



The City of Liberty
City Council
Regular Meeting
~ Agenda ~

1829 Sam Houston
Liberty, TX 77575
www.cityofliberty.org

Dianne Tidwell
City Secretary
(936) 336-3684

Tuesday, February 12, 2008

6:00 PM

City Council Chambers

The City Council of Liberty, Texas reserves the right to meet in closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551 of the Texas Government Code.

I. CALL TO ORDER

6:00 PM Meeting called to order on February 12, 2008 at City Council Chambers, 1829 Sam Houston, Liberty, TX.

Attendee Name	Present	Absent	Late	Arrival
Mayor Carl Pickett	..	..	..	
Councilperson Dennis Beasley	..	..	..	
Councilperson Diane Huddleston	..	..	..	
Councilperson Mike McCarty	..	..	..	
Councilperson Charles McGuire	..	..	..	
Councilperson Al Simonson	..	..	..	
Councilperson Louie Potetz	..	..	..	

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. ACKNOWLEDGEMENT OF GUESTS AND VISITORS / PUBLIC COMMENT

V. ITEMS OF INTEREST

1. Miscellaneous Correspondence

1. TML Small Cities Problem Solving Clinic
 - Attachment #1 - TML Small Cities' Problem Solving Clinic (PDF)
2. Surface Transportation Board
 - Attachment #2 - Surface Transportation Board (PDF)

VI. PRESENTATIONS / REPORTS

1. TML Region XVI Meeting
2. Recycling Report

3. Texas Water Development Board/ \$8.1 Million Wastewater Project Update
4. Utility Billing Update
5. Presentation of the Audit Report for Fiscal Year 2006-2007 by Swaim, Hanagriff & Associates

VII. CONSENT AGENDA:

All consent items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member so requests, and if such a request is made, the item will be removed from the Consent Agenda and considered in a normal sequence on the agenda.

Minutes Approval

1. Resolution (ID # 1040)

Minutes of Jan. 8, 2008

- Attachment #3 - CM 1-08-08 (DOC)

VIII. REGULAR AGENDA

1. Regular Agenda Items

1. Resolution 2008-1

Consider a Resolution Approving a Variance Request to Place a Structure in a Designated Floodway in the South Liberty Oilfield.

- Attachment #4 - Planning Commission Certification Maynard (PDF)
- Attachment #5 - Variance Request (TXT)

2. Resolution 2008-2

Consider Approval of the Proposed Short Form Final Plat of the Merrick Subdivision.

- Attachment #6 - Planning Commission Certification Merrick (PDF)

3. Resolution 2008-3

Consider a Resolution Approving a Bridge Replacement Advanced Funding Agreement by and Between the Texas Department of Transportation and the City of Liberty; Also Authorizing the Mayor to Execute the Agreement on Behalf of the City.

FISCAL IMPACT:

This majority of the money is not payable until fiscal year 2008-2009 and should be budgeted for that year.

- Attachment #7 - Fiscal Impact Note: Bridge Replacement (TXT)
- Attachment #8 - Explanation: Bridge Replacement (TXT)
- Attachment #9 - Advance Funding Agreement (PDF)

4. Resolution 2008-4

Consider Approval of the Local Match for a Mobile Fire Trainer for the Liberty Fire Department Through the Assistance to Firefighters Grant (FEMA).

FISCAL IMPACT:

The total for this grant is \$415,845.00, with The City of Liberty being responsible for \$20,782.00 of this total, and the federal share is \$395,063.

- Attachment #10 - Fiscal Impact Note: Fire Department Grant (TXT)
- Attachment #11 - AFG Grant Info (PDF)

5. Resolution 2008-5

Consider Approval of an Interlocal Agreement with Liberty County Hospital District Number 1 for Joint Elections.

- Attachment #12 - Explanation: Joint Election (TXT)

6. Ordinance 2008-1

Consider Adoption of an Ordinance Ordering a General Election to be Held in the City of Liberty on Saturday, May 10, 2008.

- Attachment #13 - General Election (TXT)

7. Resolution 2008-6

Consider Approval of Some or All of the Proposed Charter Amendments As Recommended by the 2007 Charter Review Commission.

- Attachment #14 - Explanation: Charter Amendments (RTF)

8. Ordinance 2008-2

Consider Adoption of an Ordinance Ordering a Special Election to be Held on Saturday, May 10, 2008 for Voter Consideration of Proposed Amendments to the City's Home Rule Charter.

- Attachment #15 - Explanation: Special Election (TXT)

9. Resolution 2008-7

Consider Approval of the City's Share of the Total Cost of the Humphreys Cultural Center Expansion Project.

FISCAL IMPACT:

No financial impact at this time.

2. Executive Session

Consultation with Attorney. Pending Litigation with Liberty-Dayton Community Hospital. Gov. Code §551.071.

3. Reconvene into Regular Session

1. Consider and take action, if any, on pending litigation with Liberty-Dayton Community Hospital.

IX. COUNCIL MEAL

X. ADJOURNMENT

Motion To: Adjourn

I certify that the attached Notice of Meeting was posted on the bulletin board and in the Message Centers located on the east and west sides of the City Hall Administration Building, located at 1829 Sam Houston on the 6th day of January, 2008 at 3:00 p.m. This notice will remain so posted continuously for at least 72 hours preceding the scheduled time of said meeting in accordance with Chapter 551 of the Texas Government Code.

Dianne Tidwell, City Secretary

Notice given to The Vindicator, Liberty Gazette, and KSHN Radio.

NOTICE

In compliance with the Americans with Disabilities Act, the City of Liberty will provide reasonable accommodation for persons attending and/or participating in this Council Meeting. To better serve you, requests must be made at least 24 hours prior to the meeting. Contact the City at (936) 336-3684 or by Fax at (936) 336-9846. The building is wheelchair accessible, with parking available, on the west side of the building.

I certify that the attached Notice and Agenda of items to be considered by the City Council was removed by me from the bulletin board at the City Hall on the _____ day of _____, 2008.

**The City of Liberty**

City Council
1829 Sam Houston
Liberty, TX 77575

Meeting: 02/12/08 06:00 PM

Department: Administration
Category: Reports

INFORMATION ITEM 2008-1

DOC ID: 1042

TML Small Cities Problem Solving Clinic

Attached is the notice of a TML Small Cities Problem Solving Clinic to be held in Madisonville, Texas on February 22, 2008. This clinic provides municipalities the opportunity to network with cities of similar size.



TEXAS MUNICIPAL LEAGUE

President **Todd Pearson**, Mayor, Rockport
Executive Director **Frank Sturzl**

January 8, 2008

TO: Selected City Officials

FROM: Frank J. Sturzl
Executive Director

SUBJECT: Small Cities' Problem-Solving Clinic/February 22, 2008

We realize that while all Texas cities share many common interests and concerns, small cities have different needs than the larger cities. Therefore, we are always looking for ways to assist our small member cities. One of the ways we do that is to sponsor small cities' problem-solving clinics.

A **Small Cities' Problem-Solving Clinic** will be held on **Friday, February 22, 2008**, at the **Kimbro Center** at **111 W. Trinity** in **Madisonville**. Topics planned for the session include an overview of TML, legal question-and-answer sessions, a discussion of small city legislative issues, an overview of key legal requirements, and a session on land use issues.

We invite you to attend this TML meeting, held right in your area, on **February 22**. It will provide an opportunity to gain some new information and share with other cities of similar size. To help ensure that the questions you might have are addressed during the session, feel free to provide a question/issue on the attached registration form.

We look forward to seeing you!

Texas Municipal League
Small Cities' Problem-Solving Clinic
Kimbrow Center
City of Madisonville

Friday, February 22, 2008

- | | |
|------------|--|
| 8:30 a.m. | Registration |
| 9:00 a.m. | Welcome and Texas Municipal League Overview
<i>Karla Vining, Deputy Director, Texas Municipal League</i> |
| 9:30 a.m. | Key Legal Requirements
<i>Scott Houston, Director of Legal Services, Texas Municipal League</i>
<i>Laura Mueller, Legal Counsel, Texas Municipal League</i> |
| 10:00 a.m. | Open Question-and-Answer Discussion
<i>Scott Houston, Director of Legal Services, Texas Municipal League</i>
<i>Laura Mueller, Legal Counsel, Texas Municipal League</i> |
| 10:30 a.m. | Break |
| 10:45 a.m. | Open Question-and-Answer Discussion
<i>Scott Houston, Director of Legal Services, Texas Municipal League</i>
<i>Laura Mueller, Legal Counsel, Texas Municipal League</i> |
| 11:45 a.m. | Lunch |
| 12:30 p.m. | Small Cities' Legislative Issues
<i>Rachael Pitts, Assistant Director of Membership Services,</i>
<i>Texas Municipal League</i> |
| 1:00 p.m. | Land Use Issues
<i>Scott Houston, Director of Legal Services, Texas Municipal League</i> |
| 2:00 p.m. | Top Five Questions Asked of TML Legal Services and
Open Question-and-Answer Discussion
<i>Scott Houston, Director of Legal Services, Texas Municipal League</i>
<i>Laura Mueller, Legal Counsel, Texas Municipal League</i> |
| 2:30 p.m. | Adjourn |

Texas Municipal League Small Cities' Problem-Solving Clinic

WHY:

The Texas Municipal League (TML) has long recognized the special needs of our small member cities. In a continuing effort to meet the needs of these cities, we are conducting a small cities' problem-solving clinic in your area.

WHO:

Elected and appointed city officials from small cities within driving distance of the City of Madisonville.

WHAT:

A one-day session designed to provide answers to and discussion of some of the questions most frequently asked by elected and appointed officials. The clinic will include a review of services TML provides to small cities. TML attorneys will present key legal requirements for elected and appointed officials and a session on land use issues. The clinic will also include legal question-and-answer sessions, a legislative issues session, and much more.

WHEN:

Friday, February 22, 2008
9:00 a.m. – 2:30 p.m.

WHERE:

Kimbrow Center
111 W. Trinity
Madisonville, Texas
(map included)

HOW:

The cost of the clinic is \$30 per person, and lunch is included. Complete the enclosed registration form and return it to the Texas Municipal League, 1821 Rutherford Lane, Suite 400, Austin, Texas 78754-5128, or register online at www.tml.org, by **February 13, 2008**, if possible. For additional information, contact Rachael Pitts at rpitts@tml.org or 512-231-7472.

**Texas Municipal League
1821 Rutherford Lane, Suite 400
Austin, Texas 78754-5128
Phone - 512-231-7400**

TEXAS MUNICIPAL LEAGUE
Small Cities' Problem-Solving Clinic
Friday, February 22, 2008
Kimbrow Center – Madisonville, Texas

THREE WAYS TO REGISTER: Your registration will not be processed until payment is received.

1. Register online with credit card payment at: www.tml.org	2. Fax this form with your credit card information to: 512-231-7495	3. Mail this form and your payment to: TML Administrative Services 1821 Rutherford Lane, Suite 400 Austin, TX 78754-5128
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Registration Fee: Registration for the Small Cities' Problem-Solving Clinic is \$30, which includes lunch and refreshments.

Questions: If you have questions, please call Rachael Pitts at 512-231-7472.

If an e-mail address is provided, you will receive confirmation via e-mail.

Full Name: _____

Badge Name: _____

Title: _____

City/Organization: _____

Address: _____

City: _____ Zip: _____

Phone: _____ Fax: _____

E-mail: _____

Please provide a question or issue that you would like to have included in the problem-solving clinic:

Small Cities' Problem-Solving Clinic

CREDIT CARD PAYMENTS:

☐ MasterCard ☐ Visa ☐ Am Ex ☐ Discover

Cardholder's Name _____ Please Print

Acct# _____

Signature _____ Exp. Date _____

FOR TML OFFICE USE ONLY

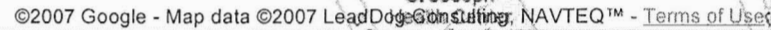
Business Check _____ \$ _____

Personal Check _____ \$ _____

Total \$ _____

Date Rec'd _____ Batch No. _____

By _____ Id# _____



**The City of Liberty**

City Council
1829 Sam Houston
Liberty, TX 77575

Meeting: 02/12/08 06:00 PM

Department: Administration
Category: Correspondence

INFORMATION ITEM 2008-2

DOC ID: 1035 A

Surface Transportation Board

The attached document is relative to the Liberty County Rural Transportation District #1's proposed construction and operation of a new rail line from an area near Dayton, Texas to an area near Cleveland, Texas. This letter is a request for information regarding any potential resources within the area that may be of concern to the Texas Department of Transportation, including permits and approvals for construction.

See the attached document for further information.

BARTON -
LUSAN -
MANLEY -



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

November 8, 2007

Mr. John Barton
District Engineer
Texas Department of Transportation
8350 Eastex Freeway
Beaumont, Texas 77708-1701



Re: Finance Docket No. 35061, Liberty County Rural Rail Transportation District No.1 - Construction and Operation Exemption - in Liberty County, Texas; Request for Information

Dear Mr. Barton:

Liberty County Rural Rail Transportation District No.1 (LCRRD#1 or Applicant) intends to file with the Surface Transportation Board (Board), a petition for exemption pursuant to 49 U.S.C. 10502 for authority to construct and operate a new rail line from near Dayton, Texas to near Cleveland, Texas, in Liberty County, Texas. LCRRD#1 anticipates that the line would be maintained and operated by an experienced short line railroad. Attached is a map showing preliminary proposed alignments for the line.

Pursuant to the National Environmental Policy Act (NEPA) and the Board's environmental rules, the Board's Section of Environmental Analysis (SEA) will prepare an environmental document that evaluates the potential environmental impacts of the proposed project. The purpose of this letter is to request information regarding potential resources within the project area that may be of concern to the Texas Department of Transportation, as well as any permits and approvals that might be required for project construction.

The proposed rail line would begin near Dayton Texas, at a rail yard owned and operated by CMC Industries, Inc. & Subsidiaries, (CMC), located on the west side of, and connected to, the Baytown Branch. The Baytown Branch is owned and operated by the Union Pacific Railroad Company (UP), which also owns and operates a rail yard on the east side of the Baytown Branch, directly across from the CMC yard. The line would then extend northward through western Liberty County to a connection with the BNSF Railway Company (BNSF) Conroe Subdivision east of Cleveland, Texas. An additional connection with the UP Lufkin Subdivision may be made approximately 2.1 miles north of the BNSF connection. The project would also include a new wye track allowing train traffic to readily proceed in either direction along UP's Lafayette Subdivision and replace an approximately 10° curve currently crossing US Highway 90 close to where it intersects with Texas State Highway (SH) 146.

Attachment # 2: Surface Transportation Board (INF-2008-2 : Surface Transportation Board)

The proposed 32-mile rail line would connect the UP's Baytown Branch to a BNSF main line track north east of Houston, Texas, and if UP desires it can also connect to another UP main line track, thereby allowing both UP and BNSF to reduce rail traffic through Houston. The proposed rail connection would be located in the western portion of Liberty County, in areas primarily unused since the timber industry left the area. Because some residences are in the immediate vicinity of the proposed alignment near Dayton, direct impacts to residences and business would be avoided to the greatest extent practicable.

The proposed line would cross two existing UP lines (Lafayette and Beaumont subdivisions) and several public roads, depending on the alignment selected. The alignment would cross US Highway 90, County Road (CR) 6021, Farm-to-Market (FM) 1960, CR 622, Gulf Road, SH 321/SH 105, CR 2247, CR 2206, and SH 787. Alternate 1 would also cross FM 686 and CR 615. Alternate 2 would also cross CR 609 (John Damek Road), CR 610, FM 686, and Cedar Bayou Road. Alternate 3 would also cross CR 610 (Texaco Road). Grade-separations are planned at US 90, SH 321/SH 105, and SH 787. The proposed rail line would cross all other roadways at-grade. The road crossings would utilize warning devices designed in accordance with industry standards, customs, and practices.

Because of the current configuration of the rail line on the Lafayette Subdivision (the 10° curve) just west of Dayton, in close proximity to the intersection of US Highway 90 and SH 146, all entering or departing Baytown Subdivision rail traffic must cross US Highway 90, at grade at very slow speeds. Currently, 10 to 15 trains and more than 10,000 vehicles traverse this crossing every day. Because it eliminates this at grade crossing, Applicant believes that the proposed project would reduce traffic back-ups, facilitate the movement of emergency vehicles, and keep a significant East Texas hurricane evacuation route clear.

Applicant believes that proposed project should also attract commercial interests to parts of Liberty County that never redeveloped after lumbering left the area. These areas, as well as much of Liberty County, continue to have higher than average rates of unemployment. According to Applicant, rail served companies would be able to consider sites currently inaccessible.

In addition, Applicant believes that both UP and BNSF, as well as Liberty County's next door neighbor, Houston would benefit from the proposed project as it would reduce rail congestion in Houston by providing a rail route for traffic moving northbound from east Texas, Louisiana and points east, that currently must travel through Houston. Applicant estimates that under present train movement, 10 to 12 trains of approximately 100 to 150 rail cars each could daily be diverted from traveling through Houston. Applicant thinks that this number is likely to increase as the project would also expand rail outlets for the additional container traffic into the Port of Houston from the opening of the new Bayport terminal.

This letter begins the process by which SEA will assess the environmental effects, both positive and negative, that may be associated with the proposed rail line construction and operation. I am asking for your assistance in determining whether any resources of concern to your agency might be affected by the proposed project.

We would appreciate information on any additional issues or concerns that you consider appropriate. We request your response by December 7, 2007, so that we may be able to schedule

any meetings, site visits, or surveys, conduct any necessary follow-up activities, and incorporate your response into the scope of the study, as appropriate. We may contact you prior to this date to discuss the project and schedule a meeting, if this would assist you in your review.

Carter & Burgess, Inc. (C&B) is serving as the independent third-party consultant to SEA to assist in the preparation of the environmental document. Please send your comments to:

Sandy Wesch-Schulze
Carter & Burgess, Inc.
7950 Elmbrook Drive
Dallas, Texas 75247

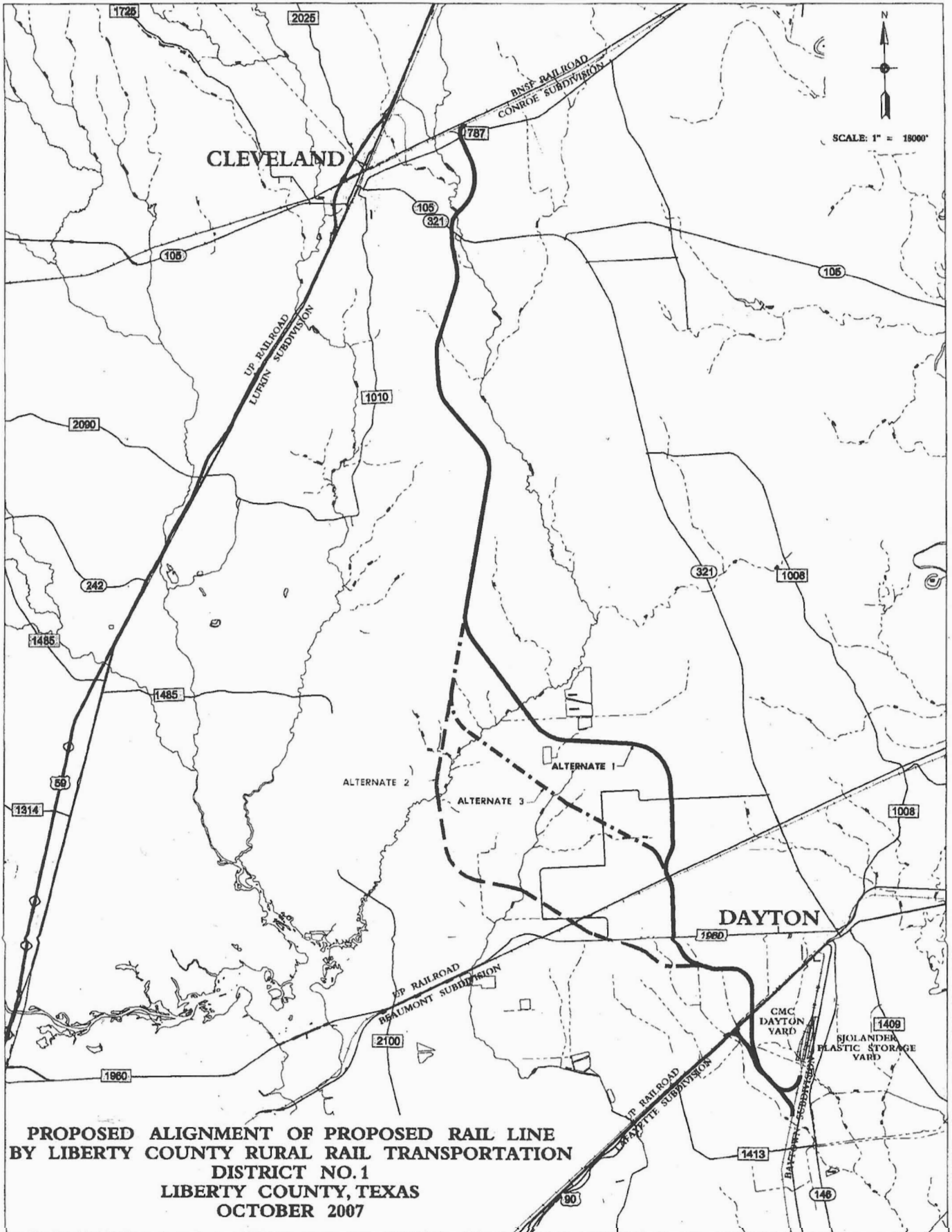
The environmental document will either be an environmental assessment (EA) or environmental impact statement (EIS). SEA's decision on whether to prepare an EA or an EIS will be based in part on comments received in response to this agency consultation letter. SEA will make the environmental document available for review by agencies and the public as required by NEPA and the Board's environmental rules (49 CFR 1105). In reaching its decision, the Board will take into account the environmental document and all environmental comments that are received. If you have any questions, please do not hesitate to contact Sandy Wesch-Schulze, C&B Project Manager, at (214) 627-5376, or Danielle Gosselin, SEA Project Manager, at (202) 245-0300. Thank you for your assistance.

Sincerely,



Victoria Rutson
Chief
Section of Environmental Analysis

Attachment: Location Map



**The City of Liberty**

City Council
1829 Sam Houston
Liberty, TX 77575

Meeting: 02/12/08 06:00 PM

Department: Administration
Category: Reports

INFORMATION ITEM 2008-3

DOC ID: 1036 A

TML Region XVI Meeting

Mayor Pickett will report on the Texas Municipal League Region XVI Meeting recently hosted by the City of Liberty on January 17, 2008.

**The City of Liberty**

City Council
1829 Sam Houston
Liberty, TX 77575

Meeting: 02/12/08 06:00 PM

Department: Administration
Category: Reports

INFORMATION ITEM 2008-4

DOC ID: 1037 A

Recycling Report

Councilperson Huddleston will report on the progress of the City's efforts in working towards a permanent recycling drop-off facility.

**The City of Liberty**

City Council
1829 Sam Houston
Liberty, TX 77575

Meeting: 02/12/08 06:00 PM

Department: Administration
Category: Reports

INFORMATION ITEM 2008-5

DOC ID: 1038 A

Texas Water Development Board/ \$8.1 Million Wastewater Project Update

City Manager Ron Wood will report on the progress of the \$8.1 Million Wastewater Infrastructure Project.

**The City of Liberty**

City Council
1829 Sam Houston
Liberty, TX 77575

Meeting: 02/12/08 06:00 PM

Department: Administration
Category: Reports

INFORMATION ITEM 2008-6

DOC ID: 1044

Utility Billing Update

City Manager Ron Wood will report on the utility billing process.

**The City of Liberty**

City Council
1829 Sam Houston
Liberty, TX 77575

Meeting: 02/12/08 06:00 PM

Department: Administration
Category: Reports

INFORMATION ITEM 2008-7

DOC ID: 1039 A

Presentation of the Audit Report for Fiscal Year 2006-2007 by Swaim, Hanagriff & Associates

Representatives from Swaim, Hanagriff & Associates will be present to report on the City's fiscal year ending September 30, 2007.



The City of Liberty

City Council
1829 Sam Houston
Liberty, TX 77575

Meeting: 02/12/08 06:00 PM

Department: Administration
Category: Public Notice

RESOLUTION (ID # 1040)

DOC ID: 1040

Minutes of Jan. 8, 2008

Attached to this file are the minutes from the Council Meeting of January 8, 2008.

MINUTES
LIBERTY CITY COUNCIL
REGULAR CALLED MEETING
January 8, 2008
6:00 p.m.

A regular called meeting of the City Council of the City of Liberty, Texas was held in the Council Room of the City Administration Building. The following members were present:

Carl Pickett	Mayor
Dennis Beasley	Councilperson
Diane Huddleston	Councilperson
Mike McCarty	Councilperson
Charles McGuire	Councilperson
Louie Potetz	Councilperson

Absent: Councilperson Simonson.

Administrative personnel present: Ron Wood, City Manager; Dianne Tidwell, City Secretary; Randy Gunter, City Attorney.

Others present in the Council Chambers: Naomi Herrington, Finance Director; Candy Parker, Inspection Dept.; Robbie Hood, Code Enforcement Officer; Amy Fowler, The Vindicator; Ryan Wessels, Kimley-Horn & Associates; Kevin Ladd.

1. **CALL TO ORDER**

With a quorum of the councilpersons present, the Regular Meeting of the Liberty City Council was called to order by Mayor Pickett at 6:00 p.m., on Tuesday, January 8, 2008, in the Council Chambers of the Liberty City Hall.

2. **INVOCATION / PLEDGE OF ALLEGIANCE**

Councilperson Beasley gave the Invocation and Robbie Hood led the pledge to the American and Texas flags.

3. **ACKNOWLEDGEMENT OF GUESTS / PUBLIC COMMENT**

Mayor Pickett welcomed guests and visitors, opening the floor for public comment to those individuals wishing to address the Council regarding non-agenda items. There was no public comment.

4. **ITEMS OF INTEREST**

4.1 **Miscellaneous Correspondence.** None.

5. **PRESENTATIONS / REPORTS**

5.1 Mayor Pickett reported on the TML Region XVI Quarterly Meeting to be hosted by the City of Liberty on Thursday, January 17, 2008.

5.2 Councilperson Huddleston reported on the progress of working toward a permanent recycling drop-off facility.

City Manager Ron Wood brought Council's attention to a new version of the financial report.

6. **CONSENT AGENDA**

6.1 **Approval of Minutes – Regular Called Meeting of December 11, 2007 and the Special Called Meeting of December 17, 2007.**

A motion was made by Councilperson McCarty, seconded by Councilperson Beasley to approve the above-mentioned minutes, with the wording changes as noted. The motion passed 6-0.

7. **REGULAR AGENDA**

7.1 **Consider and take action on a Short Form final Plat of the Hwy. 146 Enterprise.**

Candy Parker, Inspection Dept., reported the above-mentioned plat is presented under the short form process as the subdivision is already in existence. The proposed plat provides Murphy USA with its own metes and bounds; which differentiates it from the larger tract that accommodates the Wal-Mart structure. This plat was approved by the Planning & Zoning Commission on January 3, 2008. A motion was made by Councilperson McCarty, seconded by Councilperson Beasley to approve the plat as presented. The motion passed 6-0.

7.2 **Council Workshop – Discussion on code enforcement and related issues.**

City Manager Ron Wood introduced new Code Enforcement Officer Robbie Hood and stated this workshop was to gather information from Council regarding their goals and objectives for this newly created position. Discussion entailed dangerous and dilapidated buildings, high grass and weeds, junk vehicles, public education, citizen involvement, neighborhood watch programs, and other related issues.

7.3 **Council Meal.**

Council shared an evening meal.

8. **ADJOURNMENT.**

There being no further business before the Council, the meeting was adjourned at 8:41 p.m.

Carl Pickett, Mayor

ATTEST:

Dianne Tidwell, City Secretary

**The City of Liberty**

City Council
1829 Sam Houston
Liberty, TX 77575

Meeting: 02/12/08 06:00 PM

Department: Inspection
Category: Variance Requests

RESOLUTION 2008-1

DOC ID: 1051

**Consider a Resolution Approving a Variance Request to
Place a Structure in a Designated Floodway in the South
Liberty Oilfield.**

Resolution will be provided by the City Attorney.

**CITY OF LIBERTY
PLANNING COMMISSION'S
CERTIFICATION**

RE: Property owner, Bill Maynard request for a variance to place a structure in the Designated Floodway in the South Liberty Oilfield

On the **30th** day of **January, 2008**, the Planning Commission of the City of Liberty, Texas, timely met at a regularly scheduled meeting; notice of said meeting was duly posted; and consideration on a variance request was placed on the agenda of such meeting.

The Planning Commission, after reviewing all materials, evidence, documents and recommendations submitted in connection with the above-mentioned variance request does herein certify:

✓

the Planning Commission has reviewed the variance request and all other materials and evidence submitted in connection therewith; and

hereby recommends the City Council take the following action:

conditionally approve the variance request.

✓

disapprove the variance request for the following reasons:

Article 4, Section C. of the Floodplain Ordinance 788
5.) The safety of access to the property in time of flood for ordinary and emergency vehicles.
10.) The relationship of the proposed use to the Comprehensive plan for that area.

SIGNED this the 30th day of January, 2008.

Shelli Ellerbe

Chairperson
Planning Committee

ATTEST:

[Signature]
Planning Committee

Attachment # 4: Planning Commission Certification Maynard (RES-2008-1 : Resolution Variance Request)

1030

Mr. Bill Maynard has submitted a building permit to place a structure and build a subsequent structure on Tract 29, of the D. Minchey Survey, Abstract 85. After review of all documentation presented, the building permit was denied based on the location residing inside the FEMA designated Floodway. Development in a Floodway or Floodplain-Designated land is addressed by City of Liberty Ordinance No. 788 among other law.

However, the property owner has a right to present his project to the Appeal Board and ask for a variance from the requirements of the Floodplain Ordinance No. 788. The variance request was presented to the Planning and Zoning Commission on January 30, 2008, and was unanimously voted upon to deny the variance. I have enclosed a copy of the Certification signed by two of the members explaining the reasons for denial.

If you have any questions, please give me a call.

C. Parker

**The City of Liberty**

City Council
1829 Sam Houston
Liberty, TX 77575

Meeting: 02/12/08 06:00 PM

Department: Inspection
Category: Plats

RESOLUTION 2008-2

DOC ID: 1052

Consider Approval of the Proposed Short Form Final Plat of the Merrick Subdivision.

Chris Merrick, owner of Merrick Homes, has presented a plat for consideration. He is dividing an already platted lot out of the San Jacinto Park Subdivision into two separate lots for future development. Because the property is already platted it is able to be presented under our short form process.

The subdivision plat does comply with the City's Subdivision Ordinance and was presented to the Planning and Zoning Commission on January 30, 2008 for consideration. The plat was approved and all documentation is included in your packet for your review.

If you have any questions regarding this matter, please give me a call.

CITY OF LIBERTY PLANNING COMMISSION'S CERTIFICATION

RE: Final Plat of Merrick Subdivision

Subdivision Name

On the 30th day of January, 2008, the Planning Commission of the City of Liberty, Texas, timely met at a regularly scheduled meeting; notice of said meeting was duly posted; and consideration of the plat of the above-named proposed subdivision was placed on the agenda of such meeting.

The Planning Commission, after reviewing all materials, evidence, documents and recommendations submitted in connection with the above-named plat does herein certify:

✓

the Planning Commission has reviewed the above-named plat and all other materials and evidence submitted in connection therewith; and

hereby recommends the City Council take the following action:

✓

conditionally approve the above named plat.

disapprove the above-named plat for the following reasons:

conditionally approve the above-named plat, with the following modifications, to-wit: _____

SIGNED this the 30th day of January, 2008.

Shelli Elbert
Chairperson
Planning Committee

ATTEST:

[Signature]
Planning Committee

Attachment # 6: Planning Commission Certification Merrick (RES-2008-2 : Merrick Subdivision)

**CITY OF LIBERTY
ADMINISTRATOR'S/CITY INSPECTOR'S/
PLANNING DIRECTOR'S
RECOMMENDATION TO PLANNING COMMISSION**

RE: **Final Plat of the Merrick Subdivision**
Subdivision Name

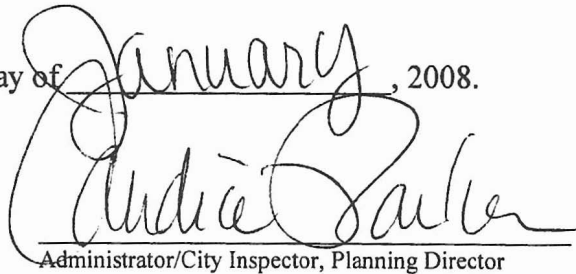
The City Staff, by and through its Administrator/City Inspector/Planning Director, does herein aggregate the preliminary plat of the above proposed subdivision and the attached accompanying data and refers same to the City of Liberty Planning Commission with the following recommendations as to modifications, additions or alterations of such plat and/or data:

☒ No recommendations as to modifications, additions or alterations.

-or-

☐ The following recommendations, modifications, additions or alterations:

SIGNED this the 15th day of January, 2008.


Administrator/City Inspector, Planning Director

Attachment # 6: Planning Commission Certification Merrick (RES-2008-2 : Merrick Subdivision)

**CITY OF LIBERTY
ADMINISTRATOR'S/CITY INSPECTOR'S
PROPOSED SUBDIVISION PLAT APPROVAL CHECKLIST**

RE: **Final Plat of the Merrick Subdivision**

- 8 A. Preliminary Conference with: H & H Professional Land Services
- 8 B. Date conference held: 1-15-08
- C. Plat Filing: Final-Short form
Date filed: 1-15-08
Fee Amount Paid: \$ To be billed
- D. Plat Checklist (initial and date or ditto for approval)
- 8 1. Proposed name of the subdivision, which shall not have the same spelling or be pronounced similar to the name of any other subdivision currently located within the City or within the extraterritorial jurisdiction of the City.
- 8 2. Names and land use of contiguous subdivisions, and the owners of contiguous parcels of unsubdivided land, and a statement with appropriate references as to whether or not contiguous properties are platted and how they are used.
- 8 3. Description, by metes and bounds, of the subdivision boundaries.
- 8 4. Primary control point locations shown. Descriptions and ties to such control points from which all dimensions, angles, bearings, block numbers, and similar data are referenced and shown.
- 8 5. Subdivision boundary lines indicated by heavy lines; the acreage of the subdivision shown.
- 8 6. Existing conditions as follows:
____ (1) The exact location, dimensions, name and description of all existing and/or recorded streets, alleys, reservations, easements, or other

public right-of-way (including both public and private utility lines) within the subdivision, intersecting or contiguous with its boundaries or forming such boundaries;

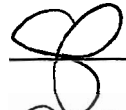
✓ (2) The exact location, dimensions, description, and flow line of existing water courses and drainage structures within the subdivision or on contiguous tracts;

✓ (3) Proposed land use of each subdivided parcel;

✓ (4) Flood hazard areas and explanatory notes.



7. The exact location, dimensions, description, and name of all proposed streets, street grades and cross sections, alleys, drainage structures, parks, other public area, reservation, easements or other rights-of-way, blocks, lots and other sites within the subdivision.



8. Date of preparation; actual and graphic scale of plat; and north arrow.



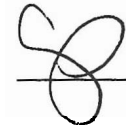
9. Draft of proposed restrictive covenants (if any) to be imposed; areas subject to special restrictions described and mapped.



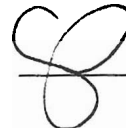
10. A number or letter to identify each lot or site on each block.



11. Building setback lines on fronts of all lots and sites. Side yard building setbacks lines at street intersections and crosswalk ways.



12. Topographic information shall include contour lines on a basis of: Five (5) vertical feet in terrain with a slope of two (2) percent or more; on (1) vertical foot in terrain with a slope of less than one (1) percent.



13. Proposed fill or other structure-elevating techniques, levees, channel modifications, and other methods to overcome flood or erosions related hazards.

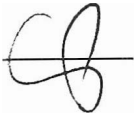


14. Designation of all land to be reserved or dedicated for open space or recreational use.



15. Vicinity sketch or map, at some appropriate scale, which clearly shows existing subdivisions, street easements, right-of-way, parks and public facilities

of water, and possible storm sewer, water, gas, electric, and sanitary sewer connections by owner.




16. Soil information.

E. Preliminary plat conforms with the Most Current Adopted Comprehensive Plan.

F. Approval of City Staff

1. The Engineering Department:

- ☒ a. Drainage
- ☒ b. **Street layout and proposed street grades**
- ☒ c. Type of paving
- ☒ d. Boundary Lines
- ☒ e. Monuments and Bench marks
- ☒ f. **Location and size of alleys**
- ☒ g. Availability of adequate water and sewer mains to the subdivision.
- ☒ h. Water system layout and fire hydrant locations.
- ☒ i. Sanitary sewer easements.
- ☒ j. Soil conditions.

2. The Building Inspector:

- ☒ a. Occupancy regulations and requirements
- ☒ b. Building lines and setback requirements.
- ☒ c. Lot and block numbers.
- ☒ d. **Street numbering layout.**
- ☐ e. Street names.

3. Fire Marshall:

- ☒ a. Fire code regulations and requirements.

4. Electric Power Department:

- ☒ a. **System layout and requirements.**
- ☒ b. Code regulations and requirements.

G. Comments:

8.1.2.a

REASON FOR RE-PLAT: TO MAKE TWO SINGLE FAMILY RESIDENTIAL LOTS



CP = CONTROL
B.B.D.C.L. = BEARING
CONTROL
D.R.L.C. = DEED RE
LIBERTY
M.R.L.C. = MAP REC
LIBERTY
VOL. = VOLUME
PG. = PAGE
/ = PIPELINE

" EXHIBIT A "

Job No. 2071
Date: 01/23/77
bh



The City of Liberty

City Council
1829 Sam Houston
Liberty, TX 77575

Meeting: 02/12/08 06:00 PM

Department: Administration
Category: Contracts

RESOLUTION 2008-3

DOC ID: 1049 A

Consider a Resolution Approving a Bridge Replacement Advanced Funding Agreement by and Between the Texas Department of Transportation and the City of Liberty; Also Authorizing the Mayor to Execute the Agreement on Behalf of the City.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS; SAID RESOLUTION APPROVING A BRIDGE REPLACEMENT ADVANCED FUNDING AGREEMENT BY AND BETWEEN TXDOT AND THE CITY; SAID AGREEMENT ADDRESSING THE BRIDGE LOCATED ON SANDUNE ROAD AT WOODARDS SPRING CREEK. ADDITIONALLY, SAID RESOLUTION ALSO APPROPRIATING FUNDS FOR THE PROJECT AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY.

WHEREAS, the City Council has determined that the bridge located on Sandune Road at Woodards Spring Creek has deteriorated to such a point that replacement of same is in the general public's best interest; and

WHEREAS, the Texas Department of Transportation (TXDOT) has an off system bridge replacement program that will provide replacement of this bridge and will fund said replacement at approximately 90% of a new bridge's cost; and

WHEREAS, the City Council wishes to take advantage of this program through its participation in said TXDOT bridge replacement program; and

WHEREAS, the City Council desires to appropriate funding for the City's cost portion of the bridge replacement program and authorize the Mayor to execute any and all contracts, agreements, memoranda or letters of understanding associated with it.

NOW THEREFORE, BE IT RESOLVED, by the City Council of Liberty, Texas that:

- (1) an application and advanced funding agreement by and between the City and TXDOT for the state agency's off system bridge replacement program is hereby approved; said agreement being for the replacement of a bridge located on Sandune Road at Woodards Spring Creek.
- (2) the Mayor of the City of Liberty is hereby authorized to execute on behalf of the City any and all contracts, agreements, memoranda and/or letters of understanding.
- (3) the City of Liberty's cost share of this bridge replacement program is \$34,561.26,

said amount being authorized for inclusion in and expenditure from the approaching fiscal year budget of 2008-2009.

- (4) the agreement herein attached is substantially in the form as attached hereto as Exhibit "A" and that said agreement and exhibit are herein incorporated into and made a permanent portion of this Resolution and the aforesaid agreement.

PASSED AND APPROVED by the City Council of Liberty, Texas on this the 12th day of February, 2008.

Carl Pickett
Mayor

ATTEST:

Dianne Tidwell
City Secretary

FISCAL IMPACT:

This majority of the money is not payable until fiscal year 2008-2009 and should be budgeted for that year.

1036

This bridge replacement program was brought before Council recently with the approval of \$5,460.00 to be expended from the current street maintenance budget. The remaining balance of \$29,101.26 will need to be budgeted from the 08-09 budget and made payable once the project nears completion.

N. Herrington

1028

This resolution and agreement are a requirement of the Economically Disadvantaged Counties Program in regard to the replacement of the bridge on Sandune Road at Woodards Spring Creek. TXDOT will fund 90% of the cost; leaving the City's matching fund requirement in the amount of \$34,561.26.

D. Tidwell

CSJ # 0920-02-078
 District # 20 BMT
 Code Chart 64 #24600
 Project: BR ()
 NBI Structure #20-146-0-C006-70-001

STATE OF TEXAS §
 COUNTY OF TRAVIS §

**ADVANCE FUNDING AGREEMENT
For Bridge Replacement or Rehabilitation
Off the State System**

THIS Advance Funding Agreement (the Agreement) is made by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the “State”, and the City of Liberty, Texas, acting by and through its duly authorized officials, hereinafter called the “Local Government.”

WITNESSETH

WHEREAS, Title 23, United States Code Section 144 authorizes federal funds to assist the States in the replacement or rehabilitation of deficient bridges located on public highways, roads and streets, including those under the jurisdiction of local governments; and

WHEREAS, the Texas Transportation Code, Sections 201.103 and 222.052 establish that the State shall plan and make policies for the construction of a comprehensive system of state highways and public roads in cooperation with local governments; and

WHEREAS, the Local Government owns a bridge or bridges located on a public road or street located at Sandune Road and said bridge(s) is included in the currently approved off-state system federal-aid Highway Bridge Replacement and Rehabilitation Program (HBRRP) as authorized by Texas Transportation Commission Minute Order number 110479, dated March 30, 2006; and

WHEREAS, the Governing Body of the Local Government has approved entering into this Agreement by resolution or ordinance which is attached hereto and made a part hereof as Attachment A and which provides for development of the specific programmed replacement or rehabilitation project, hereinafter called the “Project”, identified in the location map shown as Attachment B.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

CSJ # 0920-02-078
District # 20 BMT
Code Chart 64 #24600
Project: BR ()
NBI Structure #20-146-0-C006-70-001

AGREEMENT

1. Period of this Agreement

This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed. This Agreement shall remain in effect until terminated as provided in Article 2.

2. Conditions for Termination of this Agreement

- a. The Agreement is terminated in writing with the mutual consent of the parties; or
- b. Breach of this Agreement, in which case any cost incurred shall be paid by the breaching party; or
- c. If the Local Government elects not to develop the project and the project does not proceed, in which case the Local Government agrees to reimburse the State for 100 percent of its reasonable actual direct and indirect costs incurred for the project.

3. Amendments

Amendments to this Agreement may be made due to changes in the character of the work, the terms of the Agreement, or the responsibilities of the parties. Amendments shall be enacted through a mutually agreed upon, written amendment executed by all parties to this Agreement.

4. Remedies

This Agreement shall not be considered as specifying the exclusive remedy for any Agreement default, but all remedies existing at law and in equity may be availed of by either party to this Agreement and shall be cumulative.

5. Scope of Work

The scope of work for this Agreement is the replacement or rehabilitation of the bridge(s) identified in the recitals of this Agreement. This replacement or rehabilitation shall be accomplished in the manner described in the plans, specifications and estimates developed in accordance with this Agreement and which are incorporated herein by reference.

6. Right of Way and Real Property

CSJ # 0920-02-078
 District # 20 BMT
 Code Chart 64 #24600
 Project: BR ()
 NBI Structure #20-146-0-C006-70-001

The Local Government is responsible for the provision and acquisition of all necessary right of way and will not be reimbursed with federal or state funds for the required right of way.

The Local Government authorizes the State, its consultant, contractor, or other designated representative to enter the site(s) of said bridge(s) and adjacent right of way or relocation right of way to perform surveys, inspections, construction and other activities necessary to replace or rehabilitate said bridge and approaches.

7. Adjustment of Utilities

The Local Government shall be responsible for the adjustment, removal, or relocation of utility facilities in accordance with applicable State laws, regulations, rules, policies, and procedures, including any cost to the State of a delay resulting from the Local Government's failure to ensure that utility facilities are adjusted, removed, or relocated before the scheduled beginning of construction. The Local Government will not be reimbursed with federal or state funds for the cost of required utility work." The Local Government must obtain advance approval for any variance from established procedures. Before a construction contract is let, the Local Government shall provide, at the State's request, a certification stating that the Local Government has completed the adjustment of all utilities that must be adjusted before construction is completed.

8. Environmental Assessment and Mitigation

Development of the Project must comply with the National Environmental Policy Act and the National Historic Preservation Act of 1966, which require environmental clearance of federal-aid projects.

- a. The State is responsible for the identification and assessment of any environmental problems associated with the development of the Project governed by this Agreement.
- b. Cost participation in environmental assessment and remediation work shall be paid by the parties in the same ratio as construction costs and will be included in the construction costs identified in Attachment D, "Estimate of Direct Costs".
- c. The State is responsible for providing any public meetings or public hearings required for development of the environmental assessment

The State will not begin construction of the Project until identified environmental problems have been remediated, unless provided for otherwise.

9. Compliance with Texas Accessibility Standards and ADA

CSJ # 0920-02-078
 District # 20 BMT
 Code Chart 64 #24600
 Project: BR ()
 NBI Structure #20-146-0-C006-70-001

All parties to this Agreement shall ensure that the plans for and the construction of the Project subject to this Agreement are in compliance with the Texas Accessibility Standards (TAS) issued by the Texas Department of Licensing and Regulation, under the Architectural Barriers Act, Article 9102, Texas Civil Statutes. The TAS establishes minimum accessibility requirements to be consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

10. Architectural and Engineering Services will be Provided by the State

The State is responsible for performance of any required architectural or preliminary engineering work. The Local Government may review and comment on the work as required to accomplish the public purposes of the Local Government. The State will cooperate fully with the Local Government in accomplishing these local public purposes to the degree permitted by state and federal law. The Local Government review shall not unduly delay the development of the Project.

11. Construction Responsibilities

- a. The State shall advertise for construction bids, issue bid proposals, receive and tabulate the bids and award and administer the contract for construction of the Project. Administration of the contract includes the responsibility for construction engineering and for issuance of any change orders, supplemental agreements, amendments, or additional work orders, which may become necessary subsequent to the award of the construction contract. In order to ensure federal funding eligibility, projects must be authorized by the State prior to advertising for construction.
- b. Upon completion of the Project, the State will issue a "Notification of Completion" acknowledging the Project's construction completion.

12. Project Maintenance

After the Project has been completed, the Local Government shall accept full ownership, and operate and maintain the facilities authorized by this Agreement for the benefit of and at no charge of toll to the public. This covenant shall survive the completion of construction under this Agreement.

13. Local Project Sources and Uses of Funds

- a. A Project Cost Estimate is provided in Attachment D, "Estimate of Direct Costs".
- b. Attachment D provides a source of funds estimate as well as the estimated direct preliminary engineering, construction engineering, and construction costs for the Project in total and by the Local Government.
- c. The required Local Government participation is based solely upon the State's estimate of the eligible work at the time this Agreement is executed and will not be adjusted

CSJ # 0920-02-078

District # 20 BMT

Code Chart 64 #24600

Project: BR ()

NBI Structure #20-146-0-C006-70-001

during construction except as needed to include any Project cost item or portion of a cost item ineligible for state or federal participation. In addition to its share of estimated direct engineering and construction costs, the Local Government is responsible for the direct cost of any project cost item or portion of a cost item that is not eligible for federal participation under the federal HBRRP.

The Local Government is also responsible for any cost resulting from changes made at the request of the Local Government.

- d. After execution of this Agreement, but thirty (30) days prior to the performance of any work by the State, the Local Government will remit a check or warrant made payable to the "Texas Department of Transportation" in the amount specified in Attachment D for the Local Government's contribution for preliminary engineering. The Local Government will pay at a minimum its funding share for this estimated cost of preliminary engineering.
- e. Forty-five (45) days prior to the date set for receipt of the construction bids, the Local Government shall remit its remaining financial share for the State's estimated construction oversight and construction costs and any other costs owing.
- f. If at the completion or termination of the Project the State determines that additional funding is required by the Local Government, the State shall notify the Local Government in writing. The Local Government shall make payment to the State within thirty (30) days from receipt of the State's written notification.
- g. Upon completion of the Project, the State will perform an audit of the Project costs. Any funds due to the Local Government, the State, or the Federal Government will be promptly paid by the owing party.
- h. The State will not pay interest on any funds provided by the Local Government.
- i. The Local Government funding participation responsibilities include Project direct costs only, except when the Project is terminated before completion at the request of the Local Government as addressed in the Termination provision of this Agreement.
- j. If the Project has been approved for a "fixed price" or an "incremental payment" non-standard funding or payment arrangement under 43 TAC §15.52, this Agreement will clearly state the amount of the fixed price or the incremental payment schedule.
- k. Under the provisions of Texas Transportation Code Section 222.053 certain counties qualify as Economically Disadvantaged Counties (EDC) in comparison to other counties in the state as below average per capita property value, and below average per capita income, and above average unemployment, for certain years. If applicable, in consideration of such EDC status that may be applicable for the Project, the required local match fund participation has been adjusted to 7.8 percent.
- l. The State will not execute the contract for the construction of a Project until the required funding has been made available by the Local Government in accordance with this Agreement.
- m. The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the

CSJ # 0920-02-078

District # 20 BMT

Code Chart 64 #24600

Project: BR ()

NBI Structure #20-146-0-C006-70-001

contract. Acceptance of funds directly under the contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds.

An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

14. Performance by Local Government of Equivalent-Match Projects (EMPs) in Return for Waiver of Local Match Participation Funding on Participation-Waived Projects (PWPs)

- a. **Applicability.** If a request for waiver has been received and approved by the State's District Engineer, then the required ten percent matching fund participation or percent as adjusted for EDC consideration, as shown in Attachment D, "Estimate of Direct Costs", but excluding ineligible costs under the bridge program, is waived. This waiver is based on the commitment of the Local Government to spend an equivalent amount of funds for structural or safety improvement on "other" bridge structures and other conditions as specified in 43 TAC Section 15.55(d). If a waiver has been granted, the Project shall be defined to be a Participation-Waived Project (PWP) and the work on the "other" bridge structures that will be improved by the Local Government shall be defined to be the Equivalent-Match Project(s) (EMP). Attachment C to this Agreement shows a list of EMP(s) under this Agreement.
- b. **Project Cost Estimate for PWP.** Attachment D to this Agreement shows the estimated direct preliminary engineering, construction engineering and construction costs for the PWP in total and local match fund participation being waived, or partially waived.
- c. **Credit Against EMP Work.** Any local match fund participation that has already been paid, or which the Local Government is agreeable to paying to the State, will be credited against EMP work to be performed by the Local Government. If applicable, this credit(s) will be reflected in Attachment D to this Agreement.
- d. **Responsibilities of the Local Government on EMP(s).**
 - (1) **The Local Government shall be responsible** for all engineering and construction, and related costs thereto, and complying with all applicable state and federal environmental regulations and permitting requirements.
 - (2) The structural or safety improvement work on the EMP(s) shall be performed subsequent to the final execution of this Agreement but within three (3) calendar years after the earliest contract award of the related PWP(s).
 - (3) Written documentation, suitable for audit, of the structural or safety improvement work completed on the EMP(s) shall be kept on file by the Local Government for four (4) years after completion of work or claims, lawsuits, or audits related thereto, whichever is longer. A notice of completion of work on the EMP(s) shall be delivered to the State's District Engineer no later than thirty (30) calendar days after work is completed on the EMP(s).

CSJ # 0920-02-078
 District # 20 BMT
 Code Chart 64 #24600
 Project: BR ()

NBI Structure #20-146-0-C006-70-001

- (4) Failure by the Local Government to adequately complete the EMP(s) within the stated three-year period shall result in the Local Government being excluded from receiving such waivers for a minimum of five (5) years.

- e. Funding of Ineligible or Additional Work Not Waived. Regardless of any waiver of eligible program costs, the Local Government shall pay the State 100 percent of the cost of any PWP item or portion of a cost item that is not eligible for federal or state participation, and 100 percent of the costs resulting from additional work on the PWP performed solely at the request of the Local Government. If the ineligible or additional work is preliminary engineering, the payment shall be made at least thirty (30) days prior to the beginning of preliminary engineering work on the PWP.

If the ineligible or additional work is for construction or construction engineering, the payment shall be made at least forty-five (45) days prior to the date set for receipt of bids for construction of the PWP.

15. Notices

All notices to either party by the other required under this Agreement shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to such party at the following addresses:

State: Mr. John Barton, P.E., District Engineer
 Texas Department of Transportation
 8350 Eastex Freeway
 Beaumont, Texas 77708

Local Government: Honorable Carl Pickett
 Mayor, City of Liberty, Texas
 1829 Sam Houston
 Liberty, Texas 77575

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that such notices shall be delivered personally or by certified U.S. mail and such request shall be honored and carried out by the other party.

CSJ # 0920-02-078
District # 20 BMT
Code Chart 64 #24600
Project: BR ()
NBI Structure #20-146-0-C006-70-001

16. Legal Construction

In case one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions and this Agreement shall be construed as if it did not contain the invalid, illegal or unenforceable provision.

17. Responsibilities of the Parties

The parties to this Agreement agree that no party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

18. Ownership of Documents

Upon completion or termination of this Agreement, all documents prepared by the State shall remain the property of the State. All data prepared under this Agreement shall be made available to the State without restriction or limitation on their further use.

All documents produced or approved or otherwise created by the Local Government shall be transmitted to the State in the form of photocopy reproduction on a monthly basis as required by the State. The originals shall remain the property of the Local Government.

19. Compliance with Laws

The parties shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this Agreement. When required, the Local Government shall furnish the State with satisfactory proof of this compliance.

20. Sole Agreement

This Agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements respecting this Agreement's subject matter.

21. Office of Management and Budget (OMB) Cost Principles

In order to be reimbursed with federal funds, the parties shall comply with the Cost Principles established in OMB Circular A-87 that specify that all reimbursed costs are allowable, reasonable and allocable to the Project.

CSJ # 0920-02-078
District # 20 BMT
Code Chart 64 #24600
Project: BR ()
NBI Structure #20-146-0-C006-70-001

22. Procurement and Property Management Standards

The parties shall adhere to the procurement standards established in Title 49 CFR §18.36 and with the property management standard established in Title 49 CFR §18.32.

23. Inspection of Books and Records

The parties to the Agreement shall maintain all books, documents, papers, accounting records and other documentation relating to costs incurred under this Agreement and shall make such materials available to the State, the Local Government, and, if federally funded, the Federal Highway Administration (FHWA), and the U.S. Office of the Inspector General, or their duly authorized representatives for review and inspection at its office during the contract period and for four (4) years from the date of completion of work defined under this contract or until any impending litigation, or claims are resolved. Additionally, the State, the Local Government, and the FHWA and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

24. Office of Management and Budget (OMB) Audit Requirements

The parties shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in OMB Circular No. A-128 through August 31, 2000 and stipulated in OMB Circular A-133 after August 31, 2000.

25. Civil Rights Compliance

The parties to this Agreement shall comply with the regulations of the U.S. Department of Transportation as they relate to nondiscrimination (49 CFR Chapter 21 and 23 CFR §710.405(B)), and Executive Order 11246 titled "Equal Employment Opportunity," as amended by Executive Order 11375 and supplemented in the Department of Labor Regulations (41 CFR Part 60).

26. Disadvantaged Business Enterprise Program Requirements

The parties shall comply with the Disadvantaged/Minority Business Enterprise Program requirements established in 49 CFR Part 26.

CSJ # 0920-02-078
 District # 20 BMT
 Code Chart 64 #24600
 Project: BR ()
 NBI Structure #20-146-0-C006-70-001

27. Debarment Certifications

The parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." The parties to this contract shall require any party to a subcontract or purchase order awarded under this contract to certify its eligibility to receive federal funds and, when requested by the State, to furnish a copy of the certification in accordance with Title 49 CFR Part 29 (Debarment and Suspension).

28. Lobbying Certification

In executing this Agreement, the signatories certify to the best of his or her knowledge and belief, that:

- a. No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for the Local Government shall complete and submit the Federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c. The parties shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

By executing this Agreement, the parties affirm this lobbying certification with respect to the Project and affirm this certification of the material representation of facts upon which reliance will be made. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CSJ # 0920-02-078
 District # 20 BMT
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29. Successors and Assigns

The State and the Local Government each binds itself, its successors, executors, assigns, and administrators to the other party to this Agreement and to the successors, executors, assigns, and administrators of such other party in respect to all covenants of this Agreement.

30. Local Government Restrictions

In the case that the local government has an existing, future or proposed local ordinance commissioners court order, rule policy, or other directive that is more restrictive than the state or federal regulations that results in an increase cost to the State for the project, the local government is responsible for all increased costs associated with the ordinance, order, policy, directive, or change.

31. Signatory Warranty

The signatories to this Agreement warrant that each has the authority to enter into this Agreement on behalf of the party represented.

IN TESTIMONY HEREOF, the parties hereto have caused these presents to be executed in duplicate counterparts.

THE LOCAL GOVERNMENT

By: _____
 Signature

 Honorable Carl Pickett
 Printed Name of Signatory

Title: _____
 Mayor, City of Liberty, Texas

Date: _____

CSJ # 0920-02-078
District # 20 BMT
Code Chart 64 #24600
Project: BR ()
NBI Structure #20-146-0-C006-70-001

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By: _____
William R. Cox, PE
Director, Bridge Division

Date: _____

Attachment # 9: Advance Funding Agreement (RES-2008-3 : Bridge Replacement Sandune Rd)

CSJ # 0920-02-078
District # 20 BMT
Code Chart 64 #24600
Project: BR ()
NBI Structure #20-146-0-C006-70-001

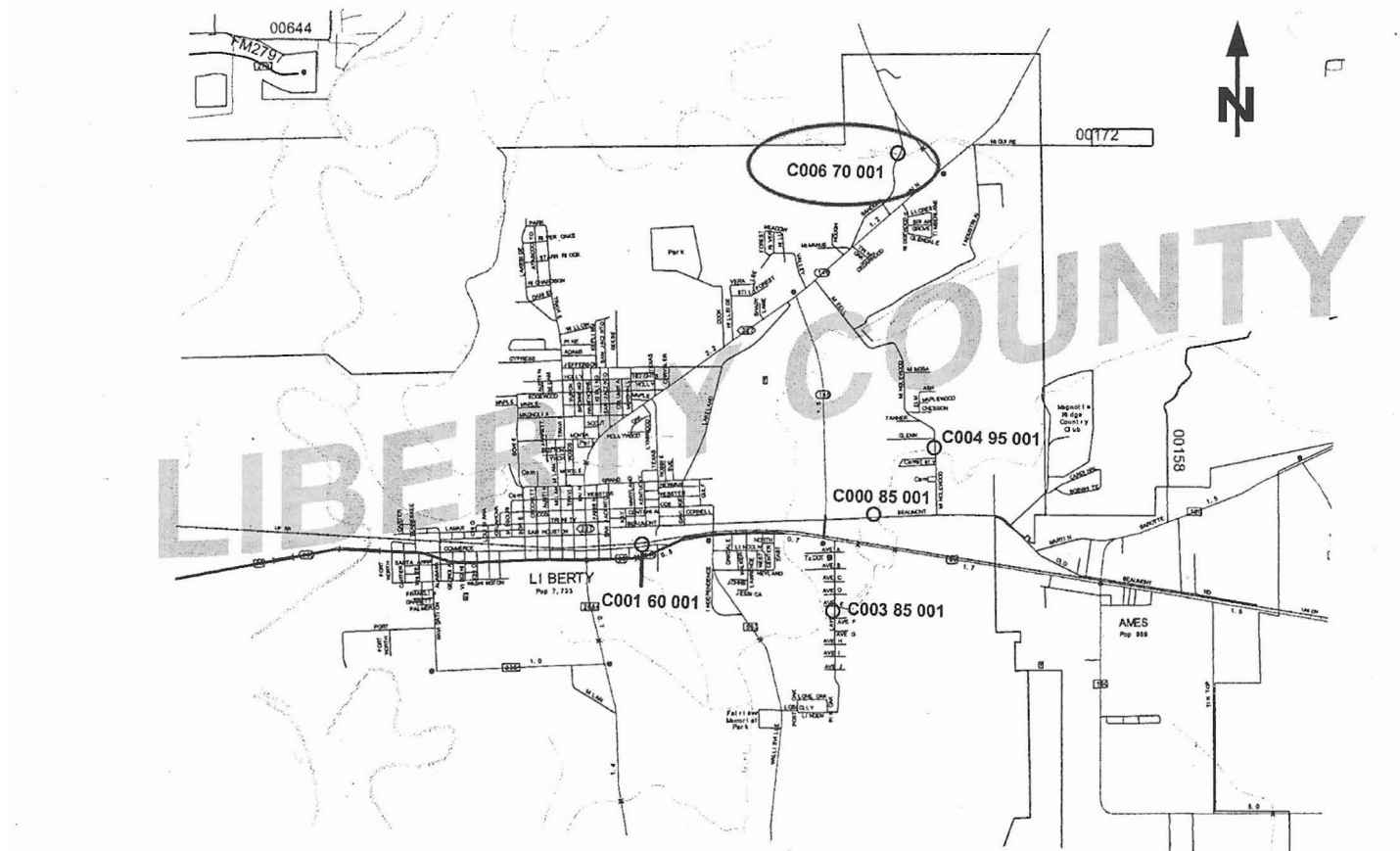
ATTACHMENT A

RESOLUTION OR ORDINANCE OF LOCAL GOVERNMENT

CSJ # 0920-02-078
 District # 20 BMT
 Code Chart 64 #24600
 Project: BR ()
 NBI Structure #20-146-0-C006-70-001

ATTACHMENT B

PROJECT LOCATION MAP



Attachment # 9: Advance Funding Agreement (RES-2008-3 : Bridge Replacement Sandune Rd)

**LIST OF DISTRICT ENGINEER APPROVED
EQUIVALENT-MATCH PROJECT(S) (EMP)**

[illegible]

Note**: This attachment not applicable for non-Participation-Waived Projects (PWP)

CSJ # 0920-02-078
 District # 20 BMT
 Code Chart 64 #24600
 Project: BR ()
 NBI Structure #20-146-0-C006-70-001

ATTACHMENT D

ESTIMATE OF DIRECT COSTS

	<u>Estimated Cost</u>	<u>Local Government Participation</u>
Preliminary Engineering (PE)	(1) \$ 70,000.00	
Ten (10) Percent or EDC Adjusted Percent of PE for Local Government Participation		(3) \$ 5,460.00
Construction	\$306,820.00	
Engineering and Contingency (E&C)	\$ 66,273.12	
The Sum of Construction and E&C	(2) \$373,093.12	
Ten (10) Percent or EDC Adjusted Percent of the Sum of Construction and E&C for Local Government Participation		(4) \$ 29,101.26
Amount of Advance Funds Paid by Local Government *		(5) - 0 -
Amount of Advance Funds to be Paid by Local Government *		(6) \$ 34,561.26
Balance of Local Government Participation which is to be Waived where the Project is a PWP		(3+4-5-6) N/A
Total Project Direct Cost	(1+2) \$443,093.12	
* Credited Against Local Government Participation Amount		
If this Project is to be a PWP, Amount of EMP Work Being Credited to this PWP as Shown on Attachment C.		N/A

Attachment # 9: Advance Funding Agreement (RES-2008-3 : Bridge Replacement Sandune Rd)

**The City of Liberty**

City Council
1829 Sam Houston
Liberty, TX 77575

Meeting: 02/12/08 06:00 PM

Department: Fire & EMS
Category: Grants

RESOLUTION 2008-4

DOC ID: 1034

Consider Approval of the Local Match for a Mobile Fire Trainer for the Liberty Fire Department Through the Assistance to Firefighters Grant (FEMA).

The Liberty Fire Department applied for a grant in January 2007 through the Assistance to Firefighters Grant (FEMA). We were recently notified that our grant was under review for approval and that it was favorable among the panel of peers. At this time the Liberty Fire Department has no way of training our firefighters in live fire training evolutions. This Mobile Fire Trainer will be an economical way of training our firefighters, without having to leave our community. The annual cost to operate the Mobile Fire Trainer will be approximately \$2,500.00, which is a fraction of the cost to rent a burn facility at a certified fire training field. The Mobile Fire Trainer will be a clean burning system, utilizing propane and non-hazardous smoke to simulate real life firefighting situations.

FISCAL IMPACT:

The total for this grant is \$415,845.00, with The City of Liberty being responsible for \$20,782.00 of this total, and the federal share is \$395,063.

1035

In the 07-08 budget the Fire Department was authorized to purchase a Life-Pak Monitor in the amount of \$15,000, expended from the Capital Reserve Fund. At this time, the Fire Department has two of these monitors in service and is requesting that the budgeted funds for this new monitor be applied towards the funding of this grant.

This would leave a remaining balance of approximately \$6,000 on this grant. From this same fund the purchase of two vehicles were approved by Council, have been purchased and are now in service. With the purchase of these vehicles coming in under budget, in the amount of \$13,500, I recommend that the Fire Department be allowed to use the remaining funds towards the City's matching share of \$20,782.00.

N. Herrington

Mobile FIRETRAINER® ML-1000
Prices
31 January 2007

Mobile FIRETRAINER® ML-1000 \$ 369,000

Including:

48-ft long custom fire training trailer
2 propane-fueled, PLC computer controlled *AquaMesh™* fires
w/ two distinct training modes: *fully automatic agent detection mode and manual operator control mode*
5 interchangeable multi-prop mockups
Flashover-rollover effect
Smoke generator system
Choice of tethered or wireless controls
Retractable 2nd story room, with electric winch system
Full internal staircase with door
Pitched roof ventilation prop
Interior movable walls
Full stainless steel thermal lining heat shield system
100% welded stainless steel diamond plate floors and roof
200 gal. on-board propane storage supply system
On-site start-up and operation/maintenance training
Operation & maintenance manual 
NRTL certification per NFPA 1402
1-year parts warranty (phone support & corrective parts)
24/7 technical phone support

Optional Items:

(other options available)

Now Available

15 ft. Slide-Out Section

for increased training space

\$ 55,000

3-day "Train-the-Trainer" course at your site

conducted by 2 certified instructors for up to 12 students,
includes "Train-the-Trainer" coursework materials kit

\$ 14,900

Added Realism

Fully Integrated Sound System

ambient, effect, and instructor-driven sounds

\$ 9,800

3rd fire in 2nd story room

\$ 18,000

Exterior Hoseline FIRETRAINER® O-100, 4' x 6' burn area

\$ 13,995

Great Prop!

Forcible entry door prop

\$ 2,950

Exterior staircase to roof

\$ 6,000

Other fees to consider:

Budgetary shipping estimates from Montvale, NJ 07645

500 miles:	\$ 3,000
1500 miles:	\$ 5,000
3000 miles:	\$ 8,000

Sales Tax- State, County or City

If applicable

Travel, Grant Writing Assistance, other Costs

If applicable

Terms: Prices FOB Montvale, NJ 07645.

Prices exclude applicable taxes, fees, and bonds.

Mobile Fire Trainer ML-1000 or T-4000 (2-fire)
OPERATION AND MAINTENANCE COSTS - PROPANE

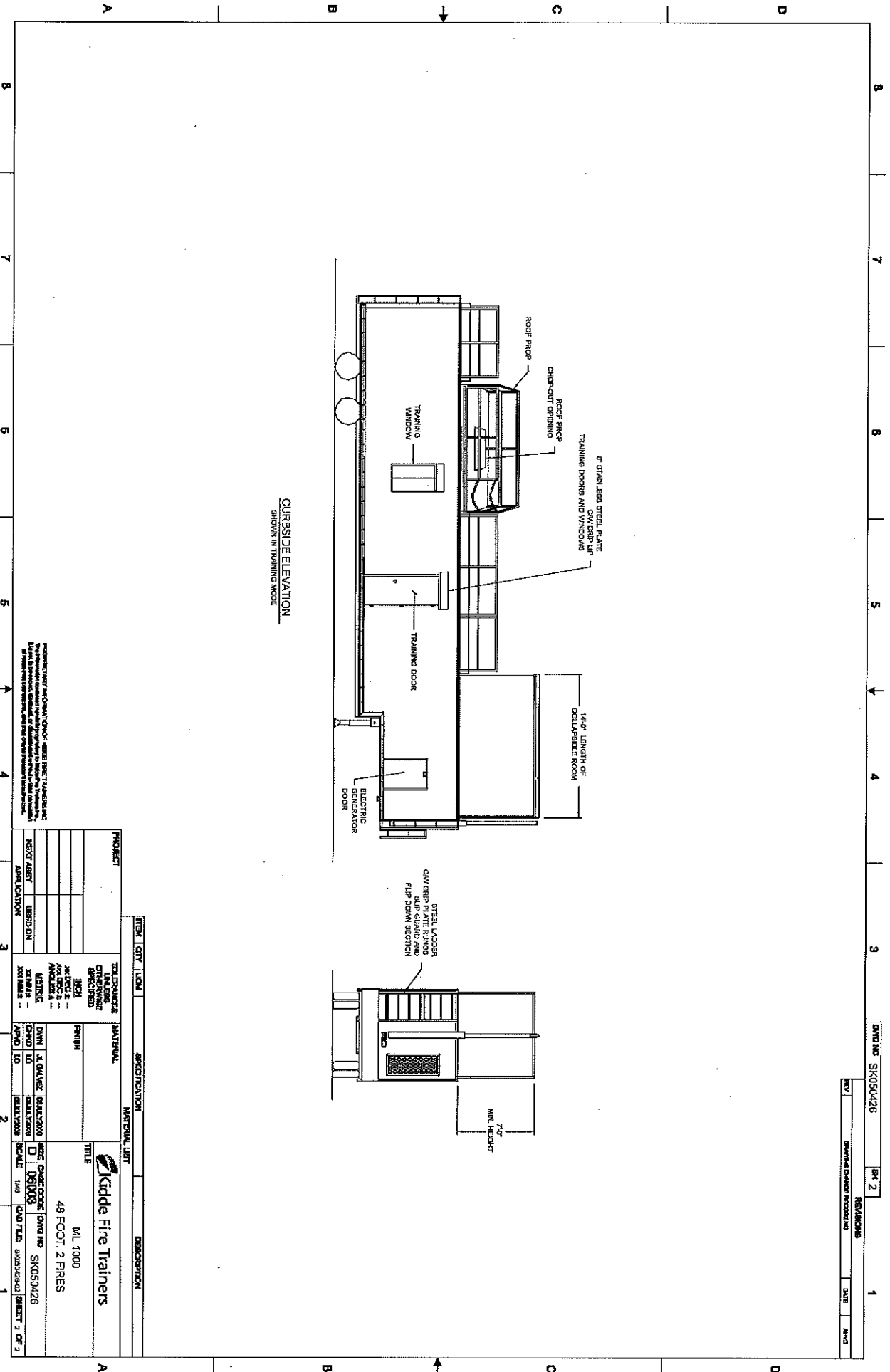
Fireplace	CONSUMABLES										MATERIAL				Total Cost
	3-min. Fuel Flow LPG Units	Fuel Flow Gallons	Annual Gallons	Scenario Cost	Annual Cost	Annual Bottles	Annual Span Gas Refill Cost	Annual Smk Fluid Drums	Annual Cost Consumables	Ann. Preventive Maint. Parts	Ann. Corrective Maint. Parts	Annual Cost Material			
Fireplace 1	46	cu. ft.	1.27	633	\$2.85	\$1,423	1	\$150	1/6	\$204	\$1,778	\$335	\$200	\$535	\$2,313
Fireplace 2	46	cu. ft.	1.27	633	\$2.85	\$1,423	1	\$150	1/6	\$204	\$1,778	\$335	\$200	\$535	\$2,313
SUBTOTAL			2.53	1,265	\$5.69	\$2,847	2	\$300	1/3	\$408	\$3,555	\$670	\$400	\$1,070	\$4,625
Percent of Subtotal						61.55%		6.49%		8.83%	76.87%	14.49%	8.65%	23.13%	100%

Annual No. of Fireplace Burns 500
 BTU per Cubic Foot 2,522
 BTU per Gallon 91,690

Type II Smoke Fluid Cost Per Drum \$1,225
 Propane Price Per Gallon \$2.25
 Span Gas Refill Cost \$150

- Notes:
- 1) 500 burns per year for each fireplace is assumed.
 - 2) Span Gas (1% propane) is required to calibrate propane sensors.
 - 3) 3 minute burn per Fireplace
- 3) Kidde Type II Smoke Fluid cost is based on:
 a) 55 gallon drum price = \$975
 b) Shipping charge = \$250







Homeland Security

Office for Domestic Preparedness

Assistance to Firefighters Grant Program



AFG Success Stories

- ★ Home
- ★ Fire Prevention & Safety Grants
- ★ Press Releases
- ★ Guidance Documents
- ★ Award Announcements
- ★ E-Grant Application
- ★ Workshop Presentation
- ★ Workshop Listings
- ★ Application Tutorial
- ★ FAQs
- ★ AFG Success Stories
- ★ Application Results
- ★ Subscribe To Newsletters
- ★ Contact Us

Maui County Fire Department, Maui, Hawaii

What They Bought With the Grant:

- Live burn trailer for training firefighters

How the Grant Has Helped:

Maui's live burn trailer, which was purchased through a 2002 AFG Program grant, is providing firefighters in Hawaii with invaluable hands-on training experiences. With the trailer, Maui's rescuers practice firefighting skills in live fire-burning conditions as opposed to simulations and videotapes. The trailer, nicknamed Malama, also keeps the firefighters safer as they train because it provides a carefully controlled environment for the live burn, which can be shut down completely should the situation become too dangerous.



Malama, Maui County Fire Department's live burn trailer, provides hands-on training experiences for firefighters.

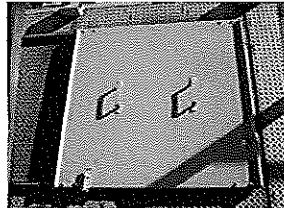
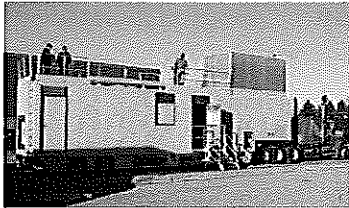
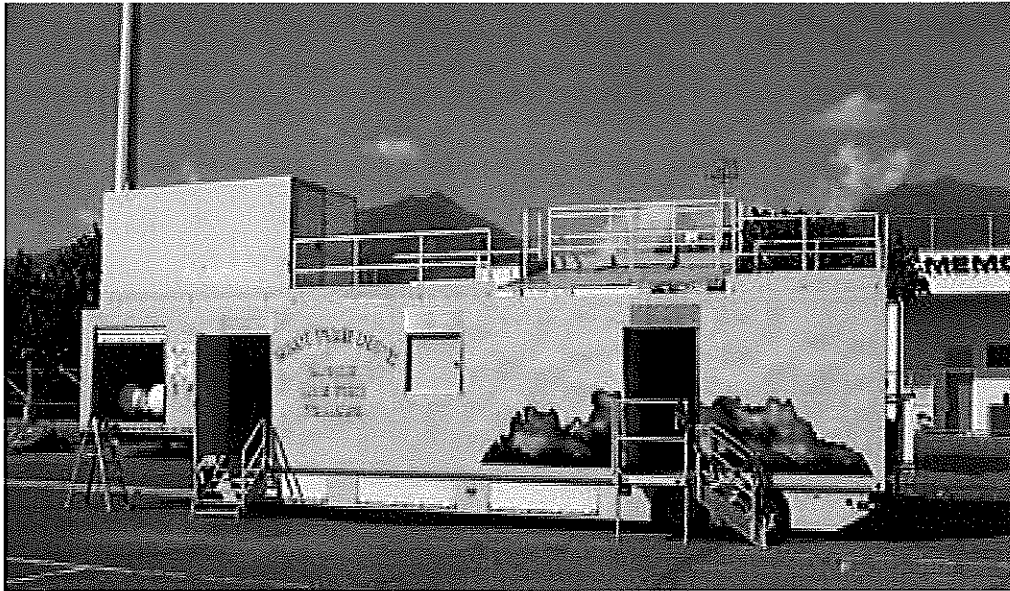
Because the trailer can be transported from station to station, a large number of firefighters can receive the training while they are on duty. A barge can transport the trailer to other islands to offer this critical live burn training experience to as many firefighters as possible.

[Story Index Page](#)

[Next Success Story](#)

Maui Fire Department

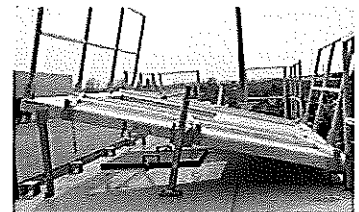
Kahului, Hawaii, USA



Roof Hatch



Rear



Inclined Roof Ventilation Prop

Mobile Structural FIRETRAINER® ML

- 4 Movable Walls
- Vertical Ladder To Roof Hatch
- Inclined Roof Ventilation Prop
- Collapsible 2nd Floor With Interior Staircase
- Four Doorways
- Two Shuttered Windows
- Dual-axle Trailer
- Two Fires With Interchangeable Prop Design
- Flashover
- Two Smoke Generators

Completed: December 2003

Fueled by: Propane

**The City of Liberty**

City Council
1829 Sam Houston
Liberty, TX 77575

Meeting: 02/12/08 06:00 PM

Department: Administration
Category: Elections

RESOLUTION 2008-5

DOC ID: 1045

Consider Approval of an Interlocal Agreement with Liberty County Hospital District Number 1 for Joint Elections.

INTERLOCAL GOVERNMENT AGREEMENT Joint Elections

This agreement is entered into this ____ day of February 2008, by and between the City of Liberty, Texas (the "City"), and the Liberty County Hospital District Number 1 (the "District").

WHEREAS, the City and the District will conduct general and special elections of the May uniform election date of each year; and

WHEREAS, the parties to this agreement desire that a joint election be held that is cost effective and convenient for the votes of the entities;

NOW, THEREFORE, IT IS AGREED that a joint election will be held by the City and the District under the following terms and conditions, and the parties hereto agree with said conditions:

1. That the joint election conducted by the City and the District will be conducted at the Humphreys Cultural Center located at 1710 Sam Houston, Liberty, Texas on the uniform election date in May of each year or until another uniform election date or location is mutually agreed upon by the parties.
2. That the City and the District will not consolidate election ballots.
3. That the City and the District may both share election judges or workers, but each entity will be responsible for securing qualified individual to serve in those positions.
4. That early voting will not be consolidated.
5. That the City and the District will each be responsible for providing electronic voting machines to their respective voters.
6. That the City and the District will each be responsible for the preparation, publication, and Spanish translation of its own Notice of Election, Order of Election, and ballots.
7. That the City and the District will each be responsible for their respective costs and expenses of the election process.

8. That each entity will be responsible for its own submissions to the U.S. Department of Justice for preclearance under the Federal Voting Rights Act, if any.
9. That the financial obligations of the parties hereto are payable from current revenues of the respective parties that have been budgeted and appropriated for the purposes set forth herein.
10. That the undersigned are the duly authorized representatives of the parties' governing bodies, and the signatures represent adoption and acceptance of the terms and conditions of this agreement.

APPROVE AND AGREED this _____ day of February 2008.

CITY OF LIBERTY

Carl Pickett, Mayor

ATTEST:

Dianne Tidwell, City Secretary

LIBERTY COUNTY HOSPITAL DISTRICT
NUMBER 1

Bruce Stratton, President

1031

In 2007, the City entered into an Interlocal Agreement with LISD to hold joint elections on the uniform election day in May. The proposed agreement with the Liberty County Hospital District Number 1 is essentially the same as the one executed with LISD. There will be no sharing of election workers, ballots, ballot boxes, or other relevant election materials. These agreements are solely for the use of a common polling place.

D. Tidwell



The City of Liberty

City Council
1829 Sam Houston
Liberty, TX 77575

Meeting: 02/12/08 06:00 PM

Department: Administration
Category: Election

ORDINANCE 2008-1

DOC ID: 1043

Consider Adoption of an Ordinance Ordering a General Election to be Held in the City of Liberty on Saturday, May 10, 2008.

AN ORDINANCE OF THE CITY OF LIBERTY, TEXAS ORDERING A GENERAL MUNICIPAL ELECTION TO BE HELD ON THE 10TH DAY OF MAY, 2008; AUTHORIZING A JOINT ELECTION WITH THE LIBERTY INDEPENDENT SCHOOL DISTRICT AND LIBERTY COUNTY HOSPITAL DISTRICT NUMBER 1; DESIGNATING THE POLLING PLACES AND APPOINTING ELECTION OFFICIALS FOR SUCH ELECTION; PROVIDING PAY RATES FOR ELECTION OFFICIALS; PROVIDING FOR EARLY VOTING; PROVIDING FOR TWO TWELVE-HOUR DAYS OF EARLY VOTING; PROVIDING FOR THE NOTICE OF ELECTION; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND DISPENSING WITH THE REQUIREMENT OF SECTION 3.10 OF THE HOME RULE CHARTER THAT THIS ORDINANCE BE READ ON TWO SEPARATE DAYS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS:
Section 1.

It is hereby ordered that a General Election be held in the City of Liberty, Texas on the second Saturday in May, the 10th day of May, 2008, at which election the qualified voters of the City will elect three (3) Council Members, which are all at-large positions.

Section 2.

That the election be held jointly with the election of the Liberty Independent School District and the Liberty County Hospital District Number 1 per the terms of the Interlocal Agreement dated January 30, 2007 and the Interlocal Agreement dated February 12, 2008, respectively.

Section 3.

The present boundaries of the City constitute one election precinct, and the polls shall be open for voting from 7:00 a.m. until 7:00 p.m. at the following polling place, and the following are hereby appointed officers to conduct the election at said polling place:

POLLING PLACE:

Geraldine Humphreys Cultural Center

1710 Sam Houston Street
Liberty, Texas 77575

ELECTION OFFICERS:

Barbara Van Deventer, Presiding Judge
1410 Webster, Liberty, Texas 77575

Larry Wagon, Alternate Presiding Judge
1405 Hawthorne, Liberty, Texas 77575

The City Secretary is hereby authorized and directed to provide a copy of the Ordinance to the judge as written notice of their appointment as required by Section 32.009 of the Texas Election Code.

The Presiding Judge shall have the authority to appoint no more than five (5) clerks to assist in the holding of such election, but in no event shall the Presiding Judge appoint less than two clerks. Said election officers are hereby designated to also serve as the Early Voting Ballot Board for the purpose of canvassing the early votes by mail and by personal appearance. The Presiding Judge of such election shall also serve as the Presiding Officer of the Early Voting Ballot Board.

The Election Judge and clerks shall be compensated at an hourly rate of \$8.50 as provided by Title 3, Section 32.091(A) of the Texas Election Code. The Election Judge shall be compensated in the amount of \$25.00 for the delivery of election equipment and supplies as provided by Title 3, Section 32.901(a) of the Texas Election Code, if such delivery is necessary.

Section 4.

The City Secretary is designated the Early Voting Clerk and the appointment of a deputy clerk or clerks for early voting, by the City Secretary, shall be in accordance with Section 83.001 et seq. of the Texas Election Code. The location for early voting for such election is hereby designated as:

City Hall
City of Liberty
1829 Sam Houston Street
Liberty, Texas 77575

Early voting by personal appearance shall begin on April 28, 2008 and end on May 6, 2008. Early voting by personal appearance shall be conducted during the regular business hours of the City Secretary's Office which are from 7:30 a.m. until 5:30 p.m.

Monday thru Thursday; and from 7:30 a.m. until 1:00 p.m. on Friday. As required under Section 85.005(d), Texas Election Code, early voting by personal appearance, at the early voting polling place, shall be conducted for at least 12 hours on two weekdays, if the early voting period consists of six or more weekdays; therefore, the early voting by personal appearance shall be conducted for 12 hours on Tuesday, April 29, 2008 and Tuesday, May 6, 2008.

The election clerk's address to which ballot applications and ballots voted by mail may be sent is: 1829 Sam Houston Street, Liberty, Texas 77575. The early voting clerk, in accordance with the provisions of the Texas Election Code, shall maintain a roster listing each person who votes early by personal appearance and each person to whom a ballot to be voted by mail is sent. The roster shall be maintained in a form approved by the Secretary of State.

Section 5.

All ballots shall be prepared in accordance with the Texas Election Code. Paper ballots shall be used for early voting by mail and paper ballots and the eSlate Direct Recording Electronic (DRE) Voting System shall be used for early voting by personal appearance and voting on Election Day. Election materials as outlined in Section 272.005, Texas Election Code, shall be printed in both English and Spanish for use at the polling place and for early voting for said election.

All expenditures necessary for the conduct of the election, the purchase of materials therefore, and the employment of all election officials is hereby authorized.

Section 6.

The City Secretary is hereby authorized and directed to furnish all necessary election supplies to conduct such election.

Section 7.

Notice of this election shall be published in the official newspaper of the City not earlier than the 30th day or later than the 10th day before election day, and shall be posted in the place used to post notice of City Council Meetings not later than the 21st day before election day, in accordance with the provisions of the Texas Election Code.

Section 8.

Said election shall be held in accordance with the Texas Election Code and the Federal Voting Rights Act of 1965, as amended.

Section 9.

This Ordinance shall be in full force and effect from and after the date of its passage.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Liberty,
this the 12th day of February, 2008.

Carl Pickett, Mayor

ATTEST:

Dianne Tidwell, City Secretary

1032

THIS ORDINANCE CALLS FOR THE CITY'S GENERAL ELECTION TO BE HELD ON THE UNIFORM ELECTION DATE IN MAY (May 10, 2008) AND ADDRESSES ALL NECESSARY ISSUES TO BE APPROVED BY COUNCIL RELATIVE TO THE CONDUCT OF AN ELECTION; ELECTION OFFICIALS, COMPENSATION RATES, ETC.

THOSE MEMBERS WHOSE TERM EXPIRE ARE:

MAYOR CARL PICKETT

COUNCIL MEMBERS: MIKE McCARTY, CHARLES McGUIRE, LOUIE POTETZ

D. TIDWELL



The City of Liberty

City Council
1829 Sam Houston
Liberty, TX 77575

Meeting: 02/12/08 06:00 PM

Department: Administration
Category: Elections

RESOLUTION 2008-6

DOC ID: 1046

Consider Approval of Some or All of the Proposed Charter Amendments As Recommended by the 2007 Charter Review Commission.

The following are proposed revisions by the
Year 2007 Charter Revision Committee for the Charter, City of Liberty, Texas
for consideration by the City Council of Liberty, Texas.

Respectfully,

Cathy Harbour, Frank Jordan, Ron Mayo, Mark Morefield, Patricia Watson, Members

CHARTER - CITY OF LIBERTY - Code of Ordinances

Charter Revision Committee Report - 2007

The Charter Revision Committee presents the following proposed changes to the Liberty City Council for review and consideration to revise the Charter of the City of Liberty

Sec. 3.02. Qualifications

An addendum to the sentence as shown by underline:

“A person also must meet the following requirements to be eligible to be a candidate for or elected or appointed to, or to remain in the office of mayor or councilperson: be a United States citizen; be a qualified voter; not have been determined mentally incompetent by a final judgment of a court of proper jurisdiction; not have been finally convicted of a felony from which the person has not been pardoned or otherwise released from resulting disabilities; or convicted in a felony or in a crime involving moral turpitude from which the person has not been pardoned or otherwise released from resulting disabilities.”

Sec 3.05 Vacancies - Review with Alternatives for Consideration

“When a vacancy occurs in the city council, the remaining members of the council shall within ten (10) days, appoint a qualified person to fill the unexpired term. However, the city council shall not appoint more than one (1) councilman in any twelve-month period, and in case a vacancy has been filled by the city council within twelve (12) months prior to the subsequent vacancy, or if more than one (1) vacancy occurs at the same time, or before a prior vacancy has been filled, the city council shall call a special election within ten (10) days from the date of the last vacancy, to be held on the first uniform election date which permits compliance with all procedural requirements of V.T.C.A., Election Code. An election is not required if a regularly scheduled election is to be held within ninety (90) days of the time of a

vacancy. If a vacancy in the office of mayor occurs, and such vacancy is filled by an elected councilperson, then such designation is not considered an appointment for purposes of determining if an election is required.”

The Liberty City Council in the most recent vacancy raised the issue of filling a vacancy by a majority or plurality vote of the remaining members and mayor. The Charter Revision Committee has reviewed the procedures of surrounding municipalities and the present Liberty Charter provision and offer the following background and recommendations:

Fact Situation: (The below assume all six remaining council members vote)

1. With a resignation, there are six remaining members including the mayor, making tie votes a possibility for replacement council members.
2. Texas now has special elections only every 180 days instead of 90 days when the present Liberty Charter was approved, making vacancies filled by special election possibly almost 6 months from the point of a council vacancy.
3. No wording clarifies whether a majority is required of remaining council members (4 to 2 minimum) or a plurality (3 to 2 to 1 minimum) if more than two replacement candidates are being voted on by remaining council members. The present Liberty City Council procedure utilized in the three most recent vacancy situations was by majority vote, although the former City Attorney has stated in a Liberty City Council meeting either majority or plurality is legal if specified in the Liberty City Charter. No inquiry as to legality beyond this verbal opinion has been obtained.
4. No reviewed municipalities utilize plurality alone specifically in the charters, but three, including Liberty, do not specify majority or plurality. Three municipalities are specific as to majority vote appointments, while four others are specific in special elections only. To maintain the voting ethic and precedent of majority elections and the precedents of the most recent three appointments for vacancies on the Liberty City Council, the majority vote is the preferred method to properly reflect the wishes of the majority of remaining elected Council members; a procedure also adopted by most surrounding municipalities. (Municipalities reviewed included Alvin, Bridge City, Cleveland, Denton, Friendswood, Gainesville, Ingleside, Kerrville, Liberty and Lockhart)

Note: In Liberty, Texas, assuming a contested election, the three candidates receiving the most votes are elected, same appearing to be a form of plurality for the three positions; however, in concept the three candidates receiving the most votes are each receiving a majority vote individually in the contested election. In contrast, in filling a single vacancy on the Liberty City Council, only one candidate is to be chosen and a majority vote for the one candidate is indicated as appropriate based on both local precedent and generally accepted practices of similar Texas municipalities.

The present Liberty City Charter provision relating to vacancies is as follows:

Sec 3.05 Vacancies - Review with Alternatives for Consideration

“When a vacancy occurs in the city council, the remaining members of the council shall within ten (10) days, appoint a qualified person to fill the unexpired term. However, the city council shall not appoint more than one (1) councilman in any twelve-month period, and in case a vacancy has been filled by the city council within twelve (12) months prior to the subsequent vacancy, or if more than one (1) vacancy occurs at the same time, or before a prior vacancy has been filled, the city council shall call a special election within ten (10) days from the date of the last vacancy, to be held on the first uniform election

date which permits compliance with all procedural requirements of V.T.C.A., Election Code. An election is not required if a regularly scheduled election is to be held within ninety (90) days of the time of a vacancy. If a vacancy in the office of mayor occurs, and such vacancy is filled by an elected councilperson, then such designation is not considered an appointment for purposes of determining if an election is required.”

A suggested amended Sec. 3.05 with proposed new wording in italics is as follows:

“Sec. 3.05. Vacancies.

When a vacancy occurs in the city council by refusal to accept, failure to qualify, death, resignation, or otherwise; the remaining members of the council, shall, within thirty (30) days after the next regularly scheduled city council meeting, appoint a qualified person to fill the unexpired term from submissions in writing within fifteen (15) days of request by the city council for vacancy applicants of qualified interested parties to the city council. The city council remaining members and mayor also may present submissions in writing within fifteen (15) days of request by the city council for vacancy applicants of qualified interested parties and prior to the first vote by council remaining members and mayor on properly qualified vacancy applicants.

From submissions properly submitted by or on behalf of qualified interested parties, nominations will be made by council remaining members or mayor, with a second required by a council remaining member or mayor for an applicant to be voted on by the city council remaining members and mayor to fill the vacancy. A public voice vote by each of the city council remaining members and mayor will be taken by the mayor of properly nominated and seconded applicants to fill the unexpired term. If no properly nominated and seconded applicant receives a majority vote on the first ballot, subsequent votes may be taken until a majority vote selects a replacement.

If for any reason an appointment of a properly submitted, nominated and seconded applicant is not made by a majority decision of remaining council members within the thirty (30) day period after the next regularly scheduled city council meeting from properly submitted applicants, the city council shall call a special election within sixty (60) days from the date of the vacancy, to be held on the first uniform election date which permits compliance with all procedural requirements of the V.T.C.A., Election Code. An election is not required if a regularly scheduled election is to be held within ninety (90) days of the time of a vacancy. If a vacancy in the office of mayor occurs, and such vacancy is filled by an elected councilperson, then such designation is not considered an appointment for purposes of determining if an election is required. (Ord. No. 910, § 1, 5-11-99)

Sec. 3.09. Rules of procedure.

A correction of a misspelled word - 4th sentence of 1st paragraph
“The ~~date~~ vote upon the passage...”

Sec. 3.11. Official bonds for city employees

A correction of sentence typing with strikethroughs of existing wording and italics for revision:

“The city manager and the city secretary and such other city officers and employees as the city council ~~may~~ *shall* require, ~~shall~~ *shall*, before entering upon the duties...”

No efforts were made by the Charter Revision Committee to present corrections of “Editor’s note” inserts in the City Charter of Liberty, Texas or “State law reference” inserts in the Charter of the City of Liberty, Texas. However, in “Article 5. NOMINATIONS AND ELECTIONS, Sec. 5.01. Elections generally;” in Editor’s note, the Editor’s note erroneously states the controlling state law provides that the election shall be held on the first Saturday in May, when in fact it should state the second Saturday in May.

Respectfully submitted for further review and consideration by the City Council of the City of Liberty, Texas this 22nd day of April, 2007

Charter Revision Committee of the City of Liberty for the year 2007

Cathy Harbor: _____ signed _____

Frank Jordan: _____ signed _____

Ron Mayo: _____ signed _____

Mark Morefield: _____ signed _____

Patricia Watson: _____ signed _____

Explanation

Should Council approve the proposed amendments to the City Charter, a special election will need to be ordered to take these amendments to the voters for approval or disapproval.

D. Tidwell



The City of Liberty

City Council
1829 Sam Houston
Liberty, TX 77575

Meeting: 02/12/08 06:00 PM

Department: Administration
Category: Election

ORDINANCE 2008-2

DOC ID: 1047

Consider Adoption of an Ordinance Ordering a Special Election to be Held on Saturday, May 10, 2008 for Voter Consideration of Proposed Amendments to the City's Home Rule Charter.

AN ORDINANCE OF THE CITY OF LIBERTY, TEXAS ORDERING A SPECIAL ELECTION TO BE HELD ON THE 10TH DAY OF MAY, 2008; FOR THE PURPOSE OF VOTER CONSIDERATION OF PROPOSITIONS AMENDING THE HOME RULE CHARTER; DESIGNATING THE POLLING PLACES AND APPOINTING ELECTION OFFICIALS FOR SUCH ELECTION; PROVIDING PAY RATES FOR ELECTION OFFICIALS; PROVIDING FOR EARLY VOTING; PROVIDING FOR TWO TWELVE-HOUR DAYS OF EARLY VOTING; PROVIDING FOR THE NOTICE OF ELECTION; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND DISPENSING WITH THE REQUIREMENT OF SECTION 3.10 OF THE HOME RULE CHARTER THAT THIS ORDINANCE BE READ ON TWO SEPARATE DAYS.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS:

Section 1.

It is hereby ordered that a Special Election be held in the City of Liberty, Texas on the second Saturday in May, the 10th day of May, 2008, pursuant to the laws of the State of Texas, and such election shall provide for voting "for" or "against" amendments to the City of Liberty Home Rule Charter. See Exhibit "A" - Proposed Charter Amendments.

Section 2.

The present boundaries of the City constitute one election precinct, and the polls shall be open for voting from 7:00 a.m. until 7:00 p.m. at the following polling place, and the following are hereby appointed officers to conduct the election at said polling place:

POLLING PLACE:

Geraldine Humphreys Cultural Center
1710 Sam Houston Street
Liberty, Texas 77575

ELECTION OFFICERS:

Barbara Van Deventer, Presiding Judge
1410 Webster, Liberty, Texas 77575

Larry Wagon, Alternate Presiding Judge
1405 Hawthorne, Liberty, Texas

The City Secretary is hereby authorized and directed to provide a copy of the Ordinance to the judge as written notice of their appointment as required by Section 32.009 of the Texas Election Code.

The Presiding Judge shall have the authority to appoint no more than five (5) clerks to assist in the holding of such election, but in no event shall the Presiding Judge appoint less than two clerks. Said election officers are hereby designated to also serve as the Early Voting Ballot Board for the purpose of canvassing the early votes by mail and by personal appearance. The Presiding Judge of such election shall also serve as the Presiding Officer of the Early Voting Ballot Board. These duties will be filled by the same judge and clerks appointed for this purpose in the city's general municipal election, also held on May 10, 2008.

The Election Judge and clerks will be the same election officials as those used in the city's general municipal election, also held on May 10, 2008, and shall be compensated as provided by Title 3, Section 32.091(A) of the Texas Election Code. These officials shall be compensated at an hourly rate of \$8.50. The judge and clerks employed for these elections shall be compensated one time for the conduct of both elections.

Section 3.

The City Secretary is designated the Early Voting Clerk and the appointment of a deputy clerk or clerks for early voting, by the City Secretary, shall be in accordance with Section 83.001 et seq. of the Texas Election Code. The location for early voting for such election is hereby designated as:

City Hall
City of Liberty
1820 Sam Houston Street
Liberty, Texas 77575

Early voting by personal appearance shall begin on April 29, 2008 and end on May 6, 2008. Early voting by personal appearance shall be conducted during the regular business hours of the City Secretary's Office which are from 7:30 a.m. until 5:30 p.m. Monday thru Thursday; and from 7:30 a.m. until 1:00 p.m. on Friday. As required under Section 85.005(d), Texas Election Code, early voting by personal appearance, at the early voting polling place, shall be conducted for at least 12 hours on two weekdays, if

the early voting period consists of six or more weekdays; therefore, the early voting by personal appearance shall be conducted for 12 hours on Tuesday, April 29, 2008 and Tuesday, May 6, 2008.

The election clerk's address to which ballot applications and ballots voted by mail may be sent is: 1829 Sam Houston Street, Liberty, Texas 77575. The early voting clerk, in accordance with the provisions of the Texas Election Code, shall maintain a roster listing each person who votes early by personal appearance and each person to whom a ballot to be voted by mail is sent. The roster shall be maintained in a form approved by the Secretary of State.

Section 4.

All ballots shall be prepared in accordance with the Texas Election Code. Paper ballots shall be used for early voting by mail and paper ballots and the eSlate Direct Recording Electronic (DRE) Voting System shall be used for early voting by personal appearance and voting on Election Day. Election materials as outlined in Section 272.005, Texas Election Code, shall be printed in both English and Spanish for use at the polling place and for early voting for said election.

All expenditures necessary for the conduct of the election, the purchase of materials therefore, and the employment of all election officials is hereby authorized.

Section 5.

The City Secretary is hereby authorized and directed to furnish all necessary election supplies to conduct such election.

Section 6.

Notice of this election shall be published in the official newspaper of the City not earlier than the 30th day but before the 10th day before election day, and shall be posted in the place used to post notice of City Council Meetings not later than the 21st day before election day, in accordance with the provisions of the Texas Election Code.

Section 7.

Said election shall be held in accordance with the Texas Election Code and the Federal Voting Rights Act of 1965, as amended.

Section 8.

This ordinance shall be in full force and effect from and after the date of its passage.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Liberty,

this the 12th day of February, 2008.

Carl Pickett, Mayor

ATTEST:

Dianne Tidwell, City Secretary

1034

THE ATTACHED ORDINANCE CALLS FOR A SPECIAL ELECTION TO BE HELD, IN CONJUNCTION WITH THE MAY GENERAL ELECTION, FOR VOTER APPROVAL OR DISAPPROVAL OF AMENDMENTS TO THE CITY'S HOME RULE CHARTER. THIS ELECTION WILL TAKE TO THE VOTERS AMENDMENTS AS PROPOSED BY THE 2007 CHARTER REVIEW COMMITTEE.

THIS ORDINANCE ADDRESSES ALL NECESSARY ISSUES TO BE APPROVED BY COUNCIL RELATIVE TO THE CONDUCT OF AN ELECTION.

**The City of Liberty**

City Council
1829 Sam Houston
Liberty, TX 77575

Meeting: 02/12/08 06:00 PM

Department: Administration
Category: Expenditures

RESOLUTION 2008-7

DOC ID: 1048 A

Consider Approval of the City's Share of the Total Cost of the Humphreys Cultural Center Expansion Project.

City Manager Ron Wood will provide a handout at the council meeting.

FISCAL IMPACT:

No financial impact at this time.