

RESOLUTION NO R-2022-0054

A RESOLUTION OF THE CITY OF LA MARQUE, TEXAS CALLING A CHARTER AMENDMENT ELECTION ON THE QUESTION OF ADOPTING ELEVEN AMENDMENTS TO THE CITY OF LA MARQUE, TEXAS CHARTER; PROVIDING DETAILS RELATING TO THE HOLDING OF SUCH ELECTION; PROVIDING FOR SEVERABILITY; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on or about February 14, 2022 an The City of La Marque Texas appointed a Charter Review Commission in accordance with the Charter of the City of La Marque, Texas.

WHEREAS, the Charter Review Commission met multiple times between February 2022 and August 2022 to review the Charter of the City of La Marque, Texas and inquire into its operations.

WHEREAS, all meetings of the Charter Review Commission were conducted in public and in accordance with the law.

WHEREAS, the Charter Review Commission submitted its report to the City Council of La Marque, Texas and that report is attached to this Resolution as Exhibit 1.

WHEREAS, the Charter Review Commission has proposed the following amended wording to the City of La Marque Charter Agreement:

Proposed Amendment One

Shall the Charter be amended to a definition of “For Cause” termination for payments due to the City Manager in the event of his or her termination?

Section 2.12

The city council may remove the city manager by a majority vote of all its members. At least thirty days before such removal shall become effective, the city council shall by majority vote of its members adopt a resolution providing for removal of the city manager and stating the reasons therefore [therefor]. Immediately upon adoption, a copy of the resolution shall be given to the city manager. Within five days of adoption of the resolution, the city manager may request in writing a public hearing which must be granted by the city council and shall be held not earlier than ten days nor later than twenty days after the filing of such request. Within five days of the public hearing, the council by majority vote of its members shall reaffirm or rescind the resolution for removal. In the event the City Manager is terminated “For Cause” the City Manager shall only be entitled to one month’s severance pay and this provision shall control over any agreement to the contrary. A “For Cause” termination for purposes of this section 2.12 shall mean a

determination by the city council in its sole discretion that the City Manager has (1) failed to adhere to the City's drug and alcohol policy as set out in the City's employee handbook as may be amended from time to time; (2) failed to perform his or her other duties or other obligations as required by the City Manager's agreement with the City, if any; (3) an accusation by any applicable law enforcement agency of City Manager's embezzlement or other criminal offense or final conviction of a criminal offense that is a Class B misdemeanor or above; or (4) City Manager's conviction of any illegal act involving personal gain to him or her or a finding of a violation of the City Charter, City Ordinance, other City purchasing rules, or the Code of Ethics of the State of Texas as may be amended from time to time. Every city manager of the City shall be subject to a six-month probationary period beginning on his or her date of hire during which time, if terminated for any reason or no reason by the city council, the City Manager shall not be entitled to any severance pay. By the resolution, the city council may suspend the manager immediately from duty, but shall in any case cause to be paid him forthwith any unpaid balance of his salary and one month's salary as severance pay following adoption of the resolution.

Proposed Amendment Two

Shall the Charter be amended to allow for the establishment of temporary divisions or departments upon approval by the City Council?

Section 3.05

The city manager may recommend the creation of administrative departments to the city council for establishment by ordinance. The work of each department may be distributed among such divisions thereof as may be established by ordinance. The city manager may establish temporary divisions of a department upon approval by the city council

Proposed Amendment Three

Shall the Charter be amended to allow a member of City Council whose recall is sought by petition the opportunity to respond in writing?

Section 5.13

Any elector of the City of La Marque may make and file with the city clerk an affidavit containing the name or names of the officer or officers whose removal is sought and a statement of the specific grounds for removal. The clerk shall thereupon deliver within five business days after delivery of the affidavit by the elector to the elector making such affidavit copies of petition blanks demanding such removal. The recall petition shall include a brief

statement from the officer whose recall is sought responding to the allegations in the affidavit. The city clerk shall keep a sufficient number of such printed petition blanks on hand for distribution. Such blanks when issued by the city clerk shall bear the signature of that officer and be addressed to the city council, and shall be numbered, dated, and indicate the name of the person to whom issued. The petition blanks when issued shall also indicate the number of such blanks issued and the name of the officer whose removal is sought. The city clerk shall enter in a record to be kept in his office the name of the elector to whom the petition blanks were issued and the number issued to said person.

Proposed Amendment Four

Shall the Charter be amended to include a requirement of a public hearing for officials subject to a recall election?

Section 5.15

The city clerk shall at once examine the recall petition and if he finds it sufficient and in compliance with the provisions of this article of the charter, he shall within five days submit it to the city council with his certificate to that effect and notify the officer sought to be recalled of such action. If the officer whose removal is sought does not resign within five days after such notice the city council shall thereupon order and fix a date for holding a recall election. Any such election shall be held on the next date allowed by state law after the petition has been presented to the city council; however, such election may be held at the same time as any municipal election held within such period.

An elected official whose removal is sought by recall may, at any time prior to 45 days before a recall election, request in writing to the City Clerk that a public hearing be held to permit such officer to present facts pertinent to the charges and respond to the charges specified in the recall petition and affidavit. Should a request for public hearing be made, the city council shall order a public hearing be held not less than seven (7) days nor more than fifteen (15) days after receiving such request for a public hearing. Notice of the public hearing shall be posted in accordance with the law and published in the official newspaper of the city at least five (5) days before such hearing.

Proposed Amendment Five

Shall the Charter be amended to increase the waiting period for filing a recall petition against a member of city council after he or she takes office?

Section 5.18

No recall petition shall be filed against a member of the city council within six months after he takes office nor in respect to an officer subjected to a recall election and not removed thereby, until at least six months after such election.

Proposed Amendment Six

Shall the Charter be amended to modernize language related to the finances of the City of La Marque, Texas?

Sections 8.04

The director of finance shall have charge of the administration of the financial affairs of the city and to that end he shall have authority and shall be required to:

- (a) compile the estimates of revenues and expenditures for the budget as directed by the city manager;
- (b) compile the capital expenditure estimates for the budget as directed by the city manager;
- (c) supervise and be responsible for the disbursement of all moneys and have control over all expenditures to ensure that budget appropriations are not exceeded;
- (d) maintain a general accounting system for the city government and each of its offices, departments and funds; keep books for and exercise financial budgetary control over each office, department and fund; keep separate accounts for the items of appropriation contained in the city budget, each of which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending fund of the city government to be made daily or at such intervals as he may deem expedient;
- (e) submit to the council through the city manager a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the city;
- (f) prepare for the city manager, as of the end of each fiscal year, a complete financial statement and report;

(g) in coordination with the county appraisal district, ensure that all property within the corporate limits of the city is assessed for taxation and make all special assessments for the city government.

(h) supervise and be responsible for the collection of all taxes, special assessments, license fees and other rement, prepare tax maps, and give such notice of taxes and special assessments as may be required by law; venues of the city or for whose collection the city is responsible and receive all money receivable by the city from the state or federal government, or from any court, or from any office, department or fund of the city;

(i) have custody of all public funds belonging to or under the control of the city, or any office, department or fund of the city government, and deposit all funds coming into his hands in such depositories as may be designated by resolution of the city council, or, if no such resolution be adopted, by the city manager, subject to the requirements of law as to surety and the payment of interest on deposits, but all such interest shall be the property of the city and shall be accounted for and credited to the proper account; depositories are to be selected annually by means of selective bidding;

(j) depositories are to be selected for one (1) year, and may be renewed by the city for two (2) additional one (1) year terms, for a total of three (3) years. The city will submit a request for proposals. The city council shall have the discretion of remaining with the current depository or proceeding with the selection of a new depository;

(k) have custody of all investments and invested funds of the city government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the city and the receipt and delivery of city bonds and notes for transfer, registration or exchange;

(l) supervise and be responsible for the purchase, storage and distribution of all supplies, materials, equipment and other articles used by any office, department or fund of the city government;

(m) approve all proposed expenditures. Unless he shall certify in writing, that there is an unencumbered balance of appropriation and available funds, no appropriation shall be encumbered and no expenditure shall be made.

Section 8.07

The city manager may at any time transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures within an office, department or fund. At the request of the city manager and within the last three months of the budget year, the council may by resolution transfer any unencumbered appropriation balance or portion thereof from one office, department or fund to another. No transfer shall be

made from the appropriations required by subsections (a), (b), (c), (d), (e), (f), (g), (h), and (i) of [Section 6.26](#) of this charter.

Proposed Amendment Seven

Shall the Charter be amended to cap emergency expenditures?

Section 8.17

At any time in any budget year, the city council may, pursuant to this section, make emergency appropriations to meet a pressing need for public expenditure, for other than a regular or recurring requirement, to protect the public health, safety or welfare. Such appropriation shall be by resolution adopted by the favorable votes of at least four-fifths of the members of the city council, and shall be made only upon recommendation of the city manager. The total amount of all emergency appropriations made in any budget year shall not reduce the General Fund balance below 90 days operating expenditures at year-end of that budget year.

Proposed Amendment Eight

Shall the Charter be amended to update the years in the budget process?

Section 8.19

In any budget year, in anticipation of the collection of the property tax for such year, whether levied or to be levied in such year the council may by resolution authorize the borrowing of money by the issuance of negotiable notes of the city, each of which shall be designated “tax anticipation note for the year ___” (stating the budget year). Such notes may be issued for periods not exceeding one year and must be retired by the end of the budget year in which issued.

Section 8.20

In any budget year, in anticipation of the collection or receipt of other revenues of that budget year, the city council may by resolution authorize the borrowing of money by the issuance of negotiable notes of the city, each of which shall be designated “special revenue note for the year ___” (stating the budget year). Such notes may be renewed from time to time, but all such notes, together with the renewals, shall mature and be paid not later than the end of the budget year.

Proposed Amendment Nine

Shall the Charter be amended to increase the time period the City may issue indebtedness for?

Section 12.12

The city may finance the acquisition of privately owned utility properties, the purchase of land, and the cost of all construction and property installation for

utility purposes by borrowing, in accordance with the provisions of Article VII of this charter. Appropriate provisions shall be made, however, for the amortization and retirement of all bonds within a maximum period of forty years. Such amortization and retirement may be effected through the use of depreciation funds or other financial resources provided through the earnings of the utility.

Proposed Amendment Ten

Shall the Charter be amended to require the Municipal Court Judge, Alternate Municipal Court Judge, City Prosecutor, and City Attorney be appointed by the agreement of the City Council and City Manager?

Section 13.16

The Municipal Court Judge, Alternate Municipal Court Judge, City Prosecutor, and City Attorney shall be recommended by the city manager and shall be appointed with the approval of City Council.

Proposed Amendment Eleven

Shall the Charter be amended to provide gender neutral wording?

Section 13.17

All references in this Charter to the masculine shall include the feminine and neuter.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF LA MARQUE, TEXAS THAT:

Section 1. The facts and matter set forth in the recitals of this resolution are hereby found to be true and correct.

Section 2. The Recall Election shall be scheduled for Tuesday, November 8, 2022. Early voting shall be conducted from October 24, 2022 through November 4, 2022.

Section 3. In accordance with the Texas Election Code the ballot shall contain the proposed language, to wit:

Proposed Amendment One

Shall the Charter be amended to a definition of “For Cause” termination for payments due to the City Manager in the event of his or her termination?

_____FOR
_____AGAINST

Proposed Amendment Two

Shall the Charter be amended to allow for the establishment of temporary divisions or departments upon approval by the City Council?

FOR
 AGAINST

Proposed Amendment Three

Shall the Charter be amended to allow a member of City Council whose recall is sought by petition the opportunity to respond in writing?

FOR
 AGAINST

Proposed Amendment Four

Shall the Charter be amended to include a requirement of a public hearing for officials subject to a recall election?

FOR
 AGAINST

Proposed Amendment Five

Shall the Charter be amended to increase the waiting period for filing a recall petition against a member of city council after he or she takes office?

FOR
 AGAINST

Proposed Amendment Six

Shall the Charter be amended to modernize language related to the finances of the City of La Marque, Texas?

FOR
 AGAINST

Proposed Amendment Seven

Shall the Charter be amended to cap emergency expenditures?

FOR
 AGAINST

Proposed Amendment Eight

Shall the Charter be amended to update the years in the budget process?

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 AGAINST

Proposed Amendment Nine

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FOR
 AGAINST

Proposed Amendment Eleven

Shall the Charter be amended to provide gender neutral wording?

FOR
 AGAINST

Section 4. The deadline to register to vote in this election is October 11, 2022. This election shall be conducted in conjunction with the national election in November.

Section 5. The Charter Amendment Election shall be conducted by the Galveston County County Clerk's Elections Division. The City Clerk of La Marque, Texas is authorized to to contract with the Galveston County County Clerk to conduct the Charter Amendment Election.

Section 6. In the event any clause, phrase, provision, sentence, or part of this Resolution or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Resolution as a whole or any part or provision hereof other than that part declared to be invalid or unconstitutional; and the City Council of the City of La Marque, Texas, declares it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

NOW, DULY PASSED, APPROVED, AND ADOPTED ON THIS _____ day
of August, 2022.

Keith Bell, Mayor
City of La Marque, Texas

ATTEST:

APPROVED AS TO FORM AND CONTENT:

Kierra Nance, TRMC
City Clerk
City of La Marque, Texas

Gus Knebel
Consulting City Attorney
City of La Marque, Texas