

MEMORANDUM

To: Members of the City Commission

From: Lisa Agnor, City Manager

Date: February 9, 2016

Subject: Consider approval of an Ordinance calling for a bond election regarding construction of a new Animal Shelter facility

This item has been placed on the agenda at the request of Commissioner Smith. The City Attorney has prepared the Ordinance, and it is attached.

ORDINANCE O-16-_____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF MARSHALL, TEXAS, CALLING A BOND ELECTION TO BE HELD WITHIN THE CITY, MAKING PROVISIONS FOR THE CONDUCT OF THE ELECTION AND OTHER PROVISIONS RELATING THERETO

WHEREAS, the City Commission of the City of Marshall, Texas (the "City"), hereby finds and determines that it is necessary and advisable to call and hold an election in the City for the purpose of submitting a certain proposition pertaining to the issuance of bonds for the purposes hereinafter set forth; and

WHEREAS, the City Commission hereby finds and determines that said election shall be held on a uniform election date established by Section 41.001(a) Texas Election Code, as amended, as required by Texas law; and

WHEREAS, the City Commission hereby finds and declares that the meeting at which this Ordinance is considered is open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended; therefore,

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

Section 1. Findings. The statements contained in the preamble of this Ordinance are true and correct and are hereby adopted as findings of fact and as part of the operative provisions hereof.

Section 2. Election Ordered; Date; Proposition. An election (the "Election") shall be held for and within the City on Saturday, May 7, 2016 ("Election Day"), a uniform election date established by Section 41.001(a) of the Texas Election Code, as amended (the "Code"). At the Election the following proposition (the "Proposition") shall be submitted to the qualified voters of the City in accordance with law:

PROPOSITION NO. 3

"Shall the City Commission of Marshall be authorized to issue the bonds of said City, in one or more series or issues, in the aggregate principal amount of \$2,000,000, with the bonds of each such series or issue, respectively, to mature serially within not to exceed 40 years from their date, and to be sold at such prices and bear interest at such rates as shall be determined within the discretion of the City Commission, for the purpose of providing funds for permanent public improvements, to-wit: designing, developing,

constructing, and equipping the City's Animal Control Services and Facilities, being the Marshall Animal Shelter, and shall said City Commission be authorized to levy and cause to be assessed and collected annual ad valorem taxes in an amount sufficient to pay the annual interest on said bonds and provide a sinking fund to pay said bonds at maturity?"

Section 3. Official Ballot. The Proposition shall be set forth substantially in the following form, so as to permit the voters to vote "FOR" or "AGAINST" the Proposition, which shall be set forth on the ballots in substantially the following form:

PROPOSITION NO. 3

- For The issuance of \$2,000,000 general obligation bonds for the construction of a new animal shelter, and the levying of a tax in
- Against payment thereof.

Section 4. Persons Qualified to Vote. All resident, qualified electors of the City shall be eligible to vote at the Election.

Section 5. Election Districts, Voting Locations and Voting Hours on Election Date. The voting districts for the Election are hereby designated to be those municipal voting districts identified by their respective city district numbers as determined by the Elections Administrators. Such locations incorporated herein by reference for all purposes; provided, however, such times and locations may be changed if so directed by the Elections Administrator without further action of the City Commission. The Elections Administrator of Harrison County (the "Elections Administrator") is hereby authorized and directed to make such changes in polling locations as may be necessary for the proper conduct of the Election. The election shall be held within the City of Marshall at Marshall High School, 1900 Maverick Drive and the polling place shall be open from 7:00 a.m. to 7:00 p.m. on the date of the Election.

Section 6. Early Voting Locations, Dates and Times. (a) The Election Administrator is hereby appointed as Early Voting Clerks for the election. 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. Burlison 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). The last day to receive an application by mail for a ballot to be voted by

mail is April 26, 2016. Applications for early voting ballots by mail shall be mailed to Harrison County Election Administrator, P.O. Box 8409, Marshall, Texas 75671.

Section 7. Notice of Election. Notice of the Election shall be given by: (i) publishing a substantial copy of this Ordinance, in English and Spanish, on the same day of each of two (2) successive weeks not earlier than the thirtieth (30th) day nor later than the fourteenth (14th) day prior to the date set for the Election, in a newspaper published in the City, (ii) posting a copy of this Ordinance, in English and Spanish at the City Hall on the bulletin board used for posting notices of the meetings of the City Commission and at three (3) other public places within the boundaries of the City, not later than the twenty-first (21st) day prior to the date set for the Election and (iii) posting a copy of this Ordinance, in English and Spanish, on the City's website, prominently and together with the notice of the Election and the contents of the Proposition, not later than the twenty-first (21st) day prior to the date set for the Election through Election Day. Additionally, on Election Day and during early voting by personal appearance, this Ordinance shall be posted in a prominent location at each polling place.

Section 8. Conduct of Election. (a) The Election shall be conducted in accordance with the Code under the jurisdiction of the Election Administrator pursuant to separate Election Services Contract (the "Contract") with the Harrison County Elections Office and the City and other participation entities, if any, described in the Contracts. The City Manager or the City Manager's designee is authorized to amend or supplement the Contracts to the extent required for the Election to be conducted in an efficient and legal manner as determined by the Elections Administrators.

(b) Election judges, alternate judges and clerks shall be paid, as determined by the Elections Administrator, for their service in the Election.

(c) E-slate, a Direct Record Electronic (DRE) System shall be used for early voting by personal appearance, and paper ballots, which are optically scanned, shall be used for early voting by mail. In the May 7, 2016 election, the Elections Administrator shall cause paper ballots, which are optically scanned, to be prepared in the form of the ballot prescribed below, being in both English and Spanish, and shall furnish election officials said ballots, in such form, together with any other forms or blanks, in accordance with the Charter of the City, the Constitution and laws of the State of Texas and the Voting Rights Act of 1965, and any amendments thereto, insofar as same are applicable. E-Slate, a Direct Record Electronic (DRE) System shall be provided and used at each polling location on Election Day.

(d) The holding of the Election shall be in compliance with the Code except as modified by other applicable provisions of law.

(e) The election officers shall make returns for the Election in the manner required by law, and the ballots that are properly marked in conformance with the provisions of the Code for votes cast both during the period of early voting and on the day of the Election shall be counted in the manner required by law.

Section 9. Additional Information Required by Section 3.009 of the Election Code.

In accordance with the provisions of Section 3.009(b), Texas Election Code, it is hereby found and determined that:

(a) The proposition language that will appear on the ballot is set forth in Section 3 hereof.

(b) The purpose for which the bonds are to be authorized is set forth in Section 2 hereof.

(c) The principal amount of the bonds to be authorized is set forth in Sections 2 and 3 hereof.

(d) As set forth in Sections 2 and 3 hereof, if the bonds are approved by the voters, the City Commission will be authorized to levy annual ad valorem taxes on all taxable property in the City, within the limits prescribed by law, sufficient to pay the annual principal of and interest on the bonds and provide a sinking fund to pay the bonds at maturity.

(e) [Based upon the bond market conditions at the date of adoption of this Ordinance, the maximum interest rate for any series of the bonds is estimated to be _____% as calculated in accordance with applicable law. Such estimate takes into account a number of factors, including the issuance schedule, maturity schedule and the expected bond ratings of the proposed bonds. Such estimated maximum interest rate is provided as a matter of information, but is not a limitation on the interest rate at which the bonds, or any series thereof, may be sold.]

[Based upon the assumptions referenced below, which assumptions are based on current legal and market conditions affecting the City, the estimated total tax rate of the City if the bonds are approved by the voters is \$___ per \$100 of taxable assessed value. Such estimated tax rate is the maximum rate currently projected by the City, and is based on various assumptions relating to factors that contribute to the City's tax rate for its bonds, including current and projected tax roll values for the City, assumed credit ratings for the proposed bonds and the proposed issuance schedule and maturity schedule for the bonds.]

(f) As set forth in Section 2 hereof, if the bonds are approved, they may be issued in one or more series over a period not to exceed 40 years.

(g) The aggregate amount of the outstanding principal of the City's debt obligations which are secured by ad valorem taxes as of the beginning of the City's 2016 fiscal year is \$_____.

(h) The aggregate amount of the outstanding interest of the City's debt obligations which are secured by ad valorem taxes as of the beginning of the City's 2016 fiscal year is \$_____.

(i) The ad valorem debt service tax rate for the City for the 2016 fiscal year is \$_____ per \$100 of taxable assessed valuation.

(j) Any additional information required by Section 3.009 of the Code is contained in Sections 2 and 3 of this Ordinance.

Section 10. Necessary Actions. The City Manager and the City Secretary of the City, in consultation with the City's Attorney and bond counsel, are hereby authorized and directed to take any and all actions necessary to comply with the provisions of the Code and the Federal Voting Rights Act in carrying out and conducting the Election, whether or not expressly authorized herein, including making changes or additions to polling places or procedures to the extent required or desirable or as may become necessary due to circumstances arising after the date of this Ordinance.

Section 11. Severability. If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, neither the remaining portions of this Ordinance nor their application to other persons or sets of circumstances shall be affected thereby, it being the intent of the City Commission in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness, invalidity or unenforceability of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 12. Effective Date. This Ordinance shall take effect immediately upon adoption.

PASSED AND APPROVED this _____ day of _____, 2016.

AYES: _____

NOES: _____

ABSTAINED: _____

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2016.

AYES: _____

NOES: _____

ABSTAINED: _____

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

ATTEST:

Lisa Agnor, City Secretary