



**CITY OF MARSHALL, TEXAS
SPECIAL-CALLED CITY COMMISSION MEETING
COMMISSION CHAMBERS, CITY HALL, 401 SOUTH ALAMO
MONDAY, FEBRUARY 10, 2020, 6:30 P.M.**

1. **CALL TO ORDER AND ROLL CALL**

Page 1

2. **PUBLIC HEARING**

A. Conduct a Public Hearing regarding proposed Charter Amendments recommendations. (City Manager)

Page 2

3. **PRESENTATION**

A. Presentation of the Charter Review Committee's final Charter Amendments recommendations. (Dottie Palumbo, Bojorquez Law Firm)

Page 4

4. **ORDINANCE**

A. Consider approval of an Ordinance of the City of Marshall, Texas, ordering a special election May 2, 2020, to consider sixteen (16) proposed amendments to the Charter of the City of Marshall. (City Manager)

Page 36

5. **ADJOURNMENT**

Page 46

Posted: February 7, 2020
5:00 p.m.
Y. Graham

This meeting will be conducted in accordance with the Americans with Disabilities Act. The facility is wheelchair accessible and disabled parking is available. Requests for sign interpretive services will be available with at least 48-hour notice prior to the meeting. To make arrangements for these services, please call Elaine Altman at 903-935-4519.

ITEM 1

CALL TO ORDER AND ROLL CALL

ITEM 2A

PUBLIC HEARING

CONDUCT A PUBLIC HEARING REGARDING PROPOSED CHARTER AMENDMENTS RECOMMENDATIONS

MEMORANDUM

To: Members of the City Commission

From: Mark Rohr, City Manager

Date: February 7, 2020

Subject: Conduct a Public Hearing regarding Proposed Charter Amendments Recommendations

On November 21, 2019, the City Commission established a Charter Review Committee to consider and provide recommendations regarding changes to the City Charter. The public was invited to attend the Charter Review Committee meetings and was given the opportunity to provide input during the Public Comments section of the meetings.

This Public Hearing gives the citizens of Marshall an additional opportunity to provide comment regarding the proposed changes to the City Charter.

ITEM 3A

PRESENTATION

PRESENTATION OF THE CHARTER REVIEW COMMITTEE'S FINAL CHARTER AMENDMENTS RECOMMENDATIONS

MEMORANDUM

To: Members of the City Commission

From: Mark Rohr, City Manager

Date: February 7, 2020

Subject: Presentation of the Charter Review Committee's Final Charter Amendments Recommendations

The Charter Review Committee was formed and tasked to facilitate public awareness and discussion regarding the need for changes to the City Charter. The Committee has held public meetings to discuss and evaluate potential changes to the Charter and have finalized their recommendations. The City reached out 32 different instances soliciting public input. Several citizens provided input to the proposed Charter, which the Committee considered.

Dottie Palumbo with Bojorquez Law Firm has assisted the Charter Review Committee and Staff with the Charter review process and will provide the Commission a PowerPoint presentation outlining final recommendations.

We have provided the Proposed Charter Amendment for your review.

CITY OF MARSHALL
PROPOSED CHARTER AMENDMENT
CHARTER ELECTION DATE MAY 2, 2020

Table of Contents

ARTICLE I	INCORPORATION AND FORM OF GOVERNMENT	1
Section 1.01	Incorporation	1
Section 1.02	Form of Government	1
Section 1.03	Boundaries	1
ARTICLE II	POWERS OF THE CITY	1
Section 2.01	General Powers of the City.....	1
Section 2.02	Construction of Powers	2
Section 2.03	Annexation.....	2
(a)	Annexation Powers.....	2
(b)	Annexation by Ordinance.....	2
(c)	Annexation by Petition.	2
(d)	Disannexation.	2
Section 2.04	Intergovernmental Relations.....	2
ARTICLE III	CITY COUNCIL AND OFFICERS	2
Section 3.01	General Powers and Duties.....	2
Section 3.02	Number, Selection and Terms of Office.....	3
(a)	Transition.....	3
(b)	Number, Terms, Selection, and Boundaries.	3
(c)	Redistricting After Annexation.	3
(d)	Redistricting After Disannexation.	3
(e)	Periodic Redistricting.	3
Section 3.03	Qualifications.....	4
Section 3.04	Term and Term Limits.....	4
Section 3.05	Judge of Qualifications	4
Section 3.06	Prohibitions.....	5
(a)	Dual Office Holding	5

(b)	Interference with Staff Appointment or Removal.....	5
(c)	Dealing with City Staff.....	5
Section 3.07	Vacancies, Forfeiture of Office and Filling of Vacancies.....	5
(a)	Vacancies.....	5
(b)	Forfeiture.....	5
(c)	Filling Vacancies.....	5
Section 3.08	Compensation and Expenses.....	6
(a)	No Compensation.....	6
(b)	Reimbursement.....	6
Section 3.09	Mayor and Mayor Pro Tem.....	6
(a)	Mayor.....	6
(b)	Mayor Pro Tem.....	6
Section 3.10	City Secretary.....	6
Section 3.11	City Attorney.....	6
Section 3.12	Investigations.....	7
Section 3.13	Meetings.....	7
Section 3.14	Rules of Procedure.....	7
(a)	Procedures.....	7
(b)	Open Meetings.....	7
Section 3.15	Action Requiring an Ordinance.....	7
Section 3.16	Ordinances in General.....	8
(a)	Form.....	8
(b)	Procedure.....	8
(c)	Effective Date.....	8
(d)	Publication.....	8
Section 3.17	Emergency Ordinances.....	9
ARTICLE IV	ADMINISTRATIVE ORGANIZATION.....	9
Section 4.01	Appointment, Qualifications and Compensation of the City Manager.....	9
Section 4.02	Removal or Suspension of the City Manager.....	9
Section 4.03	Acting City Manager.....	9
Section 4.04	Powers and Duties of the City Manager.....	10
Section 4.05	Administrative Organization.....	10

Section 4.06	Directors of Departments and Other Unit Managers.....	10
ARTICLE V	MUNICIPAL COURT	11
Section 5.01	Municipal Court.....	11
Section 5.02	Judges of the Municipal Court.....	11
Section 5.03	Clerk of the Municipal Court.....	11
ARTICLE VI	FINANCIAL PROCEDURES	11
Section 6.01	Fiscal Year.....	11
Section 6.02	Preparation and Submission of Proposed Budget.....	11
Section 6.03	Budget a Public Record	12
Section 6.04	Public Hearing on Proposed Budget.....	12
Section 6.05	Proceeding on Adoption of Budget	12
Section 6.06	Budget Appropriation and Amount to be Raised by Taxation	12
Section 6.07	Unallocated Reserve Fund.....	12
Section 6.08	Amending the Budget.....	12
Section 6.09	Certification and Copies Made Available	13
Section 6.10	Defect Shall Not Invalidate the Tax Levy	13
Section 6.11	Independent Audit	13
Section 6.12	Purchasing Procedure	13
Section 6.13	Investment Policy	13
ARTICLE VII	BONDS, WARRANTS AND OTHER EVIDENCE OF INDEBTEDNESS	13
Section 7.01	Powers to Issue	13
Section 7.02	Manner of Issuance.....	14
Section 7.03	Sale of Bonds.....	14
Section 7.04	Interest and Sinking Fund.....	14
Section 7.05	Revenue Bonds	14
ARTICLE VIII	TAXATION	14
Section 8.01	Powers of Taxation.....	14
Section 8.02	Tax Lien and Liability	15
ARTICLE IX	ELECTIONS	15
Section 9.01	Regular Elections.....	15
Section 9.02	Registered voters	15
Section 9.03	Regulation of Elections	15

Section 9.04	Filing for Office.....	15
Section 9.05	Official Ballot	15
Section 9.06	Conducting and Canvassing Elections	16
Section 9.07	Election by Majority	16
ARTICLE X	INITIATIVE, REFERENDUM AND RECALL	16
Section 10.01	Power of Initiative	16
Section 10.02	Power of Referendum.....	16
Section 10.03	Form of Petition for Initiative and Referendum.....	17
Section 10.04	Filing, Examination and Certification of Petition	17
Section 10.05	Council Consideration and Submission to Voters.....	17
(a)	Initiative Petition	17
(b)	Referendum Petition	17
(c)	Special Elections.....	17
Section 10.06	Ballot Form and Results of Election	18
(a)	Ballot Form.....	18
(b)	Results of Election.....	18
Section 10.07	Power of Recall	18
Section 10.08	Recall Election	18
(a)	City Secretary Certification	18
(b)	Subject Council Member's Rights.....	19
(c)	Removal.....	19
Section 10.09	Recall Ballot.....	19
Section 10.10	Results of Recall Election	19
Section 10.11	Limitations on Recall	19
ARTICLE XI	FRANCHISES AND PUBLIC UTILITIES.....	19
Section 11.01	Powers of the City Regarding Franchises and Public Utilities	19
(a)	Powers.	19
(b)	Preemption.....	20
Section 11.02	Inalienability of Control of Public Utilities.....	20
Section 11.03	Ordinance Granting Public Utility Franchise.....	20
Section 11.04	Transfer of Public Utility Franchise.....	20
Section 11.05	Regulation of Public Utility Franchisee	21

Section 11.06	Rate Transparency and Non-Discrimination.....	22
(a)	Transparency.	22
(b)	Non-Discrimination	22
Section 11.07	Penalties and Remedies Concerning Public Utilities	22
ARTICLE XII	GENERAL PROVISIONS	22
Section 12.01	Financial Interests to Comply with State Law	22
Section 12.02	Oaths of Office	23
Section 12.03	Prohibited Activities.....	23
(a)	Non-Discrimination.	23
(b)	No Gratuities.....	23
(c)	Forfeitures and Penalties.	23
Section 12.04	Claims Against the City	23
(a)	Notice of Claims Required.	23
(b)	Meritorious Administrative Claims	23
(c)	No Waiver.....	24
Section 12.05	Liens, Assignment, Execution, Garnishment, and Security Bonds.....	24
(a)	Liens, Assignment, and Execution.	24
(b)	Garnishment.....	24
(c)	Security Bonds.....	24
Section 12.06	References to State Law	24
Section 12.07	Severability.....	24
Section 12.08	Charter Amendment	24
Section 12.09	Clerical Charter Amendments by Council	25
ARTICLE XIII	TRANSITIONAL PROVISIONS	25
Section 13.01	Officers and Employees	25
Section 13.02	Effect on Existing Laws	25
(a)	Non-conflicting Laws.	25
(b)	Conflicting Laws.	25

ARTICLE I INCORPORATION AND FORM OF GOVERNMENT

Section 1.01 Incorporation

The inhabitants of the City of Marshall, in Harrison County, Texas within the corporate limits as now established, or hereafter established in the manner prescribed by this Charter, shall be and shall continue to be a home-rule municipal corporation, municipal body politic, and corporate in perpetuity under the name of the “City of Marshall,” hereinafter referred to as the “City.”

Section 1.02 Form of Government

The municipal government provided by this Charter shall be known as a “council-manager” government. Pursuant to its provisions and subject only to the limitations imposed by the state constitution, by the statutory laws of Texas and by this Charter, all powers of the City shall be vested in an elective council, hereinafter referred to as the “Council,” which shall enact local legislation, adopt budgets, determine policies, appoint the City Secretary, City Attorney, and Judges of the Municipal Court. The Council shall also appoint the City Manager, who shall execute the laws and administer the government of the City.

Section 1.03 Boundaries

The boundaries of the City at the time this Charter is adopted are those that have previously been legally established. These boundaries may be changed through annexation or disannexation, as described in Article II of this Charter, which boundaries are more fully set out and described by the official City Map of the City.

ARTICLE II POWERS OF THE CITY

Section 2.01 General Powers of the City

The City shall have all powers possible for a city to have under the constitution of the State of Texas and of the constitution and laws of the United States of America. It shall have perpetual succession and shall have and shall succeed to all the rights, property, real, personal and mixed, immunities powers, privileges and franchises now held, possessed and enjoyed by the City, or herein granted or that may hereafter be granted by federal or state law, or by future changes to this Charter or future charters and be subject to all its present duties and liabilities, subject to the limitations and immunities in this Charter and under the state constitution and law. The City as a home-rule municipal corporation may sue and be sued, may plead and be pleaded in all courts, may contract and be contracted with and may ordain and establish such acts and regulations and ordinances not inconsistent with the constitution and laws of this state, as shall be needful for the government, interest, welfare and good order of said City. It may lease or convey any or all property owned by said City or any of its property within or without the city limits; and it shall have power to acquire necessary property by purchase or condemnation within or without the city

limits and to lease or convey the same when no longer required. The City is and shall continue to be a home-rule city, with full power of local self-government including the right to amend this Charter, as provided by the constitution and laws of this state. The enumeration of particular powers by this Charter shall not be deemed to be exclusive. In addition to the powers enumerated or implied herein, it is intended that the City shall have and may exercise all powers under the constitution and laws of this state, as fully and completely as though they were specifically enumerated in this Charter.

Section 2.02 Construction of Powers

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general powers stated in this article.

Section 2.03 Annexation

- (a) **Annexation Powers.** Additional territory may be annexed to the City in any manner and by any procedure that may now be provided by applicable law or that may be hereafter provided by applicable law.
- (b) **Annexation by Ordinance.** The City Council shall have the power by Ordinance, to annex territory lying adjacent to the City, to extend and enlarge the City boundaries and exchange areas with other municipalities.
- (c) **Annexation by Petition.** The owner or owners of any land contiguous or adjacent to the City may, by petition in writing to the City Council, request the annexation into the City. City Council may grant or refuse such petition as it sees fit. If the City Council grants such petition, it may receive such territory into the City.
- (d) **Disannexation.** Any area of the City may be disannexed pursuant to any procedure allowed under applicable law and whenever, in the opinion of the City Council, there exists within the corporate limits of the City a territory not suitable or necessary for City purposes, the City Council may by ordinance discontinue said territory as part of the City after notice and a public hearing.

Section 2.04 Intergovernmental Relations

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or any agency or political subdivision of any state, or the United States or any of its agencies.

ARTICLE III CITY COUNCIL AND OFFICERS

Section 3.01 General Powers and Duties

All powers of the City shall be vested in the City Council, except as otherwise provided by law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

Section 3.02 Number, Selection and Terms of Office

- (a) **Transition.** Until any are changed by any ordinances that Council may adopt in accordance with applicable law, the number, terms, method of selection, and boundaries of districts or other areas of representation for Council Members shall be in accordance with the City's practice in effect as of the effective date of this Charter.
- (b) **Number, Terms, Selection, and Boundaries.** Council shall have the power to ordain the number, terms, and the method of selection and boundaries of districts or other areas of representation for Council Members by ordinance adopted in accordance with applicable law. Any changes of district boundaries or redistricting shall be made when and as required by this Charter or by the state law or federal law, and in addition, at Council's discretion, as permitted by this Charter or by state or federal law.
- (c) **Redistricting After Annexation.** Whenever Council shall annex additional land into the City, the Council shall thereafter provide for the inclusion of the annexed land within one (1) or more districts, if practicable in time to permit the eligible voters of such territory to participate in the next City General Election following the addition of the territory.
- (d) **Redistricting After Disannexation.** Whenever the City Council shall disannex land from the City, the City Council shall thereafter provide for the exclusion of the disannexed land from one (1) or more districts to the extent that this is not accomplished by operation of law in the disannexation, and if the disannexation results in substantial disparity in the population of voting districts, the Council will consider the need promptly to redistrict in accordance with subsection 3.02(e) of this Charter.
- (e) **Periodic Redistricting.** Not less than once in every ten (10) years, within two (2) years following the completion of each decennial federal census, the Council shall determine the boundaries of each of the districts by ordinance adopted according to applicable law. From time to time, the Council may amend the boundaries of the districts by ordinance adopted according to applicable law when, in the Council's sole determination, such amendment is necessary so that all districts are drawn and configured to provide substantially equal and fair representation to all citizens of the City.
 - (1) The Council may but is not required to adopt resolutions from time to time that establish redistricting criteria consistent with this section. The Council will revise the boundaries of election districts as appropriate based on the investigation and such other lawful considerations as the Council deems appropriate so that the population of each is materially balanced and apportionment does not violate state or federal legal requirements.
 - (2) Each such determination and boundary revision shall be expressed in an ordinance adopted in accordance with applicable law, which shall be a final determination for purposes of this Charter.

Section 3.03 Qualifications

Each Council member shall, at the time of filing of their application for a place upon the ballot, be a resident of the City and of the district from which they seek election, and shall have resided at least one year preceding the election at which they are candidates within the corporate limits of the City, and shall additionally reside within the district from which they are elected for and during their term of office; shall be a registered voter of the State of Texas; shall not have been convicted of a felony criminal offense or an offense involving moral turpitude or official misconduct; and shall not be in violation of any provisions of this Charter.

Section 3.04 Term and Term Limits

- (a) **Terms.** Except for Council Members elected to serve an unexpired term or in emergency situations as provided in section 3.17 of this Charter, each Council member elected shall serve a term of four years.
- (b) **Transition.** To transition to four-year terms, only those Council Members whose terms begin with the May 01, 2021, general election shall serve a term of three-years and the three-year term shall expire with the May 4, 2024, general election. Four-year terms and the accruing of consecutive terms as provided for in this section shall include only the Council Member terms beginning with the May 07, 2022, general election and all other terms arising out of subsequent general elections.
- (c) **Term Limits.** Council members shall serve not more than two (2) consecutive four-year terms arising out of a general election for a district and not more than a total period of eight consecutive years as a Council member of a district, regardless of which Council member district or districts a person serves. A Council member who has served two (2) consecutive four-year terms in a district arising out of a general election or a total period of eight consecutive years as a Council member shall be eligible to file for election for a district by having first been off the Council for at least one annual council election cycle.

Section 3.05 Judge of Qualifications

The Council shall be the sole judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have the power to subpoena witnesses, administer oaths and require the production of evidence. Decisions by the Council as to election and qualifications of its members shall be considered final.

A member charged with misconduct constituting ground for forfeiture of the office shall be entitled to a public hearing on demand and notice of such hearing shall be published in the official newspaper of the City at least one week in advance of the hearing.

Section 3.06 Prohibitions

- (a) **Dual Office Holding.** Except where authorized by law, no Council member shall hold any other City office or City employment during the term for which that member was elected to the Council, and no former Council member shall hold any compensated appointive City office or employment by the City until one year after the expiration of the term for which that member was elected to the Council.
- (b) **Interference with Staff Appointment or Removal.** Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officer or employee whom the City Manager or any of the City Manager's subordinates are empowered to appoint, but the Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such administrative officers and employees.
- (c) **Dealing with City Staff.** Except for the purpose of inquiries, and for investigations under Section 3.12 of this Charter, neither the Council nor its members shall deal with City administrative officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor its members shall give orders to any such administrative officer or employee either publicly or privately.

Section 3.07 Vacancies, Forfeiture of Office and Filling of Vacancies

- (a) **Vacancies.** The office of a Council member shall become vacant upon the member's death, resignation, removal from office or forfeiture of office.
- (b) **Forfeiture.** A Council member shall forfeit that office if the Council member:
 - (1) lacks at any time during the term of office for which elected any qualification for the office prescribed by this Charter or by law;
 - (2) intentionally violates any express prohibition of this Charter;
 - (3) is convicted of a felony criminal offense or an offense of moral turpitude or involving official misconduct; or
 - (4) fails to attend three consecutive regular Council meetings without being excused by the Council.
- (c) **Filling Vacancies.** In the event of a single vacancy in the City Council, if there are 365 days or more remaining on the term of the vacated City Council position, the City Council shall call a special election to fill such vacancy. If there are less than 365 days remaining in the term of the vacated City Council position, the City Council may, by majority vote of the remaining Council Members, at its discretion appoint a new Councilmember to fill such vacancy or call a special election to fill such vacancy.

Section 3.08 Compensation and Expenses

- (a) **No Compensation.** Council Members shall serve without compensation.
- (b) **Reimbursement.** Council Members may receive reimbursement for necessary expenses incurred in the performance of their duties of office, according to policies to be determined by the Council.

Section 3.09 Mayor and Mayor Pro Tem

- (a) **Mayor.** At the first regular meeting of the Council following the City's general election, the Council shall elect one of its members to serve a one-year term as Mayor of the City. The Mayor shall preside over the meetings of the Council and perform such other duties consistent with the office as may be imposed on the Mayor by this Charter and all ordinances and resolutions passed in pursuance thereof. The Mayor shall vote as any other member of the Council and shall have no veto power. The Mayor shall be recognized as the chief executive officer and as the head of the City by all courts for the purpose of serving civil process, by the Governor for the purpose of enforcing military law, and for all ceremonial purposes.
- (b) **Mayor Pro Tem.** At the first meeting of the Council following the City's general election, the Council shall elect one of its members to serve a one-year term as Mayor Pro Tern of the City. In the absence or disability of the Mayor to perform the duties of that office, the Mayor Pro Tern shall perform all such duties.

Section 3.10 City Secretary

The Council shall appoint an officer of the City who shall have the title of City Secretary and who shall give notice of Council meetings, shall keep minutes of its proceedings, shall authenticate by signature and record in full in a book kept for that purpose all ordinances and resolutions, shall preserve and keep in order all books, papers, records and files of the Council, shall have custody of the seal of the City and shall affix same to such documents and obligations as legally authorized, and shall perform such other duties as shall be required by this Charter or by the Council.

Section 3.11 City Attorney

The Council shall appoint a City Attorney and such assistant city attorneys, one of which shall serve as the City Prosecutor, as from time to time shall be deemed necessary by the Council and who shall each be competent, duly licensed and admitted to the practice of law by the State of Texas. Except to the extent otherwise provided by the Council or the City Attorney, each assistant city attorney will have the authority to exercise all powers and duties of the City Attorney. The City Attorney shall be legal advisor to and attorney for all Council Members, officers, and employees of the City acting in their respective official capacities and shall represent the City in all litigation and legal proceedings. Upon recommendation of the City Attorney, Council may also

engage outside counsel to assist the City Attorney on specific matters. The City Attorney, with approval of Council, also may engage pro bono volunteer attorneys.

Section 3.12 Investigations

The Council shall have the power to inquire into the official conduct of any department, agency, office or employee of the City. For this purpose, the Council shall have the power to administer oaths, to subpoena witnesses whether or not they are affiliated with the City and by subpoena to compel the production of books, papers and other evidence material to the inquiry from any person whether or not affiliated with the City. The Council shall provide by ordinance penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers or other evidence, and shall have the power to punish any such contempt in the manner provided in the ordinance. Alternatively to punishment by the Council, the City Attorney at Council's direction may request that the Municipal Court or a state district court adopt any subpoena issued by Council in accordance with this section 3.12 and enforce the same through civil or criminal contempt or other lawful measures.

Section 3.13 Meetings

The Council shall meet regularly at least once each month. The Council may hold as many additional meetings during the month as may be necessary for the transaction of the business of the City, and special meetings of the Council may be called as necessary upon written notice to the City Secretary by the Mayor, by any three of the other Council Members, by the City Manager, or by the City Attorney. All meetings, regular or special, shall be held pursuant to public notification, as required by this Charter and by state law.

Section 3.14 Rules of Procedure

- (a) **Procedures.** The Council shall determine its own rules of procedure and order of business. Four Council Members shall constitute a quorum to do business, and a majority vote of those attending any meeting at which there is a quorum present shall be sufficient to adopt any ordinance or resolution, except as otherwise provided in this Charter. The vote upon the passage of all ordinances and resolutions shall be taken by ayes and nays, and the vote of each Council member present shall be entered on the minutes of the meeting.
- (b) **Open Meetings.** All meetings of the Council, except for executive sessions authorized by state law, shall be open to the public, and minutes of all proceedings of such open meetings shall be kept, to which any citizen may have access at all reasonable times, and which shall constitute the archive of the City.

Section 3.15 Action Requiring an Ordinance

- (a) **Ordinances Required.** In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the Council shall be by ordinance which:

- (1) adopt or amend an administrative code or establish, alter, or abolish any city department, office or agency;
 - (2) provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
 - (3) levy taxes;
 - (4) grant, renew or extend a franchise;
 - (5) regulate the rate charged for its services by a public utility;
 - (6) authorize the borrowing of money;
 - (7) regulate land use and development;
 - (8) prescribe standards for issuance of business or other licenses; and
 - (9) amend or repeal any ordinance previously adopted.
- (b) **Ordinances or Resolutions Permitted.** Acts other than those referred to in the preceding sentence may be done either by ordinance or by resolution.

Section 3.16 Ordinances in General

- (a) **Form.** Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in its title. The enacting clause shall read “Be It Ordained by the City Council of the City of Marshall.” Any ordinance amending an ordinance or part of the City Code shall set out in full the ordinance, section or subsection to be amended, and shall indicate matters to be omitted by enclosing them in brackets or by strikeout type and shall indicate new matters by under scoring or by italics.
- (b) **Procedure.** An ordinance may be introduced at any regular or special meeting of the Council. Upon introduction of any ordinance, the City Secretary shall distribute a copy to each member of the Council and shall file a reasonable number of copies in the office of the City Secretary and in such other public places as the Council may designate.
- (c) **Effective Date.** Except as otherwise provided in this Charter, or by ordinance or by state law, all ordinances and resolutions passed by the Council shall take effect on the date of enactment.
- (d) **Publication.** Any ordinance imposing any penalty, fine or forfeiture shall, after the passage thereof, be published one (1) time in the official newspaper before the same shall go into effect. In lieu of publication of the full text of the ordinance, it shall be sufficient to publish the descriptive caption or title of the ordinance, stating in summary the purpose of the ordinance and the penalty for violation thereof. The ordinance shall take effect and be in force from and after the publication thereof unless otherwise provided.

Section 3.17 Emergency Ordinances

Upon the declaration of an emergency, the Council may adopt an ordinance, following a single reading, but only by affirmative vote of all Council Members present. In case of disaster when a legal quorum of the elected City Council cannot otherwise be assembled due to multiple deaths, injuries, absences from the City or other disabilities, the surviving and able member or members of the City Council, or surviving and able appointed City official if no Council member is able, must, within twenty-four (24) hours of such disaster call an election to be held on the earliest feasible date, or as provided in applicable law, for election of a required quorum of Council Members, each of whom will serve until their disabled or absent predecessor resumes the duties of office or until the expiration of the replaced member's term. If no appointed City official is available, the Harrison County Judge or any state district judge shall have the authority to call a City election. In case of enemy attack, Chapter 616 of the Texas Government Code controls succession.

ARTICLE IV ADMINISTRATIVE ORGANIZATION

Section 4.01 Appointment, Qualifications and Compensation of the City Manager

The Council shall appoint a City Manager for an indefinite term, who shall be the chief administrative officer of the City. The City Manager shall be chosen by the Council by a majority vote of its total membership and solely on the basis of executive and administrative training, experience, ability and character, and without regard to political consideration. The City Manager need not be a resident of the City at the time of appointment. The City Manager shall reside inside the City while in office unless residence outside the City is approved by the Council. The City Manager shall receive such compensation as may be fixed by the Council.

Section 4.02 Removal or Suspension of the City Manager

The City Manager shall not be appointed for a definite term but may be removed or suspended at the will of the Council by a majority vote of its total membership. The action of the Council in removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such removal on the Council.

Section 4.03 Acting City Manager

By letter filed with the City Secretary, the City Manager shall designate a qualified administrative employee of the City to exercise the powers and perform the duties of the City Manager during the manager's temporary absence or disability. The Council may revoke such designation at any time and appoint another such employee of the City until the City Manager returns.

Section 4.04 Powers and Duties of the City Manager

As the chief administrative officer of the City, the City Manager shall be responsible to the Council for the administration of all City affairs placed in the manager's charge by or under this Charter. The City Manager shall:

- (a) appoint and remove all department heads of the City, except as otherwise provided in this Charter;
- (b) direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter;
- (c) attend all Council meetings and shall have the right to take part in discussions but may not vote;
- (d) see that all laws, provisions of this Charter and acts of the Council subject to enforcement of the City Manager or by officers subject to the City Manager's direction and supervision, are faithfully executed;
- (e) prepare and submit the annual budget to the Council;
- (f) make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to the manager's direction and supervision;
- (g) keep the Council fully advised as to the financial condition and future needs of the City; and
- (h) perform such other duties as are specified in this Charter or may be required by the Council.

Section 4.05 Administrative Organization

There shall be such administrative departments, offices, or other administrative units of government as established by ordinance, all of which shall be under the control and direction of the City Manager except for any administrative units under the control of the City Attorney or City Secretary. To the extent consistent with this Charter, the Council may abolish or combine one of more of these departments and may assign or transfer duties of any departments of the City from one department to another by ordinance.

Section 4.06 Directors of Departments and Other Unit Managers

At the head of each department or other administrative unit within City government, there shall be a director or other unit manager who shall be appointed and who may be removed by the City Manager, except as provided by state law or by this Charter. The City Manager will determine the unit manager's respective titles unless the Council otherwise determines. Such managers shall have supervision and control over their respective administrative units and may also serve as heads of subunits within their respective units. Two or more administrative units may be headed by the same individual, and the City Manager may head one or more administrative units. The Council has exclusive authority to set the compensation and benefit levels for all unit managers.

ARTICLE V MUNICIPAL COURT

Section 5.01 Municipal Court

There shall be a court known as the Municipal Court of the City of Marshall, with such jurisdiction, powers and duties as are given and prescribed by the state law, or by Council.

Section 5.02 Judges of the Municipal Court

The Municipal Court shall be presided over by one or more magistrates, appointed by the Council, each of whom shall be duly licensed by the State of Texas as an attorney at law and shall be known as a Judge of the Municipal Court, but one of whom also shall be known as the Chief Judge of the Municipal Court, with such additional powers as the Council by ordinance may adopt. Judges of the Municipal Court shall receive such salaries as shall be fixed by ordinance. In the absence of all judges, the Council shall appoint a duly qualified person to serve in an interim capacity.

Section 5.03 Clerk of the Municipal Court

There shall be a Clerk of the Municipal Court who shall be appointed and may be removed by the City Manager. The clerk shall have the power to administer oaths and affidavits, make certificates, affix the seal of the court thereto, and otherwise perform any and all acts necessary to the operation of such court and conducting the business thereof. The City Manager may appoint Deputy Clerks of the Municipal Court, who shall have authority to act for and on behalf of the Clerk of the Municipal Court.

ARTICLE VI FINANCIAL PROCEDURES

Section 6.01 Fiscal Year

The fiscal year of the City shall begin on January first (1st) of each calendar year and shall end on December thirty-first (31st) of that calendar year. The fiscal year shall also be established as the accounting and budget year.

Section 6.02 Preparation and Submission of Proposed Budget

The City Manager, at least thirty (30) days prior to the commencement of the fiscal year, shall prepare and submit a proposed budget to the Council, which shall contain the following:

- (a) a budget message which shall outline the proposed financial policies for the year with explanations of changes from previous years in expenditures and any other major changes of policy and a complete statement regarding the financial conditions of the City;
- (b) an estimate of all revenues from taxes and other sources, including the present tax structure rates and property evaluation for the ensuing year;

- (c) a carefully itemized list of proposed expenses by office, department, agency, employee and project for the year, as compared to actual expenses of the last fiscal year and the present year to date;
- (d) a description of all outstanding bond indebtedness, showing amount, purchaser, date of issue, rate of interest and maturity date, as well as any other indebtedness which the City has incurred, and which is unpaid;
- (e) a statement proposing any capital expenditures deemed necessary for undertaking during the year and recommending provisions for financing.

Section 6.03 Budget a Public Record

The proposed budget and all supporting schedules shall be filed with the City Secretary when submitted to the Council and shall be open to public inspection as required by state law.

Section 6.04 Public Hearing on Proposed Budget

At the Council meeting at which time the proposed budget is submitted, the Council shall, in conformance with the requirements of state law, name the date, time and place of a public hearing and shall cause to be published the date, time and place thereof. At this hearing, interested citizens may express their opinions concerning items of expenditure, giving their reasons for wishing to increase or decrease any such items.

Section 6.05 Proceeding on Adoption of Budget

After public hearing, the Council shall analyze the proposed budget, making any additions or deletions considered appropriate, and shall, adopt the budget as required by state law.

Section 6.06 Budget Appropriation and Amount to be Raised by Taxation

On final adoption, the budget shall be in effect for the budget year. Final adoption of the budget by the Council shall constitute the official appropriations of proposed expenditures for the year and shall constitute the basis of the official levy of the property tax as the amount of tax to be assessed and collected for that tax year. Estimated expenditures will in no case exceed proposed revenue plus reserves on hand.

Section 6.07 Unallocated Reserve Fund

The City Manager may recommend for action by the Council an unallocated reserve fund to be used for unexpected items of expense which were not included in the budget as original items of expenditure.

Section 6.08 Amending the Budget

Under conditions which may arise, and which could not reasonably have been foreseen in the normal process of budget preparation, the Council may, by a favorable vote, amend or change

the budget to provide for any additional expenses. Such amendments shall be by ordinance and shall become an attachment to the original budget.

Section 6.09 Certification and Copies Made Available

A copy of the budget, as finally adopted, shall be filed with the City Secretary. The final budget shall be printed, or otherwise reproduced, and sufficient copies certified by the City Secretary shall be made available for the use of all offices, agencies and for the use of interested persons and civic organizations. The City may charge for certification and copying as permitted by law.

Section 6.10 Defect Shall Not Invalidate the Tax Levy

Errors or defects in the form or preparation of the budget or the failure to perform any procedural requirements shall not nullify the tax levy or the tax rate.

Section 6.11 Independent Audit

At the close of each fiscal year and at such times as it may otherwise be deemed necessary, the Council shall have an independent audit to be made of all accounts of the City by a certified public accounting firm. The certified public accounting firm shall have no personal interest, directly or indirectly, in the financial affairs of the City. Upon completion of the audit, the audit shall be filed as required by law. That fact shall be published forthwith in the official newspaper of the City, and copies of the audit shall be placed on file for public inspection in the office of the City Secretary. A different certified public accounting firm will be selected at least once every five (5) years.

Section 6.12 Purchasing Procedure

The City Manager shall direct that purchases of supplies, materials or equipment by the City be made in accordance with policies adopted by the Council or as provided by state law.

Section 6.13 Investment Policy

The Investment Officer designated by the City Manager may invest any city monies in accordance with policies adopted by the Council and as provided by state law, and such policies shall be reviewed by the Council at least annually.

ARTICLE VII BONDS, WARRANTS AND OTHER EVIDENCE OF INDEBTEDNESS

Section 7.01 Powers to Issue

In keeping with state law, the City shall have the power to borrow money on the credit of the City for any public purpose not now or hereafter prohibited by state law and shall have the right to issue all tax bonds, revenue bonds, funding and refunding bonds, time warrants and other

evidence of indebtedness as now authorized or as may hereafter be authorized to be issued by cities in Texas, subject to the right to petition the City to call an election on the issuance of debt as allowed by state law.

Section 7.02 Manner of Issuance

Bonds, warrants and other evidence or indebtedness of the City, as described in Section 7.01, shall be issued in the manner provided by state law.

Section 7.03 Sale of Bonds

No bonds issued by the City shall be invalid because they are sold for less than par value and accrued interest. The Council shall have the right to reject any or all bids.

Section 7.04 Interest and Sinking Fund

It shall be the duty of the Council to levy an annual tax sufficient to pay the interest on and provide the necessary sinking fund required by law on all outstanding general obligation bonds of the City. The interest and sinking fund shall not be diverted to or used for any other purpose than to pay the interest and principal on all such bonds issued by the City. The sinking fund maintained for the redemption of any debt may be invested in any interest-bearing securities in accordance with policies adopted by the Council and as provided by state law.

Section 7.05 Revenue Bonds

The City shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending, or repairing of public utilities, recreational facilities or facilities for any other self-liquidating function not now or hereafter prohibited by state law, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable solely from the properties, or interest therein acquired, and the income therefrom, and shall never be a general obligation debt of the City. Revenue bonds issued by the City shall be submitted for approval by a majority of registered voters, voting at an election held for such purpose, unless the resolution directing publication of notice of intention to issue said revenue bonds is approved by a two-thirds majority vote of the Council Members. The Council shall have authority to provide for the terms and force of any purchase agreement, contract, mortgage, bond or document desired or necessary for the issuance of revenue bonds and the acquisition and operation of any such property or interest.

ARTICLE VIII TAXATION

Section 8.01 Powers of Taxation

The Council shall have the power to levy, for general purposes, all types of taxes as provided and permitted by state law, including but not limited to motel/hotel occupancy taxes,

occupational taxes, sales and use taxes, alcohol taxes and ad valorem taxes on real, personal and mixed property within the City, not exempt from taxation by state law.

Section 8.02 Tax Lien and Liability

A special lien is hereby created on all real, personal and mixed property located in the City in favor of the City, for all unpaid taxes. The priority of said lien shall be determined in accordance with state law.

ARTICLE IX ELECTIONS

Section 9.01 Regular Elections

The regular City election shall be held on the first Saturday of May of each year or as required by the state election code, at which time Council Members shall be elected to fill those positions which become vacant that year.

Section 9.02 Registered voters

All citizens qualified and registered to vote by state law in the City and who satisfy the requirements for registration prescribed by state law shall be registered voters of the City within the meaning of this Charter.

Section 9.03 Regulation of Elections

The Council shall make all regulations considered to be necessary or desirable which are not inconsistent with this Charter or state law, for the conduct of City elections, or for the prevention of fraud, and shall make provisions for a recount of the ballots in case of doubt or fraud. The Council shall appoint election officials who shall conduct the City elections consistent with this Charter and with regulations made by the Council and by state law. The Council shall provide for the compensation of all election officials in City elections and for all other expenses of holding such elections.

Section 9.04 Filing for Office

Any qualified person who desires to become a candidate for election to the Council shall file with the City Secretary an application to that effect and in accordance with the state election code.

Section 9.05 Official Ballot

An official ballot shall be drawn up by the City Secretary and will contain the names of all candidates for office, except those who may have been withdrawn, deceased or become ineligible. Names will be placed on the ballot without party designation and position on the ballot will be determined by drawing lots.

Section 9.06 Conducting and Canvassing Elections

The returns of each City election shall be delivered forthwith by the election judges to the City Secretary. The Council shall canvass the returns, investigate the qualifications of the candidates and declare the official results of the election in the manner and within the time periods provided by state law. Returns of each City election shall be recorded in the minutes of the Council.

Section 9.07 Election by Majority

The Council candidate receiving the majority of all votes cast for the office shall be elected. If no candidate receives a majority, the Council shall, on the first day following the official count, call for a second election to be held as provided by state law. The two (2) candidates receiving the highest number of votes shall have their names placed on the ballot to be prepared by the City Secretary, in the order of their standing in the computation of votes. In the event of a tie between two or more candidates, they shall cast lots to determine which two are to be the run-off candidates or determine their places on the ballot. In the event of a tie in the run-off election, the run-off candidates shall cast lots to determine the winner.

ARTICLE X INITIATIVE, REFERENDUM AND RECALL

Section 10.01 Power of Initiative

The people of the City reserve the power of direct legislation by initiative, and in the exercise of such power, may propose any ordinance not in conflict with this Charter or state laws except an ordinance appropriating money or authorizing the levy of taxes or an ordinance repealing an ordinance appropriating money or levying taxes. Any initiated ordinance may be submitted by a petition signed by registered voters of the City equal in number to at least twenty-five (25) per cent of the number of registered voters who resided in the City at the time of the last regular City election.

Section 10.02 Power of Referendum

The people of the City reserve the power to approve or reject at the polls any legislation enacted by the Council which is subject to the initiative process under this Charter. Within thirty (30) days after the final adoption of any ordinance which is subject to referendum, a petition, signed by registered voters of the City equal in number to at least twenty-five (25) per cent of the number of registered voters who resided in the City at the time of the last regular City election, may be filed with the City Secretary requesting that any such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the City Secretary, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

Section 10.03 Form of Petition for Initiative and Referendum

All petition papers circulated for the purpose of an initiative or referendum shall be uniform in size and style, as allowed by state law. Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative and referendum petitions need not all be appended to one paper, but to each separate paper there shall be attached a statement of the circulator that the circulator personally circulated the foregoing paper, that all the signatures appended thereto were made in the presence of the circulator and that the circulator believes them to be the genuine signatures of the persons whose names they purport to be. Each signer of any such petition shall sign their name in ink or indelible pencil, shall indicate after their name their place of residence by street and number, shall indicate their voter registration certificate number and shall record the date of signature.

Section 10.04 Filing, Examination and Certification of Petition

All papers comprising a petition for initiative or referendum shall be assembled and filed with the City Secretary as one instrument. Within ten (10) days after a petition is filed, the City Secretary shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition has been signed by a sufficient number of qualified electors and shall hold any petition paper entirely invalid which does not have attached thereto the statement signed by the circulator thereof. The City Secretary shall certify the result of this examination to the Council at its next regular meeting as required by state law. If the City Secretary shall certify that the petition is insufficient, the certificate shall specify the particulars in which it is defective and shall promptly notify the person filing the petition of this finding. A petition may be amended at any time within ten (10) days after a notice of insufficiency has been sent by the City Secretary, by filing a supplementary petition. In such event, the same procedures shall then be followed by the City Secretary and Council as in the case of the original petition. A finding of insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Section 10.05 Council Consideration and Submission to Voters

- (a) **Initiative Petition.** When the Council receives an authorized initiative petition, certified by the City Secretary to be sufficient, the Council shall either (a) pass the initiated ordinance without amendment within twenty (20) days after the date of the certification to the Council, or (b) submit the initiated ordinance without amendment to a vote of the registered voters of the City at a regular or special election to be held as may be provided by law.
- (b) **Referendum Petition.** When the Council receives an authorized referendum petition, certified by the City Secretary to be sufficient, the Council shall reconsider the referred ordinance. If, upon such reconsideration, such ordinance is not repealed, it shall be submitted to the voters of the City at a regular or special election to be held on such other date as may be provided by law.
- (c) **Special Elections.** Special elections on initiated or referred ordinances shall not be held more frequently than once each six (6) months and no ordinance on the same

subject as an initiated ordinance which has been defeated at any election may be initiated by the voters within two (2) years from the date of such election.

Section 10.06 Ballot Form and Results of Election

- (a) **Ballot Form.** Ordinances submitted to the electors in accordance with the initiative and referendum provisions of this Charter shall be submitted by ballot, the title of which shall contain a clear, concise statement, without argument, of the substance of such ordinance. The ballot used shall have below the ballot title the following propositions, one above the other in the order indicated “FOR THE ORDINANCE” and “AGAINST THE ORDINANCE”. Any number of ordinances may be voted on at the same election and may be submitted on the same ballot, but there shall be separate “FOR THE ORDINANCE” and “AGAINST THE ORDINANCE” propositions under each proposed ordinance.
- (b) **Results of Election.** If a majority of electors voting on a proposed initiative ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the City. A referred ordinance which is not approved by a majority of the electors voting there on shall thereupon be deemed repealed. If conflicting ordinances are approved by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

Section 10.07 Power of Recall

The people of the City reserve the power to recall any member of the Council and may exercise such power by filing with the City Secretary a petition, signed by registered voters of the Council member’s district equal in number to at least fifteen (15) percent of the number of registered voters entitled to vote for such office at the time of the last regular City election for that Council member’s district, demanding the removal of the Council member. The petition shall be signed and verified in the manner required for an initiative petition, shall contain a general statement of the grounds upon which the removal is sought and one of the signers of each petition paper shall make an affidavit that the statements made therein are true.

Section 10.08 Recall Election

- (a) **City Secretary Certification.** All papers comprising a recall petition shall be assembled and filed with the City Secretary. Within ten days (10) after the petition is filed, the City Secretary shall determine its sufficiency and, if found to be sufficient, shall certify this fact to the Council at its next regular meeting as required by state law. If a recall petition is found to be insufficient, it may be amended within ten (10) days after notice of such insufficiency by the City Secretary, by filing a supplementary petition. In that event, the same procedures shall then be followed by the City Secretary and the Council as in the case of an original petition. The finding of insufficiency of a recall petition shall not prejudice the filing of a new petition for the same purpose.

- (b) **Subject Council Member’s Rights.** The Council member whose removal is sought by a recall petition may, within five (5) days after such petition has been certified and presented to the Council, request in writing that a public hearing be held to permit the Council member to present facts pertinent to the charges specified in the petition. In this event, the Council shall order such public hearing to be held not less than five (5) days nor more than fifteen (15) days after receiving such request for public hearing.
- (c) **Removal.** If the Council member whose removal is sought does not resign, the Council shall order a recall election and fix a date for such election in accordance state election law.

Section 10.09 Recall Ballot

Ballots used in recall elections shall read as follows: “SHALL (name of person or persons) BE REMOVED FROM THE CITY COUNCIL BY RECALL?” Below such question there shall be printed the following in the following order as to each person named.

“FOR THE REMOVAL OF (name of person).

“AGAINST THE REMOVAL OF (name of person).”

Section 10.10 Results of Recall Election

If a majority of the votes cast at a recall election shall be against removal of a Council member named on the ballot, that member shall continue in office. If a majority of the votes cast at such election be for the removal of the Council member named on the ballot, the Council shall immediately declare the office vacant and such vacancy shall be filled in accordance with the provisions of this Charter. A Council member thus removed shall not be a candidate to succeed himself/ herself in an election called to fill the vacancy created.

Section 10.11 Limitations on Recall

No recall petition shall be accepted for filing against any Council Member within six (6) months after the Council Member takes office nor within six (6) months after an election for the Council member’s recall.

ARTICLE XI FRANCHISES AND PUBLIC UTILITIES

Section 11.01 Powers of the City Regarding Franchises and Public Utilities

- (a) **Powers.** The Council shall have the power by ordinance to grant, renew and extend all franchises of all public utilities of every character operating within the City and to amend the same. No franchise, however, shall be granted for an indeterminate term nor for a longer term than thirty (30) years, nor shall any exclusive franchise be granted

- (b) **Preemption.** Notwithstanding any other provision of this Article XI, no franchise or franchise fees will be required to the extent that state or federal law expressly preempts any provision of this Article XI, but the City is authorized to regulate and require payment from public services in the City for which it is not permitted to require franchises to the full extent not prohibited by state or federal law. To the extent that a state or federal preemption of this Article XI terminates, the provider of a public service for which a franchise is required must apply for a franchise within thirty (30) days and pay all fees and make all other payments eventually required by a City franchise calculated retroactive back to the date such preemption terminated.

Section 11.02 Inalienability of Control of Public Utilities

The right of control and use of the public streets, alleys and other public rights-of-ways of the City is hereby declared inalienable by the City, except by ordinances not in conflict with the provisions of this Charter. No act or omission by the Council or any officer of the City shall be construed to grant, renew, extend or amend, expressly or by estoppel or implication, any right, franchise, or easement affecting said public streets, alleys, and other public properties of the City except as provided in this Charter.

Section 11.03 Ordinance Granting Public Utility Franchise

Every ordinance granting, renewing, extending or amending a public utility franchise shall be read at no more than two (2) meetings of the Council unless the franchise ordinance requires reading at additional meetings. At least ten (10) days before Council considers such ordinance the caption of such ordinance shall be published in the official newspaper of the City or using such other media as authorized by law and the expense of such publication shall be borne by the franchise holder or prospective franchise-holder.

Section 11.04 Transfer of Public Utility Franchise

No public utility franchise shall be transferred except with the approval of the Council expressed by ordinance, including, without limitation, purported assignment of a franchise, subcontracting of franchised services, substantial change of control of the franchise holder, and sale or lease of substantial assets of the franchise holder used to provide, construct, expand, repair, or maintain facilities, equipment, or vehicles for providing the franchised service outside of the ordinary course of business. No franchise shall be granted, renewed, extended, or amended, except by ordinance containing a condition that the City shall have the right at any time within five (5) years of the expiration of the term thereof to purchase the property of the franchise holder at a price to be determined according to the method provided in the ordinance granting, renewing, extending, or amending the franchise, or if such ordinance does not provide such method, then by eminent domain if the City and the franchise holder do not negotiate agreed purchase terms.

Section 11.05 Regulation of Public Utility Franchisee

Every grant, renewal, extension or amendment of a public utility franchise shall be subject to the authority of the Council to:

- (a) forfeit any such franchise by ordinance at any time for failure of the holder thereof to comply with the terms of the franchise, such power to be exercised only after notice and hearing;
- (b) to the extent provided by law, impose reasonable regulations, restrictions, tariffs and rates to insure safe, reasonably-priced, efficient and continuous service to the public;
- (c) require such expansion and extension of plants and facilities as are necessary to provide adequate service to the public; and to the extent not prohibited by state or federal law, to require reasonably equivalent service to all similarly-situated areas of the City;
- (d) require every franchise holder to furnish to the City, without cost to the City, full information regarding the location, character, extent and condition of all facilities of such franchise holder in, over and under the streets, alleys and other public property of the City; and to regulate and control the location, relocation and removal of such; and to require, regulate and control the location, relocation and removal of such facilities as necessary for public projects or activities at no expense to the City.
- (e) collect from every public utility operating within the City its fair and just proportion of the expense of excavating, grading, paving, repaving, draining, repairing, maintaining, lighting, sweeping and sprinkling such portions of the alleys, bridges, culverts, viaducts and other public places and ways of the City as may be occupied or used in whole or in part by such utilities; or to compel such public utility to perform, at its own expense, its just share of such excavating, grading, paving, repaving, draining, repairing, maintaining, lighting, sweeping and sprinkling;
- (f) require every franchise holder to allow other public utilities to use its tracks, poles, wires, pipes or other facilities, including bridges and viaducts, wherever in the judgment of the Council such use shall be in the public interest, provided that in such event the Council shall fix a reasonable rental to be paid to the owner of the facility for such use, after notice to the interested parties and a hearing upon the facts;
- (g) prescribe the form of accounts kept by every franchise holder; examine and at no expense to the City, audit at any time the accounts and other records of any franchise holder; and require annual and other reports, including reports on the local operations of the franchise holder and if allowed by law, require an office in the City and designate an agent whom can be served with notice and legal process.
- (h) require and collect any compensation and rental not now or hereafter prohibited by state law;
- (i) require such franchise holders who request an increase in rates, charges or fares, to reimburse the City for reasonable expenses incurred in connection with the request

including any related administrative or judicial litigation, including, without limitation, expenses of in-house counsel and other City staff and outside counsel, expert witnesses including, without limitation, rate consultants, to conduct investigations, present evidence and advise the Council on such requested increase; and

- (j) regulate the granting of franchises for the supply of modes of transportation, including the rates or fares charged, the quality of vehicles used therein, and the qualifications of drivers thereof.

Section 11.06 Rate Transparency and Non-Discrimination

- (a) **Transparency.** All public utility franchise holders' rates and charges shall be published in a form approved by the City and readily available to the public.
- (b) **Non-Discrimination.** All franchise holders' rates and services shall be nondiscriminatory as to all persons and organizations of similar classes, under similar circumstances and conditions. Franchise holders shall apply their rates in accordance with governing law and, with similar rates and charges for all customers receiving similar services, without regard to race, color, ethnic, or national origin, religion, age, sex, sexual orientation, marital, military, or economic status, or physical or mental disability or geographic location in franchise holders' franchise area.

Section 11.07 Penalties and Remedies Concerning Public Utilities

It shall be unlawful to attempt to construct, construct, advertise for current service, or operate any public utility franchise including, without limitation, any public service for water, wastewater, natural gas, electricity, telecommunications, cable television or similar utility service, or any rail, bus, taxi, ambulance or other transportation service, or any solid waste or recycling service to the public within the City except under franchise, except that the Council may by ordinance use a non-exclusive licensing or non-exclusive permit scheme for transportation services instead of franchises. Any such activities without a franchise that occur within a public right-of-way or on public property will be, in addition to any other legal and equitable remedies actionable by the City as purprestures and, if done knowingly, punishable by a fine as allowed by state law.

ARTICLE XII GENERAL PROVISIONS

Section 12.01 Financial Interests to Comply with State Law

The Mayor, Council Members, and all City elected or appointed officials shall comply with the state laws, rules and regulations regarding personal financial interests in City contracts and other affairs.

Section 12.02 Oaths of Office

Every person elected or appointed to any office of the City shall, before entering upon the duties of that office, take and subscribe to the oath of office prescribed by state law.

Section 12.03 Prohibited Activities

- (a) **Non-Discrimination.** No person shall be appointed to, removed from, or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of race, gender, age, disability, religion, country of origin or political affiliation.
- (b) **No Gratuities.** No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with their test, appointment, promotion or proposed promotion.
- (c) **Forfeitures and Penalties.** In addition to any other disabilities, forfeitures or punishments under state law or this Charter, any person convicted of a violation of this section shall be ineligible for a period of five (5) years following such conviction to hold any City office or position and, if an officer or employee of the City, shall immediately forfeit the office or position. The Council may establish by ordinance such further non-ex post facto penalties for such violations as it may deem appropriate.

Section 12.04 Claims Against the City

- (a) **Notice of Claims Required.** Before the City can be subject to the jurisdiction of any court for suit upon any tort, contract, equitable, statutory, constitutional or other claim, the claimant must first have provided timely notice with substantially the specifics and in the form as required by Council through ordinance. This notice requirement is jurisdictional.
- (b) **Meritorious Administrative Claims.** Council may establish by ordinance procedures for submission by allegedly injured persons and consideration by the City Manager of claims for compensation for alleged injury, including death, by the City or its agents, and actual monetary damages for alleged breach of contract by the City. The ordinance may provide for investigation of such claims, and for payment of such claims if meritorious by the City Manager without further Council approval up to an amount set by the ordinance and by Council in any amount. Any such payment must be conditioned upon releases approved by the City Attorney in form and substance. However, no claim can be paid by the City Manager or Council in amount exceeding the amount claimed or the amount of direct damages. No other claims, including without limitation, consequential damages, punitive damages, attorney's fees, consultant fees, and other expenses are not payable. The decision of the City Manager or Council upon such claims as authorized by the subsection will be a final decision, and no request for reconsideration will be required unless otherwise provided by Council through ordinance. Exhaustion of

available administrative claims procedures established in accordance with this subsection will be a jurisdictional condition precedent for any subsequent litigation against the City related to the events or transactions that could have been the bases for such claims.

- (c) **No Waiver.** Nothing in this section or elsewhere in this Charter shall be construed to waive any rights, privileges, defenses or immunities including, without limitation, governmental immunity from suit.

Section 12.05 Liens, Assignment, Execution, Garnishment, and Security Bonds

- (a) **Liens, Assignment, and Execution.** The real and personal property belonging to the City shall not be liable for and shall be exempt and immune from sale or appropriation under any writ or execution or cost bill, and no lien of any kind shall ever exist against any such property owned by the City except that the lien be created or expressly authorized by this Charter or state law.
- (b) **Garnishment.** The funds and other property equitably or legally belonging to or owed to the City in the hands of any person, firm or corporation shall not be liable to and are exempt from lien, garnishment, attachment and sequestration. The City shall not be liable to garnishment on account of any debt it may owe or funds or other property of which it may have possession, custody or control, or amount it may owe to any person. Neither the City nor any of its officers or agents shall be required to answer any such writ or garnishment on any account whatever. The City shall not recognize any assignment of wages or funds by its employees, agents or contractors except as required by court order or expressly permitted by state law.
- (c) **Security Bonds.** The City shall be exempt from any supersedeas and other bond and security requirements in any judicial proceedings.

Section 12.06 References to State Law

Wherever in this Charter reference is made to state law, unless explicitly provided otherwise, such reference shall mean Texas state law in effect as of the date of the event or transaction at issue and shall not be limited to state law as it existed at the time of adoption of this Charter, or of any relevant portion hereof.

Section 12.07 Severability

If any section or part of a section of this Charter is held to be invalid or unconstitutional by final judgment of a court of competent jurisdiction, such invalidity shall not invalidate or impair the validity, force or effect of any other section or part of a section of this Charter.

Section 12.08 Charter Amendment

Amendments to this Charter may be framed and submitted to the voters of the City in the manner prescribed by state law. The Council shall, at intervals not to exceed five (5) years, formally consider the need for revision(s) to the Charter. This review shall be based on a written

report from the City Manager, with special attention given to conflicts, if any, between the Charter and state law, and recommending such amendments to the Charter as may seem necessary for legal, administrative or other reasons.

Section 12.09 Clerical Charter Amendments by Council

The Council shall have the power, by ordinance, to renumber and rearrange all articles, sections, subsections, paragraphs and subparagraphs of this Charter or any amendments hereto, as the Council shall deem appropriate, including the power to correct typographical errors and to conform cross-references in the body of the text of this Charter, so long as no substantive change is made without complying with Section 12.08 of this Charter.

ARTICLE XIII TRANSITIONAL PROVISIONS

Section 13.01 Officers and Employees

Nothing in this Charter except as otherwise specifically provided in this Charter shall affect or impair the vested rights or privileges of persons who are City officers or employees at the time of its adoption.

Section 13.02 Effect on Existing Laws

- (a) **Non-conflicting Laws.** All City ordinances, resolutions, rules, regulations, manuals, directives, approvals, and policies, or any portion of any of them, in force at the time of adoption of this Charter and not in conflict with this Charter are hereby ratified and shall remain in force until altered, amended or repealed by the Council except to the extent otherwise mandated by a final judgment of a court of competent jurisdiction. All rights of the City under existing franchises and contracts are preserved in full force and effect.
- (b) **Conflicting Laws.** All City ordinances, resolutions, rules, regulations, manuals, directives and policies, or any portion of any of them, in force at the time of adoption of this Charter that materially conflict with or that are materially inconsistent with this Charter are repealed as of the effective date of this Charter, except that they remain in effect to the extent necessary for the conduct of City business until replaced.

ITEM 4A

ORDINANCE

**APPROVAL OF AN ORDINANCE OF THE
CITY OF MARSHALL, TEXAS,
ORDERING A SPECIAL ELECTION
MAY 2, 2020, TO CONSIDER SIXTEEN
(16) PROPOSED AMENDMENTS TO THE
CHARTER OF THE CITY OF MARSHALL**

MEMORANDUM

To: Members of the City Commission

From: Mark Rohr, City Manager

Date: February 7, 2020

Subject: Consider Approval of an Ordinance of the City of Marshall, Texas, Ordering a Special Election May 2, 2020, to Consider Sixteen (16) Proposed Amendments to the Charter of the City of Marshall

Attached is an Ordinance ordering a Special Election to be held in the City of Marshall, Texas to consider sixteen (16) proposed amendments to the Charter of the City of Marshall.

I recommend approval of the Ordinance.

**CITY OF MARSHALL, TEXAS
ORDINANCE NO.**

ORDER AND NOTICE OF CITY SPECIAL ELECTION TO BE HELD IN THE CITY OF MARSHALL, TEXAS ON MAY 2, 2020 TO CONSIDER SIXTEEN (16) PROPOSED AMENDMENTS TO THE CHARTER OF THE CITY OF MARSHALL PROVIDING FOR THE CITY'S FORM OF GOVERNMENT; BOUNDARIES POWERS; CITY COUNCIL; CITY OFFICERS, TERMS AND TERM LIMITS, VACANCIES AND FORFEITURES OF OFFICE; FINANCIAL PROCEDURES; BUDGETING; ISSUANCE OF DEBT; TAXATION; ELECTIONS OF CITY COUNCIL; INITIATIVE; REFERENDUM AND RECALL FRANCHISES AND REGULATION OF PUBLIC UTILITIES; FINANCIAL INTERESTS FOR CITY COUNCIL AND OFFICERS; CLAIMS AGAINST THE CITY; LIENS, ASSIGNMENTS; GARNISHMENT AND SECURITY BONDS; ALL OF THE ABOVE AS ALLOWED BY THE STATE LAW OF TEXAS; REPEALING OBSOLETE PROVISIONS AND ADDING A NEW PROVISION TO ALLOW RENUMBERING AND REARRANGING THE CHARTER AS LONG AS NO SUBSTANTIVE CHANGE IS MADE; CORRECTING TYPOGRAPHICAL ERRORS; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Marshall wishes to order a special election for the purpose of submitting to the voters sixteen (16) amendments to the City Charter of the City of Marshall; and

WHEREAS, the City Commission of the City of Marshall deems it to be in the best interest of the City to proceed with the ordering of a special election for the purpose of submitting to the voters sixteen (16) amendments to the City Charter of the City of Marshall to be held in conjunction with the City's other elections on May 2, 2020 and the City will establish the voting procedures and places by Ordinance as is required by the Texas Election Code ; and

WHEREAS, the City Commission finds that the special election for the purpose of submitting to the voters sixteen (16) amendments to the City Charter of the City of Marshall is to be held more than seventy-eight (78) days from the date of adoption of this ordinance ordering the special election.

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

Section 1. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Commission.

Section 2. A special election for the purpose of submitting to the voters sixteen (16) proposed amendments to the Charter of the City of Marshall is hereby ordered and scheduled to be held concurrent with the general City election on May 2nd, 2020, to determine whether the ballot propositions appearing in Section 3, hereof, shall be approved by a majority of the votes cast in

such election in which all qualified voters residing in the City shall participate. The special election shall be held and conducted in the manner prescribed by state law for all elections. The places for voting in such special election shall be such locations as shall otherwise be established for the general election to elect City Commissioners on May 2nd, 2020. All duly qualified electors of the City of Marshall shall be entitled to participate in said election.

Section 3. There shall be submitted at the special election for the purpose of submitting to the voters sixteen (16) proposed amendments to the Charter of the City of Marshall for the voters of the City to vote FOR or AGAINST the following amendments to the City Charter of the City of Marshall, Texas:

PROPOSITION A Incorporation, Form of Government, Boundaries and Official Map

Shall ARTICLE I, IN GENERAL Sec. 2 through Sec. 11 of the City Charter be amended as ARTICLE I INCORPORATION AND FORM OF GOVERNMENT to provide for the incorporation of the home-rule City of Marshall; Council-Manager form of government and boundaries for the City of Marshall, Texas and the official map?

____ FOR

____ AGAINST

PROPOSITION B Powers of the City as allowed by state law

Shall ARTICLE II, CORPORATE POWERS Sec.12 through 22 of the City Charter; be amended as ARTICLE II POWERS OF THE CITY to provide for the general powers and construction of the general powers of the City, annexation and disannexation, and intergovernmental relations of the City as allowed by state law?

____ FOR

____ AGAINST

PROPOSITION C City Council and Officers: City Secretary, City Attorneys, Prosecutor and outside Counsel, City Manager and Municipal Judges

Shall ARTICLE III, CITY COMMISSION AND OFFICERS Sec. 23 through Sec. 30 of the City Charter and Article V Chairman Sec. 109 through Sec.114 be amended as ARTICLE III CITY COUNCIL AND OFFICERS, to provide for a Mayor, Mayor Pro Tem and City Council, and City appointed officers, to provide for the general powers and duties of the City Council; to provide for the number, selection, and boundaries of City Council districts and to allow for redistricting; to provide for qualifications and that the City Council is the judge of a Council member's qualifications; to prohibit dual office holding and interference with staff; to provide for no compensation but to allow reimbursement for necessary expenses of office; to provide for meetings, rules of procedure and Council investigations and to amend Article VII, City Secretary and Article VIII City Attorney of the City Charter to provide by new Secs. 3.10 and 3.11 for the Council to appoint the City Secretary and City Attorney, Prosecutor and other assistant City Attorneys, outside Counsel or volunteer attorney to assist the City Attorney and for the Council

to proscribe the duties of the City Secretary and City Attorney, to amend ARTICLE VI, City Manager, by Article IV, Administrative Organization to provide for the City Manager, the City Manager's appointment, qualifications, compensation, removal or suspension, an acting City Manager, City Manager powers and duties and additional administrative organization as provided for by the City Council; and to amend ARTICLE X, CORPORATION, Sec. 160 through 174 of the City Charter and replace with a new ARTICLE V MUNICIPAL COURT to provide for the Municipal Court of the City of Marshall, the jurisdiction of the municipal court; provide for the appointment of the Chief Municipal Judge and other municipal judges by the City Council; municipal judge qualifications, compensation and powers and to provide for the Clerk and Deputy Clerk of the Municipal Court appointed by the City Manager and their powers?

____FOR

____AGAINST

PROPOSITION D Ordinances require one (1) reading and procedures for adoption of Ordinances and Emergency Ordinances

Shall ARTICLE IX, ORDINANCES, Sec. 175 to Sec. 185 be amended as ARTICLE III, Secs. 3.15 through 3.17 to provide for action requiring an ordinance, ordinances in general, ordinances to require one (1) reading, the form, procedures for adoption, effective date and publication of ordinances, and emergency ordinances as allowed by state law?

____FOR

____AGAINST

PROPOSITION E Financial Procedures for Budgeting, Budget procedures; Audits, Purchasing and Investment Procedures as allowed by state law

Shall Sec. 77 through 78.4 of the City Charter providing for the budget, Sec. 102 providing for an Audit; Sec. 17 real estate purchase; Sec. 36 through 39 providing for contracts, purchases and appropriations be amended to be consistent with state law as ARTICLE VI, FINANCIAL PROCEDURES for the preparation and submission of the budget; procedures for budget approval and amendment of the budget, public hearings and appropriations and funding, auditing of City finances and purchasing and investment procedures as allowed by state law?

____FOR

____AGAINST

PROPOSITION F Taxation and Tax Liens and Liability

Shall Sec. 14 Taxes; References to the Tax Assessor Collector; references to the collection of taxes; Sec. 299 Payment of taxes and delinquent taxes of the City Charter providing for the power to tax, collection and for tax liens of the City Charter be amended as ARTICLE IX TAXATION to allow powers of taxation, tax liens and liability as allowed by state law?

____FOR

____AGAINST

PROPOSITION G Elections conducted as allowed by state law

Shall Article XII Elections Sec. 186 to Sec. 192 of the City Charter be amended as ARTICLE IX Elections to provide for elections to be conducted as allowed by state law?

____FOR

____AGAINST

PROPOSITION H Initiative and Referendum

Shall Sec. 193 providing for referendum be amended as ARTICLE X FOR INITIATIVE AND REFERENDUM to provide for the right of the people to initiate legislation or to approve or reject legislation enacted by the Council and to provide procedures for initiative and referendum as allowed by state law?

____FOR

____AGAINST

PROPOSITION I Vacancies, Forfeitures of Office and Filing of Vacancies

Shall Sec. 32, Sec. 33, Sec. 35 providing for Resignation and election and Sec. 71, Vacancy, and Sec. 72 Resignation of the City Charter be amended by adding Sec. 3.06 to provide for vacancies, and forfeitures of office and filing of vacancies in the office of a Council member by either appointment or calling an election to fill the vacancy and provided that if four-year terms are adopted the appointment may only be made within the first year of office as allowed by the Texas Constitution?

____FOR

____AGAINST

PROPOSITION J Franchises and Public Utilities for the City to regulate by ordinance the transfer, regulations and rates and require two readings of the Ordinance

Shall Article XIII Franchises Sec. 194 to Sec. 200 of the City Charter be amended as ARTICLE XI FRANCHISES AND PUBLIC UTILITIES to provide for the power of the City to grant and regulate all franchises of public utilities by ordinance; provide for the transfer, regulation, and rates of public utility franchises; and proscribe penalties by ordinance and require two (2) readings of a public utility franchise ordinance?

____FOR

____AGAINST

PROPOSITION K General Provisions for Financial Interest, Oath of Office, Prohibited

Activities, Claims against the City, Liens, Assignments, Garnishment and Security Bonds and Transitional Provisions for vested rights and effect on existing laws

Shall sections providing for financial interests of officers and employees of the City Charter be amended as ARTICLE XII GENERAL PROVISIONS to provide for financial interests of the Mayor, Mayor Pro Tem and all City elected or appointed officials to comply with state law regarding personal interests in contracts, oaths, prohibited activities, claims against the City to require notice and allow meritorious claims to be settled by the City Manager and for Liens, Assignment and Garnishment and to provide for a new ARTICLE XIII TRANSITIONAL PROVISIONS to provide for the vested rights or privileges of persons who are City officers or employees and for the effect on existing laws at the time of the adoption of amendments to the City Charter?

____FOR

____AGAINST

PROPOSITION L Council allowed to Renumber and Rearrange Charter by Ordinance as long as no substantive change made.

Shall the City Charter be amended to add a new Section 12.09 to allow the Council, by ordinance, to renumber and rearrange all articles, sections, subsections, paragraphs and subparagraphs of this Charter or any amendments hereto, correct typographical errors as the Council shall deem appropriate, including the power to conform cross-references in the body of the text of this Charter, so long as no substantive change is made?

____FOR

____AGAINST

PROPOSITION M Repeal obsolete provisions, provisions preempted by state and federal law and provisions within the general power of the city as allowed by state law.

Shall obsolete provisions of the City Charter be repealed, including Sec. 6 through Sec. 8 Local Option Liquor elections ; Sec. 29 Jury Duty; Sec. 30 Surety; Sec. 31 Free Service; Sec. 40 School Board contracts; Sec. 41 Religious or Political Beliefs; Article III, Division 2 Political Influence, Sec. 42 through Sec. 49; Sec. 89 Charitable institutions; Sec. 90 Orphanages; Sec 91 Pensions; Sec. 92 Buildings; Sec. 9 Sewer system; Sec. 94 Sewer districts; Sec. 95 Plumbing; Sec. 96 Quarantine; Sec. 98 City Depository; Article IV Committees Sec. 99 through 101 Article XIV Parks Sec. 202 through 210; Article XV Schools, Sec. 211 to Sec. 241; Article XVI Railways Sec. 242 through Sec. 254; and Article XVIII Streets Sec. 265 through Sec. 274; that are no longer necessary or are preempted by the Texas Constitution, state or federal law and are within the general powers of the City as allowed by state law?

____FOR

____AGAINST

PROPOSITION N Recall of a Council member by petition of least fifteen (15) percent of the number of registered voters in the Council member’s district and for limitations on recall within six (6) months after an election for the Council member’s recall

Shall Sec. 63 Recall of a Council member of the City Charter be amended to provide for the right of the people to provide for recall of a Council member by petition of at least fifteen (15) percent of the number of registered voters in the Council member’s district as allowed by state law and for limitations on recall for any Council member within six (6) months after an election for the Council member’s recall?

____FOR

____AGAINST

PROPOSITION O Terms and Term Limits

Shall ARTICLE III, Sec. 64 Term of two (2) years and Sec. 64.1 City Commissioner term limits be amended as follows:

Section 3.04 Terms and Term Limits

- a. **Terms.** Except for Council Members elected to serve an unexpired term or in emergency situations as provided in section 3.17 of this Charter, each Council member elected shall serve a term of four years.
- b. **Transition.** To transition to four-year terms, only those Council Members whose terms begin with the May 01, 2021, general election shall serve a term of three-years and the three-year term shall expire with the May 4, 2024, general election. Four-year terms and the accruing of consecutive terms as provided for in this section shall include only the Council Member terms beginning with the May 07, 2022, general election and all other terms arising out of subsequent general elections-
- c. **Term Limits.** Council members shall serve not more than two (2) consecutive four-year terms arising out of a general election for a district and not more than a total period of eight consecutive years as a Council member of a district, regardless of which Council member district or districts a person serves. A Council member who has served two (2) consecutive four-year terms in a district arising out of a general election or a total period of eight consecutive years as a Council member shall be eligible to file for election for a district by having first been off the Council for at least one annual council election cycle.

PROPOSITION P Bonds, Warrants and Other Evidence of Indebtedness as allowed by state law

Shall Sec. 82 through Sec. 88 of the City Charter be amended as ARTICLE VII BONDS, WARRANTS AND OTHER EVIDENCE OF INDEBTEDNESS be amended and replaced with new ARTICLE VII BONDS, WARRANTS AND OTHER EVIDENCE OF INDEBTEDNESS for the City Council the right to issue all tax bonds, revenue bonds, funding and refunding bonds, time warrants and other evidence of indebtedness be consistent with state law and allow for the

right of the people to petition the City to call an election on the proposed debt as allowed by state law and amended to read as follows?

_____FOR

_____AGAINST

Section 4. Notice of the election shall be given and the election shall be held in compliance with the provisions of the Texas Election Code in all respects. The ballots for the election shall comply with the Texas Election Code. and in addition, notice of the special election shall be published as required by Texas Local Government Code Section 9.04 and shall be published on the same day in each of two successive weeks, with the first publication occurring before the 14th day before the date of the election.

Section 5. That said election shall be held within the City of Marshall at Marshall Convention Center, 2501 E. End Blvd. South.

Section 6. The Harrison County Election Administrator will conduct and supervise the election according to the agreement between the City of Marshall 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.

Section 7. A copy of this Ordinance signed by the Chairman of the City Commission and attested by the City Secretary shall serve as proper notice of said election. The City Secretary is authorized and directed to post a properly executed copy of said Notice of Election at City Hall and at the place where the election is to be held not less than 20 days prior to the date fixed for holding said election.

Section 8. All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters ordained herein.

Section 9. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 10. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and this Council hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 11. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 12. This Ordinance shall be in force and effect from and after the date of its adoption and passage, and it is so ordained.

PASSED, AND APPROVED this ____ day of February 2020.

AYES: _____ NOES: _____ ABSTAINED: _____

PASSED, APPROVED, AND ADOPTED this ____ day of February 2020.

AYES: _____ NOES: _____ ABSTAINED: _____

CITY OF MARSHALL, TEXAS

Chairman, Marshall City Commission

ATTEST:

Elaine Altman, City Secretary

ITEM 5

ADJOURNMENT