract for supply and delivery of various chemicals at Water Treatment Plant (Brenntag Southwest) (Maximum budget impact \$622,165). (Public Works)
- G. Consider approval of a contract for a Chief Wastewater Plant Operator (\$75,000). (Public Works)

7. Consideration of Items Withdrawn From the Consent Agenda

8. Ordinance

- A. **O-25-05** Consider approval of an Ordinance amending Ordinance O-24-19 adopting the FY25 Annual Budget. (Finance)
- B. **O-25-06** Consider an amendment to Ordinance O-24-26 clarifying the section of Hollis Taylor to a one-way street from east to west. (Police and Public Works)

9. Resolution

- A. **R-25-05** Consider approval of a resolution regarding support of Marshall Depot, Inc. and efforts to look long-term with the development of a comprehensive plan for the future care and stability of the Marshall Depot facility. (Councilmembers Godfrey & Morris)

10. Action Items for City Council Consideration

- A. Consider approval of a Memorandum of Understanding between Harrison County Sheriff's Office Fire Marshal Division and Marshall Fire Department Fire Marshal's Office for mutual aid in fire inspections and investigations. (Fire)
- B. Consider approval of Phase 1 of the City wide Drainage Master Plan update (\$387,118). (Public Works)
- C. Consider approval of an emergency procurement for WWTP Final Clarifier (\$713,000). (Public Works)
- D. Consider approval of design task order for Halff to prepare technical bid documents for the procurement and a new 500HP vertical turbine pump at Raw Water (\$98,700). (Public Works)
- E. Consider cancelation or rescheduling of the March 13th Council Meeting. (City Secretary)

11. Discussion and Reports for City Council Consideration and Direction

- A. Update regarding Greenwood and Marshall Cemetery. (Parks & Recreation/Councilmembers Godfrey & Morris)
- B. Update regarding Capital Improvement Projects. (Parks & Recreation)
- C. Update\Overview regarding Municipal Drainage Utility (MDU). (Councilmembers Godfrey & Morris)
- D. Discussion and Direction on Establishing a Time for the Special Council Meeting Scheduled for February 20, 2025. (City Manager)
- E. Discussion and Direction to Finalize the Interview Schedule and Activities for the City Manager Candidates. (City Manager)

12. 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: Discuss or deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee: City Manager
- B. An Executive Session pursuant to the Open Meetings Act, Chapter 551 of the Texas Government Code under Section 551.074 Personnel Matters: Discuss or deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee: City Secretary. (Councilmembers Godfrey & Morris)

13. Action Item Following Executive Session

- A. Consider action regarding discussion from executive session.

14. Adjournment

Posted: February 10, 2025
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: February 13, 2025
ITEM #: 3.A
SUBJECT: Presentation of the Employee of the Month -
February (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: February 13, 2025
ITEM #: 3.B
SUBJECT: Fire Chief's Commendation and Medal of Valor presentation. (Fire)

Recommendation for Action: It is recommended that the City Council recognize the extraordinary bravery and service demonstrated by members of the Marshall Fire Department, Marshall Police Department, and Marshall Emergency Communications during a structure fire incident on January 15, 2025 at 2207 Pinecrest Drive.

Executive Summary:

EXECUTIVE SUMMARY

In the early morning hours of January 15, 2025, emergency personnel responded to a structure fire with reports of a mother and her 22-month-old child trapped inside. Through exceptional coordination between dispatch, law enforcement, and fire personnel, both victims were successfully rescued from the burning structure.

The Fire Chief recommends the following commendations and awards:

Fire Chief Commendations

Marshall Emergency Communications:

- Dispatcher Tia Shepard for maintaining critical communications and providing life-saving guidance while coordinating emergency response during the incident

Marshall Police Department:

- Officer Stacy Roach
- Officer Jesus Agulara
- Officer Lucas Ferguson

For their immediate response, creating rescue access through a window, assisting with victim rescue, and providing crucial information that led to the location of the trapped child

Medal of Valor Awards

The following members of the Marshall Fire Department demonstrated exceptional courage, heroism, and dedication to duty by entering a burning structure under hazardous conditions to rescue trapped victims:

- Lieutenant Joshua Dunn
- Probationary Firefighter Austin Smith
- Captain Jordy Gaddis
- Probationary Firefighter Luke Baker

Budget Cost: No fiscal impact

Staff Contact: David Rainwater, Fire Chief

Attachments:

1. Tia Shepard
2. Stacy Roach
3. Jesus Agulara
4. Lucas Ferguson
5. Joshua Dunn
6. Austin Smith
7. Jordy Gaddis
8. Luke Baker



City of Marshall

Fire Department

David Rainwater, Fire Chief
601 S. Grove Street
Marshall, Texas 75670
(903) 935-4580 / Fax (903) 935-3568

Letter of Commendation for Dispatcher Tia Shepard

It is with profound appreciation and respect that I commend Emergency Communications Dispatcher Tia Shepard for her exemplary performance during a life-threatening emergency incident on January 15, 2025.

During the early morning hours, Dispatcher Shepard received a 911 call from a distressed mother trapped inside a burning residence with her 22-month-old child. While coordinating the emergency response, she maintained unwavering composure and a steadfast connection with the caller. Dispatcher Shepard simultaneously managed multiple critical tasks: dispatching appropriate fire units, providing clear evacuation guidance to the trapped resident, and maintaining a calm, reassuring presence even as the situation deteriorated.

When the mother became unconscious, Dispatcher Shepard's professionalism never wavered. She continued to gather and relay vital information to responding units, ensuring they had accurate, real-time details for immediate rescue operations upon arrival. Her precise communication and attention to detail were instrumental in the successful rescue of both the mother and child.

Dispatcher Shepard demonstrated the highest standards of emergency communications during this incident. Her ability to remain focused and professional while managing a high-stress situation exemplifies the critical role dispatchers play in emergency response. Her performance reflects not only her exceptional training and capability but also her dedication to protecting and serving our community.

On behalf of the Marshall Fire Department, I extend my deepest gratitude and commendation to Dispatcher Tia Shepard for her outstanding service. Her actions on January 15, 2025, embody the core values of our emergency services and serve as an inspiration to her colleagues.

Sincerely,

David Rainwater

Fire Chief

Marshall Fire Department



City of Marshall

Fire Department

David Rainwater, Fire Chief
601 S. Grove Street
Marshall, Texas 75670
(903) 935-4580 / Fax (903) 935-3568

Letter of Commendation for Officer Stacy Roach

It is with profound appreciation that I recognize the exceptional courage and decisive action demonstrated by Officer Stacy Roach during a residential structure fire on January 15, 2025.

Responding to reports of occupants trapped inside a burning home, Officer Roach arrived before fire units and demonstrated outstanding leadership and initiative. Upon hearing screams from within the structure, she quickly identified the location of a trapped mother and coordinated the immediate removal of a double window frame, creating a critical access point for rescue operations.

Despite heavy smoke conditions and poor visibility, Officer Roach, without hesitation, conducted an initial search of the bedroom, demonstrating remarkable courage in attempting to locate the victims. When fire crews discovered the mother trapped beneath a fallen dresser, Officer Roach immediately assisted in the extrication effort, helping to free her and facilitate her removal through the window opening.

Officer Roach's quick thinking, physical courage, and decisive leadership played a vital role in saving two lives. Her actions demonstrate the critical importance of law enforcement in our community's emergency response system and highlight the exceptional caliber of officers serving in the Marshall Police Department.

On behalf of the Marshall Fire Department, I extend my deepest gratitude and commendation to Officer Roach for her outstanding service on January 15, 2025. Her actions embody the finest traditions of public service and reflect great credit upon herself and the Marshall Police Department.

Sincerely,

David Rainwater

Fire Chief

Marshall Fire Department



City of Marshall

Fire Department

David Rainwater, Fire Chief
601 S. Grove Street
Marshall, Texas 75670
(903) 935-4580 / Fax (903) 935-3568

Letter of Commendation for Officer Jesus Agulara

It is with profound appreciation that I recognize the exceptional courage and teamwork demonstrated by Officer Jesus Agulara during a residential structure fire on January 15, 2025.

Responding to reports of occupants trapped inside a burning home, Officer Agulara arrived before fire units and took immediate action. Working seamlessly with his fellow officers, he assisted in removing a double window frame to create a crucial access point for rescue operations.

Despite heavy smoke conditions and poor visibility, Officer Agulara, showing remarkable bravery, conducted an initial search of the bedroom in an attempt to locate the victims. When fire crews discovered the mother trapped beneath a fallen dresser, Officer Agulara provided vital assistance in the extrication effort, helping to free her and facilitate her removal through the window opening.

Officer Agulara's physical courage, technical skill, and exceptional teamwork played a vital role in saving two lives. His actions demonstrate the critical importance of law enforcement in our community's emergency response system and highlight the exceptional caliber of officers serving in the Marshall Police Department.

On behalf of the Marshall Fire Department, I extend my deepest gratitude and commendation to Officer Agulara for his outstanding service on January 15, 2025. His actions embody the finest traditions of public service and reflect great credit upon himself and the Marshall Police Department.

Sincerely,

David Rainwater

Fire Chief

Marshall Fire Department



City of Marshall

Fire Department

David Rainwater, Fire Chief
601 S. Grove Street
Marshall, Texas 75670
(903) 935-4580 / Fax (903) 935-3568

Letter of Commendation for Officer Lucas Ferguson

It is with profound appreciation that I recognize the exceptional dedication and critical thinking demonstrated by Officer Lucas Ferguson during a residential structure fire on January 15, 2025.

Responding to reports of occupants trapped inside a burning home, Officer Ferguson arrived before fire units and immediately joined the rescue effort. After assisting in creating access to the structure, he maintained exceptional situational awareness throughout the incident.

Following the successful removal of an unconscious mother from the burning structure, Officer Ferguson demonstrated outstanding initiative and presence of mind. He ensured her safe transfer to awaiting EMS personnel and, critically, gathered vital information about the location of a missing 22-month-old child. His rapid relay of this intelligence to fire crews proved instrumental in the successful rescue of the infant.

Officer Ferguson's quick thinking, attention to detail, and commitment to the complete resolution of the emergency played a vital role in saving two lives. His actions demonstrate the critical importance of law enforcement in our community's emergency response system and highlight the exceptional caliber of officers serving in the Marshall Police Department.

On behalf of the Marshall Fire Department, I extend my deepest gratitude and commendation to Officer Ferguson for his outstanding service on January 15, 2025. His actions embody the finest traditions of public service and reflect great credit upon himself and the Marshall Police Department.

Sincerely,

A handwritten signature in black ink, appearing to read 'David Rainwater', is written over a white background.

David Rainwater

Fire Chief

Marshall Fire Department



City of Marshall

Fire Department

David Rainwater, Fire Chief
601 S. Grove Street
Marshall, Texas 75670
(903) 935-4580 / Fax (903) 935-3568

Medal of Valor Commendation for Lieutenant Joshua Dunn

It is with the highest respect and admiration that I commend Lieutenant Joshua Dunn for extraordinary heroism and conspicuous bravery above and beyond the call of duty during a residential structure fire on January 15, 2025.

Upon arrival at 2207 Pinecrest Drive, Lieutenant Dunn faced a single-story structure with visible flames and reports of trapped occupants. After police officers had created an access point through a double-bay window, Lieutenant Dunn, without hesitation and with complete disregard for his own safety, immediately entered the hazardous environment.

Operating in light-to-moderate smoke conditions with deteriorating visibility, Lieutenant Dunn located an unconscious female victim pinned beneath a heavy dresser. Demonstrating exceptional strength and determination, he coordinated the successful extrication of the victim, working through the significant challenge posed by the weighted furniture.

After ensuring the first victim's rescue, Lieutenant Dunn, upon learning of a missing 22-month-old child, pushed deeper into the increasingly dangerous structure. Despite rapidly worsening conditions and low visibility, he methodically searched the smoke-filled hallway and adjacent bedroom, maintaining his composure and professionalism while searching for signs of the infant.

Lieutenant Dunn's actions exemplify the highest traditions of the fire service. His unwavering courage, tactical excellence, and dedication to duty directly contributed to saving two lives under extreme conditions.

For conspicuous gallantry and intrepidity at the risk of his own life above and beyond the call of duty, Lieutenant Joshua Dunn is hereby awarded the Medal of Valor.

Sincerely,



David Rainwater

Fire Chief

Marshall Fire Department



City of Marshall

Fire Department

David Rainwater, Fire Chief
601 S. Grove Street
Marshall, Texas 75670
(903) 935-4580 / Fax (903) 935-3568

Medal of Valor Commendation for Probationary Firefighter Austin Smith

It is with the highest respect and admiration that I commend Probationary Firefighter Austin Smith for extraordinary heroism and conspicuous bravery above and beyond the call of duty during a residential structure fire on January 15, 2025.

Responding as part of Engine 1's crew to 2207 Pinecrest Drive, Probationary Firefighter Smith demonstrated courage and commitment far beyond his experience level. Without hesitation, he entered the hazardous environment alongside Lieutenant Dunn through a window access point created by police officers.

Operating in deteriorating conditions with limited visibility, Probationary Firefighter Smith assisted in locating an unconscious female victim trapped beneath a fallen dresser. Showing remarkable strength and determination, he worked through the significant challenge of freeing the victim from beneath the weighted furniture, enabling her successful rescue.

After ensuring the first victim's removal, Probationary Firefighter Smith, upon learning of a missing 22-month-old child, continued deeper into the increasingly dangerous structure. Despite rapidly worsening conditions and minimal visibility, he maintained his composure while conducting a thorough search of the smoke-filled hallway and bedroom area.

Probationary Firefighter Smith's actions far exceeded what could be expected of any probationary member. His extraordinary courage, composure under extreme pressure, and unwavering dedication to duty directly contributed to saving two lives.

For conspicuous gallantry and intrepidity at the risk of his own life above and beyond the call of duty, Probationary Firefighter Austin Smith is hereby awarded the Medal of Valor.

Sincerely,

David Rainwater

Fire Chief

Marshall Fire Department



City of Marshall

Fire Department

David Rainwater, Fire Chief
601 S. Grove Street
Marshall, Texas 75670
(903) 935-4580 / Fax (903) 935-3568

Medal of Valor Commendation for Captain Jordy Gaddis

It is with the highest respect and admiration that I commend Captain Jordy Gaddis for extraordinary heroism and conspicuous bravery above and beyond the call of duty during a residential structure fire on January 15, 2025.

Responding to 2207 Pinecrest Drive, Captain Gaddis demonstrated exceptional leadership and courage in the face of extreme danger. Acting on critical information about a missing 22-month-old child, he made the decision to enter the structure through the compromised window where the first victim had been rescued.

Operating in minimal visibility conditions, Captain Gaddis coordinated a focused search effort in the area where the first victim was found. Despite severely limited visibility and deteriorating conditions, he systematically searched the space, ultimately being guided by the faint cries of an infant. His experience and tactical decision-making proved crucial in locating the child wedged between a fallen dresser and bed.

Captain Gaddis's leadership under extreme conditions and unwavering commitment to the rescue effort directly contributed to saving the life of the trapped infant. His actions exemplify the highest traditions of the fire service and demonstrate the exceptional judgment expected of a company officer.

For conspicuous gallantry and intrepidity at the risk of his own life above and beyond the call of duty, Captain Jordy Gaddis is hereby awarded the Medal of Valor.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Rainwater', with a long horizontal flourish extending to the right.

David Rainwater

Fire Chief

Marshall Fire Department



City of Marshall

Fire Department

David Rainwater, Fire Chief
601 S. Grove Street
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(903) 935-4580 / Fax (903) 935-3568

Medal of Valor Commendation for Probationary Firefighter Luke Baker

It is with the highest respect and admiration that I commend Probationary Firefighter Luke Baker for extraordinary heroism and conspicuous bravery above and beyond the call of duty during a residential structure fire on January 15, 2025.

Responding to 2207 Pinecrest Drive, Probationary Firefighter Baker demonstrated courage and skill far beyond his experience level. Following Captain Gaddis's lead, he entered the heavily involved structure through a compromised window to search for a missing 22-month-old child.

Operating in minimal visibility conditions, Probationary Firefighter Baker maintained his composure while conducting a systematic search of the room. When the faint cries of an infant were heard, he demonstrated exceptional focus and determination in locating the child wedged between a fallen dresser and bed. Working in these extreme conditions, he successfully extricated the infant and facilitated the immediate transfer to awaiting medical personnel.

Probationary Firefighter Baker's actions far exceeded what could be expected of any probationary member. His extraordinary courage, technical proficiency, and unwavering focus under extreme pressure directly contributed to saving the life of the trapped infant.

For conspicuous gallantry and intrepidity at the risk of his own life above and beyond the call of duty, Probationary Firefighter Luke Baker is hereby awarded the Medal of Valor.

Sincerely,

A handwritten signature in black ink, appearing to read "David Rainwater".

David Rainwater

Fire Chief

Marshall Fire Department



TO: City Council
DATE: February 13, 2025
ITEM #: 6.A
SUBJECT: Consider approval of a correction to the minutes from the January 16, 2025 Special-Called Council meeting. (City Secretary)

Recommendation for Action: Consider approval of a correction to the minutes from the January 16, 2025 Special-Called Council meeting.

Executive Summary: Corrected minutes from the January 16, 2025 Special-Called Council meeting.

Budget Cost: N/A

Staff Contact: Nikki Smith, City Secretary

Attachments: 1. 1-16-2025 Minutes corrected

**Jean Birmingham Council
Chambers, City Hall**
401 South Alamo
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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
January 16, 2025
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 06:00 PM.

PRESENT:

Mayor and Council Members:

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

ADMINISTRATIVE STAFF PRESENT:

Melissa Vossmer, Interim City Manager	David Rainwater, Fire Chief
Cliff Carruth, Police Chief	Dawn Jones, Finance Director
Eric Powell, Public Works Director	Scott Rectenwald, City Attorney
Christol Hall, HR/Civil Service Director	
Randy Pritchard, Support Services Director	
Nikki Smith, City Secretary/Payroll Accountant	
Reggie Cooper, Planning & Development Director	
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. Presentation of the 2025 National Human Trafficking Prevention Month Proclamation.

Mayor Ware read the proclamation declaring January 2025 as National Human Trafficking Prevention Month and presented it to representatives of the Women's Center of East Texas.

B. **Presentation of the Employee of the Month - January (Employee Engagement Committee)**

Kristina Hamilton, Employee Engagement Committee, introduced the Employee of the Month for January, Lacy Burson, Main Street. Marshall Mercantile was the sponsor for January 2025. Lacy Burson thanked everyone for recognizing her as employee of the month.

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

Item C was withdrawn from the Consent Agenda.

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 Fenton made a motion to approve the Consent Agenda.

Councilmember Campbell seconded the motion, which passed by a vote of 7:0.

A. Consider approval of the minutes from the December 12, 2024 Regular Council meeting. (City Secretary)

B. **R-25-01** Consider approval of a resolution designating an official newspaper for the City of Marshall for fiscal year 2025. (City Secretary)

7. Consideration of Items Withdrawn From the Consent Agenda

C. Consider approval of a lease with American Tower Corporation. (Support Services)
Councilmember Godfrey made a motion to table a lease with American Tower Corporation. Councilmember Abraham seconded the motion, which passed by a vote of 7:0.

8. Ordinance

- A. **O-25-01** Consider approval of an ordinance granting to CenterPoint Energy Resources Corp., DBA CenterPoint Energy Texas Gas Operations, the right, privilege and franchise to construct, install, extend, remove, replace, abandon, operate and maintain its facilities within the public rights-of-way of the City of Marshall, Texas for the transportation, delivery, sale and distribution of natural gas; containing other provisions relating to the foregoing subject; providing for severability and providing an effective date. (City Manager)

Melissa Vossmer, Interim City Manager, provided information regarding the history of CenterPoint and emphasized this ordinance is not regarding rates. Melissa Vossmer stated Staff worked with CenterPoint and were able to update the ordinance to include revised language to require a Professional Engineer stamp, the notice of termination was changed from 60 days to 30 days, interest on late payments revised from 3% to 6%, an increase from 2.5% on gross receipts to 4% and the City maintains control of our Right-of-Ways, and if we need lines moved CenterPoint will do this for us. Melissa Vossmer provided projected revenue increases based on the scenarios of the interest amount. Scott Rectenwald, City Attorney, stated this franchise agreement is consistent with other cities in our area.

9. Resolution

- A. Presentation of an update on the I369 and SL390 Utility Relocation Project FY2025 and consider approval of a resolution (**R-25-02**) accepting a SIB loan from TxDOT. (Public Works)

Eric Powell, Public Works Director, provided information regarding the timeframe for the project and stated the SIB loan was approved for \$16 million. Eric Powell stated he has not received final information to go forward with resolution and asked council to table the item at this time.

Council members asked questions regarding this item.

Councilmember Abraham made a motion to table the resolution (R-25-02) accepting a SIB loan from TxDOT until the January 23rd meeting. Councilmember Godfrey seconded the motion, which passed by a vote of 7:0.

- B. **R-25-03** Consider approval of a resolution regarding a request for a Certificate of Consistency. (City Manager and Planning & Development)

Melissa Vossmer stated current staff is unfamiliar with this process and there are no policies or guidelines in place. Staff is researching the process for this type of application and gathering additional information from the applicant regarding this project. Melissa Vossmer stated staff is not comfortable, at this time, in making a recommendation on this item and requested Council to table the item until more information can be obtained.

Councilwoman Abraham stated the Council will need all the information final before signing the Certificate of Consistency to avoid committing a false statement.

Councilmember Fenton made a motion to table R-25-03 a resolution regarding a request for a Certificate of Consistency until the January 23rd meeting. Councilmember Abraham seconded the motion, which passed by a vote of 7:0.

10. Action Items for City Council Consideration

11. Discussion and Reports for City Council Consideration and Direction

- A. Presentation of an overview of the Street Sweeping Program. (Public Works)
Eric Powell provided overview of Street Sweeping Program. Eric Powell stated the current street sweeper is several years old and requires the operator to have a CDL license. Current staff only has two members who have the required license. The department is looking into training the other staff to obtain their license to operate the equipment. Obtaining additional equipment that doesn't require a CDL so all staff would be able to operate the equipment is being researched.

Council members engaged in discussion regarding this item.

Various efforts to increase street sweeping were discussed such as, changing or flexing hours of employees, have employees work overtime, and utilizing inmate labor. The process of selection of which streets to sweep was discussed. Eric Powell stated the goal is to sweep every street once or twice a year and the department is looking into ways to expand the program.

- B. Reports regarding an update on Raw Water Intake and Water Production. (Public Works)

Cory Owen, Assistant Director of Public Works, provided an update on the Water Supply System at the request of Council members Godfrey & Morris. The system is currently operating at 30%-35% capacity, only two pumps are operating, many valves need to be replaced, the generator needs to be upgraded or replaced, and the building is in need of many upgrades. Cory Owen stated the cost of the intake upgrades would be \$535,000, the pump replacement package would be \$840,000 per pump, the generator replacement package would be \$625,000, and the building improvements would be \$150,000.

A discussion was held regarding the process to go about needed replacements and repairs and what sequence to go about obtaining the goal of having four new pumps in place and funding for the repairs, replacements, and maintenance.

Cory Owen provided information regarding Caddo Jr. and the transmission lines. The current level of operation is 65%-75% capacity, the reservoir needs to be dredged, landscaping and vegetation needs to be cleared and the transmission lines need to be replaced. Cory Owen stated the cost of dredging would be up to \$1,035,000, the landscaping and vegetation management would be \$100,000, and the transmission line replacements would be \$10,000,000.

Cory Owen provided information regarding the needed updates and upgrades for the Water Treatment Plant. The system is currently operating at 50%-55% capacity, 2 of the 8 backwashing filters are not working, the 2 clarifiers need mechanical upgrades, the splitter box needs to be repaired, the ammonia gas lines need to be relocated, the two 3 million gallon clear wells need to be repaired, and the high-service pump station has 4 out of 8 pumps not working and the generator needs to be replaced. Cory Owen stated the cost of the backwash filters would be up to \$4,800,000, the clarifiers would be \$6,600,000, the splitter box would be \$200,000, relocating the ammonia gas lines

would be \$75,000, replacing the clear wells would be \$13,400,000, and the high service pump station would be up to \$6,000,000, and the generator would be \$350,000.

A discussion was held regarding the process to go about needed replacements and repairs and what sequence to go about obtaining the goal of having the Water Treatment Plant operating at a much higher capacity and reduce the TCEQ violations.

Staff is working with Halff to create a draft plan to prioritize the order of repairs and replacements.

A discussion was held regarding funding sources that could be pursued for the needed repairs and replacements.

C. Presentation of Code Enforcement Processes and Procedures. (Planning & Development)

Reggie Cooper, Planning & Development Director, provided information regarding the processes and procedures of the Code Enforcement Division. Reggie Cooper highlighted achievements within the department, the process of identifying and resolving violation issues, and challenges faced by the Code Enforcement Division. Other information discussed was the timeframe for code violation resolution, common code violations and issues frequently encountered.

Council discussed options available to help citizens with code violations such as blight removal and lawn maintenance and ways to expedite the process of code violation resolution.

12. Adjournment

Councilmember Godfrey made a motion to adjourn. Councilmember Campbell 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



TO: City Council
DATE: February 13, 2025
ITEM #: 6.B
SUBJECT: Consider approval of the minutes from the January 23, 2025 Regular Council meeting. (City Secretary)

Recommendation for Action: Consider approval of the minutes from the January 23, 2025, Regular Council meeting.

Executive Summary: Minutes from the Regular meeting held on January 23, 2025.

Budget Cost: N/A

Staff Contact: Nikki Smith, City Secretary

Attachments: 1. 1-23-25 Minutes

**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
January 23, 2025
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 06:00 PM.

PRESENT:

Mayor and Council Members:

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

ADMINISTRATIVE STAFF PRESENT:

Melissa Vossmer, Interim City Manager	David Rainwater, Fire Chief
Cliff Carruth, Police Chief	Dawn Jones, Finance Director
Eric Powell, Public Works Director	Scott Rectenwald, City Attorney
Christol Hall, HR/Civil Service Director	
Randy Pritchard, Support Services Director	
Nikki Smith, City Secretary/Payroll Accountant	
Reggie Cooper, Planning & Development Director	
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. Marshall Depot, Inc. presentation.

Christina Anderson, Marshall Depot Inc., provided information regarding the history of the Marshall Depot Inc., the efforts of the board members for activities, events and fundraising. Christina Anderson also provided information regarding the revenue generated by the Marshall Depot Inc. for the community. Christina Anderson stated the Marshall Depot Inc. has two asks from the City of Marshall and the Council:

1. Establish a Steering Committee/City of Marshall Task Force on Rail
2. Pursue grant funding for comprehensive plan on Marshall Depot/Amtrak station

Christina Anderson thanked the Council for their time and consideration of the Marshall Depot's Inc. asks.

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

There were no items withdrawn from the Consent Agenda.

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 7:0.

- A. Consider approval of the purchase of rugged tablets and mounts for the Fire Department. (Fire)
- B. Consider approval of the purchase of three Stryker stretchers to replace aging equipment. (Fire)
- C. Consider approval of the minutes from the January 13, 2025 City Council Work Session meeting. (City Secretary)
- D. Consider approval of the minutes from the January 16, 2025 Special-Called Council meeting. (City Secretary)
- E. Consider approval of awarding a Contract for FY2025 Water and Sewer Pipe Supplies. (Public Works)

- F. Consider approval of awarding a Contract for FY2025 Parts and Supplies. (Distribution and Collection Division)
- G. Consider approval of Change orders regarding the WWTP Overflow Pump Installation. (Public Works)
- H. Consider approval of an addendum to the Master Services Agreement with Hilltop Securities providing for enhanced Financial Advising Services. (Finance)
- I. Consider approval of Continuation of Engagement with Pattillo, Brown & Hill, L.L.P. for Annual Audit Services – fiscal year 2024. (Finance)
- J. Consider approval of the November 2024 Financial Statements. (Finance)

7. **Consideration of Items Withdrawn From the Consent Agenda**

There were no items withdrawn from the Consent Agenda.

8. **Ordinance**

- A. **Second Reading O-25-01:** Consider approval of an ordinance granting to CenterPoint Energy Resources Corp., DBA CenterPoint Energy Texas Gas Operations, the right, privilege and franchise to construct, install, extend, remove, replace, abandon, operate and maintain its facilities within the public rights-of-way of the City of Marshall, Texas for the transportation, delivery, sale and distribution of natural gas; containing other provisions relating to the foregoing subject; providing for severability and providing an effective date. (City Manager)

Melissa Vossmer, Interim City Manager, stated there were no changes to this ordinance.

Councilmember Campbell made a motion to approve an ordinance granting to CenterPoint Energy Resources Corp., DBA CenterPoint Energy Texas Gas Operations, the right, privilege and franchise to construct, install, extend, remove, replace, abandon, operate and maintain its facilities within the public rights-of-way of the City of Marshall, Texas for the transportation, delivery, sale and distribution of natural gas; containing other provisions relating to the foregoing subject; providing for severability and providing an effective date. Councilmember Morris seconded the motion, which passed by a vote of 7:0.

- B. **O-25-04** Consider approval of an ordinance amending ordinance O-24-21 Comprehensive Fee Schedule. (Finance & Fire)

Kristina Hamilton, Assistant Finance Director, provided information regarding the amendment to the Comprehensive Fee Schedule for fees charged by the Fire Department enabling the City to recover costs from insurance companies for specific incidents, including:

- Commercial and industrial fire responses.
- Hazardous material incidents.
- Vehicle accidents requiring fire department intervention.

Councilmember Abraham made a motion to approve ordinance O-25-04 amending ordinance O-24-21 Comprehensive Fee Schedule. Councilmember Fenton seconded the motion, which passed by a vote of 7:0.

9. Resolution

- A. **R-25-02** Consider approval of a resolution accepting a SIB loan from TxDOT. (Public Works)
Eric Powell, Public Works Director, stated this item is a continuation from the previous Council meeting. Eric Powell stated the information has been released, the format is appropriate and can be accepted.

Councilmember Godfrey made a motion to approve R-25-02 a resolution accepting a SIB loan from TxDOT. Councilmember Jordan-Anderson seconded the motion, which passed by a vote of 7:0.

- B. **R-25-03** Consider approval of a resolution regarding a request for a Certificate of Consistency. (City Manager and Planning & Development)
Dr. Tracy Adnrus provided information regarding Certificates of Consistency and what he was asking the Council to consider and approve. Dr. Tracy Andrus stated he has had discussions with the Housing Authority, HUD and other non-profits for building homes for homeless and low to moderate income families. The grant application will provide thirty housing units.

Councilmembers asked questions regarding the date and version of the application and if it could change.

Melissa Vossmer stated this item was a confusing exercise for staff, given that no one on staff has dealt with this type of request before and there are currently no guidelines in place, but we are working to have them created. It was determined that the application can be changed but only content and not the integrity.

Councilmembers questioned the item further, inquiring if the activities were consistent with our Consolidated Plan, if the foundation meets the requirements, and if the application is denied, would the City provide information as to why it was denied, and if the information provided was sufficient to provide a letter of support.

Scott Rectenwald, City Attorney, stated the process was reverse engineered for better understanding and is believed to be consistent with the Consolidated Plan.

Councilmember Godfrey made a motion to amend R-25-03, a resolution regarding a request for a Certificate of Consistency to include the specific TAF Builds 2025 project. Councilmember Jordan-Anderson seconded the motion, which passed by a vote of 7:0.

Mayor Ware made a motion to approve R-25-03, a resolution regarding a request for a Certificate of Consistency as amended. Councilmember Jordan-Anderson seconded the motion, which passed by a vote of 7:0.

10. Action Items for City Council Consideration

- A. Consider approval of the contract addendum to award Emergifire, LLC to recover specialized fire response cost recovery services. (Fire)
- David Rainwater, Fire Chief, requested to enter into a contract with Emergifire, LLC allowing for customizable billing to recover fire response costs. David Rainwater stated this contract allows for cost recovery from insurance companies, not individuals, for items such as motor vehicle accidents, hazardous material responses, and commercial fires. The city pays zero upfront costs, and Emergifire will receive a 15% commission on collected revenues. David Rainwater stated, if approved, he will meet with Emergifire to establish billing, start monthly financial reports and set expectations for annual feedback.

Councilmembers verified this would not come from the citizen directly.

David Rainwater stated most insurance policies have a component in them for these types of costs and will be used to replace fire fighting equipment.

Councilmember Godfrey made a motion to approve the contract addendum to award Emergifire, LLC to recover specialized fire response cost recovery services. Councilmember Jordan-Anderson seconded the motion, which passed by a vote of 7:0.

- B. Consider approval of an amendments to the Personnel Policy and Procedures Manual. (Human Resources)
- Christol Hall, Human Resources Director, provided information regarding amendments to the Personnel Policy and Procedures Manual. Christol Hall highlighted the following amendments:
1. Change in probationary period from 6 months to 3 months.
 2. Vacation accrual can reach 240 hours but will not go over and accrual will stop until the hours are below 240.
 3. Addition of two holidays, Presidents' Day and Texas Independence Day.
 4. The removal of comp time.

Councilmembers requested formatting changes and asked about the amount of hours for the vacation accrual, which, upon approval, would not allow any accrual over 240.

Councilmember Abraham made a motion to approve amendments to the Personnel Policy and Procedures Manual, with amended language for 5.02 regarding vacation leave, Section B, For full-time non-civil service employees, vacation will accrue to a maximum of 240 hours and will rollover from year to year. If an employee is over the maximum, their accrual will be frozen until the balance gets below the maximum of 240 hours. For civil service employees, there is no maximum accrual, however, the maximum amount of unused vacation that a civil service employee shall be allowed to rollover from year to year shall be no more than 240 hours for police shift personnel and 360 hours for fire shift personnel. Councilmember Godfrey seconded the motion, which passed by a vote of 7:0.

- C. Consider approval of renewing the City's membership with National League of Cities (NLC). (Councilmembers Jordan-Anderson & Morris)
Councilmember Jordan-Anderson requested this item to renew the City's membership with the National League of Cities (NLC). Councilmember Jordan-Anderson provided information regarding the previous membership with NLC, the Council's budget for the membership and had a video for the Council to view. Councilmember Jordan-Anderson state NLC is an advocate for federal programs and monies provided to cities and has numerous resources available, such as NLC University.

The Congressional City Conference (CCC) is being held in Washington, DC from March 10-12, 2025. Councilmembers will be able to attend this conference, if they choose, at the member rate if the membership is renewed. The membership cost for 2025 is \$2,190, with funding coming from the election line, as there is not an anticipated election for 2025.

Councilmembers discussed the cost of attending the CCC, which is estimated at \$3,000 per member.

Melissa Vossmer stated NLC provides different topics than the Texas Municipal League (TML) and looks at big picture topics such as drug issues and homelessness.

It was mentioned the Council Travel Policy is currently being reviewed, and an update will be provided at a future meeting.

Councilmember Abraham made a motion to approve renewing the City's membership with the National League of Cities (NLC). Councilmember Godfrey seconded the motion, which passed by a vote of 7:0.

11. Discussion and Reports for City Council Consideration and Direction

- A. Presentation of an update on Wastewater Treatment Plant and Wastewater Lift Stations. (Councilmembers Godfrey & Morris)
Cory Owen, Public Works Assistant Director, provided an update on the lift station rehabilitation. Cory Owen explained what a lift station does, provided cost estimates for rehabilitating a lift station, which is \$1.6 million, and converting a lift station to gravity flow, which is \$598,575, and provided a lift station priority list.
Cory Owen provided an update on the Wastewater Treatment Plant Upgrades and gave cost estimates for the needed repairs/replacements and provided a priority list for the following items:
1. Replace Both Secondary Clarifiers - Estimated cost: \$1,000,000
 2. Trickling Filters - Estimated Cost: \$1,200,000
 3. Replace Both Primary Clarifiers - Estimated cost \$1,000,000
 4. Purchase of New Grit Chamber - Estimated cost: \$900,000
 5. Influent Pump Station - Estimated Cost: up to \$1,800,000
 6. Anaerobic Digesters - Estimated Cost: \$2,000,000

7. Sludge De-watering Fan Press - Estimated Cost: \$1,300,000
8. Bio Towers - Estimated Cost - up to \$2,000,000
9. New Trojan UV Disinfection System - Estimated Cost: \$1,250,00

Cory Owen stated the estimated cost to rebuild the entire Wastewater Treatment Plant would be \$22 million.

The city has received TCEQ violations, which will assist with the grant application. The application will link the lift station and waste water repairs together to have a better chance to receive approval for funding.

Cory Owen provided a history of the plant from the original building in the 1950s, the upgrades in the 1970s, 1980s, and 2004.

Cory Owen stated there are two areas where TCEQ has issued two violations for each area and the staff is working to correct the issues.

Councilmembers thanked Cory Owen for the presentation and stated they hoped we would remain vigilant about the maintenance of facilities to make sure we don't end up in this shape again.

12. 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: Discuss or deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee: City Manager
Mayor Ware stated this item was not needed as Council held a Special-Called meeting earlier.

13. Action Item Following Executive Session

14. Adjournment

Councilmember Godfrey made a motion to adjourn. Councilmember Campbell 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



TO: City Council
DATE: February 13, 2025
ITEM #: 6.C
SUBJECT: Consider approval of a lease with American Tower Corporation. (Support Services)

Recommendation for Action: Staff recommends approval of the agreement with ATC

Executive Summary: This contract is an agreement to lease tower space on the ATC Sam Houston tower site for antennas for the new TXWarn Radio system being installed.

Budget Cost: The lease agreement is for \$1900 per month. The first year will be covered in the overall cost of the project.

Staff Contact: Randy Pritchard

Attachments: 1. City of Marshall Texas @ Sam Houston TX_417213_SLA_071724 - Redraft 111524

LICENSE AGREEMENT
ATC Contract No: _____

This LICENSE AGREEMENT ("**Agreement**") is entered into as of the latter signature date hereof ("**Effective Date**") by and between ATC Sequoia LLC, a Delaware limited liability company, with a place of business at 10 Presidential Way, Woburn, MA 01801 ("**Licensor**") and the City of Marshall, a political subdivision of the state of Texas, with a place of business at 401 S. Alamo, Marshall, TX 75670 ("**Licensee**").

I. TOWER FACILITY INFORMATION:

Site Name: Sam Houston TX
Site Number: 417213
Address and/or location of Tower Facility: 445 N. Fulton St. Marshall, Texas 75670-3228
Tower Facility Coordinates: Lat. 32° 32' 52.615" N32.54794849 Long. 94° 22' 12.216" W-94.37005999

II. NOTICE & EMERGENCY CONTACTS:

- Licensee's local emergency contact (name and number): Randy Pritchard (903) 930-0842.
- Licensor's local emergency contact: Network Operations Communications Center (800) 830-3365.
- Notices to Licensee shall be sent to Licensee's address above to the attention of Randy Pritchard.
- Notices to Licensor shall be sent to Licensor's address above to the attention of Contracts Manager.
- Licensor's Remittance Address: ATC Sequoia LLC, 29637 Network Place, Chicago, IL 60673-1296; all payments shall include a reference to the Site Name and Site Number as identified above in Section I.

III. PERMITTED USE OF TOWER FACILITY BY LICENSEE:

Transmitting and Receiving frequencies: See Exhibit A for specific frequencies.
Antenna mount height on tower: See Exhibit A for specific location.
All other permitted uses of the Tower Facility including Licensee's Approved Equipment, and the Licensed Space are further described in Section 4 of this Agreement and Exhibits A and B attached hereto.

IV. FEES & TERM:

Monthly License Fee: One Thousand Nine Hundred and 00/100 Dollars (\$1,900.00), increased by the Annual Escalator on the first anniversary of the Commencement Date of this Agreement and each anniversary of the Commencement Date thereafter during the Term (as defined in Appendix I).

Annual Escalator: Three percent (3%).

Application Fee: N/A.

Relocation Application Fee: Five Hundred and 00/100 Dollars (\$500.00) per Application submitted pursuant to Subsection 10(c), subject to increases at the Annual Escalator, compounded on each anniversary of the Effective Date.

Site Inspection Fee: N/A.

Initial Term: A period of fourteen (14) years beginning on the Commencement Date. The "**Commencement Date**" shall be the earlier of: (i) the date of Licensor's issuance of a NTP or (ii) October 17, 2024.

Renewal Terms: Three (3) additional periods of five (5) years each.

Connection Fee (as described in Subsection 5(b)): N/A

Electricity for operation of Approved Equipment is to be provided by (check one):

- ☐ Licensor, with the cost of such electricity to be paid by Licensee at the initial rate of \$N/A per month ("Utility Fee") subject to adjustment pursuant to Subsection 5(b), OR
☒ Licensee, at its sole expense.

V. TERMS & CONDITIONS:

The attached terms and conditions are incorporated herein by this reference.

VI. OTHER PROVISIONS:

Other provisions: (check one): ☐ None ☒ As listed below

A. PCN/PCN Retention Fee/Cross-Default. Licensee, an Affiliate of Licensee or any entity or individual acting on behalf Licensee or an Affiliate of Licensee shall only issue Prior Coordination Notices ("PCNs") for the Permitted Frequencies set forth in Exhibit A and shall not issue PCNs for any other frequencies at this Tower Facility or at any other tower facility owned and/or operated by Licensor unless Licensee has submitted an Application for use of the subject frequencies to Licensor for which a partially executed License Agreement shall be signed by Licensee and returned to Licensor within sixty (60) days of the submittal of the Application. Licensee shall withdraw PCNs filed for any frequencies which are not licensed to Licensee by Licensor, no more than ten (10) days from the date of Licensee's withdrawal of an Application or Licensor's election to not process a Licensee-submitted Application. Failure to comply with the terms of this Subsection A shall constitute an event of default pursuant to Section 21 hereof (a "**PCN Default**") for which the cure period is set forth in Section 21. In the event Licensee fails to cure a PCN Default within the cure period set forth in Section 21, then, in addition to all other obligations of Licensee under this Agreement, Licensee shall pay Licensor Twenty Five Thousand and 00/100 Dollars (\$25,000.00) per month as liquidated damages for each tower facility wherein Licensee maintains an active PCN in breach of this Subsection A ("**PCN Retention Fee**"). Licensor and Licensee acknowledge that holding PCNs in violation of this Subsection A reduces Licensor's opportunity to license space at Licensor's tower facilities and since the actual amount of such lost revenue is difficult to determine, Licensor and Licensee agree that the PCN Retention Fee is a reasonable estimate of the damages that would accrue if a breach occurred. Licensor and Licensee agree that the PCN Retention Fee is fair and reasonable and would not act as a penalty to the breaching Party. The PCN Retention Fee shall be remitted by Licensee within ten (10) days of Licensor's written notice to Licensee of Licensee's uncured default of this Subsection A and Licensee shall continue to remit payment of the PCN Retention Fee on a monthly basis on or before the first day of each calendar month while such default of this Subsection A remains uncured. In the event that Licensor does not receive the PCN Retention Fee on or before the first day of each month, then Licensor may, at its option, declare a default of this Agreement and all agreements between Licensor and Licensee and the PCN Retention Fee shall continue to be due and payable as set forth herein until the time Licensee withdraws the subject PCNs.

B. Notwithstanding anything to the contrary in this Agreement, the offer expressed to Licensee in this Agreement shall automatically become null and void with no further obligation by either Party hereto if a structural analysis of the Tower Facility completed after the execution of this Agreement by Licensor but before the commencement of the installation of Licensee's Approved Equipment indicates that the Tower Facility is not suitable for Licensee's Approved Equipment unless Licensor and Licensee mutually agree that structural modifications or repairs shall be made to the Tower Facility on mutually agreeable terms.

C. Licensor and Licensee mutually agree that structural modifications or repairs shall be made to the Tower Facility on mutually agreeable terms to accommodate Licensee's installation. Licensor and Licensee agree and acknowledge that Licensee shall be responsible for all costs associated with said modifications or repairs.

D. Licensee shall require its vendor, Enertech, to pay to Licensor within thirty (30) days of execution of this Agreement, a "Capital Contribution Fee" in the amount of Thirty-Thousand Nine Hundred Thirty-Seven and 00/100 Dollars (\$30,937.00) which fee represents the contribution for costs associated with the tower modification required to accommodate the installation of Licensee's equipment.

E. WAIVER OF TEXAS DECEPTIVE TRADE PRACTICES ACT. LICENSEE SPECIFICALLY ACKNOWLEDGES AND AGREES THAT IT HAS KNOWLEDGE AND EXPERIENCE IN FINANCIAL AND BUSINESS MATTERS THAT ENABLE IT TO EVALUATE THE MERITS AND RISKS OF ITS TRANSACTION WITH LICENSOR, AND THAT IT IS NOT IN A SIGNIFICANTLY DISPARATE BARGAINING POSITION WITH LICENSOR. LICENSEE HEREBY WAIVES ALL ITS RIGHTS UNDER THE TEXAS DECEPTIVE TRADE PRACTICES – CONSUMER PROTECTION ACT, SECTION 17.41 ET. SEQ. OF THE TEXAS BUSINESS AND COMMERCE CODE (THE "DTPA"), A LAW THAT GIVES CONSUMERS SPECIAL RIGHTS AND PROTECTIONS. AFTER CONSULTATION WITH AN ATTORNEY OF LICENSEE'S OWN SELECTION, LICENSEE VOLUNTARILY CONSENTS TO THIS WAIVER.

F. The "Rider for Verizon Subleased Sites" attached hereto is hereby incorporated into this Agreement in its entirety and the terms and conditions contained therein shall supersede any contradictory provision in this Agreement.

G. Notwithstanding anything to the contrary contained herein, Licensee shall pay to Licensor a one-time non-refundable fee in the amount of Two Thousand and 00/100 Dollars (\$2,000.00) (the "**Collocation Fee**") payable concurrent with the submission of the Application. The Collocation Fee is inclusive of the Application Fee, Site Inspection Fee, SSIS Fee, and Structural Analysis Fee (each fee as defined herein) associated with Licensee's initial application. For the avoidance of doubt, any design modifications to the Approved Equipment, whether prior to the initial installation of Licensee's Approved Equipment or any subsequent modifications thereto, may result in an additional Application Fee, Site Inspection Fee, SSIS Fee, or Structural Analysis Fee, as applicable, for each design change.

[Signatures appear on next page]

IN WITNESS WHEREOF, each Party in consideration of the mutual covenants contained herein, and for other good and valuable consideration, intending to be legally bound, has caused this Agreement to be executed by its duly authorized representative as of the day and year written below; *provided, however*, that this Agreement shall not become effective as to either Party until executed by both Parties.

LICENSOR:

ATC Sequoia LLC, a Delaware limited liability company

LICENSEE:

City of Marshall, a political subdivision of the State of Texas

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

TERMS AND CONDITIONS

1. DEFINITIONS.

Capitalized terms defined in the body of this Agreement are indexed by location in Appendix I attached hereto. Capitalized terms used in Agreement but not defined herein are defined in Appendix I.

2. GRANT OF LICENSE.

Subject to the terms of this Agreement, Licensor hereby grants Licensee a non-exclusive license to install, maintain and operate the Approved Equipment at the Licensed Space. All Approved Equipment shall be and remain Licensee's personal property throughout the Term of this Agreement. Licensor shall maintain the Tower Facility in good order and repair, wear and tear, damage by fire, the elements or other casualty excepted. In no event shall Licensee's license as granted herein include rights to use the air space above the Approved Equipment, and Licensor reserves the right to install, construct and/or operate additional improvements or equipment of Licensor or others above Licensee's Approved Equipment, including Licensee's shelter (commonly referred to as "stacking"), provided that such additional improvements or equipment do not materially and adversely interfere with the access to or operation of the Approved Equipment, including Licensee's shelter. Licensee is not required to utilize a stackable shelter, provided that, if Licensee opts to install a shelter that is not stackable and if Licensor receives an offer to license the air space above Licensee's non-stackable shelter by a proposed subsequent user, Licensor may, at its election, upon thirty (30) days' prior written notice require Licensee to replace such non-stackable shelter with a stackable shelter of a comparable size, provided that the proposed subsequent user agrees in writing to be wholly responsible for the cost of Licensee's shelter replacement. Subject to any limitations contained in the Ground Lease, Licensor grants Licensee a right of access to the Tower Facility twenty-four (24) hours per day, seven (7) days per week during the Term. Licensor grants Licensee a designated location for the installation of Licensee's utilities over, under or across the Tower Facility (collectively, "**Easement**"). Licensee shall be responsible for any and all Damage or loss that results from the installation of any cables or utility wires by Licensee or any company or person retained by Licensee (including a public utility company), including, without limitation, any damage or loss that results from the accidental cutting of utility wires or cables of any other party operating at the Tower Facility. Licensor shall provide Licensee with one set of keys and/or codes to access the Tower Facility. Licensee shall be responsible for ensuring that Licensor has, at all times, a complete and accurate written list of all employees and agents of Licensee who have been provided the keys or access codes to the Tower Facility. Licensor shall have the right to continue to occupy the Tower Facility and to grant rights to others to the Tower Facility in its sole discretion. Licensee shall have no property rights or interest in the Tower Facility or the Easement by virtue of this Agreement. If Licensor's right to license space on the Tower Facility to Licensee is subject to a right of first refusal for the benefit of a third party and if such third party exercises its right of first refusal prior to the Commencement Date, Licensor may terminate this Agreement upon written notice to Licensee.

3. EXHIBITS.

Within forty-five (45) days following the Commencement Date, Licensee shall provide Licensor with as-built or construction drawings showing the Approved Equipment as installed in both hard copy and electronic form ("**Construction Drawings**"); such Construction Drawings shall include the location of any shelters, cabinets, grounding rings, cables, and utility lines associated with Licensee's use of the Tower Facility. Upon receipt, Licensor shall attach the Construction Drawings as Exhibit C hereto. In the event that Licensee fails to deliver the Construction Drawings as required by this Section, Licensor may cause such Construction Drawings to be prepared on behalf of Licensee and Licensor shall assess a fee for such Construction Drawings in an amount equal to one hundred twenty percent (120%) of the actual cost of obtaining the Construction Drawings including in-house labor, which upon invoicing shall become immediately due and payable by Licensee. In the event of inconsistency or discrepancy between (a) Exhibit A and Exhibit B hereto, Exhibit A shall govern, and (b) between Exhibit A (with respect to Approved Equipment and antenna locations) together with Exhibit B (with respect to Ground Space installation locations) and Exhibit C hereto, Exhibits A and B shall govern, notwithstanding any approval or signature by Licensor or its agents. Licensee hereby acknowledges and agrees that installation of the Approved

Equipment must be in strict accordance with the approved Construction Drawings and Exhibits A and B. Notwithstanding the forgoing, Licensee shall not infer nor shall acceptance of the Construction Drawings by Licensor be deemed to be a representation by Licensor that (i) such Construction Drawings or the plans and specifications described therein are in compliance with federal, state or local laws, ordinances, rules or regulations, (ii) that such installation shall not cause impermissible or unlawful interference, or (iii) that such installation is consistent with Licensee's permitted installation as specifically set forth in Exhibits A and B hereto.

4. USE.

Subject to the terms of any Ground Lease, Licensee shall be permitted the non-exclusive right to install, maintain, operate, service, modify and/or replace its Approved Equipment at the Licensed Space, which Approved Equipment shall be utilized for the transmission and reception of wireless voice and data communications signals (such transmission and reception to be solely within the Permitted Frequencies, and, if the Permitted Frequencies include licensed spectrum, within the spectrum licensed to Licensee by the FCC). If as of the Effective Date, Licensee's wireless business consists of a one-way network which requires only that signals be transmitted from the Tower Facility, then notwithstanding the foregoing sentence, Licensee's use of the Tower Facility under this Agreement shall be limited to the transmission of wireless voice and data communications signals from the Tower Facility. Licensee's permitted use with respect to the Licensed Space shall be limited solely to that enumerated in this Section, and, except pursuant to a separate agreement with Licensor, no person or entity other than Licensee shall have the right to install, maintain or operate its equipment or transmit or receive communications at, or otherwise use, the Licensed Space.

5. LICENSE FEES; TAXES; ASSESSMENTS.

(a) **Monthly License Fee.** The Monthly License Fee as adjusted by the Annual Escalator, shall be payable in advance on the first day of each calendar month during the Term beginning upon the Commencement Date. If the Commencement Date is not the first day of a calendar month, the Monthly License Fee for any partial month shall be prorated on a daily basis.

(b) **Utilities.**

(i) All utility services installed on the Tower Facility for the use or benefit of Licensee shall be made at the sole cost and expense of Licensee and shall be separately metered from Licensor's utilities. Licensee shall be solely responsible for extending utilities to the Tower Facility as necessary for the operation of the Approved Equipment and for the payment of utility charges including connection charges and security deposits incurred by Licensee. Licensee shall obtain and pay the cost of telephone connections, the installation of which shall be in compliance with the procedures for installation and maintenance of Approved Equipment set forth herein.

(ii) **Interruptions in Service.** Licensor shall not be liable in any respect for damages to either person or property nor shall Licensee be relieved from fulfilling any covenant or agreement hereof as a result of any temporary or permanent interruption of electrical service or of any common heating, ventilation and air conditioning system to the extent provided by Licensor. Licensor shall use reasonable diligence to restore any interruption as promptly as practicable to the extent that Licensor can reasonably effect such restoration, but Licensee shall have no claim for damages, consequential or otherwise, on account of any interruption. Licensor has no obligation or responsibility to provide emergency or "backup" power to Licensee.

(c) **Taxes.**

(i) **Property Taxes.** Licensee shall be responsible for the reporting and payment when due of any tax directly related to Licensee's ownership or operation of the Approved Equipment and such reporting and payment shall be made directly to the appropriate tax authorities. Licensee shall

reimburse Licensor in full for any taxes assessed against Licensor but attributed to the Approved Equipment within thirty (30) days of Licensor's request for such reimbursement. Licensor shall pay all property taxes directly assessed against Licensor's property or for which Licensor is obligated to pay under the Ground Lease, provided, however, Licensee shall reimburse Licensee's pro rata share of such taxes. Licensee's pro rata share shall be determined by dividing such taxes evenly among all users Licensor has permitted to utilize any portion of the Tower Facility. Licensee shall reimburse Licensor for such taxes within thirty (30) days of Licensor's request for such reimbursement.

(ii) **Sales; Use and Other Taxes.** Licensor shall be responsible for billing, collecting, reporting, and remitting sales, use and other taxes directly related to any Monthly License Fee or other payments received pursuant to this Agreement. Licensee shall be responsible for reimbursing Licensor for all such sales, use and other taxes billed related to any payments received pursuant to this Agreement. Licensor shall add to the Monthly License Fee or any other payment then due and payable any associated sales, use or other tax, which shall be paid by Licensee at the same time and in the same manner as the Monthly License Fee or other payment due and payable under this Agreement.

(d) **Federal Use Fees & Assessments.** In the event that a particular Licensed Space is at a Tower Facility located on property which is owned by the Bureau of Land Management ("BLM") or the United States Forest Service ("USFS"), Licensee shall reimburse Licensor for any and all fees or assessments attributable to this Agreement or Licensee's use of the Licensed Space paid by Licensor to the BLM or USFS related to such Tower Facility within thirty (30) days of Licensor's request for such reimbursement.

(e) **Restrictions on Reimbursement.** Solely for the purposes of determining Licensee's portion of such taxes, fees, assessments or similar expenses as contemplated in this Section 5 or anywhere else in this Agreement, if any such amounts are determined in whole or in part on the income or profits (aside from gross revenues) of any person or entity, Licensor and Licensee shall agree on a fixed amount (subject to the Annual Escalator, which shall be applied in the same manner as it is applied to the Monthly License Fee), that shall be treated as such tax, fee, assessment or similar expense in lieu of the actual amount, which agreed to amount shall be set forth in an amendment to this Agreement.

(f) **Payment Address.** All payments due under this Agreement shall be made to Licensor at Licensor's Remittance Address shown on page 1 of this Agreement or such other address as Licensor may notify Licensee of in writing.

(g) **No Set-Off.** All payments due under this Agreement shall be due without set-off, notice, counterclaim, or demand from Licensor to Licensee.

(h) **Effect of Partial Payment.** No endorsement or statement on any check or letter accompanying a check for payment of any monies due and payable under the terms of this Agreement shall be deemed an accord and satisfaction, and Licensor may accept such check or payment without prejudice to its right to recover the balance of such monies or to pursue any other remedy provided by law or in this Agreement.

6. TERM.

(a) **Initial Term.** The Initial Term of this Agreement shall be as specified on page 1.

(b) **Renewal Term.** The Term of this Agreement may be extended for each of the Renewal Terms as specified on page 1 of this Agreement, provided that at the time of each such renewal, (i) the Ground Lease remains in effect and has not expired or been terminated, (ii) Licensee is not in default hereunder and no condition exists which if left uncured would with the passage of time or the giving of notice result in a default by Licensee hereunder and (iii) the original Licensee identified on page 1 of this Agreement has not assigned, sublicensed, subleased or otherwise transferred any of its rights hereunder. Provided that the foregoing conditions are satisfied, this Agreement shall automatically renew for each

successive Renewal Term unless either Party notifies the other in writing of its intention not to renew this Agreement at least one hundred eighty (180) days prior to the end of the then existing Term.

(c) **Holdover Term.** If Licensee fails to remove the Approved Equipment at the expiration of the Term, such failure shall be deemed to extend the Term of this Agreement on a month-to-month basis under the same terms and conditions herein except that (i) a monthly license fee shall be due on or before the first day of every calendar month during such month-to-month term in an amount equal to one hundred fifty percent (150%) of the Monthly License Fee in effect for the last month of the Term prior to the commencement of such month-to-month term ("**Holdover Fee**"), such Holdover Fee to escalate annually on the anniversary of the Commencement Date by an amount equal to six percent (6%) of the Holdover Fee in effect for the month immediately prior to the month in which such escalation takes place, and (ii) the month-to-month extension shall be terminable upon fifteen (15) days' prior written notice from either Licensor or Licensee to the other; provided, however, nothing contained herein shall grant Licensee the unilateral right to extend the Term of this Agreement after the expiration of the Term. In addition to the monthly license fee payable to Licensor in the event of an extension under this Subsection 6(c), Licensee agrees to indemnify and hold Licensor harmless from any Damages arising out of or in connection with the extension, the operation of the Approved Equipment at the Tower Facility and Licensee's failure to perform all of its obligations under this Agreement at the termination or earlier expiration of this Agreement.

7. COMMON EXPENSES.

Licensee shall reimburse Licensor for Licensee's pro-rata share of all common expenses (the "**Common Expenses**") incurred by Licensor in the installation, operation, maintenance and repair of the Tower Facility, including, but not limited to, the construction, maintenance and repair of a common septic system and field, insurance, common utilities and any and all other costs of operating and maintaining the Tower Facility. Notwithstanding the foregoing, the cost and expenses associated with any Damage which is directly attributable to the acts or omissions of Licensee or Licensee's contractors shall be borne solely by Licensee. Licensee shall not be required to pay any share of costs or expenses incurred to replace the Tower. In the event that Licensee also licenses space within a building or shelter owned by Licensor on the Tower Facility, Licensee shall also reimburse Licensor for its pro-rata share of all Common Expenses incurred for the operation, maintenance, repair and replacement associated with such building or shelter, including, without limitation, the physical structure of the building, HVAC system, and common utility expenses. In the event that Licensee is connected to a generator or back-up power supply owned by Licensor, Licensee shall also reimburse Licensor for its pro-rata share of all expenses incurred for the operation, maintenance, repair and replacement associated with such generator, including, without limitation, fuel expenses. For the purposes of this Section, a "pro-rata share" of costs and expenses shall be determined based on the number of licensees using the Tower Facility (or with respect to a shared shelter or building, the number of licensees using Licensor's shelter or building) on the first day of the month in which an invoice is mailed to Licensee. Licensee shall reimburse Licensor for Common Expenses within thirty (30) days following receipt of an invoice from Licensor.

8. SITE INSPECTION.

Concurrent with Licensee's delivery of a fully executed Agreement to Licensor, and before the date of any subsequent modifications to or installation of additional Approved Equipment, Licensee shall pay Licensor the Site Inspection Fee as defined on page 1 of this Agreement. Licensee acknowledges that any site inspection performed by Licensor of Licensee's installation is for the sole purpose and benefit of Licensor and its affiliates, and Licensee shall not infer from or rely on any inspection by Licensor as assuring Licensee's installation complies with any Applicable Laws, that the installation was performed in a good, workmanlike manner or that such installation will not cause impermissible or unlawful interference.

9. LABELING.

Licensee shall identify its Approved Equipment, including its equipment cabinets and coaxial cable (at the top and bottom of the Tower) (unless such cabinet is located in a building or cabinet owned by Licensee) by labels with Licensee's name, contact phone number and date of installation. In the event that Licensee

fails to comply with this provision and fails to cure such deficiency within ten (10) days of Licensor's written notice of such failure, Licensor may, but is not obligated to, in addition to any other rights it may have hereunder, label the Approved Equipment and assess against Licensee a fee of One Thousand Five Hundred and 00/100 Dollars (\$1,500) ("**Labeling Fee**") which shall be payable to Licensor upon receipt of an invoice therefor. Licensor shall not be responsible to Licensee for any expenses or Damages incurred by Licensee arising from the interruption of Licensee's service caused by Licensor if Licensor is unable to identify the Approved Equipment as belonging to Licensee as a result of Licensee's failure to label such Approved Equipment.

10. IMPROVEMENTS BY LICENSEE.

(a) **Installation and Approved Vendors.** Prior to the commencement of Licensee's initial installation, and again prior to any installation of any additional equipment, Licensee shall submit to Licensor for review and approval, detailed plans and specifications accurately describing all aspects of the proposed work relating to the construction, installation, relocation, and reconfiguration of Licensee's Approved Equipment on the Tower. Licensee shall provide notice to Licensor no less than five (5) days prior to the date upon which Licensee intends to commence Work at the Tower Facility, together with a construction schedule, so Licensor has the opportunity to be present during any such Work. Licensee shall not commence Work on the Tower Facility until Licensor issues to Licensee a NTP. Licensor shall issue a NTP only upon request from Licensee and receipt of the following complete and accurate documentation: (1) evidence that any contingencies set forth in the approval of Licensee's Application have been satisfied; (2) evidence that Licensee has obtained all required governmental approvals including, but not limited to, zoning approvals, building permits, and any applicable environmental approvals including copies of the same; (3) a copy of the plans and specifications that have been approved by Licensor for the proposed equipment installation; (4) evidence that any party, other than Licensor but including Licensee, that will be performing the Work are on Licensor's approved vendor list, with valid and current worker's compensation and general liability insurance certificates on file with Licensor naming Licensor as an additional insured and which otherwise satisfy the insurance coverage requirements set forth in Subsection 15(d) of this Agreement; and (5) a construction schedule. In no event will a NTP be issued prior to the payment by Licensee of a Relocation Application Fee when required pursuant to Subsection 10(c) of this Agreement. Notwithstanding anything to the contrary in this Agreement, Licensor reserves the right, in its sole discretion, to refuse to permit any person or company to climb the Tower.

(b) **Structural Analysis/Interference Analysis.** Prior to the commencement of any Work on the Tower Facility by or for the benefit of Licensee, Licensor may, in its reasonable discretion, perform or cause to be performed a structural analysis or require a professional engineer's certified letter to determine the availability of capacity at the Tower Facility for the installation or modification of any Approved Equipment and/or additional equipment at the Licensed Space by Licensee. Licensee agrees to remit payment to Licensor for all reasonable costs and expenses incurred by Licensor for such structural analysis or professional engineer's certified letter ("**Structural Analysis Fee**") within thirty (30) days following receipt of an invoice from Licensor. The foregoing charge shall be at Licensor's prevailing rates for the performance of same or the amount Licensor's vendor is then charging Licensor, as applicable. In the event a structural analysis is performed after the execution of this Agreement but prior to the initial installation of the Approved Equipment, and such analysis indicates that the existing Tower cannot accommodate the proposed installation of Licensee's Approved Equipment thereon, Licensor shall notify Licensee that modification of the Tower is required and inform Licensee of the fee Licensor will charge Licensee to complete such modification (which fee shall be a reasonable estimate of Licensor's actual cost of making such modifications). Such modification shall become part of the Tower Facility and be Licensor's sole property. If Licensee elects not to pay such fee, and Licensee and Licensor do not otherwise reach an agreement regarding the costs of such modification, Licensee may terminate this Agreement upon written notice to Licensor. Prior to the commencement of any initial or subsequent construction or installation on the Tower Facility by or for the benefit of Licensee and/or the modification of Licensee's Permitted Frequencies propagated from the Licensed Space, Licensor may elect to perform a shared site interference study ("**SSIS**") and Licensee shall pay Licensor a fee of One Thousand Six Hundred and 00/100 Dollars (\$1,600.00) per study ("**SSIS Fee**"), as adjusted annually on the anniversary of the Commencement Date by a percentage rate equal to the Annual Escalator. This fee shall be payable at the time Licensee pays

the Relocation Application Fee where required pursuant to Subsection 10(c) of this Agreement, or immediately upon receipt of notice from Licensor that Licensor has determined that a SSIS is required. In the event a SSIS is performed after the execution of this Agreement by Licensor but prior to the installation of Licensee's Approved Equipment, and such SSIS indicates that the proposed installation of Licensee's Approved Equipment on the Tower is acceptable, such an indication in no way relieves Licensee of its obligations under Section 11 herein.

(c) **Equipment; Relocation, Modification, Removal.** Licensor hereby grants Licensee reasonable access to the Licensed Space for the purpose of installing and maintaining the Approved Equipment and its appurtenances. Except as otherwise provided, Licensee shall be responsible for all site Work to be done on the Licensed Space or the Easement pursuant to this Agreement. Licensee shall provide all materials and shall pay for all labor for the construction, installation, operation, maintenance, and repair of the Approved Equipment. Licensee shall not construct, install, or operate any equipment or improvements on the Tower Facility other than those which are described on Exhibit A, alter the Permitted Frequencies, or alter the operation of the Approved Equipment. Licensee shall submit an Application, utilizing Licensor's then current form, to request the right to replace or modify its Approved Equipment, alter the Permitted Frequencies or increase the Ground Space, which Application shall be accompanied by a Relocation Application Fee. Licensor shall evaluate for approval the feasibility of Licensee's request, which approval shall be in Licensor's sole discretion. Licensee acknowledges that any such relocation or modification of the Approved Equipment may result in an increase in the Monthly License Fee. An amendment to this Agreement shall be prepared to reflect each addition or modification to Licensee's Approved Equipment to which Licensor has given its written consent and the resulting increase in the Monthly License Fee, if any. Licensee shall have the right to remove all Approved Equipment at Licensee's sole expense on or before the expiration or earlier termination of the License provided Licensee repairs any damage to the Tower Facility or the Tower caused by such removal. Within thirty (30) days of the expiration or termination of this Agreement for any reason, Licensee shall: (i) remove the Approved Equipment and any other property of Licensee at the Tower Facility at Licensee's sole risk, cost, and expense; (ii) deliver the Licensed Space in substantially the same and in as good a condition as received (ordinary wear and tear excepted); and (iii) repair any damage caused by the removal of the Approved Equipment within ten (10) days of the occurrence of such damage. If Licensee fails to timely pay the Holdover Fee or does not remove its Approved Equipment within thirty (30) days after the expiration or termination of this Agreement, (i) the Approved Equipment shall be deemed conclusively and absolutely abandoned by Licensee and anyone claiming by, through, or under Licensee except for Hazardous Substances and waste and Approved Equipment containing Hazardous Substances and waste; and (ii) Licensor shall have the right to remove the Approved Equipment at Licensee's sole expense and dispose of such Approved Equipment in any manner Licensor so elects, and Licensee shall reimburse Licensor for its expenses upon demand without off-set.

11. RF INTERFERENCE/ USER PRIORITY.

(a) **Definitions.** For purposes of this Section 11, the following capitalized terms shall have the meanings set forth herein:

(i) **Interference** includes any performance degradation, misinterpretation, or loss of information to a radio communications system caused by unwanted energy emissions, radiations, or inductions, but shall not include permissible interference as defined by the FCC, and in addition, with regard to Unlicensed Frequencies, congestion.

(ii) **Licensed Frequencies** are those certain channels or frequencies of the radio frequency spectrum that are licensed by the FCC in the geographic area where the Tower Facility is located.

(iii) **A Licensed User** is any user of the Tower Facility, including Licensee, which transmits and/or receives Licensed Frequencies at the Tower Facility, but only with respect to such Licensed Frequencies.

(iv) A **Priority User** is any Licensed User of the Tower Facility that holds a priority position in relationship to Licensee for protection from Interference, as determined in this Section 11, which status is subject to change as set forth herein.

(v) A **Subsequent User** is any user of the Tower Facility that holds a subordinate position in relationship to Licensee for protection from Interference, as determined in this Section 11, which status is subject to change as set forth herein.

(vi) **Unlicensed Frequencies** are those certain channels or frequencies of the radio frequency spectrum that are not licensed by the FCC and are available for use by the general public in the geographic area where the Tower Facility is located.

(vii) An **Unlicensed User** is any user of the Tower Facility, including Licensee, which transmits and/or receives Unlicensed Frequencies at the Tower Facility, but only with respect to such Unlicensed Frequencies.

(b) **Information.** Licensee shall cooperate with Licensor and with other lessees, licensees, or occupants of the Tower Facility for purposes of avoiding Interference and/or investigating claims of Interference. Upon request, Licensee, within ten (10) days of Licensor's request, shall provide Licensor with a list of Licensee's transmit and receive frequencies and Approved Equipment specifications necessary to resolve or investigate claims of Interference.

(c) **Unlicensed Frequencies.** Notwithstanding any other provision contained herein, as among Licensor, Licensee and other users of the Tower or Tower Facility, (i) an Unlicensed User shall have no priority with respect to any other FCC Unlicensed Users with respect to Interference; and (ii) an Unlicensed User's rights and obligations with respect to such Interference shall be determined and governed by FCC Rules and Regulations and any other Applicable Law. Licensor expressly disclaims any and all warranties and accepts no responsibility for management, mediation, mitigation or resolution of Interference among FCC Unlicensed Users operating at the Tower Facility and shall have no liability therefor.

(d) **Licensed Frequencies.** Subject to FCC Rules and Regulations and other Applicable Law, the Parties acknowledge and agree that the accepted industry standard for priority protection from Interference between multiple Licensed Users has been based on the priority of occupancy of each user to another user of the Tower or Tower Facility, which priority has been based on the order of submittal of its collocation Application by each user of the Tower or Tower Facility. Should the application of FCC Rules and Regulations and other Applicable Law not resolve any claims of Interference consistent with Subsections 11(e), 11(f) and 11(g) below, as among Licensor, Licensee and other users of the Tower Facility, (i) each Licensed User's priority shall be maintained so long as the Licensed User does not change the equipment and/or frequency that it is entitled to use at the Tower Facility at the time of its initial occupancy; and (ii) Licensee acknowledges and agrees that if Licensee replaces its Approved Equipment or alters the radio frequency of the Approved Equipment to a frequency range other than as described on page 1 of this Agreement, Licensee will lose its priority position for protection from Interference with regard to Approved Equipment operating at the new frequency in its relationship to other Licensed Users which are in place as of the date Licensee replaces its Approved Equipment or alters its radio frequency, consistent with this Section 11.

(e) **Correction.**

(i) **Licensee.** Licensee agrees not to cause Interference with the operations of any other user of the Tower or Tower Facility and to comply with all other terms and provisions of this Section 11 imposed upon Licensee. If Licensor determines, in its reasonable discretion based on standard and accepted engineering practices, that Licensee's Approved Equipment is causing Interference to the installations of Licensor or a Priority User, Licensee shall, within 48 hours of notification from Licensor, take such actions as are necessary to mitigate or eliminate the Interference, with the exception of ceasing Licensee's operations. If Licensee cannot mitigate or eliminate such Interference within the 48 hour period,

Licensor may file a complaint with the FCC (currently the FCC's Enforcement Bureau, Spectrum Enforcement Division) or if such other user of the Tower Facility which is subject to Interference from Licensee's Approved Equipment is a Priority User, then upon the request of such Priority User consistent with Licensor's contractual obligations owed to the Priority User, Licensor may require that Licensee turn off or power down its interfering Approved Equipment and only power up or use such Approved Equipment during off-peak hours specified by Licensor in order to test whether such Interference continues or has been satisfactorily eliminated. If Licensee is unable to resolve or eliminate, to the satisfaction of Licensor, such Interference within thirty (30) days from Licensee's initial notification thereof, Licensee will immediately remove or cease operations of the interfering Approved Equipment.

(ii) **Licensor.** Upon the request of Licensee, Licensor hereby covenants to take commercially reasonable efforts to prohibit a Subsequent User from causing Interference with the operations of Licensee to the extent Licensee is a Priority User pursuant this Section 11. If Licensor determines, in its reasonable discretion based on standard and accepted engineering practices, that a Subsequent User's equipment is causing Interference to the installations of Licensee, upon Licensee's request, Licensor shall, within 48 hours of request, commence such actions as are necessary to mitigate or eliminate the Interference, with the exception of ceasing Subsequent User's operations.

(iii) **Government Users.** Notwithstanding the foregoing, if another user of the Tower or Tower Facility is a governmental entity, Licensor shall give such governmental entity written notice of the Interference within five (5) Business Days of Licensor's determination that such action is reasonably necessary. Licensor shall have the right to give the governmental entity five (5) Business Days, or more as specified in the governmental site or occupancy agreement or as required by Applicable Law, from the receipt of such notice prior to Licensor being required to take any actions required by this Subsection 11(e) to cure such Interference.

(f) **FCC Requirements Regarding Interference.** Nothing herein shall prejudice, limit, or impair Licensee's rights under Applicable Law, including, but not limited to, FCC Rules and Regulations to redress any Interference independently of the terms of this Section 11. Notwithstanding anything herein to the contrary, the provisions set forth in this Section 11 shall be interpreted in a manner so as not to be inconsistent with Applicable Law, including, but not limited to, FCC Rules and Regulations and nothing herein relieves Licensee from complying with all Applicable Laws governing the propagation of radio frequencies and/or radio frequency interference. The Parties acknowledge that currently FCC Rules and Regulations govern the obligations of wireless telecommunication service providers with respect to the operation of equipment and use of frequencies. Consequently, the provisions set forth in this Section 11 are expressly subject to CFR, Title 47, including but not limited to Part 15, et seq, governing Radio Frequency Devices; Part 20, et seq, governing commercial mobile radio services; Part 24, et seq, governing personal communications services; Part 90, et seq, governing private land mobile radio services; and Part 96, et seq, governing Citizens Broadband Radio Service. In addition, in accordance with good engineering practice and standard industry protocols, licensees employ a wide range of techniques and practices, including those involving the use of proper types of equipment as well those related to the adjustment of operating parameters, in a mutually cooperative effort to identify and mitigate sources of Interference. The obligation of Part 20 licensees, including, but not limited to, private paging, specialized mobile radio services, cellular radiotelephone service and personal communications services, to avoid Interference is set forth in 47 CFR Part 90, Subpart N – Operating Requirements, §90.403(e). Claims of Interference are ultimately cognizable before the FCC's Enforcement Bureau, Spectrum Enforcement Division. Licensee shall observe good engineering practice and standard industry protocols, applying such commercially reasonable techniques as constitute best practices among licensees, in the deployment of their frequencies and the operation of the Approved Equipment. If Licensee deploys its frequencies or operates the Approved Equipment in a manner which prevents any other user of the Tower or Tower Facility from decoding signal imbedded in their licensed frequencies such that the Spectrum Enforcement Division makes a determination that Licensee is the cause of the Interference and Licensee fails or refuses to mitigate or eliminate the Interference within the time and in the manner prescribed by the Spectrum Enforcement Division, Licensee shall be default of this Agreement and the remedies set forth in Section 22 shall apply.

(g) **Public Safety Interference.** As of the Commencement Date, Licensor and Licensee are aware of the publication of FCC Final Rule, Private Land Mobile Services; 800 MHz Public Safety Interference Proceeding, *Federal Register*: November 22, 2004 (Volume 69, Number 224), Rules and Regulations, Page 67823-67853 ("**Final Rule**"). Claims of Interference made by or against users which are public safety entities shall be in compliance with the Final Rule as and when effective, or otherwise in accordance with FCC Rules and Regulations.

(h) **AM Detuning.** The parties acknowledge that the FCC Rules and Regulations govern the obligations of Licensee with respect to the operation of the Approved Equipment. Consequently, the provisions set forth in this Agreement are expressly subject to the FCC Rules and Regulations, including, but not limited to 47 C.F.R. §§ 27.63, 22.371 and 73.1692. Licensee agrees, at Licensee's sole cost, to comply with the foregoing as well as any and all other FCC Rules, Regulations and public guidance relating to AM detuning as such provisions currently exist or are hereafter modified. Licensee shall be fully responsible for any pre and/or post installation testing for AM interference at the Tower Facility and for the installation of any new detuning apparatus or the adjustment of any existing detuning apparatus that may be necessary to prevent adverse effects on the radiation pattern of any AM station caused by the installation of the Approved Equipment. Licensee shall provide Licensor with written proof of such compliance. In the event that Licensee determines that pre or post-installation testing for AM interference is not required at the Tower Facility, such a determination shall be at Licensee's sole risk. If Licensee or Licensor receives a complaint of interference from an AM broadcast station after the Approved Equipment is added to a Tower or a Tower is modified to accommodate Licensee, Licensee shall eliminate such interference within thirty (30) days of the receipt of such complaint. Licensee's failure to eliminate such interference within such thirty (30) day period shall constitute a default under this Agreement and Licensor shall have the right to eliminate such interference at Licensee's expense. Licensee further agrees to indemnify Licensor in the event that Licensee's failure to comply with the FCC Rules and Regulations prior to installation/modification of the Approved Equipment results in any administrative investigation, proceeding or adjudication with respect to Licensor.

12. SITE RULES AND REGULATIONS.

Licensee agrees to comply with the reasonable rules and regulations established from time to time at the Tower Facility by Licensor, which may be modified by Licensor from time to time upon receipt by Licensee of such revised rules and regulations. Such rules and regulations will not unreasonably interfere with Licensee's use of the Licensed Space under this Agreement.

13. DESTRUCTION; CONDEMNATION.

(a) **Destruction.** If the Tower or other portions of the improvements at the Tower Facility owned by Licensor are destroyed or so damaged as to materially interfere with Licensee's use and benefits from the Licensed Space, Licensor or Licensee shall be entitled to elect to cancel and terminate this Agreement on the date of such casualty and any unearned Monthly License Fee paid in advance of such date shall be refunded by Licensor to Licensee within thirty (30) days of such termination date. Notwithstanding the foregoing, Licensor may elect, in its sole discretion, to restore the damaged improvements, in which case Licensee and Licensor shall remain bound to the terms of this Agreement but Licensee shall be entitled to an abatement of the Monthly License Fee during the loss of use. If the Tower is so damaged that reconstruction or repair cannot reasonably be undertaken without removing the Approved Equipment, then (i) Licensor may, upon giving written notice to Licensee, remove any of the Approved Equipment and interrupt the signal activity of Licensee, (ii) Licensee may, at Licensee's sole cost and expense, install temporary facilities pending such reconstruction or repair, provided such temporary facilities do not interfere with the construction, rebuilding or operation of the Tower, (iii) Licensor agrees to provide Licensee alternative space, if available, on the Tower or at the Tower Facility during such reconstruction/repair period and (iv) should Licensor not substantially restore or replace the Tower in a fashion sufficient to allow Licensee to resume operations thereon within 6 months of the date of casualty, provided that such 6 month period shall be automatically extended for so long as Licensor has commenced and diligently continues to restore or replace such Tower, and Licensee's operation has been materially

disrupted for sixty (60) or more consecutive days, then Licensee, upon thirty (30) days' prior written notice to Licensor, may terminate this Agreement.

(b) **Condemnation.** If the whole or any substantial part of the Tower Facility shall be taken by any public authority under the power of eminent domain or in deed or conveyance in lieu of condemnation so as to materially interfere with Licensee's use thereof and benefits from the Licensed Space, then this Agreement shall terminate on the part so taken on the date of possession by such authority of that part, and Licensor or Licensee shall have the right to terminate this Agreement and any unearned Monthly License Fee paid in advance of such termination shall be refunded by Licensor to Licensee within thirty (30) days following such termination. Notwithstanding the foregoing, Licensor may elect to rebuild the Tower or other improvements affected by such condemnation at an alternate location or property owned, leased, or managed by Licensor, in which case Licensee and Licensor shall remain bound hereby. Upon such relocation of the Tower or improvements, the Licensed Space shall be modified to include the new Tower or improvements and the property on which the same are located and this Agreement shall be amended accordingly to clarify the rights of Licensor and Licensee with respect to the Licensed Space. Licensee agrees not to make a claim to the condemning authority for any condemnation award to the extent such claim shall diminish or affect the award made to Licensor with regard to such condemnation.

(c) **License Fee Abatement.** The Monthly License Fee with respect to the affected Tower Facility shall be abated during any period that the Tower has not been restored following an event described in Subsections (a) or (b) above so long as Licensee is unable to continue to operate from a temporary location at the Tower Facility during any period of restoration.

14. COMPLIANCE WITH LAWS.

Licensor shall be responsible for compliance with any marking and lighting requirements of the FAA and the FCC applicable to the Tower Facility, provided that if the requirement for compliance results from the presence of the Approved Equipment on the Tower, Licensee shall pay the costs and expenses therefor (including any lighting automated alarm system so required). Licensee has the responsibility of carrying out the terms of Licensee's FCC license with respect to tower light observation and notification to the FAA if those requirements imposed on Licensee are in excess of those required of Licensor. Notwithstanding anything to the contrary in this Agreement, Licensee shall at all times comply with all Applicable Laws and ordinances and all rules and regulations of municipal, state and federal governmental authorities relating to the installation, maintenance, location, use, operation, and removal of the Approved Equipment and other alterations or improvements authorized pursuant to the provisions of this Agreement.

15. INDEMNIFICATION; INSURANCE.

(a) **Mutual Indemnity.** Subject to the mutual waiver of subrogation set forth in Section 27, Licensee and Licensor each indemnifies the other against and holds the other harmless from any and all costs, demands, Damages, suits, expenses, or causes of action (including reasonable attorney's fees and court costs) which arise out of the use and/or occupancy of the Licensed Space by the Indemnifying Party. This indemnity does not apply to any Claims to the extent arising from the gross negligence or intentional misconduct of the Indemnified Party.

(b) **Limits on Indemnification.** Neither Party shall be responsible or liable to any of the foregoing Indemnified Parties for any Damages arising from any claim to the extent attributable to any acts or omissions of other licensees or users occupying the Tower Facility or for any structural or power failures or destruction or damage to the Tower Facility except to the extent caused by the sole, joint, or concurrent gross negligence or willful misconduct of such Party.

(c) **Survival.** The provisions of this Section 15 shall survive the expiration or earlier termination of this Agreement with respect to any events occurring on or before expiration or termination of same whether or not Claims relating thereto are asserted before or after such expiration or termination.

(d) **Insurance.** Licensor and Licensee shall keep in full force and effect, during the Term of this Agreement, insurance coverage in accordance with Appendix II attached hereto.

16. LIMITATION OF PARTIES' LIABILITY.

NEITHER LICENSOR NOR LICENSEE SHALL BE RESPONSIBLE FOR, AND HEREBY WAIVES ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES INCURRED RESULTING FROM (i) LICENSEE'S USE OR LICENSEE'S INABILITY TO USE THE TOWER FACILITY, OR (ii) DAMAGE TO THE OTHER'S EQUIPMENT. If Licensor shall fail to perform or observe any term, condition, covenant or obligation required to be performed or observed by it under this Agreement or is charged with an indemnity obligation hereunder, and if Licensee shall, as a consequence thereof, recover a money judgment against Licensor (whether compensatory or punitive in nature), Licensee agrees that it shall look solely to Licensor's right, title and interest in and to the Tower Facility and the Tower for the collection of such judgment, and Licensee further agrees that no other assets of Licensor shall be subject to levy, execution or other process for the satisfaction of Licensee's judgment, and that Licensor shall not be personally liable for any deficiency.

17. DISCLAIMER OF WARRANTY.

LICENSOR HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ASSOCIATED WITH THE TOWER FACILITY OR THE TOWER. LICENSEE HEREBY ACCEPTS THE TOWER FACILITY "AS IS, WHERE IS, WITH ALL FAULTS."

18. NOTICES.

All notices, demands, approvals, requests and other communications shall be in writing to such Party at the address listed in the introductory paragraph of this Agreement (and in each case, in the event of notice to Licensor, with a copy of such notice to American Towers LLC, 116 Huntington Avenue, Boston, MA 02116, Attention: General Counsel) or at such other address as such Party shall designate by notice to the other Party hereto in accordance with this Section 18 (the "**Notice Address**") and may be personally delivered; mailed, via United States certified mail, return receipt requested; or transmitted by overnight courier for next Business Day delivery, and, if not delivered personally, shall be deemed to be duly given or made two (2) Business Days after deposit with the applicable carrier or courier. Notices will be deemed to have been given upon either receipt or rejection. Notwithstanding the foregoing, (i) any notice that is given by a Party may be given by the attorneys for that Party and shall be deemed effective for all purposes herein, and (iii) only notices, letters, documents, or instruments threatening to declare or declaring such addressee or recipient in default under this Agreement shall be required to be sent to the attorneys representing such addressee or recipient, if the name and address of such attorney is provided for herein.

19. ASSIGNMENT; SUBLEASING.

Licensee may not, directly or indirectly, assign this Agreement as a whole, or any portion of Licensee's rights, title and interests hereunder without Licensor's prior written consent. In no event may Licensee sublet, sublease, or permit any use of the Tower Facility or Licensed Space by any other party. Any permitted assignee shall expressly assume, and become bound by, all of Licensee's obligations under this Agreement. Licensor may freely assign, transfer, or sublease this Agreement and, in such event, Licensor shall be relieved of all of its obligations under this Agreement from and after the date of such assignment or transfer. Licensee shall pay Licensor a fee of Five Hundred and 00/100 Dollars (\$500.00) (which fee shall increase annually on each anniversary of the Commencement Date by a percentage rate increase equal to the Annual Escalator) in each instance in which Licensee requests Licensor to consent to an assignment of this Agreement or in which Licensee seeks an estoppel certificate, non-disturbance agreement, subordination agreement or other similar agreement to defray the administrative cost incurred by Licensor to process such requests, prepare and process any necessary documentation, and modify its database and other information systems to reflect any such agreement. Such fee is due upon submission of Licensor's request and is hereby deemed fully earned by Licensor upon receipt. Notwithstanding anything to the contrary, Licensor may condition its consent to any assignment, on among other things, (i) requiring

that the assignee execute a new form of license agreement so long as the Monthly License Fee and Initial and Renewal Terms of such agreement are consistent with those set forth in this Agreement, and (ii) requiring the assignee to demonstrate that it maintains at the time of such assignment, as evidenced by current financial statements provided to Licensor, a financial position reasonably demonstrating the ability of such assignee to meet and perform the obligations of Licensee hereunder through the unexpired balance of the then current Initial Term or Renewal Term. Any purported assignment by Licensee in violation of the terms of this Agreement shall be void. This Agreement shall be binding upon the successors and permitted assigns of both Parties.

20. SUBORDINATION TO GROUND LEASE.

The Parties acknowledge and agree that in the event Licensor's rights in the Licensed Space and/or any part of the Tower Facility is derived in whole or part pursuant to an underlying lease, sublease, permit, easement or other right of use agreement (a "**Ground Lease**"), all terms, conditions and covenants contained in this Agreement shall be specifically subject to and subordinate to the terms and conditions of the applicable Ground Lease. In the event that any of the provisions of the Ground Lease are in conflict with any of the provisions of this Agreement (other than those provisions relating to the length of term, termination rights or financial consideration), the terms of the Ground Lease shall control. Further, Licensee agrees to comply with the terms of such Ground Lease as applicable to the access and occupancy of the Licensed Space. Notwithstanding anything contained in this Agreement to the contrary, if the Ground Lease expires or is terminated for any reason, this Agreement shall terminate on the effective date of such termination and Licensor shall have no liability to Licensee as a result of the termination of this Agreement. Licensor is under no obligation to extend the term of or renew the Ground Lease. Licensor shall give Licensee written notice of such termination or expiration of this Agreement as a result of the termination or expiration of the Ground Lease as soon as practicable. Unless prohibited by the terms of such Ground Lease, upon Licensee's written request, Licensor shall provide a copy of any applicable Ground Lease with the economic terms and other terms that Licensor deems reasonably confidential redacted.

21. DEFAULT.

The occurrence of any of the following instances shall be considered to be a default or a breach of this Agreement by Licensee: (i) any failure of Licensee to pay the Monthly License Fee, or any other charge for which Licensee has the responsibility of payment under this Agreement, within ten (10) Business Days of the date following written notice to Licensee from Licensor, or its designee, of such delinquency, it being understood, however, that Licensor is obligated to provide such notice only two times in each calendar year, and the third instance of the failure to pay the Monthly License Fee or any other charge shall be an immediate default without notice to Licensee if not paid within ten (10) Business Days of the date when due; (ii) except for a PCN Default for which the cure period is set forth in clause (iv) below, any failure of Licensee to perform or observe any term, covenant, provision or condition of this Agreement which failure is not corrected or cured by Licensee within thirty (30) days of receipt by Licensee of written notice from Licensor, or its designee, of the existence of such a default; except such thirty (30) day cure period shall be extended as reasonably necessary to permit Licensee to complete a cure so long as Licensee commences the cure within such thirty (30) day cure period and thereafter continuously and diligently pursues and completes such cure; (iii) failure of Licensee to abide by the Interference provisions as set forth in Section 11; (iv) a PCN Default occurs that Licensee fails to cure within ten (10) days of Licensor's written notice to Licensee, or its designee of the existence of such default; (v) Licensee shall become bankrupt, insolvent or file a voluntary petition in bankruptcy, have an involuntary petition in bankruptcy filed against Licensee which cannot be or is not dismissed by Licensee within sixty (60) days of the date of the filing of the involuntary petition, file for reorganization or arrange for the appointment of a receiver or trustee in bankruptcy or reorganization of all or a substantial portion of Licensee's assets, or Licensee makes an assignment for such purposes for the benefit of creditors; (vi) this Agreement or Licensee's interest herein or Licensee's interest in the Tower Facility are executed upon or attached; (vii) Licensee commits or fails to perform an act which results in a default under or nonconformance with the Ground Lease by Licensor and the same shall not be cured within five (5) Business Days (or such shorter time as permitted under the Ground Lease to cure) of the date following written notice to Licensee from Licensor, or its designee, of such default; or (viii) the imposition of any lien on the Approved Equipment except as may be expressly

authorized by this Agreement, or an attempt by Licensee or anyone claiming through Licensee to encumber Licensor's interest in the Tower Facility, and the same shall not be dismissed or otherwise removed within ten (10) Business Days of written notice from Licensor to Licensee.

22. REMEDIES.

In the event of a default or a breach of this Agreement by Licensee and after Licensee's failure to cure the same within the time allowed Licensee to cure such default, if applicable, then Licensor may, in addition to all other rights or remedies Licensor may have hereunder at law or in equity, (i) terminate this Agreement by giving written notice to Licensee, stating the date upon which such termination shall be effective, accelerating and declaring to be immediately due and payable the then present value of all Monthly License Fees and other charges or fees which would have otherwise been due Licensor absent a breach of this Agreement by Licensee, discounted by an annual percentage rate equal to five percent (5%), (ii) terminate electrical power to the Approved Equipment, and/or (iii) remove the Approved Equipment without being deemed liable for trespass or conversion and store the same at Licensee's sole cost and expense for a period of thirty (30) days after which the Approved Equipment, other than Hazardous Substances, will be deemed conclusively abandoned if not claimed by Licensee. Licensee shall pay all reasonable attorney's fees, court costs, removal and storage fees (including any damage caused thereby), and other items of cost reasonably incurred by Licensor in recovering the Monthly License Fee or other fee or charge. Licensee shall not be permitted to claim the Approved Equipment until Licensor has been reimbursed for removal and storage fees. Past due amounts under this Agreement will bear interest from the date upon which the past due amount was due until the date paid at a rate equal to eighteen percent (18%) per annum, or at a lower rate if required by law in the state in which this Agreement is to be performed. In addition, Licensee shall be assessed a late payment fee equal to twenty-five percent (25%) of the then-current Monthly License Fee for any payment or reimbursement due to Licensor under this Agreement which is overdue by ten (10) days or more and such fee shall be assessed for each thirty (30) day period thereafter that any such amount (or portion thereof) remains unpaid.

23. GOVERNMENTAL APPROVALS; PERMITS.

In the event that any governmental permit, approval or authorization required for Licensor's use of, operation of, or right to license space to Licensee at the Tower Facility is terminated or withdrawn by any governmental authority or third party as part of any governmental, regulatory, or legal proceeding, Licensor may terminate this Agreement. Licensee hereby agrees that in the event of a governmental or legal order requiring the removal of the Approved Equipment from the Tower, the modification of the Tower, or the removal of the Tower, Licensee shall remove the Approved Equipment promptly, but in no event later than the date required by such order, at Licensee's sole cost and expense. Licensor shall cooperate with Licensee in Licensee's efforts to obtain any permits or other approvals that may be necessary for Licensee's installation and operation of the Approved Equipment, provided that Licensor shall not be required to expend any funds or undertake any liability or obligation in connection with such cooperation. Licensor may elect to obtain such required approvals or permits on Licensee's behalf, at Licensee's sole cost and expense. In no event may Licensee encourage, suggest, participate in or permit the imposition of any restrictions or additional obligations whatsoever on the Tower Facility or Licensor's current or future use or ability to license space at the Tower Facility as part of or in exchange for obtaining any such approval or permit. In the event that Licensee's shelter or cabinets are installed above a third-party or Licensor-owned shelter or building, Licensee shall be solely responsible for obtaining any required approvals, or permits in connection with such shelter or cabinet installation, excepting the consent of other users at the Tower Facility and/or the ground landlord which shall remain the sole responsibility of Licensor where required.

24. REPLACEMENT OF TOWER/RELOCATION OF APPROVED EQUIPMENT.

(a) **Replacement of Tower.** Licensor may, at its election, replace or rebuild the Tower or a portion thereof. Such replacement will (i) be at Licensor's sole cost and (ii) not result in an interruption of Licensee's communications services beyond that which is necessary to replace the existing Tower. If Licensee, in Licensee's reasonable discretion, cannot operate the Approved Equipment from the existing Tower during such replacement or rebuild of the Tower, Licensee may establish, at Licensee's sole cost, a

temporary facility on the Tower Facility to provide such services as Licensee deems necessary during any such construction by Licensor so long as adequate space is then available. The location of such temporary facilities shall be subject to Licensor's approval. The Monthly License Fee due hereunder shall be abated for any period during which Licensee is prevented from broadcasting from the existing Tower due to such replacement or relocation. At the request of either Party, Licensor and Licensee shall enter into an amendment to this Agreement to clarify the rights of Licensor and Licensee to the new Tower Facility.

(b) **Relocation of Approved Equipment.** In the event another Paying Carrier (as hereinafter defined) desires to occupy the space on the Tower (which includes any necessary vertical separation as determined by Licensor) where Licensee's Approved Equipment is then located (the "**Trigger Condition**"), Licensor reserves the right to require Licensee to decide whether to (i) terminate this Agreement, (ii) relocate Licensee's Approved Equipment located at the Tower Facility, at Licensee's sole cost and expense, to another antenna mount height on the Tower, or (iii) increase the Monthly License Fee to that which would initially be paid by the Paying Carrier ("**Paying Carrier Rate**"), all in accordance with the terms and provisions provided in this Subsection 24(b). Upon the Trigger Condition occurring, Licensor may notify Licensee in writing ("**Relocation Notice**") that the Trigger Condition has occurred and if other spaces or antenna mount heights are available to accommodate Licensee's Approved Equipment on the Tower (without the requirement of any improvements to the Tower by Licensor), indicate which other spaces or antenna mount heights are so available and, also, indicate the Paying Carrier Rate. Within ten (10) Business Days of Licensee's receipt of the Relocation Notice, Licensee will be required to inform Licensor in writing of its election either to (A) increase the Monthly License Fee to the Paying Carrier Rate (which would thereafter be subject to escalation of the Monthly License Fee generally as otherwise provided in this Agreement) and continue to occupy the same space or antenna mount height on the Tower; (B) provided other spaces or antenna mount height are available on the Tower, relocate Licensee's Approved Equipment to one of the other such spaces or antenna mount height as specified in the Relocation Notice; or (C) remove Licensee's Approved Equipment from Tower and terminate this Agreement. If Licensee elects option (A), then such election shall be effective and the Monthly License Fee shall increase effective upon the eleventh Business Day after Licensee's receipt of the Relocation Notice without further act or deed. If Licensee elects option (B), if such option is available, and notifies Licensor that it elects to relocate its Approved Equipment to a particular antenna mount height or space specified in the Relocation Notice, Licensee shall have forty-five (45) days of Licensee's receipt of the Relocation Notice to relocate its Approved Equipment on the Tower to such elected space or antenna mount height at Licensee's sole cost and expense, such relocation to be subject to all of the terms and conditions of this Agreement otherwise imposed. If Licensee elects or is deemed to elect option (C), Licensee will remove its Approved Equipment from the Tower Facility within forty-five (45) days of Licensee's receipt of the Relocation Notice, such removal to be subject to all terms and conditions of this Agreement otherwise imposed. If Licensor fails to receive notice from Licensee within such ten (10) Business Day period as to whether Licensee elects option (A), (B) or (C), then Licensee shall be deemed conclusively to have elected option (C). If Licensee elects option (B) or elects or is deemed to elect option (C), if Licensee fails to relocate or remove the Approved Equipment within such time period as required above, TIME BEING OF THE ESSENCE, then the Approved Equipment shall be deemed conclusively and absolutely abandoned by Licensee and anyone claiming by, through, or under Licensee except for Hazardous Substances and waste and equipment containing Hazardous Substances and waste, which shall be removed by Licensee from the Tower Facility immediately; and Licensor shall have the right to remove the Approved Equipment at Licensee's sole expense and dispose of such Approved Equipment in any manner Licensor so elects, and Licensee shall reimburse Licensor for its expenses upon demand without off-set. For purposes of this Subsection, a "**Paying Carrier**" is a paying carrier or potential licensee of Licensor which, through a written Application or offer, offers to monetarily compensate Licensor for the right to use the space on the Tower included in the Licensed Space.

(c) **Tower Removal:** If during the term of this Agreement Licensor determines based on engineering structural standards generally applied to communications towers that the Tower is or has become structurally unsound such that pursuant to generally accepted industry safety standards the Tower or a portion thereof must be removed, then, upon ninety (90) days' prior written notice to Licensee, Licensor may, in its sole discretion either (i) remove the Tower and terminate this Agreement effective as of the date of such removal, or (ii) modify the Tower and relocate Licensee's Approved Equipment to an alternative

location on the modified Tower. If Licensee and Licensor are not able to agree on an alternative location on the modified Tower for the installation of Licensee's Approved Equipment within the foregoing ninety (90) day notice period, then Licensee or Licensor may elect to terminate this Agreement.

25. EMISSIONS.

If antenna power output ("**RF Emissions**") is presently or hereafter becomes subject to any restrictions imposed by the FCC or other governmental agency for RF Emissions standards on Maximum Permissible Exposure ("**MPE**") limits, or if the Tower Facility otherwise becomes subject to federal, state or local rules, regulations, restrictions or ordinances, Licensee shall comply with Licensor's reasonable requests for modifications to the Approved Equipment which are reasonably necessary for Licensor to comply with such limits, rules, regulations, restrictions or ordinances and Licensor shall use commercially reasonable efforts to cause all other licensees of the Tower Facility to promptly comply. If Licensor requires an engineering evaluation or other power density study be performed to evaluate RF Emissions compliance with MPE limits, then all reasonable costs of such an evaluation or study shall be paid proportionately by Licensee and all other licensees of the Tower within thirty (30) days of Licensor's request therefor. If said study or a study sponsored by any governmental agency indicates that RF Emissions at the Tower Facility do not comply with MPE limits, then Licensee and Licensor, each for itself, shall immediately take any and all steps necessary to ensure that it is individually in compliance with such limits, up to and including cessation of operation, until a maintenance program or other mitigating measures can be implemented to comply with MPE and in addition, Licensor shall use commercially reasonable efforts to cause all other licensees of the Tower to take similar steps necessary to ensure that they are individually in compliance with such limits.

26. ENVIRONMENTAL.

Licensee covenants that it will not use, store, dispose, or release any Hazardous Substances on the Tower Facility in violation of Applicable Law. Licensee agrees to indemnify and save harmless Licensor against any and all Claims, liabilities, causes of action, Damages, orders, judgments, and clean-up costs arising from Licensee's breach of any of the covenants contained in this Section 26. The obligations of Licensee to indemnify Licensor pursuant to this Section 26 shall survive the termination or expiration of this Agreement.

27. SUBROGATION.

(a) **Waiver.** Licensor and Licensee waive all rights against each other and any of their respective consultants and contractors, agents and employees, for Damages caused by perils to the extent covered by the proceeds of the insurance provided herein, except such rights as they may have to the insurance proceeds. All insurance policies required under this Agreement shall contain a waiver of subrogation provision under the terms of which the insurance carrier of a Party waives all of such carrier's rights to proceed against the other Party. Licensee's insurance policies shall provide such waivers of subrogation by endorsement. Licensee shall require by appropriate agreements, written where legally required for validity, similar waivers from its contractors and subcontractors. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

(b) **Mutual Release.** Notwithstanding anything in this Agreement to the contrary, Licensor and Licensee each release the other and its respective affiliates, employees and representatives from any Claims by them or any one claiming through or under them by way of subrogation or otherwise for Damage to any person or to the Tower Facility and to the fixtures, personal property, improvements and alterations in or on the Tower Facility that are caused by or result from risks insured against under any insurance policy carried by each and required by this Agreement, provided that such releases shall be effective only if and to the extent that the same do not diminish or adversely affect the coverage under such insurance policies and only to the extent of the proceeds received from such policy.

28. GOVERNING LAW.

This Agreement shall be governed by the laws of the state in which the Tower Facility is located, with the exception of its choice of laws provisions. If any provision of this Agreement is found invalid or unenforceable under judicial decree or decision, the remaining provisions of this Agreement shall remain in full force and effect. Any approval, consent, decision, or election to be made or given by a Party may be made or given in such Party's sole judgment and discretion, unless a different standard (such as reasonableness or good faith) is provided for explicitly.

29. MISCELLANEOUS.

Upon Licensor's written request, Licensee shall promptly furnish Licensor with complete and accurate information in response to any reasonable request by Licensor for information about any of the Approved Equipment or utilities utilized by Licensee at the Tower Facility or any of the channels and frequencies utilized by Licensee thereon. In the event that this Agreement is executed by Licensor, its Affiliates or any trade name utilized by Licensor or its Affiliates and such signatory does not hold the real Tower Facility or leasehold interest in the affected Tower Facility, the execution of this Agreement shall be deemed to have been properly executed by Licensor or Licensor's Affiliate which properly holds such interest in the affected Tower Facility. Upon the termination or expiration of this Agreement, Licensee shall immediately upon the request of Licensor deliver a release of any instruments of record evidencing such Agreement. Notwithstanding the expiration or earlier termination of this Agreement, Sections 15, 16, 17, and 26 shall survive the expiration or earlier termination of this Agreement. No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provision herein (whether or not similar), nor shall such waiver constitute a continuing waiver unless expressly agreed to in writing by the affected Party. This Agreement constitutes the entire agreement of the Parties hereto concerning the subject matter herein and shall supersede all prior offers, negotiations and agreements, whether written or oral. No revision of this Agreement shall be valid unless made in writing and signed by authorized representatives of both Parties. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute but one instrument. The Parties agree that a scanned or electronically reproduced copy or image of this Agreement shall be deemed an original and may be introduced or submitted in any action or proceeding as a competent evidence of the execution, terms and existence of this Agreement notwithstanding the failure or inability to produce or tender an original, executed counterpart of this Agreement and without the requirement that the unavailability of such original, executed counterpart of this first be proven.

30. CONFIDENTIALITY.

Neither Party shall use the other's name, service mark or trademark in any public announcement or advertisement without the prior written consent of the other Party, which may be withheld in such Party's sole and absolute discretion.

The submission of this Agreement for examination and negotiation does not constitute an offer to license, or a reservation of, or option for, any portion of the Tower Facility, and Licensee shall have no right to use or occupy any portion of the Tower Facility or any appurtenant easement area hereunder until the execution and delivery of this Agreement by both Licensor and Licensee.

ATTACHED EXHIBITS:

- Exhibit A: List of Approved Equipment and location of the Licensed Space
- Exhibit B: Site Drawings indicating the location of Ground Space for Licensee's equipment shelter or space in Licensor's building (as applicable)
- Exhibit C: As-Built Drawings or Construction Drawings to be attached within forty-five (45) days after the Commencement Date in accordance with Section 3
- Appendix I: Definitions

Appendix II: Insurance

Exhibit A

List of Approved Equipment and location of the Licensed Space

Exhibit B

**Site Drawing indicating the location of Ground Space for Licensee's equipment shelter
or space in Licensor's building (as applicable)**

Licensee shall not commence installation until Licensor has approved in writing said drawing and attached it hereto.

Exhibit C

As Built Drawings or Construction Drawings

To be attached hereto within forty-five (45) days after the Commencement Date.

Appendix I

Defined Terms

Affiliate(s): Any corporation, partnership, limited liability company or other entity that (i) is controlled directly or indirectly (through one or more subsidiaries) by Licensee, (ii) is the successor or surviving entity by a merger or consolidation of Licensee pursuant to Applicable Law, or (iii) purchases all or substantially all of the assets of Licensee. For purposes of this definition, “**control**” means the possession of the right through the ownership of fifty percent (50%) or more of the shares with voting rights to effectively direct the business decisions of the subject entity.

Agreement: defined in the introductory paragraph.

Annual Escalator: defined in Section IV.

Applicable Law: All applicable statutes, ordinances, laws, regulations and directives of any federal, state or local governmental unit, authority or agency having jurisdiction over a Licensed Space or affecting the rights and obligations of Licensor or Licensee under this Agreement, including without limitation, the Communications Act of 1934, as amended from time to time, FCC Rules and Regulations, and the rules, regulations and written policies and decisions of the FAA.

Application: defined in Section IV.

Application Fee: defined in Section IV.

Approved Equipment: the communications system, including antennas, radio equipment, cabling and conduits, shelter and/or cabinets and other personal property owned or operated by Licensee at the Licensed Space, as defined in Exhibit A or B to this Agreement.

BLM: defined in Subsection 5(d).

Business Day: a day other than a Saturday, Sunday or legal holiday for commercial banks under the laws of the United States or the state in which the Tower Facility is located.

Claims: demands, claims, suits, actions, proceedings or investigations brought against a Party by an unrelated or unaffiliated person or entity.

Commencement Date: defined in Section IV.

Common Expenses: defined in Section 7.

Connection Fee: defined in Section IV.

Construction Drawings: defined in Section 3.

Damages: debts, liabilities, obligations, losses, damages, excluding consequential or punitive damages, costs and expenses, interest (including, without limitation, prejudgment interest), penalties, reasonable legal fees, court costs, disbursements and costs of investigations, deficiencies, levies, duties and imposts.

Easement: defined in Section 2.

Effective Date: defined in the introductory paragraph.

FAA: the United States Federal Aviation Administration or any successor federal agency established for the same or similar purpose.

FCC: the United States Federal Communications Commission or any successor federal agency established for the same or similar purpose.

FCC Rules and Regulations: All of the rules, regulations, public guidance, written policies and decisions governing telecommunications generally and wireless telecommunications specifically as promulgated and administered by the FCC, which on the Effective Date includes, but is not limited to, those administered by the Wireless Telecommunications Bureau of the FCC and more specifically referenced as the Code of Federal Regulations, title 47, parts 0 through 101, as amended.

Final Rule: defined in Subsection 11(g).

Ground Lease: defined in Section 20.

Ground Space: The portion of the Tower Facility licensed for use by Licensee to locate a portion of the Approved Equipment thereon, in the square footage amount depicted on Exhibit B of this Agreement. In no event shall the Ground Space include the air space or rights above the Approved Equipment located in the Ground Space.

Hazardous Substances: Any hazardous material or substance which is or becomes defined as a hazardous substance, pollutant or contaminant subject to reporting, investigation or remediation pursuant to Applicable Law; any substance which is or becomes regulated by any federal, state or local governmental authority; and any oil, petroleum products and their by-products.

Holdover Fee: defined in Subsection 6(c).

Indemnified Party: any person or entity entitled to indemnification under Section 15 hereof.

Indemnifying Party: any person or entity obligated to provide indemnification under Section 15 hereof.

Initial Term: defined in Section IV and referenced in Subsection 6(c).

Interference: defined in Subsection 11(a)(i).

Labeling Fee: defined in Section 9.

Licensed Frequencies: defined in Subsection 11(a)(ii).

Licensed Space: Location of the Approved Equipment on the Tower and at the Ground Space as more specifically described in Exhibits A and B attached hereto.

Licensed User: defined in Subsection 11(a)(iii).

Licensee: defined in the introductory paragraph.

Licensor: defined in the introductory paragraph.

Monthly License Fee: defined in Section IV and referenced in Subsection 5(a).

MPE: defined in Section 25.

Notice Address: defined in Section 18.

NTP (Notice to Proceed): Written notice from Licensor to Licensee acknowledging that all required documentation for the construction and installation of the Approved Equipment has been received and

approved by Licensor and Licensee is authorized to commence its installation of the Approved Equipment at the Licensed Space, as more particularly set forth in Subsection 10(a) of this Agreement.

Paying Carrier: defined in Subsection 24(b).

Paying Carrier Rate: defined in Subsection 24(b).

Party(ies): Licensor or Licensee.

PCN Default: defined in Subsection VI.A.

PCN Retention Fee: defined in Subsection VI.A.

PCNs: defined in Subsection VI.A.

Permitted Frequencies: defined in Section III.

Priority User: defined in Subsection 11(a)(iv).

Relocation Application Fee: defined in Section IV.

Relocation Notice: defined in Subsection 24(b).

Remittance Address: defined in Section II.

Renewal Term(s): defined in Section IV and referenced in Subsection 6(b).

RF Emissions: defined in Section 25.

Site Inspection Fee: defined in Section IV.

SSIS: defined in Subsection 10(b).

SSIS Fee: defined in Subsection 10(b).

Structural Analysis Fee: defined in Subsection 10(b).

Subsequent User: defined in Subsection 11(a)(v).

Term: Initial Term and each Renewal Term which is affected pursuant to Section 6 of this Agreement.

Tower: A communications or broadcast tower owned and operated by Licensor and located at the Tower Facility.

Tower Facility: Certain real property owned, leased, subleased, licensed or managed by Licensor shown on page 1 of this Agreement, on which a Tower owned, leased, licensed or managed by Licensor is located.

Trigger Condition: defined in Section 24(b).

Unlicensed Frequencies: defined in Subsection 11(a)(vi).

Unlicensed User: defined in Subsection 11(a)(vii).

Utility Change Event: defined in Subsection 5(b).

Utility Fee: defined in Section IV.

USFS: defined in Section 5(d).

Work: all work relating to the construction, installation, relocation and reconfiguration of Licensee's Approved Equipment on the Tower, including without limitation, construction management, construction of an equipment pad, installation or modification of lines, antennas, shelters and equipment cabinets.

Appendix II

Insurance

A. Licensor shall maintain in full force during the Term of this Agreement the following insurance:

1. Worker's Compensation Insurance with statutory limits in accordance with all applicable state, federal and maritime laws, and Employers' Liability Insurance with minimum limits of Five Hundred Thousand and 00/100 Dollars (\$500,000.00) per accident/occurrence, or in accordance with all applicable state, federal and maritime laws.
2. Commercial General Liability Insurance (Bodily Injury and Tower Facility Damage), the limits of liability of which shall not be less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence.
3. An umbrella policy of not less than Five Million and 00/100 Dollars (\$5,000,000.00).

The above insurance shall provide that Licensee will receive not less than thirty (30) days written notice prior to any cancellation of, or material change in coverage. The insurance specified in this Item A shall contain a waiver of subrogation against Licensee and shall name Licensee as an additional insured, and shall be primary over any insurance coverage in favor of Licensee but only with respect to and to the extent of the insured liabilities assumed by Licensor under this Agreement and shall contain a standard cross-liability endorsement.

B. Licensee shall maintain in full force during the Term of this Agreement and shall cause all contractors or subcontractors performing Work on any Licensed Space prior to the commencement of any such Work on behalf of Licensee to maintain the following insurance:

1. Worker's Compensation Insurance with statutory limits in accordance with all applicable state, federal and maritime laws, and Employers' Liability Insurance with minimum limits of Five Hundred Thousand and 00/100 Dollars (\$500,000.00) per accident/occurrence, or in accordance with all applicable state, federal and maritime laws.
2. Commercial General Liability Insurance (Bodily Injury and Tower Facility Damage), the limits of liability of which shall not be less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence.
3. An umbrella policy of not less than Five Million and 00/100 Dollars (\$5,000,000.00).

The above insurance shall provide that Licensor will receive not less than thirty (30) days written notice prior to any cancellation of, or material change in coverage. The insurance specified in this Item B shall contain a waiver of subrogation against Licensor and shall name Licensor as additional insured, and shall be primary over any insurance coverage in favor of Licensor but only with respect to and to the extent of the insured liabilities assumed by Licensee under this Agreement and shall contain a standard cross-liability endorsement.

C. Notwithstanding the foregoing insurance requirements, (a) the insolvency, bankruptcy, or failure of any insurance company carrying insurance for either Party, or failure of any such insurance company to pay Claims accruing, shall not be held to waive any of the provisions of this Agreement or relieve either Party from any obligations under this Agreement, and (b) Licensor reserves the right, from time to time, to increase the required liability limits described above in Items A and/or B in accordance with then-current customary insurance requirements in the tower industry nationally.

RIDER FOR VERIZON SUBLEASED SITES

(This Rider is non-negotiable)

Licensee and Licensor have entered into the attached license agreement, whether subject to a master license agreement or as an independent site license agreement, as applicable (the “**License Agreement**”) with respect to the communication tower and site described therein (the “**Site**”). Licensee acknowledges that (i) Licensor has certain rights and obligations with respect to the Site pursuant to a Master Prepaid Lease (as amended from time to time) (“**Verizon Sublease**”) between ATC Sequoia LLC, an Affiliate of Licensor, and the Persons set forth on Schedule 2 of the Verizon Sublease (“**Verizon**”) or pursuant to a Sale Site Master Lease Agreement between Verizon and other Affiliates of Licensor (“**Verizon MLA**”) and (ii) Verizon is a third party beneficiary of the non-monetary performance obligations of Licensee under the License Agreement. Pursuant to the Verizon Sublease and Verizon MLA, the License Agreement must contain the following provisions, which provisions are hereby incorporated into the License Agreement and made a part thereof and may not be superseded, altered or amended by the License Agreement (including any conflicting or inconsistent provisions in the License Agreement) or any attachment, exhibit, amendment, supplement, schedule, or other written instrument associated with the Site or the License Agreement:

1. **Ground Lease/Verizon Sublease:** The License Agreement shall be subject and subordinate to all of the terms and conditions of the underlying ground lease, sublease, or any easement, license or other agreement or document pursuant to which Verizon or Licensor holds a leasehold or subleasehold interest, leasehold or subleasehold estate, easement, license, sublicense or other interest in such Site, together with any extensions of the term thereof (whether by exercise of any right or option contained therein or by execution of a new ground lease or other instrument providing for the use of such Site), and including all amendments, modifications, supplements, assignments and guarantees related thereto (“**Ground Lease**”) of the Site. Any and all references to the Ground Lease in the License Agreement shall be deemed to refer only to the Ground Lease (a copy of which Licensor shall provide to Licensee following a written request and redacted as Licensor deems reasonably necessary) and not the Verizon Sublease, if applicable. Licensee shall fully comply with the Ground Lease at the Site. In the event that a default or non-compliance with a provision of the Ground Lease is caused by Licensee, Licensee shall, upon Licensor’s written request at Licensee’s sole expense, cure or otherwise remedy such default or non-compliance within the cure period provided for pursuant to the Ground Lease.
2. **Quiet Enjoyment:** Licensee shall not engage in any conduct or activity that would reasonably be expected to interfere with Verizon’s quiet enjoyment of Verizon’s collocation space at the Site or with the operation of Verizon’s communications facilities at the Site.
3. **Verizon’s Collocation Space:** Licensee shall not (i) stack any communications equipment on or above Verizon’s equipment shelter at the Site, or (ii) install or store any communications equipment or other property in vacant space inside Verizon’s equipment shelter at the Site.
4. **Interference:** In addition to the rights and obligations of Licensor and Licensee as set forth in interference section of the License Agreement, Licensee agrees that:
 - A. Licensee will not (i) place any obstructions on a Site that prevent Verizon from having access to repair and replace all of Verizon’s communications equipment and improvements (including related cables) or from being able to fully open any equipment cabinet doors in such space and repairing and replacing equipment therein or that impede airflow to and around Verizon’s communications equipment, (ii) install communications equipment that interferes with Verizon’s operations at the Site or causes a cessation of Verizon’s services at a Site or (iii) install, modify or operate any equipment (including modifying the frequency at which such equipment is operated) subsequently to the installation of Verizon’s communications equipment that interferes

with Verizon's permitted, lawfully installed and properly operated FCC licensed transmissions or reception (except for intermittent testing).

- B. If Licensee is notified that its equipment or operations are (i) interfering with or creating an imminent risk to the performance of Verizon's permitted, lawfully installed and properly operated FCC licensed transmissions or reception or (ii) causing harmful RF interference, Licensee shall immediately take all commercially reasonable efforts and necessary steps to determine the cause of and eliminate such interference. If such interference continues for a period in excess of 48 hours after Licensor's receipt of notice from Verizon, then Licensee will remove or adjust the installation to end the interference or reduce power or cease operations (except for intermittent testing) until such time as Licensee can make repairs to or modify the interfering equipment. If Licensee fails to promptly reduce power or cease operations as required to eliminate RF interference, then Licensor shall terminate the operation of any equipment causing such RF interference.
- C. If Licensee is notified that its equipment or operations (i) are materially interfering with Verizon's operations or cause a cessation of Verizon's services or (ii) cause an obstruction under Section 4(a)(i) above, Licensee shall immediately take all commercially reasonable efforts and necessary steps to determine the cause of and eliminate such interference or obstruction. If such interference or obstruction continues for a period in excess of 10 days after Licensor's receipt of notice from Verizon, then Licensee will remove or adjust the installation to end the interference.
5. **Maintenance:** Licensee shall, at all times, keep and maintain its communications equipment and improvements in a structurally safe and sound condition and in working order, in accordance with the Applicable Standard of Care. Licensee shall not commence any installation, maintenance, replacement or repair of its improvements, communications equipment or other equipment at the Site until Licensee has obtained all Governmental Approvals necessary for such work, from all Governmental Authorities having jurisdiction with respect to such Site or such work.
6. **Environmental:** Licensee covenants and agrees that Licensee (i) shall not conduct or allow to be conducted upon the Site any business operations or activities, or employ or use the Site, to generate, manufacture, refine, transport, treat, store, handle, dispose of, transfer, produce, or process Hazardous Materials; provided, however, that Licensee shall have the right to bring, use and keep on the Site electronics, batteries, generators and associated fuel tanks and other Hazardous Materials used in the tower or telecommunication industry for the operation and maintenance of the Site provided that all such Hazardous Materials are brought, used, kept and allowed at the Site in compliance with applicable Environmental Laws; (ii) will carry on its business and operations at the Site in compliance in all respects with, and will remain in compliance with, all applicable Environmental Laws; (iii) will not create or permit to be created any lien against the Site for the costs of any response, removal or remedial action or clean-up of Hazardous Materials; and (iv) Licensee shall promptly notify Licensor in writing if Licensee receives any notice, letter, citation, order, warning, complaint, claim or demand that (A) the Licensee has violated, or is about to violate, any Environmental Law, (B) there has been a release or there is a threat of release, of Hazardous Materials at or from Licensee's collocation space of, or otherwise affecting, the Site, (C) Licensee may be or is liable, in whole or in part, for the costs of cleaning up, remediating, removing or responding to a release of Hazardous Materials, or (D) Licensee's collocation space of the Site is subject to a lien in favor of any Governmental Authority for any liability, cost or damages under any Environmental Law.
7. **Compliance with Laws:** Licensee covenants and agrees that its use of the Site shall comply with all applicable Laws. In addition, Licensee shall not install or modify any communications equipment such that it is not authorized by, or violates, any applicable Laws or is not made or installed in accordance with generally accepted engineering practices.

8. **Insurance:** Licensee shall maintain in full force and effect at all times during the term of the License Agreement, the following types of insurance with respect to its collocation space on the Site, paying as they become due all premiums for such insurance:
- (i) Commercial general liability insurance insuring on an occurrence basis against liability of Licensee and its officers, employees, agents, licensees and invitees arising out of, by reason of or in connection with the use, occupancy or maintenance of Licensee's collocation space on the Site, with a minimum limit of \$1.0 million for bodily injury and/or property damage per occurrence;
 - (ii) Umbrella or excess liability insurance with minimum limits of \$5.0 million per occurrence and in the aggregate;
 - (iii) Workers' compensation insurance (or state sanctioned self-insurance program) affording statutory coverage for all employees of Licensee and any employees of its Affiliates performing activities on the Site, with employer's liability coverage with a minimum limit of \$500,000 per accident/occurrence, or in accordance with all applicable state, federal and maritime laws; and
 - (iv) Commercial automobile liability insurance, including coverage for all owned, hired and non-owned automobiles, as required by Law.
9. **Miscellaneous:**
- A. Licensor reserves the right to freely assign the License Agreement to Verizon or any of its Affiliates at any time.
 - B. Licensee shall not incur, grant or permit to exist any liens against the Site or any part thereof. Licensee shall cause any such lien to be discharged by payment, satisfaction or posting of bond within thirty (30) days after the earlier of (i) the date Licensee has obtained knowledge of such lien, or (ii) written notice from Licensor or Verizon. If Licensee fails to cause any lien to be discharged within the permitted time, Licensor may cause it to be discharged and may pay the amount of such lien in order to do so, which amount and any other costs incurred by Licensor shall be promptly paid to Licensor by Licensee.
10. **Defined Terms:** For purposes of the foregoing provisions, the following capitalized terms shall have the following meanings:
- A. "**Applicable Standard of Care**" means, with respect to any obligation or performance requirement, the then-current general standard of care in the telecommunications industry applicable to such obligation or performance requirement.
 - B. "**Environmental Law**" or "**Environmental Laws**" means any federal, state or local statute, Law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning protection of the environment or public or workplace health and safety as may now or at any time hereafter be in effect, including the following, as the same may be amended or replaced from time to time, and all regulations promulgated under or in connection therewith: the Superfund Amendments and Reauthorization Act of 1986; the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; the Clean Air Act; the Clean Water Act; the Toxic Substances Control Act of 1976; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act; the Hazardous Materials Transportation Act; and the Occupational Safety and Health Act of 1970.

- C. **"Governmental Approvals"** means all licenses, permits, franchises, certifications, waivers, variances, registrations, consents, approvals, qualifications, determinations and other authorizations to, from or with any Governmental Authority.
- D. **"Governmental Authority"** means, with respect to any person or the Site, any foreign, domestic, federal, territorial, state, tribal or local governmental authority, administrative body, quasi-governmental authority, court, government or self-regulatory organization, commission, board, administrative hearing body, arbitration panel, tribunal or any regulatory, administrative or other agency, or any political or other subdivision, department or branch of any of the foregoing, in each case having jurisdiction over such person or such Site.
- E. **"Hazardous Materials"** means and includes petroleum products, flammable explosives, radioactive materials, asbestos or any material containing asbestos, polychlorinated biphenyls or any hazardous, toxic or dangerous waste, substance or material, in each case, defined as such (or any similar term) or regulated by, in or for the purposes of Environmental Laws, including Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.
- F. **"Law"** means any federal, state or local law, statute, common law, rule, code, regulation, ordinance or order of, or issued by, any Governmental Authority, including without limitation any standards (including but not limited to engineering standards or wind speed requirements) which are applied to the Site according to any such applicable law, statute, rule, code, regulation, ordinance or order.



TO: City Council
DATE: February 13, 2025
ITEM #: 6.D
SUBJECT: Consider approval of authorization to the Finance Director to execute, on behalf of the City, a Master Interlocal Purchasing Agreement with the North Central Texas Council of Governments (NCTCOG) for participation in TXShare. (Finance)

Recommendation for Action: Approve the authorization for the Finance Director to execute, on behalf of the City, a Master Interlocal Purchasing Agreement with the North Central Texas Council of Governments (NCTCOG) for participation in TXShare.

Executive Summary: The Master Interlocal Purchasing Agreement with the North Central Texas Council of Governments (NCTCOG) will allow the City to participate in TXShare, enabling cooperative purchasing opportunities in accordance with applicable laws and procurement policies.

TXShare/NCTCOG cooperative contracts are established pursuant to **Chapter 791 of the Texas Local Government Code** and **Title 2, Part 200 of the Code of Federal Regulations (2 CFR 200)**, ensuring compliance with both state and federal procurement requirements.

Participation in TXShare provides numerous benefits associated with cooperative purchasing, including but not limited to:

- Reduced administrative efforts
- Simplified procurement processes
- Access to quality contracts and qualified vendors
- Ability to receive services and products faster
- Competitive volume pricing rates

Additionally, a local government that purchases goods and services under this agreement satisfies the requirement to seek competitive bids for those goods and services, ensuring compliance with procurement regulations while maximizing efficiency and cost savings. The agreement will remain in effect for one (1) year and shall automatically renew for successive one-year terms unless terminated by either party in accordance with the agreement's provisions.

Budget Cost: There is absolutely no cost associated with membership

Staff Contact: Dawn I. Jones

Attachments: 1. TXShare Interlocal Purchasing Agreement

MASTER INTERLOCAL PURCHASING AGREEMENT

THIS MASTER INTERLOCAL AGREEMENT (“ILA”). made and entered into pursuant to the Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code (the “Act”), by and between the North Central Texas Council of Governments, hereinafter referred to as “NCTCOG,” having its principal place of business at 616 Six Flags Drive, Arlington, TX 76011, and City of Marshall Texas, a local government, a state agency, or a non-profit corporation created and operated to provide one or more governmental functions and services, hereinafter referred to as “Participant,” having its principal place of business at 401 S. Alamo Blvd, Marshall TX 75670.

WHEREAS, NCTCOG is a regional planning commission and political subdivision of the State of Texas operating under Chapter 391, Texas Local Government Code; and

WHEREAS, pursuant to the Act, NCTCOG is authorized to contract with eligible entities to perform governmental functions and services, including the purchase of goods and services; and

WHEREAS, in reliance on such authority, NCTCOG has instituted a cooperative purchasing program under which it contracts with eligible entities under the Act; and

WHEREAS, Participant has represented that it is an eligible entity under the Act, that is authorized to enter into this Agreement on February 13, 2025 (Date), and that it desires to contract with NCTCOG on the terms set forth below;

NOW, THEREFORE, NCTCOG and the Participant do hereby agree as follows:

ARTICLE 1: LEGAL AUTHORITY

The Participant represents and warrants to NCTCOG that (1) it is eligible to contract with NCTCOG under the Act for the purposes recited herein because it is one of the following: a local government, as defined in the Act (a county, a municipality, a special district, or other political subdivision of the State of Texas or any other state), or a combination of two or more of those entities, a state agency (an agency that the State of Texas as defined in Section 771.002 of the Texas Government Code, or a similar agency of another state), or a non-profit corporation created and operated to provide one or more governmental functions and services, and (2) it possesses adequate legal authority to enter into this Agreement.

ARTICLE 2: SCOPE OF SERVICES

The Participant appoints NCTCOG its true and lawful purchasing agent for the purpose of certain products and services (“Products” or “Services”) through the **TXShare** Program. Participants will access the Program through **www.TXShare.org**. All purchases under this Agreement shall comply with applicable Texas competitive bidding statutes as well as the specifications, contract terms and pricing applicable to such purchases. NCTCOG may also serve as a coordinating agent to administer the use of eligible Participant contracts to other participants of TXShare. The eligibility of such contracts will be determined by incorporation of coordinating agent authorization in Participant’s solicitation documents. Title to all products purchased under the TXShare Program shall be held by Participant unless otherwise agreed. Nothing in this Agreement shall preclude the Participant for purchasing Products and/or Services offered in the TXShare Program directly from the vendor/supplier.

ARTICLE 3: PAYMENTS

Upon delivery of goods or services purchased and presentation of property documented invoice, the Participant shall promptly, and in any case within thirty (30) days, pay the contracted provider the full amount of the invoice. All payments for goods or services will be made from current revenues available to the paying party. In no event shall NCTCOG have any financial liability in the Participant for any goods or services Participant purchase through the TXShare Program.

ARTICLE 4: PERFORMANCE PERIOD

This Agreement shall be effective when signed by the last party whose signing makes the Agreement fully executed and will remain in full force and effect for one (1) year. This Agreement shall automatically renew for successive one-year terms unless sooner terminated in accordance with Article 6 below. Any modifications of this Agreement must comply with the requirements of Article 5 below.

ARTICLE 5: CHANGES AND AMENDMENTS

This Agreement may be amended only by a written amendment executed by both parties, except that any alterations, additions, or deletions to the terms of this Agreement which are required by changes in Federal and State law or regulations are automatically incorporated into this Agreement without written amendment hereto and shall become effective on the date designated by such law or regulation. NCTCOG reserves the right from time to time to make changes in the scope of products and services offered through the TXShare Program.

ARTICLE 6: TERMINATION PROCEDURES

NCTCOG or the Participant may cancel this Agreement for any reason and at any time upon thirty (30) days written notice by certified mail to the other party to this Agreement. The obligation of the Participant to pay for any Service and/or Products purchased under this Agreement, shall survive cancellation, as well as any other Participant costs incurred prior to the effective date of cancellation.

ARTICLE 7: APPLICABLE LAWS

NCTCOG and the Participant agree to conduct all activities under this Agreement in accordance with all applicable rules, regulations, and ordinances and laws in effect or promulgated during the term of this Agreement.

ARTICLE 8: DISPUTE RESOLUTION

The parties to this Agreement agree to the extent possible and not in contravention of any applicable state or federal law or procedure established for dispute resolution, to attempt to resolve any dispute between them regarding this Agreement informally through voluntary mediation, arbitration, or any other local dispute mediation process before resorting to litigation.

ARTICLE 9: MISCELLANEOUS

- a. This Agreement has been made under and shall be governed by the laws of the State of Texas. Venue and jurisdiction of any suit or cause of action arising under, or in connection with, this Agreement shall lie exclusively in Tarrant County, Texas.
- b. The persons executing this Agreement hereby represent that they have authorization to sign on behalf of their respective entities.
- c. This Agreement and the rights and obligations contained herein may not be assigned by either party without the prior written approval of the other party to this Agreement.

- d. All parties agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Agreement, which shall continue in full force and effect.
- e. To the extent that either party to this Agreement shall be wholly or partially prevented from the performance within the term specified of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance. In such event, the time for performance of such obligation or duty shall be suspended until such disability to perform is removed; provided, however, force majeure shall not excuse an obligation to solely pay funds.
- f. This Agreement and any attachments/addendums, as provided herein, constitute the complete agreement between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein.

THIS INSTRUMENT HAS BEEN EXECUTED IN TWO ORIGINALS BY THE PARTIES HERETO AS FOLLOWS:

North Central Texas Council of Governments

TXShare

616 Six Flags Drive, Arlington, TX 76011

City of Marshall

Name of Participating Agency

NCTCOG Executive Director or Designee

401 SA. Alamo Blvd.

Mailing Address

Signature of Executive Director or Designee

Marshall

City

TX

State

75670

Zip

Date

Dawn I Jones, Finance Director

Name and Title of Authorized Official or Designee

Signature

2/13/2025

Date



TO: City Council
DATE: February 13, 2025
ITEM #: 6.E
SUBJECT: **R-25-04** Consider approval of a resolution adopting the City of Marshall 2025 Investment Policy.
(Finance)

Recommendation for Action: Staff recommends reviewing and adopting the attached 2025 Investment Policy.

Executive Summary: In compliance with the Public Funds Investment Act, the governing body of an investing entity must review its investment policy and strategies at least annually. Accordingly, I am submitting the City's Investment Policy for consideration.

Budget Cost: N/A

Staff Contact: Kristina Hamilton, Assistant Director of Finance

Attachments:

1. Memo - Annual Investment Policy Review & Adoption
2. 2025 Investment Policy
3. Resolution - 2025 Investment Policy Review & Adoption



AGENDA MEMORADUM

To: City Council Members

From: Kristina Hamilton, Assistant Director of Finance

cc: Dawn I. Jones, Director of Finance
Melissa Vossmer, Interim City Manager

Date: 02/03/2025

Re: Annual Investment Policy Review & Adoption

Attached is a resolution for the adoption of the City of Marshall's Investment Policy. In compliance with the Public Funds Investment Act, the governing body of an investing entity must review its investment policy and strategies at least annually. Accordingly, I am submitting the City's Investment Policy for review.

The policy was last reviewed and approved on October 13, 2023. A copy of the policy is attached for your consideration.

2025 INVESTMENT POLICY
CITY OF MARSHALL, TEXAS

INVESTMENT POLICY
CITY OF MARSHALL, TEXAS

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INVESTMENT POLICY CITY OF MARSHALL, TEXAS

I. POLICY STATEMENT

It is the policy of the City of Marshall, Texas ("City") to administer and invest its funds in a manner which will preserve the principal and maintain the liquidity through limitations and diversification while meeting the daily cash flow needs of the City. The City will invest all available funds in conformance with legal and administrative guidelines, seeking to optimize interest earnings to the maximum extent possible.

II. PURPOSE

The purpose of this investment policy is to comply with all statutes governing the investment of the City's funds and Chapter 2256 of the Government Code "Public Funds Investment Act" (PFIA), which requires the City to adopt a written policy regarding the investments of its funds and funds under its control. The Investment Policy addresses the methods, procedures, and policies that must be exercised to ensure effective and judicious fiscal management of the City's funds.

III. SCOPE

The City will strive to earn a return on funds invested at the highest investment return possible after taking into consideration the primary goals of preservation of principal and liquidity of funds invested, consistent with the policy objectives described below. This investment policy applies to all the financial assets and funds held by the City unless expressly prohibited by law or unless it is in contravention of any depository contract between the City and any depository bank. The City commingles its funds for investment purposes for efficiency and maximum investment opportunity (pooled fund groups). This policy also applies to Marshall Economic Development Corporation.

- Operating Funds
 - General Fund
 - Enterprise Fund
- Debt Service Funds, including reserves and sinking funds to the extent not required by law or existing contract to be kept segregated and managed separately.
- Capital Improvement Funds
- Reserve Funds
- Special Revenues Funds
- Trust Funds
- Any new fund created by the City, unless specifically exempted from this policy by the City Council or by law.

Note: These categorizations (pooled fund groups) are for investing and investment reporting purposes only and do not correspond to fund classifications per the annual financial statement, which are as follows:

- Governmental Funds
- Proprietary Funds
- Fiduciary Funds

IV. OBJECTIVES

SAFETY. The primary objective of the City's investment activity is the preservation of capital in the overall portfolio. Each investment transaction shall seek first to ensure that capital losses are avoided, whether they are from securities defaults or erosion of the market value. The City will strive to minimize credit risk by limiting investments to the safest types of investments, prequalifying the financial institutions with which the City conducts business, and diversify its portfolio to eliminate the risk of loss resulting from over concentration of assets in a specific maturity, a specific issuer or a specific class of investments. To minimize interest rate risk, the City will ladder the portfolio and match investments with future cash requirements and invest operating funds in shorter, more liquid securities and investments.

LIQUIDITY. The City's investment portfolio will remain sufficiently liquid to enable the City to meet operating requirements that might be reasonably anticipated. Liquidity shall be achieved by matching investment maturities with forecasted cash flow requirements and by investing in securities with active secondary markets. Because all possible cash demands cannot be anticipated, a portion of the portfolio will be invested in shares of money market mutual funds or local government investment pools that offer same day liquidity.

YIELD. The City's investment portfolio shall be designed with the objective of attaining a reasonable rate of return throughout budgetary and economic cycles, taking into account the City's risk constraints and liquidity needs. Return on investment is of secondary importance compared to the safety and liquidity objectives described above.

MONITORING. Monitoring shall be conducted quarterly when investment reports are compiled to ensure investments are in compliance with credit rating requirements according to PFIA 2256 and the liquidation of such investments if the minimum rating during this period is not satisfied.

V. RESPONSIBILITY AND CONTROL

DELEGATION. The Finance Director and Assistant Director of Finance, acting upon authority of a resolution of the City Council are designated as Investment Officers of the City and are responsible for investment management decisions and activities under the direction of the City Manager. The Finance Director may delegate day-to-day activities to a responsible individual(s) who has received the appropriate training required by state statute. The City Council and the City Manager are responsible for considering the quality and capability of staff, investment advisors and consultants involved in investment management and procedures. All participants in the investment process shall seek to act responsibly as custodians of the public trust.

The Investment Officers shall develop and maintain administrative procedures for the operation of the investment program which are consistent with this investment policy. Procedures should include references to competitive bidding on purchases and sales of investments, safekeeping, delivery vs. payment, investment accounting, repurchase agreements, wire transfer agreements, collateral/depository agreements and banking services contracts.

The Investment Officers shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate staff. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Investment Officers and approval by the City Manager.

PRUDENCE. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the expected income to be derived. The standard of prudence to be used in the investment function shall be the "prudent person" standard and shall be applied in the context of managing the overall portfolio of funds, rather than a consideration as to the prudence of a single investment.

INDEMNIFICATION. The Investment Officers and those delegated investment authority under this policy, when acting in accordance with the written procedures and this policy and exercising due diligence in accord with the Prudent Investor Rule, shall be relieved of personal responsibility and liability in the management of the portfolio provided that deviations from expectations for a specific security's credit risk or market price change or portfolio shifts are reported in a timely manner and that appropriate action is taken to control adverse market effects.

CONFLICTS OF INTEREST - All participants in the investment process shall seek to act responsibly as custodians of public assets. Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Investment Committee members shall be required to complete an annual ethics statement noting any known conflicts of interest as outlined below:

Anyone involved in investing City funds shall file a statement with the City Council disclosing any personal business relationship with a business organization offering to engage in investment transactions with the City or is related within the second degree by affinity or consanguinity, as determined under the Tex. Gov't. Code Ch. 573, to an individual seeking to transact investment business with the City. A disclosure statement must also be filed with the Texas Ethics Commission and the City Council. An Investment Officer or other employee has a personal business relationship with a business organization if any one of the following three conditions is met:

1. The Investment Officer or employee owns 10% or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization.
2. Funds received by the Investment Officer or employee from the business organization exceed 10% of the Investment Officer or employee's gross income for the prior year.
3. The Investment Officer or employee has acquired from the business organization during the prior year investments with a book value of \$2,500 or more for their personal account.

TRAINING. Investment Officers and designated staff members shall attend one or more training sessions totaling not less than 10 hours relating to the officer's responsibility under the Act within 12 months after assuming duties and thereafter, shall receive eight (8) hours of training not less than once every two year period beginning on the first day of the fiscal year. Such training from an independent source shall be approved or endorsed by either the Government Finance Officers Association of Texas (GFOAT), The Government Treasurer's Organization of Texas (GTOT), The Texas Municipal League (TML), the North Central Texas Council of Governments or The University of North Texas Center for Public Management.

DELIVERY vs. PAYMENT. All trades where applicable will be executed by delivery vs. payment (DVP) to ensure that securities are deposited in an eligible financial institution prior to the release of funds. Securities and collateral will be held in the City's name by a third-party custodian as evidenced by safekeeping receipts.

MARK to MARKET. The market value of the portfolio shall be calculated monthly and a statement

of the market value of the portfolio shall be issued at least quarterly. The market value of each investment shall be obtained from a source including, but not limited to the City's depository bank or safekeeping agent, a reputable brokerage firm not having sold the security being priced or a security pricing service.

VI. INVESTMENT STRATEGY BY FUND TYPE

Although funds are segregated for accounting purposes, they may be pooled together for investment purposes. Pooled investment funds are limited to a weighted average maturity of 12 months and individual securities may not exceed three years to maturity. All investments permitted with this Policy are considered suitable for the pooled investment fund.

OPERATING FUNDS. Operating Funds have as their primary objective to assure that anticipated cash flows are matched with adequate investment liquidity. Consequently, these funds will be invested in short-to-medium term securities which will complement each utilizing a staggered maturity basis.

DEBT SERVICE FUNDS. Debt Service/Bond Reserve Funds have as their primary objective to assure investment liquidity adequate to cover debt service obligations on the required payment dates. Securities purchased shall not have a stated final maturity date which exceeds the next debt service payment date.

CAPITAL IMPROVEMENT/RESERVE FUNDS. These funds shall have as their primary objective to assure funds are available at the time project outlays are required to be made. These portfolios should have liquid securities to allow for unanticipated project expenditures or accelerated project outlays due to a better than expected or changed construction schedule. These securities may be short-to-medium or longer term securities, depending upon current market yields. The stated final maturity date of securities held in a particular fund may not exceed the estimated project completion date. These portfolios should include approximately 5-10% in highly liquid securities to allow for flexibility and unanticipated outlays.

SPECIAL REVENUE FUNDS. Special Revenue Funds, as with Operating Funds have as their primary objective to assure that anticipated cash flows are matched with adequate investment liquidity. Consequently, these funds also will be invested in short-to-medium term securities which will complement each utilizing a staggered maturity basis. However, in certain cases, longer term securities which result in a better yield may be utilized when matched to specific requirements. These portfolios should include approximately 5-10% in highly liquid securities to allow for flexibility and unanticipated outlays.

TRUST FUNDS. Trust Funds, as with Operating Funds have as their primary objective to assure that anticipated cash flows are matched with adequate investment liquidity. Consequently, these funds also will be invested in short-to-medium term securities which will complement each utilizing a staggered maturity basis. However, in certain cases, longer term securities which result in a better yield may be utilized when matched to specific requirements. These portfolios should include approximately 5-10% in highly liquid securities to allow for flexibility and unanticipated outlays.

VII. SAFEKEEPING AND COLLATERALIZATION

The laws of the State and prudent treasury management require that all purchased securities be held in safekeeping by either the City, a third party financial institution, or the City's designated depository. All safekeeping arrangements shall be designated by the Investment Officer and an agreement of the terms executed in writing. The third party custodian shall be required to issue safekeeping receipts to the City listing each specific security, rate, description, maturity, CUSIP

number, and other pertinent information. Each safekeeping receipt will be clearly marked that the security is held for the City or pledged to the City.

All securities pledged to the City for certificates of deposit or demand deposits shall be held by an independent third party bank doing business in Texas. The safekeeping bank may be within the same holding company as the bank from which the securities are pledged.

Collateralization

Collateralization shall be required on two types of investments:

- (a) Overnight and term bank deposits over the FDIC insurance coverage of \$250,000 and
- (b) repurchase agreements.

Collateralization shall be of the type described in IX. (B) (1)-(3).

The right of collateral substitution is granted, subsequent to the review and approval of an authorized Investment Officer as long as deposits remain fully secured at all times.

VIII. INTERNAL CONTROLS

The Investment Officer shall establish a system of internal controls which will be reviewed annually with the independent auditor of the City. The controls shall be designed to prevent loss of public funds due to fraud, employee error, misrepresentation by third parties, unanticipated market changes, or imprudent actions by employees of the City.

IX. AUTHORIZED INVESTMENTS

Acceptable investments under this policy shall be limited to the instruments listed below. The investments are to be chosen in a manner which promotes diversification of market sector and maturity and are intended to be held to maturity, although securities may be sold as necessary for to unexpected liquidity needs.

At least three bids or offers must be solicited and documented for all other transactions involving individual securities. In situations where the exact security is not offered by other broker/dealers, offers on the closest comparable investment may be used to establish a fair market price for the security. Pool and money market fund rates should be monitored for best value, but do not require competitive bidding.

The choice of high-grade government investments and high-grade money market instruments is designed to assure the marketability of those investments should liquidity needs arise. The maximum allowable stated maturity of any individual investment owned by the City is three (3) years.

(A) U.S. Government and State of Texas Investments:

- (1) obligations of the United States or its agencies and instrumentalities, not to exceed three years to stated maturity;
- (2) direct obligations of this state or its agencies and instrumentalities, not to exceed one year to stated maturity, except for City of Marshall, Texas obligations which may have any stated maturity.

(B) Certificates of deposit, not to exceed one year to stated maturity, if issued by a state or national bank doing business in this state and is:

- (1) guaranteed or insured by the Federal Deposit Insurance Corporation or its successor;
- (2) secured by obligations that are described by Section 2256.009(a) of the Public Funds Investment Act, including FHLB Letters of Credit (LOC), and mortgage backed securities directly issued by a federal agency or instrumentality that have a market

value of not less than the principal amount of the certificates, but excluding those mortgage-backed securities of the nature described by Section 2256.009(b) of the Public Funds Investment Act or;

(3) secured in any other manner and amount provided by law for deposits of the City.

(C) A fully collateralized repurchase agreement, as defined in the Act, if it:

- (1) has a defined termination date;
- (2) is secured by obligations described by Section 2256.009(a)(1) of the Public Funds Investment Act; and
- (3) requires the securities being purchased by the City to be pledged to the City, held in the City's name, and deposited at the time the investment is made with the City or with a third party selected and approved by the City; and
- (4) is placed through a government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in this state.

(D) No-load money market mutual funds if the mutual fund:

- (1) is registered with and regulated by the Securities and Exchange Commission;
- (2) has a dollar-weighted average stated maturity of 60 days or less;
- (3) includes in its investment objectives the maintenance of a stable net asset value of \$1 for each share;
- (4) is continuously rated as to investment quality by at least one nationally recognized investment rating firm of not less than AAA or its equivalent; and
- (5) invests exclusively in authorized investments permitted by the Act.

(E) Public funds investment pools as defined in the Public Funds Investment Act Section 2256.016-2256.019. An investment pool must invest the funds it receives from the City in authorized investments permitted by the Public Funds Investment Act. Further, as required by the Act, a public funds investment pool must continuously be rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service.

(F) If additional types of securities are approved for investment of public funds by state statutes, they will not be eligible for investment by the City until this policy has been amended and the amended version approved by the City Council .

The City shall take all prudent measures consistent with this Policy to liquidate an investment that no longer meets the required minimum rating standards, as per the Tex. Gov't. Code Sec. 2256.021.

The City is not required to liquidate investments that were authorized investments at the time of purchase but were subsequently withdrawn as permitted investments in the Act. (Tex. Gov't. Code Sec. 2256.017)

X. UNAUTHORIZED INVESTMENTS

The Investment Officer has no authority to use any of the following investment instruments.

- Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;
- Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;
- Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years;
- Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index;
- Bankers Acceptances
- Commercial Paper
- Bond Mutual Funds

XI. AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS

The Investment Officer shall invest City funds with any or all of the following institutions or groups consistent with federal and state law and the current Depository Bank contract:

- Depository Bank;
- Other state or national banks domiciled in Texas that are insured by FDIC. (approved on an individual basis by the City Council and a contract executed requiring adequate security for the investment/deposit)
- Public funds investment pools.
- Government securities brokers and dealers. (approved on an individual basis by the City Council)
-

Qualifications for Approval of Broker/Dealers

In accordance with the Act, a written copy of this investment policy shall be presented to any person seeking to sell to the City an authorized investment. Broker/dealers or any financial institution shall provide written acknowledgement that it has received the policy. A qualified representative of a “business organization,” defined as an investment pool or investment manager, seeking to sell an authorized investment shall execute a written instrument substantially to the effect that the qualified representative has: (Exhibit A)

1. received and thoroughly reviewed the investment policy of the City; and
2. acknowledged that the organization has implemented reasonable procedures and controls in an effort to preclude imprudent investment activities arising out of investment transactions conducted between the City and the organization.

The Investment Officer may not buy any securities from a person who has not delivered to the City an instrument in substantially the form provided above according to the Act.

XII. INVESTMENT REPORTS

The Investment Officer shall submit quarterly an investment report to the City Manager and to the City Council that includes:

- A. Investment position of the City on the date of the report;
- B. Be signed by the Finance Director and the Assistant Director of Finance;

- C. A summary statement of each pooled fund or individual portfolio, that states the:
 - 1. Beginning market value for the reporting period;
 - 2. Additions and changes to the market value for the period;
 - 3. Ending market value for the period;
 - 4. Method used to monitor the market price of the investment.
- D. State the book value and market value of each separately invested asset at the end of the reporting period by the type of asset and pooled fund type.
- E. State the maturity date of each separately invested asset that has a maturity date.
- F. State the category of investments (pooled fund group) for which each individual investment was acquired.
- G. State the compliance of the investment portfolio of the City as it relates to the investment strategy expressed in the City's investment policy and compliance with all laws governing the City's investments.
- H.

XIII. PERFORMANCE STANDARD

The investment portfolio shall be managed in accordance with the objectives specified in this policy (safety, liquidity, and yield). The portfolio should obtain a market average rate of return during a market/economic environment of stable interest rates. The basis used to determine whether market yields are being achieved shall be the average yield on the three (3) month U.S. Treasury bill.

XIV. COMPLIANCE AUDIT

The City's external independent auditor will conduct an annual review of the quarterly reports in conjunction with the annual financial audit. The results of the audit will be reported to City Council. The audit will also review compliance with management controls on investments and adherence to this Policy.

XV. DEPOSITORIES

The City will designate one banking institution through a competitive process as its central banking services provider every five years. This institution will be used for normal banking services including disbursements, deposits, lockbox, controlled disbursement and safekeeping of securities. Other banking institutions from which the City may purchase certificates of deposit may also be designated after they provide their latest audited financial statements to the City.

XVI. INVESTMENT POLICY ADOPTION BY CITY COUNCIL

The City's investment policy shall be reviewed, on an annual basis, by the City Council and the City Manager. The City's investment policy shall be adopted annually by resolution of the City Council.

AMENDED AND ADOPTED ON THIS THE 13th DAY OF FEBRUARY, 2025.

Mayor of the City Council
Marshall, Texas

Attest:

City Secretary

CERTIFICATION BY BUSINESS ORGANIZATION

**TEXAS PUBLIC FUNDS INVESTMENT ACT
CERTIFICATION BY BUSINESS ORGANIZATION**

This certification is executed on behalf of the City of Marshall, Texas (the Investor) and _____ (the Business Organization) pursuant to the Public Funds Investment Act, Chapter 2256, Texas Government Code (the "Act") in connection with investment transactions conducted between the Investor and the Business Organization.

The undersigned Qualified Representative of the Business Organization hereby certifies on behalf of the Business Organization that:

1. The undersigned is a Qualified Representative of the Business Organization offering to enter into an investment transaction with the Investor on such terms as are defined in the Texas Public Funds Investment Act, chapter 2256, Texas Government Code,
2. The Qualified Representative of the Business Organization has received and reviewed the Investor's Investment Policy furnished by the Investor, and
3. The Qualified Representative of the Business Organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Business Organization and the Investor that are not authorized by the Investor's Investment Policy. However, authorization dependent upon an analysis of the makeup of the Investor's entire portfolio or which requires and interpretation of subjective investment standards by the Investor is not required by the Business Organization.

Qualified Representative of the Business Organization

Organization: _____

Name: _____

Title: _____

Date: _____

RESOLUTION _____

**A RESOLUTION ADOPTING THE CITY OF MARSHALL, TEXAS INVESTMENT
POLICY**

WHEREAS, the Public Funds Investment Act, as amended, requires the City to adopt an investment policy by rule, order, ordinance or resolution; and

WHEREAS, the Public Funds Investment Act, as amended, requires the Finance Director and all investment officers of the City to attend investment training; and

WHEREAS, the City Council of the City of Marshall, Texas approves of the investment training courses sponsored by the Texas Municipal League, the Government Finance Officers Association of Texas, the Government Treasurer’s Organization of Texas, the North Central Texas Council of Governments, and the University of North Texas Center for Public Management; and

WHEREAS, the Finance Director and the Assistant Director(s) of Finance are required to attend an investment training course sponsored by one or more of the aforementioned organizations; and

WHEREAS, the City Council authorizes the investment officer of the City of Marshall, Texas to acquire investments from the City’s depository bank; other state or national banks domiciled in Texas that are insured by FDIC (approved on an individual basis by the City Council); public funds investment pools; and the following brokers and dealers: (1) Chase Investment Services Corp and (2) Edward D. Jones and

WHEREAS, the attached investment policy and incorporated revisions comply with the Public Funds Investment Act, as amended, and authorize the investment of City funds in safe and prudent investments.

WHEREAS, the City’s investment policy requires that the policy be reviewed and adopted annually. Now, therefore,

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

The City of Marshall, Texas has complied with the requirements of the Public Funds Investment Act, and the Investment Policy, attached hereto is hereby adopted as the investment policy of the City of Marshall, Texas effective February 13, 2025.

PASSED, APPROVED AND ADOPTED this 13th day of February 2025.

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

ATTEST:

CITY SECRETARY



TO: City Council
DATE: February 13, 2025
ITEM #: 6.F
SUBJECT: Consider approval of the renewal of a contract for supply and delivery of various chemicals at Water Treatment Plant (Brenntag Southwest) (Maximum budget impact \$622,165). (Public Works)

Recommendation for Action: Approve the renewal of an existing contract with Brenntag Southwest for the supply and delivery of various chemicals

Executive Summary: Renewal of an existing contract with Brenntag Southwest for the supply and delivery

Budget Cost: \$622,165

Staff Contact:

Attachments:

1. Chlorine, Caustic & Coagulant - Intent to Renew 012425
2. 2024-WSU-001VariousChemicalsFY2025Renewal

Brenntag Southwest, Inc. ▪ 704 E Wintergreen Rd ▪ Lancaster ▪ Texas ▪ 75134

City of Marshall
PO Box 698
Marshall, Texas 75671

Gayle Tullier
Municipal Bid Manager
Cell: 225 802 1389
gayle.tullier@brenntag.com

January 24, 2025

**Intent to Renew Contract for Various Chemicals for Surface Water Treatment – City Project
Number 2024-WSU-001**

Dear Mr. Owen:

Brenntag Southwest, Inc. wishes to extend the current Contract for Various Chemicals for Surface Water Treatment with the City of Marshall. Brenntag would like to extend the original contract for a twelve (12) month period at the following prices:

Item No.	Description	Quantity	Units	Price
A	Liquid Chlorine	60	Tons	\$2,495.00/Ton
B	Liquid Caustic Soda	250	Tons	\$980.00/Dry Ton
C	Coagulant (PACL/ACH)	670,000	Pounds	\$0.3395/lb

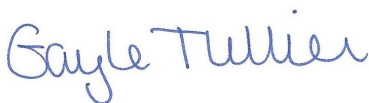
All other terms and conditions of the original contract will remain in effect for the duration of the contract extension.

The resulting contract extension term will be effective from January 1, 2025 through December 31, 2025.

Should you require any additional information, please contact me by telephone at (225) 802-1389 or by email at gayle.tullier@brenntag.com.

Brenntag Southwest, Inc. looks forward to continuing our relationship with the City of Marshall.

With best regards,



Gayle Tullier

BID TABULATION

City Project: 2024 Various Chemicals for Surface Water Treatment

City Project Number: 2024-WSU-001

Bid Opening Time\Date: October 25, 2023 @ 3:00pm

Prepared By: Eric G. Powell, PE, Director\City Engineer

2025 Renewal

				Brenntag Southwest Houston, TX		Brenntag Southwest Houston, TX	
ITEM NO.	DESCRIPTION	QUANTITY	UNITS	UNIT PRICE BID	EXTENDED TOTAL	UNIT PRICE BID	EXTEND ED TOTAL
A	Liquid Chlorine	60	TONS	\$ 2,495.00	\$149,700.00	\$ 2,495.00	\$149,700.00
B	Liquid Caustic Soda	250	TONS	\$ 980.00	\$245,000.00	\$ 980.00	\$245,000.00
C	Coagulant (OACL/ACH)	670,000	POUNDS	\$ 0.3195	\$214,065.00	\$ 0.3395	\$227,465.00

Total Annual Cost:

\$608,765.00

\$622,165.00

As Read



10/25/2023

Eric G. Powell, PE

Director of Public Works and Utilities\City Engineer



TO: City Council
DATE: February 13, 2025
ITEM #: 6.G
SUBJECT: Consider approval of a contract for a Chief Wastewater Plant Operator (\$75,000). (Public Works)

Recommendation for Action: Approval of contract for Chief Wastewater Plant Operator services.

Executive Summary: According to the Texas Administrative Code Rule 30.350, the chief operator of each wastewater treatment facility must possess a license equal to or higher than that of the category of treatment facility. The City of Marshall's wastewater treatment plant is rated at 8.0 MGD, which puts it in the category of a "B" due to it having a flow of greater than 1.0 MGD to 10.0 MGD. Currently, the City of Marshall does not have an operator with a license that suits the requirement for operating the plant as the Chief, therefore we are in need of having to contract James Willis who is the former Chief Plant Operator and possesses a "B" license, the last 3 years. The Chief Plant Operator – Wastewater position is a fully funded and approved position with the City, but has proven to be difficult to fill as it does possess this requirement, in which there have been no qualified applicants to apply. This contract is not to exceed \$75,000.00, and if not approved, the City will be in violation with the Texas Commission on Environmental Quality (TCEQ), and will begin receiving daily fines of up to \$5,000.00 according to its Penalty Policy.

Links for requirements:

[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=T&app=9&p_dir=N&p_rloc=91238&p_tloc=&p_ploc=1&pg=2&p_tac=&ti=30&pt=1&ch=30&rl=348](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=T&app=9&p_dir=N&p_rloc=91238&p_tloc=&p_ploc=1&pg=2&p_tac=&ti=30&pt=1&ch=30&rl=348)

<https://texreg.sos.state.tx.us/fids/200603294-1.html>

https://texreg.sos.state.tx.us/fids/30_0030_0350-2.html

<https://www.tceq.texas.gov/licensing/licenses/wwlic#WWacceptB>

<https://www.tceq.texas.gov/downloads/compliance/publications/rg/penalty-policy-2021-rg-253.pdf>

Budget Cost: \$75,000

Staff Contact: Cory Owen, Assistant Director

Attachments: 1. 0165_001

THE STATE OF TEXAS
COUNTY OF HARRISON

CONTRACT FOR SERVICES

This Contract is made and entered into by and between The City of Marshall, Texas whose address is 401 S. Alamo, Marshall, Texas 75670, hereinafter referred to as "City", and James Willis, 601 Bean Ave., Kilgore, Texas 75662, collectively hereinafter referred to as "James Willis", upon the following terms, conditions, and agreements:

Recitations

WHEREAS City owns the Southside Wastewater Treatment Plant, a municipal wastewater treatment plant; and

WHEREAS City desires to contract James Willis to operate the Wastewater Treatment Plant and train staff accordingly in how to do so; and

WHEREAS James Willis is capable and willing to provide the services; and

WHEREAS City and James Willis desire to enter into this agreement for the services that James Willis can provide; and

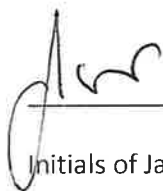
NOW THEREFORE, the parties agree as follows:

1. James Willis's obligations. City hereby engages James Willis as an independent contractor and James Willis agrees for the benefit of City to act as a Contracted Chief Plant Operator for the Southside Wastewater Treatment Plant, and will provide any and all management, supervision, knowledge, expertise and labor necessary to perform the aforementioned services, and harmonize its efforts with the other operations of the City, its employees, or its

other contractors in operating the Southside Wastewater Treatment Plant. James Willis will provide these services as needed for compliance with the requirements of the Texas Commission on Environmental Quality, and James Willis shall use his own discretion to decide what hours to work, but agrees to provide such time to the City as is necessary to keep the Southside Wastewater Treatment Plant in compliance with state and federal regulations.

2. City's Obligations and Expenses. In exchange for the services provided by James Willis in paragraph 1, City agrees to pay the hourly rate of \$50.00\HR for services provided by James Willis as well as Mileage to and from James Willis's residence in accordance with most recently published IRS rate (currently \$0.625\mile) within thirty days of being invoiced.
3. Independent Contractor: James Willis shall have the sole authority and responsibility for the work performed. James Willis shall maintain his own health insurance as he sees fit for himself, and will make payment of all appropriate taxes, including without limitation, self-employment taxes. James Willis will maintain, at his expense, all professional licenses and training necessary to complete the service anticipated in this contract.
4. Indemnity James Willis shall indemnify and save harmless the City and its officers, agents, and employees from all suits, actions, losses, damages, claims, or liability of any character, type, or description, including without limiting the generality of the foregoing all expenses of litigation, court costs, and attorney's fees for injury or death to any person, or injury to any property, received or sustained by any person or persons or property, arising out of, or occasioned by, the acts of James Willis or its, his or her agents or employees, in the execution or performance of this contract.

The City shall not be liable or responsible for, and shall be saved and held harmless by Willis from and against any and all suits, actions, losses, damages, claims, or liability of any character, type, or description, including all expenses of litigation, court costs, and attorney's fees for injury or death to any person, or injury to any property, received or sustained by any person or persons or property, arising out of, or occasioned by, directly or indirectly, the performance of James Willis under this agreement, including claims and damages arising in whole or in part from the negligence of the City. It is the expressed intent of the parties to this Agreement that the indemnity provided for in this section is an indemnity extended by James Willis to indemnify and protect the City from the consequences of the City's own negligence, whether that negligence is the sole or contributory cause of the resultant injury, death, or damage or provided.



Initials of James Willis

James Willis agrees to defend, at its/his/her own expense, and on behalf of the City and in the name of the City, any claim or litigation brought in connection with any such injury, death, or damage.

5. Standard of Performance: James Willis will perform work and/or services with due diligence and in a safe, competent and workmanlike manner. Should James Willis fail to perform the services called for within the time frame called for, City shall be entitled to terminate this contract, and in such event will owe no further payments to James Willis under this agreement.

6. Laws, Rules and Regulations: James Willis agrees to comply with all laws, rules and regulations, federal, state and municipal which are now, or may in the future become, applicable to James Willis or James Willis's business, equipment and personnel engaged in operations covered by this Contract.
7. Termination. Either party to this agreement may terminate the agreement on fourteen days written notice.
8. Entire Agreement: This instrument contains the entire agreement of the parties concerning the services hereunder. It may not be changed orally, but only by an agreement in writing signed by both parties. This agreement shall be binding upon the parties hereto and their successors and assigns.
9. Miscellaneous:

(a) This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the Parties created in this Agreement are performable in Harrison County, Texas.

(b) This Agreement shall be binding on and inure to the benefit of the Parties and their respective heirs, executors, administrators, legal representatives, successors, and assigns when permitted by this agreement. This agreement may not be assigned by either party without the written agreement of all parties hereto.

(c) In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability shall not affect any other provision in this Agreement and this

Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in it. Prior Agreements Superseded.

(d) This Agreement constitutes the sole and only agreement of the Parties and supersedes any prior understandings or written or oral agreements between the Parties respecting the subject matter of this Agreement.

(e) No part of this agreement may be assigned by either party except with the other party's written consent.

10. Effective Date: This Agreement shall be in full force and effect from and after

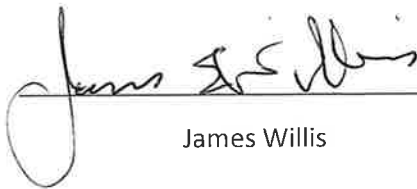
_____.

EXECUTED IN MULTIPLE ORIGINAL COPIES this _____ day of _____, 2024.

The City of Marshall, Texas

By: _____

Authorized Representative



James Willis



TO: City Council
DATE: February 13, 2025
ITEM #: 8.A
SUBJECT: **O-25-05** Consider approval of an Ordinance amending Ordinance O-24-19 adopting the FY25 Annual Budget. (Finance)

Recommendation for Action: Staff recommends approval of the attached ordinance amending the FY25 annual budget and authorizing the use of fund balance for emergent wastewater treatment plant expenses and the creation of a Municipal Drainage Utility Master Plan.

Executive Summary: See attachments.

Budget Cost: Water & Wastewater Utility (Fund 40) - \$713,000
Municipal Drainage Utility (Fund 84) - \$378,000

Staff Contact: Kristina Hamilton, Assistant Director of Finance

Attachments:

1. Memo - Water & Wastewater Utility
2. Memo - Municipal Drainage Utility
3. 2025 Budget Amendment - 2025-02-13

AGENDA MEMORADUM

To: City Council Members

From: Kristina Hamilton, Assistant Director of Finance

cc: Dawn I. Jones, Director of Finance

Melissa Vossmer, Interim City Manager

Date: 02/05/2025

Re: Request for Utilization of Fund Balance for Emergent Conditions at Wastewater Treatment Plant

Purpose:

This memo formally requests the allocation of a portion of the Water & Wastewater Utility fund balance to cover unforeseen expenses stemming from urgent issues at the Wastewater Treatment Plant, which have created a financial burden outside the scope of the current operational budget.

Background:

Recent equipment failures and critical infrastructure problems at the Wastewater Treatment Plant have required immediate intervention. These unanticipated issues present significant financial challenges, as they impact both the facility's operational integrity and compliance with regulatory standards. Immediate financial resources are necessary to remedy these situations and prevent disruptions in service.

Financial Impact:

Due to the emergent nature of these repairs, the existing operational budget cannot accommodate the required expenditures without compromising other projects or operations. Accessing a portion of the Water & Wastewater Utility fund balance provides the necessary financial flexibility to address these urgent costs while preserving the budget for other critical priorities.

Recommendation:

To effectively manage the financial impact of these unplanned expenses, I recommend the approval of \$713,000 from the Water & Wastewater Utility fund balance. This allocation will allow for the timely completion of essential repairs and ensure continued, uninterrupted service to the community.

AGENDA MEMORADUM

To: City Council Members

From: Kristina Hamilton, Assistant Director of Finance

cc: Dawn I. Jones, Director of Finance
Melissa Vossmer, Interim City Manager

Date: 02/05/2025

Re: Allocation of Municipal Drainage Utility Fund Balance for Drainage Master Plan

Purpose

This memo formally requests the allocation of \$378,000 from the Municipal Drainage Utility fund balance to finance the development of a Municipal Drainage Master Plan. This investment will provide a fiscally responsible approach to long-term stormwater management while preserving the integrity of the city's financial resources.

Financial Justification

A well-structured Municipal Drainage Master Plan is a proactive financial measure that will mitigate costly emergency repairs, reduce infrastructure deterioration, and improve the efficiency of drainage investments. Without a comprehensive plan, the city faces increased financial risks, including reactive spending on unplanned drainage failures and potential regulatory penalties.

The current operational budget does not include funding for this initiative, and delaying its implementation could result in higher long-term expenditures due to unaddressed drainage deficiencies. Utilizing a portion of the Municipal Drainage Utility fund balance will allow the city to strategically allocate resources without disrupting other planned projects or requiring additional revenue sources.

Long-Term Financial Impact

Investing in a Municipal Drainage Master Plan will:

- Optimize capital improvement planning, ensuring funds are spent efficiently.
- Minimize emergency repair costs through data-driven prioritization.
- Strengthen the city's financial stability by preventing unforeseen drainage-related expenses.
- Enhance grant eligibility and potential external funding opportunities for future projects.

Recommendation

To maximize financial efficiency and ensure sustainable stormwater management, I recommend allocating \$378,000 from the Municipal Drainage Utility fund balance for the development of a Municipal Drainage Master Plan. This strategic investment will support fiscally responsible infrastructure planning while safeguarding the city's financial and operational stability.

Please let me know if additional details are needed.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING ORDINANCE NO. 0-24-19 TO AMEND THE
2025 ANNUAL BUDGET OF THE CITY OF MARSHALL, TEXAS**

WHEREAS, on September 26, 2024 the City of Marshall, Texas passed Ordinance No. O-24-19 adopting the 2025 annual budget; and

WHEREAS, the City of Marshall, Texas desires to amend the 2025 annual budget to account for unanticipated expenditures, which were not included in the original budget;

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

The appropriations for the fiscal year beginning January 1, 2025 and ending December 31, 2025 be amended to provide funds needed for unanticipated expenses:

Water & Wastewater Utility Fund - \$ 713,000		
Use of Fund Balance		(\$713,000)
Machinery & Equipment		\$713,000
Municipal Drainage Fund - \$ 378,000		
Use of Fund Balance		(\$378,000)
Professional Services		\$378,000

Vote:

PASSED, APPROVED, AND ADOPTED this 13th day of February, 2025.

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

ATTEST:

CITY SECRETARY



TO: City Council
DATE: February 13, 2025
ITEM #: 8.B
SUBJECT: **O-25-06** Consider an amendment to Ordinance O-24-26 clarifying the section of Hollis Taylor to a one-way street from east to west. (Police and Public Works)

Recommendation for Action: Approval of an amendment to ordinance #O-24-26 - Hollis Taylor one-way.

Executive Summary: This is an amendment to ordinance #O-24-26 which originally created the section of Hollis Taylor to be one way from Pecan St to S Washington Ave (east to west). After a discussion with MISD it has been determined that the only section that needs to be one way traveling towards S Washington is from Meadow St. This change will allow all parents\guardians who are dropping off and picking up students at the school to stack up on Hollis Taylor going east as they enter the school.

Budget Cost: none

Staff Contact: Chief Carruth, Marshall PD and Eric Powell PE, Public Works Director and City Engineer

Attachments:

1. 20241114115842
2. HollisTaylor01
3. HollisTaylor02
4. AmendmentHollisTaylorOneWayMISD
5. HOLLIS TAYLOR.One Way Street Ordinance Amendment01292025



Cliff Carruth
Chief of Police

Marshall Police Department

Interoffice Memo

Date: 11/14/2024
To: ERIC POWELL
From: CHIEF CLIFF CARRUTH 
Re: HOLLIS TAYLOR STREET CHANGE TO ONE-WAY AND ADDING A FOUR WAY STOP AT FRANCIS STREET AND MEADOW STREET

MISD Police Chief Joe Aldridge has made a request to change Hollis Taylor Street into a one-way street to allow traffic to flow from East to West. This change would affect Hollis Taylor Street starting at the intersection of Pecan Street and continuing West bound to S. Washington Street.

The reason for his request is due to the safety hazard of this narrow alleyway-type street on Hollis Taylor Street that is not wide enough to allow two (2) cars going in the opposite direction to pass each other. This street is located on the back side of Marshall Early Childhood Center (MECC). This issue has caused numerous disturbances due to the narrow roadway and the high volume of traffic during school.

This change will continue to allow access to all of the properties on Hollis Taylor.

You and I met at this location several months back and the issues have increased.

The school district also requests a four-way stop at the intersection of Francis Street and Meadow Street. This intersection has a yield sign at the intersection facing Meadow Street. During school pick-up and drop-off there is a high volume of vehicles traffic at this intersection. While there is a high volume of traffic during these times the drivers on Street Francis will not allow the drivers on Meadow to enter the intersection. This has caused numerous disturbances and fights. A four (4) way stop will allow all traffic access to this intersection and allow the Police to ensure everyone can have access into this intersection.

“Making Our Community Safer”

I have reviewed the traffic issues and concur with the requests and agree that these changes will correct these issues and enhance public safety. As part of our committee review will you prepare an ordinance for the City Council to consider an ordinance that makes the changes.





Map of Hollis Taylor One Way Change



Legend

City Roads

City Roads

School Circulation



Date: 1/29/2025

CITY OF MARSHALL, TEXAS ORDINANCE NO. _____

AN AMENDMENT TO ORDINANCE #O-24-26 OF THE CITY COUNCIL OF THE CITY OF MARSHALL, TEXAS, CHANGING HOLLIS TAYLOR STREET FROM A TWO-WAY STREET TO A ONE WAY STREET RUNNING FROM EAST TO WEST, FROM MEADOW STREET TO SOUTH WASHINGTON AVE., AS IS MORE PARTICULARLY DESCRIBED AND OR DEPICTED IN EXHIBIT A, WHICH IS ATTACHED HERETO AND INCORPORATED HEREIN FOR ALL PURPOSES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A PUBLICATION CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Marshall, Texas, is a Texas home-rule municipality; and

WHEREAS, Section 311.001(a) of the Texas Transportation Code generally provides that a home-rule municipality has exclusive control over and under the public highways, streets, and alleys of the municipality; and

WHEREAS, the City of Marshall, Texas, has conducted a traffic review by staff concerning the traffic pattern surrounding Marshall Early Childhood Center, and specifically at Hollis Taylor Street; and

WHEREAS representatives of the Marshall Independent School District Police Department have requested that Hollis Taylor Street be designated as a one way street causing traffic to flow from east to west from Meadow Street to S Washington Street; and

WHEREAS, the City Council of the City of Marshall, Texas, finds that changing Hollis Taylor Street from two way to one way is in the best interest of the safety of the children attending the Marshall Early Childhood Center (“the School”), property owners near the School, and parents driving two and from the School; and further that the changes made herein will improve traffic flow and safety for those using the streets;

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

SECTION 1. That the findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2. ONE WAY STREET CREATED. Exhibit A to this ordinance shall provide a depiction of the roads and traffic flow as one way, as follows:

One-way traffic is required on Hollis Taylor Street, beginning at the intersection of Meadow St. and Hollis Taylor Street, to the intersection of S Washington Ave.

And Hollis Taylor St., and flowing from East to West. Traffic flow in the opposite direction is prohibited.

SECTION 3. That if any section, article paragraph, sentence, clause, phrase or word in this Ordinance, or application thereto any persons or circumstances is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance; and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 4. That all provisions of the Ordinances of the City of Marshall, Texas, in conflict with the provisions of this Ordinance be, and the same are hereby amended, repealed, and all other provisions of the ordinances of the City not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 5. Penalty Clause. Any person, firm, or corporation violating any of the provisions or terms of this Ordinance shall be deemed guilty of a class C misdemeanor and, upon conviction, shall be punished by a fine not to exceed the sum of Two Hundred Dollars (\$200.00) for each offense; and each and every day during or on which such violation shall occur or continue shall be deemed to constitute a separate offense.

SECTION 6. Publication. In accordance with Section 52.011 of the Local Government Code, the caption of this Ordinance shall be published either (a) in every issue of the official newspaper of the City of Marshall for two days or (b) one issue of the newspaper if the official newspaper is a weekly paper. An affidavit by the printer or the publisher of the official newspaper verifying the publication shall be filed in the office of the City Secretary.

SECTION 7. That this Ordinance shall become effective from and after its date of passage in accordance with law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, THIS THE _____ DAY OF FEBRUARY, 2025.

Amy Ware, Mayor

ATTEST:

Nikki Smith, City Secretary

APPROVED AS TO FORM:

Scott Rectenwald, City Attorney

THE STATE OF TEXAS	§
	§
COUNTY OF HARRISON	§

This instrument was acknowledged before me on the _____ day of _____, 2025, by Amy Ware, Mayor of the City of Marshall, Texas , as having been executed for the purposes and consideration stated therein.

NOTARY PUBLIC, State of Texas
My Commission Expires: _____

Typed or Printed Name of Notary



TO: City Council
DATE: February 13, 2025
ITEM #: 9.A
SUBJECT: **R-25-05** Consider approval of a resolution regarding support of Marshall Depot, Inc. and efforts to look long-term with the development of a comprehensive plan for the future care and stability of the Marshall Depot facility. (Councilmembers Godfrey & Morris)

Recommendation for Action: Consider approval of resolution.

Executive Summary: At the January 23, 2025, City Council Meeting, Marshall Depot, Inc. presented an overview of the Marshall Depot, the contributions to the Marshall community and suggested a role for the City of Marshall. As part of the presentation, there were two “Asks” of the City Council. A copy of slides from the presentation are attached.

Staff was asked to place this item on the 2-13-25 Council agenda by Council Members Jordan – Anderson and Morris to provide the Council with the opportunity to discuss the “Asks”. Initially, Staff was asked to prepare an Ordinance but in discussion, recognized the Council needed to provide guidance on what the ordinance should address. In addition, after further discussion, it was determined that a codified ordinance wasn’t necessary to capture any Council direction.

On 2-3-25, staff was asked by Councilwoman Godfrey and Councilman Morris, the original agenda item sponsors in bringing the Marshall Depot presentation to the City Council, to prepare a Resolution that began to capture possible responses to the “Asks”. A draft Resolution is attached for Council consideration.

The Resolution suggests the Marshall Depot Inc. – not the City - establish a broad-based and focused working Committee in support of the future of the Marshall Depot through the development of a Comprehensive Plan and the City will give consideration to participating in this effort through Council involvement and / or direction to Staff. The Resolution goes on to state that while it is appropriate to provide an opportunity for the new City Manager to be part of the discussion, it is also appropriate for Council consideration of participation in support of the Comprehensive Plan during the FY26 Budget process.

The Resolution acknowledges the current contribution to the Marshall Depot, Inc. is \$22,500. The Council sponsors of this item have also asked that consideration be given to providing water and sewer services to the Marshall Depot at no cost effective April 1, 2025. This is included in the body of the Resolution. However, since preparing the draft Resolution and upon discussion with the City Attorney, the City cannot provide this service at no charge per the Texas Constitution and a case from the Texas Supreme Court. As a result, the draft will need to be modified.

Budget Cost:

Staff Contact: Melissa Vossmer, Interim City Manager

- Attachments:**
1. Marshall Depot Inc. Resolution 2-13-25 Council
 2. Marshall Depot - ASK Slides 1-23-25

RESOLUTION NO. ____

A RESOLUTION IN SUPPORT OF MARSHALL DEPOT, INC AND EFFORTS TO LOOK LONG-TERM WITH THE DEVELOPMENT OF A COMPEHENSIV PLAN FOR THE FUTURE CARE AND STABILITY OF THE MARSHALL DEPOT FACILITY.

WHEREAS, the benefits from the Depot and Amtrak pertain not only to transportation and Economic Development, but also to the benefits to tourism and education, as well as documenting and continuing Marshall's important railroad history; and

WHEREAS, the Marshall Depot is not just a beautiful, restored, historic building at the north end of North Washington, the Marshall Depot Amtrak station is operational and does generate some revenue for our City, and

WHEREAS, Marshall Depot, Inc. has asked for support from the City of Marshall to join their effort as a partner in raising funding necessary to develop a Comprehensive Plan addressing the vision and future of the Marshall Depot facility, and

WHEREAS, Marshall Depot, Inc. has asked that the City of Marshall consider a more active role in support of Marshall Depot, Inc. activities, and

WHEREAS, the City of Marshall is very appreciative of the care and commitment to the stability and future of the Marshall Depot reflected by the dedication of the Marshall Depot, Inc. members, and

WHEREAS, the City of Marshall currently supports Marshall Depot, Inc. with a contribution of \$22,500 in the FY25 Budget;

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

Section 1. The City Council will look at opportunities to support the Marshall Depot Inc. efforts to raise funds for the purpose of conducting a long-term Comprehensive Plan for the Marshall Depot facility as part of the considerations in the development of the FY26 Marshall Budget.

Section 2. The City Council encourages Marshall Depot, Inc. to develop an Ad Hoc or Steering Committee with area-wide membership for the purpose of raising funds to conduct a long-term Comprehensive Plan – a Plan which will provide the foundation of future improvements, operations and maintenance of the facility as well as convey a vision for the future that will assist in securing funding and generating support.

Section 3. The City Council will work with the new City Manager to determine what role the City should take in support of Marshall Depot Inc.'s long term efforts.

Section 4. The City Council will increase its' support of Marshall Depot, Inc. by directing staff to provide City utility services, water and sewer, at no charge beginning April 1, 2025 until terminated by the City Council.

Section 5. It is hereby found and determined that the meeting at which this resolution was passed was open to the public and that advance public notice of the time, place and purpose of said meeting was given as required by law.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARSHALL, TEXAS ON THIS THE 13TH DAY OF FEBRUARY, 2025.

Amy Ware, Mayor

ATTEST:



ASK #1.

Establish a Steering Committee/City of Marshall Task Force on Rail

We, respectfully, request that the City Council establish a Steering Committee/City of Marshall Task Force on Rail which is comprised of elected and other officials and community leaders from the City, County, Marshall Depot, MEDCO, ETCOG, and others to work together to structure an effective plan, going forward, that will ensure the sustainability of the Marshall Depot/Amtrak station into the future and build upon and increase the many important benefits it provides our City.

ASK #2.

Pursue grant funding for comprehensive plan on Marshall Depot/Amtrak station

Within the context of the “ask” regarding the establishment of a community leader-based Steering Committee/Task Force, we would also like to respectfully request that grant funding be pursued to fund the creation of a long-range comprehensive plan, working with the City and Steering Committee, regarding the Marshall Depot.

Interim City Manager Melissa Vossmer kindly created excellent guidance on a plan of this kind with the *Scope of Work Components – 10-Year Comprehensive Plan* document related to the Marshall Depot, enclosed in your packet.



TO: City Council
DATE: February 13, 2025
ITEM #: 10.A
SUBJECT: Consider approval of a Memorandum of Understanding between Harrison County Sheriff's Office Fire Marshal Division and Marshall Fire Department Fire Marshal's Office for mutual aid in fire inspections and investigations. (Fire)

Recommendation for Action: It is recommended that the City Council approve and authorize the Fire Chief to execute a Memorandum of Understanding between Harrison County Sheriff's Office Fire Marshal Division and Marshall Fire Department Fire Marshal's Office to establish mutual aid for fire inspections and investigations

Executive Summary: The proposed Memorandum of Understanding (MOU) between the Harrison County Sheriff's Office Fire Marshal Division and Marshall Fire Department Fire Marshal's Office establishes a mutual aid agreement for fire inspections and investigations.

KEY PROVISIONS:

- Enables resource sharing and mutual assistance between agencies for fire investigations and inspections
- Clarifies jurisdictional authority and operational procedures for joint operations
- Addresses liability and chain of custody requirements
- Duration: 12 months from signing date

BENEFITS:

- Reduces response times and business inspection delays
- Enhances officer safety through dual-investigator coverage per NFPA Standards
- Improves service delivery to community through shared resources

FISCAL IMPACT: No direct costs associated with implementation.

RECOMMENDATION: Staff recommends approval of the MOU between Harrison County Sheriff's Office and Marshall Fire Department.

Budget Cost: There are no direct costs associated with this agreement

Staff Contact: David Rainwater, Fire Chief

Attachments: 1. Memorandum of Understanding Harrison County Fire Marshall and Marshall FD

Memorandum of Understanding
Between
Harrison County Sheriff's Office Fire Marshal Division
And The
Marshall Fire Department Fire Marshal's Office

This Memorandum of Understanding (MOU) sets forth the terms and understanding between the Harrison County Sheriff's Office and the Marshall Fire Department to participate in a service agreement, involving personnel, pertaining to the mutual aid between the Harrison County Fire Marshal and Marshall Fire Department Fire Marshal in relation to Fire Inspections and Fire Investigations.

Purpose

There are times during the course of the Fire Marshal's duties that a secondary Fire Investigator is required per NFPA Standards (National Fire Protection Association) when investigating an incident to ensure officer safety. There may also be times where a Fire Marshal official is needed to conduct an inspection at a business or facility but is unavailable to perform such inspection in a timely manner. If a Fire Marshal is unavailable, then the business or facility's opening can be delayed until the Fire Inspector becomes available. This could leave the business owner with excess burden and expenses.

Allowing the two agencies to work jointly together, when the need arises, benefits the community, decreases response time or delays to investigations and inspections, and it increases officer safety.

Governing Body

1. The Harrison County Fire Marshal, whether performing the duties in the limits of Harrison County or within the city of Marshall, will fall under the umbrella of the Harrison County Sheriff's office.
2. The Marshall Fire Department Fire Marshal will fall under the Marshall Fire Department umbrella, unless the duties being carried out are outside the city limits and at such time, the Fire Marshal will fall under the Harrison County umbrella.

Jurisdiction and Authority

1. Each agency shall have primary jurisdiction within their respective boundaries but may provide mutual aid upon request.
2. When operating in the other agency's jurisdiction, personnel will follow that agency's procedures and protocols.
3. Each agency shall notify the other when conducting operations in the other's jurisdiction when circumstances permit.

Operational Procedures

1. Both agencies agree to:
 - Respond to requests for mutual aid promptly
 - Provide necessary documentation and reports for joint operations
 - Share relevant information and findings
 - Maintain proper chain of custody for evidence
 - Follow established safety protocols
2. For joint investigations:
 - The agency with primary jurisdiction will lead the investigation
 - Supporting agency will provide assistance as requested
 - Both agencies will coordinate on report writing and documentation

Resource Sharing

1. Both agencies agree to share:
 - Personnel for investigations and inspections
 - Equipment when necessary
 - Training opportunities
 - Relevant documentation and reports

Liability and Indemnification

1. Each party shall be responsible for its own actions and those of its employees.
2. Neither party waives any immunity or defense that would otherwise be available under state law.

Term of MOU

The MOU is effective on the date that the governing bodies sign said MOU and will last for a period of 12 months or unless one or both governing bodies feel the MOU is ineffective or not conducive to the betterment of the department or the citizens.

Modification

This agreement may be modified by mutual consent of both parties, with written notice to the authorized officials below.

Harrison County Sheriff Office

Marshall Fire Department

Sheriff Brandon Fletcher

Chief David Rainwater

Date: _____

Date: _____



TO: City Council
DATE: February 13, 2025
ITEM #: 10.B
SUBJECT: Consider approval of Phase 1 of the City wide Drainage Master Plan update (\$387,118). (Public Works)

Recommendation for Action: Requesting Council considering approving the Phase 1 component of the City-wide Drainage Master Plan update as provided by the City's consultant Freese and Nichols

Executive Summary:

Executive Summary

Freese and Nichols, Inc. (FNI) has been engaged by the City of Marshall to develop a city-wide **Master Drainage Plan**, marking the first comprehensive assessment since 1974. The project aims to evaluate the city's existing drainage infrastructure, clarify ownership, and identify necessary improvements to mitigate hazardous flooding and enhance stormwater management.

Phase 1 Objectives

The first phase of this multi-phase project includes:

- **Project Management & Coordination:** Conducting kickoff and periodic meetings, implementing quality controls, and ensuring efficient project execution over an **8-month timeline**.
- **Stormwater Network Inventory:** Developing a geodatabase to document underground storm sewer networks and open channels, integrating GIS data, and digitizing historical drainage plans.
- **Data Collection & Review:** Conducting field surveys to supplement missing infrastructure data, with a focus on identifying unmapped storm sewers.
- **Hydrologic & Hydraulic (H&H) Evaluation:** Assessing historical storm events, performing a rain-on-mesh analysis to identify flooding-prone areas, and conducting hydraulic modeling of **Happy Hollow Creek** to determine potential deficiencies in the city's drainage system.

Key Deliverables

- A **GIS-integrated** stormwater network inventory
- Identification of undersized storm sewer trunklines

- Mapping of deep flooding locations
- A **HEC-RAS hydraulic model** for Happy Hollow Creek

Budget & Schedule

Phase 1 is budgeted at **\$387,118**, with key cost allocations for stormwater inventory, data collection, and advanced H&H modeling. The project is scheduled for completion within **eight months** from the Notice to Proceed (NTP).

By executing this plan, the City of Marshall will establish a foundational framework for long-term drainage infrastructure improvements, ensuring resilience against future storm events.

Budget Cost:

Staff Contact:

- Attachments:**
1. City of Marshall - DMP Phase 1 Cover Letter_CJS
 2. City of Marshall TA - Phase 1_CJS

December 5, 2024

Eric Powell, PE
Public Works Director
City of Marshall
401 S. Alamo Blvd.
Marshall, TX 75670

Re: City of Marshall Drainage Master Plan – Phase 1 Proposal

Dear Mr. Powell:

Freese and Nichols, Inc. (FNI) is pleased to provide the City of Marshall with a proposal for professional services for the City's Drainage Master Plan, Phase 1. FNI's total proposal amount is \$387,118.00. A detailed scope as well as the Task Authorization corresponding with the Master Services Agreement is provided in the attached files. Billing will be based on a time and materials, not to exceed fee.

Sincerely,



Cory J. Stull, PE, CFM
Principal and Vice President
Group Manager – Western Gulf Coast Stormwater Engineering

cc:

Attachments

- Task Authorization

Scope of Work – Phase 1 Drainage Master Plan City of Marshall, Texas

INTRODUCTION & GOALS

Freese and Nichols, Inc. (FNI) was engaged by the City of Marshall to provide professional services related to the development of a city-wide Master Drainage Plan. The City's last drainage plan was completed in 1974; thus, the City is in critical need to evaluate its current drainage infrastructure, identify ownership of infrastructure and open channels, and identify areas where future projects and improvements need to be made for improved drainage for the City.

Through coordination with the City of Marshall, it was identified that the study would be completed in phases. The first phase includes inventorying the drainage network and infrastructure within the City, a high-level assessment of the existing storm sewer infrastructure, a preliminary evaluation of potential hazardous flooding areas via a rain-on-grid H&H model of the City, as well as project management.

FNI proposes the following scope of work for the Drainage Master Plan – Phase 1.

1.0 PROJECT MANAGEMENT AND COORDINATION

- *Kickoff Meeting* – FNI will attend an initial kickoff meeting to discuss project goals and objectives, review the project schedule, and discuss deliverables and other relevant items.
- *Periodic Client Meetings* – FNI will hold periodic (monthly) meetings with City of Marshall staff (8 meetings anticipated) to provide updates on the project, key and/or critical items as they arise for discussion.
- *Routine Project Controls* – Based on an estimated schedule of 8 months for this first phase, FNI will provide internal project management of FNI staff, prepare invoices for FNI's effort, oversee the surveying subconsultant, and provide monthly progress reports summarizing FNI's effort.
- *Quality Management Plan* – FNI will develop a quality management plan to present to the City which includes QA reviews, QC reviews, time for Senior Advisor oversight.

2.0 STORMWATER NETWORK INVENTORY

- *Schema Coordination* – coordination with City staff, especially those in the GIS department is critical to determine the schema at the onset of the database development. FNI will gain an understanding of the City's desires in integrating the geodatabase into their existing system and will provide recommendations
- *Database Creation* – FNI will create a geodatabase with feature classes for underground storm sewer networks, and open channels within the limits of the City of Marshall. Attributes

will be created and populated as data is generated and the geodatabase will be provided to the City.

- *Digitizing Stormwater Infrastructure* – FNI will georeference the 1974 Drainage Plan PDFs in GIS using road centerlines and aerial images and will populate the geodatabase with points, lines, and polygons representing the following drainage infrastructure: underground storm sewers, culvert crossings (not inclusive of driveway culvert crossings), open channels, ponds and lakes. Available information such as size, inlet type, and flowline elevations will be used to populate specific attributes about these features based on either field survey or the 1974 drainage plan or other information from improvements made since 1974.
- *City Council Coordination* – FNI will attend one (1) City Council meeting and brief City Council on the development of the storm network inventory database.

TASK 2 DELIVERABLES

1. *Geodatabase of drainage inventory within the City's limit. This geodatabase is expected to be formatted for integration into a GIS Dashboard system the City will develop with a third-party vendor.*

3.0 DATA COLLECTION AND REVIEW

- *Infrastructure Data Collection* – Once the database has been generated and attributes populated, FNI will determine the storm sewers not located on the 1974 plans which need to be surveyed. Field survey will be conducted by a subconsultant and will be limited and will capture only the pipe size and flowline elevations for the storm sewers identified where sizing information is currently not available. The maximum number of manhole lids that will be opened in Phase 1 of the project to capture storm sewers data is 130.

4.0 H&H EVALUATION

- *Historic Storm Evaluation* – FNI will perform research to identify up to three (3) historic storms which have occurred in the City of Marshall. This will include research of previous news reports and evaluation of historic NOAA QPE data and comparison to Atlas 14 point rainfall totals to estimate the magnitude of the historic storms for comparison to model runs in a later phase of the project.
- *Preliminary Rain-on-Mesh Analysis* – Much of the City's drainage occurs via sheet flow or relatively small storm sewers as it drains to the primary creeks throughout the City. A HEC-RAS rain-on-mesh (ROM) model will be developed simulating the drainage patterns and overland sheet flow. The model's results will support and aid in the identification of problematic areas where deep ponding or potential structural flooding may occur.
- *Preliminary Storm Sewer Comparison* – The mapped inlets and manholes along major trunklines, shown on Exhibit 1, from the above task will be identified to determine contributing drainage areas and estimated flows using the Rational Method. Using the

calculated flows, storm sewer’s level of service (LOS) will be estimated for the major trunklines. Differences will be identified to highlight current infrastructure which may be undersized for its contributing drainage area

- **Hydraulic Analysis** – Phase 1 of the Master Drainage Plan will focus on Happy Hollow Creek, shown in Exhibit 2. The hydraulic analysis, anticipated to be performed within HEC-RAS using 2D modeling methods, will perform high-level modeling of the riverine system using structure sizes from the 1974 drainage plan to generate depth grids in the watershed to aid in the identification of potential problematic flooding areas.
- **City Council Coordination** – FNI will prep for one (1) meeting with City Council to present findings for the preliminary storm sewer analysis and the Happy Hollow Creek preliminary evaluation.

TASK 4 DELIVERABLES

1. *List of storm sewer trunklines with potentially deficient sizing*
2. *Map of ponding or deep flooding locations*
3. *HEC-RAS hydraulic model of Happy Hollow Creek*

TASK BUDGET

Table 1 – Phase 1 Project Scope Budget

<u>TASK</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
0001	Project Management, Meetings and Coordination	\$39,786
0002	Stormwater Network Inventory	\$117,427
0003	Surveying And Data Collection	\$20,861
0006	H&H Modeling	\$215,182
TOTAL		\$387,118

PROJECT SCHEDULE

Based on the expressed scope of work from the City, FNI proposes an 8-month schedule for this first phase of the Drainage Master Plan from Notice to Proceed (NTP).

TASK AUTHORIZATION



City of Marshall
401 S Alamo Blvd
Marshall, TX 75670

MASTER PROFESSIONAL SERVICES AGREEMENT TASK AUTHORIZATION

FNI Project:

Client Contract:

Date: 12/05/2024

Project Name:	City of Marshall Drainage Master Plan – Phase 1
Description of Services:	Develop database of drainage infrastructure with populated attributes, limited survey of underground storm sewer system, perform preliminary analysis of storm sewer trunklines, preliminary H&H evaluation of Happy Hollow Creek, and Project Management
Deliverables:	Storm sewer infrastructure geodatabase, list of deficient infrastructure
Schedule:	January 2025 – August 2025
Compensation Type:	Not to Exceed Fee
Amount Authorized:	\$387,118.00

The services described in Attachment A, Scope of Work, shall proceed upon execution of this Task Authorization under the Master Professional Services Agreement between Freese and Nichols (FNI) and the City of Marshall dated September 24, 2024. All other provisions, terms, and conditions of the Master Professional Services Agreement which are not expressly amended shall remain in full force and effect.

City of Marshall

FREESE AND NICHOLS, INC.

By: _____

By:  _____

Name: _____

Name: Cory J. Stull

Title: _____

Title: Principal & Vice President

Date: _____

Date: December 5th, 2024



TO: City Council
DATE: February 13, 2025
ITEM #: 10.C
SUBJECT: Consider approval of an emergency procurement for WWTP Final Clarifier (\$713,000). (Public Works)

Recommendation for Action: Approve emergency procurement in accordance with Texas Local Government Code Sec. 252.022, General Exemptions

Executive Summary: A local mechanical contractor, RBIS, LLC has submitted a proposal to mobilize, remove, repair, and reinstall the existing final clarifier mechanism at the wastewater treatment plant (WWTP). The total estimated cost for this project is up to \$713,000. To cover these expenses, the fund balance from the upcoming budget amendment will be utilized.

The wastewater treatment plant is currently under an Administrative Order from the Environmental Protection Agency (EPA) and a Notice of Violation from the Texas Commission on Environmental Quality (TCEQ), necessitating urgent action to address failing equipment. Given the emergent nature of this situation, normal purchasing procedures will be temporarily suspended to expedite the procurement of necessary equipment, personnel, and services. All purchase requisitions and invoices will be provided, though some may be submitted retrospectively as quickly as possible

This emergency procurement aligns with the Texas Local Government Code Sec. 252.022 general exemptions, specifically:

- (1)(2) Procurement necessary to protect public health and safety.
- (1)(3) Procurement due to unforeseen damage to public equipment.
- (1)(5) Work paid for as it progresses.
- (1)(7)(D) Procurement of captive replacement parts or components.

Given the regulatory mandates and critical nature of this infrastructure, immediate action is required to ensure compliance and protect public health.

Budget Cost: \$713,000

Staff Contact: Cory Owen, Assistant Director and Eric Powell, PE, Director

Attachments: 1. 0153_001



MEMO

TO: Melissa Vossmer, Interim City Manager
Dawn Jones, CFO

FROM: Eric Powell, PE, Director of Public Works *ELP*

DATE: January 31, 2025

SUBJECT: Emergent condition at WWTP

RBIS, LLC has submitted a proposal to mobilize, remove, repair, and reinstall the existing clarifier mechanism at the wastewater treatment plant. The total estimated cost for this project is up to \$713,000. As you are aware the wastewater treatment plant is currently under an Administrative Order from the Environmental Protection Agency (EPA) and a Notice of Violation from the Texas Commission on Environmental Quality (TCEQ), necessitating urgent action to address failing equipment.

Given the emergent nature of this situation, normal purchasing procedures will need be temporarily suspended to expedite the procurement of necessary equipment, personnel, and services.

We are requesting to utilize the following Texas Local Government Code Sec. 252.022 general exemptions, specifically:

- (1)(2) Procurement necessary to protect public health and safety.
- (1)(3) Procurement due to unforeseen damage to public equipment.
- (1)(5) Work paid for as it progresses.
- (1)(7)(D) Procurement of captive replacement parts or components.

Given the regulatory mandates and critical nature of this infrastructure, immediate action is required to ensure compliance and protect public health.

I have included Cory's memo stating the same information and we are prepared to place this on the Council agenda for the February 13th meeting for complete transparency and their review. I look forward to your response.



MEMO

TO: Eric Powell, PE, Director of Public Works

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

DATE: January 31, 2025

SUBJECT: Emergent Condition – WWTP Secondary (Final) Clarifier

Attached is a proposal from RBIS, LLC, to mobilize and remove the existing clarifier mechanism, breakdown and repair/replace all necessary materials and equipment, and reinstall once completed. A complete breakdown of individual estimates are provided in the 2 proposals that are attached to this memo. This could total up to \$713,000.00. I will be using fund balance from the upcoming budget amendment to cover these costs. The wastewater treatment plant is currently under an Administrative Order from the Environmental Protection Agency (EPA) and a Notice of Violation from the Texas Commission on Environmental Quality (TCEQ) to address the failing equipment at the wastewater treatment plant. I will attach these documents to this memo as well.

Due to the emergent situation, we are going to suspend normal purchasing procedures for the short term so that we can obtain all necessary equipment, personnel, and services until we can return to normal operations. We will provide all purchase requisitions and invoices, though some of them will be provided after the fact. We will be using the Texas Local Government Code Sec. 252.022 general exemptions:

(2) a procurement necessary to preserve or protect the public health or safety of the municipality's residents;

3) a procurement necessary because of unforeseen damage to public machinery, equipment, or other property;

(5) a procurement for work that is performed and paid for by the day as the work progresses;

(7) a procurement of items that are available from only one source, including:

(D) captive replacement parts or components for equipment;

I will be using account number 40-0342-20-44 for the funds. Thank you for your consideration with this request.



RBIS, LLC.

PO Box 1364 ~ Texarkana, Tx. 75504
Phone: (903) 701-3110 or (903) 701-3111
Fax: (870)-772-0654
bk.rbis@gmail.com



PROPOSAL FOR FINAL CLARIFIER 1 REPAIRS

January 21, 2025

Corey Owens
City of Marshall, Texas
401 South Alamo Blvd
Marshall, Tx. 75671

Phone: 903-934-7863
Mbl: 903-578-3867

Job Name: **Remove, Repair, and Reinstall Damaged Final Clarifier 1**
Job Location: **Marshall, Tx. – WWTP**

RBIS, LLC proposes to furnish material, labor, and equipment to remove the existing Final Clarifier 1 Components and repair/replace the damaged components of the structure and drive per our conversations and your request.

Our best interpretation of the cost of the repair will be on a time and material basis:

Interpretation of our Labor Costs: 1 superintendent, 3-4 mechanics, 1 skytrack would equal approximately \$300/hour (Overtime @ \$380/hr)(any other equipment needed would be per our rate sheet attached)

1. We estimate 4-5 days for removal of Sludge at \$300/hr at a minimum 8 hrs/day, plus Badger Environmental for Removal @ approx. \$45,000.00

2. We estimate 4-5 days removal at \$300/hr at 8 hrs/day = approx. \$12,000.00

Repair of Damage is Unknown – That will be on a T&M basis

3. Drive Rebuild/Repair – anywhere from \$25k to \$60k - Depending on the Damage
4. Rake Arm Rebuild/Repair – Anywhere from \$5k to \$25k – Depending on the Damage
5. Remove & Replace Damaged V-Notch Wiers with New SS V-Notch Wiers \$46,000.00

6. We estimate 4-5 days reinstall after repair at \$300/hr at 8 hrs/day = approx. \$12,000.00

7. Crane to set and reinstall structures are at cost + 15% - At least 2 sets (possibly 4 sets)
(Crane usually runs \$4,500.00 to \$7,500.00 per set, depending on the time it takes)

All in All, we guesstimate this repair should range anywhere from \$150k to \$230k
(These guestimates are all depending on the extent of the damage, It Could be the
Maximum or Could be Cheaper)

Exceptions: Exclusions:

Bonds & Permits
Painting of Existing structures and components
Electrical of Any Kind
Concrete Work/Repair of Any Kind

Payment to be made as follows:

Due upon completion.

All material is guaranteed to be as specified. All work is to be completed in a workmanlike manner, according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements are contingent upon strikes, accidents, or delays beyond our control. Owner is to carry fire, tornado, and other necessary insurance.

Note: We reserve the right to withdraw this proposal if not accepted within 30 calendar days.

RBIS, LLC., Authorized Signature _____

Acceptance of Proposal: The above process, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature: _____

Date of Acceptance: _____



RBIS, LLC.

PO Box 1364 ~ Texarkana, Tx. 75504
Phone: (903) 701-3110 or (903) 701-3111
Fax: (870)-772-0654
bk_rbis@gmail.com



PROPOSAL FOR FINAL CLARIFIER 1 REPAIRS - TROUGH

January 28, 2025

Corey Owens
City of Marshall, Texas
401 South Alamo Blvd
Marshall, Tx. 75671

Phone: 903-934-7863
Mbl: 903-578-3867

Job Name: **Remove, Rebuild, and Reinstall Troughs for Final Clarifier 1**
Job Location: **Marshall, Tx. – WWTP**

RBIS, LLC proposes to furnish material, labor, and equipment to remove the existing Final Clarifier 1 Trough Components and replace the existing Trough Components per our conversations and your request.

Our best interpretation of the cost of the repair will be on a time and material basis:

- 1. Remove & Replace Final Clarifier Troughs with New Stainless Steel Troughs**
RBIS will demo & remove the existing Troughs (Demo of Concrete Liner Included)
Fabricate and Install New Stainless Steel Troughs in place of the existing (*Concrete Liner will not be necessary with Stainless Steel*)
Level the New Troughs and attach to the Existing Supports

Total for New Stainless Steel Troughs - \$320,000.00

Alternate Quote: Sandblast and ReCoat the existing Troughs with removal and reinstall of Concrete in trough bottom – Approximately \$250,000.00 (*if this is an option, we will need to evaluate closer for more accurate pricing*)

- 2. Remove & Replace Final Clarifier Scum Box with New Stainless Steel Scum Box**

RBIS will demo & remove the existing Scum Box
Fabricate and Install a New Stainless Steel Scum Box in place of the existing
Level the New Troughs and attach to the Existing Supports

Total for New Stainless Steel Scum Box - \$38,000.00

3. Remove & Replace Final Clarifier Trough Supports with New Stainless Steel Trough Supports

RBIS will demo & remove the existing Trough Supports while the existing Trough is removed

Fabricate and Install a New Stainless Steel Trough Supports in place of the existing
Level the New Trough Supports and attach to the Existing Concrete Wall

Total for New Stainless Steel Scum Box - \$125,000.00

Alternate Quote: Sandblast and ReCoat the existing Trough Supports – Approximately \$70,000.00 *(if this is an option, we will need to evaluate closer for more accurate pricing)*

(These guestimates are all depending on the extent of the damage, It Could be the Maximum or Could be Cheaper)

Exceptions: Exclusions:

Bonds & Permits

Painting of Existing structures and components

Electrical of Any Kind

Concrete Work/Repair of Any Kind

Payment to be made as follows:

Due upon completion.

All material is guaranteed to be as specified. All work is to be completed in a workmanlike manner, according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements are contingent upon strikes, accidents, or delays beyond our control. Owner is to carry fire, tornado, and other necessary insurance.

Note: We reserve the right to withdraw this proposal if not accepted within 30 calendar days.

RBIS, LLC., Authorized Signature _____

Acceptance of Proposal: The above process, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature: _____

Date of Acceptance: _____

Region 6 Compliance Assurance and Enforcement Division INSPECTION REPORT

Inspection Date(s):	05/22/2024		
Media:	Water		
Regulatory Program(s)	Clean Water Act		
Company Name:	City of Marshall		
Facility Name:	City of Marshall Southside WWTP		
Facility Physical Location:	5519 Five Notch Road		
(city, state, zip code)	Marshall, TX 75672		
Mailing address:	5519 Five Notch Road		
(city, state, zip code)	Marshall, TX 75672		
County/Parish:	Hidalgo County		
Facility Contact:	Cory Owen	Assistant Director - Treatment Services	
	903-935-7863		
	owen.cory@marshalltexas.net		
FRS Number:			
Identification/Permit Number:	TX0021784		
Media Number:			
NAICS:			
SIC:	4952		
Personnel participating in inspection:			
Michael Williams	EPA/ 6EN-WMH	Inspector	281-983-2150
James Willis	City of Marshall	Chief Operator	903-930-1759
EPA Lead Inspector Signature/Date	 Digitally signed by MICHAEL WILLIAMS Date: 2025.01.28 09:36:01 -06'00'		Date
	Michael D. Williams		Date
Supervisor Signature/Date	ROBERTO BERNIER Digitally signed by ROBERTO BERNIER Date: 2025.01.28 10:23:18 -06'00'		Date
	Roberto Bernier		Date

Section I - Introduction

PURPOSE OF THE INSPECTION

EPA Region 6 inspector, Michael Williams, arrived at the City of Marshall at 9:55 am on May 22, 2024, for an unannounced National Pollutant Discharge Elimination System (NPDES) wastewater treatment plant inspection. During the opening conference, I met with James Willis, Chief Operator. Mr. Willis was informed that this was an EPA lead compliance evaluation inspection to determine compliance with the facility's NPDES permit (TX0021784) and facility operations and maintenance under the Clean Water Act (CWA). The inspection was conducted under the authority of the NPDES permit program, in accordance with the Federal CWA.

The information presented in this report is based on the materials and information supplied by the City of Marshall representatives, observations made during the inspection, and records or reports maintained by the permittee, the State of Texas and EPA.

FACILITY DESCRIPTION

The City of Marshall operates an activated sludge wastewater treatment plant with a design capacity of 8.0 million gallons per day (MGD) and an average flow of 5.3 MGD. The plant serves an estimated population of 23,000.

The treatment process begins with influent passing through a mechanical bar screen, with no bypass system in place. It then flows into a grit chamber before entering two primary clarifiers. From there, the wastewater moves through two trickling filters before reaching two bio-oxidation towers. After passing through the bio-oxidation towers, the flow enters two aeration channels.

Final clarification occurs in two secondary clarifiers before the water undergoes UV disinfection. The treated effluent is then discharged into an unnamed tributary, which flows into Parker Creek, then Eight-mile Creek, and ultimately into the Sabine River.

Section II- Observations

This inspection revealed the following observations:

On the day of the inspection, the wastewater treatment plant was in a state of severe disrepair and was not being operated as designed. Several critical treatment units were either inoperative or functioning well below capacity, posing significant risks to the plant's efficiency and compliance.

Issues observed during the inspection included:

- Grit Chamber: Completely out of service, allowing excessive debris and grit to enter downstream processes, potentially causing blockages and mechanical wear.
- Primary Clarifier #1: Non-functional due to a broken sludge pump, resulting in excessive sludge buildup and severely reducing treatment efficiency.
- Trickling Filter #1: Completely clogged with solids and overgrown with vegetation, rendering it inoperable and preventing proper biological treatment.
- Trickling Filter #2: The distribution arm was broken and unable to rotate, leading to uneven flow

distribution and ineffective treatment.

- Bio-Oxidation Tower #1: Non-operational, significantly impacting the biological treatment process and overall plant performance.
- Aeration Basin: One of the aeration basins was out of service, reducing the plant's ability to properly aerate wastewater for biological treatment.
- UV Disinfection System: Several UV bank lights were out of service, compromising the disinfection process and increasing the risk of pathogens in the discharged effluent.
- Drying Beds: Three sludge drying beds were not in use, limiting sludge management capacity and potentially leading to improper sludge handling.

These issues indicate a lack of proper maintenance and operational oversight, threatening the plant's ability to meet regulatory compliance and effectively treat wastewater.

Section III- Areas of Concerns

This inspection revealed the following areas of concerns:

The City of Marshall WWTP has multiple treatment units in need of repair or replacement, including the bar screen, grit removal system, primary clarifiers, trickling filters, secondary clarifiers, and the UV disinfection unit. The city has failed to adequately operate or maintain the facility as required in their permit. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control installed or used by the permittee to achieve compliance with the permit conditions. The city has failed to comply with permit limits for the last three years as a result of their neglect (See Attachment B.)

During the inspection, primary clarifier #1 was completely overtaken by sludge due to a non-operational sludge pump. In primary clarifier #2, the skimmer arm was not functioning. Trickling filter #1 was entirely inoperable, overgrown with vegetation, and filled with solids to the point that influent overflowed the sides. Trickling filter #2 was completely clogged, rendering it ineffective; it was overfilled, and its distribution arm was jammed and unable to rotate.

Additionally, only one bio media filter was online, but it required repairs. The UV disinfection unit was also in disrepair, with many UV banks and bulbs out of service.

Section IV – LIST OF APPENDICES

- Appendix A – Photos
- Appendix B – Effluent Violations
- Appendix C – EPA A.O. Issued



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270-2102

September 2, 2022

TRANSMITTED VIA E-MAIL

The Honorable Amy Ware
City of Marshall
P.O. Box 698
Marshall, Texas 75670
ware.amy@marshalltexas.net

Re: Administrative Order; Docket Number: CWA-06-2022-1813
Southside Wastewater Treatment Plant
TPDES Permit Number: TX0021784

Dear Mayor Ware:

Enclosed is an Administrative Order (AO) issued to the City of Marshall, for violations of the Clean Water Act (CWA) (33 U.S.C. §§ 1251-1387). Violations were identified during a review of the permit file and discharge monitoring reports submitted for the Southside Wastewater Treatment Plant. The violations alleged are for failure to meet permit effluent limitations. The EPA requests that you immediately confirm receipt of this e-mail and the attached order by a response e-mail to edelbrock.judy@epa.gov.

This AO does not assess a monetary penalty; however, it does require compliance with applicable federal regulations. The first compliance deadline is within thirty days of the effective date of the AO. The Environmental Protection Agency is committed to ensuring compliance with the requirements of the National Pollutant Discharge Elimination System (NPDES) program and my staff will assist you in any way possible. Please reference AO Docket Number CWA-06-2022-1813 and TPDES Permit Number TX0021784 on your response.

Sincerely,

Digitally signed by CHERYL
SEAGER
Date: 2022.09.02 13:39:11
-05'00'

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Enclosure(s)

cc: kristy.deaver@tceq.texas.gov



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 6 • 1201 Elm St. Suite 500 • Dallas, TX 75270-2102

FINDINGS OF VIOLATION AND COMPLIANCE ORDER

Docket Number: CWA-06-2022-1813; TPDES Permit Number: TX0021784

STATUTORY AUTHORITY

The following findings are made, and Order issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA), Section 309(a) of the Clean Water Act (the Act), 33 U.S.C. § 1319(a). The Administrator of EPA delegated the authority to issue this Order to the Regional Administrator of EPA Region 6, who delegated this authority to the Director of the Enforcement and Compliance Assurance Division.

FINDINGS

1. The City of Marshall (Respondent) is a "person," as that term is defined at Section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.
2. At all times relevant to this Order (all relevant times), Respondent owned or operated the Southside Wastewater Treatment Plant (facility) located at 5517 Five Notch Road in Harrison County, Texas 75672, and was, therefore, an "owner or operator" within the meaning of 40 C.F.R. § 122.2.
3. At all relevant times, the facility acted as a "point source" of a "discharge" of "pollutants" with its final wastewater discharge to the Sabine River above Toledo Bend Reservoir in Segment No. 0505 of the Sabine River which is a "water of the United States," within the meaning of Section 502 of the Act, 33 U.S.C. § 1362 and 40 C.F.R. § 122.2.
4. Because Respondent owned or operated a facility that acted as a point source of discharges of pollutants to waters of the United States, Respondent and the facility were subject to the Act and the National Pollutant Discharge Elimination System (NPDES) program.
5. Under Section 301 of the Act, 33 U.S.C. § 1311, it is unlawful for any person to discharge any pollutant from a point source to waters of the United States, except with the authorization of, and in compliance with, an NPDES permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.
6. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States. Any such discharge is subject to the specific terms and conditions prescribed in the applicable permit.
7. Section 402 of the Act, 33 U.S.C. § 1342, authorizes states to request approval from EPA to administer their own permit programs for discharges into navigable waters within their jurisdiction. Pursuant to this provision, the State of Texas requested approval from EPA to administer its own permit program for discharges into navigable waters within Texas, and such approval was granted by EPA on September 14, 1998. Therefore, pursuant to the State's permit program, the Texas Commission on Environmental Quality (TCEQ) issued Texas Pollutant Discharge Elimination System (TPDES) permits. Violation of a TPDES permit is a violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).
8. Respondent applied for and was issued TPDES Permit No. TX0021784 (permit) under Section 402 of the Act, 33 U.S.C. § 1342, which was issued on July 13, 2016 and reissued on November 18, 2021. At all relevant times, Respondent was authorized to discharge pollutants from the facility to waters of the United States only in compliance with the specific terms and conditions of the permit.
9. The permit includes "Monitoring and Reporting Requirements" that require Respondent to sample and test its effluent and monitor its compliance with permit conditions according to specific procedures, in order to determine the facility's compliance or noncompliance with the permit and applicable regulations. The permit also requires Respondent to file with TCEQ certified Discharge Monitoring Reports (DMRs) of the results of monitoring, and Noncompliance Reports when appropriate.
10. The permit contains "Effluent Limitations and Monitoring Requirements" that place certain limitations on the quality and quantity of effluent discharged by Respondent. The relevant discharge limitations are specified in Attachment A, which is incorporated herein by reference.
11. Certified DMRs filed by Respondent with TCEQ in compliance with the permit show discharges of pollutants from the facility that exceed the permitted effluent limitations established in the permit, as specified in Attachment B, which is incorporated herein by reference.
12. Each instance in which Respondent discharged pollutants to waters of the United States in amounts exceeding the effluent limitations contained in the permit was a violation of the permit and Section 301 of the Act, 33 U.S.C. § 1311.

SECTION 309(a)(3) COMPLIANCE ORDER

Based on the foregoing Findings and pursuant to the authority of Section 309(a)(3) of the Act, 33 U.S.C. § 1319(a)(3), EPA hereby orders Respondent to take the following action:

A. Take such measures as are necessary to comply with all permit conditions, including Effluent Limitations and Monitoring and Reporting Requirements, no later than thirty (30) days from the effective date of the Order.

B. Within thirty (30) days of the effective date of this Order, Respondent shall submit a list of the specific actions taken to correct the Ammonia Nitrogen, Carbonaceous Biochemical Oxygen Demand, and Flow.

C. Within thirty (30) days of the effective date of this Order, Respondent shall provide written certification to EPA Region 6 that the violations cited herein have been corrected and the facility is compliant with the requirements of the permit.

D. In the event the Respondent believes complete correction of the violations cited herein is not possible within thirty (30) days of the effective date of this Order, Respondent shall, within thirty (30) days of the effective date of this Order, submit a comprehensive written plan for the elimination of the cited violations within the shortest possible time. Such plan shall describe in detail the specific corrective actions to be taken and why such actions are sufficient to correct the violations. The plan shall include a detailed schedule for the elimination of the violations within the shortest possible time, as well as measures to prevent these or similar violations from recurring.

E. Any information or correspondence submitted by Respondent to EPA under this Order shall be addressed to the following:

Ms. Judy Edelbrock
Water Enforcement Branch (ECDWA)
U.S. EPA, Region 6
1201 Elm St. Suite 500
Dallas, TX 75270-2102
and edelbrock.judy@epa.gov

GENERAL PROVISIONS

Respondent may seek federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

Issuance of this Section 309(a)(3) Compliance Order shall not be deemed an election by EPA to waive any administrative, judicial, civil or criminal action to seek penalties, fines or other relief under the Act for the violations cited herein, or other violations that become known to EPA. EPA reserves the right to seek any remedy available under the law that it deems appropriate.

Failure to comply with this Section 309(a)(3) Compliance Order or the Act may result in further administrative action, or a civil judicial action initiated by the United States Department of Justice.

This Order does not constitute a waiver or modification of the terms or conditions of Respondent's NPDES permit, which remain in full force and effect. Compliance with the terms and conditions of this Order does not relieve Respondent of its obligation to comply with any applicable federal, state, or local law or regulation.

The effective date of this Order is the date it is received by Respondent.

September 2, 2022

Date



Digitally signed by CHERYL
SEAGER
Date: 2022.09.02 11:38:11

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Jon Niernann, Chairman
Bobby Janecka, Commissioner
Caterina R. Gonzales, Commissioner
Kelly Keel, Executive Director



Received
9/17/24
✓

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 11, 2024

CERTIFIED MAIL 9171 9690 0935 0289 7567 18
RETURN RECEIPT REQUESTED

Mr. Cory Owen
City of Marshall
P.O. Box 698
Marshall, Texas 75671

Re: Notice of Violation for Maintenance Focused Investigation at:
City of Marshall Wastewater Treatment Plant, 5517 Five Notch Rd., Marshall, Harrison
County
Regulated Entity No.: 101701902, TCEQ ID No.: WQ0010583002

Dear Mr. Owen:

On July 9, 2024, Sean Gibson of the Texas Commission on Environmental Quality (TCEQ) Tyler Region Office conducted an investigation of the above-referenced regulated entity to evaluate compliance with applicable requirements for wastewater treatment. Enclosed is a summary which lists the investigation findings. In addition, certain outstanding alleged violations were identified for which compliance documentation is required.

Please submit compliance documentation by **October 11, 2024**, for the following alleged violations by tracking no.: 892491. The documentation should demonstrate what actions have been taken to correct the violation and may include photographs, purchase orders, results of analyses, etc. If the violations have already been corrected, please submit compliance documentation demonstrating what actions were taken.

Please submit a compliance plan by **October 11, 2024**, for the following outstanding alleged violations by track nos.: 892489, 892499, 892501, and 892502. The plan should include the proposed actions to be taken to correct the alleged violations and a schedule for the completion of the corrections. If the violations have already been corrected, please submit compliance documentation, such as photographs, purchase orders, results of analyses, etc., demonstrating what actions were taken.

In the listing of the alleged violations, we have cited applicable requirements, including TCEQ rules. Please note that both the rules themselves and the agency brochure entitled Obtaining TCEQ Rules (GI 032) are located on our agency website at <http://www.tceq.state.tx.us> for your reference. If you would like a hard copy of this brochure mailed to you, you may call and request one from either the Tyler Region Office at (903) 535-5137, or the Central Office Publications Ordering Team at 512-239-0028.

The TCEQ appreciates your assistance in this matter. Please note that the Legislature has granted TCEQ enforcement powers which we may exercise to ensure compliance with environmental regulatory requirements. We anticipate that you will resolve the alleged

TCEQ Region 5 • 2916 Teague Dr. • Tyler, Texas 75701-3734 • 903-535-5100 • Fax 903-595-1562
Austin Headquarters: 512-239-1000 • tceq.texas.gov • How is our customer service? tceq.texas.gov/customer/survey
printed on recycled paper

Mr. Cory Owen

Page 2

September 11, 2024

violations as required in order to protect the State's environment. If you have additional information that we are unaware of, you have the opportunity to contest the violations documented in this notice. Should you choose to do so, you must notify the Tyler Region Office within 10 days from the date of this letter. At that time, Mr. Ross Morgan will schedule a violation review meeting to be conducted within 21 days from the date of this letter. However, please be advised that if you decide to participate in the violation review process, the TCEQ may still require you to adhere to the compliance schedule included in the enclosed Summary of Investigation Findings until an official decision is made regarding the status of any or all of the contested violations.

If you or members of your staff have any questions, please feel free to contact Mr. Sean Gibson in the Tyler Region Office at (903) 535-5164.

Sincerely,



Ms. Cara C. Fisher
Team Leader, Water Program
Tyler Regional Office

T/sg

Enclosure: Summary of Investigation Findings

Summary of Investigation Findings

CITY OF MARSHALL SOUTHSIDE PLANT

Investigation # 2009205

5517 FIVE NOTCH RD

Investigation Date: 07/09/2024

MARSHALL, HARRISON COUNTY, TX 75672

Additional ID(s): WQ0010583002
TX0021784

OUTSTANDING ALLEGED VIOLATION(S) ASSOCIATED TO A NOTICE OF VIOLATION

Track No: 892489 Compliance Due Date: 10/11/2024
30 TAC Chapter 305.125(5)

Alleged Violation:

Investigation: 2009205

Comment Date: 08/29/2024

Failed to properly operate and maintain the facility. Specifically, the skimmer arm in primary clarifier #2 is broken.

a. According to Texas Administrative Code, Ch. 30, Section 305.125 (5); "The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with the permit conditions."

Recommended Corrective Action: The City of Marshall has 30 days from the date of the Notice of Violation (NOV) letter to submit a compliance plan to the TCEQ Region 5, Tyler office. The plan should include the proposed actions to be taken to correct the alleged violation and a schedule for the completion of the corrections. If this violation has already been corrected, please submit compliance documentation, photographs, purchase orders, results of analyses, etc. demonstrating what actions were taken.

Track No: 892491 Compliance Due Date: 10/11/2024
30 TAC Chapter 305.125(5)

Alleged Violation:

Investigation: 2009205

Comment Date: 08/29/2024

Failed to properly operate and maintain the facility. Specifically, the sludge pump in primary clarifier #1 is not operational resulting in the clarifier being completely overtaken with sludge and grit.

a. According to Texas Administrative Code, Ch. 30, Section 305.125 (5); "The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with the permit conditions."

Recommended Corrective Action: The City of Marshall has 30 days from the date of the Notice of Violation (NOV) letter to submit documentation to the TCEQ Region 5, Tyler Office demonstrating that the sludge pump in primary clarifier #1 has been repaired and the clarifier is operating as intended.

Track No: 892499 Compliance Due Date: 10/11/2024
30 TAC Chapter 305.125(5)

Alleged Violation:

Investigation: 2009205

Comment Date: 08/29/2024

Failed to properly operate and maintain the facility. Specifically, Trickle Filter #1 was completely inoperable and in need of complete rehabilitation. The media was completely clogged with grit rendering it ineffective. The entire trickle filter was flooded to the point water

was flowing over the sides.

a. According to Texas Administrative Code, Ch. 30, Section 305.125 (5); "The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with the permit conditions."

Recommended Corrective Action: The City of Marshall has 30 days from the date of the Notice of Violation (NOV) letter to submit a compliance plan to the TCEQ Region 5, Tyler office. The plan should include the proposed actions to be taken to correct the alleged violation and a schedule for the completion of the corrections. If this violation has already been corrected, please submit compliance documentation, photographs, purchase orders, results of analyses, etc., demonstrating what actions were taken.

Track No: 892501 Compliance Due Date: 10/11/2024
30 TAC Chapter 305.125(5)

Alleged Violation:

Investigation: 2009205

Comment Date: 08/29/2024

Failed to properly operate and maintain the facility. Specifically, Trickle Filter #2 was completely inoperable and in need of complete rehabilitation. The media was completely clogged with grit rendering it ineffective. The entire trickle filter was flooded and the distribution arm was jammed and unable to spin.

a. According to Texas Administrative Code, Ch. 30, Section 305.125 (5); "The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with the permit conditions."

Recommended Corrective Action: The City of Marshall has 30 days from the date of the Notice of Violation (NOV) letter to submit a compliance plan to the TCEQ Region 5, Tyler office. The plan should include the proposed actions to be taken to correct the alleged violation and a schedule for the completion of the corrections. If this violation has already been corrected, please submit compliance documentation, photographs, purchase orders, results of analyses, etc., demonstrating what actions were taken.

Track No: 892502 Compliance Due Date: 10/11/2024

PERMIT WQ0010583002, WQ0010583002
Operational Requirements 1

Alleged Violation:

Investigation: 2009205

Comment Date: 08/29/2024

Failure to manage solids within wastewater treatment units. Specifically, both primary clarifiers were overtaken with sludge and grit. Additionally, the trickle filters were clogged with grit to the point they were unusable.

a. According to the TPDES discharge permit WQ0010583002, Operational Requirements 1, the permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. This includes, but is not limited to, the regular, periodic examination of wastewater solids within the treatment plant by the operator in order to maintain an appropriate quantity and quality of solids inventory as described in the various operator training manuals and according to accepted industry standards for process control. Process control, maintenance, and operation s records shall be retained at the facility site or shall be readily available for review by TCEQ representatives, for a period of three years.

Recommended Corrective Action: The City of Marshall has 30 days from the date of the Notice of Violation (NOV) letter to submit a compliance plan to the TCEQ Region 5, Tyler office. The plan should include the proposed actions to be taken to correct the alleged violation and a schedule for the completion of the corrections. If this violation has already been corrected, please submit compliance documentation, photographs, purchase orders, results of analyses, etc.

demonstrating what actions were taken.

ADDITIONAL ISSUES

Description

Is the Ultraviolet system operating properly?

Additional Comments

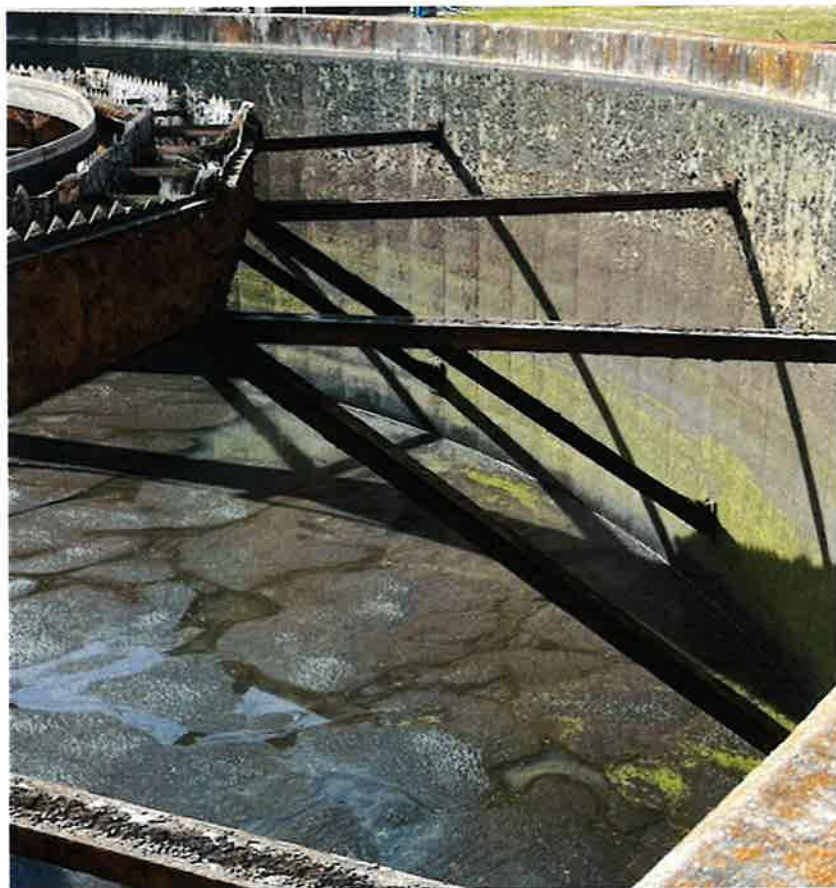
The UV banks are in need of repair/parts replacement.

a. This is being addressed as an additional issue because Trojan UV, who is under contract with the City of Marshall, is currently developing a new parts list for the banks so to get the banks to a more consistently maintained state.

Is the clarifier saw tooth weir functioning properly (even flow with no short circuiting)?

The weir teeth in final clarifier #1 need to be repaired or replaced.

a. This is being addressed as an additional issue because the teeth were damaged as a result of corrective action for a previous violation (812004) as they are scheduled to be repaired.











TO: City Council
DATE: February 13, 2025
ITEM #: 10.D
SUBJECT: Consider approval of design task order for Halff to prepare technical bid documents for the procurement and a new 500HP vertical turbine pump at Raw Water (\$98,700). (Public Works)

Recommendation for Action: COuncil to approve the execution of a design task order with Halff for the design, bid documents, and construction management for a new vertical turbine pump at raw water facility.

Executive Summary: The City of Marshall relies on a raw water source from Big Cypress Bayou to supply its Water Treatment Plant (WTP). The raw water intake, located approximately 15 miles northeast of the city, directs water through a pump station equipped with four vertical turbine pumps, which transport water via parallel transmission lines to an intermediate holding basin, Caddo Junior.

The City has engaged Halff to develop a design for replacing one of these pumps. The scope of work includes preparing an equipment pre-purchase bid set to acquire the pump, motor, and variable frequency drive (VFD). A subsequent phase (Task Order 2) will address detailed design, contractor bidding, and construction services.

Key project tasks include:

- Gathering historical flow, capacity, and hydraulic data to update the pump station's system curve.
- Conducting a 3D scan of the pump station for accurate measurements and future use.
- Designing the replacement of Pump No. 1, including its motor, discharge head, electrical components, and VFD.
- Preparing an Engineer's Opinion of Probable Construction Costs (OPCC).

The project will be executed under the City's existing Task Order Agreement with Halff, ensuring compliance with contractual terms and applicable hourly rates.

Budget Cost: \$98,700

Staff Contact: Cory Owen, Assistant Director and Eric Powell, PE, Director

Attachments: 1. P57795.004 - City of Marshall Raw Water Pump Package - TO No. 1 - 02-05-25

Task Order No. 1: Raw Water Pump Station Pump Design – Equipment Pre-Purchase

I. Project Understanding

The City of Marshall (City) has a raw water source on Big Cypress Bayou that provides raw water to the City's Water Treatment Plant. The raw water intake on the Big Cypress Bayou is located approximately 15 miles northeast of the City, off of CR 134 on Pump Station Road. Raw water from the intake structure flows by gravity to a well or sump associated with the raw water pump station (RWPS). There are 4 existing vertical turbine style pumps in the RWPS that convey raw water into the raw water pipeline that leaves the RWPS and transmits raw water to the WTP via Caddo Junior, an intermediate holding basin. There are two parallel transmission lines from the RWPS to Caddo Junior. The RWPS includes a pump station building, electrical room, control room, office, and an emergency generator. The site includes yard piping and valving, along with the old RWPS that is out of service and abandoned.

The City has requested Halff provide a scope of work and fee associated with the development of a design for the long-lead items associated with replacing one pump. This is to be accomplished by developing an equipment pre-purchase bid set that will acquire the pumps, motors, and variable frequency drives (VFDs). The detail design of the remaining replacement items, bid phase for the installation contractor, and related construction phase services will be part of a subsequent Task Order 2.

This project will be executed on a task order basis, subject to the terms and conditions of the *Agreement for Professional Engineering Services on a Task Order Basis* executed by the City of Marshall on March 27, 2024. The current applicable hourly rates for Halff employees is included as Exhibit A, attached in that agreement, and are in effect for this Task Order.

The following describes our understanding of each component of this project.

- Obtain historical flow and capacity records, any additional and supporting hydraulic data, City operational requirements, and pipeline plans from the City. This information will be utilized to generate an updated system curve for the pump station, in addition to confirm operating points for the new pumps operating in tandem with the existing pump units.
- Conduct a scan of the interior of the pump station to obtain accurate measurements on the existing pumps, discharge piping, and valves. The scanned point cloud will be used to develop accurate design plans for the various replacements and will also be a deliverable to the City for use in future projects at the pump station.
 - Produce a design of one (1) replacement pumps (Pump No. 1, to be called out in the proposed design drawings and PER), and associated power, controls, and VFD. The specific associated components to be replaced are to be confirmed by the ongoing Facility Plan and the preliminary efforts of this project. It is assumed however that under this project the following associated components will be replaced:
 - Pump Discharge Head and Pump
 - Pump Motor
 - Pump electrical equipment
 - Pump VFD and related RWPS power, instrumentation, and controls
 - The City shall review and provide Halff with final guidance and direction at the approval and acceptance of the 30% PER.



Exhibit 'A'
Task Order No. 1
City of Marshall, Texas
Raw Water Pump Station Pump Design – Equipment Pre-Purchase

- It is assumed that the pumps and associated equipment will be acquired via an equipment pre-purchase.
- Provide an Engineer's Opinion of Probable Construction Costs (OPCC) for the proposed improvements.

It is assumed that no topographic survey will be conducted inside the pump station facility or along the transmission main route, at Caddo Junior, or in the intake structure. However, indoor surveys or scans within the pump station building will be performed to verify record drawings and accurately layout pump room improvements. Concept plans and schematics will be prepared using field estimated measurements, existing plans, and photographs. Conducting field surveys within the pump station site or along the pipeline route, etc. will be considered an additional service.

City will provide any relevant record drawings, flow meter data, TCEQ inspection reports, files, risk management plans, operations and maintenance records, and any other applicable documents to Halff related to these components of the water system.

II. Project Manager

Halff
Michael W. Medford, P.E.
1121 ESE Loop 323, Suite 117
Tyler, TX 75701
(903) 617-5361
mmedford@halff.com

III. Scope of Work – Phase 1 (This Contract)

Task 1 - Project Management and Administration

1. Meetings – This task includes incidental project team and in-person meetings with the City, which may be necessary during this project. This task order accounts for a total of one (3) such meetings. This Task does not include bidding related meetings. Note that a Site Visit is NOT included in this scope of work. Given that a recent site visit was conducted as part of the previous RWPS study, it is viewed as not necessary for this Scope of Work.
2. Progress and Invoicing – This task includes preparation of monthly progress emails to the City and monthly project invoicing.
3. Miscellaneous Project Management/Coordination – This item includes all phone calls, conference calls, email correspondence, and online meetings necessary for the completion of the project with the City of Marshall.

Task 2 – Scan of Pump Station Building Interior

1. Conduct a point cloud scan of the interior of the pump station. This effort will involve one day in the field consisting of multiple set ups to capture x.y. and z coordinates of all equipment, piping, and structures within the pump room portion of the building. Additionally, the outside

Exhibit 'A'
Task Order No. 1
City of Marshall, Texas
Raw Water Pump Station Pump Design – Equipment Pre-Purchase

of the building will also be scanned, so that the resulting point cloud can be tied to the land survey conducted on the previous project.

2. The results of this survey will provide accurate dimensional information for the design of the pump and valve replacements and serve as background for the plan and section views in the bid package. A CAD file of the scan survey results will be provided to the Town for use on other projects.

Task 3 –Preliminary Engineering Report (PER) and Construction Cost Estimation

Following the visual inspection of assets addressed in this effort and collaboration with the independent pump manufacturer's representative, Halff will:

1. Generate a proposed budget cost for the City's use in decision making for this project.
2. Prepare a Preliminary Engineering Report (PER) that documents the components to be replaced as part of this project, including necessary capacity, sizing, calculations, exhibits, manufacturers equipment data, and initial layout drawings. The PER will also document the associated electrical equipment to be replaced and will include a preliminary one-line diagram. A preliminary OPCC will be prepared.
3. Assist City staff by providing information and guidance which may be used in presentations to the City Council as the project progresses.

Task 4 – Pre-Purchase Equipment Design

1. Design – General
 - a. Design. The design of the Project shall be in accordance with City of Marshall design standards as applicable and conform to current engineering and industry practices.
 - b. Specifications. -Halff shall prepare technical specifications required for bidding and constructing the project. Only specifications amending or supplementing City of Marshall specifications shall be furnished. Halff shall also provide a listing of bid items with quantities and cost estimates.
2. Pump Specifications
 - a. In addition to standard or amended City specifications, the following supplemental specifications will be provided for the project:
 - i. Vertical Turbine Pumps
 - ii. VFDs
 - iii. Electrical Motors



Exhibit 'A'
Task Order No. 1
City of Marshall, Texas
Raw Water Pump Station Pump Design – Equipment Pre-Purchase

Task 5 – Equipment Pre-Purchase Bid Phase Services.

1. Bidding:

- a. The Engineer will assist the City by addressing technical questions and preparing up to one (1) addendum.
- b. The Engineer will attend one (1) pre-bid meeting.
- c. The Engineer will evaluate bids, prepare a bid tabulation, and make a Bidder selection recommendation to the City.

Schedule

A. Project Kick Off, Meet with City, Data Collection:	21 calendar days
B. Generate 30% (PER) Milestone & Receive City Approval:	90 calendar days
C. Generate Bid Documents:	45 calendar days
D. City Review, Council Approval, Advertisement, & Bidding:	60 calendar days

Deliverables

1. Scan CAD file.
2. 30% Preliminary Engineering Report
3. Equipment Pre-Purchase Bid Documents

IV. Scope of Work – Phase 2 (Not Included Within this Contract)

Services Not Included

- Condition assessment beyond a visual inspection, such as specialized testing, destructive testing, etc.
- Drawdown pump testing.
- Master planning services beyond what is described in this scope of work, such as hydraulic modeling.
- Topographic survey
- Water Quality sampling or analysis
- Diving or other underwater surveying
- CCTV or other inspection of pipelines
- TWDB financing application or utilization/management
- Environmental coordination, protection, permitting, or other Environmental Services
- Site visits
- Meetings more than number specified
- SUE
- Geotechnical
- Preparing more than one bid package or conducting more than one bid opening.
- SCADA design or integration services.
- Non-destructive testing of existing structures.



Exhibit 'A'
Task Order No. 1
City of Marshall, Texas
Raw Water Pump Station Pump Design – Equipment Pre-Purchase

- Civil site design
- LOMR/CLOMR preparation
- Drainage and hydrological design
- When grant writing services would preclude Halff from performing grant-funded activities such as design or preliminary engineering being pursued by Halff, Halff will provide the City of Marshall with available options, including, but not limited to, possible solutions through pre- and post-award procurement requirements or reference to another grant writing firm.
- Surge control evaluation, design, or recommendations.
- Equipment purchase, pre-purchase, or other related negotiations and services.
- Develop a control system strategy with protective equipment features.
- Design of an industry standard PLC controller cabinet.
- Design of a remote telemetry unit, telecom tower, and associated electrical grounding and circuitry.
- Design of a standby generator system.
- Design of electronic access control system and CCTV camera system.
- Design of a new electrical building.
- Develop a preliminary software based short circuit analysis for electrical equipment sizing.
- Development of instrumentation and controls conduit and cabling schedules.
- Development of instrumentation and controls conduit path plan.
- Develop electrical typical details
- Design of controls conduit.
- Development of panel schedules.
- Develop electrical Div. 26 specifications.

Basic Services for the Engineering for the Raw Water Intake and Pump Station Facility Plan – Equipment Pre-Purchase Phase as described in **Exhibit 'A'** will be provided by Halff to the City of Marshall, Texas (City) for the fee of \$98,700, as billed per indicated in the tasks shown below. The phase fee totals shown will not be exceeded without written authorization from the City.

Payment for total services as described in Exhibit “A” will be invoiced to the City monthly, based upon a percentage of completed tasks. Below is a cost breakdown of Basic Services by phase and task:

Phase 1 - Tasks and Fees (This Contract)

1. Task 1 – Project Management and Administration – Lump Sum	\$ 8,000
2. Task 2 - Scan of Pump Station Building Interior – Lump Sum	\$ 7,700
3. Task 3 – Component Evaluation, Preliminary Engineering Report (PER), and Construction Cost Estimation - Lump Sum	\$ 40,000
4. Task 4 – Pre-Purchase Design: Cost-Plus Max	\$ 26,000
5. Task 5 – Equipment Pre-Purchase Bid Phase Services: Cost-Plus Max	\$ 16,000
6. Direct Expenses (not to exceed)	\$ 1,000
Project Grand Total	\$ 98,700

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.

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



TO: City Council
DATE: February 13, 2025
ITEM #: 10.E
SUBJECT: Consider cancelation or rescheduling of the March 13th Council Meeting. (City Secretary)

Recommendation for Action: Requesting council to direct staff regarding cancelation or rescheduling of the March 13th Council meeting.

Executive Summary: This item has been placed on the agenda to provide Council the opportunity to cancel or reschedule the March 13th Council meeting if they so choose. This meeting is set to occur during the week of Spring Break for Marshall ISD. Council has decided in the past to cancel or move this meeting to a different week in March. Given the number of anticipated Special-Called meetings for the search for a City Manager, the City Council may desire to cancel this meeting.

Budget Cost: N/A

Staff Contact: Nikki Smith, City Secretary

Attachments: None



TO: City Council
DATE: February 13, 2025
ITEM #: 11.A
SUBJECT: Update regarding Greenwood and Marshall Cemetery. (Parks & Recreation/Councilmembers Godfrey & Morris)

Recommendation for Action: No action needed.

Executive Summary: Staff will give an overview of the history and maintenance of Greenwood Cemetery and Marshall Cemetery. They will explain the current efforts being made to address existing concerns. Quotes for improvements to the pathways and fencing will also be provided. At this time, the department does not have the resources to undertake these improvements.

Budget Cost: N/A

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

Attachments: None



TO: City Council
DATE: February 13, 2025
ITEM #: 11.B
SUBJECT: Update regarding Capital Improvement Projects.
(Parks & Recreation)

Recommendation for Action: No action needed

Executive Summary: Staff will provide an update on the status of the Capital Improvement Projects in the Parks and Recreation Department. The updates will cover Playground Improvements, Airport Park, and City Arena.

Budget Cost: N/A

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

Attachments: None



TO: City Council
DATE: February 13, 2025
ITEM #: 11.C
SUBJECT: Update\Overview regarding Municipal Drainage Utility (MDU). (Councilmembers Godfrey & Morris)

Recommendation for Action:

Executive Summary:

Budget Cost:

Staff Contact:

Attachments: None



TO: City Council
DATE: February 13, 2025
ITEM #: 11.D
SUBJECT: Discussion and Direction on Establishing a Time for the Special Council Meeting Scheduled for February 20, 2025. (City Manager)

Recommendation for Action: Provide direction to Staff by identifying the time to Schedule the February 20, 2025, Special Council Meeting.

Executive Summary: The City Council has established a schedule in support of hiring the next City Manager. The schedule calls for a Special Council Meeting to be held on Thursday, February 20th. Council will spend most of this time in Executive Session. Lissa Barker, SGR will be here to discuss the semi-finalists and to work with Council to identify those candidates you would like to bring to Marshall to participate in the 2-day interview process.

The purpose of the item this evening is to determine what time you would like to schedule this Special Council Meeting. Council can determine to start earlier at 4:00 pm, at 5:30 pm or the normal schedule for 6:00 pm. I would anticipate the Special Council Meeting could take up to a couple of hours.

Budget Cost: There is no budget impact with this item.

Staff Contact: Melissa Byrne Vossmer, Interim City Manager

Attachments: None



TO: City Council
DATE: February 13, 2025
ITEM #: 11.E
SUBJECT: Discussion and Direction to Finalize the Interview Schedule and Activities for the City Manager Candidates. (City Manager)

Recommendation for Action:

Executive Summary: On February 20, 2025, the City Council has scheduled a Special Council Meeting for the purpose of working with Lissa Barker, SGR to determine the finalists for the Marshall City Manager position. A companion item on the agenda is for the purpose of finalizing the time for the Special Meeting.

This item is on the agenda for the purpose of determining the dates and the activities the candidates will participate in while in Marshall. The attached schedule provides a visual of what activities are proposed, and the timeline associated with these activities.

First and foremost, the dates and activities proposed include the following:

Monday, March 3rd: Candidates arrive in Marshall
Tuesday, March 4th: Full day of activities with Candidates

- Morning: Council & Mayor Small Group Meetings w/ Candidates
- Afternoon: Candidates Rotate through the following:
 1. 1st Year Plan Presentation & Interview w/ Council
 2. Meetings with Department Directors
 3. Tour of the City w/ Chief Carruth
- Evening: Public Reception

Wednesday, March 5th: Half day of activities with Candidates

- Morning: Council Finishes up Candidates Rotation, if needed
- Lunch: Council de-briefs with SGR
- Some Candidates will be finished and free to leave.

The activities included mimics the process used for final candidates in 2022 and seemed to work very well for Council. It should be noted that this schedule will be affected by the number of finalists the City Council determines it would like to invite to Marshall at the meeting on February 20th.

Once Council finalizes the dates and activities, Lissa Barker, SGR knows how the Council would like to move forward. As she works with your selected finalist, she will share with those candidates so they not only know a timeline but the specific activities. In addition, the City Staff needs to begin addressing the logistics and make plans.

Budget Cost:

Staff Contact: Melissa Vossmer, Interim City Manager

Attachments: 1. Schedule - City Manager

Option 3 - March 4

TIME	One-Year plan Presentation	Director Panel	Tour- Alex & Carruth
8:15 - 9:15am	1	3	2
9:30 - 10:30am	2	1	3
10:45 - 11:45am	3	2	1

Lunch Break

1:30 - 2:30	4	5	EMPTY
2:45 - 3:45	EMPTY	4	5
4:00 - 5:00	5	EMPTY	4
5:30 - 7:30pm	Public Reception		

Option 3 - March 5

TIME	Abraham-Godfrey-Morris	Fenton-Jordan Anderson- Cambell	Mayor Ware
8:15 - 8:45am	1	EMPTY	2
9:00 - 9:30am	2	1	3
9:45 - 10:15am	3	2	1
10:30 - 11:00	4	3	5
11:15 - 11:45	5	4	EMPTY
12:00 - 12:30	EMPTY	5	4



TO: City Council
DATE: February 13, 2025
ITEM #: 12.A
SUBJECT: An Executive Session pursuant to the Open Meetings Act, Chapter 551 of the Texas Government Code under Section 551.074
Personnel Matters: Discuss or deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee: City Manager

Recommendation for Action:

Executive Summary:

Budget Cost:

Staff Contact:

Attachments: None



TO: City Council
DATE: February 13, 2025
ITEM #: 12.B
SUBJECT: An Executive Session pursuant to the Open Meetings Act, Chapter 551 of the Texas Government Code under Section 551.074 Personnel Matters: Discuss or deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee: City Secretary. (Councilmembers Godfrey & Morris)

Recommendation for Action:

Executive Summary:

Budget Cost:

Staff Contact:

Attachments: None