



**NOTICE OF MEETING
GOVERNING BODY OF MARBLE FALLS, TEXAS
October 5, 2021 – Noon**

A quorum of the Marble Falls Economic Development Corporation
and the Planning & Zoning Commission may be present

Notice is hereby given that on the 5th day of October 2021 the Marble Falls City Council will meet in regular session at Noon in the City Hall Council Chambers located at 800 Third Street, Marble Falls, Texas, at which time the following subjects will be discussed:

1. **CALL TO ORDER AND ANNOUNCE QUORUM IS PRESENT**
2. **INVOCATION**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES AND TO THE TEXAS FLAG.**
"Honor the Texas Flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible."
4. **UPDATES, PRESENTATIONS, PROCLAMATIONS AND RECOGNITIONS**
 - Proclamation – First Responders Month
 - Update from the Marble Falls Public Library. *Amanda Rose, Director*
5. **CITIZEN COMMENTS.** *This is an opportunity for citizens to address the City Council concerning an issue of community interest that is not on the agenda. Comments on a specific agenda item must be made when the agenda item comes before the Council. The Mayor may place a time limit on all comments. Any deliberation of an issue raised during Citizen Comments is limited to a statement of fact regarding the item; a statement concerning the policy regarding the item or a proposal to place the item on a future agenda.*
6. **CONSENT AGENDA.** *The items listed are considered to be routine and non-controversial by the Council and will be approved by one motion. There will be no separate discussion of these items unless a Councilmember so requests, in which case the item will be removed from the Consent Agenda prior to a motion and vote. The item will be considered in its normal sequence on the Regular Agenda.*
 - (a) Approval of the minutes of the September 17, 2021 regular meeting. *Christina McDonald, City Secretary*
7. **REGULAR AGENDA.** *Council will individually consider and possibly take action on any or all of the following items:*

- (a) Discussion and Action on Resolution 2021-R-10A authorizing the Mayor or City Manager to execute agreements with PNC Equipment Finance for the lease purchase of a fire engine not to exceed \$862,804.26. *Russell Sander, Fire Chief*

8. CITY MANAGER'S REPORT

9. EXECUTIVE SESSION

10. RECONVENE INTO OPEN SESSION FOR POSSIBLE ACTION RESULTING FROM ITEMS DISCUSSED IN EXECUTIVE SESSION

11. ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

12. ADJOURNMENT

"The City Council reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any matters listed on the agenda, as authorized by the Texas Government Code, including, but not limited to, Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551.087 (Economic Development), 418.183 (Deliberations about Homeland Security Issues) and as authorized by the Texas Tax Code, Section 321.3022 (Sales Tax Information)."

In compliance with the Americans with Disabilities Act, the City of Marble Falls will provide for reasonable accommodations for persons attending City Council Meetings. To better serve you, requests should be received 24 hours prior to the meeting. Please contact Ms. Christina McDonald, City Secretary at (830) 693-3615.

Certificate of Posting

I, Christina McDonald, City Secretary for the City of Marble Falls, Texas, do certify that this Notice of Meeting was posting at City Hall, in a place readily accessible to the general public at all times, on the 30th day of September 2021 at 11:00 am and remained so posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Christina McDonald

Christina McDonald, TRMC
City Secretary

PROCLAMATION

First Responders Appreciation Month

WHEREAS, First Responders include 911 dispatchers, law enforcement officers, professional and volunteer firefighters, professional and volunteer emergency medical services personnel, emergency management professionals, search and rescue teams, rescue pilots and divers, and the Texas National Guard, among others in the public safety sector; and

WHEREAS, these courageous men and women are our first and best defense against all threats, both foreign and domestic; and

WHEREAS, each day, our First Responders stand ready to aid Texans who are in need, often risking their own safety in the execution of their duties; and

WHEREAS, First Responders undergo extensive education and training in order to achieve the expertise required to respond to emergency situations; and

WHEREAS, on First Responders Appreciation Day and throughout the year, Texans are encouraged to celebrate the service and sacrifice of the First Responders who make our communities the best in which to live, work, and raise a family;

NOW, THEREFORE, I, Mayor Richard Westerman do hereby proclaim the month of October 2021 as **FIRST RESPONDERS APPRECIATION MONTH** in the City of Marble Falls, and urge all community members to express their personal gratitude to those who serve us all so selflessly.

Dated this 5th day of October, 2021.

Richard Westerman, Mayor

October 5, 2021

6. CONSENT AGENDA

- (a) Approval of the minutes of the September 21, 2021 regular meeting. *Christina McDonald, City Secretary*
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**STATE OF TEXAS
COUNTY OF BURNET
CITY OF MARBLE FALLS**

On this the 21st day of September 2021 the City Council convened in regular session at 6:00 pm in the City Hall Council Chambers located at 800 Third Street, Marble Falls with notice of meeting giving time, place, date, and subject having been posted as described in Chapter 551 of the Texas Government Code.

PRESENT: Richard Westerman Mayor
Dave Rhodes Mayor Pro-Tem
William (Dee) Haddock Councilmember
Craig Magerkurth Councilmember
Reed Norman Councilmember
Rene Rosales Councilmember
Bryan Walker Councilmember

ABSENT: None

STAFF: Mike Hodge City Manager
Caleb Kraenzel Assistant City Manager
Christina McDonald City Secretary
Patty Akers City Attorney
James Kennedy Director of Public Works
Jay Everett Assistant Director of Public Works
Glenn Hanson Chief of Police
Lacey Dingman Director of Parks and Recreation
Tommy Crane Fire Marshal
Christian Fletcher EDC Executive Director
Jeff Lazenby Director of Finance
Mike Ingalsbe Building Official
Scarlet Moreno Planner
Adam Guerrero Patrol Officer
Erin Burks Downtown Coordinator

VISITORS: Brigid Cooley (Daily Trib), Jarrod Metzgar (Executive Director Marble Falls/Lake LBJ Chamber of Commerce and CVB), Susan Patton (LCRA), William Brust (builder 708 Lakeshore Drive), Jacob Cox, Attorney for builder William Brust, Lynnwood Nelson, Bailey Vercher (Dale Brown Properties), Karl Westerman

1. CALL TO ORDER AND ANNOUNCE QUORUM IS PRESENT. Mayor Westerman called the meeting to order at 6:00 pm.

2. **INVOCATION.** Councilmember Walker gave the invocation.
3. **PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES AND TO THE TEXAS FLAG.** Mayor Pro-Tem Rhodes led the pledges to the flags.
4. **UPDATES, PRESENTATIONS, PROCLAMATIONS AND RECOGNITIONS.** There were no updates, presentations, proclamations or recognitions.
5. **CITIZEN COMMENTS.** There were no citizen comments.
6. **CONSENT AGENDA.**
 - (a) Approval of the minutes of the September 7, 2021 workshop and regular meeting.
 - (b) Approval of the 3rd Quarter Investment Report for the period April 1, 2021 through June 30, 2021.
 - (c) Approval of Resolution 2021-R-09B authorizing the execution of an advance funding agreement (AFA) with the Texas Department of Transportation for a Transportation Alternatives Set-Aside (TASA) Project with Texas Department of Transportation (TxDOT) and authorize the City Manager to execute the agreement.

Councilmember Norman made a motion to approve the consent agenda. The motion was seconded by Councilmember Haddock and carried by a unanimous vote (7-0).

7. **REGULAR AGENDA.**
 - (a) **Public Hearing, Discussion and Action on Ordinance 2021-O-09F regarding a variance request to Article 5 (Environmental Protection), Division 5.2 (Flood Damage Prevention), Section 5.2.3 (Provisions for Flood Hazard Reduction), Paragraph B.2 (Specific Standards for Flood Hazard Reduction – Residential Construction) of the Code of Ordinances, City of Marble Falls regarding the elevation of the lowest floor of a residential structure for the property located on Lot 29, Hays Addition, City of Marble Falls, Burnet County, Texas, municipally addressed as 908 Lakeshore Drive.** Mayor Westerman announced a Conflict of Interest and stepped down from the dais. City Secretary Christina McDonald acknowledged a Conflict-of-Interest Affidavit had been filed by Mayor Westerman. Mayor Pro-Tem Rhodes introduced the agenda item. Caleb Kraenzel, Assistant City Manager addressed Council. After Mr. Kraenzel's presentation, Mr. Kraenzel stated that staff is recommending denial of the variance request based on the reasons provided in staff's presentation: 1. NFIP probation/penalty, 2. Taxpayer liability, 3. Future homeowner(s), 4. Other floodplain property owners, 5. Engineering factors and 6. Justification/suitability. City Attorney Patty Akers provided Council with legal information related to the variance request. Mayor Pro-Tem Rhodes opened the public hearing. Jacob Cox, builder's attorney addressed Council. Lynnwood Nelson

stated that he feels the City's argument is protecting themselves, however he feels that City staff did not do their due diligence during inspections while the home was being built. Building Official Mike Ingalsbe briefly addressed Council. There being no further discussion, Mayor Pro-Tem Rhodes closed the public hearing.

Councilmember Walker made a motion to deny the variance request. The motion was seconded by Councilmember Rosales. The motion failed by a vote of 3-3. AYES: Councilmembers Walker, Norman and Rosales. NAYS: Mayor Pro-Tem Rhodes and Councilmembers Haddock and Magerkurth. ABSTAINING: Mayor Westerman

Councilmember Haddock made a motion to approve Ordinance 2021-O-09F contingent upon the builder and/or homeowner identifying all residents within the floodplain and to get them to sign hold harmless agreements. There was no second to the motion. After some discussion Councilmember Haddock withdrew his motion.

Councilmember Haddock made a motion to approve the variance request contingent upon the builder and/or property owner acquiring hold harmless agreements holding the City harmless from liability in the event of a flood event from each property owner within a 200-foot radius of the subject property. Councilmember Rosales seconded the motion. The motion carried by a vote of 5-1, with Councilmember Walker voting opposed and Mayor Westerman abstaining.

(b) Discussion and Action on Ordinance 2021-O-09A, adopting a budget for the City of Marble Falls and the Marble Falls Economic Development Corporation for Fiscal Year 2021/2022. Jeff Lazenby, Director of Finance addressed Council. Councilmember Haddock made a motion to act favorably on Ordinance 2021-O-09A funding the positions discussed for the full fiscal year and with the projected increase in sales tax. Mayor Pro-Tem Rhodes seconded the motion. The motion carried by the following roll call vote (7-0):

- Councilmember Magerkurth – AYE
- Mayor Pro-Tem Rhodes - AYE
- Councilmember Rosales - AYE
- Mayor Westerman - AYE
- Councilmember Walker - AYE
- Councilmember Haddock - AYE
- Councilmember Norman - AYE

(c) Public Hearing, Discussion and Action on Ordinance 2021-O-09E adopting a proposed tax rate for FY 2021/2022. Jeff Lazenby, Director of Finance addressed Council. Mayor Westerman opened the public hearing. There being no discussion, Mayor Westerman closed the public hearing. Councilmember Walker made a motion to act favorably on Ordinance 2021-O-09E. Mayor Pro-Tem Rhodes seconded the motion. The motion carried by the following roll call vote (7-0).

Councilmember Magerkurth – AYE
Mayor Pro-Tem Rhodes - AYE
Councilmember Rosales - AYE
Mayor Westerman - AYE
Councilmember Walker - AYE
Councilmember Haddock - AYE
Councilmember Norman - AYE

8. **CITY MANAGER’S REPORT.** City Manager Mike Hodge provided an update on commercial development.

9. **EXECUTIVE SESSION**

CLOSE OPEN SESSION AND CONVENE EXECUTIVE SESSION Pursuant to §551.071 (*Private Consultation between the Council and its Attorney*) and Pursuant to §551.074 (*Deliberation Regarding the Appointment, Employment, Employment Evaluation, Reassignment, Duties, discipline or Dismissal of a Public Officer or Employee or to Hear a Complaint or Charge Against an Officer or Employee*) of the Open Meetings Act. *Tex. Gov’t Code*, Council will meet in Executive Session to discuss the following:

- **Consultation with the City Attorney regarding Hamilton Creek Ranchettes Petition to Appeal Outside City Water Rates**
- **Consultation with the City Attorney regarding municipal authority and procedures applicable to code enforcement matters**
- **Discuss and consider employment of personnel related to tourism within the city**

8:00 pm Council convened to Executive Session

8:54 pm Council returned to Open Session

10. **RECONVENE INTO OPEN SESSION FOR POSSIBLE ACTION RESULTING FROM ITEMS DISCUSSED IN EXECUTIVE SESSION.** Mayor Pro-Tem Rhodes made a motion to approve the proposal to reorganize the CVB and Chamber partnership as discussed in Executive Session and authorize the positions of CVB Manager, Marketing Coordinator and reclass the Downtown Coordinator to Downtown and Marketing Manager. The motion was seconded by Councilmember Walker and carried by a unanimous vote (7-0).

11. **ANNOUNCEMENTS AND FUTURE AGENDA ITEMS.** The draft agenda for the October 5 Council Meeting was reviewed. It was noted that the meeting will begin at Noon to allow Council to participate in the National Night Out Event in the evening.

12. **ADJOURNMENT.** There being no further business to discuss, Councilmember Norman made a motion to adjourn. Mayor Pro-Tem Rhodes seconded the motion and the meeting was adjourned at 9:00 pm.

Richard Westerman, Mayor

ATTEST:

**Christina McDonald, TRMC
City Secretary**

DRAFT

October 5, 2021

7. REGULAR AGENDA

- (a) Discussion and Action on Resolution 2021-R-10A authorizing the Mayor or City Manager to execute agreements with PNC Equipment Finance for the lease purchase of a fire engine not to exceed \$862,804.26. *Russell Sander, Fire Chief*
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Council Agenda Item Cover Memo
October 5, 2021

Agenda Item No.: 7(a)
Presenter: Russell Sander, Fire Chief
Department: Fire Rescue
Legal Review:

AGENDA CAPTION

Discussion and Action on Resolution 2021-R-10A authorizing the Mayor or City Manager to execute agreements with PNC Equipment Finance for the lease purchase of a fire engine not to exceed \$862,804.26.

BACKGROUND INFORMATION

During the FY 2021-22 budget process, Council authorized the purchase of a new fire engine through a Turn-In Lease Purchase program with PNC Financial equipment. The cost of the new engine will not exceed \$862,804.26. The lease term is 10 years and at the end of the term, the City can turn in the truck for a new one, pay off the balloon payment, refinance the balloon payment for an additional 5 years, or sell the truck to pay off the remaining amount. The price of the truck includes 10 years of biannual preventative maintenance services for the truck.

The new engine will be purchased from Siddons-Martin Emergency Group, the Pierce Manufacturing dealership for Texas. The truck is also being purchased through the Buy Board cooperative purchasing program. The new engine will replace the 2003 Pierce Contender fire engine. The old truck will be sold with the proceeds deposited into the general fund. The truck will not be sold until the new engine arrives, currently estimated 13-14 months from order date.

Because the leasing proposal is only good for 7 days, the final lease terms will be provided the night of the Council meeting. Additionally, due to the current market for materials, the manufacture has stated that cost of the truck may rise before a purchase order is issued and this resolution approved. In the event there is a price increase, a final not to exceed price will be provided at the meeting.

STAFF RECOMMENDATION

Approve Resolution 2021-R-10A authorizing the Mayor or the City Manager to execute agreements with PNC Equipment Finance for the lease purchase of a fire engine not to exceed \$862,804.26.

RESOLUTION 2021-R-10A

Municipality/Lessee: CITY OF MARBLE FALLS

Principal Amount Expected to Be Financed: \$862,804.26

WHEREAS, the CITY OF MARBLE FALLS (“the Municipality”) is a political subdivision of the STATE OF TEXAS (the “State”) and is duly organized and existing pursuant to the Constitution and laws of the State.

WHEREAS, pursuant to applicable law, the governing body of the Municipality (“Governing Body”) is authorized to acquire, dispose of and encumber real and personal property, including, without limitation, rights and interest in property, leases and easements necessary to the functions or operations of the Municipality.

WHEREAS, the Governing Body hereby finds and determines that the execution of one or more Master Lease-Purchase Agreements (“Leases”) in the principal amount not exceeding the amount stated above for the purpose of acquiring the property (“Equipment”) to be described in the Leases is appropriate and necessary to the functions and operations of the Municipality.

WHEREAS, PNC Equipment Finance, LLC (“Lessor”) shall act as Lessor under said Leases.

NOW, THEREFORE, Be It Ordained by the Governing Body of the Municipality:

Section 1. Either one of the Mayor OR City Manager (each an “Authorized Representative”) acting on behalf of the Municipality, is hereby authorized to negotiate, enter into, execute, and deliver one or more Leases in substantially the form set forth in the document presently before the Governing Body, which document is available for public inspection at the office of the Municipality. Each Authorized Representative acting on behalf of the Municipality is hereby authorized to negotiate, enter into, execute, and deliver such other documents relating to the Lease as the Authorized Representative deems necessary and appropriate. All other related contracts and agreements necessary and incidental to the Leases are hereby authorized.

Section 2. By a written instrument signed by any Authorized Representative, said Authorized Representative may designate specifically identified officers or employees of the Municipality to execute and deliver agreements and documents relating to the Leases on behalf of the Municipality.

Section 3. The aggregate original principal amount of the Leases shall not exceed the amount stated above and shall bear interest as set forth in the Leases and the Leases shall contain such options to purchase by the Municipality as set forth therein.

Section 4. The Municipality’s obligations under the Leases shall be subject to annual appropriation or renewal by the Governing Body as set forth in each Lease and the Municipality’s obligations under the Leases shall not constitute general obligations of the Municipality or indebtedness under the Constitution or laws of the State.

Section 5. As to each Lease, the Municipality reasonably anticipates to issue not more than \$10,000,000 of tax-exempt obligations (other than “private activity bonds” which are not “qualified 501(c)(3) bonds”) during the current calendar year in which each such Lease is issued and hereby designates each Lease as a qualified tax-exempt obligation for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended.

Section 6. This resolution shall take effect immediately upon its adoption and approval.

ADOPTED AND APPROVED on this 5th day of October, 2021.

The undersigned City Secretary of the above-named Municipality hereby certifies and attests that the undersigned has access to the official records of the Governing Body of the Municipality, that the foregoing resolutions were duly adopted by said Governing Body of the Municipality at a meeting of said Governing Body and that such resolutions have not been amended or altered and are in full force and effect on the date stated below.

LESSEE: CITY OF MARBLE FALLS

Signature of City Secretary

[SEAL]

Print Name: _____

Official Title: _____

Date: _____