Memorandum

To: Lisa Agnor, City Manager

From: Deborah Manuel, Acting City Secretary/Finance Director

Subject: An Ordinance accepting a Petition supporting a Local Option Election to legalize the sale of alcoholic beverages; ordering a Local Option Election to be held on May 7, 2016 regarding legalizing the legal sale of all alcoholic beverages for off-premise consumption only; providing that said Election shall be conducted in the same manner as the City's General Election and in accordance with approved Contract with the Harrison County Election Office; and providing an Effective Date.

Date: January 8, 2016

The following Ordinance is presented to the Marshall City Commission based upon the Certification of Verification of Local Option Liquor Petition presented under the Consent Agenda. This election is regarding properties annexed since the Local Option Election that took place on May 8, 1965. An unsuccessful local option election has no effect on the current option status. If the option does not pass, the current status will not change.

O-16-__
ORDINANCE

AN ORDINANCE ACCEPTING A PETITION SUPPORTING A LOCAL ALCOHOL OPTION ELECTION TO LEGALIZE THE SALE OF ALCOHOLIC BEVERAGES; ORDERING A LOCAL OPTION ELECTION TO BE HELD ON MAY 7, 2016 REGARDING LEGALIZING THE LEGAL SALE OF ALL ALCOHOLIC BEVERAGES FOR OFF-PREMISE CONSUMPTION ONLY; PROVIDING THAT SAID ELECTION SHALL BE CONDUCTED IN THE SAME MANNER AS THE CITY'S GENERAL ELECTION AND IN ACCORDANCE WITH APPROVED CONTRACT WITH THE HARRISON COUNTY ELECTION OFFICE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on September 8, 2015, in accordance with Section 501.023(a) of the Texas Election Code, the City Secretary received an application for a petition from 10 or more qualified voters of the City of Marshall and proof of publication in a newspaper in the City of Marshall pertaining to the circulation of a local option election petition to legalize "the legal sale of all alcoholic beverages for off-premise consumption only" in the City of Marshall; and

WHEREAS, in accordance with Texas law the Local Option Election if approved will allow the sale of alcohol for off-premise consumption within all areas of the city limits, including the areas of the City that were annexed after 1965; and

WHEREAS, in accordance with the Texas Election Code Chapter 501, the failure of this proposition will not de-authorize or otherwise change the areas within the City that are currently authorized to permit the legal sale of alcohol: and

WHEREAS, in accordance with Section 501.026 of the Texas Election Code, the City Secretary reviewed the application, the affidavit of publication, and the proposed petition, and concluded that they met the requirements of state law; and

WHEREAS, on September 28, 2015, in accordance with Section 501.030 of the Texas Election Code, the City Secretary issued to the applicants a petition to legalize "the legal sale of all alcoholic beverages for off-premise consumption only"; and

WHEREAS, in accordance with Section 501.023(b) of the Texas Election Code, the City Secretary notified the Secretary of State and the Texas Alcoholic Beverage Commission that a petition had been issued to legalize " the legal sale of all alcoholic beverages for off-premise consumption only"; and

WHEREAS, on November 25, 2015, in accordance with Section 501.032 of the Texas Election Code, the City Secretary received a signed petition from the applicants; and

WHEREAS, in accordance with Section 501.031 of the Texas Election Code, the City Secretary verified that the petition was signed by at least 1,531 signers who are qualified voters of the City of Marshall (which equals at least 35 percent of the registered voters in the City of Marshall who voted in the most recent gubernatorial election for an election on any other ballot issue) and, therefore, is sufficient to require the ordering of a local option election to legalize " the legal sale of all alcoholic beverages for off-premise consumption only"; and

WHEREAS, May 7, 2016, is the next uniform election date;

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

Section 1. Recitals Incorporated.

The above-referenced recitals are incorporated herein as if set forth in full for all purposes.

Section 2. Acceptance of Petition.

In accordance with the Texas Election Code, the City Commission hereby accepts the petition as presented by the City Secretary, and determines it is sufficient to require the ordering of a local option election to legalize " the legal sale of all alcoholic beverages for off-premise consumption only" in the City of Marshall.

Section 3. Entry Into Minutes.

In accordance with Section 501.033 of the Texas Election Code, the City Commission directs the City Secretary to enter into its minutes the date of presentation of the petition to the City Commission, the names of the signers (as contained in the petition, attached as an exhibit to the minutes), and the City Commission's determination that the petition is sufficient.

Section 4. Order of a Local Option Election

The City Commission hereby orders that a local option election be held on the issue set out in the petition, to wit: to legalize "the legal sale of all alcoholic beverages for off-premise consumption only" in the City of Marshall ("Local Option Election"). The Local Option Election is ordered to be held by the City of Marshall at the polling places and election precincts within the corporate limits of the City, on the date of May 7, 2016. This Local Option Election will be administered for the City by Harrison County Elections Administrator according to the agreement between the City and the said administrator. All voting on this Special Election shall be conducted in the same manner and times, as the City's general election. At the Local Option Election, the qualified voters of the City will decide whether or not to legalize "the legal sale of all alcoholic beverages for off-premise consumption only" in the City of Marshall.

Section 5. Certification of Result

Not later than the third day after the result of the Local Option Election has been declared, the City Secretary shall certify the result to the Secretary of State and the Texas Alcoholic Beverage Commission.

Section 6. Issue to Appear on Local Option Election Ballot

The ballot for the Local Option Election shall permit voting for or against the following issue by the voter indicating "FOR" or "AGAINST":

The legal sale of all alcoholic beverages for off-premise consumption only

Section 7. Polling Places, Precincts, and Early Voting

Polling places, participating election precincts, and early voting procedures shall be determined by the Harrison County Election Administrator and the City Secretary, in accordance with the election agreement, Texas Election Code, and Texas Constitution. Unless and until alternative arrangements are made and public notice provided, the following provisions shall apply to the Local Option Election:

(a) For the purpose of said Local Option Election, the entire City of Marshall is hereby constituted as one (1) voting precinct, such election shall be held within the City of Marshall at Marshall High School, 1900 Maverick Drive, between the hours of 7:00 a.m. and 7:00 p.m.

(b) That the Harrison County Election Administrator is named the Early Voting Clerk and will conduct and supervise the election according to the agreement between the City of Marshall and said administrator. The Harrison County Election Administrator shall be appointed to or allowed to delegate the positions of Central Counting Station Manager, Tabulation Supervisor, and Assistant Tabulation Supervisor as provided for in the Texas Election Code, Chapter 31.094 and 31.095. The election services include conducting and supervising the City Election on May 7, 2016 and the early voting. Early voting shall be conducted at the office of the Harrison County Elections Administrator, 415 E. Burleson St. beginning April 25, 2016 through April 29, 2016 from 8:00 a.m. until 5:00 p.m., and May 2, 2016 and May 3, 2016 from 7:00 a.m. to 7:00 p.m. The final day for early voting shall be May 3, 2016. Early voting and voting on May 7, 2016 shall be by paper ballot and through a DAU (Disabled Access Unit). Applications for an early voting ballot to be voted by mail must be submitted by the close of business in the office of the Harrison County Election Administrator on April 26, 2016. Applications for early voting ballots by mail shall be mailed to Mike McMurry, Harrison County Election Administrator, P.O. Box 8409, Marshall, Texas 75671.

Section 8. Notice of the Local Option Election on the legal sale of all alcoholic beverages for off-premise consumption only

Notice of the election, including a Spanish translation thereof, will be published at least once in a newspaper of general circulation not earlier than the 30th day and not later than the 10th day before the date of the Election and will also be posted on the bulletin board at City Hall not less than 21days prior to the date of the Election.

Section 9. Effective Date

This ordinance shall be effective immediately upon passage.

PASSED, APPROVED, AND ADOPTED this 14th day of January 2016.

AYES:

NOES:

ABSTAINED:

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CHAIRMAN OF THE CITY COMMISSION OF
THE CITY OF MARSHALL, TEXAS

ATTEST:

_____
ACTING CITY SECRETARY

APPROVED AS TO FORM:

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Todd Fitts, City Attorney