

ORDINANCE NO. 09-31

AN ORDINANCE APPROVING AN AGREEMENT OF EMPLOYMENT FOR FLOYD BATISTE AS CHIEF EXECUTIVE OFFICER OF THE CITY OF PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION AND AUTHORIZING THE CITY COUNCIL OF THE CITY OF PORT ARTHUR TO EXECUTE THE AGREEMENT PURSUANT TO THE BYLAWS

WHEREAS, per Ordinance 05-085, the City Council approved the appointment of Floyd Batiste as CEO of the City of Port Arthur Section 4A Economic Development Corporation (the "PAEDC") as delineated in the Agreement, attached hereto as Exhibit "A"; and

WHEREAS, the PAEDC has agreed to provide certain salary and benefits, establish certain conditions of employment and set working conditions of Mr. Batiste; and

WHEREAS, Floyd Batiste desires to continue employment as Chief Executive Officer of the PAEDC on the terms and conditions, as attached as Exhibit "B", which are not effective unless and until the City Council of the City of Port Arthur approves said Employment Agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ARTHUR:

Section 1. That the facts and opinions in the preamble are true and correct.

Section 2. That the City Council approves the agreement between Floyd Batiste and the PAEDC as the CEO of the EDC, as set forth in the Agreement attached as Exhibit "B".

Section 3. That any future amendments or changes to the agreement may be done by Resolution.

Section 4. That this Ordinance and the Agreement shall be effective on May 1, 2009.

Section 5. That a copy of the caption of the Ordinance be spread upon the Minutes of the City Council.

READ, ADOPTED AND APPROVED on this 21st day of April A.D., 2009, at a Meeting of the City Council of the City of Port Arthur, Texas, by the following vote:

AYES:

Mayor Prince; Mayor Pro Tem Chatman

Councilmembers Segler, Albright, Beard, Williamson and Wise

NOES: Councilmember Henderson

Deloris Prince
Deloris "Bobbie" Prince, Mayor

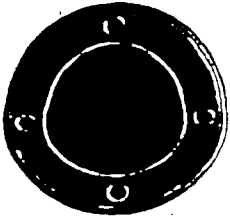
ATTEST:

Terri Hanks
Terri Hanks, City Secretary

APPROVED AS TO FORM:

Mark Sokolow
Mark T. Sokolow, City Attorney

EXHIBIT "A"



Port Arthur Economic Development Corporation
P. O. Box 3934 • Port Arthur, Texas 77642
409/963-0579 • 409/962-4445 fax
Email: portarthuredc@portarthur.net • <http://www.portarthuredc.com>

November 16, 2005

Mr. Floyd Batiste
4231 Lakeshore Drive
Port Arthur, Texas 77642

RE: Letter of Agreement
Chief Executive Officer of City of Port Arthur Section 4A Economic
Development Corporation

Dear Floyd:

Pursuant to our conversations on November 15, 2005, we are pleased to extend an offer of employment to you as the selected candidate for the position of Chief Executive Officer ("CEO") for the Port Arthur Section 4A Economic Development Corporation ("PAEDC"). This Letter of Agreement outlines the general terms and conditions of your employment (as an at-will employee) of the PAEDC. The following terms and conditions apply:

A. SALARY INFORMATION

Your starting salary will be \$6,000 per month, which is \$72,000 annualized. Additionally, you will be provided a \$450.00 per month automobile allowance.

B. ECONOMIC DEVELOPMENT CERTIFICATION

You must be Certified in Economic Develop by the International Economic Development Council (www.iedconline.org) no later than March 30, 2010. You must develop a plan for achieving this goal, completing as many of the requirements as practicable within the first two years, and submit the plan to the PAEDC Board for approval no later than March 30, 2006.

C. VACATION AND SICK LEAVE

From your first day of employment, you will be provided with two (2) weeks credit for vacation. Thereafter, you will accrue and vest on a normal schedule according to existing personnel policy, e.g. normal policy accrues

Name

Date

two (2) weeks of vacation at the end of the first year, and accrual of 10 hours of sick leave per month.

D. MEDICAL/DENTAL/LIFE/AD&D

Your medical, dental, life and AD&D insurance will be effective on your first day of employment. Per PAEDC policy, 100% of the premium for your health insurance coverage will be paid by the PAEDC and 50% of the premium will be paid by the PAEDC for dependent coverage if you choose to cover your dependents under the plan. Also, the PAEDC provides \$6,000 life insurance and \$5,000 AD&D insurance for you at no cost. Additional optional coverage is available for both you and your dependants through payroll deduction.

E. SEVERANCE PAY

Should your employment with the PAEDC be terminated by the PAEDC within two (2) years from the date you commenced employment for any reason(s), except for malfeasance in office or if you voluntarily terminate, the PAEDC will pay six (6) months severance pay. However, should your employment with the PAEDC be terminated by the PAEDC after two (2) years from the date you commenced employment for any reason(s), except for malfeasance in office or if you voluntarily terminate, the PAEDC will pay you three (3) months severance pay.

F. RETIREMENT

You will become a member of the Texas Municipal Retirement System on the first day of your employment with the PAEDC. Your contribution into the plan will be 5% of your salary and the PAEDC will match that contribution on a 2:1 basis.

G. BUSINESS EXPENSE

Standard business expenses shall be provided to you via the policies set forth in the Personnel Policy. Standard business expenses shall be provided to you by the PAEDC including the costs of belonging to and attending professional meetings, such as the American Economic Council, the Southern Economic Development Council and the Texas Economic Council or other organizations as deemed appropriate. Reasonable and necessary travel and entertainment expenses incurred on behalf of the PAEDC are eligible business expenses.

Name

Date

H. MEMBERSHIPS

Your memberships dues in any civic clubs deemed appropriate by the PAEDC will be paid by the PAEDC.

I. PERFORMANCE EVALUATION

Your performance will be evaluated annually, based on a minimum acceptable performance standard of satisfactory or better accomplishments. However, in the first year of employment, you will receive a performance evaluation at the six (6) month service date, as well as the twelve (12) month date.

J. STARTING DATE

Your starting date will be December 1, 2006.

K. DRUG SCREENING AND PHYSICAL EXAMINATION

Prior to your first day you will be required to satisfactorily complete a physical examination and drug screening.

N. RIGHTS UNDER CITY OF PORT ARTHUR PERSONNEL POLICY

You will be entitled to all rights and privileges granted under the City of Port Arthur's Personnel Policy that are not in conflict with this agreement or the PAEDC Charter. Said provisions of this agreement shall supersede any conflicting policy provision (except Charter requirements) but only to the extent of such conflict.

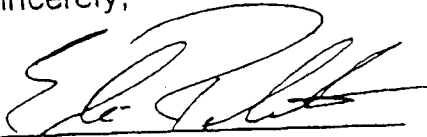
We fully expect and trust that you will faithfully perform the duties assigned to you to the best of your ability and will devote your full and undivided time to the transaction of the PAEDC's business.

We ask that you sign three originals and return two originals to Ms. Jana Barnes, PAEDC Administrative Assistant as soon as possible. If you have any questions regarding this letter, please contact one of us or Harvey Robinson, Director of Personnel, for the City of Port Arthur, at your earliest convenience.


Name
Date

We are looking forward to a highly productive and long-term relationship between you and the PAEDC. The EDC Board of Directors feels that you have the requisite skills and experience to take the employees and the PAEDC through a period of significant transition. We look forward to this new beginning.

Sincerely,



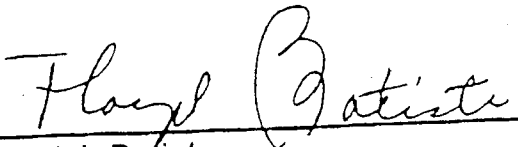
Eli Roberts, President


Linda Spears, Secretary

ACCEPTANCE

I, Floyd J. Batiste, hereby agree to and accept the above terms and conditions of employment as Chief Executive Officer of the PAEDC, Texas, as set forth above, as evidenced by my signature below.

I, Floyd J. Batiste, understand that this letter of agreement is not effective unless and until the City Council of the City of Port Arthur adopts a resolution accepting the terms of this letter of agreement.


Floyd J. Batiste

11-16-05

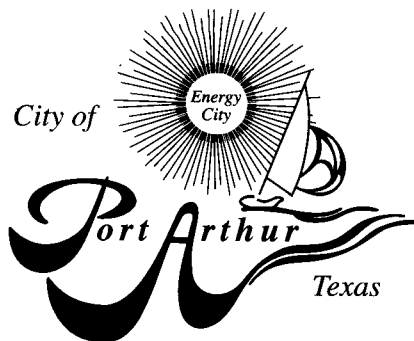
Date

EXHIBIT "B"

DELORIS "BOBBIE" PRINCE, MAYOR
JACK CHATMAN, JR., MAYOR PRO-TEM

COUNCIL MEMBERS:

ELIZABETH "LIZ" SEGLER
MORRIS ALBRIGHT, III
MARTIN FLOOD
JOHN BEARD, JR.
ROBERT E. WILLIAMSON
D. KAY WISE
THOMAS J. HENDERSON



STEPHEN FITZGIBBONS
CITY MANAGER
TERRI HANKS
ACTING CITY SECRETARY
MARK T. SOKOLOW
CITY ATTORNEY

April 17, 2009

Eli Roberts, President
Port Arthur Economic Development Corporation
P. O. 3934
4173 39th Street
Port Arthur, Texas 77642

In re: First Revised Letter of Agreement -- Chief Executive Officer of the City of Port
Arthur Section 4A Economic Development Corporation

Dear Mr. Roberts:

Pursuant to the direction of the City Council, transmitted hereby is the subject Letter of Agreement. The document represents the best efforts of the City Attorney, Mark Sokolow, Esq., and I to effectively merge the contract presented to the City Council at its April 13, 2009 meeting and the previous Letter of Agreement executed November 16, 2005. Language which has been removed from the original Letter of Agreement is indicated by being struck [lined] through, additions are indicated by being shaded, and areas which require input from you and the Port Arthur Economic Development Corporation Board [the Board] have been left blank. I have also included a copy of Range 69 of the City of Port Arthur Wage and Compensation Plan for your use in salary consideration.

Via a copy of this letter, I am providing a copy of the draft document to the City Council. Should you need additional information, please contact the City Attorney or myself.

Sincerely,

A handwritten signature in cursive script that reads "Albert T. Thigpen".

Dr. Albert T. Thigpen, IPMA-CP, CAS
Director of Human Resources

c: Mayor and City Council, City Manager, City Attorney

November 16, 2005- April ____, 2009

Mr. Floyd Batiste
4231 Lakeshore Drive
Port Arthur, Texas 77642

RE: **First Revised** Letter of Agreement
Chief Executive Officer of City of Port Arthur Section 4A Economic Development Corporation

Dear Floyd:

~~Pursuant to our conversations on November 15, 2005, we~~ We are pleased to extend an offer of ~~continued~~ employment to you as the selected candidate for the position of Chief Executive Officer ("CEO") for the Port Arthur Section 4A Economic Development Corporation (PAEDC). This Letter of Agreement outlines the general terms and conditions of your employment (as an at-will employee) of the PAEDC. The following terms and conditions apply:

A. SALARY INFORMATION

Your starting salary will be ~~\$6,000 per month, which is \$72,000 annualized placed at Range 69, Step 8~~ effective May 1, 2009, which is presently ~~\$106,423.³⁰~~ per year. Additionally, you will be provided a ~~\$450.00~~ ~~\$461.54~~ per month automobile allowance.
\$500⁰⁰

B. TERM

The term of this Agreement shall begin May 1, 2009, the date approved by the City Council of Port Arthur, Texas (the "City Council") (the "Effective Date"), and end September 30, 2010 (the "Term of Agreement"), and may be extended upon the Employee's receipt of a favorable evaluation from the Board. If the Employee does not receive a favorable performance evaluation as specified in this Agreement, then this Agreement may be terminated in accordance with this Agreement or Employee may continue to be employed as the Chief Executive Officer on such salary, automobile allowance and benefits as solely may be determined by Board and by the City Council; however, Employee would be entitled to the receipt of the termination and severance pay benefits provided for this Agreement if he is thereafter terminated by appropriate action of the Board. If the Board fails to conduct the performance evaluation as specified in this Agreement prior to the end of the term of this Agreement, then this Agreement shall be deemed to have been renewed for an additional twelve (12) month period beginning October 1, 2010. Nothing in this paragraph shall prevent, limit or otherwise interfere with the right of the Board to terminate the services of Employee at any time subject to the provisions in Section F.

C. ECONOMIC DEVELOPMENT CERTIFICATION

You must be certified in Economic Development by the International Economic Development council (www.iedconline.org) no later than ~~March 30, 2010~~ March. You must develop an updated plan for achieving this goal, completing as many of the requirements as practicable within the first two years July 09, and submit the plan to the PAEDC Board for approval no later than ~~March 30, 2006~~ July 30.

2011

D. VACATION AND SICK LEAVE

From your first day of employment, you ~~will be~~ ~~were~~ provided with two (2) weeks credit for vacation. You shall be credited with four (4) weeks vacation annually. Employee is authorized for up to 40 hours emergency leave, and in case of emergency or death within his immediate family. Thereafter, you ~~will accrue and vest on a normal schedule according to existing personnel policy, e.g.~~ Normal policy accrues two (2) weeks of vacation at the end of the first year, and accrual of ten (10) hours of sick leave per month.

E. MEDICAL/DENTAL/LIFE/AD&D

Your medical, dental, life and AD&D insurance ~~will be~~ ~~were~~ effective on your first day of employment. Per PAEDC policy, 100% of the premium for your health insurance coverage will be paid by the PAEDC and 50% of the premium for dependents under the plan will be paid by the PAEDC. Also, the PAEDC provides \$6,000 life insurance and \$5,000 AD&D insurance for you at no cost. Additional optional coverage is available for both you and your dependents through payroll deduction.

F. SEVERANCE PAY

Should your employment with the PAEDC be terminated by the PAEDC ~~within two (2) years from the date you commenced employment~~ for any reason(s), except for malfeasance in office or if you voluntarily terminate, the PAEDC will pay six (6) months severance pay. However, ~~should your employment with the PAEDC be terminated by the PAEDC after two (2) years from the date you commenced employment for any reason(s), except for malfeasance in office or if you voluntarily terminate, the PAEDC will pay you three (3) months severance pay.~~ **Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Board to terminate the services of Employee at any time, subject only to the provisions set forth in this Agreement, in the bylaws of the City of Port Arthur Personnel Policies. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Employee to resign at any time from his position with Employer, subject only to the provisions set forth in this Agreement, in the PAEDC, or the City of Port Arthur Personnel Policies. Additionally, Employee shall continue to receive health and dental insurance benefits for a period equal to the lesser of (i) six (6) months from the date of termination or (ii) the date upon which he received insurance coverage from another employer, but without pay for compensatory time or personal leave. In the event Employee voluntarily resigns his position with Employer before expiration of his term of employment, then Employee shall give Employer two (2) months notice in advance, unless Employer otherwise agrees. Upon voluntary resignation and separation, Employee is entitled only to payment of accrued and unused vacation benefits for the current year of the term of the Agreement.**

G. RETIREMENT

You will become a member of the Texas Municipal Retirement System on the first day of your employment with the PAEDC. Your contribution into the plan will be 5% of your salary and the PAEDC will match that contribution on a 2:1 basis.

H. BUSINESS EXPENSE

Standard business expenses shall be provided to you via the policies set forth in the Personnel Policy. Standard business expenses shall be provided to you by the PAEDC including the costs of belonging to and attending professional meetings, such as the American Economic Council, the Southern Economic Development Council and the Texas Economic Council or other organizations as deemed appropriate. Reasonable and necessary travel and entertainment expenses incurred on behalf of the PAEDC are eligible business expenses. **Employer shall bear the full cost of any fidelity or other bond required of the Employee under any law or ordinance.**

I. MEMBERSHIPS

Your membership dues in any civic clubs deemed appropriate by the PAEDC will be paid by the PAEDC.

J. PERFORMANCE EVALUATION

Your performance will be evaluated annually, based on a minimum acceptable performance standard of satisfactory or better accomplishments. ~~However, in the first year of employment, you will receive a performance evaluation at the six (6) month service date, as well as the twelve (12) month date.~~ **The Board shall review and evaluate the performance of the Employer in May in advance of the adoption of the annual operating budget. Said review and evaluation shall be in accordance with specific criteria developed jointly by Employer and Employee. Said criteria may be added to or deleted from as the Board may from time to time determine, in consultation with the Employee. Further, the President of the Board shall provide the Employee with a summary written statement of the findings of the Board by June 30th and provide an adequate opportunity for the Employee to discuss his evaluation with the Board.**

Annually, in or about the month of May, the Board and Employee shall define such goals and performance objectives which they determine necessary of the proper operation of the Employer and in the attainment of the Board's policy objectives and shall further establish a relative priority among those various goals and objectives, said goals and objectives to be reduced to writing. They shall generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations provided.

In effecting the provisions of this Section, the Board and Employee mutually agree to abide by the provisions of applicable municipal, state, federal law including but not limited to all resolutions and ordinances of the City of Port Arthur, Texas.

K. STARTING DATE

Your starting date ~~will be~~ **was** December 1, 2006.

L. DRUG SCREENING AND PHYSICAL EXAMINATION

~~Prior to your first day you will be required to~~ **You have already** satisfactorily completed a physical examination and drug screening.

M. RIGHTS UNDER CITY OF PORT ARTHUR PERSONNEL POLICY

You will be entitled to all rights and privileges granted under the City of Port Arthur's Personnel Policy that are not in conflict with this agreement or the PAEDC Charter. Said provisions of this agreement shall supersede any conflicting policy provision (except Charter requirements) but only to the extent of such conflict.

N. INDEMNIFICATION

To the fullest extent permitted by law, Employer shall defend, save harmless and indemnify Employee against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties, and shall obtain and keep in full force an effect liability insurance or risk pool coverage, including errors and omissions coverage on a "per occurrence" basis, or such other similar insurance as the City covers its officers and employees in sufficient amounts to assure accomplishments of such hold harmless and indemnification; provided that this Section shall not be construed as creating any right, cause of action or claim of waiver or estoppels for or on behalf of any third party, nor shall it be construed as a waiver or modification of the availability of the defense of governmental immunity or any other legal defense available to either Employer or the Employee as to any third party; and provided further that the Employer shall not indemnify and hold harmless the Employee from and with respect to any claim or liability for which the conduct of the Employee is found by the courts to have been grossly negligent or intentional wrongful conduct.

Employer will compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon. This indemnification shall extend beyond and survive the termination of employment and the expiration of this Agreement.

We fully expect and trust that you will faithfully perform the duties assigned to you to the best of your ability and will devote your full and undivided time to the transaction of the PAEDC's business.

We ask that you sign three originals and return two originals to ~~Ms. Jana Barnes, PAEDC Administrative Assistant~~ **PAEDC President** as soon as possible. If you have any questions regarding this letter, please contact one of us or ~~Harvey Robinson~~ **Albert Thigpen**, Director of Human Resources, for the City of Port Arthur, at your earliest convenience.

We are looking forward to a highly productive and long-term relationship between you and the PAEDC. The EDC Board of Directors feels that you have the requisite skills and experience to take the employees and the PAEDC through a period of significant transition. We look forward to this new beginning.

Sincerely,

Eli Roberts, President

Linda Spears, Secretary
Doris Cruse-Green, Secretary

ACCEPTANCE

I, Floyd J. Batiste , hereby agree to and accept the above terms and conditions of employment as Chief Executive Officer of the PAEDC, Texas, as set forth above, as evidenced by my signature below.

I, Floyd J. Batiste, understand that this letter of agreement is not effective unless and until the City Council of the City of Port Arthur adopts a resolution ~~or an ordinance~~ accepting the terms of this letter of agreement.

Floyd J. Batiste

Date

City of Port Arthur

Wage and Compensation Plan

SALARY RANGE NUMBER	STEP-1 STARTING SALARY	STEP-2 6 MOS SALARY	STEP-3 12 MOS SALARY	STEP-4 18 MOS SALARY	STEP-5 24 MOS SALARY	STEP-6 30 MOS SALARY	STEP-7 36 MOS SALARY	STEP-8 42 MOS SALARY	STEP-9 48 MOS SALARY	STEP-10 54 MOS SALARY
69-H	43,1540	44,2225	45,2989	46,5352	47,5861	48,8045	49,9623	51,1987	52,4836	53,7342
69-A	89,760.32	91,982.80	94,221.71	96,793.22	98,979.09	101,513.36	103,921.58	106,493.30	109,165.89	111,767.14