The City of Liberty

Liberty Community Development Corporation

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

April Gilliland
City Secretary
936-336-3684

Meeting

~ Agenda ~

Tuesday, September 20, 2022	6:00 PM	City Council Chambers

The Liberty Community Development Corporation 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

A.

ATTENDEE NAME	PRESENT	ABSENT	LATE	ARRIVED
President Barbara Norwood				
Vice-President Michael Dorsett Jr.				
Secretary Kathrine McCarty				
Board Member Mark Campbell				
Board Member Dan VanDeventer				
Board Member Marsha LaFour				
Board Member Betty Runkle				

II. ACKNOWLEDGEMENT OF GUESTS AND VISITORS / CITIZENS FORUM

Citizen Forum is reserved for members of the public who would like to address the LCDC Board regarding agenda and non-agenda items. Please be aware that, under Texas Law, the Board may not deliberate or take any action during citizens' comments for items not on the agenda. In some situations, City Staff may be able to respond to the public comment with a factual statement or clarification. The LCDC Board of Directors may have the item placed on a future agenda for action or refer the item to Management and Staff for study or conclusion.

III. PRESENTATIONS / REPORTS

A. General Manager's Report -Topics include Facade Grant Program, projects, permits issued, golf course and airport.

B. Finance Report

IV. CONSENT AGENDA

All consent items listed are considered to be routine by the Liberty Community Development Corporation and will be enacted by one motion. There will be no separate discussion of these items unless a Liberty Community Development Corporation 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.

A. Minutes Approval

1. August 16, 2022

V. REGULAR AGENDA

A. Regular Session

1. Consider and take action authorizing the General Manager to negotiate and execute an economic development agreement with Timberline Products.

2. Consider and take action authorizing the General Manager to pay the debt on the fire tanker truck financed by LCDC.

VI. ADJOURNMENT

A. 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 16th day of September, 2022 at 5:00 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.

April Gilliland

April Gilliland, City Secretary

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 ____________, _____.

CITY OF LIBERTY

Liberty Community Development Corporation
Agenda Item Form

Council Meeting Date: September 20, 2022

Agenda Wording: General Manager's Report -Topics include Facade Grant Program, projects, permits issued, golf course and airport.

Department: Community Development

Subject: General Manager's Report

Background: This agenda item affords the General Manager the opportunity to update the Board members and public on current and future projects, activities and other items related to the Corporation's business.

1. In the FY22 budget, the LCDC Board of Directors approved $88,000 for the business facade grant program. Since that time, the board has approved seven (7) grants worth $69,439.01. There is still $18,560.99 available to fund additional grants. Grants were awarded to the following businesses:

    - Liberty County Chamber of Commerce ($6,365.10); Not Paid
    - SwampSmoke, LLC (11,742.50); Paid
    - Tracy Williams ($20,000.00); Paid
    - Milton Fregia ($10,187.32)
        - Parking Lot, Sign, Mural; Paid
        - Lighting, Painting; Not Paid
    - Frank Biehunko ($5,192.50); Paid
    - Brandon Smith ($14,651.59) Not Paid
    - Cynthia Smith ($1,300.00); Paid

2. Recently Completed Projects

    - Lee College - Interior Remodel to include cosmetology lab (1715 Highway 146)
    - Precinct 3 Annex - New Build (5301 Highway 146 N)
    - Los Poncho's - Interior Remodel (2315 Highway 90)

3. Projects Under Construction – New Construction and Additions

- Sleep Inn Hotel – New Build (1023 N. Main)
- Food Truck Park – New Build (1021 N Main)
- Sheriff’s Office – New Build (5345 Highway 146 N)
- Office Building – New Build (1811 Grand)
- Liberty Municipal Golf Course – Restroom Installation (100 Magnolia Ridge)
- KJ Chemical – Installation of detention pond, concrete pavement, and industrial equipment (4003 Beaumont)

4. Projects Under Construction – Renovations and Remodels
    - Tri-County Behavioral Health – Interior Remodel (2000 Panther Lane)
    - Maxx Self-Storage - Buildout (1021 N Main)
    - Swamp Smoke BBQ - Buildout (2200 MLK)
    - The Liberty House – Interior & Exterior Remodel (2208 MLK)
    - Pueblos – Interior Remodel (906 Main)
    - Liberty Municipal Library – Roof and Skylight Repair (1710 Sam Houston)
    - Shops at Liberty – Interior Buildout (2139 Highway 146 Bypass, Suite 200, 300, and 400)
    - Aaron's - Interior Buildout (2323 N Main) - **scheduled to start on October 10**
    - Lakeland Apartments - Convert a commercial building into apartments (2704 N Main)

5. Upcoming Projects
    - Lakeland Self-Storage (1609 Lakeland) – *Plans are currently under review by WCID#5*
    - RV Park (700 Port Road) – *Plans are currently under review*
    - Pizza Hut (2350 N Main) - *Plans are currently under review*

6. Permits Issued:
    - Commercial Certificate of Occupancy Permits were issued for the following businesses: Chemboys (212 Industrial Place), Lee College (1715 Highway 146), Precinct 3 Annex (5301 Highway 146 N) and Brock Construction (308 Milam)
    - A residential building permit was issued for a new house at 1411 Wallisville.

7. Golf Course:
    - American Parking Control started on the golf course parking lot on Tuesday, August 2nd. They are expected to finish the project by Thursday, September 15.
    - The new restroom for the golf course is expected to be delivered on September 16, weather pending.
    - The golf course officially closed on April 5, 2021, for renovations. The staff received a "punch list" from the architect for final items that still need to be taken care of. All sprigging was complete as of June 24. The driving range and putting green are scheduled to reopen on Tuesday, October 4th.

8. The pre-bid meeting for the airport pavement rehabilitation project was held on August 30, 2022, at City Hall. Bids are to be received on September 21, 2022.

Funding Source: N/A

Staff Recommendation: N/A

CITY OF LIBERTY

Liberty Community Development Corporation
Agenda Item Form

Council Meeting Date: September 20, 2022

Agenda Wording: Finance Report

Department: Finance

Subject: Finance Report

Background: This agenda item affords the Assistant City Manager / CFO an opportunity to report on the financial activities and position of the Liberty Community Development Corporation, to include revenues, liabilities, assets, and other financial information.

Funding Source: n/a

Staff Recommendation: n/a

FINANCIAL STATEMENT

AS OF: JULY 31ST, 2022

21 -LIBERTY COMM. DEV. CORP.

FINANCIAL SUMMARY

ACCT# ACCOUNT NAME	ANNUAL BUDGET	CURRENT PERIOD	Y-T-D ACTUAL	% OF BUDGET	BUDGET BALANCE
REVENUE SUMMARY					
ALL REVENUE	1,306,885.00	96,874.94	946,667.02	72.44	360,217.98
*** FUND TOTAL REVENUE ***	1,306,885.00	96,874.94	946,667.02	72.44	360,217.98
EXPENDITURE SUMMARY					
LIBERTY COMMUNITY DEV	1,346,885.00	452,493.74	998,536.36	74.14	348,348.64
*** FUND TOTAL EXPENDITURES ***	1,346,885.00	452,493.74	998,536.36	74.14	348,348.64
EXCESS REVENUES/EXPENDITURES	(40,000.00)	(355,618.80)	(51,869.34)	129.67	11,869.34

21 -LIBERTY COMM. DEV. CORP.

REVENUE

ACCT# ACCOUNT NAME	ANNUAL BUDGET	CURRENT PERIOD	Y-T-D ACTUAL	% OF BUDGET	BUDGET BALANCE
ALL REVENUE					
321-0101 SALES TAX REVENUE	1,000,000.00	94,351.45	927,019.02	92.70	72,980.98
321-0110 INTEREST INCOME	16,500.00	2,523.49	19,648.00	119.08	(3,148.00)
321-2120 TRANSFER IN FROM FUND BALANCE	290,385.00	0.00	0.00	0.00	290,385.00
*** FUND TOTAL REVENUE ***	1,306,885.00	96,874.94	946,667.02	72.44	360,217.98

21 -LIBERTY COMM. DEV. CORP.
LIBERTY COMMUNITY DEV

ACCT#	ACCOUNT NAME	ANNUAL BUDGET	CURRENT PERIOD	Y-T-D ACTUAL	% OF BUDGET	BUDGET BALANCE
3-CHARGES & SERVICES						
421-307	MAINTENANCE WEBSITE	7,500.00	0.00	2,581.44	34.42	4,918.56
421-309	MARKETING & ADVERTISING	32,000.00	0.00	22,690.00	70.91	9,310.00
421-313	MISCELLANEOUS	12,500.00	0.00	0.00	0.00	12,500.00
421-314	TRAVEL & TRAINING	5,000.00	0.00	5,022.26	100.45	(22.26)
421-315	DUES & MEMBERSHIPS	1,500.00	0.00	1,317.50	87.83	182.50
421-319	LEGAL FEES	5,000.00	234.00	2,844.00	56.88	2,156.00
** CATEGORY TOTAL **		63,500.00	234.00	34,455.20	54.26	29,044.80
4-OTHER						
421-416	FIRE DEPARTMENT TANKER	35,850.00	5,974.74	29,873.70	83.33	5,976.30
421-423	BUSINESS INCENTIVES FACADE	88,000.00	0.00	57,166.21	64.96	30,833.79
** CATEGORY TOTAL **		123,850.00	5,974.74	87,039.91	70.28	36,810.09
6-DEBT SERVICE						
421-619	INTEREST SERIES 2014	105,000.00	0.00	45,756.25	43.58	59,243.75
421-620	PRINCIPAL SERIES 2014	135,000.00	0.00	145,000.00	107.41	(10,000.00)
421-621	ADMIN FEES SERIES 2014	750.00	0.00	0.00	0.00	750.00
** CATEGORY TOTAL **		240,750.00	0.00	190,756.25	79.23	49,993.75
7-TRANSFERS						
421-728	TRANSFER TO AIRPORT FUND	328,500.00	288,500.00	328,500.00	100.00	0.00
421-730	TRANSFER TO GENERAL FUND	171,100.00	0.00	0.00	0.00	171,100.00
421-732	TRANSFER TO GOLF COURSE	357,785.00	157,785.00	357,785.00	100.00	0.00
421-733	TRANSFER TO FLEET FUND	61,400.00	0.00	0.00	0.00	61,400.00
** CATEGORY TOTAL **		918,785.00	446,285.00	686,285.00	74.69	232,500.00
** DEPARTMENT TOTAL **		1,346,885.00	452,493.74	998,536.36	74.14	348,348.64
*** FUND TOTAL EXPENDITURES ***		1,346,885.00	452,493.74	998,536.36	74.14	348,348.64
EXCESS REVENUES/EXPENDITURES		(40,000.00)	(355,618.80)	(51,869.34)	0.00	11,869.34

FINANCIAL STATEMENT

AS OF: JULY 31ST, 2022

21 -LIBERTY COMM. DEV. CORP.

LIBERTY COMMUNITY DEV

ACCT#	ACCOUNT NAME	ANNUAL BUDGET	CURRENT PERIOD	Y-T-D ACTUAL	% OF BUDGET	BUDGET BALANCE
		==============	==============	==============	======	==============

*** END OF REPORT ***

BALANCE SHEET

AS OF: JULY 31ST, 2022

21 -LIBERTY COMM. DEV. CORP.

ACCOUNT #	ACCOUNT DESCRIPTION	BALANCE		
ASSETS				
======				
21-1-2110	CASH	2,389,207.85		
21-1-2199	DUE FROM GBG FOR SALES TAX	1,920.08		
21-1-2500	DUE FROM STATE	180,636.05		
			2,571,763.98	
	TOTAL ASSETS			2,571,763.98
				==============
LIABILITIES & EQUITY				
====================				
21-2-1111	ENCUMBRANCE	(773,071.70)		
21-2-1112	RESERVE FOR ENCUMBRANCE	773,071.70		
21-2-1113	PRIOR YEAR ENCUMBRANCE	269,273.70		
21-2-1114	PRIOR YEAR RESERVE ENCUMBRANCE	(269,273.70)		
21-2-2162	INTEREST PAYABLE	2,255.06		
21-2-2180	FUND BALANCE	2,621,378.26		
	TOTAL LIABILITIES & EQUITY		2,623,633.32	
	TOTAL REVENUE	946,667.02		
	TOTAL EXPENSES	998,536.36		
	TOTAL REVENUE OVER/(UNDER) EXPENSES	(51,869.34)		
	TOTAL EQUITY & REV. OVER/(UNDER) EXP.		(51,869.34)	
	TOTAL LIABILITIES, EQUITY & REV.OVER/(UNDER) EXP.			2,571,763.98
				==============

The City of Liberty

Liberty Community Development Corporation

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

April Gilliland
City Secretary
936-336-3684

Meeting

~ Minutes ~

Tuesday, August 16, 2022 | **6:00 PM** | **City Council Chambers**

I. CALL TO ORDER

This meeting was called to order on August 16, 2022 in the City Council Chambers, 1829 Sam Houston Street, Liberty, Texas at 6:01 p.m. by Vice-President Michael Dorsett, Jr.

A.

ATTENDEE NAME	PRESENT	ABSENT	LATE	ARRIVED
President Barbara Norwood		X		
Vice-President Michael Dorsett Jr.	X			
Secretary Kathrine McCarty	X			
Board Member Mark Campbell	X			
Board Member Dan VanDeventer	X			
Board Member Marsha LaFour	X			
Board Member Betty Runkle	X			

II. ACKNOWLEDGEMENT OF GUESTS AND VISITORS / CITIZENS FORUM

Citizen Forum is reserved for members of the public who would like to address the LCDC Board regarding agenda and non-agenda items. Please be aware that, under Texas Law, the Board may not deliberate or take any action during citizens' comments for items not on the agenda. In some situations, City Staff may be able to respond to the public comment with a factual statement or clarification. The LCDC Board of Directors may have the item placed on a future agenda for action or refer the item to Management and Staff for study or conclusion.

Vice-President Dorsett welcomed guests and visitors in attendance, opening the floor for public comment to those individuals wishing to address the board. There were no comments.

III. PRESENTATIONS / REPORTS

A. General Manager's Report -Topics include Facade Grant Program, projects, permits issued and golf course.

General Manager Tom Warner updated the board members and public on the following:

- Fiscal Year 2022 Business Facade grant program budget
- New Construction and additions
- Renovations and remodels

- Upcoming projects
- Relocation of Aaron's
- Golf Course

B. Finance Report

Assistant City Manager and CFO Naomi Herrington reported on the corporation's financials through June 30, 2022.

IV. 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.

A motion was made by Board Member Campbell to approve all items on the consent agenda. The motion was seconded by Secretary McCarty. The motion passed 6 to 0, with President Norwood absent.

A. Minutes Approval

1. July 21, 2022

V. REGULAR AGENDA

A. Regular Session

1. Conduct a public hearing regarding the possible expenditure of funds - Economic development agreement with Timberline Products

At 6:15 p.m., Vice-President Dorsett opened the public hearing to discuss the possible expenditure of funds for an Economic Development Agreement with Timberline Products. General Manager Tom Warner discussed the agreement with the Board. There were no public comments. At 6:16 p.m. Vice-President Dorsett closed the public hearing.

2. Consider and take action authorizing the General Manager to negotiate and execute an economic development agreement with Timberline Products.

Timberline Products plans to operate an antifreeze/coolant production and bottling facility at 3020 Beaumont. The business is being relocated from Coldspring to Liberty. Timberline Products plans to initially hire five (5) employees and up to twelve (12) employees once all systems are in full production. Office employees will make at least $10 per hour and warehouse employees will make at least $15 per hour. Timberline also plans to invest approximately $700,000 in new furniture, fixtures, equipment and utility upgrades. In return, LCDC will provide reimbursements for utility upgrades. The total reimbursement for all items will not exceed $30,000. The work must be completed and invoices provided before any reimbursement is made. This project was previously discussed with LCDC on July 21, 2022. If approved, the agreement will still need to be approved by the Liberty City Council.

This item failed due to lack of a motion.

3. Public Hearing on Fiscal Year 2022-2023 (FY 2023) Liberty Community Development Corporation's Proposed Budget and the Community Development Capital Improvement Program (CDCIP).

At 6:31 p.m., Vice-President Dorsett opened the public hearing to discuss the Fiscal Year 2022-2023 (FY 2023) Liberty Community Development Corporation's Proposed Budget and the Community Development Capital Improvement Program (CDCIP). General Manager Tom Warner went over highlights of the Budget and CDCIP. There were no public comments. At 6:32 p.m. Vice-President Dorsett closed the public hearing.

4. Consider approval of the Fiscal Year 2022-2023 LCDC Budget

On July 21, staff presented the LCDC Board of Directors with a proposed budget for Fiscal year 2022-2023. That budget presented was a balanced budget with $1,130,500 in revenues and $1,130,500 in expenditures. The proposed FY 2022-2023 budget to be adopted is the same budget that was presented to the Board on July 21, 2022.

A motion was made by Secretary McCarty to approve the Fiscal Year 2022-2023 LCDC Budget with the amendment to pay in full the loan for the Fire Department's Tanker Truck. This motion was seconded by Board Member VanDeventer. The motion passed 6 to 0, with President Norwood being absent.

5. Consider approval of the Liberty Community Development Corporation Fiscal Year 2022-2023 Community Development Capital Improvement Program (CDCIP).

Article IV, Section 5 of the LCDC Bylaws state that "The Board shall develop a Community Development Capital Improvement Program (the "CDCIP"), including maintenance and operation costs thereof, for the City which shall include and set forth short and long term goals" The Bylaws further state that "The Board shall review and update the CDCIP once a year to ensure the plan is up to date with current community needs and is capable of meeting the City's community development needs." General Manager Tom Warner reviewed the 2022-2023 CDCIP with the Board answering questions as needed.

A motion was made by Secretary McCarty to approve the Liberty Community Development Corporation Fiscal Year 2022-2023 Community Development Capital Improvement Program. This motion was seconded by Board Member LaFour. The motion passed 6 to 0, with President Norwood being absent.

VI. ADJOURNMENT

A. Motion To: Adjourn

With no further business to discuss, Vice-President Dorsett adjourned the meeting at 7:17 p.m.

____
Michael Dorsett, Vice-President

ATTEST:

____
Kathrine McCarty, Board Secretary

CITY OF LIBERTY

Liberty Community Development Corporation
Agenda Item Form

Council Meeting Date: September 20, 2022

Agenda Wording: Regular Session

Department: Council and Board

Subject:

Background:

Funding Source:

Staff Recommendation:

CITY OF LIBERTY

Liberty Community Development Corporation
Agenda Item Form

Council Meeting Date: September 20, 2022

Agenda Wording: Consider and take action authorizing the General Manager to negotiate and execute an economic development agreement with Timberline Products.

Department: Community Development

Subject: Economic Development Agreement

Background: Timberline Products plans to operate a glycerin refining and antifreeze/coolant production and bottling facility at 3020 Beaumont. The business is being relocated from Coldspring to Liberty. The owner of the company has provided updated salaries and anticipated investment expenditures for the business.

Timberline Products plans to hire thirteen (13) employees within the first year of operation. These positions include the following:

1 – Office Manager ($18 per hour)
1 – Receptionist ($15 per hour)
2 – Sales Staff ($10 per hour plus commission)
9 – Plant/Production ($15 - $22 per hour depending on skills and experience) – 2 of these employees will be relocated from Coldspring

Timberline also plans to invest approximately $1,000,000 in new furniture, fixtures, equipment and utility upgrades. In return, LCDC will provide reimbursements for utility upgrades in an amount not to exceed $30,000. The work must be completed and invoices provided before any reimbursement is made.

This project was previously discussed with LCDC on July 21. On August 16, the LCDC Board of Directors held a public hearing regarding the potential expenditure of funds for the Timberline Products economic development agreement.

Funding Source: LCDC Fund Balance

Staff Recommendation: Staff recommends approval of the agreement.

PERFORMANCE INCENTIVE AGREEMENT FOR
BUSINESS AND COMMERCIAL DEVELOPMENT

This Agreement is made by and between the Liberty Community Development Corporation (sometimes hereinafter referred to as "LCDC"), a nonprofit corporation organized under the authority of the Development Corporation Act and the Texas Constitution, Article III, Section 51-a, acting by and through its duly constituted board of directors, and TIMBERLINE Products, Inc. (sometimes hereafter referred to as "TIMBERLINE"), a corporation qualified to do business in Texas.

LCDC has as its primary purpose the creation of programs and the making of performance incentives, consisting of loans and grants of public money for development and diversification of the economy of the City of Liberty, Texas (sometimes hereinafter referred to as the "City"). Among its specific purposes are to undertake projects for developing facilities to promote new business development and commercial and business-related improvements.

TIMBERLINE represents that it contemplates opening a glycerin refining plant and antifreeze production and bottling business (sometimes hereinafter referred to as the "Project"), that will be of significant economic consequence to the City, with the expectation of its being an event of causative effect with regard to other expansion and new establishments and a generator of additional job opportunities within the City.

TIMBERLINE estimates that it will invest a minimum of $1,000,000 in new furniture, fixtures, equipment, utility upgrades, and facility improvements.

TIMBERLINE plans to hire no less than thirteen (13) employees to work at Liberty facility within the first year of operation.

However, TIMBERLINE, in order to be able to continue to undertake the development of the Project and finance the costs thereof, must have a contribution from some outside source for the specific purpose of helping to finance utility upgrades and improvements to the facility located at 3020 Beaumont Ave., Liberty, Texas 77575 (sometimes hereinafter referred to as the "Property") for an amount not to exceed $30,000. LCDC, pursuant to its authority and in pursuit of its goals, is desirous of making an incentive in the form of a monetary grant for these purposes, the result of which will be the creation of a facility that will promote new business development and job opportunities.

Therefore, subject to the conditions set forth hereinafter, the LCDC and TIMBERLINE agree as follows:

TIMBERLINE has indicated that it has acquired a lease to the real estate in which the business will operate. It shall present its signed lease agreement to LCDC as demonstration thereof no later than October 31, 2022.

LCDC shall have the option to declare this Performance Incentive Agreement for Business and Commercial Development terminated in the event the above conditions required for the performance incentive have not been met. Conditioned on the successful performance of the above-described requirement, and subject to the same rights and responsibilities as set forth hereinafter, LCDC and TIMBERLINE make the following agreements.

Upon completion of the improvements, and upon presentation by TIMBERLINE to LCDC of its Certificate of Occupancy, which presentation must be on or before January 1, 2024, LCDC will grant to TIMBERLINE as an incentive the following sums, not to exceed a total of $30,000:

Item	Rebate
Upgrades to utility infrastructure at the facility including water, electric, and natural gas utilities	LCDC will rebate to TIMBERLINE an amount equal to 75% of TIMBERLINE's actual costs spent on the utility infrastructure upgrades to an amount not to exceed $30,000

Prior to reimbursement TIMBERLINE must present the LCDC with invoices and proof of payment of said invoices for the utility infrastructure upgrades.

TIMBERLINE understands that creation of and maintaining of jobs is central to the goals of the development of the LCDC. Therefore, after facility construction and the starting of operations, but no later than June 1, 2024, TIMBERLINE shall create and fill, as verified to the sole satisfaction of the LCDC, no less than thirteen (13) jobs (inclusive of full-time and part-time employees). TIMBERLINE shall maintain said employment level for at least two (2) years following the opening of the business.

The LCDC will verify the adherence by TIMBERLINE to the above requirements. The verification process will be commenced at any time during the aforesaid two (2) year period (or extension thereof) within fourteen (14) days of written notice by LCDC to TIMBERLINE and will conclude at a time solely within the discretion of LCDC. As a further condition of receiving the incentive grant funds, TIMBERLINE will cooperate with LCDC in the verification process and will comply with all requests for information by LCDC in its verification process. The failure or inability of TIMBERLINE to prove to the sole satisfaction of LCDC at any time during the aforesaid two (2) year period that it has met its employment requirement, the following provisions shall apply.

As a condition of this grant, TIMBERLINE agrees to open an antifreeze production and bottling business on the Property in Liberty, Texas within the time period specified herein. TIMBERLINE's investment in the Facility shall be no less than $1,000,000. All construction documents must be approved by the City of Liberty. TIMBERLINE must construct the facility in accordance with all local, state, and federal laws. Furthermore, TIMBERLINE must abide by all local, state, and federal laws regulating to glycerin refining and antifreeze production and bottling.

However, the funding of the grant shall be further conditioned on the occurrences of the following matters.

1. This Performance Incentive Grant Agreement shall be fully executed on or before <u>October 31, 2022</u>.
2. The City Council of the City of Liberty shall have timely approved the project, including the grant.
3. LCDC shall have successfully completed all procedural legal requirements to be authorized to make the grant, at least one of which being not in the control of LCDC, i.e.: the possibility of an election in which an objection to the grant is approved by the public; however, the LCDC does not guarantee and shall not be liable for damages in the event the legal procedural requirements are not successfully completed for whatever reason.
4. Subject to the above conditions, funding shall in no event be prior to the conclusion of the sixty-day waiting period as provided by law.
5. In order to receive said Grant funds TIMBERLINE must provide receipts and proof of payment for the utility infrastructure upgrades.
6. All City of Liberty services and taxes must be paid in full, must be current, and TIMBERLINE must be in good standing with the City of Liberty prior to the receipt of the grant proceeds and continuing through the life of this agreement.
7. The funds must be used directly on the development of the TIMBERLINE establishment.

8. TIMBERLINE further agrees that after receipt of the incentive funds any one of the following events shall be a breach of this Agreement and shall obligate it to immediately repay all incentive funds to LCDC, together with interest at the rate of ten percent (10%) per annum from date of receipt. TIMBERLINE further authorizes LCDC to place a lien on the Property upon breach of this Agreement if TIMBERLINE fails to reimburse the city the full amount of said grant plus interest and fees within thirty (30) days of receiving written notice of said breach. The following events shall be considered a breach of this Agreement:

(A) Failure to expend project incentive funds for the development and improvement of the Liberty facility for the purpose of creating jobs or failure to use such grant funds for repayment of indebtedness, the original proceeds of which were used for the development and improvement of the Liberty facility.

(B) The incentive is found to be void or voidable for whatever reason, either by court decree or order or settlement of a claim related thereto which LCDC in its sole discretion or judgment, chooses to enter.

(C) TIMBERLINE's allowing any of its sales tax or ad valorem tax obligations related to the project to become delinquent, regardless of subsequent payments.

(D) TIMBERLINE's closure of its operation within five (5) years of date of first opening to the public.

(E) The sale or transfer of ownership of all or substantially all of the assets or ownership interest of TIMBERLINE to any other entity or person shall include provisions requiring the new person, group or entity to assume all obligations and requirements under this agreement within five (5) years of the start of services to the public.

(F) Failure to maintain the employee levels set forth in this agreement.

(G) Breach of any term of this Grant Agreement.

Other than attorney's fees, costs, and interest, no damages beyond the amount of the Incentive funds are contemplated to be owed by either party hereto to the other for a breach of this Agreement.

Any prospective obligation of LCDC shall be void and of no further force and effect in the event of TIMBERLINE's insolvency, assignment for benefit of creditors, bankruptcy, or any circumstance that would reasonably cause serious doubt about the continued viability of TIMBERLINE or its Liberty TIMBERLINE enterprise.

Time is of the essence in the Performance Incentive Agreement.

LCDC is a corporation created by a political subdivision of the State of Texas and as such is subject to laws unique to such entities. In the event at any time any such law prohibits LCDC from performing an act required in this agreement, the law shall prevail and LCDC shall not be in default as a result thereof.

This Agreement shall be construed and governed by the laws of the State of Texas, and shall be performable in Liberty County, Texas.

This Agreement may be amended only in writing by the mutual consent of all of the parties, evidenced by all necessary and proper corporate and governing authority. No waiver of any provision of this Agreement shall arise from any action or inaction of LCDC, except an instrument in writing expressly waiving the provision executed by LCDC, the party entitled to the benefit of the provision.

This agreement, together with any documents and exhibits given or delivered pursuant to this agreement, constitutes the entire agreement between the parties to this agreement. No party shall be bound by any communications between them on the subject matter of this agreement unless the communication is (a) in writing, (b) bears a date contemporaneous with or subsequent to the date of this agreement, and (c) is agreed to by all parties to this agreement and as to LCDC, acting by and through its Board of Directors. On execution of this agreement, all prior agreements or understandings between parties concerning the matters contained herein shall be null and void.

This agreement may be executed in multiple counterparts.

Signed this _________ day of ________________, 20________.

TIMBERLINE PRODUCTS, INC.		LIBERTY COMMUNITY DEVELOPMENT CORPORATION	
By:	___________________________	By:	_______________________________
Name:	___________________________	Name:	Tom Warner
Title:	___________________________	Title:	General Manager
Address:		Address:	1829 Sam Houston
	___________________________		_______________________________
	___________________________		Liberty, Texas 77575

THE STATE OF TEXAS §

COUNTY OF ____________ §

This instrument was acknowledged before me on this ________ day of _______________, 202___, by ____, on behalf of TIMBERLINE PRODUCTS, INC.

____
Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF LIBERTY §

This instrument was acknowledged before me on this ________ day of _______________, 202___, by Tom Warner, General Manager, of the LIBERTY COMMUNITY DEVELOPMENT CORPORATION, on behalf of said entity.

____
Notary Public, State of Texas

CITY OF LIBERTY

Liberty Community Development Corporation
Agenda Item Form

Council Meeting Date: September 20, 2022

Agenda Wording: Consider and take action authorizing the General Manager to pay the debt on the fire tanker truck financed by LCDC.

Department: Community Development

Subject: Debt Payoff

Background: In April of 2014, the LCDC Board of Directors accepted a loan from the H-GAC Gulf Coast Economic Development District to purchase a tanker truck for the Fire Department. The loan terms were for a 20-year loan at 4% simple interest. The current outstanding balance of that loan is $335,639.57

Staff recommends using proceeds from LCDC's fund balance to pay off the remainder of the loan. Paying off the loan would save LCDC future interest payments, free up $35,000 per year in the budget to allocate to other priorities, and ensure that LCDC was not paying for a piece of equipment that was beyond its useful life.

LCDC has an estimated fund balance of $2.57 million as of July 31, 2022. After paying off the tanker truck loan, the estimated fund balance would be $2.23 million. This represents an approximate 13.2% decrease in the fund balance.

Funds are allocated in LCDC's FY23 budget to pay for the debt. The note would need to be paid in October prior to the next monthly payment.

Funding Source: LCDC Fund Balance

Staff Recommendation: Staff recommend approval of paying the outstanding debt for the fire tanker truck.