# CITY OF MARSHALL

# COMMISSION AGENDA INFORMATION SHEET:

**MEETING DATE:** July 29, 2015

**PROJECT:** Consider and act on a recommendation to approve an extension of the short-term treated Water Supply Contract with Norit Americas, Inc. for a period commencing August 01, 2015, and terminating no later than August 31, 2015, with the current water rate structure. (Public Services Director)

**DESCRIPTION:**
Our current Water Supply Contract extension with Norit Americas, Inc. expires July 31, 2015, and needs to be extended while staff and the City Commission negotiate a new long term contract. In the interest of continuing to supply Norit Americas, Inc. with water needed for their manufacturing process and continued expansion efforts, we propose an extension of the current short-term extension contract, at the current extension water rate of $1.15 per one thousand gallons of water.

The proposed extension continues with all existing terms and conditions, except the contract term will terminate no later than August 31, 2015. A copy of the proposed Amendment and Extension to Water Supply Contract is attached for your consideration.

**COST:**
N/A

| **FUNDING:** | **Acct. Name & No** | **Original Budget** |
|---|---|---|
| N/A | | |

**RECOMMENDED CITY COMMISSION ACTION:**
Staff recommends approval of the attached Amendment and Extension to the Water Supply Contract with Norit Americas, Inc. for a period commencing August 01, 2015, and terminating no later than August 31, 2015, with the existing water rate structure of $1.15 per one thousand gallons of water.

**CITY CONTACT:** J. C. Hughes, Public Services Director – 903-503-4503

**ATTACHMENTS:**
Amendment to Water Supply Contract – Norit Americas August 2015

STATE OF TEXAS '

' KNOW ALL MEN BY THESE PRESENTS

COUNTY OF HARRISON '

AMENDMENT AND EXTENSION TO WATER SUPPLY CONTRACT
NORIT AMERICAS INC. – AUGUST 2015

Water Supply Contract (hereinafter called Agreement) is hereby amended and entered into, by and between the City of Marshall, Texas (hereinafter called City), a municipal corporation, and Norit Americas, Inc., a private manufacturing corporation, (hereinafter called Norit) acting through its duly authorized representative:

WITNESSETH:

WHEREAS, the City of Marshall owns and operates a water supply and water distribution system with sufficient supplies of water capable of serving the manufacturing needs of Norit Americas; and,

WHEREAS, the City of Marshall and Norit Americas, Inc, previously entered into a Water Supply – Amendment and Extension Contract which expires July 31, 2015, and Norit Americas, Inc. desires to continue an uninterrupted delivery of the treated water supply through existing connections with the City of Marshall for its manufacturing needs; and

WHEREAS, both parties agree that the City of Marshall is able and willing to continue supplying a treated water supply, and Norit Americas, Inc. desires to continue purchasing water until such time as a new long term Water Supply Contract can be developed, which can take an extended period of time; and,

WHEREAS, both parties concur that the terms, conditions, and considerations stated in the existing Agreement therein are fair, just, and reasonable and will mutually benefit the parties and serve the public interest, save and except the water rate schedule; and,

NOW THEREFORE, in consideration of the mutual promises, covenants, and considerations set forth in the Agreement amendment herein, the parties hereto agree as follows:

## ARTICLE I
## WATER RATE AND TERM

City agrees to supply Norit with their treated water supply needs, at an amended rate of $1.15 per thousand gallons of water for a period commencing on August 01, 2015, and ending August 31, 2015, subject to the same terms and conditions as set forth in the existing Agreement.

## ARTICLE II
## ASSIGNMENT

This Agreement shall be binding upon and inure to the benefit of the respective parties hereto and their legal successors but the same shall not be otherwise assignable in whole or in part by either party without first obtaining the written consent of the other.

## ARTICLE III
## APPLICABLE LAW

The Constitution and the laws of the State of Texas and the decisions of its Courts shall govern with respect to any question or controversy which may arise hereunder. Venue for any actions arising under this Amendment in state courts shall lie exclusively in the courts of Harrison County, Texas. Venue for any actions arising under this Agreement in federal courts shall lie exclusively in the Eastern District of Texas, Marshall Division.

## ARTICLE IV
## NOTICES

Any notice, request or other communication under this Agreement shall be given in writing and shall be deemed to have been given by any party to the other party upon either of the following dates:

a. The date of the mailing thereof, as shown by a post office receipt, if mailed to the party hereof by registered or certified mail at the latest address specified for such other party in writing; or

b. The date of the receipt thereof by such other party if not so mailed by registered or certified mail.

## ARTICLE V
## MISCELLANEOUS

a. In case any one or more of the Articles, sections, provisions, clauses, or words of this Agreement shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other Articles, sections, provisions, clauses, or words of this Agreement and it is intended that this Agreement shall be severable and shall be construed and applied as if such invalid or unconstitutional Article, section, provision, clause, or word had not been included herein.

b. Parties agree this Agreement may be mutually terminated during the term stated herein above, if parties enter into a new long term Agreement prior to August 31, 2015.

c. Except as modified herein all of the other terms and conditions of the previous Water Supply Contract are hereby continued in full force and effect.

d. This Agreement contains all of the agreements between the parties.

IN WITNESS WHEREOF, this Agreement is entered into and parties executed this Agreement in duplicate originals on this the 29th day of July, 2015.

CITY OF MARSHALL
401 South Alamo
Marshall, Texas 75670

_____
Lisa Agnor
City Manager

ATTEST:

_____
Debbie Manuel
City Secretary

NORIT AMERICAS, INC.
PO Box 790
Marshall, Texas 75671

By: _____

Title: _____