

1. 09.24.20 Agenda

Documents:

[09.24.20 AGENDA.PDF](#)

2. Agenda Packet 09.24.20 PDF

Documents:

[AGENDA PACKET 09.24.20.PDF](#)



**CITY OF MARSHALL, TEXAS
REGULAR CITY COMMISSION MEETING
COMMISSION CHAMBERS, CITY HALL, 401 SOUTH ALAMO
THURSDAY, SEPTEMBER 24, 2020, 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.

**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**

House Bill 2840 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 **ITEMS TO BE WITHDRAWN FROM CONSENT AGENDA**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 Commission. 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 Commissioner may remove items from the Consent Agenda by making such request prior to a motion and vote on the Consent Agenda.

- A. Consider approval of the minutes from the September 10, 2020 Regular meeting.
- B. Monthly financial report. (Acting Finance Director)
- C. Consider approval of an Interlocal Agreement with Harrison County for the Wonderland of Lights. (Community & Economic Development Director)
- D. Consider approval of a recommendation for use of Child Safety Fees. (Acting Finance Director)

6. **PROCLAMATION**

- A. Presentation of a proclamation designating the week of October 4 – 10, 2020 as Fire Prevention Week in the City of Marshall – theme this year is “Serve Up Fire Safety in the Kitchen!!” (Mayor Brown)

7. **SECOND READING OF ORDINANCES**

- A. Consider approval of an ordinance to adopt the annual budget of the City of Marshall, Texas for the 2021 fiscal year. (City Manager)
- B. Consider approval of an Ordinance affixing and levying 2020 ad valorem taxes for the use and support of the municipal government of the City of Marshall for the 2021 fiscal year at a rate of \$0.542160 per \$100 of property value. (City Manager)
- C. Consider approval of an ordinance of the City of Marshall, Texas amending Chapter 31 “Water and Sewer” Article III, titled, “Industrial Wastes” by deleting sections 31-18 through 31-31 and replacing them with new sections 31-18 through 31-32. (Public Works Director)
- D. Consider approval of an ordinance amending the 2020 Annual Budget to appropriate funds for projects approved by the City Commission. (Acting Finance Director)

8. **CITY MANAGER REPORTS AND REQUESTS FOR CITY COMMISSION CONSIDERATION**

- A. Consider approval of an expenditure in excess of \$50,000 as an incentive for Project Composite. (Marshall EDC)
- B. Consider approval of a Small Business Grant program funded by the Community Development Block Grant – COVID funds. (Community & Economic Development Director)

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

10. **ADJOURNMENT**

Posted: September 21, 2020
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 48-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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Page 1**

**2. INVOCATION AND PLEDGES
Page 2**

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

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- B. Consider approval of an Ordinance affixing and levying 2020 ad valorem taxes for the use and support of the municipal government of the City of Marshall for the 2021 fiscal year at a rate of \$0.542160 per \$100 of property value. (City Manager)

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- B. Consider approval of a Small Business Grant program funded by the Community Development Block Grant – COVID funds. (Community & Economic Development Director)

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ITEM 1

CALL TO ORDER AND ROLL CALL

ITEM 2

INVOCATION AND PLEDGES

ITEM 3

CITIZEN COMMENTS

ITEM 4

ITEMS TO BE WITHDRAWN FROM CONSENT AGENDA

ITEM 5A

CONSENT AGENDA

APPROVAL OF THE MINUTES FROM THE SEPTEMBER 10, 2020 REGULAR MEETING

MINUTES OF THE REGULAR MEETING OF THE
CITY COMMISSION OF THE CITY OF MARSHALL
THURSDAY, SEPTEMBER 10, 2020
6:00 PM

Mayor Terri Brown called the Regular meeting to order in the Commission Chambers, City Hall at 6:00 p.m.

PRESENT:

MAYOR: Terri Brown, District 3

COMMISSIONERS:

Marvin Bonner, District 1	Leo Morris, District 2
Amy Ware, District 4	Vernia Calhoun, District 5
Doug Lewis, District 7	

ABSENT: Larry Hurta, District 6 (excused)

ADMINISTRATIVE STAFF PRESENT:

Mark Rohr, City Manager	Cliff Carruth, Police Chief
Scott Rectenwald, Acting City Attorney	
Randy Pritchard, Support Services Superintendent	
Wes Morrison, Community & Economic Development Director	
Glenna Williams, Acting City Secretary/Finance Director	
Eric Powell, Public Works Director	
Stormy Nickerson, Management Analysis/Communications Coordinator	
Nikki Smith, Deputy City Secretary/Payroll Accountant	

INVOCATION & PLEDGE: Mayor Brown

187. **CITIZEN COMMENTS**

Raymond Fogg, 1805 University, member of Educators for Public Service, spoke regarding citizens working with the Commission to build a better Marshall and hardships for people of color such as discrimination and police brutality.

Melissa Al-Ahmadi, 4404 Sherman Dr, spoke in opposition of Marshall becoming a sanctuary city for the unborn.

April Roberts, 403 Country Club Dr, spoke in favor of Marshall becoming a sanctuary city for the unborn.

Sara Whitaker, 3235 E. Loop 390, spoke in favor of Marshall becoming a sanctuary city for the unborn.

Joshua Perry, 509 Lynoak St, spoke in favor of Marshall becoming a sanctuary city for the unborn.

Dea Ann Grigsby, 411 E, Carolanne, spoke in favor of Marshall becoming a sanctuary city for the unborn.

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

Item B was withdrawn from the Consent Agenda.

189. **CONSENT AGENDA**

Commissioner Lewis made a motion to approve the Consent Agenda. Commissioner Bonner seconded the motion, which passed with a vote of 6:0.

A. Consider approval of the minutes from the August 27, 2020 Regular meeting.

C. Municipal Court Activity Report.

D. Consider approval of investment report for the second quarter of 2020.

190. **PUBLIC MEETING**

A. Conduct a public meeting on the proposed tax rate of \$0.542160 per \$100 valuation in support of the 2021 Annual Budget of the City of Marshall.

Mark Rohr, City Manager, stated this is a procedural matter to discuss the proposed tax rate of \$0.542160 per \$100 valuation, which has been the same tax rate for the previous six years and is a fundamental part of the budget.

Mayor Brown opened the public hearing.

No one came forward to speak.

Mayor Brown closed the public hearing.

ORDINANCES

191. **CONSIDER APPROVAL OF AN ORDINANCE TO ADOPT THE ANNUAL BUDGET OF THE CITY OF MARSHALL, TEXAS FOR THE 2021 FISCAL YEAR.**

Mark Rohr stated this is a routine matter as well, stating the budget has been discussed during a previous meeting and has been available on the website for some time.

Commissioner Ware made a motion to approve an Ordinance to adopt the Annual Budget of the City of Marshall, Texas for the 2021 Fiscal Year. Commissioner Calhoun seconded the motion, which passed with a vote of 6:0.

192. **CONSIDER APPROVAL OF AN ORDINANCE AFFIXING AND LEVYING 2020 AD VALOREM TAXES FOR THE USE AND SUPPORT OF THE MUNICIPAL GOVERNMENT OF THE CITY OF MARSHALL FOR THE 2021 FISCAL YEAR AT A RATE OF \$0.542160 PER \$100 OF PROPERTY VALUE.**

Mark Rohr asked for approval of an ordinance affixing and levying 2020 ad valorem taxes for the use and support of the municipal government of the City of Marshall, Texas, for the 2021 fiscal year at a rate of \$0.542160 per \$100 of property value.

Mayor Brown moved to adopt a tax rate of \$0.542160 as this year's proposed tax rate does not exceed the no-new-revenue tax rate. Commissioner Ware seconded the motion, which passed with a vote of 6:0.

193. CONSIDER APPROVAL OF AN ORDINANCE OF THE CITY OF MARSHALL, TEXAS AMENDING CHAPTER 31 "WATER AND SEWER" ARTICLE III, TITLED, "INDUSTRIAL WASTES" BY DELETING SECTIONS 31-18 THROUGH 31-32 AND REPLACING THEM WITH NEW SECTIONS 31-18 THROUGH 31-33.

Eric Powell, Public Works Director, addressed a typo in the sections of this ordinance, changing 31-32 to 31-31 and 31-33 to 31-32. He asked for approval of this ordinance of the City of Marshall, Texas amending Chapter 31 "Water and Sewer" Article III, titled, "Industrial Wastes" by deleting sections 31-18 through 31-31 and replacing them with new sections 31-18 through 31-32. He stated this ordinance places the City of Marshall in compliance with TCEQ rulings.

Commissioners asked questions and discussed.

Commissioner Calhoun made a motion to approve ordinance of the City of Marshall, Texas amending Chapter 31 "Water and Sewer" Article III, titled, "Industrial Wastes". Mayor Brown seconded the motion, which passed with a vote of 6:0.

194. CONSIDER APPROVAL OF AN ORDINANCE AMENDING THE 2020 ANNUAL BUDGET TO APPROPRIATE FUNDS FOR PROJECTS APPROVED BY THE CITY COMMISSION.

Glenna Williams, Acting Finance Director, asked for approval of an Ordinance amending the 2020 Annual Budget to appropriate funds to provide for projects approved by the Commission at previous meetings.

Commissioner Calhoun made a motion to approve an Ordinance amending the 2020 Annual Budget to appropriate funds for projects approved by the City Commission. Commissioner Bonner seconded the motion, which passed with a vote of 6:0

SECOND READING OF ORDINANCE

195. CONSIDER APPROVAL OF AN ORDINANCE AMENDING THE 2020 ANNUAL BUDGET TO APPROPRIATE FUNDS FOR PROJECTS APPROVED BY THE CITY COMMISSION.

Glenna Williams stated this was the second reading of this ordinance. There was no new information regarding this item.

Commissioner Ware made a motion to approve an Ordinance amending the 2020 Annual Budget to appropriate funds for projects approved by the City Commission. Commissioner Calhoun seconded the motion, which passed with a vote of 6:0

RESOLUTIONS

196. CONSIDER APPROVAL OF A RESOLUTION FOR SUPPORT OF RE-DESIGNATION FOR SL 390/US 59 RELIEF ROUTE/FUTURE I-369.

Wes Morrison, Community & Economic Development Director, stated the committee for the re-designation for SL 390/US 59 Relief Route/Future I-369 Project has been working since 2014 on this project, holding several public meetings for route approval. The route has been divided into three sections; north, middle and south. He stated TxDOT will hold a meeting in

late October or early November and would like this resolution to go with it. He asked for approval of this resolution.

Commissioners asked questions and discussed.

Commissioner Bonner made a motion to approve a resolution for support of re-designation for SL 390/US 59 Relief Route/Future I-369. Mayor Brown seconded the motion, which passed with a vote of 6:0.

197. CONSIDER APPROVAL OF A RESOLUTION AMENDING THE EARLY VOTING DATES TO ALIGN WITH THE GOVERNOR'S PROCLAMATION WHICH EXTENDED EARLY VOTING.

Glenna Williams, Acting City Secretary, asked for approval of a resolution amending the early voting dates to align with the Governor's Proclamation which extended early voting by including four additional days.

Mayor Brown made a motion to approve a resolution amending the early voting dates to align with the Governor's Proclamation which extended early voting. Commissioner Calhoun seconded the motion, which passed with a vote of 6:0.

CITY MANAGER REPORTS AND REQUESTS FOR CITY COMMISSION CONSIDERATION

198. CONSIDER APPROVAL OF AN EXPENDITURE IN EXCESS OF \$50,000 AS AN INCENTIVE FOR PROJECT DC 2020.

Donna Maisel, Executive Director MEDCO, asked for approval of an expenditure in excess of \$50,000 as an incentive for Project DC 2020. She stated this project would provide for a distribution center with an on-site retail outlet and 500 new jobs for the community. The cost for this project will be \$255,000.

Commissioner Bonner made a motion to approve an expenditure in excess of \$50,000 as an incentive for Project DC 2020. Mayor Brown seconded the motion, which passed with a vote of 6:0.

After the vote Donna Maisel revealed the name of the company, Dirt Cheap, and provided a detailed history of the company. A job fair will be held on Saturday, September 19, 2020 from 9:00 AM to 5:00 PM.

199. CONSIDER APPROVAL OF A CONTRACT EXTENSION FOR LIQUID CAUSTIC SODA FOR THE WATER TREATMENT PLANT.

Eric Powell stated the current contract expires in September 2020 and asked for approval of an extension through September 2021. He stated the City will go out for bids in early 2021 for a new contract.

Commissioner Calhoun made a motion to approve extending the current contract for Liquid Caustic Soda through September 2021. Commissioner Lewis seconded the motion, which passed with a vote of 6:0.

200. CONSIDER APPROVAL OF THE PLACEMENT OF “NO LEFT TURN”
SIGNAGE FROM NORTHBOUND INDIAN SPRINGS ONTO EAST
TRAVIS (NEAR SAM HOUSTON SCHOOL) DURING SCHOOL ZONE
HOURS.

Cliff Carruth, Police Chief, explained the need for the placement of “No Left Turn” signage from Northbound Indian Springs onto East Travis (near Sam Houston School) during school zone hours.

Commissioners asked questions and discussed.

Commissioner Ware made a motion to approve the placement of “No Left Turn” signage from Northbound Indian Springs onto East Travis during school zone hours. Mayor Brown seconded the motion, which passed with a vote of 6:0.

201. CONSIDERATION OF ITEMS WITHDRAWN FROM THE
CONSENT AGENDA

B. Street Sweeping Activity Report.

Commissioner Morris explained his reasoning for pulling this item.

Eric Powell explained why fewer streets are swept in the summer when compared to the spring and fall. He also stated the employee who sweeps the streets also takes care of the right-of-ways. Eric explained the process for a citizen to report the need for a street to be swept.

Commissioner Lewis made a motion to approve item B of the Consent Agenda. Mayor Brown seconded the motion, which passed with a vote of 6:0.

202. ADJOURNMENT

Commissioner Lewis made a motion for adjournment. Commissioner Calhoun seconded the motion, which passed with a vote of 6:0.

APPROVED:

**Mayor of the City Commission
of the City of Marshall, Texas**

ATTEST:

City Secretary

**Ordinances: O-20-22
O-20-23
O-20-24
O-20-25
O-20-26
Resolutions: R-20-16
R-20-17**

ITEM 5B

CONSENT AGENDA

MONTHLY FINANCIAL REPORT

MEMORANDUM

To: Mark Rohr, City Manager

From: Glenna Williams, Interim Finance Director

Date: September 24, 2020

Subject: August Revenue and Expense Report Summaries – General Fund and Water and Sewer Enterprise Fund

Attached is the Revenue and Expense Report Summaries for August. This report provides current month, year to date, and budgeted amounts for major revenue categories and expenditures by department. The report also provides a percent of current budget. On average, a department will expend approximately 8.33% of its budget on a monthly basis and this can be used as a benchmark when reviewing this report.

CITY OF MARSHALL
REV/EXP/BUD - SHORT REPORT - NEW
PERIOD ENDING: AUG, 2020

	CURRENT MONTH	CURRENT YTD	PRIOR YTD	REVISED ADOPTED BUDGET	ADOPTED BUDGET	8/12 OF ADOPTED BUDGET	PERCENT OF ADOPTED (8 month norm=66.67%)		REMAINING BUDGET
GENERAL FUND									
REVENUES:									
TAXES	762,389	7,938,211	7,569,928	12,467,306	12,467,306	8,311,537	63.7%	A	4,529,095
LICENSES & PERMITS	17,121	113,608	133,300	178,000	178,000	118,667	63.8%		64,392
INTERGOVERNMENTAL REVENUE	9,686	138,790	94,908	161,235	161,235	107,490	86.1%	B	22,445
FEES	395,556	3,243,451	3,103,361	5,200,894	5,200,894	3,467,263	62.4%	C	1,957,443
FINES & FORFEITURES	21,227	186,080	469,237	484,332	484,332	322,888	38.4%	D	298,252
MISCELLANEOUS REVENUE	18,587	1,418,632	1,645,488	2,573,331	2,573,331	1,715,554	55.1%	E	1,154,699
TOTAL GENERAL FUND REVENUE	1,224,566	13,038,771	13,016,223	21,065,098	21,065,098	14,043,399	61.90%		8,026,327
EXPENSES:									
GENERAL GOVERNMENT	60,581	364,538	301,654	555,300	555,300	370,200	65.6%		190,762
FINANCE	30,923	332,011	349,127	522,314	522,314	348,209	63.6%		190,303
POLICE	489,116	3,093,617	3,683,734	5,153,135	5,153,135	3,435,423	60.0%	E	2,059,518
FIRE	305,120	2,773,833	2,771,092	4,144,820	4,144,820	2,763,213	66.9%		1,370,987
PUBLIC WORKS	547,596	2,883,050	3,199,182	5,034,940	4,768,142	3,178,761	60.5%	F	1,885,092
COMMUNITY & ECONOMIC DEV	25,134	354,049	269,423	598,469	598,469	398,979	59.2%		244,420
SUPPORT SERVICES	85,693	587,318	1,003,495	887,855	905,449	603,633	64.9%	G	318,131
TOURISM & CULTURAL ARTS	69,869	640,025	262,850	1,206,297	1,206,297	804,198	53.1%	G	566,272
PARKS & RECREATION	28,739	256,106	497,033	439,866	530,892	353,928	48.2%		274,786
NON DEPARTMENTAL	193,110	1,502,123	1,404,099	2,226,990	2,045,370	1,363,580	73.4%		543,248
APPRAISAL DISTRICT	23,327	93,308	70,115	97,910	97,910	65,273	95.3%		4,602
INTERFUND TRANSFERS				537,000	537,000	358,000			537,000
CAPITAL OUTLAY			55,758						
TOTAL GENERAL FUND EXPENSES	1,859,209	12,879,977	13,867,564	21,404,896	21,065,098	14,043,399	61.1%		8,185,121
TOTAL GENERAL FUND	(634,642)	158,794	(851,341)	(339,798)				H	(158,794)

A - YTD Tax Revenue is up \$368k from prior year. Current YTD tax revenue includes sales taxes (up \$7k from 2019), property taxes (up \$386, and franchise taxes (down \$25k).

B - Intergovernmental Revenue increased \$44k from 2019. \$32k of this increase is for a COVID-19 grant the Fire Dept. received from Emergicon; \$19k is for revenue recognized to date from a \$269k CARES (Coronavirus Relief Fund) grant.

C - An increase in Fee Revenue (up \$140 from 2019) can be attributed to \$31k of additional ambulance revenue and \$214k of higher refuse collection fees. This increase is offset by lower revenue from Tourism and Cultural Arts venues.

D - Fines & Forfeitures revenue is down \$283 from last year. \$171k of this reduction is due to the loss of Traffic Light Revenue; the balance, \$112k, is from lower Municipal Court fines resulting from Covid-19.

E - Offsetting revenue & expenses (totaling \$612k) were recorded in 2019 for the lease purchase of 12 police vehicles; this explains the reduction in Misc Revenue & Police Expenses from prior year.

F - Public Works expenses are \$316k lower than last year. The street repair program has begun and expenses will be incurred in the coming months.

G - Expenses are lower in many of the departments as some employees were furloughed and venues closed. Most of the employees have returned to work, but not all venues are open. The reduction in revenue should be offset by the reduction in expenditures.

H - General Fund YTD Net Income totals \$159k versus -\$851k in 2019. This increase is primarily a result of lower street improvement expenses and higher property tax revenue. Budget Amendments approved by the Commission in April are reflected in the Revised Budget column bottom line net loss of \$340k. This balance is slated to be paid out of Reserves.

CITY OF MARSHALL
REV/EXP/BUD - SHORT REPORT - NEW
PERIOD ENDING: AUGUST, 2020

	CURRENT MONTH	CURRENT YTD	PRIOR YTD	REVISED ADOPTED BUDGET	ADOPTED BUDGET	8/12 OF ADOPTED BUDGET	PERCENT OF ADOPTED (8 month norm=66.67%)	REMAINING BUDGET
WATER & SEWER ENTERPRISE FUND								
REVENUES:								
PERMITS & FEES	4,038	12,114	8,889	11,400	11,400	7,600	106.3%	-714
WATER & SEWER CHARGES	909,984	6,050,362	6,416,525	10,301,854	10,301,854	6,867,903	58.7%	4,251,492
MISCELLANEOUS REVENUES	18,594	33,938	50,066	72,000	72,000	48,000	47.1%	38,062
TOTAL W&S REVENUE	932,616	6,096,414	6,475,479	10,385,254	10,385,254	6,923,503	58.7%	A 4,288,840
EXPENSES:								
ADMINISTRATION	26,645	231,211	179,295	371,424	398,310	265,540	58.0%	167,099
WATER PRODUCTION	107,720	785,650	1,003,872	1,729,835	1,735,906	1,157,271	45.3%	950,256
DISTRIBUTION/COLLECTION	128,463	1,000,659	854,369	2,485,866	2,483,027	1,655,351	40.3%	B 1,482,368
WASTEWATER TREATMENT	104,040	834,182	924,215	1,711,986	1,718,056	1,145,371	48.6%	883,874
WATER BILLING	33,393	307,346	308,418	512,884	512,884	341,923	59.9%	205,538
ENGINEERING	2,235	21,642	39,088	31,576	31,576	21,051	68.5%	9,934
NON DEPARTMENTAL	93,332	777,904	694,460	1,029,769	990,267	660,178	78.6%	C 212,363
INTERFUND TRANSFERS	95,880	2,102,355	3,584,107	2,515,228	2,515,228	1,676,819	83.6%	D 412,873
TOTAL W&S EXPENSES	591,708	6,060,947	7,587,826	10,388,568	10,385,254	6,923,503	58.4%	4,324,307
TOTAL WATER & SEWER FUND	340,908	35,466	(1,112,347)	(3,314)	0	0		E (35,466)

A - Water & Sewer revenue is down \$366k from 2019 and \$827k from 7 months of budget. Water & sewer revenue is \$64K more in Aug, 2020 than July, 2020.

We anticipate revenue will continue to increase as more customers pay on outstanding bills and business use resumes.

B - Expenses are higher due to increased maintenance and improvements.

C - Nondepartmental expenses are higher than prior year and budget due to higher insurance premiums and drag-up payments (vacation & sick payout) for terminated employees.

D - Interfund transfers are reduced from prior year as bonds were paid down. Interfund transfers to general fund are increased.

E - The net income is \$35K.

ITEM 5C

CONSENT AGENDA

**CONSIDER APPROVAL OF AN
INTERLOCAL AGREEMENT WITH
HARRISON COUNTY FOR THE
WONDERLAND OF LIGHTS**



Agenda Information Sheet

September 24, 2020

Agenda Item

Consider approval of an Interlocal Agreement with Harrison County for the Wonderland of Lights.
(Director of Community & Economic Development)

Background & Summary of Request:

Attached is an interlocal agreement with Harrison County regarding the use of the historic courthouse during Wonderland of Lights. The attached agreement is the same as last year's agreement with the exception of applicable dates.

STATE OF TEXAS §

COUNTY OF HARRISON §

**INTERLOCAL AGREEMENT
CITY OF MARSHALL AND HARRISON COUNTY
2020-21 COURTHOUSE LIGHT DISPLAY**

THIS INTERLOCAL AGREEMENT is hereby made and entered into this the ____ day of _____, 2020, by and between the CITY OF MARSHALL, TEXAS, a home rule municipal corporation (“City”) and HARRISON COUNTY, a political subdivision of the State of Texas (“County”), each acting by and through its duly authorized agents;

WHEREAS, the respective participating governments are authorized by the Interlocal Cooperation Act, Texas Government Code, Chapter 791, to enter a joint agreement for the performance of the governmental function of constructing and maintaining public works projects and public infrastructure; and

WHEREAS, state law authorizes the City to engage in activities that promote economic development through tourism and visitor attraction and the City has determined that the Wonderland of Lights annual festival is a vital part of the City’s tourism program; and

WHEREAS, the City is requested to have access and use of the exterior of the Harrison County Historic Courthouse to install and attach Christmas decorations including light strands and other necessary wiring to illuminate the building; and

WHEREAS, the City and County agree that the lighted Historic County Courthouse has been the center piece of the Wonderland of Lights for over thirty years; and,

WHEREAS, the City of Marshall and the County of Harrison jointing participate in the celebration of the Christmas and New Year holidays by the decoration of the downtown areas of the City of Marshall and the Historic Harrison County Courthouse; and

WHEREAS, the Parties recognize that in order to properly decorate the Historic Harrison County Courthouse, access to that building, and the installation of lighting is necessary; and that given the delicate nature of the Courthouse, certain provisions regarding the protection and preservation of this structure are necessary; and

WHEREAS, the parties have the legal authority to perform and to provide the governmental function and service which is the subject matter of this Agreement; and

WHEREAS, the City and County Commission find that the subject of this Agreement is necessary for the benefit of the public; and

WHEREAS, the parties desire to enter a formal agreement to better outline each Parties obligations and responsibilities; and

NOW, THEREFORE, in consideration of the covenants and conditions contained in this Agreement, the County permits and grants the City permission to enter upon the County's Property, specifically the Historic Courthouse structure and surrounding area (the "Property") to perform installation and placement of lights and other work necessary for the illumination of the Courthouse for the 2020 Wonderland of Lights, subject to the terms and conditions set forth below:

1. The term of this Right of Use shall be for a period of one hundred and twenty-three (123) days beginning on October 1, 2020 and ending February 1, 2021. During the term the City shall have access to the exterior of the Courthouse for the purpose of installing, repairing, removing and otherwise maintaining the lights and electrical wiring installed by the City, on and around the Courthouse. The County agrees to provide the City with prior twenty-four (24) hour notice of any event that prohibit the City's access to the Courthouse.
2. In consideration of the County granting this Agreement, the City, to the extent allowed by Texas law, shall be solely responsible for and liable for any injury or damage to persons or property, arising out of any negligent act or willful act or misconduct of the City and/or its employees, agents, contractors, subcontractors, independent contractors, or authorized representatives. To the extent allowed by Texas law, the City agrees it shall indemnify and hold harmless the County and the County's officers, directors, members, employees, agents, and representatives against any expense, loss, cost, claim, demand, suit, judgment, suffered or incurred as the result of any breach by the City, its agents, servants, employees, contractors, or subcontractors, of any covenant or condition of this Agreement, or as a result of the City's use of the Courthouse, or the carelessness, negligence, or improper conduct of the City, its agents, servants, employees, contractors or subcontractors, which causes any loss, cost, claim, suit, judgment, or liability to be incurred by the County.
3. The City of Marshall shall provide to Harrison County evidence of liability/casualty and general loss insurance protection in a minimum sum of \$2,000,000.00 (Two Million Dollars), with a rider to protect Harrison County as a named beneficiary against any and all losses which may arise from the access to, and installation upon, the Historic Harrison County Courthouse for holiday lighting, and particularly against damages incurred to the building, grounds, or persons associated with the City's activities, including roof tiles, columns, railings, eaves, dormers, cupola, statuary or other fixtures and/or attachments thereto, including decorative carvings and stained glass windows.
4. All work shall be done at the City's sole discretion, and with such care, diligence and cooperation between the City and County personnel as will avoid accident, damage, or harm to persons or property.
5. The City shall use care when installing lights, wiring, or any other materials to the Harrison County Courthouse and not use any type of screws, nails, or adhesive that will damage the Courthouse structure or cause damage to any component of the Courthouse's

outer structures, walkways, or retaining walls. The City shall be responsible for any damage caused by it to the Courthouse and for repairing such damage. Furthermore, upon the termination of this Agreement or upon completion of the City's use of the Property, the City agrees to promptly remove the lights and decorations and to repair, correct, and restore any damages, changes, and/or alterations to the Property caused by City's entry upon and/or use of the Property.

6. Only City Employees will be allowed on the building and balconies, in observance of all standard safety procedures. The City will provide a licensed electrician to oversee all wiring and lighting installation, as well as utilities.
7. Courthouse decoration does not include use of balconies. The west side of the Courthouse parking lot will remain open for County and public use without obstruction.
8. The City shall designate four additional handicapped parking spaces on the west side of the courthouse at the south handicapped entrance ramps.
9. Within 24 hours of its occurrence, the City shall notify the County of any damage to the Courthouse. The City agrees to accept full responsibility for any and all damages, including damage to the exterior of the Courthouse and any other portions of County property, as a result of the City's operations thereon. The City further agrees to promptly repair any such damage in accordance with the County's instructions. Any such required repairs shall be promptly paid by the City from current revenues available to the City for such purposes
10. The rights of the City hereunder are not assignable, in whole or in part, without the prior written consent of the County.
11. If any of the foregoing provisions are held for any reason to be unlawful or unenforceable, such unlawful or unenforceable part shall be severed from this Agreement and the remaining terms of the Agreement shall remain in full force and effect.
12. Notices, correspondence, and all other communications shall be addressed to City of Marshall and submitted to the following:

City of Marshall
PO Box 698
Marshall, TX 75671
Attn: Mark Rohr, City Manager
(903) 935-4421

Notices to County shall be delivered to:

Harrison County Judge
 Chad Sims
 #1 Peter Whetstone Square Room 314
 Marshall, Texas 75670
 (903) 935-8401

13. Nothing in this agreement shall be construed to waive any immunities provided by law, either to governmental employees (official, governmental, judicial or quasi-judicial immunity), or to the governmental entities themselves (sovereign immunity).
14. This Agreement is for the benefit of the parties to the Agreement, and does not confer any rights on any third parties.
15. This Agreement has been made under and shall be governed by the laws of the State of Texas. This Agreement and all matters related thereto shall be performed in Harrison County, Texas. The venue of any lawsuits arising out of this Agreement shall be in Harrison County, Texas.
16. Failure of any party at any time, to enforce a provision of this Agreement, shall not constitute a waiver of that provision, nor in any way affect the validity of this Agreement or the right of any party thereafter to enforce every provision hereof. No term of this Agreement shall be deemed waived or breached by the failure to identify and expressly enforce any right or obligation imposed by this agreement. Furthermore, any consent to or waiver of a breach will not constitute a consent to or waiver of or excuse of any other different or subsequent breach.
17. It is understood and agreed that this Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

NOW THEREFORE, this Agreement is made and entered, by and between the City of Marshall and Harrison County, to be effective when signed by the last party whose signing makes the Agreement fully executed.

CITY OF MARSHALL

HARRISON COUNTY

Mark Rohr, City Manager

Chad Sims, County Judge

Date: _____

Date: _____

ATTEST

Glenna Williams, Acting City Secretary

Liz Whipkey, County Clerk

ITEM 5D

CONSENT AGENDA

**CONSIDER APPROVAL OF A
RECOMMENDATION FOR USE OF
CHILD SAFETY FEES**

MEMORANDUM

To: Mark Rohr, City Manager

From: Glenna Williams, Interim Finance Director/City Secretary

Date: September 24 2020

Subject: Recommendation for use of \$30,741 of Child Safety Fees

Roxanne Stevenson, Executive Director of The Martin House Children's Advocacy Center, initiated the Harrison County Child Safety fee by proposing it to the County Judge and Commissioners in 2015. The Harrison County Commissioners Court approved the collection of the fee. The funds must be used to enhance child safety, health, or nutrition, including child abuse prevention and intervention, and drug and alcohol prevention to benefit youth in our cities and county.

Roxanne Stevenson wrote a letter to the City of Marshall and City of Marshall Commissioners requesting the City of Marshall's portion of the Child Safety Fees. I recommend we award the \$30,741 to The Martin House.



Board of Directors

Harlen Lobley, Chair
Madison Hood, Vice-Chair
Jack Post, Treasurer
Donna Blalock, Secretary

August 21, 2020

City Commissioners
City of Marshall
P.O. Box 698
Marshall, TX 75670

Mike Bishop
Michael Clements, Jr.

Dear Commissioners:

Terry Johnson
Reid McCain

I'm writing to request the city's portion of Child Safety Fees once again. These fees are even more critical to our agency this year due to the pandemic.

Michelle Miller
Julie O'Brien
Terry Roach
Tanya Sammons

The enclosed victim services statistics we provide to children affected by abuse tell only part of the story. Of the 170 Harrison County children who received forensic interviews so far this fiscal year, 86 live in Marshall. Economic strains, job loss, and family isolation due to Covid-19 have put children at greater risk for harm. More cases of severe abuse are being reported – broken bones, skull fractures, sexual assaults, and child deaths have increased significantly since March of this year.

We remain committed to providing hope, healing, and justice to children who experience the devastation of abuse and violence, but we must do more to intervene on a child's behalf *before* abuse occurs. And we need your help.

Cancelled fundraising events due to Covid-19 reduced our income by approximately \$30,000 in the last four months alone. Fundraisers, individual, and corporate donations to our Center may be negatively affected for months or years to come. Your financial support now will help ensure we can continue to assist Marshall Police Department investigators and Harrison County prosecutors with these cases and provide therapy, medical exams, and advocacy support for children when they need us most.

Please consider donating the Child Safety Fees to our agency again this year.

Gratefully,

Roxanne Stevenson
Executive Director



The Martin House Children's Advocacy Center									
VICTIM SERVICES (Sept. 1 - Aug. 31)									
	FY2020 Partial 9/1-8/20	FY2019	FY2018	FY2017	FY2016	FY2015	FY2014	FY2013	FY2012
FORENSIC INTERVIEWS - Children									
Gregg Co	339	441	432	379	407	307	348	286	239
Harrison Co.	170	225	172	183	125	162	138	139	172
Marion Co. & Others	104	104	117	85	75	48	38	49	15
TOTAL	613	770	721	647	607	517	524	474	426
SEXUAL ASSAULT EXAMS - Children									
Gregg Co	21	20	17	24	16	31	21	29	8
Harrison Co.	8	7	6	3	8	11	11	12	2
Marion Co. & Others	9	14	6	6	4	0	2	1	2
TOTAL	38	41	29	33	28	42	34	42	12
COUNSELING - Children									
Gregg Co	78	77	68	63	81	85	129	150	81
Harrison Co.	27	44	26	28	26	32	61	63	34
Marion Co. & Others	24	30	13	30	31	9	12	15	25
TOTAL	129	151	107	121	138	126	202	228	140
COUNSELING - Adult Caregivers									
Gregg Co	14	7	50	47	59	44	33	14	4
Harrison Co.	3	13	17	18	21	17	5	4	0
Marion Co. & Others	9	3	10	18	19	5	5	3	0
TOTAL	26	23	77	83	99	66	43	21	4
# OF COUNSELING SESSIONS - Children									
Gregg Co	611	674	430	292	342	554	460	506	225
Harrison Co.	179	379	204	125	129	158	275	192	88
Marion Co. & Others	298	257	70	107	148	35	48	77	45
TOTAL	1088	1310	704	524	619	747	783	775	358
# OF COUNSELING SESSIONS - Adult Caregivers									
Gregg Co	43	76	145	156	207	89	83	26	18
Harrison Co.	8	61	60	51	55	44	10	4	0
Marion Co. & Others	58	40	17	50	65	7	10	3	0
TOTAL	109	177	222	257	327	140	103	33	18

ITEM 6A

PROCLAMATION

**PRESENTATION OF A PROCLAMATION
DESIGNATING THE WEEK OF OCTOBER
4 – 10, 2020 AS FIRE PREVENTION WEEK
IN THE CITY OF MARSHALL**

PROCLAMATION



WHEREAS, the National Fire Protection Association has promoted public observance of Fire Prevention Week since 1922, and President Calvin Coolidge, in 1925, proclaimed Fire Prevention Week a national observance to be held during the week of October 9th to commemorate the Great Chicago Fire of 1871; and,

WHEREAS, the National Fire Protection Association has stated fire prevention is a top priority, and the NFPA promotes the importance of individual, family, and community safety; and,

WHEREAS, the leading cause of home fires and home fire injuries is cooking, showing two of every five home fires start in the kitchen, with 31% of these fires being the result of unattended cooking; and,

WHEREAS, it is important that all citizens have working smoke detectors which reduce the risk of dying in a house fire by 50%, and have a practiced fire escape plan which increase the ability of surviving a fire; and,

WHEREAS, the City of Marshall wishes to express our utmost appreciation to our own firefighters and EMS personnel for their dedicated efforts in providing important services to our community; and,

WHEREAS, the Fire Prevention Week theme for 2020 is “Serve Up Fire Safety in the Kitchen!!”

NOW, THEREFORE, we, the City Commission of Marshall, Texas call upon the citizens of Marshall to observe the week of October 4-10, 2020, as Fire Prevention Week and implore all residents to check their kitchens for fire hazards and use safe cooking practices at all times.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Marshall, Texas to be affixed this 24th day of September 2020.

Terri Brown, Mayor
Marshall City Commission



ITEM 7A

SECOND READING OF ORDINANCE

**CONSIDER APPROVAL OF AN
ORDINANCE TO ADOPT THE ANNUAL
BUDGET OF THE CITY OF MARSHALL,
TEXAS FOR THE 2021 FISCAL YEAR**

MEMORANDUM

To: Members of the City Commission

From: Mark Rohr, City Manager

Date: September 15, 2020

Subject: Approval of an Ordinance to adopt the Annual Budget for the City of Marshall, Texas for the 2021 fiscal year

The Ordinance appropriates funds for the support of the City of Marshall for the fiscal year beginning January 1, 2021 and ending December 31, 2021. It also provides for the adoption of the 2021 Annual Budget

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

***PLEASE NOTE the property tax rate remains the same.**

ORDINANCE NO. _____

AN ORDINANCE MAKING APPROPRIATIONS FOR THE SUPPORT OF THE CITY OF MARSHALL, TEXAS, FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2021 AND ENDING DECEMBER 31, 2021; 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 2021 FISCAL YEAR.

WHEREAS, the budget, as presented in Section 1 below, for the fiscal year beginning January 1, 2021 and ending December 31, 2021 was duly presented to the City Commission by the City Manager and a public hearing was ordered by the City Commission and said notices were published in the Marshall News Messenger and said public hearing was held according to said notice; now, therefore,

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

SECTION 1

THAT the appropriations for the fiscal year beginning January 1, 2021 and ending December 31, 2021 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 2021 budget, as detailed below:

<u>FUND</u>	<u>TOTAL BUDGETED EXPENDITURES</u>
General Fund	\$ 21,274,172
Water & Sewer Enterprise Fund	<u>\$ 9,541,393</u>
Sub-Total -- Operating Budget	\$ 30,815,565
2016 General Obligation Refunding,	
See attached	
Debt Service Funds	\$ 1,074,747
Hotel/Motel Occupancy Tax Fund	\$ 800,000
Litter Control Fund	\$ 6,700
D.A.R.E. Donation Fund	\$ 6,200
Street Maintenance Fund	\$ 570,405
Capital Improvement Fund	\$ 861,139
Equipment Replacement Fund – General Fund	\$ 98,615
Equipment Replacement Fund – Water & Sewer Fund	\$ 254,116
Municipal Drainage Utility Fund	\$ 380,100
Emergency Medical Services – ESD	<u>\$ 120,000</u>
Total Budget	<u>\$ 34,987,587</u>

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, 2021 and ending December 31, 2021.

PASSED AND APPROVED this, the 10th day of September, 2020.

Mayor Terri Brown, District 3, voted _____
Mayor Pro-Tem Doug Lewis, District 7, voted _____
Commissioner Marvin Bonner, District 1, voted _____
Commissioner Leo Morris, District 2, voted _____
Commissioner Amy Ware, District 4, voted _____
Commissioner Vernia Calhoun, District 5, voted _____
Commissioner Larry Hurta, District 6, voted _____

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

PASSED, APPROVED, AND ADOPTED this, the 24th day of September, 2020.

Mayor Terri Brown, District 3, voted _____
Mayor Pro-Tem Doug Lewis, District 7, voted _____
Commissioner Marvin Bonner, District 1, voted _____
Commissioner Leo Morris, District 2, voted _____
Commissioner Amy Ware, District 4, voted _____
Commissioner Vernia Calhoun, District 5, voted _____
Commissioner Larry Hurta, District 6, voted _____

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

APPROVED:

MAYOR OF THE CITY COMMISSION
OF THE CITY OF MARSHALL, TEXAS

ATTEST:

GLENN WILLIAMS
ACTING CITY SECRETARY

7B

SECOND READING OF ORDINANCE

**CONSIDER APPROVAL OF AN
ORDINANCE AFFIXING AND LEVYING
2020 AD VALOREM TAXES FOR THE USE
AND SUPPORT OF THE MUNICIPAL
GOVERNMENT OF THE CITY OF
MARSHALL FOR THE 2021 FISCAL YEAR
AT A RATE OF \$0.542160 PER \$100 OF
PROPERTY VALUE**

MEMORANDUM

To: Members of the City Commission

From: Mark Rohr, City Manager

Date: September 15, 2020

Subject: Approval of an Ordinance Affixing and Levying Ad Valorem Taxes for 2020 for Use and Support of the Municipal Government of the City of Marshall for the 2021 Fiscal Year

This Ordinance provides for levying ad valorem taxes for 2020 for the use and support of the municipal government for the 2021 fiscal year at a rate of \$0.542160 per \$100 of property value.

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

Note:

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

“I move to adopt a tax rate of \$.0.542160 as this year’s proposed tax rate does not exceed the no-new-revenue tax rate.”

ORDINANCE NO. _____

AN ORDINANCE LEVYING AD VALOREM TAXES FOR 2020 AT A RATE OF \$0.542160 PER \$100 OF ASSESSED VALUATION ON ALL TAXABLE PROPERTY FOR THE USE AND SUPPORT OF THE MUNICIPAL GOVERNMENT OF THE CITY OF MARSHALL, TEXAS, FOR THE 2021 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 Commission of the City of Marshall, Texas (hereinafter referred to as the “City”) hereby finds that the tax for the fiscal year beginning January 1, 2021 and ending December 31, 2021, 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 Commission has approved the budget for the fiscal year beginning January 1, 2021, and ending December 31, 2021; and

WHEREAS, notice of the no-new-revenue tax rate calculations for the tax year 2020 for the City of Marshall, Texas was heretofore published in accordance with law; and

WHEREAS, the City Commission of the City of Marshall, Texas, held a public meeting and approved a resolution on August 27, 2020 announcing the proposed 2020 property tax rate and establishing the dates and times of the City Commission meetings for the adoption of the proposed tax rate; and

WHEREAS, at the aforementioned public meeting the City Commission voted to propose a tax rate for the year 2020 of \$0.542160 upon each one hundred dollar (\$100) valuation; and

WHEREAS, this year’s levy to fund maintenance and operations expenditures does not exceed last year’s maintenance and operations tax levy.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION 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 Commission for the 2020 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 2020 tax year, upon all property, real, personal, and mixed, within the corporate limits of said City subject to taxation, a tax of \$0.542160 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, \$0.461696 on each \$100 valuation of property; and
- 2. For the interest and sinking fund, \$0.080464 on each \$100 valuation of property as follows:

<u>BOND ISSUE</u>	<u>TAX RATE PER \$100 VALUATION</u>
GENERAL OBLIGATION REFUNDING, SERIES 2016	\$0.032863
GENERAL OBLIGATION REFUNDING, SERIES 2019	\$0.008728
COMBINATION TAX AND LIMITED SURPLUS REVENUE CERTIFICATES OF OBLIGATION, SERIES 2017	\$0.008530
COMBINATION TAX AND LIMITED SURPLUS REVENUE TAX NOTES, SERIES 2019	\$0.010030
COMBINATION TAX AND LIMITED SURPLUS REVENUE TAX NOTES, SERIES 2020	<u>\$0.020313</u>
TOTAL	<u>\$0.080464</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, 2021 through December 31, 2021.

Section 5.

That taxes levied under this Ordinance are due January 31, 2021, and if not paid on or before February 1, 2021, 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 AND APPROVED this, the 10th day of September, 2020.

Chairman Terri Brown, District 3, voted _____
Mayor Pro-Tem Doug Lewis, District 7, voted _____
Commissioner Marvin Bonner, District 1, voted _____
Commissioner Leo Morris, District 2, voted _____
Commissioner Amy Ware, District 4, voted _____
Commissioner Vernia Calhoun, District 5, voted _____
Commissioner Larry Hurta, District 6, voted _____

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

PASSED, APPROVED, AND ADOPTED this, the 24th day of September, 2020.

Chairman Terri Brown, District 3, voted _____
Mayor Pro-Tem Doug Lewis, District 7, voted _____
Commissioner Marvin Bonner, District 1, voted _____
Commissioner Leo Morris, District 2, voted _____
Commissioner Amy Ware, District 4, voted _____
Commissioner Vernia Calhoun, District 5, voted _____
Commissioner Larry Hurta, District 6, voted _____

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

APPROVED:

MAYOR OF THE CITY COMMISSION
OF THE CITY OF MARSHALL, TEXAS

ATTEST:

GLENN WILLIAMS
ACTING CITY SECRETARY

7C

SECOND READING OF ORDINANCE

**CONSIDER APPROVAL OF AN
ORDINANCE OF THE CITY OF
MARSHAL, TEXAS AMENDING
CHAPTER 31 “WATER AND SEWER”
ARTICLE III, TITLED, “INDUSTRIAL
WASTES”**



TO: Members of the City Commission

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

DATE: September 1, 2020

SUBJECT: Approval of an ordinance of the City of Marshall, Texas amending Chapter 31
"Water and Sewer" Article III, Titled, "Industrial Wastes"

Environmental Protection Agency (EPA) regulations require every owner of a Publicly Owned Treatment Works (POTW) to adopt an ordinance granting regulatory officials the adequate authority to require entities discharging industrial wastes into the POTW systems to comply with regulations that have been adopted by the EPA. Periodically, amendments are necessary in order to bring the City's Industrial Waste Ordinance into compliance with these adopted regulations.

The proposed ordinance amendment is attached, along with an overall summary, for review by the Commission. I will be in attendance at the meeting, and will be happy to answer any questions that you may have regarding this item.

Summary

Proposed Ordinance of the City of Marshall, Texas amending Chapter 31 "Water and Sewer" Article III, Titled, "INDUSTRIAL WASTES" by deleting sections 31-18 through 31- 32 and replacing them with new sections 31-18 through 31-33.

The updates set forth uniform requirements, and have been developed to provide a method of planning and administration to enable the City of Marshall to operate the Publicly Owned Treatment Works in a manner which will adequately treat discharges to the system, protect human health and the environment, and comply with any applicable state and federal laws including the Clean Water Act of 1977(33 United States Code [U.S.C.] section 1251 et seq.) as amended, the general Pretreatment Regulations of 40 of the Code of Federal Regulations [CFR], part 403 and the Texas Water Code.

The objectives of this ordinance are:

1. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
2. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
3. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
4. To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;
5. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and
6. To enable the City to comply with its Texas Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

No. X-XX-XXXX

**AN ORDINANCE OF THE CITY OF MARSHALL, TEXAS AMENDING
CHAPTER 31“WATER AND SEWER” ARTICLE III, TITLED,
“INDUSTRIAL WASTES” BY DELETING SECTIONS 31-18 THROUGH
31-32 AND REPLACING THEM WITH NEW SECTIONS 31-18 THROUGH
31-33.**

WHEREAS, the City of Marshall owns and operates a Publicly Owned Treatment Works (POTW); and

WHEREAS, the Environmental Protection Agency (EPA) regulations require every owner of a POTW to adopt an ordinance granting regulatory officials adequate authority to require industries discharging industrial wastes into the POTW system to comply with regulations adopted by EPA; and

WHEREAS, the Water Utilities staff has proposed changes in the City of Marshall Industrials Waste Ordinance which will bring it into compliance with EPA regulations; and

WHEREAS, these changes will benefit the City of Marshall by protecting the health, safety, and welfare of its citizens;

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

PART 1. Chapter 31 “Water and Sewer” Article III, titled, “Industrial Wastes” be amended by deleting current Sections 31-18 through 31-32 and replacing them as follows:

SECTION 31-18: GENERAL PROVISIONS

A. Purpose and Policy

This ordinance sets forth-uniform requirements for users of the wastewater collection and Publicly Owned Treatment Works (POTW) for the City of Marshall and enables the City to comply with all applicable State and Federal laws including the Clean Water Act (33 U.S.C. 1251 et seq.), and the General Pretreatment Regulations (40 CFR Part 403).

The objectives of this ordinance are:

1. To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;
2. To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;
3. To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
4. To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
5. To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW;
6. To provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the POTW; and
7. To enable the City to comply with its TPDES permit conditions, sludge use and disposal requirements and any other Federal or State laws to which the POTW is subject.

This ordinance shall apply to all industrial users of the POTW. The ordinance authorizes the issuance of wastewater discharge permits; authorizes monitoring, compliance and enforcement activities; establishes administrative review procedures; requires industrial user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

B. Administration

Except as otherwise provided herein, the Director of Public Works (DOPW) shall administer, implement and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the DOU may be delegated by Director of Public Works (DOPW) to other City personnel.

C. Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

1. Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.
2. Approval Authority. The Director in a NPDES State with an approved State pretreatment program and the appropriate Regional Administrator Regional Administrator in a non-NPDES State or NPDES State without an approved State pretreatment program.
3. Authorized Representative of the Industrial User.
 - a. If the industrial user is a corporation, authorized representative shall mean:
 1. the president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation;
 2. the manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
 - b. If the industrial user is a partnership, or sole proprietorship, an authorized representative shall mean a general partner or proprietor, respectively;
 - c. If the industrial user is a Federal, State or local governmental facility, an authorized representative shall mean a director, highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee;
 - d. The individuals described in paragraphs A-C above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.
4. Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20 degrees centigrade expressed in terms of mass and concentration in milligrams per liter (mg/l).

5. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of industrial users which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
6. City. The City of Marshall or The City Commission of The City of Marshall.
7. Color. The optical density at the visual wavelength of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.
8. Composite Sample. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.
9. Control Authority. The term “Control Authority” shall refer to the City of Marshall.
10. Director of Public Works or DOPW. Is the person designated by The City to supervise certain duties and responsibilities of this ordinance, or his/her duly authorized representative.
11. Daily Maximum Limit. The maximum allowable discharge of pollutants during a calendar day. Where daily limitations are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limitations are expressed in terms of concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.
12. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Regional Water Management Division Director or other duly authorized official of said agency.
13. Existing Source. Any source of discharge, the construction or operation of which commenced prior the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
14. Grab Sample. An individual sample collected over a period of time not exceeding 15 minutes with no regard to instantaneous waste stream flow or time.
15. Indirect Discharge or Discharge. The introduction of non-domestic pollutants into the POTW from any non-domestic source regulated under Section 307 (b), (c), (d) of the Act.
16. Industrial User or User. A source of indirect discharge.
17. Industrial Wastes. The words “industrial wastes” shall mean all waterborne solids, liquids or gaseous wastes resulting from any industrial, manufacturing or food processing operations or process, from the development of any natural resources, or any mixture of these with water or domestic sewage as distinct from normal domestic sewage.
18. Interference. A discharge which alone or in conjunction with a discharge or discharges from other sources: (1) inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and (2) therefore is a cause of a violation of the City’s TPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/ regulatory provisions or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as

the Resource Conservation and Recovery Act (RCRA); any State regulation contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

19. Maximum Allowable Discharge Limit. The maximum concentration of any pollutant discharged to the POTW based on daily or monthly averages or a single grab sample as established by the City based on technically based local limits development, national categorical pretreatment standards, or best professional judgement of the City. If State, Federal, and Local discharge limits are different, then the most stringent limit shall apply. Dilution of the wastestream to achieve an allowable discharge limit is prohibited.
20. Medical Waste. Isolation wastes, infectious agents, human blood and blood by-products, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.
21. New Source.
 - a. Any building, structure, facility or installation from which there is or may be a discharge or pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307 (c) of the Act which will be applicable to such with that section, provided that:
 1. The building, structure, facility or installation is constructed at a site at which no other source is located; or
 2. The building, structure, facility or installation totally replaces the process or production equipment that caused the discharge of pollutants at an existing source; or
 3. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
 - b. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraph (a) (2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.
 - c. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 1. Begun, or caused to begin as part of a continuous on site construction program
 - (a) Any placement, assembly, or installation of facilities or equipment, or
 - (b) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 2. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility engineering, and design studies do not constitute a contractual obligation under this paragraph.

22. Noncontact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
23. Normal Domestic Sewage. The “normal” sewage for the City in which the average concentration of Total Suspended Solids (TSS) and (BOD) is established at not more than 200 mg/l. Industrial wastes and storm water are excluded from this term.
24. Pass Through. A discharge which exists the POTW into waters of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of The City’s TPDES permit (including an increase in the magnitude duration of a violation).
25. P.P.M. Parts Per Million. Shall mean a weight to weight ratio; the parts per million value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.
26. Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, State or local governmental entities.
27. pH. The logarithm (Base 10) of the reciprocal of the concentration of hydrogen ions measured in grams per liter and expressed in standard units.
28. Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, shredded garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, discharged into water, and possessing the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, odor).
29. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes, by process changes, or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
30. Pretreatment Coordinator or PC. The person in charge of implementation and daily operation of the pretreatment program.
31. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.
32. Pretreatment Standards or Standards. Pretreatment standards shall mean prohibitive discharge standards, categorical pretreatment standards, and local limits.
33. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 31-19 (A) of this ordinance.
34. Publicly Owned Treatment Works or POTW. A “treatment works” as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes and any conveyances which convey wastewater to a treatment plant. The term also

means the municipal entity having jurisdiction over the industrial users and responsibility for the operation and maintenance of the treatment works.

35. Sanitary Sewer. The words “sanitary sewer” shall mean a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.
36. Septic Tank Waste Septage. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
37. Sewage. Human excrement and gray water household showers, dishwashing operations, etc.
38. Significant Industrial User or SIU. Shall apply to: a) industrial users subject to categorical pretreatment standards, and, b) any other industrial user that, i) discharges an average of 25,000 gpd or more of process wastewater, ii) contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the treatment plant or, iii) is designated as a significant by the City on the basis that the industrial user has a reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement.
39. Slug Load. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 31-19 (A) of this ordinance or any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.
40. Standard Industrial Classification Code or SIC. A classification pursuant to the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget.
41. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting there from, including snowmelt.
42. Superintendent. The person designated by the City to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance or his duly authorized representative.
43. Surcharge. The words “surcharge” shall mean the charge in addition to the published water and sewer rates. The basis for surcharges on industrial wastes is a capital and operation cost for total suspended solids (TSS) and BOD exceeding normal domestic sewage.
44. Texas Commission on Environmental Quality or TCEQ. The Texas Commission on Environmental Quality or, where appropriate, the term may also be used as a designation for the State Water Management Division Director or other duly authorized official of said agency.
45. Total Suspended Solids or TSS. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, which is removable by laboratory filtering.
46. Toxic Pollutant. One of 126 pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by the EPA under the provision of Section 307 (33 U.S.C. 1317) of the Act.
47. Treatment Plant Effluent. Any discharge of pollutants from the POTW into waters of the State.
48. Wastewater. Liquid and water-carried industrial wastes, and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

49. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW designed to provide treatment of sewage and industrial waste.

D. Interpretation

Shall is mandatory; may is permissive or discretionary. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

E. Abbreviations

The following abbreviations shall have the designated meanings:

<u>CFR</u>	-	Code of Federal Regulations
<u>COD</u>	-	Chemical Oxygen Demand
<u>EPA</u>	-	U.S. Environmental Protection Agency
<u>gpd</u>	-	Gallons Per Day
<u>l</u>	-	Liter
<u>mg</u>	-	Milligrams
<u>mg / l</u>	-	Milligrams Per Liter
<u>TCEQ</u>	-	Texas Commission on Environmental Quality
<u>TPDES</u>	-	Texas Pollutant Discharge Elimination System
<u>O&M</u>	-	Operation and Maintenance
<u>RCRA</u>	-	Resource Conservation and Recovery Act
<u>SIC</u>	-	Standard Industrial Classifications
<u>SWDA</u>	-	Solid Waste Disposal Act (42 U.S.C. 6901, et seq.)
<u>USC</u>	-	United States Code

SECTION 31-19: GENERAL SEWER USE REQUIREMENTS

A. Prohibited Discharge Standards

No industrial user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all industrial users of the POTW whether or not they are subject to categorical pretreatment standards or any other Federal, State or local pretreatment standards or requirements. No industrial user may contribute the following substances to the POTW:

1. Pollutants which create a fire or explosive hazard in the municipal wastewater collection and POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21.
2. Any wastewater having a pH less than 5.5 or more than 11.0, or otherwise causing corrosive structural damage to the POTW or equipment, or endangering City personnel.
3. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than 0.5 inches in any dimension.
4. Any wastewater containing pollutants, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and / or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with either the POTW or any wastewater treatment or sludge process, or which will constitute a hazard to humans or animals.
5. Any wastewater having a temperature greater than 150 degrees F (65 degrees C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C).

6. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
7. Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
8. Any trucked or hauled pollutants, except at discharge points designated by the City in accordance with Section 31-20 (E) (1).
9. Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance, a hazard to life, or to prevent entry into the sewers for maintenance and repair.
10. Any wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent thereby violating the City's TPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten (10) percent from the seasonably established norm for aquatic life.
11. Any wastewater containing radioactive wastes or isotopes except as specifically approved by the Superintendent in compliance with applicable State or Federal regulations.
12. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted industrial wastewater, unless specifically authorized by the Superintendent.
13. Any sludges, screenings, or other residues from the pretreatment of industrial wastes.
14. Any medical wastes, except as specifically authorized by the Superintendent in a wastewater discharge permit.
15. Any wastewater causing the treatment plant's effluent to fail a toxicity test.
16. Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the POTW.
17. Any discharge of fats, oils, or greases of animal or vegetable origin in excess of 100 mg / l.

Wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the POTW.

B. Federal Categorical Pretreatment Standards

The national categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

C. Specific Pollutant Limitations

1. The following pollutant limits are established to protect against pass through and interference. No person shall discharge or cause to be discharged, either directly or indirectly, any substance, materials, waters, or wastes that will exceed the following limits.

- a. Any **aluminum** limit not needed at this time¹.
- b. Any **arsenic** greater than **0.05 ppm³**.
- c. Any **cadmium** greater than **0.22 ppm**.
- d. Any **total chromium** greater than **7.0 ppm³**.
- e. Any **copper** greater than **1.8 ppm³**.
- f. Any **cyanide** greater than **1.0 ppm, as CN³**.
- g. Any **lead** greater than **0.9 ppm**.
- h. Any **mercury** greater than **0.0002 ppm²**.
- i. Any **nickel** greater than **2.0 ppm³**.
- j. Any **selenium** greater than **0.02 ppm³**.
- k. Any **silver** greater than **1.2 ppm³**.
- l. Any **zinc** greater than **5.0 ppm³**.

¹ Based on the analytical data acquired for aluminum, a local limit is not needed at this time. If any IU's discharge aluminum, the local limit will be set in accordance to the federal guidelines.

² The domestic/commercial sampling analyses for mercury were below detection. All IUs compliance will be measured at the MAL of 0.0002 mg/L.

³ Sampling analyses demonstrates a continual meeting of established TBLL by IUs, no changes needed for local limits at this time.

- 2. Concentrations apply at the point where the industrial waste is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. At the discretion of the Superintendent may impose mass limitations in addition to or in place of the concentration-based limitations above.
- 3. The City reserves the right to establish limits for additional parameters, if necessary, to protect receiving stream quality and / or comply with State and / or Federal regulations.
- 4. The City reserves the right to deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by Industrial Users where such contributions do not meet applicable Pretreatment Standards or Requirements or where such contributions would cause the POTW to violate its TPDES permit.

D. City's Right of Revision

The City reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in Section 31-18 (A) of this ordinance or the general and specific prohibitions in Section 31-18 (A) (B) (C) of this ordinance.

E. Special Agreement

The City reserves the right to enter into special agreements with industrial users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a pretreatment standard or requirement. However, the industrial user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. They may also request a variance from the categorical pretreatment standard from EPA. Such a request will be approved only if the industrial user can prove that factors relating to its discharge are fundamentally different from the factors considered by EPA when establishing that pretreatment standard. An industrial user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 CFR 403.13.

F. Dilution

No industrial user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate

treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Superintendent may impose mass limitations on industrial users, which are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

SECTION 31-20: PRETREATMENT OF WASTEWATER

A. Pretreatment Facilities

Users shall provide and operate necessary wastewater treatment as required to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in Section 31-19 (A) above within the time limitations specified by the EPA, the State, or the Superintendent whichever is more stringent. Any facility required to pretreat wastewater to a level acceptable to the City shall be provided, operated, and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Superintendent for review, and shall be acceptable to the Superintendent before construction of the facility. The review of such plans and operating procedures will in no way relieve the industrial user of the responsibility to modify the facility as necessary to produce an acceptable discharge to the City under the provisions of this ordinance.

B. Additional Pretreatment Measures

1. No person shall discharge any substance into a sewer appurtenance intended for maintenance, including but not limited to a manhole or inspection port, without written permission from the Superintendent.
2. Whenever deemed necessary, the Superintendent may require industrial users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and / or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the industrial user's compliance with the requirements of this ordinance.
3. All past, present and future commercial locations (i.e.) restaurants, food servers, food preparers, shops, service stations, warehouses, washracks, laundromat, beauty establishments, may be required, at the discretion of the Superintendent to install the appropriate interceptor or appurtenances as to separate sand, silt, grease, fat, oil, solvent, lint, fabrics or any material that in the opinion of the Superintendent may obstruct the flow of wastewater. It shall be determined by inspection as to the frequency of cleaning. It is the responsibility of the generator to keep a record of cleaning, manifests and trip tickets and a copy shall be mailed to the PC. All interceptors shall be located so as to be easily accessible for cleaning and inspection.
4. Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
5. At no time shall two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, be more than five (5) % nor any single reading over ten (10) % of the lower explosive limit (LEL).
6. Upon passage of this ordinance it shall be mandatory for all washracks, driveways, parking lots, or any other facility with the potential of the items set forth in Section 31-19 (A) (12) from entering the POTW, and be required to take all measures of prevention. It shall also be understood that the owner of the individual location will be responsible for all expenses

incurred in complying with this ordinance (i.e.) roofs, roof drains and berms, and items listed in Section 31-20 (B) (3).

C. Accidental Discharge/Slug Control Plans

The Superintendent may require any industrial user to develop and implement an accidental discharge / slug control plan. At least once every two years the Superintendent shall evaluate whether each significant industrial user needs such a plan. Any industrial user required to develop and implement an accidental discharge / control slug plan shall submit a plan which addresses, at a minimum, the following:

1. Description of discharge practices, including non-routine batch discharges.
2. Description of stored chemicals.
3. Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges in Section 31-19 (A) of this ordinance.
4. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to: inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and / or measures and equipment for emergency response.

D. Tenant Responsibility

Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user, either or both may be held responsible for compliance with the provisions of this ordinance.

E. Hauled Wastewater

1. Septic tank waste may be accepted into the POTW at a designated receiving structure within the treatment plant area, and at such times as are established by the Superintendent, provided such wastes do not violate Section 31-19 of this ordinance or any other requirements established or adopted by the City. Wastehauler discharge permits for individual vehicles to use such facilities shall be issued by the Superintendent.
2. The discharge of hauled industrial wastes as “industrial septage” requires prior approval and a wastewater discharge permit from The City. The Superintendent shall have authority to prohibit the disposal of such wastes, if such disposal would interfere with the treatment plant operation. Waste haulers are subject to all other sections of this ordinance.
3. Fees for dumping septage will be established as part of the industrial user fee system as authorized in Section 31-32 (A) (5).

F. Vandalism

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in Sections 31-27 through 31-29 below.

SECTION 31-21: WASTEWATER DISCHARGE PERMIT ELIGIBILITY

A. Wastewater Survey

When requested by the Superintendent, any industrial users must submit information on the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge. The Superintendent is authorized to prepare a form for this purpose and may periodically require industrial users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating service to the industrial user and shall be considered a violation of the ordinance.

B. Deny/Condition

The City reserves the right to deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by Users where such contributions do not meet applicable Pretreatment Standards or Requirements or where such contributions would cause the POTW to violate its TPDES permit.

C. Wastewater Discharge Permit Requirement

1. It shall be unlawful for any significant industrial user to discharge wastewater into the City's POTW without first obtaining a wastewater discharge permit from the DOU. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 31-27 through 31-29. Obtaining a wastewater discharge permit does not relieve a permittee of his obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State and Local law.
2. The Superintendent may require other industrial users, including liquid waste haulers, to obtain wastewater discharge permits as necessary to carry out the purpose of this ordinance.
3. It shall be unlawful for any significant industrial user connected to the POTW to operate without first obtaining a wastewater discharge permit from the DOU.
4. Any significant industrial user proposing to begin or recommence discharging to the POTW must make application for a wastewater discharge permit at least ninety (90) days prior to the date upon which any discharge will begin.

D. Wastewater Discharge Permitting Extrajurisdictional Industrial Users

1. Any significant industrial user located beyond the City limits shall submit a wastewater discharge permit application, in accordance with Section 31-21 (E) below, and obtain a wastewater discharge permit before connection to the POTW.
2. Additionally, the DOU may enter into an agreement with the neighboring jurisdiction in which the significant industrial user is located providing for the implementation and enforcement of pretreatment program requirements against said industrial user.

E. Wastewater Discharge Permit Application Contents

In order to be considered for a wastewater discharge permit, any industrial user required to have a wastewater discharge permit must submit the information required by Section 31-23 (A) (2) of this ordinance. The Superintendent shall approve a form to be used as a permit application. In addition, the following information may be requested:

1. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged by the POTW.
2. Number and type of employees, hours of operation, and proposed or actual hours of operation to the POTW.
3. Each product produced by type, amount, process or processes, and rate of production.
4. Type and amount of raw materials processed (average and maximum per day).
5. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.
6. Time and duration of the discharge.
7. Any other information as may be deemed necessary by the Superintendent to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the industrial user for revision.

F. Application Signatories and Certification

All wastewater discharge permit applications and industrial user reports must contain the following certification statement and must be signed by an authorized representative of the industrial user.

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

G. Wastewater Discharge Permit Decisions

The Superintendent will evaluate the data furnished by the industrial user and may require additional information. Within ninety (90) days of receipt of a complete wastewater discharge permit application, the Superintendent will determine whether or not to issue a wastewater discharge permit. If no determination is made within this time period, the application will be deemed denied. The Superintendent may deny any application for a wastewater discharge permit.

SECTION 31-22: WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

A. Wastewater Discharge Permit Duration

Wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Superintendent. Each wastewater discharge permit will indicate a specific date upon which it will expire.

B. Wastewater Discharge Permit Contents

Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the Superintendent to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, protect ambient air quality, and protect against damage to the POTW.

1. Wastewater discharge permits must contain the following conditions:
 - a. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years.
 - b. A statement that the wastewater discharge permit is nontransferable without prior notification to (and approval from the City), and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.
 - c. Effluent limits applicable to the user based on applicable standards in Federal, State, and local law.
 - d. Self-monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.
 - e. Statement of applicable civil, criminal, and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
2. Wastewater discharge permits may contain, but need not be limited to, the following:
 - a. Limits on the average and / or maximum rate of discharge, time of discharge, and / or requirements for flow regulation and equalization.
 - b. Limits on the instantaneous, daily and monthly average and / or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
 - c. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
 - d. Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges.
 - e. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.
 - f. The unit charge or schedule of industrial user charges and fees for the management of the wastewater discharged to the POTW.
 - g. Requirements for installation and maintenance of inspection and sampling facilities and equipment.

- h. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit.
- i. Other conditions as deemed appropriate by the Superintendent to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

C. Wastewater Discharge Permit Modification

The Superintendent may modify the wastewater discharge permit for good cause including, but not limited to, the following:

1. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements.
2. To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance.
3. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.
4. Information indicating that the permitted discharge poses a threat or hazard to the POTW, the health, safety, or welfare of any person, or the receiving waters.
5. Violation of any terms or conditions of the wastewater discharge permit.
6. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.
7. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13.
8. To correct typographical or other errors in the wastewater discharge permit.
9. To reflect a transfer of the facility ownership and / or operation to a new owner / operator.

The filing of a request by the permittee for wastewater discharge permit modification does not stay any wastewater discharge permit condition.

D. Wastewater Discharge Permit Transfer

Wastewater discharge permits may be reassigned or transferred to a new owner and / or operator only if the permittee gives at least thirty (30) days advance notice to the Superintendent and the Superintendent approves the wastewater discharge permit transfer. The notice to the Superintendent must include a written certification by the new owner and / or operator which:

1. States that the new owner / operator has no immediate intent to change the facility's operations and processes.
2. Identifies the specific date on which the transfer is to occur.
3. Acknowledges full responsibility for complying with the existing wastewater discharge permit.
4. Includes appropriate fees.

Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable on the date of facility transfer.

E. Wastewater Discharge Permit Revocation

Wastewater discharge permits may be revoked for the following reasons:

1. Failure to notify Superintendent of significant changes to the wastewater prior to the changed discharge.
2. Failure to provide prior notification to Superintendent of changed condition pursuant to Section 31-23 (E).
3. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.
4. Falsifying self-monitoring report.
5. Tampering with monitoring equipment.
6. Refusing to allow the Superintendent timely access to the facility premises and records.
7. Failure to meet effluent limitations.
8. Failure to pay fines.
9. Failure to pay sewer charges.
10. Failure to pay laboratory and monitoring fees (within forty-five (45) days).
11. Failure to meet compliance schedules.
12. Failure to complete a wastewater survey or the wastewater discharge permit application.
13. Failure to provide advance notice of the transfer of a permitted facility.
14. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or the ordinance.
15. Wastewater discharge permits shall be voidable upon nonuse, cessation of operations, or transfer of business ownership. All wastewater discharge permits are void upon the issuance of a new wastewater discharge permit.
16. Prior to having a wastewater discharge permit revoked, an industrial user shall be notified of the proposed revocation and be offered an opportunity to show cause under Section 31-27 (C) of this ordinance why the proposed action should not be taken.

F. Wastewater Discharge Permit Reissuance

A significant industrial user shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application in accordance with Section 31-21 (E) a minimum of ninety (90) days prior to the expiration of the industrial user's existing wastewater discharge permit.

G. Municipal Wastewater Discharge Permits

In the event another municipality contributes all or a portion of its wastewater to the POTW, the POTW may require such municipality to apply for and obtain a municipal wastewater discharge permit.

1. A municipal wastewater discharge permit application shall include:
 - a. A description of the quality and volume of the wastewater at the point(s) where it enters the POTW.

- b. An inventory of all industrial users discharging to the municipality.
 - c. Such other information as may be required by the Superintendent.
2. A municipal wastewater discharge permit shall contain the following conditions:
- a. A requirement for the municipal user to adopt a sewer use ordinance which is at least as stringent as this ordinance and local limits which are at least as stringent as those set out in Section 31-19.
 - b. A requirement for the municipal user to submit a revised industrial user inventory annually or more frequently if requested by the Superintendent.
 - c. A requirement for the municipal user to a) conduct pretreatment implementation activities including industrial user permit issuance, inspection and sampling, and enforcement; or b) authorize the POTW to take or conduct such activities on its behalf.
 - d. A requirement for the municipal user to provide the City with access to all information that the municipal user obtains as part of its pretreatment activities.
 - e. Limits on the nature, quality, and volume of the municipal user's wastewater at the point where it is discharged to the POTW.
 - f. Requirements for monitoring the municipal user's discharge.
3. Violation of the terms and conditions of the municipal user's wastewater discharge permit subjects the municipal user to the sanctions set out in Sections 31-27 through 31-29.

SECTION 31-23: REPORTING REQUIREMENTS

A. Baseline Monitoring Reports

- 1. Within 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a) (4), whichever is later, existing significant industrial users subject to such categorical pretreatment standards, and currently discharging to or scheduled to discharge to the POTW, shall be required to submit to the Superintendent a report which contains the information listed in 31-23 (A) (2) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the Superintendent a report which contains the information listed in 31-23 (A) (2) below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimates or its anticipated flow and quantity of pollutants discharged.
- 2. The industrial user shall submit the information required by this section including:
 - a. Identifying Information. The name and address of the facility including the name of the operator and owners.
 - b. Wastewater Discharge Permits. A list of any environmental control wastewater discharge permits held by or for the facility.

- c. Description of Operations. A brief description of the nature, average rate of production, and standard industrial classification of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
- d. Flow Measurement. Information showing the measured average daily and maximum daily flow (in gallons per day) to the POTW from regulated process streams and other streams, as necessary, to allow user of the combined wastestream formula set out in 40 CFR 403.6(e), if applicable.
- e. Measurement of Pollutants.
 - (1) Identify the categorical pretreatment standards applicable to each regulated process.
 - (2) Submit the results of sampling and analysis identifying the nature and concentration (and / or mass, where required by the standard or by the City) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 31-23 (J).
 - (3) Sampling must be performed in accordance with procedures set out in Section 31-23 (K).
- f. Certification. A statement reviewed by the industrial user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards & requirements.
- g. Compliance Schedule. If additional pretreatment and / or O&M will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide additional pretreatment and / or O&M shall be specified. The completion date established for the applicable pretreatment standard.
- h. All baseline monitoring reports must be signed and certified in accordance with Section 31-21 (F).

B. Compliance Schedule Progress Report

The following conditions shall apply to the schedule required by Sections 31-23 (A) (2) and 31-24. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation). No increment referred to above shall exceed nine (9) months. The industrial user shall submit a progress report to the Superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, if appropriate, the steps being taken by the industrial user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the Superintendent.

C. Report On Compliance With Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any industrial user subject to such pretreatment standards and requirements shall submit to the Superintendent a report containing the information described in Section 31-23 (A) (e) (f) (g). For industrial users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6 (c), this report shall contain a reasonable measure of the industrial user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the industrial user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 31-21 (F).

D. Periodic Compliance Reports

1. Any permitted industrial user subject to a pretreatment standard shall, at a frequency determined by the Superintendent but in no case less than twice per year (in July and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by such pretreatment standards. All periodic compliance reports must be signed and certified in accordance with Section 31-21 (F).
2. All wastewater samples must be representative of the industrial user's discharge.
3. If an industrial user, subject to the reporting requirement in and of this Section, monitors any pollutant more frequently than required by the POTW, using the procedures and methods described in 40 CFR 136, the results of this monitoring shall be included in the report.

E. Report of Changed Conditions

Each industrial user is required to notify the Superintendent of any planned significant changes to the industrial user's operations or system which might alter the nature, quality or volume of its wastewater at least ninety (90) days prior to the change.

1. The Superintendent may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 31-21 (E).
2. The Superintendent may issue a wastewater discharge permit under Section 31-21 (G) or modify an existing wastewater discharge permit under Section 31-22 (C).
3. No industrial user shall implement the planned changed condition(s) until and unless the Superintendent has responded to the industrial user's notice.
4. For purposes of this requirement flow increases or decreases of ten percent (10%) or greater, and the discharge of any previously unreported pollutants, shall be deemed significant.

F. Reports of Potential Problems

1. In the case of any discharge including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load which may cause potential problems for the POTW (including a violation of the prohibited discharge standards of Section 31-19 (A) of this ordinance), it is the responsibility of the industrial

user to immediately notify the City of the incident. This notification shall include the location of discharge, type of waste, concentration and volume (if known) and corrective actions taken by the industrial user.

2. Within five (5) days following such discharge, the industrial user shall, unless waived by the Superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the industrial user to prevent similar future occurrence. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this ordinance.
3. Failure to notify the Superintendent of potential problem discharges shall be deemed a separate violation of this ordinance.
4. A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in Section 31-23 (F) (1) above. Employers shall ensure that all employees, who may cause or suffer such a discharge to occur, are advised of the emergency notification procedures.

G. Reports From Nonsignificant Industrial Users

All industrial users, not subject to categorical pretreatment standards and not required to obtain a wastewater discharge permit, shall provide appropriate reports to the City as the Superintendent may require.

H. Notice of Violation/Repeat Sampling and Reporting

If sampling performed by an industrial user indicates a violation, the industrial user must notify the Control Authority within 24 hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within thirty (30) days after becoming aware of the violation, except the Industrial User is not required to resample if:

1. The City performs sampling at the Industrial User at a frequency of at least once per month, or
2. The City performs sampling at the User between the time when the User performs its initial sampling and the time when the User receives the results of this sampling.

I. Notification of the Discharge of Hazardous Waste

1. Any industrial user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this paragraph need be

submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under Section 31-23 (F) above. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of Sections' 31-23 (A) (C) and (D) above.

2. Dischargers are exempt from the requirements of paragraph (1) above during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30 (d) and 261.33 (e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes as specified in 40 CFR 261.30 (d) and 261.33 (e), require a one-time notification.
3. In the case of any new regulations under Section 3001 of RCRA identifying the additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the POTW, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substances within ninety (90) days of the effective date of such regulations.
4. In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

J. Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

K. Sample Collection

1. Except as indicated in Section 31-23 (K) (2), below, the industrial user shall collect wastewater samples using approved composite collection techniques. In the event flow proportional sampling is infeasible, the Superintendent may authorize the use of time proportional sampling or through a minimum of four (4) grab samples representative of the Industrial User's discharge may be required to show compliance with Maximum discharge limits.
2. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.
3. Samples shall be taken at monitoring points specified by the PC and such locations shall not be changed without notification to, and the approval of the PC.

L. Determination of Noncompliance

The Superintendent may use a grab sample(s) to determine noncompliance with pretreatment standards only when it is infeasible to sample by 24-hour flow or time proportional composite sampling.

M. Timing

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the U.S. Postal Service, the date of receipt shall govern.

N. Record Keeping

Industrial users shall retain, and make available for inspection and copying, all records and information required to be retained under this ordinance. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning compliance with this ordinance, or where the industrial user has been specifically notified of a longer retention period by the Superintendent.

O. Provisions Governing Fraud and False Statements

1. The reports and other documents required to be submitted or maintained under this section shall be subject to:
 - a. The provisions of 18 U.S.C. section 1001 relating to fraud and false statements;
 - b. The provisions of section 309(c) (4) of the Act, as amended, government false statements, representation or certification; and
 - c. The provisions of section 309 (c) (6) regarding responsible corporate officers.

SECTION 31-24: COMPLIANCE MONITORING

A. Inspection and Sampling

1. The PC shall inspect and sample the effluent from each significant industrial user at least once per year.
2. The City shall have the right to enter the facilities of any industrial user to ascertain whether the purpose of this ordinance, and any permit or order issued hereunder, is being met and whether the industrial user is complying with all requirements thereof. Industrial users shall allow the Superintendent or his representative ready access to all parts of the premises or the purposes of inspection, sampling, records examination, copying, and the performance of any additional duties.
 - a. Where an industrial user has security measures in force which require proper identification and clearance before entry into its premises, the industrial user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the City, State, and EPA will be permitted to enter without delay, for the purposes of performing their specific responsibilities.
3. The City, State, and EPA shall have the right to set up on the industrial user's property, or require installation of such devices, as are necessary to conduct sampling and/or metering of the user's discharge.
 - a. The City may require the industrial user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the industrial user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated as needed to ensure their accuracy.
 - b. The Superintendent may require the industrial user to install at its own expense, an approved manhole or sampling point. Such manhole or sampling point shall be accessible and safe, and located such that the samples may be taken immediately downstream of pretreatment facilities if such exist, or immediately downstream of the regulated process if no pretreatment exists, and shall be constructed in accordance with plans approved by the Superintendent

- c. Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and/or sampled shall be promptly removed by the industrial user at the written or verbal request of the Superintendent and shall not be replaced. The costs of clearing such access shall be born by the industrial user.
 - d. Unreasonable delays in allowing City personnel access to the industrial user's premises shall be a violation of this ordinance.
4. The Superintendent or his duly authorized employee shall observe all safety rules applicable to the industrial user's facility during inspections and sampling events.

B. Search Warrants

If the Superintendent has been refused access to a building, structure or property or any part thereof, and if the Superintendent has demonstrated probable cause to believe that there may be a violation of this ordinance or that there is a need to inspect as part of a routine inspection program of the City designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then upon petition by the City Attorney, the Municipal Court Judge of the City shall issue a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant shall specify what, if anything may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the Superintendent in the company of a uniformed police officer of the City. In the event of an emergency affecting public health and safety, inspections shall be made without the issuance of a warrant.

SECTION 31-25: CONFIDENTIAL INFORMATION

Information and data on an industrial user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from City inspection and sampling activities, shall be available to the public without restriction unless the industrial user specifically requests, and is able to demonstrate to the satisfaction of the City, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable State law. When requested and demonstrated by the industrial user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall be stamped or hand written "confidential business information" on each page containing such information, this information shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the TPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

SECTION 31-26: PUBLICATION OF INDUSTRIAL USERS IN SIGNIFICANT NONCOMPLIANCE

The City shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the industrial users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant compliance shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the wastewater measurements taken during a six (6) month period exceed the daily magnitude, maximum limit or average limit for the same pollutant parameter by any amount.
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all wastewater measurements taken for

each pollutant parameter during a six (6) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH).

- C. Any other discharge violation that the City determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of City personnel or the general public).
- D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the City's exercise of its emergency authority to halt or prevent such a discharge.
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an industrial wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance.
- F. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance.
- H. Any other violation(s) which the City determines will adversely affect the operation or implementation of the local pretreatment program.

SECTION 31-27: ADMINISTRATIVE ENFORCEMENT REMEDIES

A. Notification of Violation

Whenever the Superintendent finds that any user has violated or is violating this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent or his agent may conduct phone calls regarding violations, serve upon said user informal warnings or a written Notice of Violation. Nothing in this section shall limit the authority of the City to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

B. Consent Orders

The Superintendent is hereby empowered to enter into consent Orders, establishing an agreement with any user responsible for noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order. Consent Orders shall have the same force and effect as the administrative orders issued pursuant to Sections 31-27 (D) and (E) below and shall be judicially enforceable.

C. Show Cause Hearing

The DOU may order any user which causes or contributes to violation(s) of this ordinance, wastewater discharge permit, or orders issued hereunder, or any other pretreatment standard or requirement, to appear before the DOU and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be pursued following the hearing date. A show cause hearing shall not be a prerequisite for taking any other action against the user.

D. Compliance Orders

When the Superintendent finds that a user has violated or continues to violate the ordinance, wastewater discharge permits or orders issued hereunder, or any pretreatment standard or requirement, he may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within a specified time, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Federal pretreatment standard or requirement; nor does a compliance order release the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user.

E. Cease and Desist Orders

When the Superintendent finds that a user is violating this ordinance, the user's wastewater discharge permit, any order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Superintendent may issue an order to the user directing it to cease and desist all such violations and directing the user to:

1. Immediately comply with all requirements.
2. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the user.

F. Administrative Fines

1. In accordance with the enforcement response plan required, any person in violation of any of the provisions of this article may be issued an administrative order requiring compliance and may include an administrative fine not to exceed two thousand dollars (\$2,000.00). Each and every days continuance of any violation of the provisions of this article may constitute and be deemed a separate offense.
2. Any person violating any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not to exceed two thousand dollars (\$2,000.00), and each and every day continuance of any violation of the provisions of this article may constitute and be deemed a separate offense.

G. Emergency Suspensions

The Superintendent may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Superintendent may also immediately suspend a user's discharge (after notice of opportunity to respond) that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

1. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Superintendent shall take such steps as deemed necessary, including immediate severance of the

sewer connection to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Superintendent shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City that the period of endangerment has passed, unless the termination proceedings set forth in Section 31-27 (H) are initiated against the user.

2. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Superintendent, prior to the date of any show cause or termination hearing under Sections 31-27 (C) and (H) respectively.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

H. Termination of Discharge

In addition to those provisions in Section 31-22 (E) of this ordinance, any user that violates the following conditions of this ordinance, wastewater discharge permits, or orders issued hereunder, is subject to discharge termination.

1. Violation of wastewater discharge permit conditions.
2. Failure to accurately report the wastewater constituents and characteristics of its discharge.
3. Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.
4. Refusal of reasonable access to the user’s premises for the purpose of inspection, monitoring or sampling.
5. Violation of the pretreatment standards in Section 31-19 of this ordinance.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 31-27 (C) of this ordinance why the proposed action should not be taken.

SECTION 31-28: JUDICIAL ENFORCEMENT REMEDIES

A. Injunctive Relief

Whenever a user has violated a pretreatment standard or requirement or continues to violate the provisions of this ordinance, wastewater discharge permits or orders issued hereunder, or any other pretreatment standard or requirement, the Superintendent may petition the State District Court or County Court at Law through the City Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the industrial user. Such other action as appropriate for legal and/or equitable relief may also be sought by the City. A petition for injunctive relief need not be filled as a prerequisite to taking any other action against a user.

B. Civil Penalties

1. Any user which has violated or continues to violate this ordinance, any order or wastewater discharge permit issued hereunder, or any other pretreatment standard or requirement shall be liable for a civil penalty of up to \$2,000.00 per violation per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

2. The City may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
3. In determining the amount of civil liability, the Court may take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
4. Any person discharging a pollutant which results in the imposition of penalties by any person or regulatory authority on the City shall be liable for said penalties and any other cost incurred thereby.
5. Filing a suit for civil penalties shall not be a prerequisite for taking any other action against a user.

C. Criminal Prosecution

1. Any user that willfully or negligently violates any provision of this ordinance, any orders or wastewater discharge permits issued hereunder, or any other pretreatment standard requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$2,000.00 per violation per day.
2. Any user that willfully or negligently introduces any substances into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a fine up to \$1,000.00. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
3. Any user that knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit or order, or who falsifies, tampers with or knowingly renders inaccurate any monitoring devices or method required under this ordinance shall, upon conviction, be punished by a fine of not more than \$2,000.00 per violation per day.
4. In the event of a second conviction, a user shall be punished by a fine of not more than \$2,000.00 per violation per day.

D. Remedies Nonexclusive

The provisions in Sections 31-26 through 31-29 are not exclusive remedies. The City reserves the right to take any, all, or any combination of these actions against a noncompliant user. Enforcement of the pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the City reserves the right to take other action against any user when the circumstances warrant. Further, the City is empowered to take more than one enforcement action against any noncompliant user. These actions may be taken concurrently.

SECTION 31-29: SUPPLEMENTAL ENFORCEMENT ACTION

A. Performance Bonds

The Superintendent may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this ordinance, any orders, or a previous wastewater discharge permit issued hereunder, unless such user first files a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the Superintendent to be necessary to achieve consistent compliance.

B. Liability Insurance

The Superintendent may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this ordinance, any order, or a previous wastewater discharge permit issued hereunder, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

C. Increased Monitoring and Reporting

When an industrial user has demonstrated a history of noncompliance, the Superintendent may increase surveillance of that industry, including but not limited to, additional self-monitoring and reporting.

D. Water Supply Severance

Whenever a user has violated or continues to violate the provisions of this ordinance, orders, or wastewater discharge permits issued hereunder, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

SECTION 31-30: AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

A. Upset*

1. For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
2. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph 3 below are met.
3. An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and the industrial user can identify cause(s) of the upset;
 - b. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
 - c. The industrial user has submitted the following information to the POTW and the treatment plant operator within 24 hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five (5) days.
 - (1) A description of the indirect discharge and cause of noncompliance.
 - (2) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue.
 - (3) Steps being taken and/or planned to reduce, eliminate and prevent the recurrence of the noncompliance.
4. In any enforcement proceedings, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.

5. Industrial users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
6. The industrial user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

*Upset Provision (40 CFR 403.16) can only be used providing the action is brought to Federal court.

B. General/Specific Prohibitions

An industrial user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in Section 31-19 (A) of this ordinance if it can prove that it did not know or have reason to know that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either: (a) a local limit exists for each pollutant discharged and the industrial user was in compliance with each limit directly prior to, and during, the pass through or interference, or (b) no local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City was regularly in compliance with its TPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

C. Bypass

1. For the purpose of this section, the following terms are defined
 - a. "Bypass" means the intentional diversion of wastestream from any portion of an industrial user's treatment facility.
 - b. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
2. An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs C (2) (a) and (b) of this section.
 - a. If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the Superintendent, at least ten (10) days before the date of the bypass if possible.
 - b. An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the POTW within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

3. Bypass is prohibited, and the POTW may take enforcement action against an industrial user for a bypass, unless;
 - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.
 - b. There were no feasible alternatives to the bypass, such as the use of an auxiliary treatment facility, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - c. The industrial user submitted notices as required under paragraph 2 (a) (b) of this section.
4. The POTW may approve an anticipated bypass, after considering its adverse effects, if the Superintendent determines that it will meet the three conditions in paragraph 3 (a) (b) (c) of this section.

D. Act of God*

If a person can establish that an event that would otherwise be a violation of a statute within the commission's jurisdiction or a rule adopted or an order or a permit issued under such a statute was caused solely by an act of God, war, strike, riot, or other catastrophe, the event is not a violation of that statute, rule, order, or permit.

*The Act of God Statutory Affirmative Defense (Texas Water Code 7.251) can only be used providing the action is brought to municipal or State court.

SECTION 31-31: SURCHARGE COSTS

A. Industrial Waste Surcharge.

1. Facility discharging industrial wastes which exhibit none of the characteristics of wastes prohibited previously, other than excessive BOD or suspended solids, but having a concentration for a duration of fifteen (15) minutes greater than four (4) times that of normal sewage as measured by suspended solids and BOD and/or an average concentration during a normal working day of the permittee's industry of suspended solids or BOD content in excess of normal sewage as defined in Section 31-19 as normal domestic sewage shall be required to pretreat the industrial wastes to meet the requirements of normal sewage; however, such wastes may be accepted for treatment if the following requirements are met:
 - a. The waste will not cause damage to the collection and treatment facilities.
 - b. The waste will not impair the treatment process.
 - c. The facility that discharges such waste enters into an Industrial Wastewater Discharge application and agrees to pay the sewer service charge and industrial waste surcharge.
2. The facility that discharges such wastes shall enter into an Industrial Wastewater Discharge application with the City providing for a surcharge over and above published water and sewer rates. These rates shall continue until changes by action of the city commission. A surcharge of \$.25 per gal shall be calculated for billing purposes in accordance with the City's Sewer Rate Ordinance.
3. Any person who refuses to comply with or who resists or willfully discharges wastes prohibited from discharge into public sewers, or who

refuses to comply with the provisions of this section, shall be served by the Control Authority with a written notice stating the nature of the violation and providing a reasonable time limit for satisfactory correction thereof. Any person who shall continue any violation beyond the time limit shall be guilty of violation of his Industrial Wastewater Discharge permit and shall be summarily disconnected from the sanitary and/or water service, such disconnection and reconnection to be of total expense to the customer. Where acids or chemicals damaging to sewer lines or treatment process are released to the sewer and cause rapid deterioration of these structures or interfere with the proper treatment of sewage, the control authority is authorized to immediately terminate service by such measures as are necessary to protect the facilities.

4. Billing. Industrial surcharge provided for in this article shall be included as a separate item on the regular bill for water and sewer charges and shall be paid monthly in accordance with the existing practices. Surcharges shall be paid at the same time that the water, sewer and sanitation charge to the person become due and payment for water and sanitation services shall not be accepted without payment also of the sewer service charges and industrial waste surcharges.
5. Penalty for failure to pay bills. Failure to pay monthly bills for water and/or sewer service and/or garbage charge, when due, or failure to pay the established sewer surcharge for industrial waste when due, or repeated discharge of prohibited waste to the sanitary sewer shall be sufficient cause to disconnect any and all services to the water and/or sanitary sewer mains of the City, and the same penalties and charges now or hereafter provided for by the ordinances of the City for failure to pay the bill for water service when due shall be applicable in a like manner in cases of failure to pay the established surcharge for industrial waste discharge to the sanitary sewer mains as established herein.

SECTION 31-32: MISCELLANEOUS PROVISIONS

A. Pretreatment Charges and Fees

The City may adopt reasonable charges and fees for reimbursement of costs of setting up and operating the City's Pretreatment Program which may include:

1. Fees for wastewater discharge permit applications including the cost of processing such applications.
2. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing an industrial user's discharge, and reviewing monitoring reports submitted by industrial users.
3. Fees for reviewing and responding to accidental discharge procedures and construction.
4. Fees for filing appeals.
5. Fees. All applications for a waste hauler permit shall be made to the Superintendent and shall be accompanied by a fee of \$100.00 for a
6. Specified period not to exceed five (5) years. No fees shall be refundable. In addition to the permit fee, each waste hauler shall pay a discharge fee to the City for each and every waste discharged into the POTW and computed on the following schedule:
 - a. Current rate for commercial waste (i.e.) grease trap or portable toilet waste (rate established by contract hauling).
 - b. Three cents (\$0.03) per gallon for residential waste (i.e.) septic tank waste.

- c. An additional one cent (\$0.01) per gallon fee for all waste collected outside the city limit and discharged to the POTW.
- 7. Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines and penalties chargeable by the City.

B. Severability

If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

C. Conflicts

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance, are hereby repealed to the extent of the inconsistency or conflict.

D. EPA Approval

This ordinance shall be in full force and effective pending the EPA’s final approval.

SECTION 31-33: EFFECTIVE DATE

This ordinance shall be in full force and effect immediately following its passage, approval and publication, as provided by law.

PASSED AND APPROVED this _____ day of _____, 2020.

AYES: _____
NOES: _____
ABSTAINED: _____

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 2020.

AYES: _____
NOES: _____
ABSTAINED: _____

Mayor of the City Commission
of the City of Marshall, Texas

ATTEST:

Acting City Secretary

ITEM 7D

SECOND READING OF ORDINANCE

**CONSIDER APPROVAL OF AN
ORDINANCE AMENDING THE 2020
ANNUAL BUDGET TO APPROPRIATE
FUNDS FOR PROJECTS APPROVED BY
THE CITY COMMISSION**

M E M O R A N D U M

To: Mark Rohr, City Manager

From: Glenna Williams, Acting Finance Director

Date: September 15, 2020

Subject: Approval of an Ordinance amending the 2020 Annual Budget to appropriate funds for projects approved by the City Commission

This ordinance will allow us to amend the 2020 Annual Budget to provide for additional expenditures approved by the Commission.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING ORDINANCE NO. O-19-19 TO AMEND THE
2020 ANNUAL BUDGET OF THE CITY OF MARSHALL, TEXAS**

WHEREAS, on September 26, 2019 the City of Marshall, Texas passed Ordinance No. O-19-19 adopting the 2020 annual budget; and

WHEREAS, the City of Marshall, Texas desires to amend the 2020 annual budget to provide for additional expenditures to meet unusual and unforeseen conditions, which could not, by reasonable diligent thought and attention, have been included in the original budget;

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

The appropriations for the fiscal year beginning January 1, 2020 and ending December 31, 2020 for the support of the General Fund to be amended as follows:

General Fund

Record Revenue & Expenses for Census Grant

Census Program	\$12,500	
Census Grant		<u>\$12,500</u>

Reallocation

Interfund Transfer – Capital Projects	\$10,773	
Fund Balance		<u>\$10,773</u>

Record Projects Utilizing 2020 Tax Note Funds

Improvements Airport Park	\$138,000	
Improvements Marshall Police Department	42,000	
Improvements Arena	277,000	
Improvements City Hall	50,000	
Improvements Convention Center	258,000	
Improvements #4 Fire Station	17,500	
Improvements #2 Fire Station	12,500	
Improvements Business Development Center	160,000	
Improvements Library	45,000	
Improvements Downtown	750,000	
Fund Balance		<u>\$1,750,000</u>

EMS ESD Fund

Record Purchase of Fire Department Ambulance with ESD Funds

Car & Trucks	\$185,223	
Fund Balance		<u>\$185,223</u>

Economic Development Fund

Record use of equity return from TML for Economic Development Fund

Miscellaneous Revenue	\$10,466	
Fund Balance		<u>\$10,466</u>

PASSED AND APPROVED this _____ day of _____, 2020.

AYES: _____
NOES: _____
ABSTAINED: _____

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 2020.

AYES: _____
NOES: _____
ABSTAINED: _____

MAYOR OF THE CITY COMMISSION
OF THE CITY OF MARSHALL, TEXAS

ATTEST:

ACTING CITY SECRETARY

ITEM 8A

**CONSIDER APPROVAL OF AN
EXPENDITURE IN EXCESS OF \$50,000
AS IN INCENTIVE FOR PROJECT
COMPOSITE**

MARSHALL



ECONOMIC DEVELOPMENT CORPORATION

September 15, 2020

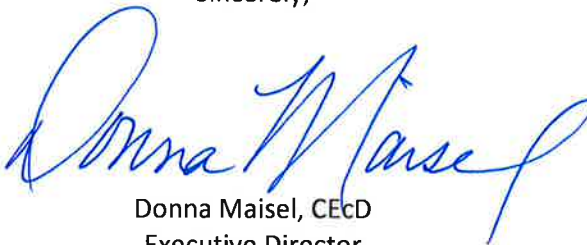
The Honorable City Commission
City of Marshall
P.O. Box 698
Marshall, Texas 75670

The Marshall Economic Development Corporation has requested to appear before the City Commission on September 24th for consideration of an expenditure in excess of \$50,000 for Project Composite. Marshall EDC has been meeting with a group over the past several months that is involved in manufacturing. They are considering a proposed site in an existing building in northern Harrison County.

Marshall EDC respectfully requests the approval of an incentive package for the project. Full details of the proposed project will be provided by separate delivery to maintain confidentiality until such time for the City Commission consideration.

Thank you in advance for the opportunity to present this project before the City Commission.

Sincerely,



Donna Maisel, CECD
Executive Director

ITEM 8B

**CONSIDER APPROVAL OF A SMALL
BUSINESS GRANT PROGRAM FUNDED
BY THE COMMUNITY DEVELOPMENT
BLOCK GRANT – COVID FUNDS.**



Agenda Information Sheet

September 24, 2020

Agenda Item

Consider a resolution adopting a Small Business Grant program funded through the U.S. Department of Housing & Urban Development Community Development Block Grant – COVID-19 allocation.

Background & Summary

In May of this year the City established small business loan program in response to COVID-19, which was primarily funded using the City's CDBG-COVID-19 allocation. Total allocation for business support was \$138,153 and we added an existing \$36,000 from a previous loan program which provided a total of \$174,153 that we have for business support. At this time, we have received two incomplete applications for the loan program.

Based on the above information and researching a suggestion that was made by a Commissioner during the discussion of the loan program, we began researching how other cities are providing grants to their businesses. Below are highlights of a program staff is proposing for the Commission's consideration:

- The program is intended to reimburse local small businesses for the expense of purchasing equipment and supplies that enabled them to adapt to the changing conditions caused by the pandemic.
- Qualifying businesses with at least three employees but not more than 50 may apply for grants up to a maximum of \$2,500 toward eligible expenses that incurred after March 1, 2020.
- Businesses must be located within the city limit of Marshall.
- Eligible businesses include but are not limited to retail (storefront), food and beverage, personal care (barbershop, nail salons, spas, etc.) automobile maintenance, education/training, art galleries, gyms, and small manufacturing businesses.
- Ineligible business types include financial institutions, RV Parks, apartment complexes, home based businesses, permanently closed businesses and nonprofit organizations.
- Application process would be submitting an application with required paper work, staff will then provide a recommendation to the City Commission making a final determination.

Staff proposes to fund the program at \$75,000 taken from our CDBG-COVID funding which would provide 30 businesses with the grant if they all received the full \$2,500 amount allowed in the program. That would still leave \$99,153 to provide loans in the event we receive completed applications for the loan program.

Attached is the Small Business Grant Fund Guidelines for your consideration.



SMALL BUSINESS GRANT FUND

COMMUNITY & ECONOMIC DEVELOPMENT

401 SOUTH ALAMO
MARSHALL, TEXAS 75670
(903) 935-4455



PROGRAM DESCRIPTION

The purpose of this grant fund is to help Marshall Small Businesses adapt their business model to changing business conditions because of the COVID-19 pandemic and retain many of these new innovative ideas beyond the pandemic as a business expansion opportunity. Funding for the program is provided to the City of Marshall through the U.S. Department of Housing and Urban Development's Community Development Block Grant.

This program is intended to reimburse local small businesses for the expense of purchasing equipment and supplies that enabled them to adapt to the changing conditions and provide products and services to their customers through state and federal regulations.

Qualifying businesses with at least 3 employees may apply for grants up to a maximum of \$2,500 towards eligible expenses incurred starting March 1, 2020 with proper documentation of purchase. Businesses must have been open and operating since January 1, 2020 and meet eligibility requirements listed within.

The program will be administered by the City of Marshall's Community and Economic Development Department. An application form is to be submitted with a description and documentation of purchases. Applications may be submitted in person or through email.



ELIGIBLE APPLICANTS

ELIGIBLE BUSINESS TYPES

Eligible businesses include, but are not limited to, retail (storefront), food and beverage, personal care (barbershop, nail salons, spas, etc.), automobile maintenance, education/training, health/wellness, art galleries, gyms, and small manufacturing businesses.

Businesses must have been open and operating by January 1, 2020 and have 3 or more employees.

INELIGIBLE BUSINESS TYPES

Financial institutions, RV parks, apartment complexes, home-based businesses, permanently closed businesses, and non-profit organizations.

ELIGIBLE COST

Any purchase of equipment, supplies, or software after March 1, 2020 that allowed the business to adapt their business model to changing business conditions may be eligible for reimbursement. An explanation of how the purchase helped the business adapt to current conditions to deliver products or services to customers must be included in the application or the request may be denied. The City will reimburse the exact amount paid up to \$2,500.

Examples of eligible costs may include

- Equipment- mobile POS, additional phone system, outdoor seating
- Software- customer online ordering system, website
- Supplies- to-go containers, disposable menus, disposable utensils
- Safety equipment- plexiglass for screens, masks, gloves, hand sanitizer or other PPE
- Financial Support- rent/mortgage, employee salaries, insurance, paid leave, etc.

APPLICATION REQUIREMENTS

An application with the following information, at a minimum, is to be submitted for consideration:

- Property address, Applicant and Property owner name(s), address(es), and signature(s)
- Proof of business ownership (sales tax permit in most cases)
- Verification that property taxes on the property are paid and current
- List of eligible purchases with explanation of how it helped adapt business since March 1
- Proof of purchase (paid receipt or invoice)
- Current W-9 and 1295 Ethics Form

GRANT PROCESS

The required application forms are available at the Community and Economic Development Office, 401 South Alamo, or online at www.marshalltexas.net/departments/planning

City of Marshall staff will be responsible for facilitating the processing of applications.

Upon receipt, the application will be reviewed for completeness and eligibility. If incomplete, the Applicant will be notified of missing or incomplete information or documentation.

Based on the review, City staff will make recommendations for approval by the City Commission.

Applicants will be notified in writing as to whether his/her application has been rejected or approved by the City of Marshall.

Upon approval, the Applicant must enter into a reimbursement agreement with the City of Marshall regarding the terms and conditions of his/her participation in the Program and receipt of the reimbursement funds.

THE CITY OF MARSHALL RETAINS THE RIGHT TO DECIDE WHETHER OR NOT TO SUPPORT ANY PROJECT.

FUNDING AVAILABILITY

Funding is limited and incentive awards will be subject to funding availability. Project Applicants will be prioritized on a first-come, first-serve basis.

Applicants employing 3 or more employees are eligible for grants up to a maximum of \$2,500.

ONCE ANY APPLICATION IS APPROVED AND DOCUMENTATION IS VERIFIED, REIMBURSEMENT FUNDS TO THE APPLICANT WILL BE REFUNDED WITHIN 14 DAYS OF APPROVAL NOTICE.

PROMOTIONAL RIGHTS

By accepting incentive funds, Applicant authorizes the City of Marshall to promote the project in any printed promotional materials, press releases, and websites.

CONDITIONS & ACKNOWLEDGEMENTS

This small business grant is subject to change or cancellation at any time by a vote of the Marshall City Commission.

APPLICATION

IN ORDER TO BE ELIGIBLE FOR FUNDING, THIS APPLICATION AND ALL ADDITIONAL DOCUMENTS MUST BE SUBMITTED AND APPROVED. AWARD OF ANY GRANT IS AT THE SOLE DISCRETION OF THE CITY. SUBMITTAL OF THIS APPLICATION IS NOT A GUARANTEE THAT A GRANT WILL BE APPROVED. IT IS SUGGESTED THAT AN APPLICANT READ THE ENTIRE SMALL BUSINESS GRANT FUND PROGRAM GUIDELINES PRIOR TO FILLING OUT AND SUBMITTING THIS APPLICATION.

Return completed application to: Community & Economic Development Department
401 South Alamo, Marshall, TX 75670
(903) 925-4455 | email: chapman.rachel@marshalltexas.net

Applicant Information:

Applicant(s): _____

Applicant(s) Mailing Address: _____

Phone: _____ Email: _____

What is your interest in the property? ☐ Property Owner ☐ Tenant ☐ Other

If other, please specify: _____

If applicant is not a legal property owner, please complete the following

Property Owner Name(s): _____

Property Owner(s) Mailing Address: _____

Phone: _____ Email: _____

If property owner is a business entity, please complete the following:

Form of Ownership: ☐ Proprietor ☐ Partnership ☐ Corporation (State: _____)

Owner Name(s):

Title:

% Ownership:

_____	_____	_____
_____	_____	_____
_____	_____	_____

Primary Contact Name/Title: _____

Phone: _____ Email: _____

Property Information

Property Address: _____

Tax ID Numbers: _____

Property Zoning Classification: _____

Description of Business: _____

Type of Business (Retail, Service, etc.): _____

Number of Employees: _____

Project Description:

Please provide as much detail as possible of how your business adapted due to COVID-19. Please include ways your business was able to adapt by expanding operations or by innovative ways to adjust to a new business climate.

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

List of eligible purchases:

Please list eligible purchases with a brief explanation of how it helped adapt your business since March 1, 2020. Feel free to attach a separate document.

List of Improvement/ Business Modification	Cost Accrued or Projected Cost
<i>explanation of benefit:</i> _____	

<i>explanation of benefit:</i> _____	

<i>explanation of benefit:</i> _____	

<i>explanation of benefit:</i> _____	

<i>explanation of benefit:</i> _____	

<i>explanation of benefit:</i> _____	

<i>explanation of benefit:</i> _____	

TOTAL COST INCURRED IN MODIFICATION TO COVID- 19:

Request for Taxpayer Identification Number and Certification

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Give Form to the requester. Do not send to the IRS.

Print or type. See Specific Instructions on page 3.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):
	☐ Individual/sole proprietor or single-member LLC ☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____ Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. ☐ Other (see instructions) ► _____	Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ (Applies to accounts maintained outside the U.S.)
	5 Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
6 City, state, and ZIP code		
7 List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number									
				-				-	
or									
Employer identification number									
					-				

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ►	Date ►
------------------	----------------------------	--------

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

CERTIFICATE OF INTERESTED PARTIES**FORM 1295****OFFICE USE ONLY**

Complete Nos. 1 - 4 and 6 if there are interested parties.
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary

5 Check only if there is NO Interested Party. ☐

6 UNSWORN DECLARATION

My name is _____, and my date of birth is _____.

My address is _____, _____, _____, _____, _____.
 (street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, 20____.
 (month) (year)

 Signature of authorized agent of contracting business entity
 (Declarant)

ADD ADDITIONAL PAGES AS NECESSARY

ITEM 9

CONSIDERATION OF ITEMS WITHDRAWN FROM THE CONSENT AGENDA

ITEM 10

ADJOURNMENT