

RESOLUTION NO. 17-072

A RESOLUTION AUTHORIZING THE CITY OF PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION TO PURCHASE A KONICA MINOLTA BIZHUB C308 COLOR PRINTER/COPIER/SCANNER/FAX FROM STAR GRAPHICS OF BEAUMONT, TEXAS THROUGH NJPA CONTRACT NO. 083116-KON IN THE AMOUNT OF \$7,069.80, ENTER INTO A 60 MONTH MAINTENANCE CONTRACT AT \$149.00 PER MONTH, AND ANY COPY OVERAGES BILLED QUARTERLY; FUNDS AVAILABLE IN EDC ACCOUNT NO. 120-1429-582.92-00

WHEREAS, Chapter 271 of the Texas Government Code allows a city, by resolution of its governing body, to participate in cooperative purchasing programs, such as National Joint Powers Alliance (NJPA), as an alternative to a formal bid process; and

WHEREAS, the purchase of a Konica Minolta Bizhub C308 color multifunction system will improve productivity with regards to the daily functions of the Port Arthur Section 4A Economic Development Corporation (the "PAEDC"); and

WHEREAS, the new copier will replace a leased Xerox copier whose five year lease with Xerox Corporation is expiring April 18, 2017; and

WHEREAS, the PAEDC has reviewed the costs of various vendors and determined that the quote received from Star Graphics of Beaumont, Texas ("Star Graphics") through NJPA under Contract No. 083116-KON, to purchase the copier in the amount of \$7,069.80 meets the requirements needed by the PAEDC; and

WHEREAS, the PAEDC Board of Directors, at their Regular Board Meeting of March 13, 2017 determined that the purchase of a copier would be more cost efficient in comparison to a term lease and approved the purchase of the Konica Minolta Bizhub C308 from Star Graphics in the amount of \$7,069.80 as delineated in **Exhibit "A"** and entering into a 60 month Maintenance Contract with Star Graphics for a monthly fee of \$149.00 and overages being billed quarterly at \$0.008 per black and white copy and \$0.05 per color copy as delineated in **Exhibit "B"**.

**NOW, THEREFORE, BE IT RESOLVED 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 of the City of Port Arthur authorizes the City of Port Arthur Section 4A Economic Development Corporation to purchase a Konica Minolta Bizhub C308 Color Printer/ Copier/ Scanner/ Fax from Star Graphics of Beaumont, TX through the National Joint Powers Alliance Contract No. 083116-KON, and enter into a 60 month Maintenance Contract.

Section 3. That a copy of the caption of the Resolution be spread upon the Minutes of the City Council.

READ, ADOPTED AND APPROVED on this 20th day of March A.D., 2017,
at a Meeting of the City Council of the City of Port Arthur, Texas, by the following vote:

AYES:

Mayor

Freeman; Mayor Pro Tem Scott;

Councilmembers

Hamilton, Albright, Richard,
Lewis, Moses and Frank.

NOES:

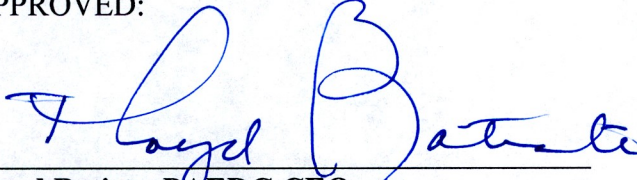
None.

ATTEST:

Sherri Bellard
Sherri Bellard, City Secretary

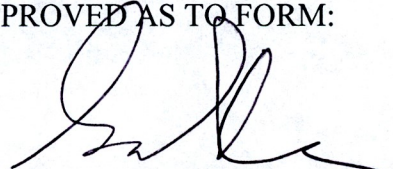
Derrick Freeman
Derrick Freeman, Mayor

APPROVED:



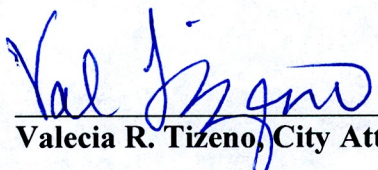
Floyd Batiste, PAEDC CEO

APPROVED AS TO FORM:



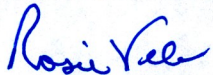
Guy N. Goodson, PAEDC Attorney

APPROVED AS TO FORM:



Valecia R. Tizeno, City Attorney

APPROVED AS TO AVAILABILITY OF FUNDS:

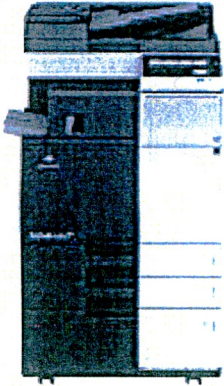


Rosie Vela, Interim Finance Director

Exhibit “A”

March 8, 2017

PROPOSED EQUIPMENT for Port Arthur Economic Development

QTY	MODEL	DESCRIPTION
1	Konica Minolta bizhub C308	 <p> 30 PPM Full Color Networked MFP Copy/Print/Full Color Scan/Fax 9" inch color multi touch home screen 1200 X 1200 dpi print resolution Scan to: Email, Desktop, Network Folder Dual Scan Document Feeder Technology Scan 160 opm Print and save documents to/from usb Electronic Document Storage Inner finisher/Sorter/ 50 page Stapler 150 Sheet Multi-purpose Tray 4 X 500 Sheet Paper Trays Paper Sizes: Letter, Legal and Ledger </p>

Purchase Price: \$7,069.80

**NJPA Contract
Pricing
NJPA Contract #
083116-KON**

*Prices include shipping, delivery, installation and training.
Applicable taxes must be added to Leasing and Purchase prices*

Service Agreement for Proposed Equipment

Agreement Includes: Parts, Labor, Toner and Drums

3,000 B/W copy allowance & 2,500 Color Copies billed monthly at \$149.00
(Overages billed quarterly at \$0.008 per B/W copy & \$0.05 per Color Copy)

Please contact me at 409-748-5953 should you have any questions or require additional information. I look forward to speaking with you further.

EXHIBIT "B"



Advantage CPC Maintenance Contract

Sold To: (legal name)		Ship To:	
Name: <u>Port Arthur Economic Development</u>	Account Number: _____	Name: " _____"	Account Number: _____
Address Line 1: <u>501 Procter St. Suite #100</u>		Address Line 1: _____	
Address Line 2: _____		Address Line 2: _____	
Street Address: _____		Street Address: _____	
City: <u>Port Arthur Economic Deve</u>	State: <u>TX</u>	City: _____	State: <u>Tx</u>
Zip: <u>77640</u>			

Tax Exemption ☐ No ☒ Yes (Certificate required)

Tax Exemption Number: _____

PO Required ☐ No ☒ Yes (Copy required)

PO Number: _____ PO Expiration Date: _____

Advantage CPC Maintenance Plan

Cost Per Copy

☒ With Supplies ☐ Without Supplies - Purchased Separately

Effective Date: Upon Delivery

Billing for CPC contract: ☒ Monthly ☐ Quarterly ☐ Annually

Contract Term (Months): ☐ 12 ☐ 24 ☐ 36 ☐ 48 ☒ 60

Overages billed: ☐ Monthly ☒ Quarterly ☐ Annually

Expires at the end of the Rental Agreement

Product Covered Under Contract:

Item	Model Description	Serial Number	Type	Start Meter Read	Monthly Min Volume	CPC	Monthly Min \$	Overage CPC
1	KM C308		C		2,500	\$ 0.05000	\$ 125.00	\$ 0.05000
			B/W		3,000	\$ 0.00800	\$ 24.00	\$ 0.00800
2								
3								
4								
5								
6								

Comments

Customer Name: _____

Please Print

Star Representative: Tina Vaquera

Date

Signature: _____

Authorized Representative of Customer

Date

Star Manager: _____

Date

Title: _____

FOR INTERNAL USE

☐ New Customer ☒ Maintenance w/ Equipment Order ☐ Maintenance Only ☒ Maintenance Billed by Digitec ☐ Maintenance Billed by Lease Company ☐ Dealer Serviced

Agreement #: _____

Price Plan #: _____

Subfleet #: _____

Key Operator Contact: Krystale Muller

Phone: 409-963-0579

Email Addr: _____

Meter Read Contact: Krystale Muller

Phone: _____

Email Addr: _____

Accounts Payable Contact: Krystale Muller

Phone: _____

Email Addr: _____

Special Instructions:

Additional Documents Attached:

☐ Price Exception ☐ Tax Exempt Certificate
☐ Purchase Order ☐ Credit Application

STAR STANDARD MAINTENANCE TERMS AND CONDITIONS "SCHEDULE A"

(Revised 09-01-14)

The following terms and conditions apply to the provision of maintenance services by STAR Office Solutions ("STAR") to Customer during the term of this Agreement:

1. **PAYMENT:** Payment is due within thirty (30) days from the date of the invoice. Should the customer fail to make any payment due hereunder, or be or become insolvent or be a party to or acquiesce in any bankruptcy or receivership proceeding or any similar action affecting the affairs or property of Customer, or violate any aspect of this Agreement, STAR may (1) refuse to continue to service the equipment or provide Consumable Supplies and may enter Customer's premises to recover any property or equipment owned by STAR or (2) furnish service on a time, travel and material basis, without prejudice to any other remedies STAR may have. If Customer fails to make any payment when due pursuant to this Agreement, there will be a service charge of one and one-half percent (1 1/2%) per month of the total amount due or the maximum legal interest rate allowed by law, whichever is less. Reasonable costs, including counsel fees, shall be recoverable by STAR in the event collection activities, including litigation, are required to collect outstanding amounts due under this Agreement. NO CASH PAYMENTS ACCEPTED. Accepted manners of payment are by major credit card or checks made payable to STAR.
2. **METER READINGS:** Customer will provide accurate and timely meter readings at the end of each billing period in a manner prescribed by STAR. STAR charges for each copy or print, performed by the STAR equipment included in this Agreement. A copy or print shall be defined as the generation of any document or image on the STAR equipment. For purposes of this Agreement, all such uses of STAR equipment shall be referenced herein as a "copy." STAR shall have access to monitor the meter readings and if meter readings are not received in a timely manner, STAR may obtain or estimate them and Customer agrees to pay for maintenance services based on estimated meter readings. Customer shall not alter or attempt to alter actual meter reading. Each 8 1/2" x 11" copy will be recorded as a single meter click. Each 11" x 17" copy will be recorded as a double meter click. Duplicated copies shall be counted at twice the rate of simplex copies. For models equipped with banner printing capabilities, the following meter click charges shall apply: 18" to 27" = 3 clicks; 27" to 36" = 4 clicks; 36" to 47" = 5 clicks.
3. **SITE PREPARATION & ACCESS:** Customer shall ensure that equipment is placed in an environment that conforms with the manufacturer's specifications and requirements and will bear all cost and expense for any additional necessities required for installation such as telephone and electrical wiring, remodeling, and noise and power filters. Any electrical work external to the equipment (i.e. associated peripheral equipment, power, transmission and phone lines, and modems) and equipment line cord are not covered by this Agreement. Customer shall provide STAR personnel with free and full access to the equipment and any necessary operating time for the purposes of furnishing maintenance services. Relocation or make ready shipment of equipment is not covered by this maintenance Agreement. This service, when requested, will be at the then billable rate of STAR.
4. **COMMENCEMENT OF SERVICE:** The equipment must be in good condition on the commencement date of this Agreement. STAR charges for parts and labor required to place the equipment in such condition unless covered under any applicable warranties or a continuous maintenance Agreement. STAR will invoice the customer and this will be in addition to the price set forth on the front hereof.
5. **ADDITIONAL EQUIPMENT:** No maintenance service for additional or substituted equipment will be provided by STAR until it is accepted by STAR, in writing, for coverage. STAR reserves the right to adjust the coverage period for any additional or substituted equipment to assure common renewal dates.
6. **SERVICE INCLUDED:** STAR's obligations under this Agreement is to provide Basic Maintenance Service on the equipment covered by this Agreement. Basic Maintenance Service is defined as that level of maintenance necessary to maintain the equipment in normal operating condition as set forth in the equipment specifications. Basic Maintenance Services includes labor and/or routine remedial and preventive maintenance service as well as remedial parts and Consumable Supplies, if this option is selected, as defined in section 24. All part replacements shall be on an exchange basis with new or refurbished items. Emergency service calls will be performed at no extra charge during normal business hours. Unless otherwise indicated, normal business hours are 8:30 a.m. to 5:00 p.m., Monday through Friday, exclusive of holidays observed by STAR. Overtime charges, at STAR's then current rate, will be charged for all service calls outside normal business hours. In addition to any other rights hereunder, STAR reserves the right to delete discontinued equipment from this Agreement if parts become unavailable for discontinued equipment.
7. **PREVENTIVE MAINTENANCE:** Preventive Maintenance shall be performed on the equipment at the intervals defined by the Technical Service Manuals for the particular model. Preventive Maintenance will include cleaning, lubrication, adjustment, and may be made at the same time remedial service is being performed. STAR technicians do not carry or deliver consumable supplies (toner, developer, etc.). It is the Customer's responsibility to have the necessary supplies available for the Technician's use.
8. **VCARE MONITORING:** STAR will deploy and enable its Meter Agent, which is a Device Relationship Management (DRM) system that interacts with STAR product(s) for the purpose of automated meter reading, technical performance monitoring, consumable and supply-level monitoring for replenishment, and product status (and as described in STAR's Digital Needs Analysis). Should Customer opt-out of unlinking VCARE, STAR reserves the right to assess an incremental invoicing fee not to exceed twenty five dollars (\$25) per invoice.
9. **SELLER'S AGENTS:** Customer acknowledges that it has been advised that no agent, employee, or representative of STAR has any authority to bind STAR to any affirmation, promise, representation, or warranty concerning any of the equipment or services. Unless an affirmation, promise, representation, or warranty is specifically set forth in this Agreement it does not form a basis of this bargain and shall not be enforceable against STAR.
10. **DISCLAIMER:** This Agreement does not cover service required due to malfunction of parts, attachments, or supplies of non-STAR manufacture. When the use of a particular supply item may cause machine damage or require excessive servicing, STAR, upon notice to Customer, will not continue remedial or preventive service for that equipment. By introducing supplies of differing manufacture into the STAR equipment Customer accepts the responsibility to pay for any remedial or corrective service required. Any alterations, modifications or changes to the equipment by someone other than STAR, including Customer, may result in termination of this Agreement. Without prior authorization, this Agreement does not apply to any equipment which ceases to be at the customer location described on the front side hereof. This Agreement does not apply to any equipment lost or damaged through accident, abuse, misuse, theft, neglect, acts of third parties, fire, water, casualty or any other natural force, and any loss or damage occurring from any of the foregoing is specifically excluded from this Agreement. Customer warrants and represents that the equipment will be used for business purposes, and not for personal, family, or household purposes.
11. **AUTOMATIC RENEWAL:** Service on individual equipment shall automatically be extended for successive one year terms at the rates being charged by STAR at the time of renewal unless Customer or STAR provides the other party thirty (30) days written notice before the end of the current term of its intention not to renew this Agreement. Upon renewal, either party may cancel this Agreement, with or without cause, upon thirty (30) days written notice to the other party. Upon cancellation pursuant to this paragraph, Customer will be billed for service through the effective date of cancellation. In the event this Agreement is canceled or not renewed, Customer shall return any unused Consumable Supplies to STAR. Should the Customer fail to return any unused Consumable Supplies, STAR reserves the right to charge for any unused Consumable Supplies at the then current rate for such supplies.
12. **ESCALATION:** At the end of the first year of this agreement and once each successive twelve month period, we may increase your payment and the cost per copy charge over the pages included (average) by a maximum of 10% of the existing charge.
13. **NETWORK INTEGRATION:** If Network Integration services are provided by STAR, Customer warrants that the STAR Digital Needs Analysis ("DNA") has been accurately completed and STAR may rely on the information contained in the DNA in providing network integration services. STAR reserves the right to assess additional charges for service due to Customer's modification of its network, software, or operating system(s).
14. **ASSIGNMENT:** Customer may not assign this Agreement, without STAR's express written consent. In the event that STAR assigns or subcontracts any of its obligations under this Agreement, STAR shall remain primarily responsible to perform those obligations. Any claim or defense Customer may have relating to those obligations must be asserted only against STAR and not its assignee. STAR may assign, without notice to Customer, any of its rights under this Agreement.
15. **NOTICES:** All notices required to be given under this Agreement shall be in writing and shall be sent by U.S. first class mail to the parties as follows: To Customer at the address listed on the front of this Agreement and to STAR, at 12560 Reed Road, Suite 200, Sugar Land TX 77478.
16. **INDEMNIFICATION:** Customer shall bear all risk of theft, loss or damage not caused by STAR employees or agents, to all Equipment delivered and accepted under this Agreement. Customer agrees to indemnify, defend and hold harmless STAR, its officers, directors, employees and agents from all loss, liability, claims or expenses (including reasonable attorney's fees) arising out of Customer's use of the equipment, including but not limited to liabilities arising from illegal use of STAR equipment as well as bodily injury, including death, or property damage to any person, unless said injuries, death or property damage was caused solely as the result of a negligent or intentional act or omission by STAR.
17. **WARRANTY:** STAR WARRANTS THAT THE SERVICES SHALL BE PERFORMED IN ACCORDANCE WITH THE MANUFACTURER'S RECOMMENDATIONS AND SPECIFICATIONS FOR THE EQUIPMENT. STAR MAKES NO OTHER WARRANTIES WHATSOEVER EXPRESS OR IMPLIED WITH REGARD TO THE SERVICE, THE SOFTWARE INCLUDED WITH THE EQUIPMENT OR ITS INSTALLATION, AND MAINTENANCE, AND EXPRESSLY EXCLUDES ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
18. **REMEDY LIMITATIONS:** The equipment may not be returned to STAR without STAR's written consent. CUSTOMER'S EXCLUSIVE REMEDY FOR BREACH OF WARRANTY SHALL BE REPAIR OF THE EQUIPMENT OR REPLACEMENT OF A NONCONFORMING PART, AT THE OPTION OF STAR. THE PARTIES WAIVE THEIR RESPECTIVE RIGHTS TO SPECIAL, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, OR PUNITIVE DAMAGES FOR ANY PROVEN BREACH OF THIS AGREEMENT (INCLUDING WARRANTY). THE PARTIES RESERVE THE RIGHT TO RECOVER CONTRACT DAMAGES ALLOWED VIA THIS AGREEMENT. STAR'S LIABILITY UNDER THIS AGREEMENT IS LIMITED TO THE COVER DAMAGES ON THE COST OF ALTERNATE MAINTENANCE SERVICES AND/OR CONSUMABLES PURCHASED BY THE CUSTOMER. STAR SHALL NOT BE LIABLE FOR ANY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES DUE TO LOSS OF DATA OR INFORMATION OF ANY KIND, LOSS OF OR DAMAGE TO REVENUE, PROFITS OR GOODWILL, DAMAGES DUE TO ANY INTERRUPTION OF BUSINESS, DAMAGE TO CUSTOMER'S COMPUTERS OR NETWORKS, EVEN IF STAR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
19. **APPLICABLE LAW:** This Agreement shall be governed by the laws of the State of Texas without regard to choice of law principles. In the event of litigation or other proceedings by STAR to enforce or defend any term or provision of this Agreement, Customer agrees to pay all costs and expenses sustained by STAR, including but not limited to, reasonable attorney's fees. Customer further agrees to litigate any dispute concerning this matter in the courts of the state of Texas, consents to jurisdiction in that forum and waives the right to jury trial.
20. **FORCE MAJEURE:** Neither party shall be responsible for delays or failure in performance of this Agreement (other than failure to make payment) to the extent that such party was hindered in its performance by any act of God, civil commotion, labor dispute, or any other occurrence beyond its reasonable control.
21. **WAIVER & SEVERABILITY:** Failure by STAR to enforce any provisions of this Agreement or any rights hereunder, or failure to exercise any election provided for herein, shall in no way be considered a waiver of such provisions, rights, or elections, or in any way affect the party's right to later enforce or exercise the same or other provisions, rights, or elections it may have under this Agreement. If any provision of this Agreement shall be unlawful, void or for any reason unenforceable, then that provision shall be deemed severable from this Agreement and shall not affect the validity and enforceability of the remaining provisions of this Agreement.
22. **ORIGINAL DOCUMENT:** Customer further agrees (a) that facsimile or electronic signatures shall be accepted as original signatures; and (b) that this Agreement or any document created pursuant to this Agreement, may be maintained in an electronic document storage and retrieval system, a copy of which shall be considered an original. STAR may accept orders electronically from Customer pursuant to this Agreement. Neither party shall raise any objection to the authenticity of this Agreement or any document created hereunder, based on either the use of a facsimile signature or the use of a copy retrieved from an electronic storage system.
23. **SUPPLIES INCLUDED IN THE BASE/PRINT CHARGE:** If this option has been selected, STAR (or designated service) will provide Customer with certain types and quantities of Consumable Supplies. Consumable Supplies are defined as the toner, developer, copy cartridges and PM kits necessary to ensure that the equipment operates within the equipment specifications throughout the term of this Agreement. Customer agrees that the Consumable Supplies are STAR property until used by Customer. Customer will use Consumable Supplies only with the contracted equipment and run them to their cease-function point. Customer shall not remove the Consumable Supplies from the location designated as Customer's address on the first page of this Agreement. Customer shall not sell, resell or otherwise transfer any Consumable Supplies to any other entity. Customer will return any unused Consumable Supplies to STAR at the end of this Agreement. Customer shall use reasonable care to store and protect STAR Consumable Supplies located at Customer's location for Customer's convenience. Customer bears risk of loss of STAR unused Consumable Supplies in the event of theft, fire or other mishap. Should Customer's use of Consumable Supplies exceed the Manufacturer Recommended Yields for the applicable unit by more than 6% in any given month, or should STAR, in its reasonable discretion, determine that Consumable Supplies are being abused in any fashion, Customer agrees that STAR shall have the right to charge for any such excess or improper usage. The Manufacturer's Recommended Yields for the Consumable Supplies can be provided. Audit Rights. During the term of this Agreement and during the Sixty (60) day period immediately following the Term, STAR shall have the right, upon reasonable notice or in connection with a maintenance call, to audit Customer's usage of Consumable Supplies. The audit will be conducted by comparing the records generated by the equipment to the Manufacturer's Recommended Yields. If the audit reveals that Customer has exceeded the Manufacturer's Recommended Yield for the applicable unit, then Customer shall promptly pay to STAR an amount for the excess Consumable Supplies usage, based on the then current rate for the applicable Consumable Supply. STAR reserves the right to charge Customer for shipping and handling charges incurred by STAR for the delivery of any excess Consumable Supplies delivered to Customer.
24. **ENTIRE AGREEMENT:** This is the entire Agreement between Customer and STAR on the subject matter hereof and supersedes any proposal or prior agreement, oral or written, or any other communications relating to maintenance services for STAR equipment and it may not be released, discharged, changed, or modified except by an instrument in writing signed by a duly authorized representative of each party. Customer agrees that any Purchase Order or other documentation issued to STAR covering the equipment or maintenance is issued for purpose of authorization and Customer's internal use only, and any terms and conditions contained therein shall not modify or add to the terms and conditions of this Agreement. This Agreement will not be effective until accepted by an authorized representative of STAR. Notice of acceptance is hereby waived by Customer.
25. **DIGITAL SUPPORT SERVICE (DSS):** If this option has been selected, DSS provides Customer access to STAR Digital Solution Center (DSC) telephonically or by electronic access. DSS includes technical support on items specified on the DSS Supported Products List including Digital Multi-Function Devices, General Office Applications, Graphic and Design Applications and Desktop Operating Systems. Customer may access expert level support by telephone or electronically. DSC support is available during the hours of 8:00a.m. to 6:00p.m. Eastern Time, Monday through Friday, excluding STAR observed holidays. DSC hours are subject to change by STAR. Customer system(s) must be in good working condition. DSS does not include parts or labor related to network/computer problems not directly involved in the printing or scanning network or fax workflow. Customer network changes, attachments or additions may require additional DSS charges. STAR reserves the right to terminate DSS services in the event that any of Customer changes, alterations or attachments makes it impractical for STAR to provide DSS. Customer is responsible for performing normal operation functions, system backups, virus scans, and network security functions on a regular basis.