

1. 12/9/21 Agenda (PDF)

Documents:

[12-9-21 AGENDA.PDF](#)

2. 12/9/2021 Agenda Packet (PDF)

Documents:

[12-9-21 AGENDA PACKET.PDF](#)



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

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

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

www.marshalltexas.net

1. **CALL TO ORDER AND ROLL CALL**
2. **INVOCATION AND PLEDGES**
3. **CITIZEN COMMENTS**

Texas Government Code, Sec. 551.007 requires that a governmental body must allow each member of the public who desires to address the body regarding an item on an agenda the opportunity to do so before or during the body's consideration of the item. The "Citizens Comments" portion of the meeting meets the requirements of this law and is the public's opportunity to speak on any item on, or not on, the agenda. Those who wish to speak will have three minutes to do so unless additional time has been requested.

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 **ITEMS TO BE WITHDRAWN FROM CONSENT AGENDA**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

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

- A. Consider approval of the minutes from the November 10, 2021 Special-Called meeting and the November 18, 2021 Special-Called meeting.
- B. Public Works Activity Report (Public Works Director)

- C. Street Sweeping Activity Report (Public Works Director)
- D. Municipal Court Activity Report. (Finance Director)
- E. Consider approval of a resolution designating an official newspaper for the City of Marshall for fiscal year 2022. (City Secretary)
- F. Consider approval of an Interlocal Agreement with Harrison County for Animal Shelter Services. (City Manager)
- G. Consider approval of Small Business Grant Fund Applications. (Community & Economic Development Director)
- H. Consider approval of the annual Interlocal Agreement with the Marshall-Harrison County Health District. (City Manager)
- I. Consider amendments to the Investment Policy and approval of a resolution adopting the City of Marshall Investment Policy. (Finance Director)
- J. Consider approval of the City of Marshall's depository bank contract for a five-year period beginning January 1, 2022. (Finance Director)

6. **ORDINANCE**

- A. Consider approval of a Vacant Property Registration Ordinance. (Community & Economic Development Director)
- B. Consider approval of modifications to the Alarm Permit Ordinance. (Police Chief)
- C. Consider approval of an ordinance governing wrecker services that perform police-authorized tows or non-consensual tows, towing activities at police scenes, and storage facilities to which vehicles towed as police-authorized or non-consensual tows are taken. (Police Chief)
- D. Consider approval of an Ordinance amending the 2021 Annual Budget to provide for year-end adjustments in selected departments. (Finance Director)

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

- A. Presentation of the City of Marshall audit report for the 2020 fiscal year. (Knuckols, Duvall, Hallum, & Co.)
- B. Consider approval by the City Council of Marshall, Texas for the acting Mayor to sign a letter designating an EB-5 Targeted Employment Area. (MEDCO)
- C. Consideration and approval of a Memo of Understanding (MOU) regulating and allowing to operate a Scooters Program in downtown. (Community & Economic Development Director)
- D. Discuss sale of surplus property Tract #1. (Community & Economic Development Director)

E. Discuss sale of surplus property Tract #2. (Community & Economic Development Director)

F. Discuss sale of surplus property Tract #3. (Community & Economic Development Director)

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

9. **EXECUTIVE SESSION**

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

10. **ACTION ITEM FOLLOWING EXECUTIVE SESSION**

A. Action to make personnel changes based on executive session.

11. **ADJOURNMENT**

Posted: December 6, 2021
5:00 p.m.
N. Smith

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



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REGULAR CITY COUNCIL MEETING
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Page 1

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Page 2

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Page 3

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Page 4

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- A. Consider approval of the minutes from the November 10, 2021 Special-Called meeting and the November 18, 2021 Special-Called meeting.

Page 5

- B. Public Works Activity Report (Public Works Director)

Page 13

- C. Street Sweeping Activity Report (Public Works Director)

Page 17

- D. Municipal Court Activity Report. (Finance Director)

Page 20

- E. Consider approval of a resolution designating an official newspaper for the City of Marshall for fiscal year 2022. (City Secretary)

Page 25

- F. Consider approval of an Interlocal Agreement with Harrison County for Animal Shelter Services. (City Manager)

Page 27

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

Page 31

- H. Consider approval of the annual Interlocal Agreement with the Marshall-Harrison County Health District. (City Manager)

Page 34

- I. Consider amendments to the Investment Policy and approval of a resolution adopting the City of Marshall Investment Policy. (Finance Director)

Page 40

- J. Consider approval of the City of Marshall's depository bank contract for a five-year period beginning January 1, 2022. (Finance Director)

Page 53

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- A. Consider approval of a Vacant Property Registration Ordinance. (Community & Economic Development Director)

Page 55

- B. Consider approval of modifications to the Alarm Permit Ordinance. (Police Chief)

Page 66

- C. Consider approval of an ordinance governing wrecker services that perform police-authorized tows or non-consensual tows, towing activities at police scenes, and storage facilities to which vehicles towed as police-authorized or non-consensual tows are taken. (Police Chief)

Page 69

- D. Consider approval of an Ordinance amending the 2021 Annual Budget to provide for year-end adjustments in selected departments. (Finance Director)

Page 88

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- A. Presentation of the City of Marshall audit report for the 2020 fiscal year. (Knuckols, Duvall, Hallum, & Co.)

Page 91

- B. Consider approval by the City Council of Marshall, Texas for the acting Mayor to sign a letter designating an EB-5 Targeted Employment Area. (MEDCO)

Page 93

- C. Consideration and approval of a Memo of Understanding (MOU) regulating and allowing to operate a Scooters Program in downtown. (Community & Economic Development Director)

Page 100

- D. Discuss sale of surplus property Tract #1. (Community & Economic Development Director)

Page 105

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Page 109

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Page 113

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Page 117

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Page 118

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Page 119

11. **ADJOURNMENT**
Page 120

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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

**CONSIDER APPROVAL OF THE
MINUTES FROM THE NOVEMBER 10,
2021 SPECIAL-CALLED MEETING AND
THE NOVEMBER 18, 2021 SPECIAL-
CALLED MEETING**

MINUTES OF THE SPECIAL-CALLED MEETING OF THE
CITY COUNCIL OF THE CITY OF MARSHALL
WEDNESDAY, NOVEMBER 10, 2021
6:00 PM

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

PRESENT:

MAYOR: Amy Ware, District 4

COUNCIL MEMBERS:

Marvin Bonner, District 1
Jennifer Truelove, District 3
Amanda Abraham, District 6

Leo Morris, District 2
Vernia Calhoun, District 5
Micah Fenton, District 7

ABSENT: Jennifer Truelove, District 3 (excused Motion: Fenton Second: Calhoun
Vote 6:0)

ADMINISTRATIVE STAFF PRESENT:

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

INVOCATION & PLEDGE: Mayor Ware

272. **RECESS TO CONDUCT THE CITY OF MARSHALL EMPLOYEE BENEFITS TRUST MEETING**

Councilmember Abraham made a motion to convene into the City of Marshall Employee Benefits Trust Meeting. Councilmember Fenton seconded the motion, which passed with a vote of 6:0. The time was 6:03 p.m.

273. **RECONVENE THE CITY COUNCIL MEETING**

The Regular City Council Meeting reconvened. The time was 6:18 p.m.

274. **CITIZEN COMMENTS**

There were no Citizen Comments.

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

There were no items withdrawn from the Consent Agenda.

276. **CONSENT AGENDA**

Councilmember Calhoun made a motion to approve the Consent Agenda. Councilmember Fenton seconded the motion, which passed with a vote of 6:0.

- A. Consider approval of the minutes from the October 28, 2021 Regular meeting.
- B. Street Sweeping Activity Report.
- C. Consider approval of investment report for the third quarter of 2021.
- D. Monthly Financial Report.
- E. Municipal Court Activity Report.
- F. Consider approval of an Interlocal Agreement with Harrison County for Public Library Services.
- G. Consider approval of an Interlocal Agreement with Harrison County for Ambulance/Rescue Services.
- H. Consider approval of an Interlocal Agreement with Harrison County for Inmate Services.
- I. Consider approval of a contract with the Friends of Marshall Animals, Inc.
- J. Consider approval of Small Business Grant Fund Applications.

277. **PUBLIC HEARING**

- A. A public hearing to discuss and consider redistricting the single-member districts from which Council members are elected to balance their population more closely in order to comply with the equal protection requirements of the 15th amendment of the U.S. Constitution and the Voting Rights Act of 1965, as amended in 1975 and 1982.

Scott Rectenwald, City Attorney, summarized Professor Mike Morrison's recommendations for changes to Districts 1, 2, 3 and 4.

Professor Morrison explained the changes to areas in Districts 1, 2, 3 and 4.

Mayor Ware opened the public hearing.

No one came forward to speak.

Mayor Ware closed the public hearing.

ORDINANCE

278. **CONSIDER APPROVAL OF AN ORDINANCE REDISTRICTING THE SINGLE-MEMBER DISTRICTS FROM WHICH COUNCIL MEMBERS ARE ELECTED TO BALANCE THEIR POPULATION MORE CLOSELY IN ORDER TO COMPLY WITH THE EQUAL PROTECTION REQUIREMENTS OF THE 15TH AMENDMENT OF THE U.S. CONSTITUTION AND THE VOTING RIGHTS ACT OF 1965, AS AMENDED IN 1975 AND 1982.**

Councilmember Calhoun made a motion to approve an ordinance redistricting the single-member districts from which council members are elected to balance their population more closely in order to comply with the equal protection requirements of the 15th amendment of the U.S. constitution and the Voting Rights Act of 1965, as amended in 1975 and 1982. Councilmember Fenton seconded the motion, which passed with a vote of 6:0.

279. REGISTRATION ORDINANCE FOR CONSIDERATION AND ACTION

Fabio Angell, Community and Economic Development Director, highlighted sections of the vacant property registration ordinance.

Councilmembers asked questions and discussed.

Scott Rectenwald will amend the ordinance per this discussion and bring this item back at a future meeting.

RESOLUTION

280. CONSIDER APPROVAL OF A RESOLUTION REGARDING TEXAS OPIOID SETTLEMENT PARTICIPATION

Scott Rectenwald asked for approval of a resolution regarding Texas Opioid Settlement Participation. Scott Rectenwald stated the City of Marshall would receive \$108,371 if they agree to participate in this settlement. Uses for the funding are set out in the “List of Opioid Remediation Uses”. It should be noted this settlement does not resolve all claims.

Councilmember Calhoun made a motion to approve a resolution regarding Texas Opioid Settlement Participation. Councilmember Fenton seconded the motion, which passed with a vote of 6:0.

CITY MANAGER REPORTS AND REQUESTS FOR CITY COUNCIL CONSIDERATION

281. PRESENTATION OF THE MARSHALL ECONOMIC DEVELOPMENT CORPORATION SEMIANNUAL REPORT.

Rush Harris, Executive Director of MEDCO, presented the semi-annual report for Marshall Economic Development Corporation.

Councilmembers asked questions of Rush Harris regarding this item.

282. CONSIDER APPROVAL OF NOMINEES FOR REAPPOINTMENT TO SERVE AS BOARD MEMBERS ON THE MARSHALL ECONOMIC DEVELOPMENT CORPORATION.

Rush Harris asked for approval of nominees for reappointments of Brenda Brown and Sam Moseley to the Marshall Economic Development Corporation Board of Directors.

Councilmember Abraham made a motion to approve reappointments to the Marshall Economic Development Corporation Board of Directors. Councilmember Calhoun seconded the motion, which passed with a vote of 6:0.

283. CONSIDER APPROVAL OF AN EXPENDITURE IN EXCESS OF \$50,000 FOR PROJECT WORKFORCE READINESS.

Rush Harris asked for approval of an expenditure in excess of \$50,000 for East Texas Baptist University (ETBU), Synergy Park – Project Workforce Readiness. Rush Harris stated this project would provide an opportunity for training, tenants in the downtown area and healthcare education.

Dr. Blair Blackburn, ETBU president, discussed the matching component of this agreement and highlighted the benefits of the City for this project.

Councilmember Calhoun made a motion to approve \$1,000,000 for building improvements for Project Workforce Readiness. Councilmember Fenton seconded the motion, which passed with a vote of 6:0.

284. CONSIDER APPROVAL TO AWARD A BID FOR THE 100 BLOCK OF E. HOUSTON STREETScape PROJECT.

Eric Powell, Public Works Director, stated four bids were received for the 100 Block of E. Houston Streetscape Project and asked for approval to award a contract to Casey Slone Construction, LLC at a cost of \$470,998. Eric Powell stated construction would begin after Wonderland of Lights, around the first of the year.

Councilmember Morris made a motion to approve awarding a contract to Casey Slone Construction, LLC for the 100 Block of E Houston Streetscape Project at a cost of \$470,998. Councilmember Bonner seconded the motion, which passed with a vote of 6:0.

285. CONSIDER APPROVAL TO JOIN OTHER ACM CITIES IN A SETTLEMENT PROPOSAL TENTATIVELY AGREED TO BY THE PARTIES TO THE GAS UTILITIES' PROCEEDINGS PENDING AT THE RAILROAD COMMISSION OF TEXAS.

Eric Powell asked for approval to join other ACM cities in a settlement proposal tentatively agreed to by the parties to the gas utilities' proceedings pending at the Railroad Commission of Texas. Eric stated the law firm of Herrera Law & Associates, PLLC, represents the City and Mr. Herrera is requesting the City join the settlement.

Councilmember Calhoun made a motion to approve joining other ACM cities in a settlement proposal tentatively agreed to by the parties to the gas utilities' proceedings at the Railroad Commission of Texas. Councilmember Bonner seconded the motion, which passed with a vote of 6:0.

286. RECOMMENDATIONS FOR APPOINTMENTS TO VARIOUS CITY BOARDS, COMMISSIONS, AND COMMITTEES.

Mark Rohr presented a report regarding recommendations for appointments to the various City boards, commissions, and committees.

Councilmembers asked questions and discussed.

Councilmember Abraham made a motion to approve the recommendations for appointments to various City boards, commissions, and committees. Councilmember Calhoun seconded the motion, which passed with a vote of 6:0.

287. DISCUSS, CONSIDER AND ACT ON, OR REFRAIN FROM ACTING UPON, WHETHER OR NOT TO GRANT A MERIT BASED RAISE TO THE CITY MANAGER, INCLUDING A DISCUSSION AND CONSIDERATION OF ALLOCATION OF FUNDING FOR A RAISE IF GRANTED, AND DISCUSSION AND CONSIDERATION OF WHETHER OR NOT TO MAKE ANY RAISE, IF GRANTED, RETROACTIVE TO THE DATE OF RAISES GRANTED TO OTHER CITY STAFF.

Scott Rectenwald stated the Council could decide whether or not to grant a merit based raise to the City Manager, the allocation of funding for a raise if granted and whether or not to make any raise retroactive to the date of raises granted to other City Staff.

Councilmembers asked questions and discussed.

Councilmember Calhoun made a motion to grant a 3% merit based raise to the City Manager and to make it retroactive to the date of raises granted to other City Staff. Councilmember Bonner seconded the motion, which passed with a vote of 6:0.

288. CONSIDERATION OF ITEMS WITHDRAWN FROM THE CONSENT AGENDA

There were no items withdrawn from the Consent Agenda.

289. ADJOURNMENT

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

APPROVED:

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

ATTEST:

City Secretary

**Ordinances: O-21-XX
Resolution: R-21-XX**

MINUTES OF THE SPECIAL-CALLED MEETING OF THE
CITY COUNCIL OF THE CITY OF MARSHALL
THURSDAY, NOVEMBER 18, 2021
6:00 PM

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

PRESENT:

MAYOR: Amy Ware, District 4

COUNCIL MEMBERS:

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

ADMINISTRATIVE STAFF PRESENT:

Mark Rohr, City Manager	Cliff Carruth, Police Chief
Christol Hall, HR Manager	Reggie Cooper, Fire Chief
Scott Rectenwald, City Attorney	Dawn Jones, Finance Director
Jasmine Rios, Communications Coordinator	
Daniel Duke, Tourism & Cultural Arts Director	
Nikki Smith, City Secretary/Payroll Accountant	
Randy Pritchard, Support Services Superintendent	
Garnett Johnson, Assistant Community & Economic Development Director	

INVOCATION & PLEDGE: Mayor Ware

290. **CITIZEN COMMENTS**

There were no Citizen Comments.

CITY MANAGER REPORTS AND REQUESTS FOR CITY COUNCIL CONSIDERATION

291. **DISCUSS, CONSIDER AND ACT UPON SELECTION OF AN EXECUTIVE RECRUITMENT SERVICE TO LOCATE CANDIDATES FOR THE POSITION OF INTERIM CITY MANAGER AND CITY MANAGER.**

Scott Rectenwald, City Attorney, provided the following options available to the Council, utilizing Strategic Government Resources (SGR) or issuing a RFP for an executive recruitment service to locate candidates for the position of Interim City Manager and City Manager.

Councilmembers asked questions and discussed.

Councilmember Calhoun made a motion to permit the City Attorney to engage SGR to locate candidates for the positions of Interim City Manager and City Manager. Councilmember Bonner seconded the motion, which passed with a vote of 7:0.

292. **ADJOURNMENT**

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

APPROVED:

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

ATTEST:

City Secretary

ITEM 5B

CONSENT AGENDA

PUBLIC WORKS ACTIVITY REPORT



TO: Members of the City Council

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

DATE: December 1, 2021

SUBJECT: Public Works Department Activity Report

The Public Works Department Activity Report for the months of October and November are attached for your review.

PUBLIC WORKS DEPARTMENT

MONTHLY ACTIVITY REPORT

October 2021

DEPARTMENT DIVISIONS	NUMBER OF REQUESTS
DISTRIBUTION/COLLECTION	
Water main breaks/service leaks	22
Water meters (leaks/repairs/replacements)	43
Sewer issues (wash service/repairs/surcharging manholes/general manhole maintenance/preventive maintenance/camera sewer lines)	178
Water/sewer taps	1
Emergency water meter cut-off/turn-on for residential & business customers	7
Fire hydrant repairs/replacements/general maintenance	32
STREETS	
Pothole patching/dress-ups/other repair	774
Right of way & empty lot mowing: <i>Oakley Dr., Annette St., Esther St., Dovenna Dr., Wood St., N. Franklin St., Highbridge St., Calvert Dr., Field St., Hugh St., Alexander St., South St., High St., Henry St., Milton St., W. Houston St., Grafton St., Spring St., Woodrow St.</i>	19
Illegal dumping	2
Clear blind intersections: <i>Lakeview Dr., Nolan St./W. Houston St., Willow St.</i>	3
Clearing fallen trees from City streets	1
Street repairs at water main break sites	17
Trim low hanging limbs: <i>Baffo Rd.</i>	1
<i>(Street Division crew also assisted with mowing/weedeating Greenwood & Marshall Cemeteries; and trimmed trees in the Downtown area)</i>	
ROW/COMMUNITY APPEARANCE	
Litter pick-up (medians, cemeteries, City facilities)	138
General lawn care (City facilities, cemeteries, median, rights-of way)	37
Illegal dumping	0
DRAINAGE	
Cleaning/digging ditches <i>(total of 1,995 ft.)</i>	13
Checking traps & drains	1
Storm drain clearing/repairs/sinkhole repairs	22
Culvert installation/repairs	2
Bridge/sidewalk/curb repairs	1
INFORMATION TECHNOLOGY TECHNICIAN	
Computer, internet, phone, email, alarm issues, Zoom meetings, etc.	212
BUILDING MAINTENANCE TECHNICIAN	
HVAC	4
Plumbing	5
Electrical/Lighting	6
Wonderland of Lights/Other Miscellaneous	40

PUBLIC WORKS DEPARTMENT MONTHLY ACTIVITY REPORT November 2021

DEPARTMENT DIVISIONS	NUMBER OF REQUESTS
DISTRIBUTION/COLLECTION	
Water main breaks/service leaks	19
Water meters (leaks/repairs/replacements)	19
Sewer issues (wash service/repairs/surcharging manholes/general manhole maintenance/preventive maintenance/camera sewer lines)	152
Water/sewer taps	0
Emergency water meter cut-off/turn-on for residential & business customers	3
Fire hydrant repairs/replacements/general maintenance	12
STREETS	
Pothole patching/dress-ups/other repair	367
Right of way & empty lot mowing: <i>Poplar St., near Loop 390</i>	1
Illegal dumping	6
Clearing fallen trees from City streets	0
Clear blind intersections:	0
Street repairs at water main break sites	8
Trim low hanging limbs: <i>Main St., Sanford St., Carters Ferry Rd., W. Burleson St., N. Bolivar St., Poplar St., Lane St., Stuart Lane, Jeff Davis St., Medill St., Merrill St., Rosborough Springs Rd., Oakley Dr.</i>	13
ROW/COMMUNITY APPEARANCE	
Litter pick-up (medians, cemeteries, City facilities)	152
General lawn care (City facilities, cemeteries, median, rights-of way)	20
Illegal dumping	6
<i>(Special Project: Preparation/installation of light displays and Christmas lights for Wonderland of Lights)</i>	
DRAINAGE	
Cleaning/digging ditches <i>(total of 575 ft.)</i>	4
Checking traps & drains	7
Storm drain clearing/repairs/sinkhole repairs	6
Culvert installation/repairs	1
Bridge/sidewalk/curb repairs	4
<i>(Also assisted Street Division with low hanging limb trimming and picking up illegally dumped items)</i>	
INFORMATION TECHNOLOGY TECHNICIAN	
Computer, internet, phone, email, alarm issues, Zoom meetings, etc.	256
BUILDING MAINTENANCE TECHNICIAN	
HVAC	3
Plumbing	5
Electrical/Lighting	10
Wonderland of Lights/Other Miscellaneous	45

ITEM 5C

CONSENT AGENDA

STREET SWEEPING ACTIVITY REPORT



TO: Members of the City Council

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

DATE: December 1, 2021

SUBJECT: Street Sweeping Activity Report

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

STREET SWEEPING ACTIVITY REPORT NOVEMBER 2021

STREET NAME	NUMBER OF TIMES SWEPT
Austin St. (Downtown)	7
Bolivar St. (Downtown)	7
Burleson St. (Downtown)	7
Courthouse Square	7
Idylwild Terrace	1
Pine Burr Circle	1
Pine Burr Terrace	1
Rosborough Springs Rd.	1
Rusk St. (Downtown)	7
E. Travis St.	2
University Ave.	1
Warren Dr.	1
N. Washington Ave. (Downtown)	7
Wellington St. (Downtown)	7
Wildwood Trail	1

STREETS/AREAS SWEPT IN NOVEMBER: 15

ITEM 5D

CONSENT AGENDA

MUNICIPAL COURT ACTIVITY REPORT

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

I have followed up with Omni base regarding our contract for the FTA program and they have received our contract. The court has received the approved contract back from The Department of Public Safety and is waiting on a date to train with Omni base. There was a warrant audit file completed at police department on Monday November 29. MVBA is still reaching out to individuals with outstanding warrants and is receiving payments. The court is receiving payments from traffic payment daily. Officers are allowing individuals to come pay their outstanding warrants with the court instead of arresting them.

Once Officer Jose Burciaga returns to work, he will follow up with the outstanding warrant list and try to make contact. The court is tracking all inmates who are being arrested on city warrants and keeping a list updated.

Court for November was held on the following dates:

November 3rd, 2021 at 9:30a.m. and ended at 10:20a.m

November 10, 2021 at 8:30a.m & 9:30a.m and ended at 10:40a.m

There has been 122 total cases scheduled on these 4 dockets. There were 52 cases that were no shows. Judge Brendan Roth dismissed 27 tickets that were found to be in compliance. Judge Barron Neal gave 29 cases 30 days to get cleaned up and code will reassess the property again. 41 cases total were disposed of during these hearing so far. There are still approximately 85 cases to hear that has been given to the municipal court and 64 is set for December 15th. The other cases are still being reviewed by Madison Hood and Scott Rectenwald.

Court for December:

December 8th at 8:30 for Juvenile Plea and Adult plea

The next code docket is set for Wednesday December 15, 2021 at 8:30a.m. Judge Roth will here 64 cases and some of these cases are reset to come back in 30 days for compliance. We also have a code docket schedule for Wednesday January 12 at 8:30am.

All abandoned and dilapidated structures are being forwarded to Madison Hood and Scott Rectenwald. They will decided if these cases will be heard in municipal court or county court.

Court for January 2022

January 5, 2022 –Pre-Trial/Bench Trial Docket

January 12, 2022 –Adult Plea/Juvenile Plea/City Code Docket

January 19, 2022 –Jury Trial Docket

January 26, 2022 –Show Cause Docket

Tara Archield

Municipal Court Administrator

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

Active cases: 575
Inactive cases: 5,208

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

Active cases: 595
Inactive cases: 5,156

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

Active cases: 538
Inactive cases: 5,136

- OCA monthly report data compiled from the **September 2021** report (submitted **09/30/2021**) revealed the following data:

Active cases: 577
Inactive cases: 5,058

- OCA monthly report data compiled from the **October 2021** report (submitted **11/01/2021**) revealed the following data:

Active cases: 551
Inactive cases: 5,015

- OCA monthly report data compiled from the **November 2021** report (submitted **12/02/2021**) revealed the following data:

Active cases: 668
Inactive cases: 4,981

Monthly Report For Nov 2021

Cases Filed

STEP Site	Traffic	Penal	City Ordinance	Parking	Other	Total
0	183	16	55	2	15	271

Financial

State Costs	City Costs	Fines	Tech Fund	Bld Security	Total
\$8,751.32	\$4,714.53	\$6,539.33	\$640.90	\$7,032.10	\$27,678.18

Trials/Hearings

Jury	Bench	Appealed	Total
0	93	0	93

Warrants

Issued	Recalled	Served	Fees Collected	Amount Collected	Outstanding
0	25	26	\$977.97	\$5,677.30	\$2,501,352

Dispositions

Paid	Time Served	Dismissed	Appealed	Total
93	21	40	0	156

ITEM 5E

CONSENT AGENDA

**CONSIDER APPROVAL OF A
RESOLUTION DESIGNATING AN
OFFICIAL NEWSPAPER FOR THE CITY
OF MARSHALL FOR FISCAL YEAR 2022**

RESOLUTION NO. 2021-R

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARSHALL, TEXAS,
DESIGNATING AN OFFICIAL NEWSPAPER FOR THE CITY OF MARSHALL FOR
FISCAL YEAR 2022.**

WHEREAS, in accordance with Section 52.004 of the Texas Local Government Code, the City of Marshall, Texas is required annually to designate the official newspaper of said city; and

WHEREAS, the City Council finds that the MARSHALL NEWS MESSENGER is a public newspaper of general circulation qualified under Section 52.004 of the Local Government Code.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Marshall, Texas designates the Marshall News Messenger, whose physical address is 309 East Austin Street, Marshall, Texas as the official newspaper of the City of Marshall, Texas for fiscal year ending December 31, 2022.

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

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

ATTEST:

Nikki Smith, City Secretary

ITEM 5F

CONSENT AGENDA

**CONSIDER APPROVAL OF AN
INTERLOCAL AGREEMENT WITH
HARRISON COUNTY FOR ANIMAL
SHELTER SERVICES**

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF MARSHALL, TEXAS AND
HARRISON COUNTY, TEXAS FOR ANIMAL SHELTER SERVICES FOR HARRISON
COUNTY FOR 2021 - 2022**

STATE OF TEXAS

COUNTY OF HARRISON

THIS AGREEMENT is by and between the City of Marshall, Texas, a Texas Home-Rule Municipality, acting by and through its City Manager, heretofore duly authorized by the City Commission of said City, hereinafter called "City of Marshall" and Harrison County, Texas, and acting by and through its County Judge, hereunto duly authorized by the Commissioners' Court of said County, hereinafter called "Harrison County", upon the terms, provisions and conditions set forth below:

WHEREAS, Chapter 791 of the Texas Government Code authorizes all local governments to contract with each other to provide a governmental function or service that each party to the contract is authorized to perform individually and in which the contracting parties are mutually interested, such as police protection and public health and welfare; and

WHEREAS, the City operates Animal Shelter/Impoundment Services in its normal duties for the purpose of reducing general animal control problems in the City, including but not limited to, reporting human exposure to rabies, quarantine and testing of biting animals, reduction of the stray animal population, restraint of dangerous animals, protecting its citizens from the dangers and problems associated with animals at large; and other related services as prescribed by the Texas Health and Safety Code; and

WHEREAS, the County has a need for certain Animal Shelter Services and is not equipped to render such services and the County has historically relied on the City to provide such animal shelter services; and

WHEREAS, the City's records indicate that Harrison County citizens, residing outside of the city limits of Marshall, delivered, dropped off, or otherwise deposited animals that were impounded at the Marshall Animal Shelter during the year; and

WHEREAS, both the City and the County find it mutually desirable to enter into this Agreement to enable the City of Marshall to continue to provide Animal Shelter and Impoundment Services to the citizens of the County and the City;

NOW, THEREFORE in consideration of the mutual covenants hereinafter set forth, the County and City agree:

1. City of Marshall, through the Marshall Police Department, Animal Control Division, agrees to furnish animal shelter services to the citizens of Harrison County, Texas, for a

period of one (1) year, beginning October 1, 2021 and ending September 30, 2022, in accordance with the terms, provisions and conditions as set forth below.

2. The City shall secure and hold certification with the State Health Department for animal control and quarantine services, as evidence of qualification.

3. In consideration of the Animal Shelter services to be provided by the City of Marshall pursuant to this agreement, Harrison County agrees to pay, to the City of Marshall the total sum of **\$39,100.00**. The cash sum shall be paid to the City of Marshall in twelve (12) equal monthly installments of **\$3,258.33**. These funds paid by the County must be used by the City of Marshall to operate and maintain the Marshall Animal Shelter and the services provided at that facility.

4. In exchange for the contribution of the cash sum of Two Hundred Fifty Thousand and No/100 Dollars to the City of Marshall (December 5, 2019) for the purpose of paying the costs of construction for a new Animal Adoption Facility, The City of Marshall agrees to permit citizens of Harrison County, Texas the use of the new Animal Adoption Facility (upon completion date of August 10, 2021) for period of ten (10) years, without requiring the payment of fees by citizens of the county to include only "dropping off animals" and not to include the rental of rooms within the facility.

5. The City of Marshall will furnish and operate an animal shelter facility within the corporate city limits of Marshall for use by Harrison County and City of Marshall residents. In addition, the City of Marshall Animal Control Division will perform such duties as required within Harrison County to assure proper impoundment of suspected rabid domestic pets or other cats or dogs that have been legally impounded by the Harrison County Animal Control authority. The City's Animal Shelter Services do not include trapping nuisance animals, removal of deceased animals or conducting cruelty investigations.

6. The City, except as otherwise provided in this Agreement, shall have the sole control, administration, and direction of policies and operations of the Marshall Animal Shelter.

7. No party to this Agreement waives or relinquishes any immunity or defense on behalf of itself, its officers, employees, and agents as a result of its execution of this Agreement and performance to the covenants contained herein. Each party specifically reserves any claim it may have to sovereign, qualified, or official immunity as a defense to any action arising in conjunction with this Agreement.

8. This agreement shall be for a period of one (1) year, beginning October 1, 2021 and ending September 30, 2022.

9. It is understood and agreed by and between the City and County that either party to this agreement shall have the right to cancel this agreement on the 1st day of each month during the term covered by this Agreement, provided that the party desiring to cancel the same shall notify

the other party in writing of its desire to cancel this agreement at least sixty (60) days before the desired date of cancellation of same.

WITNESS THE EXECUTION HEREOF, in duplicate, this 23 day of November, 2021.

ATTEST:

CITY OF MARSHALL

BY: _____
Nikki Smith, City Secretary

BY: _____
Mark Rohr, City Manager

ATTEST:

HARRISON COUNTY

BY: _____
Liz Whipkey, County Clerk

BY: _____
Chad Sims, County Judge

ITEM 5G

CONSENT AGENDA

CONSIDER APPROVAL OF SMALL BUSINESS GRANT FUND APPLICATIONS

Memorandum

Date: November 18, 2021

To: Mark Rohr, City Manager

From: Shameia Ruffins, Community Development Coordinator

Subject: Approval of Small Business Grant Fund Recommendations

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

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

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

Thus far, we have approved 54 applications of which 2 were approved during the previous commission meeting held on November 10, 2021. A total of 1 pending applications today would bring us to a total of 54 applications. Staff has assisted several business owners in getting their application started, and will continue to spread the word on this local opportunity. We anticipate this to be an ongoing agenda item over the next few months as we continue to receive applications.

Staff is looking for the City Commission's approval for the one (1) Small Business Grant Fund applications that was received in completion between November 5, 2021 and November 18, 2021.

See Attached Documents

Staff Recommendations

Lucky's Liquor Store- \$2,500.00

Staff is recommending the max reimbursement of \$2,500 to Lucky's Liquor Store under the eligibility category of financial support.

Lucky's store was also affected by the COVID-19 pandemic. This business had to close the doors to the inside and remain open through drive-thru ONLY for an extended period of time. Lucky's had to update the existing drive-thru being that the original drive-thru was damaged by vehicles with the demand of the excessive traffic due to the inside being closed. They remained open throughout the pandemic to serve the citizens of Marshall TX. Receipts totaling \$3,875 were received.

ITEM 5H

CONSENT AGENDA

**CONSIDER APPROVAL OF THE ANNUAL
INTERLOCAL AGREEMENT WITH
MARSHALL-HARRISON COUNTY
HEALTH DISTRICT**

MEMORANDUM

To: Members of the City Council

From: Mark Rohr, City Manager

Date: December 09, 2021

Subject: Consider Approval of the Annual Interlocal Agreement with the Marshall-Harrison County Health District

A copy of the proposed agreement with the Marshall-Harrison County Health District is attached. The 2022 agreement is the same as last year, with the City providing \$68,940.00 in funding for the operating expenses of the Health District to provide health services for the citizens of Marshall. This expenditure has been provided for in the 2022 City of Marshall Budget.

**INTERLOCAL AGREEMENT
REGARDING
MARSHALL-HARRISON COUNTY HEALTH DISTRICT
THE STATE OF TEXAS
KNOW ALL MEN BY THESE PRESENTS:
CITY OF MARSHALL**

This Agreement is made and entered into on this _____ day of _____, 2021, by and between City Of Marshall, Texas (hereinafter referred to as the "CITY") and Marshall-Harrison County Health District (hereinafter referred to as the "DISTRICT"). The effective date of this Agreement shall be January 1, 2022 and shall terminate on December 31, 2022.

WHEREAS, the DISTRICT is a Public Health District established by the CITY and Harrison County (hereinafter sometimes collectively referred to as the "MEMBERS") pursuant to the Local Public Health Reorganization Act, Tex. Health & Safety Code Ann. § 121.001 et seq. (hereinafter referred to as the ACT); and,

WHEREAS, the MEMBERS, including the CITY, of the DISTRICT have previously entered into a Cooperative Agreement as required by the ACT; and,

WHEREAS, by the execution of this Agreement, the MEMBERS wish to accomplish certain modifications of the Cooperative Agreement and to address issues relating to functions being carried out for third parties by the DISTRICT as an independent contractor.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, CITY and DISTRICT agree as follows:

1. The CITY shall continue to provide funding to the DISTRICT on an annual basis consistent with the budgeted funds available for such purposes. The MEMBERS other than the CITY shall provide such funds as they deem, in their sole discretion, to be necessary and appropriate for carrying out the public health responsibilities of the MEMBERS. The amount of funding to be paid by the City for the year 2022 is \$68,940.00, which shall be paid in monthly installments of \$5,745.00. The funds provided by the MEMBERS shall be used to pay the cost for staff salaries, supplies, suitable offices, health and clinic centers, health services and facilities, and maintenance to the extent that such costs are incurred in connection with the provision of public health functions authorized to be carried out by the MEMBERS.
2. Any person employed by the DISTRICT shall be considered an employee of the DISTRICT and shall not be an employee of the CITY. The DISTRICT shall pay all employee benefits and shall obtain workers' compensation insurance coverage, naming the CITY as co-insured.
3. The DISTRICT has the right to sue and be sued and may retain its own legal counsel. The DISTRICT may contract with attorneys who are retained or employed by the CITY to the extent that such employment does not create a conflict of interest that would require counsel to be disqualified from representing the CITY.
4. The DISTRICT shall have the right, as an independent contractor, to contract with third

parties (such as CHRISTUS Good Shepherd Medical Center-Marshall) for the provision of health services outside the scope of the services provided by the DISTRICT on behalf of the MEMBERS, including the CITY. To the extent that the DISTRICT engages in such activities, the DISTRICT shall obtain a contractual agreement with such third parties limiting the DISTRICT's tort and contractual liability to the consideration paid by the third party otherwise indemnifying the DISTRICT and the MEMBERS, including the CITY, from any and all claims which may arise out of the services provided to such third parties.

5. As per the Local Public Health Reorganization Act, Tex. Health & Safety Code Ann. §121.006, the DISTRICT shall have the right to adopt ordinances or rules to charge fees for public health services. As such, the control of such fees will be at the discretion of the DISTRICT and in accordance with State guidelines.
6. The DISTRICT shall maintain the following insurance coverages for the duration of this Agreement:
 - a. Workers' Compensation and Employers Liability Insurance, as required by law;
 - b. Commercial General Liability:
 1. Bodily Injury and Property Damage \$1,000,000 each occurrence
 2. Combined \$1,000,000 aggregate
 - c. Public Officials and Employee Liability Insurance \$500,000 limit of liability.
7. The CITY is to be included as additional insured on all liability policies. The DISTRICT shall provide the MEMBERS, including the CITY, with a Certificate of Insurance evidence compliance with the requirements of Paragraph 6. The DISTRICT shall secure insurance with an insurance company that is rated A-5 or better under Best's Insurance Rating System.
8. When insurance is provided, Certificates of Insurance are to be issued to the MEMBERS, including the CITY and shall include the following information:
 - a. Name of insurance company providing coverages and policy numbers;
 - b. Type and limits of coverage;
 - c. Policy period (includes effective and expiration dates);
 - d. Statement in Remarks Section of Certificate, if not otherwise provided for on Certificate, that general liability assumed by the insured in contracts with the other party;
 - e. A statement guaranteeing thirty (30) days notice, if policies are canceled or significantly changed before the expiration date;
 - f. Name, address and telephone number of the insurance agent, broker or company and signature of authorized representative; and,
 - g. Description of operations, locations, vehicles, restrictions, special items and remarks.
9. When insurance is provided by the DISTRICT, as described above, the policies shall contain a waiver of subrogation by the insurer in favor of the CITY.
10. The DISTRICT may own and acquire real and/or personal property to the extent permitted by the ACT; however, the MEMBERS, including the CITY, shall have the right and privilege to perform and conduct audits of the funds received and disbursed by the DISTRICT.

EXECUTED this _____ day of _____, 2021, at Marshall, Harrison County, Texas.

CITY OF MARSHALL, TEXAS

By: _____
Mark Rohr, City Manager

Attest: _____
Nikki Smith, City Secretary

MARSHALL-HARRISON COUNTY HEALTH DISTRICT

By: _____
Jennifer Hancock, RN, Executive Director

THE STATE OF TEXAS**CITY OF MARSHALL**

BEFORE ME, the undersigned authority, on this day personally appeared **Mark Rohr**, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same on behalf of **CITY OF MARSHALL, TEXAS**, a political subdivision of the State of Texas, for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this _____ day of _____, 2021.

Notary Public in and for the State of Texas

THE STATE OF TEXAS**CITY OF MARSHALL**

BEFORE ME, the undersigned authority, on this day personally appeared **Jennifer Hancock, RN, Executive Director**, is known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same on behalf of **MARSHALL-HARRISON COUNTY HEALTH DISTRICT**, a public health district, for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this _____ day of _____, 2021.

Notary Public in and for the State of Texas

ITEM 5I

CONSENT AGENDA

**CONSIDER AMENDMENTS TO THE
INVESTMENT POLICY AND APPROVAL
OF A RESOLUTION ADOPTING THE
CITY OF MARSHALL INVESTMENT
POLICY**



2022 INVESTMENT POLICY

CITY OF MARSHALL, TEXAS

INVESTMENT POLICY
CITY OF MARSHALL, TEXAS

TABLE OF CONTENTS

PAGE

I.	POLICY STATEMENT	3
II	PURPOSE	3
III.	SCOPE	3
IV.	OBJECTIVES	4
V.	RESPONSIBILITY & CONTROL	4
VI.	INVESTMENT STRATEGY BY FUND TYPE	5
VII	SAFEKEEPING & COLLATERALIZATION	6
VIII.	INTERNAL CONTROLS	6
IX.	AUTHORIZED INVESTMENTS	6
X.	UNAUTHORIZED INVESTMENTS	8
XI.	AUTHORIZED FINANCIAL DEALERS & INSTITUTIONS	8
XII.	INVESTMENT REPORTS	8
XIII.	DEPOSITORIES	9
XIV.	INVESTMENT POLICY ADOPTION BY THE CITY COMMISSION	9
XV.	CERTIFICATION BY BUSINESS ORGANIZATION	10

INVESTMENT POLICY CITY OF MARSHALL, TEXAS

I. POLICY STATEMENT

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

II. PURPOSE

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

III. SCOPE

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

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

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

- Governmental Funds
- Proprietary Funds
- Fiduciary Funds

IV. OBJECTIVES

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

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

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

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

V. RESPONSIBILITY AND CONTROL

DELEGATION. The Finance Director, acting upon authority of a resolution of the City Commission is designated as the Investment Officer of the City and is responsible for investment management decisions and activities under the direction of the City Manager. The City Commission and the City Manager are responsible for considering the quality and capability of staff, investment advisors and consultants involved in investment management and procedures. All participants in the investment process shall seek to act responsibly as custodians of the public trust.

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

The Investment Officer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate staff. The Investment Officer shall designate the Senior Accountant as a liaison/deputy in the event circumstances require timely action and the Investment Officer is not available. The designated Senior Accountant may not engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Investment Officer and approval by the City Manager.

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

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

TRAINING. The Investment Officer and the designated Senior Accountant shall attend at least one training session relating to the officer's responsibility under the Act within 12 months after assuming duties and thereafter, a training session not less than once every two years and receive 10 hours of training. Such training from an independent source shall be approved or endorsed by either the Government Finance Officers Association of Texas, The Government Treasurer's Organization of Texas, The Texas Municipal League, or The University of North Texas Center for Public Management.

VI. INVESTMENT STRATEGY BY FUND TYPE

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

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

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

SPECIAL REVENUE FUNDS. Special Revenue Funds, as with Operating Funds have as their primary objective to assure that anticipated cash flows are matched with adequate investment liquidity. Consequently, these funds also will be invested in short-to-medium term securities which will complement each utilizing a staggered maturity basis. However, in certain cases, longer term securities which result in a better yield may be utilized when matched to specific requirements.

These portfolios should include approximately 5-10% in highly liquid securities to allow for flexibility and unanticipated outlays.

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

VII. SAFEKEEPING AND COLLATERALIZATION

The laws of the State and prudent treasury management require that all purchased securities be held in safekeeping by either the City, a third party financial institution, in an insured account with a designated broker/dealer, or the City's designated depository. All safekeeping arrangements shall be designated by the Investment Officer and an agreement of the terms executed in writing. The third party custodian shall be required to issue safekeeping receipts to the City listing each specific security, rate, description, maturity, cusip number, and other pertinent information. Each safekeeping receipt will be clearly marked that the security is held for the City or pledged to the City.

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

Collateralization

Collateralization shall be required on two types of investments:

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

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

VIII. INTERNAL CONTROLS

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

IX. AUTHORIZED INVESTMENTS

Acceptable investments under this policy shall be limited to the instruments listed below. The investments are to be chosen in a manner which promotes diversity of market sector and maturity. The choice of high-grade government investments and high-grade money market instruments is designed to assure the marketability of those investments should liquidity needs arise. The maximum allowable stated maturity of any individual investment owned by the City is three (3) years.

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

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

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

- (1) guaranteed or insured by the Federal Deposit Insurance Corporation or its successor;
- (2) secured by obligations that are described by Section 2256.009(a) of the Public Funds Investment Act, including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, but excluding those mortgage backed securities of the nature described by Section 2256.009(b) of the Public Funds Investment Act or;
- (3) secured in any other manner and amount provided by law for deposits of the City.

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

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

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

- (1) is registered with and regulated by the Securities and Exchange Commission;
- (2) has a dollar-weighted average stated maturity of 90 days or less;
- (3) includes in its investment objectives the maintenance of a stable net asset value of \$1 for each share;
- (4) is continuously rated as to investment quality by at least one nationally recognized investment rating firm of not less than AAA or its equivalent; and
- (5) invests exclusively in authorized investments permitted by the Act.

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

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

X. UNAUTHORIZED INVESTMENTS

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

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

XI. AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS

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

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

Qualifications for Approval of Broker/Dealers

In accordance with the Act, a written copy of this investment policy shall be presented to any person seeking to sell to the City an authorized investment. A qualified representative of the business organization seeking to sell an authorized investment shall execute a written instrument substantially to the effect that the qualified representative has: (Exhibit A)

1. received and thoroughly reviewed the investment policy of the City; and
2. acknowledged that the organization has implemented reasonable procedures and controls in an effort to preclude imprudent investment activities arising out of investment transactions conducted between the City and the organization.
- 3.

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

XII. INVESTMENT REPORTS

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

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

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

XIII. DEPOSITORIES

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

XIV. INVESTMENT POLICY ADOPTION BY CITY COMMISSION

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

XV. CERTIFICATION BY BUSINESS ORGANIZATION

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

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

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

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

Qualified Representative of the Business Organization

 Name: _____
 Title: _____
 Date: _____

AMENDED AND ADOPTED ON THIS THE 9th DAY OF DECEMBER, 2022.

Mayor of the City Council
Marshall, Texas

Attest:

City Secretary

RESOLUTION _____

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

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

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

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

WHEREAS, the Finance Director and the Senior Accountant are required to attend an investment training course sponsored by one or more of the aforementioned organizations; and

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

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

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

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

The City of Marshall, Texas has complied with the requirements of the Public Funds Investment Act, and the Investment Policy, attached hereto is hereby adopted as the investment policy of the City of Marshall, Texas effective January 1, 2022.

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

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

ATTEST:

CITY SECRETARY

ITEM 5J

CONSNET AGENDA

**CONSIDER APPROVAL OF THE CITY OF
MARSHALL'S DEPOSITORY BANK
CONTRACT FOR A FIVE-YEAR PERIOD
BEGINNING JANUARY 1, 2022**



MEMORANDUM

To: Members of the City Council

From: Dawn I. Jones, Finance Director

cc: Mark Rohr, City Manager
Nikki Smith, City Secretary

Date: 12/3/2021

Re: Bank Depository Contract

The deadline to receive proposals to Bank Depository RFP was November 23, 2021 at 3:00 p.m. The two sealed proposals we received, Austin Bank and Texas Bank & Trust, were opened up at 3:05 p.m on November 23, 2021. After reviewing both proposals, I believe it is in the best interest of the City of Marshall to award the 1/1/2022-12/31/2026 Bank Depository contract to Texas Bank & Trust.

ITEM 6A

ORDINANCE

CONSIDER APPROVAL OF A VACANT PROPERTY REGISTRATION ORDINANCE



TO: Mark Rohr, City Manager

FROM: Fabio Angell, Director
Planning, Community and Economic Development

DATE: December 9th, 2021

SUBJECT: Vacant Property Registration Ordinance

Please find enclosed the Registration Ordinance for your review.

Based on the prior meeting's discussions with City Council, city staff and the city attorney worked together to incorporate key features suggested by Council members.

These edits are found in red throughout the document for easy reading and further comment and modification. Thank you.

Ordinance No. _____

An ordinance amending and adding to the Code of Ordinances for the City of Marshall, Texas, Chapter 7, “Building” by adding and adopting ARTICLE VII, “Vacant Structure Registration,” Sections I through IV; providing for a fine of up to \$500 for each offense in violation of the ordinance; providing this ordinance be cumulative; providing for severability; providing for governmental immunity; providing for injunctions; providing for publication and becoming effective ten days after first publication

WHEREAS, there exists in the City of Marshall a large number of vacant structures, which are more likely than occupied structures to become sites of City ordinance violations and illegal activity based on code compliance and public safety history and data;

WHEREAS, improperly maintained and secured vacant can become a hazard to the health and safety of persons who may come on or near the property and can adversely affect the aesthetic and economic attributes of communities;

WHEREAS, the presence of vacant property, vacant structure ordinance violations and illegal activity **is detrimental and may constitute a threat to the public health, safety and welfare of the City of Marshall.** That is, the longer a structure remains vacant, the more likely it becomes that it will be the site of ordinance violations and illegal activity and the more likely it becomes that it will require additional public safety and code compliance resources;

WHEREAS, property for which the mortgage foreclosure has commenced is also at risk of abandonment resulting also in vacant property, **contributing to depreciating property values and to the deterioration of surrounding neighborhoods;**

WHEREAS, the presence of vacant property may necessitate expensive and disproportionate expenditures of public funds for preservation of the property, prevention of crime, and maintenance of adequate police, fire, and accident protection;

WHEREAS, city officials are hampered in their efforts to enforce municipal codes without information regarding the current status and ownership of vacant property;

WHEREAS, the special problems associated with vacant structures require that the City maintain information on location, ownership and status of those structures;

WHEREAS, it is in the best interest of the city to ensure sufficient information is made available to city officials to assure effective maintenance and preservation of vacant property;

WHEREAS, registering vacant structures will enable the City to better monitor vacant structures and locate owners for issues that arise concerning structure deterioration or ordinance violations or illegal activity; and

WHEREAS, the City Council determines that the health, safety and general welfare of the City will be protected and improved by adopting an ordinance to require registration of vacant structures, maintenance plans, and registration fees,

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

1. That the Code of Ordinances for the City of Marshall, Texas Chapter 7, “Building” is amended to add Article VII, entitled "Vacant Structure Registration" and is hereby adopted to read as follows:

“TABLE OF CONTENTS

SECTION I GENERAL PROVISIONS

- Section 1.01 Title
- Section 1.02 Purpose
- Section 1.03 Applicability

SECTION II DEFINITIONS

- Section 2.01 Definitions

SECTION III REGISTRATION

- Section 3.01 Registration
- Section 3.02 Vacant Structure Determination
- Section 3.03 Fees
- Section 3.04 Exceptions

SECTION IV ENFORCEMENT AND PENALTY

SECTION I GENERAL PROVISIONS

Section 1.01 Title

This Chapter of the Code of the City of Marshall is hereby designated and shall be known and referred to as the Vacant Structure Registration Chapter of the City Code of Ordinances.

Section 1.02 Purpose

The purpose of this chapter is to protect the public health, safety and welfare of Marshall citizens by requiring the registration of all vacant structures, the submission of a vacant structure plan of action and the payment of an annual registration fee in order to monitor, inspect and record the condition of vacant structures. Further, this chapter serves to preserve property and reduce fire safety hazards and unlawful, temporary occupancy by transients. The provisions in this chapter are cumulative of all City ordinances. The goal of this chapter is to ensure that a vacant property owner puts property to its best and highest use and keeps property occupied.

Section 1.03 Applicability

The requirements of this chapter shall be applicable to each owner of a structure that has been vacant for more than 90 days except as to a structure that is owned by a federal, state, or local governmental entity.

SECTION II DEFINITIONS

Section 2.01 Definitions

Unless otherwise expressly stated or clearly indicated by the context, the following terms shall, for the purpose of this chapter, have the meanings indicated in this section:

- “Director” means the Director of the Planning, Community and Economic Development Department or designee or the City Manager designated Department Directors or designees charged with the enforcement of this chapter.
- “Notice of Determination” means the written notice by the Director, or designee, to an owner that the structure is a vacant structure, a statement of the factual basis for the determination, and the obligations of the owner of the structure to register.
- “Occupied” means where one or more persons actually conduct a lawful business or resides in all or any part of the structure as the licensed business-occupant, or as the legal or equitable owner or occupant or tenant on a permanent, non-transient basis, or any combination of the same.
- “Owner” means any person, agent, firm or corporation, bank, services, mortgagee, etc. whether one or more, having a legal or equitable interest in the property; owner or owners recorded in the Official Public Records of Real Property in Harrison County, specifically in the Harrison County Clerk’s Office; owner or owners recorded in the records of Harrison Appraisal District; or any person, agent, firm or corporation otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court. There is a rebuttable presumption that the Harrison Appraisal District’s records identify the owner of the property and the owner’s

address. “Person” means any individual, partnership, firm, corporation, association or other legal entity of whatsoever kind and nature.

-“Registration Fee” means the non-refundable annual fee as established by City Council resolution that an owner of a vacant structure is required to remit to the Director, or designee, each year the structure is vacant. The registration fee is to cover the cost of the vacant structure program including the cost of the City registering and inspecting the vacant structure.

- “Registration Form” means that form provided by the Director, or designee, for an owner to register a vacant structure with the City.

-“Reinspection Fee” means the fee as established by City Council resolution which may be assessed for each reinspection when such violation was not corrected after **initial** inspection.

-“Structure” means any building or structure which is built for the support, shelter, or enclosure or partial enclosure of persons, animal, chattel or moveable property of any kind.

-“Vacant” means no person(s) actually, currently conducts a lawfully licensed business, or lawfully resides or lives in any part of the structure as the legal or equitable owner(s) or tenant occupant(s), or owner-occupants, or tenant(s) on a permanent, non-transient basis. “Vacant Structure Plan Form” means that form provided by the Director, or designee, for an owner to provide a vacant structure action plan to the City.

SECTION III REGISTRATION

Section 3.01 Registration

- A. The owner of a vacant structure shall register that structure by completing and filing with the City, or its designee, a registration form, completing and filing a vacant structure action plan form, and remitting to the City the registration fee in the amount as established by City Council resolution within **90** days from the time that the structure becomes a vacant structure in accordance with this chapter, or **within 21 days after** written notice has been received from the City, or its designee. Thereafter, the owner of the vacant structure shall annually register that vacant structure by completing and filing with the City, or its designee, the registration form, completing and filing with the City the vacant structure plan of action form and remitting to the City the registration fee in the amount as established by City Council resolution on or before October 31st of every year until such structure becomes occupied or the ownership is transferred.
- B. Upon payment of the full amount due of the annual registration fee to the City by an owner of a vacant structure, the requirement for remittance of the annual registration fee as described above has been satisfied.
- C. The City, or its designee, shall provide the registration form that the owner shall complete and file. The registration form shall include the street address of each vacant structure, the names and address of each owner, the name and address of each lienholder on the property, the name and address of any property manager (if any) and any other information deemed necessary for vacant structure identification.
- D. The City shall provide a vacant structure action plan form that the owner shall complete and file.

- E. If the status of any registration information changes including ownership information or the structure becomes occupied, the owner shall contact the City, or its designee, in writing within **21** days to report such changes.
- F. Any new owner of a vacant structure shall update the registration of that vacant structure by completing and filing with the City, or its designee, a registration form; completing and filing with the City a vacant structure action plan form, and remitting to the City the current annual registration fee, **if any**, for that vacant structure, if it had not been previously paid; and, thereafter, annually registering as described above for an owner.

Section 3.02 Vacant Structure Determination

- A. If the City has reason to believe that a structure has been vacant for at least **90** days and it is unregistered, the City shall evaluate the structure and make a determination as to whether the structure is vacant within the meaning of this chapter. If the City (**or its designee**) finds the structure is vacant, the City shall state that determination in writing and the factual basis for the determination. The Notice of Determination shall be based on the definitions and standards in this chapter.
- B. The City, or its designee, shall give written Notice of Determination by either mailing such notice to the owner at the owner's address as recorded in the Harrison Appraisal District records or by mailing, emailing, personal delivery, or verified facsimile transmission to an owner. If such notice is addressed and mailed through the United States Postal Service to the owner at the owner's address as recorded in the Harrison Appraisal District records and the United States Postal Service returns the notice as "refused" or "unclaimed" the validity of the notice is not affected and the notice is considered delivered.
- C. The Notice of Determination shall identify the structure; street address or legal description of the property; state the factual basis for the determination; and, the obligations of an owner to register the structure **and pay a fee** as set forth in this chapter **within 21 days of notice being delivered**.

Section 3.03 Fees

- A. A registration fee and **inspection** fee is hereby authorized to be charged to the ownership of all vacant structures, **except when the owner files a plan of action at the time of registration substantiating any of the exceptions described below (see Section 3.04 Exceptions)**. The fees shall be used to cover the cost of administration of the vacant structure registration program and inspections. **The registration fee includes an initial inspection. These** fees are as follows:

Properties of 2,500 SF or less - \$500

Properties between 2,500 SF up to 10,000 SF - \$750

Properties above 10,000 SF - \$1,000

All renewals are at the following fee structure.

Properties of 2,500 SF or less - \$1,000

Properties between 2,500 SF up to 10,000 SF - \$1,500

Properties above 10,000 SF - \$2,000

All reinspections shall carry fees based on City's customary fee schedule for residential or commercial structures.

- B. The registration shall remain valid for one year of the date of registration. The owner shall be required to renew the registration annually as long as the property is vacant.
- C. When a vacant property owner files a plan of action at the time of registration substantiating an exception (see Section 3.04 below), said owner shall have 90 days in which to complete the plan of action. Non-complaint owners shall pay the registration fee after said period expires. No requests for extensions shall be granted.

Section 3.04 Exceptions

Upon an owner's written request to the City for an exception to the registration fee requirement and a finding by the City that a vacant structure qualifies as described below, the following shall be exceptions from the registration fee requirements of this chapter:

1. a vacant structure that has a City building permit in issued status for remodel/repair;
2. a vacant structure that is being actively marketed for sale or lease for less than twelve (12) months by a licensed real estate broker or an owner who is regularly advertising the property; or
3. a vacant structure that is under a contract for sale or lease for less than twelve (12) months.
4. A vacant structure that is owned by a member of the armed services that uses the structure as a primary residence or business when not on active duty.
5. A vacant structure owned by an economic development corporation.

The City shall issue such finding in writing and mail such written finding by either mailing, such notice to the owner at the owner's address as recorded in the Harrison Appraisal District records or by mailing, emailing, personal delivery, or verified facsimile transmission to an owner.

Should an exception be denied for lack of proper documentation, failing to meet a deadline, or any other reason, the registration fee shall be due immediately.

SECTION IV ENFORCEMENT AND PENALTY

- A. The City shall enforce the terms and conditions of this chapter when violations occur.
- B. It is an offense to:
 1. fail to provide information required by this chapter;
 2. provide false information on the registration form or vacant structure action plan form; or
 3. fail to perform an act required by this chapter.
- C. Violation of this chapter is a Class C Misdemeanor. This is a strict liability offense for which no mental state is required. Each offense is punishable by a fine not to exceed Five Hundred Dollars

(\$500) and each day that the violation continues shall be a separate offense. Administrative, civil, and criminal enforcement are alternative remedies which may be sought independently of each other. Criminal prosecution may occur regardless of pursuit of civil or administrative remedies and vice versa.

- D. As an alternative to imposing the criminal penalty prescribed in Subsection (C), the city may impose administrative penalties, fees, and court costs as authorized by Section 54.044 of the Texas Local Government Code, for an offense under this chapter. The alternative administrative penalty range for an offense is the same as is prescribed for a criminal offense in Subsection C.
 - E. Lien for unpaid registration and inspection fees: The City or its designee shall mail a notice to the owner and lienholder of the property for which there are delinquent registration and/or inspection fees. The notice must advise the owner and lienholder that the city proposes to assess its costs against the property and place a lien on the property to collect the fees as specified in section 3.03 (A). The City or its designee shall file a lien against the property for the amount due and owing to the city. Any lien filed pursuant to this section shall be security for the expenditures made and interest accruing at the rate of ten percent on the amount due from the date of payment by the city. The lien shall be superior to all other liens except tax liens and liens for street improvements and shall accrue interest at the rate of ten percent per annum.”
2. Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Five Hundred and No1100 Dollars (\$500) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.
 3. This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Marshall, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.
 4. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.
 5. All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged

with the enforcement of this ordinance, acting for the City of Marshall in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6. Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Marshall in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Marshall. The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Marshall, in compliance with the provisions of Article III Section 3.15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.
7. This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN READING on the ____ day of _____, 2021, at a regular meeting of the City Council of the City of Marshall, Texas, and passed and approved on said date by a vote of _____ yeas and _____ nays at a regular meeting of the City of Marshall, Texas.

APPROVED:

Amy Ware,
Mayor

ATTEST:

Nikki Smith, Secretary

Approved as to form:

Scott Rectenwald, City Attorney

ITEM 6B

ORDINANCE

**CONSIDER APPROVAL OF
MODIFICATIONS TO THE ALARM
PERMIT ORDINANCE**



CITY OF MARSHALL

COMMISSION AGENDA INFORMATION SHEET

MEETING DATE:

PROJECT: Alarm Permit Ordinance Revision

DESCRIPTION: The City of Marshall Alarm Permit Ordinance needs to be modified to reflect changes in operations. The attached document contains those changes.

COST: N/A

RECOMMENDED

ACTION: Approve amended ordinance

CITY CONTACT: Chief Cliff Carruth MPD

cc: File

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARSHALL, TEXAS AMENDING CHAPTER 11A OF THE CODE OF ORDINANCES, OF THE CITY, ENTITLED “EMERGENCY ALARMS”, BY AMENDING PERMIT FEES TO ALLOW FOR A REDUCED FEE FOR PERSONS 65 YEARS OF AGE AND OLDER; AND ESTABLISHING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY MARSHALL, TEXAS: THAT CHAPTER 11A OF THE CODE OF ORDINANCES OF THE CITY OF MARSHALL, TEXAS IS HEREBY AMENDED AS FOLLOWS:

Section 1. That Section 11A-2 of the Code of Ordinances of the City of Marshall, Texas entitled “*Permit – Required; application, transfer and false statements*” is hereby amended as follows: **(underscored text to be added, strikeout text to be deleted):**

Subsection (e) amended as follows:

- (2) ~~Permit good only August 1 through July 31 of each fiscal year.~~ An alarm permit shall expire one year from the date of issuance

Subsection (f) amended as follows:

- (f) ~~The director of planning and community development~~ Police Department alarm permit administrator for the city shall issue a permit to the person in control of the property to be protected upon submission in person or by mail of a completed application and payment of the appropriate fee, unless any statement made on the application is incomplete or false.

Section 2. That Section 11A-4. Same—Suspension is hereby amended as follows: **(underscored text to be added, strikeout text to be deleted):**

- (a) ~~The director of planning and community development~~ Police Department alarm permit administrator for the city may suspend or refuse to renew an alarm permit for any violation of this chapter.
- (b) ~~The director of planning and community development~~ Police Department alarm permit administrator for the city shall suspend or refuse to renew an alarm permit if an alarm system generates an excessive number of alarms in a twelve-month period. In each respective category, an excessive number shall be:
- (c) A person commits an offense if he operates an alarm system during a period of suspension or after ~~the director of planning and community development~~ Police Department alarm permit administrator for the city refuses to renew his permit.
- (d) A permit suspended under the provisions of this section may be reinstated or a permit renewed by ~~the director of planning and community development~~ Police Department alarm permit administrator for the city after the person sufficiently shows that the conditions which caused the action have been corrected and it has been reasonably determined that the alarm system will be maintained and operated in a manner in accordance with the provisions of this chapter.

Section 3. This ordinance shall take effect immediately from and after its passage.

PASSED AND APPROVED AND ADOPTED this ____ day of _____, 2021.

AYES: _____
NOES: _____
ABSTAINED: _____

Amy Ware, Chairman

Nikki Smith
City Secretary

ITEM 6C

ORDINANCE

**CONSIDER APPROVAL OF AN
ORDINANCE GOVERNING WRECKER
SERVICES THAT PERFORM POLICE-
AUTHORIZED TOWS OR NON-
CONSENSUAL TOWS, TOWING
ACTIVITIES AT POLICE SCENES, AND
STORAGE FACILITIES**



CITY OF MARSHALL

COMMISSION AGENDA INFORMATION SHEET

MEETING DATE:

PROJECT: Amend Article III Wrecker Service

DESCRIPTION: Amend Article III – Wrecker Service to reflect the fact that the Police Department is responsible for the administration of Wrecker Services.

COST: None

RECOMMENDED

ACTION: Approve amendment.

CITY CONTACT: Chief of Police Cliff Carruth

cc: File

ORDINANCE _____

AN ORDINANCE GOVERNING WRECKER SERVICES THAT PERFORM POLICE-AUTHORIZED TOWS OR NON-CONSENSUAL TOWS, TOWING ACTIVITIES AT POLICE SCENES, AND STORAGE FACILITIES TO WHICH VEHICLES TOWED AS POLICE-AUTHORIZED OR NON-SENSUAL TOWS ARE TAKEN.

WHEREAS, the City of Marshall has adopted an ordinance governing vehicles for hire within the corporate city limits of Marshall, TX; and

WHEREAS, this article applies to wrecker services that perform police-authorized or non-consensual tows, towing activities at police scenes, and storage facilities to which vehicles towed as police-authorized or non-consensual tows are taken.; now, therefore,

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

1.

PART II - CODE OF ORDINANCES
Chapter 30 - VEHICLES FOR HIRE
ARTICLE III. WRECKER SERVICE

ARTICLE III. WRECKER SERVICE¹

Sec. 30-100. Applicability.

This article applies to wrecker services that perform police-authorized or non-consensual tows, towing activities at police scenes, and storage facilities to which vehicles towed as police-authorized or non-consensual tows are taken.

(Ord. No. O-03-09, § 2, 2-27-2003)

Sec. 30-101. Definitions.

In this article:

Accident means any occurrence that renders a vehicle wrecked or disabled.

Appeals board means a five (5) member panel to rule on disputes or license issues, which consist of two (2) Marshall City Councilmembers, City manager or his designee, director of Public Works or his designee and the Chief of Police or his designee.

Director means the Chief of Police for the City of Marshall who is charged by the city council to enforce and administer this article or the Chief's authorized representative.

Disabled vehicle means a vehicle that:

- (1) Has been rendered unsafe to drive as the result of some occurrence other than a wreck, including, but not limited to, mechanical failure or breakdown, fire, or vandalism; or
- (2) Is in a safe driving condition, but the owner is not present, able, or permitted to drive; so as to reasonably necessitate that the vehicle be removed by a wrecker.

Emergency wrecker company means a person who owns, controls, or has a financial interest in an emergency wrecker service.

Emergency wrecker service means the business of towing or removing wrecked or disabled vehicles from the streets upon request of the applicable law enforcement agency.

Heavy-duty wrecker means a truck not less than two and one-half (2½) tons in size, equipped with a power operated winch, winch line, and boom, with a factory rated lifting capacity of not less than thirty-two thousand (32,000) pounds, single or double line capacity.

Licensee means a person licensed to engage in emergency wrecker service in the City of Marshall.

Owner means a person who:

- (1) Holds legal title to a vehicle;
- (2) Has legal right of possession of a vehicle, care, custody or control;
- (3) Has legal right of control of a vehicle.

Person means an individual, assumed name entity, partnership, joint venture, association, corporation, or other legal entity.

Rotation means an occasion when the applicable law enforcement agency calls an emergency wrecker from the rotation list to remove a wrecked, disabled or abandoned vehicle.

Street means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. Any street, alley, avenue, lane, square, highway, freeway, expressway, or high occupancy vehicle lane within the corporate limits of the city.

Vehicle means every device in, upon, or by which any person or property is or may be transported or drawn upon a street, except a device moved by human power or used exclusively upon stationary rails or tracks.

Wrecked vehicle means a vehicle that has been damaged as the result of overturning or colliding with another vehicle or object so as to reasonably necessitate that a wrecker removes the vehicle.

Wrecker means a vehicle designed to be used primarily for the removal of a wrecked, disabled or abandoned vehicle.

Wrecker rotation list means a list of licensed wrecker companies maintained by the law enforcement agency needing assistance as provided for in this article.

(Ord. No. O-03-09, § 2, 2-27-2003)

Sec. 30-101.01. Wrecker drivers to obey orders of police officer.

It shall be unlawful for the driver of any wrecker arriving at the place where any accident has occurred or an abandoned vehicle is located to disobey any lawful order given them by any police officer of the city investigating such accident or to interfere in any manner with such officer in the performance of his/her duty.

(Ord. No. O-08-11, § 2, 3-27-2008)

Sec. 30-102. Soliciting by advertising.

No person may solicit any business at or near the scene of an accident which deals directly or indirectly with the towing, removing, repairing, wrecking, storing, trading or purchase of a wrecked or disabled motor vehicle, vehicle, trailer or semi-trailer on the streets or sidewalks of the city, nor may a person solicit the business of towing, removing, repairing, wrecking, storing, trading, buying or offering to buy a wrecked or disabled motor vehicle, vehicle, trailer, or semi-trailer on the streets, sidewalks or

any public place in the city, by distributing an advertisement, advertising a repair shop, garage, or place of business where the wrecked or disabled motor vehicle, vehicle, trailer or semi-trailer may be repaired, stored, wrecked, traded, or purchased. Proof of the unauthorized presence of a person engaged in the business of towing, repairing, wrecking, storing, or offering to purchase or trade for a wrecked or disabled motor vehicle, vehicle, trailer or semi-trailer at or near the scene of an accident is prima facie evidence of solicitation in violation of this section.

(Ord. No. O-03-09, § 2, 2-27-2003)

Sec. 30-103. Penalty.

Any person who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this article shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00).

(Ord. No. O-03-09, § 2, 2-27-2003)

Sec. 30-104. Driving wrecker to scene of accident prohibited; exception.

No person may drive a wrecker, licensed or unlicensed, to the scene of an accident on the streets of the city unless the person has been called to the scene by the law enforcement agency in command of the incident.

SOLICITING WRECKER BUSINESS AT SCENE OF ACCIDENT PROHIBITED;
PRESENCE AT SCENE AS EVIDENCE OF VIOLATION.

No person may solicit in any manner, directly or indirectly, on the streets of the city, the business of towing a vehicle which is wrecked or disabled on a street, regardless of whether the solicitation is for the purpose of soliciting the business of towing, removing, repairing, wrecking, storing, trading or purchasing the vehicle. Proof of the presence of a person engaged in the wrecker business or the presence of a wrecker or motor vehicle owned or operated by a person engaged in the wrecker business, either as owner, operator, employee or agent, on a street in the city, at or near the scene or site of an accident, which has not been called to the scene by the law enforcement agency in command of the incident, within one (1) hour after the happening of an accident, is prima facie evidence of a solicitation in violation of this section.

(Ord. No. O-03-09, § 2, 2-27-2003)

Sec. 30-105. Penalty; license required; nontransferable; expiration date; trade name registration; location.

(a) No person, agency or towing business will be placed in the wrecker rotation with the City of Marshall Police Department without first obtaining an emergency wrecker service license from the City of Marshall. Only one (1) license may be issued to each emergency wrecker company. A license is not assignable or transferable. An emergency wrecker company license expires on the thirtieth day of June of each year. The license issued to an emergency wrecker company authorizes the licensee and his bona fide employees to engage in emergency wrecker service.

(b) The owner of an emergency wrecker company shall register with the Police Department the trade name of his wrecker company and shall affix the name to the outside of both doors of each wrecker which is in compliance with the applicable laws of the State of Texas.

(c) A licensee shall maintain a permanent and established place of business where the general zoning ordinance of the city does not prohibit an emergency wrecker service.

(Ord. No. O-03-09, § 2, 2-27-2003)

Sec. 30-106. License application; renewal.

(a) A person desiring to engage in emergency wrecker service in the city shall file with the Police Department a written application upon a form provided for that purpose, which must be signed by the applicant or an authorized agent. The following information is required in the application.

(1) Trade name, address, and telephone number of the emergency wrecker company.

(2) Number and types of wreckers to be operated. Applicants owning heavy-duty wreckers that will be used for emergency towing must be stated on application if applicant is equipped to be utilized in heavy vehicle recovery.

(3) Name, address, and telephone number of the owner of the emergency wrecker company.

(4) An agreement that the applicant will participate in the wrecker rotation.

a. Upon filing of an initial application for an emergency wrecker company license, the Police Department shall designate a time for city inspection of applicants place of business. A fee of twenty-five dollars

(\$25.00) for processing and inspection of an initial application must be submitted with the application.

b. Should the license be denied, the denied applicant may file an appeal within thirty (30) days with the Police Department in writing requesting a hearing before the appeals board. The appeals board decision is final.

c. In addition to the requirements in subsection a. of this section, an initial applicant shall:

1. Show proof of insurability.

2. Provide an adequate number of emergency wreckers, as determined by the applicable law enforcement agency, that meet the requirements of this article and any rules and regulations promulgated by the applicable law enforcement agency pursuant to this article.

3. The fitness of the applicant to perform an emergency wrecker service as may be indicated by the experience in wrecker operation, the safety record of the applicant, and the applicant's compliance with local, state, and federal laws.

i. After reviewing the application, the Police Department shall, within forty-five (45) days, approve or deny the application based upon findings concerning the applicant's compliance with this article and the public convenience and necessity of the proposed service. The Police Department shall send to the applicant a written statement setting forth the reasons for the approval or denial of the application and the date of the action.

(Ord. No. O-03-09, § 2, 2-27-2003)

Sec. 30-107. Fee.

(a) The annual fee for an emergency wrecker license is seven hundred fifty dollars (\$750.00) for each emergency wrecker company and a ten dollars (\$10.00) per car fee on all cars towed at the request of the Marshall Police Dispatcher. The fee will be prorated on the basis of whole months. The annual inspection fee is twenty dollars (\$20.00) for each wrecker that is used in the emergency wrecker service. The fee is two dollars (\$2.00) for issuance of a duplicate license if a license is lost, destroyed, or mutilated.

(b) Fees are payable to the City of Marshall upon issuance of the license. No refund of fees will be made.

(Ord. No. O-03-09, § 2, 2-27-2003; Ord. No. O-08-11, § 3, 3-27-2008)

Sec. 30-108. License issuance.

(a) The Police Department shall issue a license to provide emergency wrecker service to an applicant who complies with this article and shall issue an emergency wrecker card to an applicant upon inspection and approval of each vehicle. The emergency wrecker card must remain in the inspected wrecker. Before issuance of an emergency wrecker service license and card, the following requirements must be met:

(1) An applicant shall submit each emergency wrecker that will be used in the service for inspection in a manner determined by the Police Department. Each wrecker must comply with the following minimum requirements:

- a. Each wrecker must be not less than one (1) ton in size with a dual wheel axle and be equipped with booster brakes.
- b. Each wrecker must be equipped with a power operated winch, winch line, and boom, with a factory rated lifting capacity of not less than eight thousand (8,000) pounds, single line capacity.
- c. Each wrecker must carry as standard equipment a tow bar, towing dollies, safety chains, jack stands, a fire extinguisher, a wrecking bar, a broom, a shovel, flares, and a container to carry debris.
- d. Each wrecker and all of its equipment must be in a safe and good working condition and comply with all minimum safety and equipment standards required for a wrecker by Article 6687-9a of Vernon's Texas Civil Statutes, as amended, or by any rule or regulation promulgated under that act.
- e. Each emergency wrecker applicant that is approved as a rotation list wrecker will be issued a radio call number by the Marshall Police Department.
- f. Each wrecker must be equipped with two-way radio equipment that is capable of providing two-way voice communication with the applicable law enforcement agency.
- g. Misuse of Marshall Police Department radio frequency will be cause for suspension.
- h. A minimum of one (1) wrecker submitted by applicant must be equipment with a wheel lift or "roll back" bed.
- i. Marshall Non-Consensual Wrecker Company's storage yard shall be located no more than three (3) miles from the City Limits of Marshall.

- (2) An applicant desiring to engage in heavy vehicle or large truck towing and recovery must comply with the following minimum requirements:
 - a. Each heavy-duty wrecker must be not less than two and one-half (2½) tons in size.
 - b. Each heavy duty wrecker must be equipped with a power operated winch, winch line, and boom, with a factory rated lifting capacity of not less than thirty-two (32,000) pounds, single or double line capacity.
 - (3) Each licensee shall maintain twenty-four-hour wrecker service and operate a two-way radio capable of communicating with applicable law enforcement agencies. The licensee shall keep the business location open from 9:00 a.m. to 5:00 p.m. weekdays except for recognized holidays.
 - (4) A person commits an offense if he operates an emergency wrecker or uses any equipment that fails to comply with all requirements for such equipment required by the State of Texas.
 - (5) The City of Marshall will accept only one (1) call for service number from applicants. Multiple number lists will not be accepted.
 - (6) Emergency wreckers must clean right-of-way and roadway of all debris before leaving the scene of an incident. Emergency wrecker operators must follow instruction of law enforcement personnel supervising incident.
 - (7) Each applicant must provide the City of Marshall Finance Department with proper tax identification for IRS form 1099.
 - (8) Each applicant must comply with all state, local and federal laws for storage yards.
- (Ord. No. O-03-09, § 2, 2-27-2003; Ord. No. O-08-11, § 4, 3-27-2008; Ord. No. O-09-11, § 2, 5-21-2009)

Sec. 30-109. License—Display; duplicates.

- (a) Each license issued pursuant to this article must be posted and kept in a conspicuous place in the wrecker establishment.
- (b) A duplicate license may be issued for one (1) lost, destroyed or mutilated upon application on a form prescribed by the Police Department. Each duplicate license will have the word "duplicate" stamped across its face and will bear the same number as the one it replaces.
- (c) Every licensee shall, within ten (10) days after a partial change of control in ownership, or of management, or of change of address or trade name, notify the Police Department of such changes.

(Ord. No. O-03-09, § 2, 2-27-2003)

Sec. 30-110. License—Refusal to issue or renew.

The Police Department may refuse to approve issuance or renewal of an emergency wrecker company license for one (1) or more of the following reasons:

- (1) The making of any false statement as to a material matter in an application for a license, or license renewal, or in a hearing concerning the license.
- (2) Revocation of a license, pursuant to this article, of the applicant, or any proprietor, partner or corporate officer of the applicant within eighteen (18) months preceding application.
- (3) Use by the licensee of a trade name for his emergency wrecker company other than the one (1) registered with the Police Department.
- (4) Suspension of the licensee's emergency wrecker company license on three (3) occasions within twelve (12) months for more than three (3) days on each occasion.
- (5) Failure to meet the service standards in the rules and regulations, established by the Police Department and applicable law enforcement agency, with the same consistency as other licensees.
- (6) A licensee, applicant, or his employee is under indictment or has been convicted of a crime involving theft, unauthorized use of a motor vehicle, burglary of an automobile, receiving and concealing stolen property, homicide, aggravated assault, aggravated assault with a motor vehicle, or driving while under the influence of alcohol or drugs unless five (5) years has elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date.

(Ord. No. O-03-09, § 2, 2-27-2003)

Sec. 30-111. License—Suspension.

A representative of the Police Department or applicable law enforcement agency may suspend an emergency wrecker company license for a period not to exceed ten (10) days or if the deficiency is detrimental to public safety then for a period of time until the deficiency is corrected, for one (1) or more of the following reasons:

- (1) Failure of the licensee to maintain his wrecker or equipment in a good and safe working condition.
 - (2) Violation by the licensee or an employee of the licensee of a provision of this article or of the rules and regulations established for emergency wrecker service by the applicable law enforcement agency and the Police Department.
 - (3) Failure of the licensee's wrecker to arrive at the location of a wrecked or disabled vehicle within the prescribed time after having been notified to do so by the applicable law enforcement agency.
 - (4) Conviction of an emergency wrecker driver of a provision of the motor vehicle or traffic laws of this state or city while in the scope of his employment in the emergency wrecker service.
- (Ord. No. O-03-09, § 2, 2-27-2003)

Sec. 30-112. License—Appeal from refusal to issue or renew; from decision to revoke.

If the Police Department approves or denies issuance of an initial license or refuses to approve renewal of a license or revokes a license, the applicant or licensee may file an appeal with the appeals board as described in this article. A licensee may appeal a suspension, which is imposed, by the Police Department or applicable law enforcement agency in the following manner:

- (1) A licensee who is suspended by a representative of the applicable law enforcement agency for three (3) days or less may appeal the suspension by written request to the applicable law enforcement agency within ten (10) days after written notification of suspension. The applicable law enforcement agency shall conduct a hearing and may sustain, reverse, or modify the action appealed. The action of the applicable law enforcement agency is final.
- (2) A licensee who is suspended by the Police Department or his designee for three (3) days or less may appeal the suspension by written request to the Police Department within ten (10) days after written notification of suspension. The Police Department shall conduct a hearing and may sustain, reverse, or modify the action appealed. The action of the Police Department is final.
- (3) A licensee who is suspended by the Police Department or the applicable law enforcement agency for more than three (3) days may

appeal the suspension to the appeals board. A written request to the Police Department must be made within ten (10) days after written notice to the license.

- a. The appeals board shall set a time, date, and place for a hearing and the licensee will be notified at least three (3) days prior to the hearing.
 - b. The appeals board may sustain, reverse, or modify the action appealed. The action of the appeals board is final.
- (Ord. No. O-03-09, § 2, 2-27-2003)

Sec. 30-113. License—Revocation.

The Police Department may revoke an emergency wrecker company license upon notice and hearing for one (1) or more of the following reasons:

- (1) The making of any false statement as to a material matter in an application for a license, license renewal, or in a hearing concerning a license.
 - (2) Use by the licensee of a trade name for his emergency wrecker company other than the one (1) registered with the Police Department.
 - (3) Suspension of a licensee's emergency wrecker company license on three (3) occasions within twelve (12) months for more than three (3) days on each occasion.
 - (4) Suspension of a licensee's emergency wrecker company's license for a deficiency that is detrimental to public safety and twenty (20) days have elapsed without a correction of the deficiency.
 - (5) A licensee or his employee is under indictment or convicted of a crime involving theft, unauthorized use of a motor vehicle, burglary of an automobile, or receiving and concealing stolen property, homicide, attempted homicide, aggravated assault with a motor vehicle, or driving while under the influence of alcohol or drugs unless five (5) years has elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date.
- (Ord. No. O-03-09, § 2, 2-27-2003)

Sec. 30-114. Insurance.

- (a) A licensee shall procure and keep in full force and effect automobile liability insurance and either garage keeper's liability insurance or tow truck cargo insurance written by an insurance company approved by the State of Texas and acceptable to the city and issued in the standard form approved

by the state board of insurance. All provisions of each policy must be acceptable to the city. The insured provisions of each policy must name the city and its officers and employees as additional insured and the coverage provisions must provide coverage for any loss or damage that may arise to any person or property by reason of the operation of an emergency wrecker service by the licensee.

(b) The automobile liability insurance must provide combined single limits of liability for bodily injury and property damage of not less than five hundred thousand dollars (\$500,000.00) for each occurrence, or the equivalent, for each motor vehicle used by the licensee, with a maximum deductible not to exceed the limits allowed by the Texas Safety Responsibility Act. Aggregate limits of liability are prohibited.

(c) The garage keeper's liability insurance or the tow truck cargo insurance, whichever is maintained, must provide limits of liability for any one loss of not less than twenty-five thousand dollars (\$25,000.00) for each light duty emergency wrecker and fifty thousand dollars (\$50,000.00) for each heavy duty emergency wrecker. The garage keeper's liability insurance must include a provision for direct primary coverage.

(d) If a vehicle is removed from service, the licensee shall maintain the insurance coverage required by this section for the vehicle until the Police Department receives satisfactory proof that all evidence of operation as an emergency wrecker has been removed from the vehicle.

(e) Insurance required under this section must include:

(1) A cancellation provision in which the insurance company is required to notify the Police Department in writing not fewer than thirty (30) days before canceling, failing to renew, or making a material change to the insurance policy; and

(2) A provision to cover all vehicles, whether owned or not owned by the licensee, operated under the license.

(3) Reserved.

(4) A license will not be granted or renewed unless the applicant or licensee furnishes the Police Department with such proof of insurance as the Police Department considers necessary to determine whether the applicant or licensee is adequately insured under this section.

(5) If the insurance of a licensee lapses or is cancelled and new insurance is not obtained, the Police Department may suspend the license until the licensee provides evidence that insurance coverage required by this section

has been obtained. A person shall not operate an emergency wrecker service while a license is suspended under this section whether or not the action is appealed.

(Ord. No. O-03-09, § 2, 2-27-2003)

Sec. 30-115. Powers and duties of the Police Department.

In addition to the powers and duties elsewhere prescribed in this article, the Police Department is authorized to:

- (1) Administer and enforce all provisions of this article;
- (2) Keep records of all licenses issued, suspended or revoked;
- (3) Keep records of all authorized emergency vehicles;
- (4) Adopt rules and regulations, after reasonable notice to the licensees, not inconsistent with the provisions of this article, with respect to the form and content of applications for licenses, the receipt thereof, the investigation of applicants, and other matters incidental or appropriate to his power and duties as may be necessary for the proper administration and enforcement of the provisions of this article;
- (5) Adopt new emergency wrecker procedures for experimentation on a temporary basis, after reasonable notice to the licensees;
- (6) Conduct, when appropriate, periodic investigations of emergency wrecker companies.
- (7) Require periodic reports as necessary to evaluate each emergency wrecker company's operations.

(Ord. No. O-03-09, § 2, 2-27-2003)

Sec. 30-116. Powers and duties of the applicable law enforcement agency.

In addition to the powers and duties elsewhere prescribed in this article, the applicable law enforcement agency is authorized to:

- (1) Enforce all provisions of this article;
- (2) Adopt rules and regulations, after reasonable notice to the licensees, not inconsistent with the provisions of this article, with respect to the investigation of applicants, and other matters incidental or appropriate to his powers and duties as may be necessary for the proper enforcement of the provisions of this article;
- (3) Adopt new emergency wrecker procedures for experimentation on a temporary basis, after reasonable notice to the licensees;

- (4) Conduct, when appropriate, periodic investigations of emergency wrecker companies throughout the city; and
 - (5) Keep records of service adequacy and responsiveness of licensees and provide these records to the Police Department upon request.
- (Ord. No. O-03-09, § 2, 2-27-2003)

Sec. 30-117. Wrecker rotation list procedure.

- (a) An emergency wrecker being called from the wrecker rotation list is referred to as the duty-wrecker. When an emergency wrecker is needed, the investigating police officer will communicate the need for an emergency wrecker immediately to police department dispatch center. On receiving the first communication, the dispatcher must call the emergency wrecker company on duty at that time, to remove the vehicle to a place designated by the applicable law enforcement agency. If additional equipment is required after the duty wrecker's resources are exhausted the dispatcher will call the next wrecker on the rotation list.
 - (b) If the investigating police officer or the dispatcher determines that use of the wrecker rotation list procedure would result in unreasonable delay in clearing the street, the nearest emergency wrecker may be called as an alternative to use of the procedure.
 - (c) A heavy-duty wrecker may be called to the scene of an accident under the following circumstances:
 - (1) The accident involves a tandem axle drive tractor.
 - (2) A safety officer or other appropriate official of a damaged vehicle's company requests a heavy duty wrecker unless honoring the request would result in unreasonable delay in clearing the street.
 - (3) The investigating police officer determines that a heavy-duty wrecker is required. The rotation procedure in this article applies to heavy-duty wreckers as well as all other wreckers.
- (Ord. No. O-03-09, § 2, 2-27-2003)

Sec. 30-117.01. Wrecker rotation list execution.

- (a) The city will maintain a yearly list of emergency wreckers who are on rotation in June.
- (b) Every Friday the Police Department will notify the police dispatcher the assigned wrecker for the rotation period beginning the next Monday morning at 8:00 a.m. and their assigned backup, as well as heavy duty

wrecker on call. This procedure will continue through the rotation wreckers on the list until all have had a period of rotation.

(Ord. No. O-08-11, § 5, 3-27-2008)

Sec. 30-117.02. Suspension/termination from rotation system.

(a) The Police Department may suspend a rotation wrecker service from the rotation system for any violation of a contract, any applicable city ordinance, any applicable civil statute, or any policy adopted by the Police Department under authority of city ordinance or a contract, or for any criminal offense committed by the service or by any driver, employee or agent of the service, in the course of providing services, whether or not the services are being performed as part of a rotation system call.

(b) A rotation wrecker that is suspended who is suspended by the Police Department for three (3) days or less may appeal the suspension by written request to the Police Department within ten (10) days after written notification of suspension. The Police Department shall conduct a hearing and may sustain, reverse, or modify the action appealed. The action of the Police Department is final.

(c) A rotation wrecker who is suspended by the Police Department for more than three (3) days may appeal the suspension to the appeals board. A written request to the Police Department must be made within ten (10) days after written notice to the licensee.

(1) The appeals board shall set a time, date, and place for a hearing and the licensee will be notified at least three (3) days prior to the hearing.

(2) The appeals board may sustain, reverse, or modify the action appealed. The action of the appeals board is final.

(Ord. No. O-08-11, § 5, 3-27-2008)

Sec. 30-117.03. Emergency situations.

When emergency conditions necessitate, the city reserves the right to request the services of the emergency wrecker service who, in the city's sole opinion, is the best able to handle the situation and/or can reach the scene most expeditiously, regardless of the emergency wrecker service position on the rotation log. If a dispatch is made under these circumstances, the emergency wrecker service making such a response will not forfeit its respective position on the rotation.

(Ord. No. O-08-11, § 5, 3-27-2008)

Sec. 30-118. Requirements and operating procedures for emergency wrecker service.

(a) An emergency wrecker company licensee shall comply with the following requirements and procedures:

- (1) Maintain twenty-four-hour wrecker service.
- (2) Arrive at the accident within a reasonable time after having been notified to do so by the applicable law enforcement agency, such response time generally not to exceed twenty-five (25) minutes.
- (3) Deliver, in every instance, the wrecked or disabled vehicle to a location designated by the applicable law enforcement agency.
- (4) Emergency wrecker that do not comply with State of Texas Motor Vehicle Laws is not allowed to participate in the wrecker rotation list.
- (5) Report to the Police Department all changes in emergency wreckers and equipment used in the licensee's emergency wrecker service and render all additional vehicles for inspection by the Police Department.
- (6) Employ emergency wrecker drivers who are not habitual violators of the traffic laws.
- (7) Upon arrival at the scene of an accident, promptly clear the wreckage and debris from the traveled portion of the roadway or confine it to the smallest possible portion of the traveled roadway while removal is taking place and in a manner to minimize the duration of interference with normal traffic flow and completely remove from the site of the accident all resulting wreckage or debris, including all broken glass, but excluding truck or vehicle cargoes, before leaving the site.
- (8) Nothing in this article shall be construed to permit operation of a wrecker as an authorized emergency vehicle.

(Ord. No. O-03-09, § 2, 2-27-2003)

Sec. 30-119. Disposition of towed vehicles.

A vehicle towed under the provisions of this article will be kept at a place designated by the applicable law enforcement agency until application for the vehicle's redemption is made by the owner or an authorized agent who will be entitled to the possession of the vehicle upon payment of all costs of removal and storage that may have accrued. If the owner or an authorized agent does not redeem the vehicle, the vehicle will be disposed of in a manner prescribed by law.

(Ord. No. O-03-09, § 2, 2-27-2003)

Sec. 30-120. Maximum fees to be charged for emergency wrecker service or nonconsensual tows.

The maximum fees charged by permit holders performing emergency wrecker service or nonconsent tows shall be set by resolution of the city council and shall reflect fair value of towing services. Itemized receipts shall be provided to owners or operators at the time payment of tow related fees is made. Violations of this provision may result in suspension or removal from the tow rotation list, and criminal penalties against the offender. Towing fees may be reviewed by the city council once annually upon request of a tow company. A towing fee study shall be performed in conjunction with this review.

(Ord. No. O-05-03, § 2, 2-10-2005)

PASSED, APPROVED AND ADOPTED this the ____ day of _____ 2021.

AYES: _____

NOES: _____

ABSTAINED: _____

APPROVED:

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

ATTEST:

CITY SECRETARY

ITEM 6D

ORDINANCE

**CONSIDER APPROVAL OF AN
ORDINANCE AMENDING THE 2021
ANNUAL BUDGET TO PROVIDE FOR
YEAR-END ADJUSTMENTS IN
SELECTED DEPARTMENTS**



MEMORANDUM

To: Members of the City Council

From: Dawn I. Jones, Finance Director

cc: Mark Rohr, City Manager
Nikki Smith, City Secretary

Date: 12/3/2021

Re: Budget Amendment

A budget amendment of \$100,000 is requested to move budget from Salaries & Wages (S&W) to Maintenance and Operating (M&O) to cover line items that are overextended in the Fire Department.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING ORDINANCE NO. O-20-23 TO AMEND THE
2021 ANNUAL BUDGET OF THE CITY OF MARSHALL, TEXAS**

WHEREAS, on September 24, 2020 the City of Marshall, Texas passed Ordinance No. O-20-23 adopting the 2021 annual budget; and

WHEREAS, the appropriations for the fiscal year beginning January 1, 2021 and ending December 31, 2021 be amended to transfer budget of \$100,000 from Salary & Wages (S&W) to Maintenance & Operating (M&O) to cover overextended M&O lines within the Fire Department budget.

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

The City of Marshall, Texas desires to amend the 2021 annual budget.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 2021.

AYES: _____

NOES: _____

ABSTAINED: _____

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

ATTEST:

CITY SECRETARY

ITEM 7A

PRESENTATION OF THE CITY OF MARSHALL AUDIT REPORT FOR THE 2020 FISCAL YEAR

MEMORANDUM

To: Members of the City Council

From: Dawn Jones, Finance Director

Date: December 3, 2021

Subject: Presentation of Audit for 2020 Fiscal Year

Knuckols, Duvall, Hallum & Company has completed the audit of the City's 2020 fiscal year. Representatives of the company will be at the meeting to present their report.

ITEM 7B

**CONSIDER APPROVAL BY THE CITY
COUNCIL OF MARSHALL, TEXAS FOR
THE ACTING MAYOR TO SIGN A
LETTER DESIGNATING AN EB-5
TARGETED EMPLOYMENT AREA**

December 3, 2021

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

Honorable City Council Members of Marshall, Texas

I have been contacted by Impact DataSource to assist with their client, a local business, who request to establish a Target Employment Area (TEA) for purposes of the U.S. Citizenship and Immigration Services EB-5 program. More details are enclosed with this letter. Many states have departments to manage such requests, however the State of Texas delegates this authority to certify TEAs in Texas to City Mayors and County Judges.

At the request of Mayor Amy Ware, I am bringing this request and enclosed documentation to the entire Council. This is not a Marshall EDC project. Marshall EDC has however, utilized Impact DataSource in the past for analysis of economic data concerning projects and know them to be a leader in their field and highly reputable. I have reviewed the enclosed material provide by Impact DataSource and I agree with their findings that the business location in question falls in an area that qualifies as a TEA.

I have provided a copy of the letter required to certify the area as a TEA. I am available to answer any questions. Please feel free to contact me at (903) 934-8035.

Respectfully,



Rush Harris
Executive Director
Marshall Economic Development Corporation

Encl (2 documents, 5 pages)



September 14th, 2021

Mayor Amy Ware
 City of Marshall
 401 S Alamo Boulevard
 Marshall, TX 75670

Dear Mayor Ware,

My firm, Impact DataSource, studied the labor market in the Marshall, TX area and calculated unemployment rates to determine if the area around 5301 East End Blvd S, Marshall, TX, 75672 is located in a geographic or political subdivision that meets the "high unemployment area" definition, 8 CFR 204.6(e) and (j)(6), ("HUA" or Targeted Employment Area, "TEA"), and would therefore qualify for the \$500,000 minimum investment threshold as a non-rural TEA for EB-5 program purposes. Impact DataSource has determined that 5301 East End Blvd S, Marshall, TX, 75672, which falls in Block Group 3, Census Tract 205.02, Harrison County, Texas, is located within an area that qualifies as a TEA.

Impact DataSource, an Austin, Texas economic consulting firm, is experienced in TEA calculations and the various TEA methodologies employed by states and accepted by the USCIS. In our consulting experience, we have prepared hundreds of EB-5 job creation reports and assisted hundreds of clients in obtaining TEA certifications from states that meet USCIS requirements. In addition, Impact DataSource regularly assists cities in Texas preparing USCIS-compliant data and TEA certification letters.

The determination of eligibility is based on analysis of labor force data and the application of the census-share method, as described in the U.S. Bureau of Labor Statistics, Local Area Unemployment Statistics Program Manual. In our census-share calculations, we relied on the most recent data from the American Community Survey produced by the U.S. Census Bureau to determine the proportion of county employment and county unemployment existing in specific block groups. We also used the 2020 BLS annual average civilian employment and unemployment at the county level. These data sets were used to determine the qualifying block groups with unemployment meeting or exceeding the current required threshold rate of 12.2% as described below.¹

The proportion of county employment and the proportion of county unemployment existing in a specific block group are calculated with the following formula:

$$\text{Employment Factor} = \frac{\text{Block Group Employment}}{\text{County Employment}}$$

¹ The qualifying high unemployment rate threshold is 150% of the 2020 national unemployment rate of 8.1%. Therefore, the qualifying high unemployment rate when using 2020 annual unemployment data is 12.2%.

$$\text{Unemployment Factor} = \frac{\text{Block Group Unemployment}}{\text{County Unemployment}}$$

The above calculations utilize county- and block group -level data from the American Community Survey 2015–19.

Next, we apply the above factors to 2020 BLS annual average employment and unemployment data for the county in order to obtain the 2020 employment and unemployment figures for the block group.

$$\begin{aligned} \text{2020 Block Group Employment} \\ &= \text{Employment Factor} \\ &\times \text{2020 BLS Annual Average County Employment} \end{aligned}$$

$$\begin{aligned} \text{2020 Block Group Unemployment} \\ &= \text{Unemployment Factor} \\ &\times \text{2020 BLS Annual Average County Unemployment} \end{aligned}$$

Finally, we determine the block group unemployment rate using the following formula:

$$\text{2020 Block Group Unemployment Rate} = \frac{\text{2020 Block Group Unemployment}}{\text{2020 Block Group Labor Force}}$$

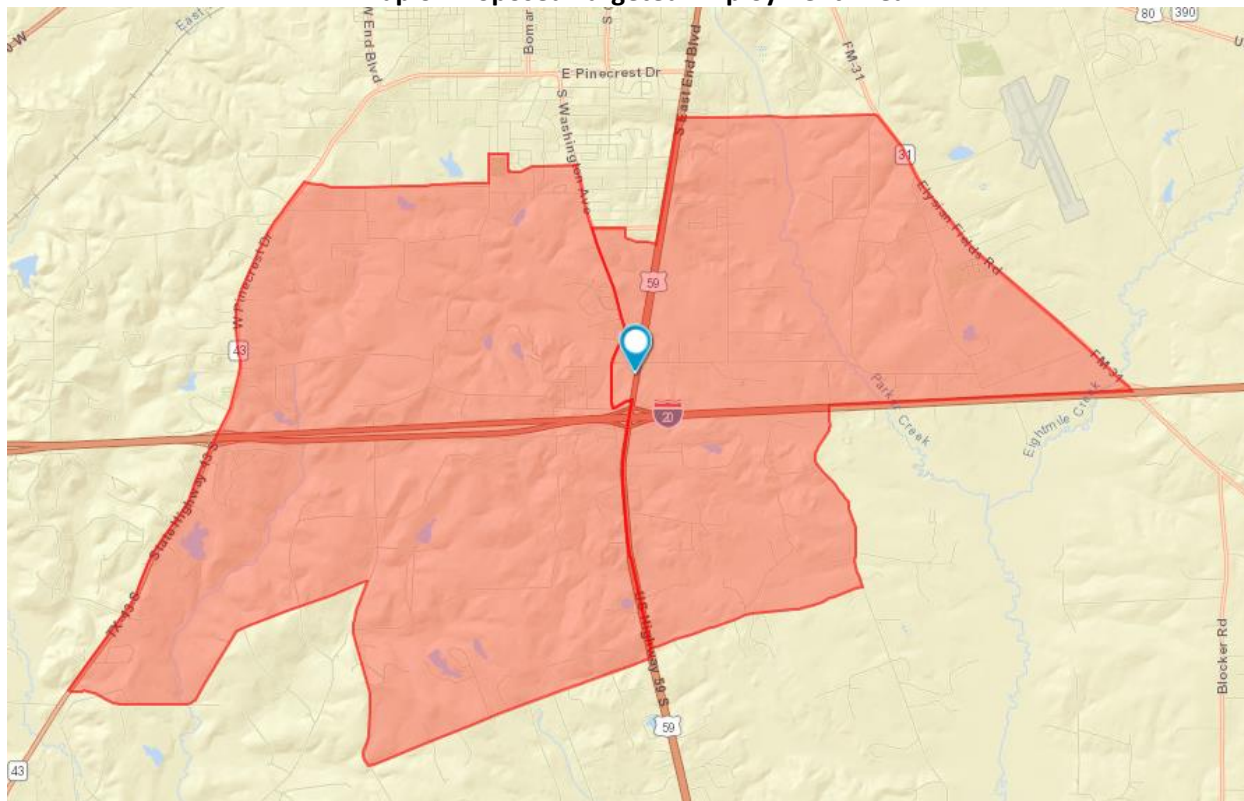
where

$$\begin{aligned} \text{2020 Block Group Labor Force} \\ &= \text{2020 Block Group Employment} + \text{2020 Block Group Unemployment} \end{aligned}$$

The table below summarizes the block group unemployment rate data for the area encompassing 5301 East End Blvd S, Marshall, TX, 75672.

Unemployment Estimates for Selected Block Group(s) in Harrison County, TX Based on Census-Share Calculations Utilizing BLS CY20 and ACS 15-19				
Block Group	Labor Force	Employed	Unemployed	UE Rate
Block Group 3, Census Tract 205.02	237	237	0	0.0%
Block Group 1, Census Tract 205.02	543	445	98	18.0%
Total:	780	682	98	12.6%

The TEA is shown in the map below.

Map of Proposed Targeted Employment Area

Former Governor Rick Perry delegated authority to certify TEAs in Texas to City Mayors and County Judges. Based on that authority, I would like to formally request a TEA certification for the proposed site. Please let me know if you have any questions about this analysis.

Sincerely,

A handwritten signature in black ink that reads "Michael Kester". The signature is written in a cursive style.

Michael Kester, Partner and Economist
Impact DataSource, LLC

Letterhead

December ____, 2021

U.S. Citizenship and Immigration Services (USCIS)
Immigrant Investor Program Office
131 M Street NE
Mailstop 2235
Washington, DC 20529

RE: EB-5 Designation of Targeted Employment Area

To Whom It May Concern:

As Mayor of Marshall, TX, by the authority granted to me by the State of Texas, I hereby designate that the following census block group(s) compose a Targeted Employment Area (TEA):

Block Group 3, Census Tract 205.02, Harrison County, Texas
Block Group 1, Census Tract 205.02, Harrison County, Texas

Based on available information, the site at 5301 East End Boulevard S, Marshall, TX 75672, is located within Block Group 3 of Census Tract 205.02 in Harrison County, Texas and is included in the TEA described above.

The determination of eligibility is based on analysis of labor force data and the application of the census-share method, as described in the U.S. Bureau of Labor Statistics, Local Area Unemployment Statistics Program Manual. The unemployment calculations were made using the American Community Survey 2015-2019 data for the purpose of establishing ratios of census block group-to-county shares of employment and unemployment. Furthermore, county-level unemployment was obtained from the Bureau of Labor Statistics 2020 annual Local Area Unemployment Statistics. These data sets were used to determine the qualifying subareas with unemployment meeting or exceeding the current required threshold of 12.2%.

Verifiable data from the Bureau of Labor Statistics concludes that the 2020 unemployment rate in the area composed of the census block group(s) described above is 12.6%, which exceeds the threshold rate of 12.2%, or 150% of the 2020 average national unemployment rate of 8.1%, according to the Bureau of Labor Statistics.

The City of Marshall has not investigated the proposed project, nor has it made an assessment about the quality of the project, or the potential for earnings of the project referenced in this letter. The City of Marshall only verifies that the area designated is an area of high unemployment and is contiguous. Projects in a TEA are not affiliated with, or sponsored by, the City of Marshall.

Thank you for your time and consideration.

Sincerely,
Amy Ware
Mayor, City of Marshall

DRAFT

ITEM 7C

**CONSIDER APPROVAL OF A MEMO OF
UNDERSTANDING REGULATING AND
ALLOWING TO OPERATE A SCOOTERS
PROGRAM IN DOWNTOWN**



TO: Mark Rohr, City Manager

FROM: Fabio Angell, Director
Community and Economic Development

DATE: December 9th, 2021

SUBJECT: Consider and approve Memo of Understanding (MOU) to allow a mobility system operator to operate a motor assisted vehicle (scooter) program in the City

City staff would like City Council to consider allowing a scooter program to start operations in the City's downtown, as a pilot project over the next 12 months. This would add an interesting amenity to downtown, a fun activity to enjoy with family and friends. At no cost to the City.

Studies show this type of transportation system drives consumer spending, providing a financial boon to local economies. They can also increase pedestrian traffic and visits to downtown which in turn can help showcase the myriad activities, cultural resources and consumer choices that exist in downtown. With the recent opening of Piney Park with an average of 2,500 visitors each day, the City could also expect a significant influx of visitors to visit downtown on a scooter.

The proposed MOU would allow scooters to operate in the City's original town site comprised of 64 city blocks. It is an area that encompasses over 90% of the City's newly established TIRZ (Tax Increment Reinvestment Zone a.k.a. The Banjo Zone) and a big chunk of the City's new Cultural Arts District. The latter is a special zone that harnesses the power of cultural resources in order to stimulate pedestrian traffic, economic development and Main Street revitalization.

A scooter program can help drive consumer spending and visits to all these areas. These districts can then become focal points for generating new businesses, attracting tourists and stimulating cultural development. The ultimate outcome is to foster civic pride and create a sense of place and vitality in our historic Main Street and downtown.

The proposed MOU would enhance and strengthen the City's "Mobilize Marshall Strategic Plan". Specifically, it would enhance Goal 5: "Downtown Redevelopment" including Objective 5.1: Make Downtown a Destination.

This recommendation also falls in line with objective 6 of the City's Comprehensive Plan. That is, to Establish the Downtown Activity Center future land use designation in order... to encourage a greater level of activity in Downtown, while protecting the scale and strengthening the character of the City's historic core: Main Street Marshall.

Memorandum of Understanding

The City of Marshall will permit Bird Rides, Inc. to provide services under the following terms and limitations. This agreement shall remain in effect until December, 2022 unless terminated as set forth below.

AGREEMENT

- 1) Scope: This Agreement and its terms apply to any proposed deployment of Stand-up electric scooter sharing systems within the boundaries described in this agreement. No person shall deploy a Stand-up electric scooter sharing system in the City in violation of this Agreement. Scooters may be used at public facilities pursuant to City of Marshall Code of Ordinances, Ord. 21-A.
- 2) This memorandum of understanding shall be “written consent” for the use of Stand-Up Electric Scooters under City of Marshall Code of Ordinances, Ord. 21-21(b). All stand-up electric scooters deployed under this agreement shall be licensed for use on the streets and highways as required under City of Marshall Code of Ordinances, Ord. 21-A and the laws of the State of Texas
- 3) To obtain a permit to operate a scooters system, Bird Rides, Inc. must submit an application on a form provided for that purpose to the Community & Economic Development Department. The permit fee shall be \$500 per annum.
- 4) The permissible boundaries for use of stand up electric scooters shall be as follows:

 West of Grand Avenue to the South
 Grove Street to the East
 Alamo Blvd. to the West
 Travis Street to the North
- 5) Within this area, Bird Rides, Inc. shall work with city staff to identify and designate specific parking spots as homes for no more than eight (8) scooters at a time. In addition, scooters shall not circulate on sidewalks and their speed limit shall be no more than 15 miles per hour.
- 6) Stand-up electric scooters shall be governed by the rules applying to motor assisted vehicles or scooters and are to be ridden on streets, and where available, in bike lanes and bike paths. Stand-up electric scooters are to stay to the right of street lanes and to offer the right of way to bicycles in bike lanes and on bike paths. Users of Stand-up electric scooters shall be 18 or older. Users of Stand-up electric scooters who violate these provisions may be fined by Marshall consistent with existing City Ordinances.

- 7) Bird Rides, Inc. shall provide easily visible contact information, including toll-free phone number and/or e-mail address on each Stand-up electric scooter for members of the public to make relocation requests or to report other issues with devices.
- 8) Hours of operation: Stand-up electric scooters will be made available to rent from 4 a.m. to midnight (local time)
- 9) Bird Rides, Inc. shall provide a minimum of 50 vehicles at launch.
- 10) Safety Education: Bird Rides will provide materials, videos, signage to promote safe riding and educate riders on rider responsibilities and encourage safe and courteous riding and parking.
- 11) Data sharing: Bird Rides, Inc. will provide data to the City as necessary to assist with monitoring program usage including assurance that
- 12) Indemnification: Bird Rides, Inc. agrees to indemnify, defend and hold harmless the City of Marshall, Texas, and its employees, agents, partners, contractors, subcontractors and affiliates (referred to collectively as “the indemnified parties” herein) from and against all actions, damages or claims brought against the indemnified parties arising out of Bird Rides, Inc.’s providing stand up electric scooters in Marshall, Texas, or arising out of this contract, including claims by the indemnified parties against Bird Rides, Inc. Bird Rides, Inc.’s duty to defend the indemnified parties under this provision shall include any claims filed in a court of competent jurisdiction, any administrative proceedings, and any arbitration proceedings against the indemnified parties. As part of Bird Rides, Inc.’s duty to defend under this agreement, the indemnified parties shall have the right to select the attorney who provides a defense on behalf of the indemnified parties, and the indemnified parties must approve any terms of settlement in writing. Bird Rides, Inc., must defend the indemnified parties even in the event that a claim or suit is based in part on the negligence of the indemnified parties and in part on the negligence of Bird Rides, Inc. The indemnified parties’ right to indemnification shall be arise upon the indemnified parties’ notifying Bird Rides, Inc. promptly following receipt or notice of any claim. The indemnified parties shall not consent to the entry of a judgment or enter into any settlement without the prior written consent of Bird Rides, Inc. Bird Rides, Inc.’s obligations under this paragraph shall survive the termination of this contract.

THE INDEMNITY CONTAINED IN THIS PARAGRAPH (I) IS INDEPENDENT OF BIRD RIDES, INC.’ S INSURANCE, (II) WILL NOT BE LIMITED BY COMPARATIVE NEGLIGENCE STATUTES OR DAMAGES PAID UNDER THE WORKER’S COMPENSATION ACT OR SIMILAR EMPLOYEE BENEFITS ACTS, (III) WILL SURVIVE THE END OF THE TERM, AND (IV) WILL APPLY EVEN IF AN INJURY IS CAUSED IN WHOLE OR IN PART BY THE

ORDINARY NEGLIGENCE OR STRICT LIABILITY OF THE INDEMNIFIED PARTIES, BUT WILL NOT APPLY TO THE EXTENT AN INJURY IS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE INDEMNIFIED PARTIES.

- 13) Insurance: Bird Rides, Inc. shall provide with proof of insurance coverage exclusively for the operation of Stand-up electric scooters, naming the City of Marshall, Texas as an additional insured, and including: (a) Commercial General Liability insurance coverage with a limit of no less than \$1,000,000.00 each occurrence and \$2,000,000.00 aggregate; (b) Automobile Insurance coverage with a limit of no less than \$1,000,000.00 each occurrence and \$1,000,000.00 aggregate; and (c) where Bird Rides, Inc. employs persons within the City, Workers' Compensation coverage of no less than the statutory requirement.
- 14) Notices: All notices and communications to the City from Bird Rides, Inc. shall be made in writing (includes electronic communications) and sent to the address below.
- 15) Either party may terminate this agreement at any time and without cause upon (30) days prior written notice.
- 16) In carrying out their responsibilities, the parties shall remain independent contractors, and nothing herein shall be interpreted or intended to create a partnership, joint venture, employment, agency, franchise or other form of agreement or relationship.
- 17) The parties acknowledge that Bird Rides, Inc. may utilize independent business logistics providers to facilitate local operations. Bird's use of these logistics providers does not constitute a transfer or assignment of this Agreement, and Bird Rides, Inc. remains responsible for all obligations and requirements under this Agreement.
- 18) This agreement shall be governed by and construed in accordance with the laws of Texas.

Marshall, TX

Bird Rides, Inc.

Signed By:

Signature: _____

Print Name: _____

Title: _____

Signature: _____

Print Name: _____

Title: _____

ITEM 7D

DISCUSS SALE OF SURPLUS PROPERTY TRACT #1

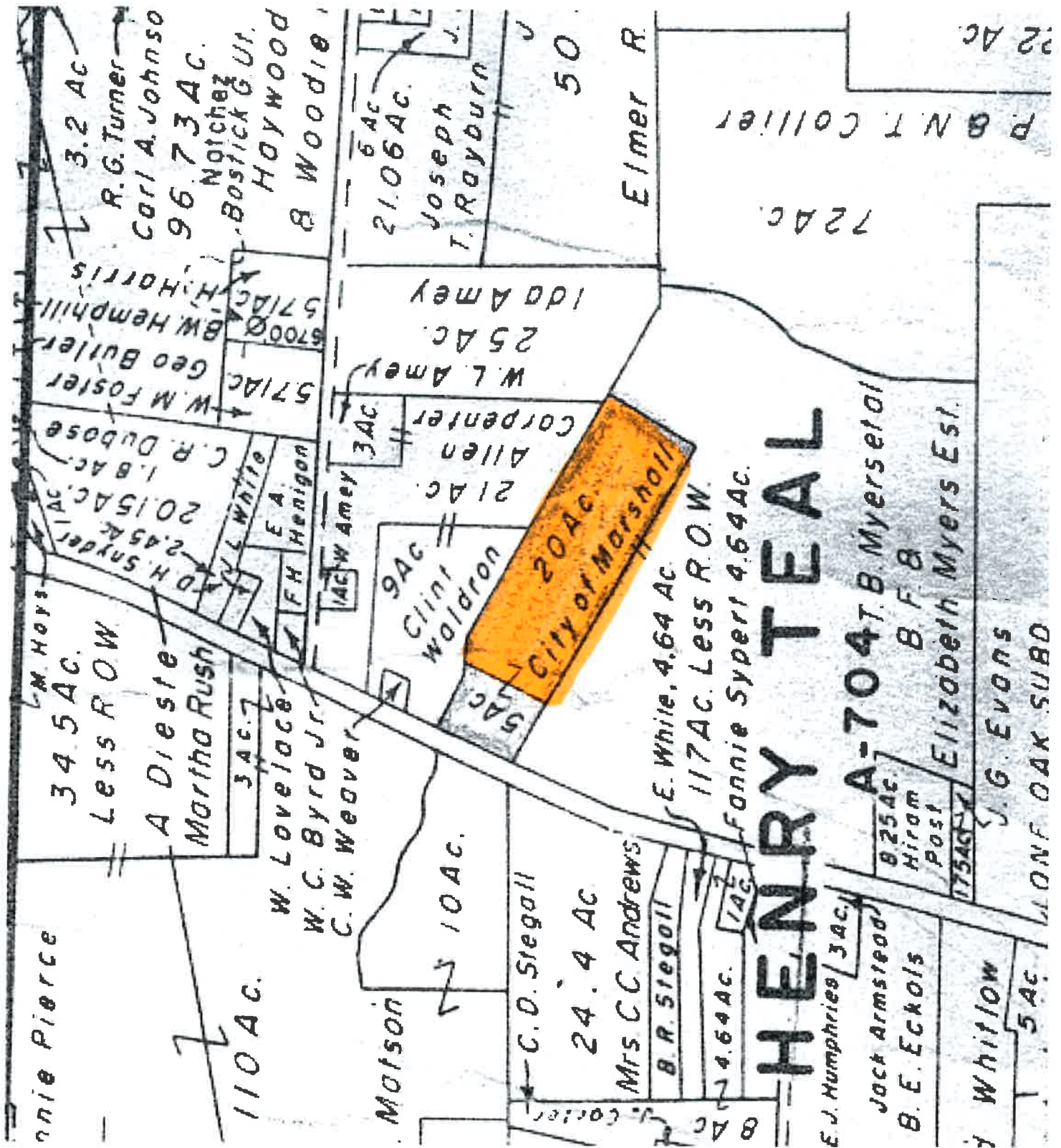
SALE OF SURPLUS PROPERTY

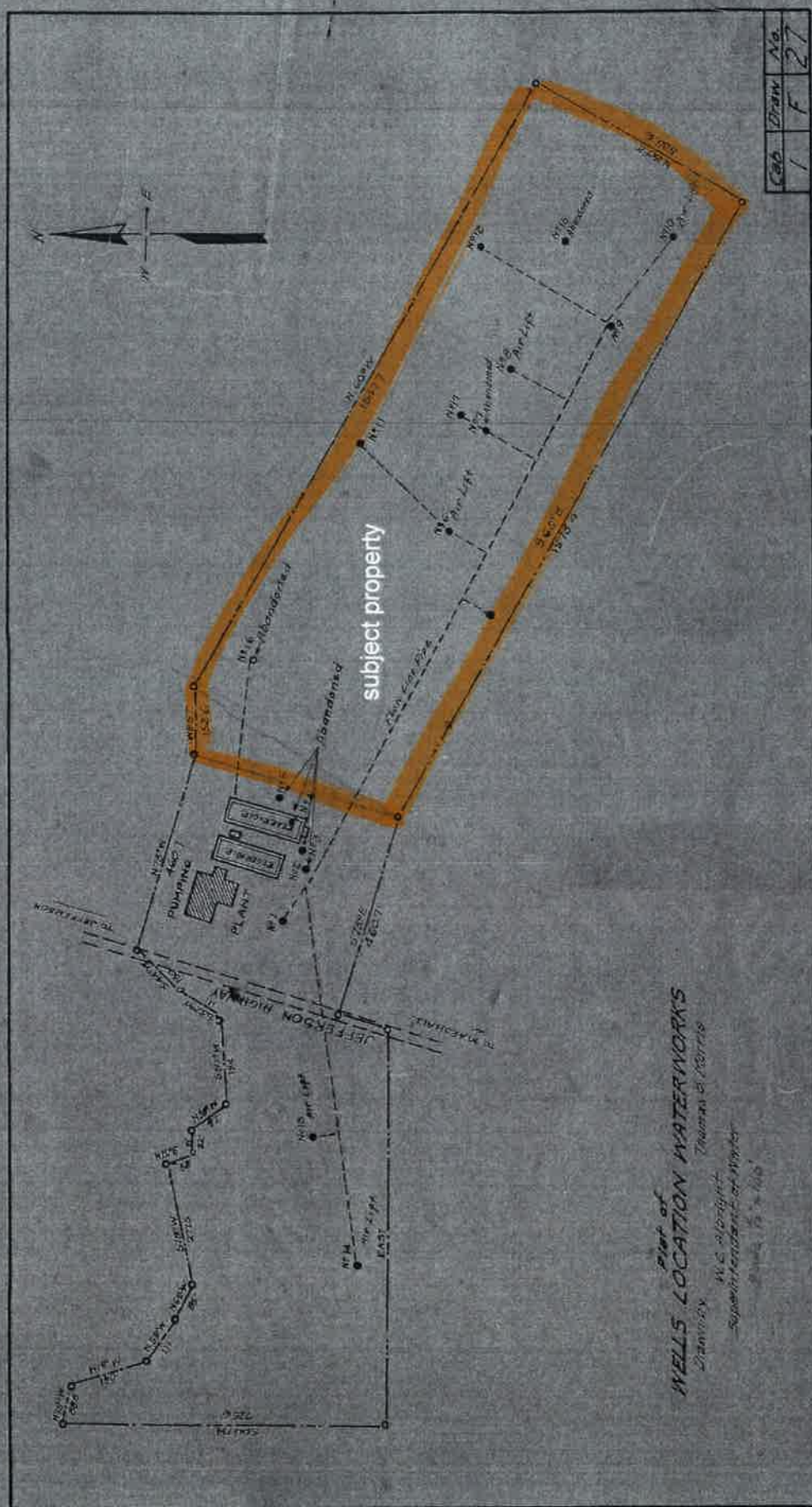
TRACT #1:

Acres: 20.000, Abst: 704 H TEAL, CITY OLD WATER WORKS
Parcel # R000048346, Geographic #00704.00940.00000.000000
3820 U.S. Highway 59 North. (Deed ref. Volume 216 pg. 455)

HISTORY

This 20.00 acre tract of land was purchased by the City of Marshall in 1910. It was utilized for extracting groundwater, then treating it, and transporting it to a water tower on Lake Street to supply water to the northern portion of the city. That procedure was discontinued in 1946 when Marshall began transporting raw water from Big Cypress Bayou. The property has been idle for 75 years. The City of Marshall had an appraisal completed on the property for \$90,000. However the appraisal was done on 25 acres that was deeded in two tracts. One tract for 20 acres and the other for 5 acres. After some research it was discovered that the 5 acre tract had a revert clause, it states that the City of Marshall is to use the five acres of land for water treatment. If it discontinues that use the five acres will revert back to the original owners. The property was advertised for sealed bid June 27th and July 4th. There was one bid submitted by Mac Abney for \$53,326.00. The property was advertised for bid for a second time on August 1st and August 8th 2021. Two Bids were submitted. Mac Abney for \$54,025.00. And a bid of \$24,057.00 from D. John Galbraith. Since the bids received was less than the appraised value. By Texas Local Government Code Sec. 253.014, states, the governing body of a home-rule municipality may contract with a broker to sell a tract of real property that the municipality owns. The City then listed the property for sale with Century 21 Real Estate(Colin Brady, a licensed broker) for \$60,000.00. We received an offer of \$54,000 form Mac Abney.





Plot of
WELLS LOCATION WATERWORKS
Drawing by W.C. Albright
Thomson & Morris
Superintendent of Water
June 15, 1910

ITEM 7E

DISCUSS SALE OF SURPLUS PROPERTY TRACT #2

SALE OF SURPLUS PROPERTY

TRACT #2:

Acres: 0.306, Abstract 704 H TEAL, STORE. Parcel #R00002704400
Geographic #704.01420.00000.000000. 3012 East End Blvd. As described
in that deed recorded Under instrument No. 2017-000012526 in the official
public records of Harrison County, Texas.

HISTORY

This 0.306 acre tract was conveyed to the City of Marshall in 2017. The City of Marshall has no use for this property. The City of Marshall had an appraisal completed. The appraisal was \$31,000.00. The property was advertised for sealed bid August 1st and August 8th. We received no bids at that time. It was advertised again on October 24th and October 31. Two bids were submitted. One for \$16,276.00 by Mr. G. Worley. The other for \$31,531 by Mr. Earnest Crookshank. Mr. Crookshank also included in his packet a document, if approved, to pay out the sale amount for 12 months.





ITEM 7F

DISCUSS SALE OF SURPLUS PROPERTY TRACT #3

SALE OF SURPLUS PROPERTY

Tract #3-

Acres: 0.478, Lots 8 thru 11 Sexton First Addition. Parcel # R000039669. Geographic #04865.00457.00000.000000. 706 Key Street. As described in that deed recorded in Volume 221, Page 544 of the deed records of Harrison County , Texas
(Save and except the north 20' feet of Lot 11)

HISTORY

This property was purchased by the City Of Marshall in 1937. A water tower was constructed in the same year. The water tower was taken off line in 2002 when two new water towers were constructed. The water tower was demolished in 2003. The Property is composed of four lots valued at \$3950.00 according to the appraisal district tax valuations. It was determined that the property did not warrant an appraisal based on the value. We receive one bid of \$5000.00 from Mr. Jerry Pilot. The City of Marshall will retain ownership of the Northern 20 feet of lot 11 where there is an existing warning system siren.



ITEM 8

CONSIDERATION OF ITEMS WITHDRAWN FROM THE CONSENT AGENDA

ITEM 9A

EXECUTIVE SESSION

**AN EXECUTIVE SESSION PURSUANT TO
THE OPEN MEETINGS ACT, CHAPTER
551 OF THE TEXAS GOVERNMENT
CODE UNDER SECTION 551.074
PERSONNEL MATTERS: INTERVIEW
WITH INTERIM CITY MANAGER
CANDIDATE**

ITEM 10A

ACTION ITEM FOLLOWING EXECUTIVE SESSION

ITEM 11

ADJOURNMENT