1. 9/9/2021 Agenda (PDF)

   Documents:

   09-09-21 AGENDA.PDF

2. 9/9/2021 Agenda Packet (PDF)

   Documents:

   9-9-21 AGENDA PACKET.PDF

CITY OF MARSHALL, TEXAS
REGULAR CITY COUNCIL MEETING
COUNCIL CHAMBERS, CITY HALL, 401 SOUTH ALAMO
THURSDAY, SEPTEMBER 9, 2021, 6:00 P.M.

This meeting will be conducted utilizing a video and audio conferencing tool, as well as, a standard conference call. Instructions and direct links to view the meeting or speak during Citizen Comment can be found at www.marshalltexas.net.

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AGENDA INFORMATION PACKET IS AVAILABLE FOR THE PUBLIC TO REVIEW ON THE CITY'S WEB SITE AFTER 8:00 A.M. ON WEDNESDAY BEFORE THE MEETING AT www.marshalltexas.net

****

1. **CALL TO ORDER AND ROLL CALL**

2. **INVOCATION AND PLEDGES**

3. **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 an 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, or not on, the agenda. Those who wish to speak will have three minutes to do so unless additional time has been requested.

4. **ITEMS TO BE WITHDRAWN FROM CONSENT AGENDA**

5. **CONSENT AGENDA**

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

A. Consider approval of the minutes from the August 19, 2021 Special-Called meeting and the August 26, 2021 Regular meeting.

B. Street Sweeping Activity Report (Public Works Director)

C. Consider approval of investment reports for the first and second quarters of 2021. (Finance Director)

D. Municipal Court Activity Report. (Finance Director)

E. Discussion and action on whether or not to accept a dedication to the public use of 3.5 acres of land by Piney Land, LLC for construction of a road way by the City of Marshall in connection with the "City of Marshall, Texas and Piney Land I, LLC and Piney Park, LLC Chapter 380 Agreement" and "Annexation Service and Development Agreement Between The City of Marshall, Texas and Piney Land, I, LLC." (City Attorney)

F. Consider approval of a Resolution to intervene through the Cities Advocating Reasonable Deregulation (“CARD”) in review of Southwestern Electric Power Company’s (SWEPCO) application filed with the Public Utility Commission of Texas to deploy and recover the costs related to a new metering system. (Public Works Director)

G. Consider approval of a Resolution to intervene through the Cities Advocating Reasonable Deregulation (“CARD”) in review of Southwestern Electric Power Company’s (SWEPCO) application filed with the Public Utility Commission of Texas to implement a surcharge to recover approximately $192 million in fuel costs SWEPCO contends it incurred during the February 2021 winter storm. (Public Works Director)

6. **PUBLIC HEARING**

A. Conduct a public hearing on proposed budget for the 2022 fiscal year and action to adopt the budget or continue consideration of the budget to a future meeting. (City Manager)

B. Conduct a public hearing on the proposed tax rate of $0.567160 per $100 valuation in support of the 2022 Annual Budget of the City of Marshall. (City Manager)

7. **ORDINANCE**

A. Consider approval of an ordinance to adopt the annual budget of the City of Marshall, Texas for the 2022 fiscal year. (City Manager)

8. **RATIFICATION OF PROPOSED 2021 TAX RATE INCREASE**

A. Consider ratification of the proposed 2021 tax rate increase reflected in the 2022 Budget in accordance with the Texas Local Government Code. (City Manager)

9. **ORDINANCE**

A. Consider approval of an Ordinance affixing and levying 2021 ad valorem taxes for the use and support of the municipal government of the City of Marshall for the 2022 fiscal year at a rate of $0.567160 per $100 of property value, *which is effectively a 7.01 percent increase in the tax rate.* **The tax rate of $0.567160 will raise more taxes for maintenance and operations than last year’s tax rate.** (City Manager)

B. Consider approval of an Ordinance of the City of Marshall amending Chapter 19A "Municipal Courts", Section 19A-63. "Permitted Uses" to allow money collected by the Municipal Court under Article 102.014 of the Texas Code of Criminal Procedure to be used for the Martin House Child Advocacy Center, providing for designation of other programs under 19A-63 by the City Council, and establishing an effective date for such ordinance. (City Attorney)

10. **CITY MANAGER REPORTS AND REQUESTS FOR CITY COUNCIL CONSIDERATION**

A. Consider approval of an expenditure in excess of $50,000 as an incentive for Project Cord. (MEDCO)

B. Consider approval to purchase an influent pump for the Wastewater Treatment Plant. (Public Works Director)

C. Consider approval to enter into an agreement with Schneider Electric Buildings Americas, Inc. to perform an energy conservation Investment Grade Audit for the City of Marshall. (Public Works Director)

D. Consider approval of Small Business Grant Fund Applications. (Community & Economic Development Director)

E. Discussion of and consideration of an update regarding the Mobilize Marshall Strategic Plan. (City Manager)

11. **CONSIDERATION OF ITEMS WITHDRAWN FROM THE CONSENT AGENDA**

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: Annual evaluation of City Manager.

13. **ADJOURNMENT**

Posted: September 3, 2021
5:00 p.m.
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.

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ITEM 1

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ITEM 2

INVOCATION AND PLEDGES

ITEM 3

CITIZEN COMMENTS

ITEM 4

ITEMS TO BE WITHDRAWN FROM CONSENT AGENDA

ITEM 5A

CONSENT AGENDA

CONSIDER APPROVAL OF THE MINUTES FROM THE AUGUST 19,2021 SPECIAL-CALLED MEETING AND THE AUGUST 26, 2021 REGULAR MEETING

MINUTES OF THE SPECIAL-CALLED MEETING OF THE
CITY COUNCIL OF THE CITY OF MARSHALL
THURSDAY, AUGUST 19, 2021, 6:00 P.M.

Mayor Amy Ware called the Special-Called meeting to order in the Conference Room, Room 201, City Hall, at 6:00 p.m.

PRESENT:

MAYOR: Amy Ware, District 4

COMMISSIONERS:

Marvin Bonner, District 1
Leo Morris, District 2
Jennifer Truelove, District 3
Vernia Calhoun, District 5
Amanda Abraham, District 6
Micah Fenton, District 7

ADMINISTRATIVE STAFF PRESENT:

Mark Rohr, City Manager
Christol Hall, HR Manager
Cliff Carruth, Police Chief
Reggie Cooper, Fire Chief
Dawn Jones, Finance Director
Kim Smith, Senior Accountant
Eric Powell, Public Works Director
Mallori James, Tourism & Cultural Arts Director
Fabio Angell, Community & Economic Development Director

206. BUDGET WORKSHOP – DISCUSSION OF 2022 BUDGET.

City Council and City Staff engaged in discussion of the 2022 budget.

207. **ADJOURNMENT**

The meeting was adjourned.

APPROVED:

____

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

ATTEST:

____

City Secretary

MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF MARSHALL
THURSDAY, AUGUST 26, 2021
6:00 PM

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

PRESENT:

MAYOR: Amy Ware, District 4

COUNCIL MEMBERS:

Marvin Bonner, District 1
Leo Morris, District 2
Jennifer Truelove, District 3
Vernia Calhoun, District 5
Amanda Abraham, District 6
Micah Fenton, District 7

ADMINISTRATIVE STAFF PRESENT:

Mark Rohr, City Manager
Cliff Carruth, Police Chief
Christol Hall, HR Manager
Reggie Cooper, Fire Chief
Eric Powell, Public Works Director
Dawn Jones, Finance Director
Scott Rectenwald, Acting City Attorney
Veronique Ramirez, Main Street Manager
Jasmine Rios, Communications Coordinator
Nikki Smith, City Secretary/Payroll Accountant
Mallori James, Tourism & Cultural Arts Director
Randy Pritchard, Support Services Superintendent
Fabio Angell, Community & Economic Development Director

INVOCATION & PLEDGE: Mayor Ware

208. **CITIZEN COMMENTS**

Reba Godfrey, 509 Wesson St., asked the Council to consider partnering with Christus Good Shepherd for a swimming pool for the elderly and for additional funding to be allocated for street repairs.

209. **ITEMS TO BE WITHDRAWN FROM CONSENT AGENDA**

Item E was withdrawn from the Consent Agenda.

210. **CONSENT AGENDA**

Councilmember Abraham made a motion to approve the Consent Agenda. Councilmember Calhoun seconded the motion, which passed with a vote of 7:0.

A. Consider approval of the minutes from the August 12, 2021 Regular meeting.

B. Public Works Activity Report (Public Works Director)

C. Fire Department Activity Report. (Fire Chief)

D. Police Department Activity Report. (Police Chief)

F. Monthly Financial Report. (Finance Director)

PUBLIC HEARING

211. PUBLIC HEARING ON PROPOSED BUDGET FOR THE 2022 FISCAL YEAR AND ACTION TO ADOPT THE BUDGET OR CONTINUE CONSIDERATION OF THE BUDGET TO A FUTURE MEETING.

Mayor Ware opened the public hearing.

Reba Godfrey, 509 Wesson St., asked for additional funding to be allocated for street repairs.

Christina Anderson, 211 W. Austin, Marshall Depot Inc. volunteer, asked for funding to be allocated for the depot.

Mayor Ware closed the public hearing.

Dawn Jones, Finance Director, provided scenarios for various tax rates stating, after her discussion with the Harrison County Appraisal District, she recommended either option C or D.

Council members asked questions and discussed.

Mayor Ware provided a summary of the discussion stating all Council members were supportive of option C, 0.567160 tax rate, to include increases in salaries for the Fire Department, HR software, cemetery upkeep, training for various departments, funding for the Depot and Airport Park.

PUBLIC HEARING AND ORDINANCE

212. CONDUCT A PUBLIC HEARING AND CONSIDER MAKING A ZONING ORDINANCE TEXT AMENDMENT SPECIFICALLY RELATED TO SECTION 19 ENTITLED “DEFINITIONS” AND SECTION 21 ENTITLED “PERMITTED USES”.

Fabio Angell, Community & Economic Development Director, asked for approval of a zoning ordinance text amendment specifically related to Section 19 entitled “Definitions” and Section 21 entitled “Permitted Uses” to allow for zoning changes in the downtown area.

Mayor Ware opened the public hearing.

Scott Carlile stated he requested this item in order to start a distillery downtown and was available for any questions.

Council members asked questions of Mr. Carlile.

Mayor Ware closed the public hearing.

Scoot Barmore, Fire Marshal, stated the ordinance was in order with the Fire Code and he could respond to any questions.

Councilmember Abraham made a motion to approve a zoning ordinance text amendment specifically related to Section 19 entitled “Definitions” and Section 21 entitled “Permitted Uses”. Councilmember Truelove seconded the motion, which passed with a vote of 7:0.

ORDINANCE

213. CONSIDER APPROVAL OF AN ORDINANCE ESTABLISHING A CULTURAL DISTRICT IN THE CITY OF MARSHALL, TEXAS AUTHORIZING THE CITY MANAGER OR THE CITY MANAGER'S DESIGNEE TO PURSUE CULTURAL DISTRICT RECOGNITION BY THE TEXAS COMMISSION OF THE ARTS; MAKING THE AUTHORIZATION SET FORTH HEREIN CONTINGENT ON CERTAIN CONDITIONS; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE WAS APPROVED BY CITY COUNCIL COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

Veronique Ramirez, Main Street Manager, explained the importance of a Cultural District and asked for approval of an ordinance designating a geographic area in downtown as a Cultural District.

Council members asked questions and discussed.

Councilmember Abraham made a motion to approve an ordinance designating a geographic area in downtown as a Cultural District. Councilmember Fenton seconded the motion, which passed with a vote of 7:0.

RESOLUTION

214. CONSIDER APPROVAL OF A RESOLUTION ANNOUNCING A PROPOSED TAX RATE OF $0.542160 PER $100 OF VALUATION AND VOTING TO PLACE AN ACTION ITEM TO ADOPT THE TAX RATE ON A FUTURE COUNCIL AGENDA.

This item was withdrawn.

215. CONSIDER APPROVAL OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARSHALL, TEXAS, AUTHORIZING THE SUBMISSION OF AN ADOPTION OF CITY OF MARSHALL PARKS MASTER PLAN 2021-2031 FOR THE CITY OF MARSHALL.

Mark Rohr, City Manager, introduced Kyle Stevens, Stevens Engineering, who provided information regarding the City of Marshall Parks Master Plan 2021-2031 for the City of Marshall.

Council members asked questions and discussed.

Mark Rohr explained the State requests this plan and asked for approval of a resolution authorizing the submission of an adoption of City of Marshall Parks Master Plan 2021-2031 for the City of Marshall.

Councilmember Truelove made a motion to approve a resolution authorizing the submission of an adoption of City of Marshall Parks Master Plan 2021-2031 for the City of Marshall. Councilmember Calhoun seconded the motion, which passed with a vote of 7:0.

CITY MANAGER REPORTS AND REQUESTS FOR CITY COUNCIL CONSIDERATION

216. CONSIDER APPROVAL OF A RECOMMENDATION FOR USE OF CHILD SAFETY FEES.

Dawn Jones introduced Roxanne Stevenson, Executive Director of The Martin House Children's Advocacy Center, who provided a brief presentation on how these funds will be used if awarded to The Martin House.

Councilmember Calhoun made a motion to approve awarding funds to The Martin House Children's Advocacy Center for child abuse prevention. Councilmember Calhoun withdrew her motion.

Scott Barmore provided information regarding an ordinance stating these funds should be allocated to the Police and Fire Departments. Dawn Jones stated this item would need to be tabled in order to research and possibly amend the ordinance.

217. CONSIDER APPROVAL TO AWARD A CONTRACT TO PROVIDE CAUSTIC SODA FOR USE IN THE CITY OF MARSHALL SURFACE WATER TREATMENT PROCESS

Eric Powell, Public Works Director, stated the City received two bids for Caustic Soda for use in the City's surface water treatment process. He asked for approval of award a contract to Harcros Chemicals, Inc. in the amount of $0.3395 per dry pound to provide Caustic Soda to the City of Marshall Water Treatment Plant.

Council members asked questions and discussed.

Councilmember Fenton made a motion to approve awarding a contract to Harcros Chemicals, Inc., in the amount of $0.3395 per dry pound, to provide Caustic Soda to the City of Marshall Water Treatment Plant. Councilmember Abraham seconded the motion, which passed with a vote of 7:0.

218. PRESENTATION OF A FIVE-YEAR PLAN REGARDING WATER AND WASTEWATER CAPITAL IMPROVEMENTS.

Eric Powell provided a cost breakdown of a five-year plan regarding water and wastewater capital improvements, addressing the major and most critical issues first.

Council members asked questions and discussed.

Mark Rohr stated this plan has been presented previously and was being updated to include federal funds.

Council members engaged in further discussion.

219. **CONSIDERATION OF ITEMS WITHDRAWN FROM THE CONSENT AGENDA**

E. Community & Economic Development Activity Report. (Community & Economic Development Assistant Director)

Councilmember Bonner stated his reasons for pulling this item.

Council members asked questions and discussed.

Councilmember Abraham made a motion to approve Item E of the Consent Agenda. Councilmember Truelove seconded the motion, which passed with a vote of 7:0.

220. **ADJOURNMENT**

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

APPROVED:

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

ATTEST:

____
City Secretary

Ordinances: O-21-17
O-21-18
Resolutions: R-21-18

ITEM 5B

CONSENT AGENDA

STREET SWEEPING ACTIVITY REPORT

City of MARSHALL TEXAS

TO: Members of the City Council

FROM: Eric Powell, PE ELP
Director of Public Works/City Engineer

DATE: September 1, 2021

SUBJECT: Street Sweeping Activity Report for August 2021

The Street Sweeping Activity Report for the month of August 2021 is attached for your review.

STREET SWEEPING ACTIVITY REPORT
AUGUST 2021

STREET NAME	NUMBER OF TIMES SWEPT
Acadia St.	1
Alamo Blvd.	1
Albemarle Rd.	1
N. Allen Blvd.	1
S. Allen Blvd.	1
Ambassador Blvd.	1
Arlington Rd.	2
Austin St. (Downtown)	9
Bolivar St. (Downtown)	9
Buena Vista Dr.	1
Burleson St. (Downtown)	9
Carolanne Blvd.	1
Carters Ferry Rd.	2
N. College St.	1
Country Club Dr.	1
Courthouse Square	9
Elmwood St.	1
E. Emory St.	1
Fisher Dr.	1
S. Garrett St.	1
Guimon Rd.	1
W. Houston St.	1
Indian Springs Rd.	1
Johnson St.	1
Lansdowne St.	1
Laurel Lane	1
Lynoak St.	1
Madewood Dr.	1
Mary Mack Dr.	1
Memorial Dr.	1
Mobile St.	1
Nehls St.	1
Parker St.	1
Pecan St.	1

Pine Burr Circle	1
Pine Burr Terrace	1
Pinecove St.	1
Rosborough Springs Rd.	1
Rosewood Circle	1
Rusk St. (Downtown)	9
W. Rusk St.	1
Sanford St.	1
Shadywood Dr.	1
E. Travis St.	1
University Ave.	1
Van Zandt Ave.	1
Warren Dr.	1
N. Washington Ave. (Downtown)	9
Waubun St.	1
Wellington St. (Downtown)	9
Wildwood Terrace	1

STREETS/AREAS SWEPT IN AUGUST: 51

ITEM 5C

CONSENT AGENDA

CONSIDER APPROVAL OF INVESTMENT REPORTS FOR THE FIRST AND SECOND QUARTERS OF 2021

M E M O R A N D U M

To: Mark Rohr, City Manager

From: Dawn Jones, Finance Director

Date: August 31, 2021

Subject: Investment Report

The Investment Report for the 1st and 2nd quarters of 2021 for the City of Marshall will be provided to Council prior to the meeting.

ITEM 5D

CONSENT AGENDA

MUNICIPAL COURT ACTIVITY REPORT

Cases Filed

STEP Site	Traffic	Penal	City Ordinance	Parking	Other	Total
0	120	9	1	1	6	137

Financial

State Costs	City Costs	Fines	Tech Fund	Bld Security	Total
$13,154.77	$9,944.32	$11,166.49	$3,215.30	$11,815.53	$49,296.41

Trials/Hearings

Jury	Bench	Appealed	Total
0	54	0	54

Warrants

Issued	Recalled	Served	Fees Collected	Amount Collected	Outstanding
6	41	34	$4,316.82	$4,529.80	$2,567,655

Dispositions

Paid	Time Served	Dismissed	Appealed	Total
157	30	51	0	252

Update on Municipal Court recent plan to reduce inactive cases June 2021 Report

Officer Jose Burciaga is continually calling defendants on a daily basis with outstanding warrants and has had several to come in to resolve outstanding Warrants. Office Burciaga also goes out and look for individuals with warrant. Marshall Police Officers are allowing citizens with warrants to come in pay at municipal court without being arrested. The municipal court will host an Amnesty period starting September 13th and ending October 8th. This will allow citizens to come and clear old outstanding warrants. Warrant round up will follow later. MVBA is our collection agency and they are receiving payments from citizens. MVBA has sent out massive texts to citizens informing them of their outstanding warrants.

Court in August was held on the mornings of August 18 and 25th. The hearings on the 18th lasted around one hour and 45 minutes.

We had 51 cases set on Adult plea docket

7 plead not guilty (6 will be set for Bench trials and 1 Jury trial)

19 no shows

4 reset due to having CDL

21 cases were disposed out of adult docket

There were 28 Show cause hearings set

8 no shows

20 cases were disposed in that docket

Total of 41 cases out of 79 were disposed. Approximately 51%, which half of the cases were disposed.

There were seven set for pretrials on August 25, at 8:30am. Six were disposed of. One was reset to a later date per her Attorney request. Five trials were also set. Three plead guilty and paid a fine that morning, one plead not guilty and was found guilty by Judge. He has 30 days to pay his fine. Court started at 8:30am and ended at 10:15am. We will start holding court every Wednesday and one code docket the morning of September 15th with all the cases we have received so far from Madison Hood. Code hearing will also be held three times a week after Amnesty period is over.

Tara Archield

Municipal Court Administrator

- OCA monthly report data compiled from the **May 2021** report (submitted **06/09/2021**) revealed the following data:

  Active cases: 578
  Inactive cases: 5,239

- OCA monthly report data compiled from the **June 2021** report (submitted **07/30/2021**) revealed the following data:

  Active cases: 575
  Inactive cases: 5,208

- OCA monthly report data compiled from the **July 2021** report (submitted **07/30/2021**) revealed the following data:

  Active cases: 595
  Inactive cases: 5,156

- OCA monthly report data compiled from the **August 2021** report (submitted **08/30/2021**) revealed the following data:

  Active cases: 538
  Inactive cases: 5,136

ITEM 5E

CONSENT AGENDA

DISCUSSION AND ACTION ON WHETHER OR NOT TO ACCEPT A DEDICATION TO THE PUBLIC USE OF 3.5 ACRES OF LAND BY PINEY LAND, LLC FOR CONSTRUCITON OF A ROAD WAY BY THE CITY OF MARSHALL

DEDICATORY CERTIFICATE

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

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF HARRISON §

1. Description of Property

Piney Land I, LLC is the owner in fee simple of real property indicated in red on the accompanying plat (the "**Owner**") attached hereto as Exhibit A (the "**Proposed Road**") and located in this county, particularly described as follows:

Being 3.50 acres of land situated in the J. Page Survey, A-358, Joseph Fields Survey, A-249, and T. Perry Survey, A-571, Harrison County, Texas, and being part of a called 16.746 acre tract, described in a deed to Piney Land I, LLC, recorded in File No. 2021-000002850 Harrison County Official Public Records (HCOPR), and all of a called 1.578 acre tract, described in a deed to Piney Land I, LLC, recorded in File No. 2021-000002851 (HCOPR), said 3.50 acre tract being more particularly described by metes and bounds as follows as shown on the plat prepared by MTX Surveying, LLC on file as Job No. 21531, (Bearing Basis: SPC Texas North Central 4202, NAD83, GRID):

BEGINNING at a $^1/_2$ inch iron rod with plastic cap stamped "Cox Surv RPLS 4970", found on the east right of way of Highway 59, for the southwest corner of said 1.578 acre tract, same being the northwest corner of a Gateway Park Subdivision, recorded in Cabinet B, Slide 129-B, Harrison County Plat Records, (HCPR), from which a $^1/_2$ inch iron rod with plastic cap stamped "Cox Surv RPLS 4970", found bears S 01° 33' 51" W, 11.98 feet;

THENCE N 01° 45' 34" E, with the east right of way of said Highway 59, 36.28 feet to a $^1/_2$ inch iron rod with plastic cap stamped "Cox Surv RPLS 4970", found for the northwest corner of said 1.578 acre tract this tract, same being the southwest corner of a called 5.192 acre tract described in a deed to QT South LLC, recorded in File No. 2020-000013616, Harrison County Clerk Files (HCCF), from which a $^1/_2$ inch iron rod with plastic cap stamped "1519 Surveying", found bears N 78° 00' 18" E, 7.94 feet;

THENCE N 85° 56' 02" E, with the south line of said 5.192 acre tract, and the north line of said 1.578 acre tract, 732.42 feet to a $^1/_2$ inch iron rod with plastic cap stamped "1519 Surveying" found for the southeast corner of said 5.192 acre tract, and the southwest corner of said 16.746 acre tract;

THENCE N 04° 00' 25" W, with the east line of said 5.192 acre tract, and the west line of said 16.746 acre tract, 3.76 feet to a Y2" iron rod with plastic cap stamped "MTX Surveying", set for corner;

THENCE across said 16.746 acre tract the following courses and distances.

1)N85° 56' 44" E, 1197.66 feet to a Y2" iron rod with plastic cap stamped "MTX Surveying", set for the beginning of a curve to the left;

2)With said curve having a radius of 94.00 feet, an arc length of 132.81 feet, a chord length of 122.04 feet, a chord bearing N 34° 04' 17" E, and a delta angle of 80°57' 13" to a Y2" iron rod with plastic cap stamped "MTX Surveying", set for the end of said curve;

3)N 06° 24'19" W, 336.65 feet to a Y2" iron rod with plastic cap stamped "MTX Surveying", set for the beginning of a curve to the left;

4)With said curve having a radius of 94.00 feet, an arc length of 133.75 feet, a chord length of 122.75 feet, a chord bearing N 47° 10' 00" W, and a delta angle of 81° 31' 38" to a Y2" iron rod with plastic cap stamped "MTX Surveying", set for the end of said curve;

5)S 86°11' 06" W, 915.63 feet to a Y2" iron rod with plastic cap stamped "MTX Surveying", found for an angle corner on the west line of said 16.746 acre tract, same being the upper southeast corner of a 1.755 acre tract, previously surveyed by MTX Surveying in February of 2021;

THENCE with west line of said 16.746 acre tract and the east line of said 1.75 acre tract the following courses and distances.

1)S 85°57' 34" W, 39.94 feet to a found Y2" iron rod with plastic cap stamped "MTX Surveying".

2)N 05°01' 08" W, 357.33 feet a found Y2" iron rod with plastic cap stamped "MTX Surveying" on the south right of Interstate 20.

THENCE N 60° 43' 22" E, with the south right of way of said Interstate 20 and the most northern line of said 16.476 acre tract, 43.88 feet to a Y2" iron rod found for the northwest corner of a called 10.169 acre tract, described in a deed to Marshall I-20 East Properties, LLC, recorded in File No. 2010-000002661 (HCOPR);

THENCE with common lines between said 10.169 acre tract, and said 16.746 acre tract the following courses and distances;

1) S 05° 00'29" E, 336.03 feet to a found Y2" iron rod with plastic cap stamped "RPLS 4528".

THENCE N 04° 00' 25" W, with the east line of said 5.192 acre tract, and the west line of said 16.746 acre tract, 3.76 feet to a Y2" iron rod with plastic cap stamped "MTX Surveying", set for corner;

THENCE across said 16.746 acre tract the following courses and distances.

1)N85° 56' 44" E, 1197.66 feet to a Y2" iron rod with plastic cap stamped "MTX Surveying", set for the beginning of a curve to the left;

2)With said curve having a radius of 94.00 feet, an arc length of 132.81 feet, a chord length of 122.04 feet, a chord bearing N 34° 04' 17" E, and a delta angle of 80°57' 13" to a Y2" iron rod with plastic cap stamped "MTX Surveying", set for the end of said curve;

3)N 06° 24'19" W, 336.65 feet to a Y2" iron rod with plastic cap stamped "MTX Surveying", set for the beginning of a curve to the left;

4)With said curve having a radius of 94.00 feet, an arc length of 133.75 feet, a chord length of 122.75 feet, a chord bearing N 47° 10' 00" W, and a delta angle of 81° 31' 38" to a Y2" iron rod with plastic cap stamped "MTX Surveying", set for the end of said curve;

5)S 86°11' 06" W, 915.63 feet to a Y2" iron rod with plastic cap stamped "MTX Surveying", found for an angle corner on the west line of said 16.746 acre tract, same being the upper southeast corner of a 1.755 acre tract, previously surveyed by MTX Surveying in February of 2021;

THENCE with west line of said 16.746 acre tract and the east line of said 1.75 acre tract the following courses and distances.

1)S 85°57' 34" W, 39.94 feet to a found Y2" iron rod with plastic cap stamped "MTX Surveying".

2)N 05°01' 08" W, 357.33 feet a found Y2" iron rod with plastic cap stamped "MTX Surveying" on the south right of Interstate 20.

THENCE N 60° 43' 22" E, with the south right of way of said Interstate 20 and the most northern line of said 16.476 acre tract, 43.88 feet to a Y2" iron rod found for the northwest corner of a called 10.169 acre tract, described in a deed to Marshall I-20 East Properties, LLC, recorded in File No. 2010-000002661 (HCOPR);

THENCE with common lines between said 10.169 acre tract, and said 16.746 acre tract the following courses and distances;

1) S 05° 00'29" E, 336.03 feet to a found Y2" iron rod with plastic cap stamped "RPLS 4528".

2) N 86°11' 06" E, 917.85 feet to a Y2" iron rod with plastic cap stamped "MTX Surveying", set for the beginning of a curve to the right, from which a Y2" iron rod with plastic cap stamped "Cox Surv RPLS 4970", found for the lower northeast corner of said 16.746 acre tract bears N 86°11'06" E, 117.06 feet;

THENCE across said 16.746 acre tract with said curve having a radius of 134.00 feet, an arc length of 193.40 feet, a chord length of 177.04 feet, a chord bearing of S 47°44' 59" E, 82°41' 35" to a Y2" iron rod with plastic cap stamped "MTX Surveying", set for the end of said curve on the east line of said 16.746 acre tract, same begin the west line of a called 126.51 acre tract described in a deed to Piney Land I, LLC, recorded in File No. 2021-000003026 (HCOPR);

THENCE S 06° 24' 19" E, with the east line of said 16.746 acre tract, same being the west line of said 126.51 acre tract, 336.65 feet to a Y2" iron rod with plastic cap stamped "MTX Surveying", set for the beginning of a curve to the right, from which a found Y2" iron rod with plastic cap stamped "MTX Surveying", bears S 06°24'19" E, 109.99 feet;

THENCE across said 16.746 acre tract, then crossing the south line of said 16.746 acre tract, same being the north line of said 1.578 acre tract with said curve having a radius of 134.00 feet, an arc length of 193.67 feet, a chord length of 177.25 feet, a chord bearing of S 34°59' 58" W, 82°48' 35" to a Y2" iron rod with plastic cap stamped "MTX Surveying", set for the end of said curve on the south line of said 1.578 acre tract, same being the north line of said Gateway Park Subdivision;

THENCE S 85° 56' 44" W, with the south line of said 1.578 acre tract, and the north line of said Gateway Park Subdivision, 1937.39 feet to the PLACE OF BEGINNING and containing 3.50 acres of land, more or less.

2. Offer of Dedication

Owner by this instrument offers to dedicate the Proposed Road to the City of Marshall, Texas and the public in general for use as a city road and right of way for City Utilities to be known as Martin Lake Loop. Owner intends, and has agreed with City authorities, that the City at its own expense will: 1. improve the Proposed Road through the installation of soil cement, asphalt top, and such infrastructure as the City deems necessary (including but not limited to drainage systems, sewer lines, gas, and electrical lines) so that the road may be used by residents of the City and the public in general for vehicular and pedestrian travel and 2. construct, maintain and repair the Proposed Road and its infrastructure with Owner at Owners' expense to construct, maintain, and repair their driveway entrances and exits to Martin Lake Loop and Owner to create and construct, repair, and maintain intersections with Martin Lake Loop all in conformity with City policy, design and installation requirements.

3. Reservation in Owner

Owner conveys, by this dedication, only easements in the dedicated land and for the stated public use. Fee simple interest and all other interests not inconsistent with the stated public purposes are reserved in the Owner. However, in the event of termination by the City evidenced by written notice under the Chapter 380 Economic Development Agreement or in the event that a court of competent jurisdiction declares an event of default of the herein referenced Chapter

380 Economic Development Program and Agreement dated June 24, 2021 by the City, or abandonment of the Proposed Road by the City, then all existing improvements on the Proposed Road and all rights thereto shall fully revert to Owner.

4. Obligations of Owner

Owner shall not be bound by this certificate to construct, install, or maintain improvements to the dedicated areas, except as required under the **"CITY OF MARSHALL, TEXAS AND PINEY LAND I, LLC AND PINEY PARK, LLC CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM AND AGREEMENT"** dated June 24th, 2021, or the "**ANNEXATION, SERVICE, AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MARSHALL, TEXAS, AND PINEY LAND I, LLC"**, both of which are incorporated herein by reference.

Executed this 27th day of August, 2021.

Piney Land I, LLC
A Texas limited liability company

By: ______________________
Jimmy Coulter, Jr., Member

STATE OF TEXAS
COUNTY OF UPSHUR

This instrument was acknowledged before me on the 27th day of August, 2021, by Jimmy Coulter, Jr., a Member of Piney Land I, L.L.C., a Texas limited liability company, on behalf of said limited liability company and as the act of deed of said limited liability company.

ashley owen
Notary Public

ASHLEY OWEN
NOTARY PUBLIC
STATE OF TEXAS
ID# 13014514-5
EXPIRES 03-06-2023

380 Economic Development Program and Agreement dated June 24, 2021 by the City, or abandonment of the Proposed Road by the City, then all existing improvements on the Proposed Road and all rights thereto shall fully revert to Owner.

4. Obligations of Owner

Owner shall not be bound by this certificate to construct, install, or maintain improvements to the dedicated areas, except as required under the **"CITY OF MARSHALL, TEXAS AND PINEY LAND I, LLC AND PINEY PARK, LLC CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM AND AGREEMENT"** dated June 24th, 2021, or the "**ANNEXATION, SERVICE, AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MARSHALL, TEXAS, AND PINEY LAND I, LLC"**, both of which are incorporated herein by reference.

Executed this 27th day of August, 2021.

Piney Land I, LLC
A Texas limited liability company

By: ______________________
Jimmy Coulter, Jr., Member

STATE OF TEXAS
COUNTY OF UPSHUR

This instrument was acknowledged before me on the 27th day of August, 2021, by Jimmy Coulter, Jr., a Member of Piney Land I, L.L.C., a Texas limited liability company, on behalf of said limited liability company and as the act of deed of said limited liability company.

Ashley Owen
Notary Public

ASHLEY OWEN
NOTARY PUBLIC
STATE OF TEXAS
ID# 130145145
EXPIRES 03-06-2023

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest and real property conveyed by this dedication instrument the ______day of __________, 2021, from Piney Land I, LLC to the City of Marshall, Texas has been duly accepted subject to all terms and conditions contained therein, and the City Council of Marshall, Texas has consented to recordation of such dedication instrument by its duly authorized officer.

Dated

Authorized Person, City of Marshall

ATTEST:

City Secretary

EXHIBIT A

Martin Lake Loop – Proposed Road

[See attached]

EXHIBIT A
Martin Lake Loop – Proposed Road

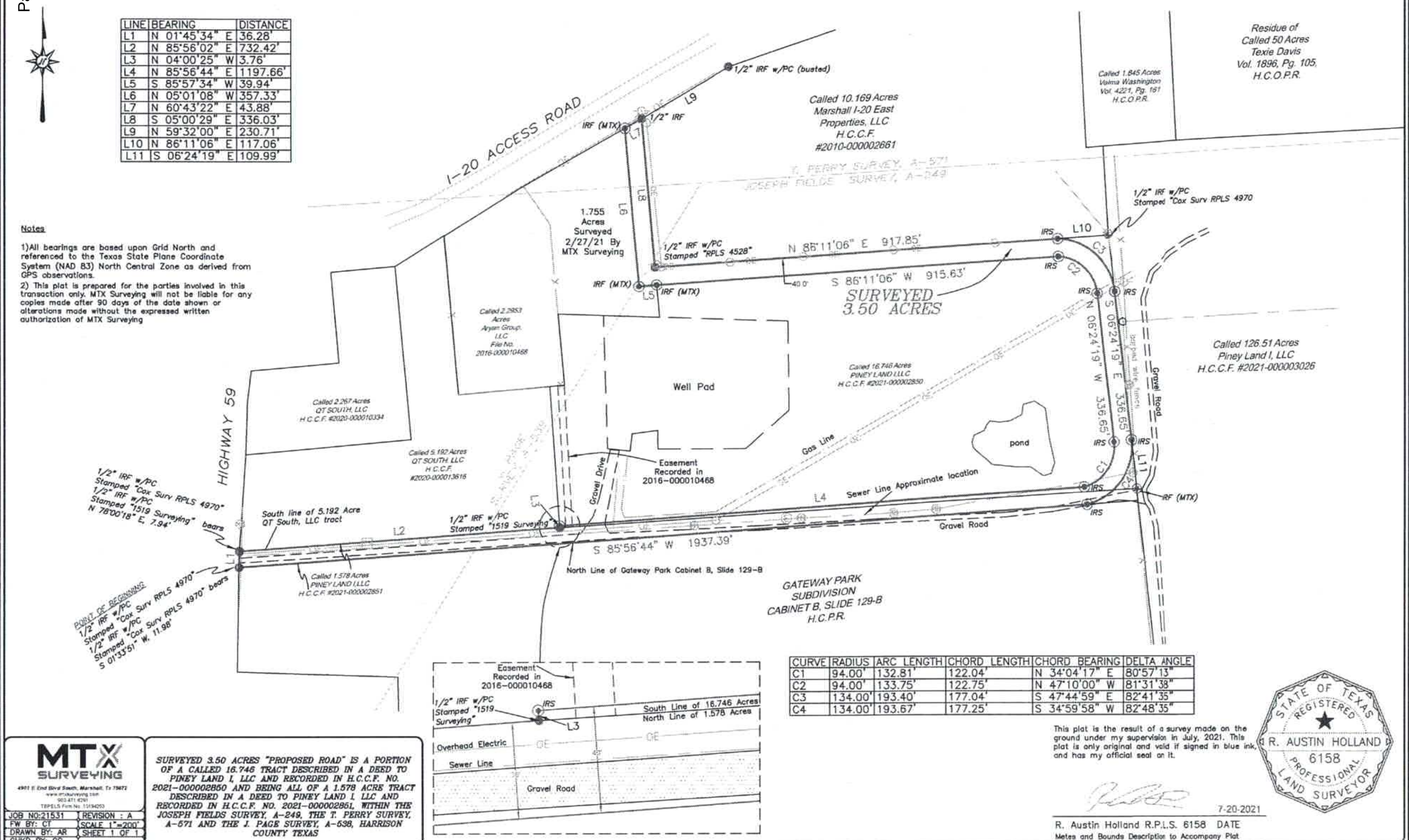
[See attached]

Exhibit A

HARRISON COUNTY, TEXAS
CITY OF MARSHALL

⊕ Found monument (size and type as noted)
◎ Set 1/2" iron rod with a plastic cap stamped MTX Surveying
○ Point For Corner
Fire Hydrant
TJ Telephone Junc. Box
PK Nail Set W/Metal Washer stamped MTX Surveying
Power Pole
PC – Plastic Cap
PFC–Point For Corner
IPF – Iron Pipe Found
IPFC – Iron Pipe W/Crimped Top Found
IRF – Iron Rod Found
IRS – Set 1/2" Iron Rod w/PC Stamped "MTX Surveying"
H.C.O.P.R – Harrison County Official Public Records
H.C.D.R. – Harrison County Deed Records
H.C.C.F – Harrison County Clerks File
H.C.P.R. – Harrison County Plat Records

LINE	BEARING	DISTANCE
L1	N 01°45'34" E	36.28'
L2	N 85°56'02" E	732.42'
L3	N 04°00'25" W	3.76'
L4	N 85°56'44" E	1197.66'
L5	S 85°57'34" W	39.94'
L6	N 05°01'08" W	357.33'
L7	N 60°43'22" E	43.88'
L8	S 05°00'29" E	336.03'
L9	N 59°32'00" E	230.71'
L10	N 86°11'06" E	117.06'
L11	S 06°24'19" E	109.99'



Notes

1) All bearings are based upon Grid North and referenced to the Texas State Plane Coordinate System (NAD 83) North Central Zone as derived from GPS observations.

2) This plat is prepared for the parties involved in this transaction only. MTX Surveying will not be liable for any copies made after 90 days of the date shown or alterations made without the expressed written authorization of MTX Surveying

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	94.00'	132.81'	122.04'	N 34°04'17" E	80°57'13"
C2	94.00'	133.75'	122.75'	N 47°10'00" W	81°31'38"
C3	134.00'	193.40'	177.04'	S 47°44'59" E	82°41'35"
C4	134.00'	193.67'	177.25'	S 34°59'58" W	82°48'35"

This plat is the result of a survey made on the ground under my supervision in July, 2021. This plat is only original and valid if signed in blue ink and has my official seal on it.

7-20-2021

R. Austin Holland R.P.L.S. 6158 DATE

Metes and Bounds Description to Accompany Plat

STATE OF TEXAS
REGISTERED
R. AUSTIN HOLLAND
6158
PROFESSIONAL
LAND SURVEYOR

SURVEYED 3.50 ACRES "PROPOSED ROAD" IS A PORTION OF A CALLED 16.746 TRACT DESCRIBED IN A DEED TO PINEY LAND I, LLC AND RECORDED IN H.C.C.F. NO. 2021-000002850 AND BEING ALL OF A 1.578 ACRE TRACT DESCRIBED IN A DEED TO PINEY LAND I, LLC AND RECORDED IN H.C.C.F. NO. 2021-000002851, WITHIN THE JOSEPH FIELDS SURVEY, A-249, THE T. PERRY SURVEY, A-571 AND THE J. PAGE SURVEY, A-638, HARRISON COUNTY TEXAS

MTX SURVEYING
4901 E End Blvd South, Marshall, Tx 75672
www.mtxsurveying.com
903.471.4291
TBPELS Firm No. 10194203

JOB NO:21531	REVISION : A
FW BY: CT	SCALE 1"=200'
DRAWN BY: AR	SHEET 1 OF 1
CHKD BY: CG	

X:\MTX\Projects\2021\21531 (PineyLand-Martin Lake Loop) Draw\21531-Plat-Final.dwg

ITEM 5F

CONSENT AGENDA

CONSIDER APPROVAL OF A RESOLUTION TO INTERVENE THROUGH THE CITIES ADVOCATING REASONABLE DEREGULATION IN REVIEW OF SOUTHWESTERN ELECTRIC POWER COMPANY'S APPLICATION FILED WITH THE PUBLIC UTILITY COMMISSION OF TEXAS TO DEPLOY AND RECOVER COSTS RELATED TO A NEW METERING SYSTEM

City of MARSHALL TEXAS

TO: Members of the City Council

FROM: Eric Powell, PE
Director of Public Works/City Engineer

DATE: September 1, 2021

SUBJECT: Consider approval of a Resolution to intervene through the Cities Advocating for Reasonable Deregulation ("CARD") in review of Southwestern Electric Power Company's (SWEPCO) application filed with the Public Utility Commission of Texas to deploy and recover the costs related to a new metering system

---

On August 4, 2021, Southwestern Electric Power Company ("SWEPCO" or "Company") filed an application with the Public Utility Commission of Texas ("PUCT") seeking approval to deploy an "Advanced Metering System" (AMS) and to recover the reasonable and necessary costs incurred in deploying its AMS.

SWEPCO seeks to recover the costs of its AMS through an additive charged on customers' bills. SWEPCO estimates the cost of its AMS to be approximately $51 million, and proposes a two-step recovery period in which it will impose the following charges on customers' bills above a customer's monthly charges for consumption of electricity.

SWEPCO states in its application that it estimates that over the course of the **first 4 years**, customers would pay **an additional about $32.8 million in rates**; of that amount, the Residential customer class would contribute about $21.4 million. In the **second 4 years, Residential customers would pay an additional about $17.7 million in rates and the commercial customers would not pay any additional charges for the new meters**.

To recover the costs of the AMS, SWEPCO proposes a surcharge that would be in place for 8 years for Residential customers; below are SWEPCO's proposed surcharges per customer class; these surcharges would apply each month for the 4 years for Residential customers and for 2 years for commercial customers:

Rate Class Description	AMS Monthly Surcharge Per Customer First Four Years	AMS Monthly Surcharge Per Customer Second Four Years
Residential	$2.92	$2.42
General Service	$6.40	Not Applicable
Lighting and Power	$8.32	Not Applicable

Cotton Gin	$10.47	Not Applicable
Metal Melting Distribution (<69 kV)	$9.16	Not Applicable
Oil Field Large Industrial Power	$7.93	Not Applicable
Large Lighting and Power Primary	$15.32	Not Applicable
Municipal	$6.36	Not Applicable

If a customer elects not to have a new AMS meter installed, then that customer would need to pay for keeping the old meter; these "keep-the-old-meter" charges are noted below:

Non-refundable, one-time up-front fees:	Recurring monthly fee:
Retain existing meter that meets applicable safety and accuracy standards: **$131.68** Digital, non-communicating meter requested before advanced meter installed: **$194.11** Digital, non-communicating meter requested after advanced meter installed: **$233.39**	Recurring monthly fee: **$22.97**

There are numerous issues raised by SWEPCO's AMS application primarily focused on whether deployment of the AMS will produce net benefits to ratepayers in terms of savings in current and future rates for electric utility service.

REPRESENTATION AND PARTICIPATION IN CARD:

The law firm of Herrera Law & Associates, PLLC (through Mr. Alfred R. Herrera) has previously represented the City and its participation in the coalition of cities named the "Cities Advocating Reasonable Deregulation" (CARD) in matters involving SWEPCO, including SWEPCO's most recent rate and fuel cases. The accompanying Resolution authorizes retention of Herrera Law & Associates as Special Counsel, the City's continued participation in the CARD coalition, and participation in proceedings before the Public Utility Commission of Texas and appeals, if any, related to SWEPCO's AMS Application.

INTERVENTION AT THE PUBLIC UTILITY COMMISSION OF TEXAS

CARD's intervention in this proceeding is crucial to ensure that need for and the costs of the new meters is justified. SWEPCO filed its Application with the Commission on August 4, 2021. It is important to participate in these proceedings because the Commission's decisions will impact future rates within the City. Thus, the accompanying Resolution authorizes intervention in proceedings at the Commission related to SWEPCO's AMS Application, as well as appeals taken, if any, from the Commission's decision.

EXPENSES

In ratemaking proceedings, cities by statute are entitled to recover their reasonable rate case expenses from the utility. The accompanying Resolution directs SWEPCO to reimburse CARD's expenses on a monthly basis based on presentation of invoices from the cities. Legal counsel and consultants approved by CARD will submit monthly invoices to the cities for review before being submitted to SWEPCO for reimbursement.

RESOLUTION NO. _______________

RESOLUTION BY THE CITY OF __________________ ("CITY") AUTHORIZING THE CITY TO PARTICIPATE AS PART OF THE CITIES ADVOCATING REASONABLE DEREGULATION ("CARD") IN PROCEEDINGS RELATED TO SOUTHWESTERN ELECTRIC POWER COMPANY'S ("SWEPCO") APPLICATION FILED ON ABOUT AUGUST 4, 2021, TO DEPLOY AN ADVANCED METERING SYSTEM; AUTHORIZING THE ENGAGEMENT OF ATTORNEYS AND CONSULTANTS; DIRECTING THE ACTIVITIES OF LAWYERS AND CONSULTANTS REGARDING SWEPCO'S APPLICATION; REQUIRING REIMBURSEMENT OF REASONABLE RATE-CASE EXPENSES; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; AND MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT

WHEREAS, on about August 4, 2021, Southwestern Electric Power Company ("SWEPCO" or "Company") filed an application with the Public Utility Commission of Texas ("PUCT") seeking approval to deploy an "Advanced Metering System" (AMS) and to recover the reasonable and necessary costs incurred in deploying its AMS; and

WHEREAS, SWEPCO seeks to recover the costs of its AMS through an additive charged on customers' bills, which if approved as filed, would increase customers' bills by approximately $51 million; and

WHEREAS, SWEPCO proposes a two-step, eight-year period in which it will impose material charges on customers' bills above a customer's monthly charges for consumption of electricity to pay for the cost of its Advanced Metering System; and

WHEREAS, if a customer elects not to have a new AMS meter installed, then that customer would need to pay an additional charge to keep the existing meter; and

WHEREAS, there are numerous issues raised by SWEPCO's AMS application primarily focused on whether deployment of the AMS will produce net benefits to ratepayers in terms of savings in current and future rates for electric utility service; and

WHEREAS, pursuant to the Public Utility Regulatory Act ("PURA") § 33.025 the City has standing in each case before the Public Utility Commission of Texas (the "Commission") that relates to an electric utility providing service in the municipality; and

WHEREAS, the City has the authority under PURA § 33.023 to participate in ratemaking proceedings and engage consultants and attorneys to advise and represent the City and assist in litigation before a regulatory authority, or a court; and

WHEREAS, the electric utility shall reimburse the City for the reasonable cost of the services of a person engaged under PURA § 33.023(a) to the extent the applicable regulatory authority determines is reasonable; and

WHEREAS, in order to maximize the efficient use of resources and expertise in reviewing, analyzing, and investigating SWEPCO's application relating to SWEPCO's AMS Application it is prudent to coordinate the City's efforts with a coalition of similarly situated municipalities; and

WHEREAS, the City, in matters regarding applications by SWEPCO to change rates, has in the past joined with other local regulatory authorities to form Cities Advocating Reasonable Deregulation ("CARD") and hereby continues its participation in CARD; and

WHEREAS, the City will need to review and evaluate SWEPCO's application concerning its Advanced Metering System to exercise its due diligence as a regulatory authority as well as to protect its interests and its citizens' interests as ratepayers.

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

Section 1. The findings set out in the preamble are in all things approved and incorporated herein as if fully set forth.

Section 2. The City continues its participation with other cities in a coalition of cities known as Cities Advocating Reasonable Deregulation ("CARD") with the understanding that the Steering Committee of CARD is to provide direction and guidance to Special Counsel representing said cities.

Section 3. The City authorizes participation and intervention in proceedings at the Public Utility Commission of Texas related to SWEPCO's Advanced Metering System Application, as well as appeals taken, if any, from the Commission's decision.

Section 4. The City employs Herrera Law & Associates, PLLC as Special Counsel to represent the City with regard to SWEPCO's Advanced Metering System Application and related proceedings before local and state regulatory authorities and any court of law and authorizes Special Counsel to employ such experts as may be necessary for review and evaluation of SWEPCO's Advanced Metering System Application.

Section 5. The City, in coordination with the Steering Committee, shall review the invoices of the lawyers and rate experts for reasonableness before submitting the invoices to SWEPCO for reimbursement.

Section 6. The City hereby directs SWEPCO to reimburse the City on a monthly basis, through CARD's coordinating city, the City of Longview, Texas, for the reasonable costs of attorneys and consultants and expenses related thereto, upon the presentation of invoices reviewed by the City of Longview.

Section 7. A copy of this resolution shall be sent to Stacy Bankston-Pankratz, Regulatory Case Manager, American Electric Power Service Corporation, 400 West 15th Street, Suite 1520, Austin, Texas 78701; and to Mr. Alfred R. Herrera, Herrera Law & Associates, PLLC, 4524 Burnet Road, Austin, Texas 78756.

Section 8. The meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 9. This resolution shall become effective from and after its passage.

PASSED AND APPROVED this ________ day of ____________, 2021.

____
Mayor

ATTEST:

____
City Secretary

ITEM 5G

CONSENT AGENDA

CONSIDER APPROVAL OF A RESOLUTION TO INTERVENE THROUGH THE CITIES ADVOCATING REASONABLE DEREGULATION IN REVIEW OF SOUTHWESTERN ELECTRIC POWER COMPANY'S APPLICATION FILED WITH THE PUBLIC UTILITY COMMISSION OF TEXAS TO IMPLEMENT A SURCHARGE TO RECOVER APPROXIMATELY $192 MILLION IN FUEL COSTS

City of
MARSHALL
TEXAS

TO:	Members of the City Council
FROM:	Eric Powell, PE EGP Director of Public Works/City Engineer
DATE:	September 1, 2021
SUBJECT:	Consider approval of a Resolution to intervene through the Cities Advocating Reasonable Deregulation ("CARD") in review of Southwestern Electric Power Company's (SWEPCO) application filed with the Public Utility Commission to implement a surcharge to recover approximately $192 million in fuel costs that SWEPCO contends it incurred during the February 2021 winter storm.

On August 6, 2021, the Southwestern Electric Power Company ("SWEPCO" or "Company") filed an application with the Public Utility Commission of Texas ("PUCT") seeking approval to implement an interim surcharge to recover extra fuel costs SWEPCO contends it incurred during the winter storm of February, 2021.

SWEPCO contends it is materially under-collecting its fuel costs and seeks to **collect about $192 million in fuel costs**, including interest for the under-collected costs.

Based on SWEPCO's application, SWEPCO states that a Residential customer using 1,000 kWh per month would see an **average increase in rates of about $28.46 per month for a period of 12 months**. SWEPCO proposes to implement the surcharge beginning in November, 2021.

There are numerous issues raised by SWEPCO's fuel-surcharge application primarily focused on whether the costs SWEPCO seeks to recover through rates are warranted.

<u>REPRESENTATION AND PARTICIPATION IN CARD:</u>

The law firm of Herrera Law & Associates, PLLC (through Mr. Alfred R. Herrera) has previously represented the City and its participation in the coalition of cities named the "Cities Advocating Reasonable Deregulation" (CARD) in matters involving SWEPCO, including SWEPCO's most recent rate and fuel cases. The accompanying Resolution authorizes retention of Herrera Law & Associates as Special Counsel, the City's continued participation in the CARD coalition, and participation in proceedings before the Public Utility Commission of Texas and appeals, if any, related to SWEPCO's fuel-surcharge application.

INTERVENTION AT THE PUBLIC UTILITY COMMISSION OF TEXAS

CARD's intervention in this proceeding is crucial to ensure that the increase in fuel costs SWEPCO contends it incurred are reasonable, to evaluate the measures SWEPCO took to mitigate the increase in fuel costs, and because the Commission's decisions will impact future rates within the City. Thus, the accompanying Resolution authorizes intervention in proceedings at the Commission related to SWEPCO's fuel-surcharge application, as well as appeals taken, if any, from the Commission's decision.

EXPENSES

In ratemaking proceedings, cities by statute are entitled to recover their reasonable rate case expenses from the utility. The accompanying Resolution directs SWEPCO to reimburse CARD's expenses on a monthly basis based on presentation of invoices from the cities. Legal counsel and consultants approved by CARD will submit monthly invoices to the cities for review before being submitted to SWEPCO for reimbursement.

RECOMMENDATION

It is recommended that the City through its continued participation in CARD:

- Intervene in the proceedings at the Public Utility Commission of Texas and related proceedings and/or appeals, if any, to exercise its due diligence as SWEPCO's local regulatory authority as well as to protect the City's and its citizens' interests as ratepayers with regard to SWEPCO's application to recover its fuel costs;
- Retain the law firm of Herrera Law & Associates, PLLC to represent the City's interest in matters related to SWEPCO's fuel-surcharge application and to advise the City with regard to SWEPCO's application; and retain consultants subject to approval by the CARD steering committee to assist Special Counsel in its review of SWEPCO's application concerning SWEPCO's fuel-surcharge application.

The City should take action as soon as possible to authorize CARD's participation in SWEPCO's fuel-surcharge application, so as to maximize the time available for effective participation in the case.

RESOLUTION NO. ______________

RESOLUTION BY THE CITY OF ________________ ("CITY") AUTHORIZING THE CITY TO PARTICIPATE AS PART OF THE CITIES ADVOCATING REASONABLE DEREGULATION ("CARD") IN PROCEEDINGS RELATED TO SOUTHWESTERN ELECTRIC POWER COMPANY'S ("SWEPCO") APPLICATION FILED ON ABOUT AUGUST 6, 2021, TO RECOVER FUEL COSTS SWEPCO CONTENDS IT INCURRED DURING THE FEBRUARY 2021 WINTER STORM; AUTHORIZING THE ENGAGEMENT OF ATTORNEYS AND CONSULTANTS; DIRECTING THE ACTIVITIES OF LAWYERS AND CONSULTANTS REGARDING SWEPCO'S APPLICATION; REQUIRING REIMBURSEMENT OF REASONABLE RATE-CASE EXPENSES; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; AND MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT

WHEREAS, on about August 6, 2021, the Southwestern Electric Power Company ("SWEPCO" or "Company") filed an application with the Public Utility Commission of Texas ("PUCT") seeking approval to implement an interim surcharge to recover extra fuel costs SWEPCO contends it incurred during the winter storm of February, 2021; and

WHEREAS, SWEPCO contends it is materially under-collecting its fuel costs and seeks to collect about $192 million in fuel costs, including interest for the under-collected costs; and

WHEREAS, SWEPCO states that a Residential customer using 1,000 kWh per month would see an average increase in rates of about $28.46 per month for a period of 12 months; and

WHEREAS, SWEPCO proposes to implement the surcharge beginning in November, 2021; and

WHEREAS, there are numerous issues raised by SWEPCO's fuel-surcharge application primarily focused on whether the costs SWEPCO seeks to recover through rates are warranted; and

WHEREAS, pursuant to the Public Utility Regulatory Act ("PURA") § 33.025 the City has standing in each case before the Public Utility Commission of Texas (the "Commission") that relates to an electric utility providing service in the municipality; and

WHEREAS, the City has the authority under PURA § 33.023 to participate in ratemaking proceedings and engage consultants and attorneys to advise and represent the City and assist in litigation before a regulatory authority, or a court; and

WHEREAS, the electric utility shall reimburse the City for the reasonable cost of the services of a person engaged under PURA § 33.023(a) to the extent the applicable regulatory authority determines is reasonable; and

WHEREAS, in order to maximize the efficient use of resources and expertise in reviewing, analyzing, and investigating SWEPCO's application relating to SWEPCO's fuel-surcharge application it is prudent to coordinate the City's efforts with a coalition of similarly situated municipalities; and

WHEREAS, the City, in matters regarding applications by SWEPCO to change rates, has in the past joined with other local regulatory authorities to form Cities Advocating Reasonable Deregulation ("CARD") and hereby continues its participation in CARD; and

WHEREAS, the City will need to review and evaluate SWEPCO's fuel-surcharge application to exercise its due diligence as a regulatory authority as well as to protect its interests and its citizens' interests as ratepayers.

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

Section 1. The findings set out in the preamble are in all things approved and incorporated herein as if fully set forth.

Section 2. The City continues its participation with other cities in a coalition of cities known as Cities Advocating Reasonable Deregulation ("CARD") with the understanding that the Steering Committee of CARD is to provide direction and guidance to Special Counsel representing said cities.

Section 3. The City authorizes participation and intervention in proceedings at the Public Utility Commission of Texas related to SWEPCO's fuel-surcharge application, as well as appeals taken, if any, from the Commission's decision.

Section 4. The City employs Herrera Law & Associates, PLLC as Special Counsel to represent the City with regard to SWEPCO's fuel-surcharge application and related proceedings before local and state regulatory authorities and any court of law and authorizes Special Counsel to employ such experts as may be necessary for review and evaluation of SWEPCO's fuel-surcharge application.

Section 5. The City, in coordination with the Steering Committee, shall review the invoices of the lawyers and rate experts for reasonableness before submitting the invoices to SWEPCO for reimbursement.

Section 6. The City hereby directs SWEPCO to reimburse the City on a monthly basis, through CARD's coordinating city, the City of Longview, Texas, for the reasonable costs of attorneys and consultants and expenses related thereto, upon the presentation of invoices reviewed by the City of Longview.

Section 7. A copy of this resolution shall be sent to Stacy Bankston-Pankratz, Regulatory Case Manager, American Electric Power Service Corporation, 400 West 15th Street, Suite 1520, Austin, Texas 78701; and to Mr. Alfred R. Herrera, Herrera Law & Associates, PLLC, 4524 Burnet Road, Austin, Texas 78756.

Section 8. The meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 9. This resolution shall become effective from and after its passage.

PASSED AND APPROVED this _______ day of ___________, 2021.

____
Mayor

ATTEST:

____
City Secretary

ITEM 6A

PUBLIC HEARING

CONDUCT A PUBLIC HEARING ON THE PROPOSED BUDGET FOR THE 2022 FISCAL YEAR AND ACTION TO ADOPT THE BUDGET OR CONTINUE CONSIDERATION OF THE BUDGET TO A FUTURE MEETING

M E M O R A N D U M

To: Members of the City Council

From: Mark Rohr, City Manager

Date: August 31, 2021

Subject: Public Hearing on proposed budget for 2022 fiscal year and action to adopt the budget or continue consideration of budget to a future meeting

---

Both the City Charter and the Local Government Code of the State of Texas require that a public hearing be held on the proposed budget for the upcoming fiscal year. This hearing has been placed on the agenda to comply with this requirement.

ITEM 6B

PUBLIC HEARING

CONDUCT A PUBLIC HEARING ON THE PROPOSED TAX RATE OF $0.567160 PER $100 VALUATION IN SUPPORT OF THE 2022 ANNUAL BUDGET OF THE CITY OF MARSHALL

M E M O R A N D U M

To:	Members of the City Council
From:	Mark Rohr, City Manager
Date:	August 31, 2021
Subject:	Public Hearing on the Proposed Tax Rate of $0.567160 per $100 Valuation in Support of the 2022 Annual Budget of the City of Marshall

---

A tax rate of $0.567160 per $100 valuation has been proposed for adoption by the governing body of City of Marshall. This rate exceeds the lower of the no-new-revenue or voter-approval tax rate, and state law requires that a public hearing be held by the governing body before adopting the proposed tax rate.

PROPOSED TAX RATE	$0.567160 per $100
PRECEDING YEAR'S TAX RATE	$0.542160 per $100
NO-NEW-REVENUE TAX RATE	$0.530107 per $100
VOTER-APPROVAL TAX RATE	$0.594583 per $100

The no-new-revenue tax rate is the tax rate for the 2021 tax year that will raise the same amount of property tax revenue for City of Marshall from the same properties in both the 2020 tax year and the 2021 tax year.

The voter-approval tax rate is the highest tax rate that City of Marshall may adopt before voters are entitled to petition for an election to limit the rate that may be approved to the voter-approval rate.

The public is urged to attend and express views on the proposed tax rate.

ITEM 7A

ORDINANCE

CONSIDER APPROVAL OF AN ORDINANCE TO ADOPT THE ANNUAL BUDGET OF THE CITY OF MARSHALL, TEXAS FOR THE 2022 FISCAL YEAR

MEMORANDUM

To: Members of the City Council

From: Mark Rohr, City Manager

Date: September 2, 2021

Subject: Approval of an Ordinance to adopt the Annual Budget for the City of Marshall, Texas for the 2022 fiscal year

---

The Ordinance appropriates funds for the support of the City of Marshall for the fiscal year beginning January 1, 2022 and ending December 31, 2022. It also provides for the adoption of the 2022 Annual Budget

The Ordinance also appropriates money to a sinking fund to pay interest and principal due on the City's bond issues.

ORDINANCE NO. _____________

AN ORDINANCE MAKING APPROPRIATIONS FOR THE SUPPORT OF THE CITY OF MARSHALL, TEXAS, FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2022 AND ENDING DECEMBER 31, 2022; APPROPRIATING MONEY TO A SINKING FUND TO PAY INTEREST AND PRINCIPAL DUE ON THE CITY'S INDEBTEDNESS; AND ADOPTING THE ANNUAL BUDGET OF THE CITY OF MARSHALL, TEXAS, FOR THE 2022 FISCAL YEAR.

WHEREAS, the budget, as presented in Section 1 below, for the fiscal year beginning January 1, 2022 and ending December 31, 2022 was duly presented to the City Council by the City Manager and a public hearing was ordered by the City Council and said notice was published in the Marshall News Messenger and said public hearing was held according to said notice; now, therefore,

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

SECTION 1

THAT the appropriations for the fiscal year beginning January 1, 2022 and ending December 31, 2022 for the support of the City of Marshall, Texas, be fixed and determined for said term in accordance with the expenditures shown in the City's fiscal year 2022 budget, as detailed below:

FUND	TOTAL BUDGETED EXPENDITURES
General Fund	$ 23,109,651
Water & Sewer Enterprise Fund	$ 10,408,455
Sub-Total -- Operating Budget	$ 33,518,106
2016 General Obligation Refunding,	
See attached	
Debt Service Funds	$ 1,089,063
Hotel/Motel Occupancy Tax Fund	$ 825,200
Litter Control Fund	$ 12,500
Street Maintenance Fund	$ 618,000
Reserve Fund – General Fund	$ 520,000
Reserve Fund – Water & Sewer Fund	$ 400,000
Municipal Drainage Utility Fund	$ 430,088
Emergency Medical Services – ESD	$ 120,000
Municipal Court Tech Fund	$ 7,050
Federal Grants	$ 9,464,472
Adoption Center	$ 2,875
2020 Debt Related Projects	$ 700,000
Total Budget	$ 47,707,354

SECTION 2

THAT the budget, as shown in words and figures in Section 1, is hereby approved in all respects and adopted as the City's budget for fiscal year beginning January 1, 2022 and ending December 31, 2022.

PASSED, APPROVED, AND ADOPTED this, the 9th day of September, 2021.

Mayor Amy Ware, District 4	voted	_____
Mayor Pro-Tem Amanda Abraham, District 6	voted	_____
Councilmember Marvin Bonner, District 1	voted	_____
Councilmember Leo Morris, District 2	voted	_____
Councilmember Jennifer Truelove, District 3	voted	_____
Councilmember Vernia Calhoun, District 5	voted	_____
Councilmember Micah Fenton, District 7	voted	_____

Total Ayes: _____
Total Nays: _____
Total Abstain: _____
Total Absent: _____

APPROVED:

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

ATTEST:

____
NIKKI SMITH
CITY SECRETARY

ITEM 8A

RATIFICATION OF PROPOSED 2021 TAX RATE INCREASE

CONSIDER RATIFICATION OF THE PROPOSED 2021 TAX RATE INCREASE REFLECTED IN THE 2022 BUDGET IN ACCORDANCE WITH THE TEXAS LOCAL GOVERNMENT CODE

MEMORANDUM

To: Members of the City Council

From: Mark Rohr, City Manager

Date: August 31, 2021

Subject: Consider Ratification of the Proposed 2021 Tax Rate Increase Reflected in the 2022 Budget in Accordance with the Texas Local Government Code

---

This year's property tax levy will raise more revenue from property taxes than in the preceding year. Local Government Code Section 102.007 requires the governing body to hold a separate vote to ratify the property tax increase reflected in the budget. This vote must be in addition to and separate from the vote to adopt the budget or the vote to set the tax rate.

ITEM 9A

ORDINANCE

CONSIDER APPROVAL OF AN ORDINANCE AFFIXING AND LEVYING 2021 AD VALOREM TAXES FOR THE USE AND SUPPORT OF THE MUNICIPAL GOVERNMENT OF THE CITY OF MARSHALL FOR THE 2022 FISCAL YEAR AT A RATE OF $0.567160 PER $100 OF PROPERTY VALUE

M E M O R A N D U M

To: Members of the City Council

From: Mark Rohr, City Manager

Date: September 2, 2021

Subject: Approval of an Ordinance Affixing and Levying Ad Valorem Taxes for 2021 for Use and Support of the Municipal Government of the City of Marshall for the 2022 Fiscal Year

---

This Ordinance provides for levying ad valorem taxes for 2021 for the use and support of the municipal government for the 2022 fiscal year at a rate of $0.567160 per $100 of property value, *which is effectively a 6.99 percent increase in the tax rate*. **The tax rate of $0.567160 will raise more taxes for maintenance and operations than last year's tax rate. The tax rate will effectively be raised by 4.47 percent and will raise taxes for maintenance and operations on a $100,000 home by approximately $12.39.**

It also provides for apportioning each levy for operations and bond indebtedness.

Note:

Should the Council choose to approve this Ordinance, the motion to adopt the Ordinance must be made in the following form:

"I move that the property tax rate be increased by the adoption of a tax rate of $.0.567160, which is effectively a 6.99 percent increase in the tax rate."

ORDINANCE NO. ____________

AN ORDINANCE LEVYING AD VALOREM TAXES FOR 2021 <u>AT A RATE OF $0.567160 PER $100 OF ASSESSED VALUATION ON ALL TAXABLE PROPERTY</u> FOR THE USE AND SUPPORT OF THE MUNICIPAL GOVERNMENT OF THE CITY OF MARSHALL, TEXAS, FOR THE 2022 FISCAL YEAR; AND PROVIDING FOR APPORTIONING EACH LEVY FOR SPECIFIC PURPOSES.

WHEREAS, the City of Marshall is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council of the City of Marshall, Texas (hereinafter referred to as the "City") hereby finds that the tax for the fiscal year beginning January 1, 2022 and ending December 31, 2022, hereinafter levied for maintenance and support of the general government and for the interest and sinking fund must provide for the requirements of the budget for this fiscal year; and

WHEREAS, the City Council has approved the budget for the fiscal year beginning January 1, 2022, and ending December 31, 2022; and

WHEREAS, notice of the no-new-revenue tax rate calculations for the tax year 2021 for the City of Marshall, Texas was heretofore published in accordance with law; and

WHEREAS, this year's levy to fund maintenance and operations expenditures does exceed last year's maintenance and operations tax levy; and,

WHEREAS, this tax rate will raise more taxes for maintenance and operations than last year's tax rate. The tax rate will effectively be raised by 4.47 percent and will raise taxes for maintenance and operation on a $100,000 home by approximately $12.39.

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

Section 1.

All of the above premises are found to be true and correct and are incorporated into the body of this ordinance as if copied in their entirety.

Section 2.

The real and personal property tax appraisal rolls as certified by the Chief Appraiser of the Harrison Central Appraisal District to the City Council for the 2021 property tax year, be and are hereby accepted.

Section 3.

That there is hereby levied and there shall be collected for the use and support of the municipal government of the City of Marshall, Texas, and to provide an Interest and Sinking Fund for the 2021 tax year, upon all property, real, personal, and mixed, within the corporate limits of said City subject to taxation, a tax of $0.567160 on each $100 valuation of property, said tax being so levied and apportioned to the specific purposes here set forth;

1. For the maintenance and support of the general government, $0.474093 on each $100 valuation of property; and

2. For the interest and sinking fund, $0.093067 on each $100 valuation of property as follows:

<u>BOND ISSUE</u>	TAX RATE PER <u>$100 VALUATION</u>
GENERAL OBLIGATION REFUNDING, SERIES 2016	$0.038300
GENERAL OBLIGATION REFUNDING, SERIES 2019	$0.009880
COMBINATION TAX AND LIMITED SURPLUS REVENUE CERTIFICATES OF OBLIGATION, SERIES 2017	$0.010133
COMBINATION TAX AND LIMITED SURPLUS REVENUE TAX NOTES, SERIES 2019	$0.011602
COMBINATION TAX AND LIMITED SURPLUS REVENUE TAX NOTES, SERIES 2020	<u>$0.023152</u>
TOTAL	<u>$0.093067</u>

Section 4.

That the taxes levied under this ordinance shall be for the use and support of the municipal government of the City of Marshall, Texas, for the fiscal year January 1, 2022 through December 31, 2022.

Section 5.

That taxes levied under this Ordinance are due January 31, 2022, and if not paid on or before February 1, 2022, shall immediately become delinquent.

Section 6.

That the following exemptions from taxation by the City of Marshall shall apply:

a) 20% homestead exemption
b) 65 year old exemption in an amount of $12,500
c) Disabled Veteran exemption
d) Disabled person homestead exemption in an amount of $12,500
e) Exempt properties

Section 7.

That all taxes shall become a lien upon the property against which assessed, and the assessor and collector for the City of Marshall, Texas, is hereby authorized and empowered to enforce the collection of such taxes according to the Constitution and laws of the State of Texas and ordinances of the City of Marshall, Texas. All delinquent taxes shall bear interest and penalty from date of delinquency at the rate as prescribed by state law.

Section 8.

That this Ordinance shall take effect and be in force from and after its passage and publication as required by law.

PASSED, APPROVED, AND ADOPTED this, the 9th day of September, 2021.

Mayor Amy Ware, District 4	voted	_____
Mayor Pro-Tem Amanda Abraham, District 6	voted	_____
Councilmember Marvin Bonner, District 1	voted	_____
Councilmember Leo Morris, District 2	voted	_____
Councilmember Jennifer Truelove, District 3	voted	_____
Councilmember Vernia Calhoun, District 5	voted	_____
Councilmember Micah Fenton, District 7	voted	_____

APPROVED:

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

ATTEST:

____
NIKKI SMITH
CITY SECRETARY

ITEM 9B

ORDINANCE

CONSIDER APPROVAL OF AN ORDINANCE OF THE CITY OF MARSHALL AMENDING CHAPTER 19A “MUNICIPAL COURTS”, SECTION 19A-63 “PERMITTED USES”

Ordinance ____________________

AN ORDINANCE OF THE CITY OF MARSHALL AMENDING CHAPTER 19A "MUNICIPAL COURTS", SECTION 19A-63. "PERMITTED USES" TO ALLOW MONEY COLLECTED BY THE MUNICIPAL COURT UNDER ARTICLE 102.014 OF THE TEXAS CODE OF CRIMINAL PROCEDURE TO BE USED FOR THE MARTIN HOUSE CHILD ADVOCACY CENTER , PROVIDING FOR DESIGNATION OF OTHER PROGRAMS UNDER 19A-63 BY THE CITY COUNCIL, AND ESTABLISHING AN EFFECTIVE DATE FOR SUCH ORDINANCE.

WHEREAS, the City of Marshall Code of Ordinances, Chapter 19A, entitled "Municipal Court in Sec. 19A-63, entitled "Permitted uses" provides that funds collected for child safety programs by the City of Marshall, Texas Municipal Court can be expended only for certain specific programs;

AND WHEREAS the Texas Code of Criminal Procedure Article 102.014, entitled "Fines for Child Safety Fund in Municipalities," permits a municipality to expend funds collected under that article for a broader range of programs than just those described in the City of Marshall Code of Ordinances Sec. 19A-63, including programs designed to enhance child safety, health or nutrition, including child abuse prevention and drug and alcohol abuse prevention;

AND WHEREAS The Council for the City of Marshall has determined, and hereby finds that "The Martin House" Child Advocacy Center is a program in the East Texas Region that enhances child safety and health, and prevents child abuse through its program of forensic interviews of victims of abuse (which assists in child abuse prosecution), and counseling for victims of abuse;

AND WHEREAS the City of Marshall, Texas and its citizens have benefitted from the efforts of The Martin House Child Advocacy Center;

AND WHEREAS the Council for the City of Marshall has determined that the permitted uses described in City of Marshall Code of Ordinances Section 19A-63 should be broadened to permit expenditure of funds collected under Texas Code of Criminal Procedure Article 102.014 for The Martin House Child Advocacy Center, as well as other programs designated by the Council;

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

Section 1. That the findings set out in the preamble of this ordinance are hereby in all things approved, including the recommendation and findings of fact in support thereof submitted Planning and Zoning Commission for the City of Marshall .

Section 2. That City of Marshall Code of Ordinances, Chapter 19A, entitled "Municipal Court" in Sec. 19A-63, entitled "Permitted uses" is amended to read as follows in its entirety:

"Sec. 19A-63. - Permitted uses.

Funds collected for child safety programs shall be expended for the DARE program of the Marshall Police Department, the Child Safety Seat Belt program of the Marshall Fire Department, or The Martin House Child Advocacy Center as authorized under Texas Code of Criminal Procedure, Article 102.014(g), in such proportions as the City Council determines by resolution should be allotted to each program. The City Council may, from time to time, designate by resolution other additional programs that meet the parameters Texas Code of Criminal Procedure Article 102.014, and expend funds accordingly."

Section 3. That the meeting at which this ordinance was passed was conducted in strict compliance with the Texas Open Meetings Act (Texas Government Code Chapter 551).

Section 4. That all other prior ordinances or portions of ordinances or portions of ordinances of the City of Marshall in conflict with the terms and provisions of this ordinance are hereby repealed to the extent of such conflict only.

Section 5. That the repeal of any ordinance or portion of any ordinance by this ordinance shall not affect the validity of any pending enforcement action or fines outstanding and due and payable on or before the effective date of this ordinance.

Section 6. That if any section, paragraph, subdivision, clause, phrase, or provision of this ordinance is hereafter determined to be invalid or in violation of the laws of the State of Texas or the Constitution of the United States by of court of appropriate jurisdiction, such finding of invalidity shall affect the continued enforcement only of the provision or provisions so determined to be invalid, it being the intent of the City Council of the City of Marshall that all other terms and provisions of this ordinance not affected shall remain in full force and effect.

Section 7. That this ordinance shall be effective from and after its passage and publication as required by law.

PASSED, APPROVED AND ADOPTED ON THIS ______ DAY OF _____________, 2021.

AYES: _______
NAYES: _______
ABSTAINED: _______

____
CHAIRMAN OF THE CITY COUNCIL OF
THE CITY OF MARSHALL, TEXAS

ATTEST:

____
Nikki Smith, Acting City Secretary

ITEM 10A

CONSIDER APPROVAL OF AN EXPENDITURE IN EXCESS OF $50,000 AS AN INCENTIVE FOR PROJECT CORD

MARSHALL
ECONOMIC DEVELOPMENT CORPORATION
MARSHALLEDC.ORG ★ 2660 E END BLVD S, MARSHALL, TEXAS ★ (903) 934-8035

August 25, 2021

The Honorable City Council of Marshall, Texas
P.O. Box 698
Marshall, Texas 75670

The Marshall Economic Development Corporation has requested to appear before the City Council on September 9, 2021, for consideration of an expenditure in excess of $50,000 for Project Cord. Marshall EDC has been in communication with the prospect's site location consultant regarding potential capital investment, expansion, and employment increases. The prospect is considering multiple sites for this significant new investment in building, equipment, and employees. One site is a location in Harrison County, near Marshall Texas. The prospect is accepting proposals to determining which location and investment levels to engage.

Marshall EDC respectfully requests the approval of an incentive package for the project to submit as a proposal. Full details of the proposed project will be provided by separate delivery to each Council Member to maintain confidentiality of the business until such time as required after the City Council's consideration.

We thank you for the opportunity to present this project before the City Council of Marshall.

Respectfully,

Rush Harris
Executive Director
Marshall Economic Development Corporation

ITEM 10B

CONSIDER APPROVAL TO PURCHASE AN INFLUENT PUMP FOR THE WASTEWATER TREATMENT PLANT

City of MARSHALL TEXAS

TO:	Members of the City Council
FROM:	Eric Powell, PE ESP Director of Public Works/City Engineer
DATE:	September 1, 2021
SUBJECT:	Consider approval to purchase an influent pump for the Wastewater Treatment Plant

---

I am requesting that the City Council consider the purchase of a replacement Flygt influent pump for the Wastewater Treatment Plant, from Jack Tyler Engineering, Inc., at a cost of $128,448.11.

The existing pump is a 135hp influent pump, one of six (6) influent pumps at the headworks of the plant. It is 30+ years old and is requiring specialized parts, resulting in the need for repair parts to be custom-made. The headworks of the plant have been built to accommodate Flygt pumps, and the price to retrofit the pump base and guiderails to accommodate a different type of pump would not be cost-effective.

I believe there are two exemptions under the Texas Local Government Code that the City can utilize to make this purchase, and they are as follows:

1) Texas Local Gov't. Code 252.022 (2) (7) (A) – sole source
   - Jack Taylor Engineering, Inc. is the only authorized distributor and support service for Flygt pumps in East Texas.

2) Texas Local Gov't. Code 252.022 (a) (2) – preserve and protect public health
   - This is the second of two 135hp pumps that allow the WWTP to handle the peak demands of flow, especially during rain events.

Thank you for your consideration.

ITEM 10C

CONSIDER APPROVAL TO ENTER INTO AN AGREEMENT WITH SCHNEIDER ELECTRIC BUILDINGS AMERICAS, INC. TO PERFORM AN ENERGY CONSERVATION INVESTMENT GRADE AUDIT FOR THE CITY OF MARSHALL

City of
MARSHALL
TEXAS

TO: Members of the City Council

FROM: Eric Powell, PE EKP
Director of Public Works/City Engineer

DATE: September 1, 2021

SUBJECT: Consider approval to enter into an agreement with Schneider Electric Buildings America, Inc. to perform an energy conservation Investment Grade Audit for the City of Marshall

---

The City of Marshall is currently involved in an energy conservation/savings program with Schneider Electric at our City Hall facility, which was entered into some years ago. This newly – proposed agreement would allow Schneider Electric to move forward with designing improvements to additional City facilities, assess a price for those improvements, and the guaranteed savings associated with them.

The fee for the Investment Grade Audit is $165,000.00. This is actually only an "exit fee" that would be due if Schneider Electric completes the design of the project and the City decides not to move forward with implementation. However, if the City chooses to move forward with any of the projects designed, the cost of the audit will be rolled into the overall cost of the project.

Emily Goodin, with Schneider Electric, will be in attendance at the meeting to present further information and details regarding this Investment Grade Audit.

A copy of the proposed agreement is attached.

July 22, 2021

Mark Rohr
City Manager
City of Marshall
401 S. Alamo Blvd
Marshall, Texas 75670

Re: Comprehensive Energy Conservation Project

Dear: Mr. Rohr,

Schneider Electric is pleased to submit this proposal for your review and acceptance for a Performance Contract.

Schneider Electric is an approved vendor through **The Interlocal Purchasing System for "Energy Savings Performance Contracts"** contract# **170103** whom the City of Marshall is a member of and would contract to perform the scope of work below.

This proposal and detailed services are being offered through the City of Marshall membership with Region 8, The Interlocal Purchasing System. By utilizing the TIPS membership, Marshall will automatically be dealing with a qualified, professional contractor that has met the strict bid requirements for Texas. This results in savings to the City of Marshall by reducing the time and expense for the bid process and will allow the work to be performed in a timelier manner.

Scope of Work

See Attached Investment Grade Audit agreement and scope of work

We appreciate the opportunity to provide the attached proposal and look forward to your favorable response. If you should have any questions or require additional information, please do not hesitate to contact me at your convenience.

Sincerely,

Emily Goodin
Senior Account Executive

TIPS PO Process:

- Create a purchase order clearly identifying the purchase order as a TIPS purchase and including the TIPS contract number. (Contract **#170103**)
- Email the completed purchase order to: TIPSPO@tips-usa.com and attach the PO as a PDF. (TIPS will process the purchase order and forward it to the appropriate vendor and the sender of the PO email will receive an authorization letter that validates the purchase.)

Schneider Electric
1650 W Crosby Road
Carrollton, TX 75006 USA
Tel. +1 972-323-1111
Schneider-Electric.com

Investment Grade Audit Agreement

This Investment Grade Audit Agreement ("Agreement"), dated July 22, 2021 ("Effective Date"), is entered into by and between Schneider Electric Buildings Americas, Inc. ("ESCO") and City of Marshall ("Customer").

WHEREAS, Customer wishes to engage ESCO to perform an Investment Grade Audit to (i) identify energy conservation measures ("ECMs") that are available to and appropriate for Customer's facilities, (ii) determine the guaranteed savings that would result from implementing such ECMs as part of a comprehensive energy conservation improvement program, and (iii) propose a scope of work and project price for ESCO's implementation of such ECMs.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth, ESCO and Customer agree with the following terms and conditions:

Section A -- General Terms and Conditions
Section B -- Audit Services
Section C – Facilities

IN WITNESS WHEREOF, the individual signing this Agreement on behalf of its respective party represents that s/he has the authority to execute this Agreement as a duly authorized representative of such party as set forth below.

	City of Marshall, Texas		**Schneider Electric Buildings Americas, Inc.**
By	______________________ (Signature)	By	______________________ (Signature)
Print Name	______________________	Print Name	______________________
Title	______________________	Title	______________________
Date	______________________	Date	______________________

Section A: General Terms and Conditions

1. **Entire Agreement**
This Agreement constitutes the entire understanding between ESCO and Customer and supersedes all prior oral or written understandings relating to the subject matter herein. This Agreement may not be amended or modified except by written instrument signed by a duly authorized representative of each party.

2. **Services**
As described more fully in Section B, ESCO will conduct an Investment Grade Audit of certain Customer Facilities (defined below) in order to (i) identify ECMs that are available to and appropriate for such Facilities, (ii) determine the guaranteed savings that would result from implementing such ECMs as part of a comprehensive energy conservation improvement program, and (iii) propose a scope of work and project price for ESCO's implementation of such ECMs (the "IGA"). Upon conclusion of the IGA, ESCO will provide Customer with a report describing the scope and results of such IGA (the "IGA Report"). ESCO will endeavor to identify as many ECMs for Customer's Facilities as possible, however the IGA is not intended to serve as a comprehensive inspection of Customer's Facilities. In order to facilitate the IGA and to assist ESCO in identifying and recommending ECMs appropriate for Customer's Facilities, Customer is responsible for providing ESCO with all such access, knowledge and history as may be relevant to ESCO's analysis, including, without limitation, with respect to Customer's Facilities, systems, and equipment, as well as its accounting, maintenance, and operation practices.

3. **Confidentiality**
Neither party shall disclose to others any Confidential Information. "Confidential Information" shall mean all information or material, whether revealed orally, visually, or in tangible or electronic form, that is competitively sensitive material not generally known to the public that relates to the business of a party to this Agreement, or any of their respective interest holders, unless such information: (i) was already rightfully known and in possession of the receiving party at the time of disclosure by the disclosing party; or (ii) is in or has or will be entered into the public domain through no breach of this Agreement or other wrongful act of the receiving party; or (iii) has been rightfully received by the receiving party from a third party who is not known by the receiving party to be under obligation of confidentiality to disclosing party and without breach of this Agreement; or (iv) is independently developed by receiving party without reference to the Confidential Information; or (v) is approved for release by written authorization from the disclosing party. This confidentiality obligation shall terminate two (2) years from the date of this Agreement.

4. **Insurance**
ESCO and Customer shall each maintain insurance coverage, including without limitation, workers' compensation and employer's liability at statutory limits and commercial general liability insurance covering public liability and property damage with limits generally required for its respective industry with not less than $1,000,000 each occurrence, $2,000,000 general aggregate. Such insurance shall be with reputable and financially responsible carriers authorized to transact business in the state in which the Facilities are located and the services are being performed with an A.M. Best's rating of at least A- VII.

5. **Governing Law**
This Agreement will be governed, interpreted and construed by, under and in accordance with the laws, statutes and decisions of the state in which the Facilities are located, without regard to its choice of law provisions.

6. **Ownership of Work Products**
All drawings, specifications and other documents and electronic data furnished by ESCO to Customer under this Agreement ("Work Products") are deemed to be instruments of service and ESCO shall retain the ownership and property interest therein, including the copyrights and intellectual property thereto. Drawings, specifications, and other documents and materials and electronic data are furnished for use solely with respect to a guaranteed Energy Savings Contract with ESCO. Work Products may not be shared with any third parties without the written permission of ESCO, except to the extent required by law.

Section B: Audit Services

ESCO agrees to provide Customer with the following:

A. An IGA of each of the facilities described under Section C (each, a "Facility"; collectively, the "Facilities");

B. An IGA Report setting forth:
   a. a list of the ECMs recommended for each Facility;
   b. a description, based upon the information made available to ESCO during the IGA, of how the recommended ECMs would interact with the existing equipment in the Facilities;
   c. a financial analysis calculating the impact the ECMs would have on annual cash flow;
   d. a utility analysis outlining the impact the ECMS would have on Customer's utility expenses;
   e. a proposed scope of work to be performed by ESCO (the "Project"); and
   f. proposed pricing for ESCO's performance of the Project, which such pricing will be honored by ESCO for sixty (60) days following delivery of ESCO's IGA Report to Customer;

C. An Energy Services Contract to be entered into if Customer elects to move forward with the Project; and

D. Applicable schedules to the Energy Services Contract, such as a Performance Assurance Support Services (PASS) Agreement and a Savings Guarantee.

Customer agrees to provide ESCO with the following:

A. A list of any requirements and/or specifications that Customer expects to be included in and/or associated with the scope of work;

B. Complete access to the Facilities (including remote network access as appropriate) and to information concerning the Facilities, including without limitation such Facility access and information as will enable ESCO to accurately perform an energy efficiency analysis, measure actual energy use, take equipment inventory, determine operating schedules, and identify known operational deficiencies;

C. Access to key personnel to discuss operating requirements;

D. Copies or loans of building plans and other such documents for the purpose of facilitating ESCO's understanding of the Facility characteristics and the current sequences of operation; and

E. All other insight, knowledge and history as may be relevant to ESCO's analysis, particularly with respect to the operation, maintenance and energy efficiency of the Facilities, as well as disclosure of all known or suspected deficiencies, defects and malfunctions of or affecting the Facilities or the systems, components and equipment therein.

Customer is under no payment obligation under this Agreement, if Customer executes an Energy Services Contract with ESCO within sixty (60) days after receiving the Investment Grade Audit Report; or

If this condition is not met, Customer agrees to pay ESCO $ 165,000 for the Investment Grade Audit service within sixty (60) days after receiving the IGA Report. See attached list of Facilities and infrastructure to be audited under Section C.

Section C: Facilities

1. Wastewater Treatment – sludge press
2. Wastewater Treatment – clarifier rebuild
3. Backup generators
4. Wastewater Treatment – UV disinfection system upgrade
5. Water Treatment – high service pump VFD improvements
6. Water and Wastewater Treatment plant automation
7. Water meter upgrade installation
8. Building Improvements at Convention Center, City Hall, Police Station, Library, Fire Station, Center for Applied Technology

ITEM 10D

CONSIDER APPROVAL OF SMALL BUSINESS GRANT FUND APPLICATIONS

Memorandum

Date: August 30, 2021

To: Mark Rohr, City Manager

From: Shameia Ruffins, Community Development Coordinator

Subject: Approval of Small Business Grant Fund Recommendations

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The following recommendations have been made by staff in relation to the Small Business Grant Fund. This fund was approved on September 24, 2020 by the City Commission with a 6:0 vote.

The purpose of the SBGF is to help Marshall small businesses adapt their business model to changing business conditions because of the COVID-19 pandemic. This is a reimbursement grant for up to $2,500 of eligible costs including equipment, software, supplies, safety equipment, and financial support. Eligible businesses include, but are not limited to, retail (storefront), food and beverage, personal care (barbershop, nail salons, spas, etc.), automobile, mobile (food) vendors, maintenance, education/training, health/wellness, art galleries, gyms, and small manufacturing businesses. Businesses must have 25 or fewer employees and have been open and operating as of January 1, 2020.

Funding for the program is provided to the City of Marshall through the U.S. Department of Housing and Urban Development's Community Block Development Grant. Currently, the City has delegated $138,536.000 of our received COVID money to the Small Business Grant Fund. The approved application process says that upon receipt, staff will review the application for completion. Based on the review, City staff will make recommendations for approval by City Commission.

Thus far, we have approved 47 applications of which 2 were approved during the previous commission meeting held on August 12, 2021. A total of 1 pending application today would bring us to a total of 48 applications. Staff has assisted several business owners in getting their application started, and will continue to spread the word on this local opportunity. We anticipate this to be an ongoing agenda item over the next few months as we continue to receive applications.

Staff is looking for the City Commission's approval for the one (1) Small Business Grant Fund applications that was received in completion between August 16, 2021 and August 30, 2021.

See Attached Documents

Staff Recommendations

Eva’s Barber Shop LLC- $2,500.00

Staff is recommending the max reimbursement of $2,500 to Eva’s Barber Shop LLC under the eligibility category of financial support.

Eva’s Barber Shop is one of many small businesses located within the city limits of Marshall TX. Eva’s Barber Shop adapted to the pandemic by following the CDC guidelines and purchasing PPE for its customers as well as the staff member onsite. With a huge decrease in sales this business remained open resulting in employee wages that had to be met. Receipts totaling $2,588.59 were submitted.

ITEM 10E

DISCUSSION AND CONSIDERATION OF AN UPDATE REGARDING THE MOBILIZE MARSHALL STRATEGIC PLAN

ITEM 11

CONSIDERATION OF ITEMS WITHDRAWN FROM THE CONSENT AGENDA

ITEM 12A

EXECUTIVE SESSION

AN EXECUTIVE SESSION PURSUANT TO THE OPEN MEETINGS ACT, CHAPTER 551 OF THE TEXAS GOVERNMENT CODE UNDER SECTION 551.074 PERSONNEL MATTERS: ANNUAL EVALUATION OF CITY MANAGER

ITEM 13

ADJOURNMENT