

RESOLUTION NO. 06-342

**A RESOLUTION APPROVING AN ECONOMIC  
INCENTIVE CONTRACT BETWEEN REDWINE  
FAMILY PARTNERSHIP AND THE CITY OF  
PORT ARTHUR SECTION 4A ECONOMIC  
DEVELOPMENT CORPORATION**

**WHEREAS**, the City Council deems it in the public interest to authorize the City of Port Arthur Section 4A Economic Development Corporation to enter into an economic incentive agreement with Redwine Family Partnership; and,

**WHEREAS**, the City of Port Arthur Section 4A Economic Development Corporation ("PAEDC") agrees to pay eighty percent (80%) of the costs to extend Anchor Drive in Port Arthur, including related infrastructure, up to \$285,000; and,

**WHEREAS**, in return for the \$285,000 grant, Redwine Family Partnership will extend Anchor Drive a sufficient length to serve the needs of two (2) planned hotels and adjacent commercial properties. Once Redwine starts construction of the Anchor Drive extension, Redwine must complete it within three (3) months and must dedicate the extension to the City of Port Arthur within six (6) months of the start date. Redwine shall use architect(s), engineer(s), and general contractor(s) from the Nine-County Southeast Texas Region; and,

**WHEREAS**, Germer Gertz has approved the contract as to legality and the project as being Section 4A eligible, as denoted in Exhibit "A"; and

**WHEREAS**, this economic incentive contract was approved by the EDC Board of Directors, August 9, 2006 at the regular EDC Board Meeting attached hereto as Exhibit "B"; and,

**WHEREAS**, this contract is being presented to the City Council for approval.

**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.

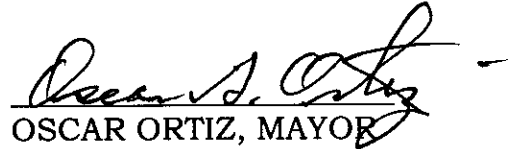
**Section 2.** That the City of Port Arthur Section 4A Economic Development Corporation is herein authorized to enter into an economic incentive agreement with Redwine Family Trust in substantially the same form as denoted in Exhibit "B".

**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 29<sup>th</sup> day of Aug., A.D. 2006, at a Special Meeting of the City Council of the City of Port Arthur, Texas by the following vote:

AYES: Mayor Ortiz; Mayor Pro Tem Prince;  
Councilmembers: Lewis, Barker, Henderson,  
Flood, Sinesal and Williamson.

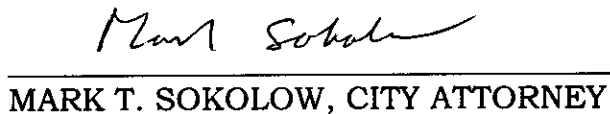
NOES: Councilmember Beard

  
OSCAR ORTIZ, MAYOR

**ATTEST:**

  
EVANGELINE GREEN, CITY SECRETARY

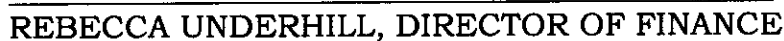
**APPROVED AS TO FORM:**

  
MARK T. SOKOLOW, CITY ATTORNEY

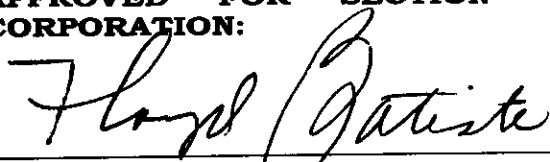
**APPROVED FOR ADMINISTRATION:**

  
STEPHEN FITZGIBBONS, CITY MANAGER

**APPROVED AS TO THE AVAILABILITY OF FUNDS:**

  
REBECCA UNDERHILL, DIRECTOR OF FINANCE

**APPROVED FOR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION:**

A handwritten signature in black ink that reads "Floyd Batiste". The signature is written in a cursive style with a large, prominent initial "F".

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FLOYD BATISTE, CEO, ECONOMIC DEVELOPMENT CORPORATION

# **EXHIBIT "A"**

**GERMER GERTZ** L.L.P.  
ATTORNEYS AT LAW

AUSTIN BEAUMONT HOUSTON  
www.germer.com

**KATHLEEN A. MCGLYNN**  
ASSOCIATE

Direct line: 409.813.8000  
kamcglynn@germer.com

August 11, 2006

Mr. Floyd Batiste  
c/o Jana Barnes  
Port Arthur EDC  
P.O. Box 3934  
Port Arthur, Texas 77642

*Re: Redwine Family Partners, Ltd.; GG File #69698  
Contract for submission to the City Council;*

Dear Mr. Batiste:

Attached are the draft (1) Executive Summary and (2) Economic Incentive Contract and Loan Agreement between the City of Port Arthur Section 4A Economic Development Corporation ("PAEDC") and Redwine Family Partners, Ltd. ("Redwine").

The contract has been approved by Germer Gertz, L.L.P. as to legality and the project is an eligible Section 4A project.

Sincerely,

GERMER GERTZ, L.L.P.

By:

  
Kathleen A. McGlynn

KAM/lr

cc: Guy N. Goodson (*in the firm*)

**ECONOMIC DEVELOPMENT GRANT AGREEMENT BETWEEN  
THE CITY OF PORT ARTHUR SECTION 4A  
ECONOMIC DEVELOPMENT CORPORATION  
AND  
REDWINE FAMILY PARTNERS, LTD.**

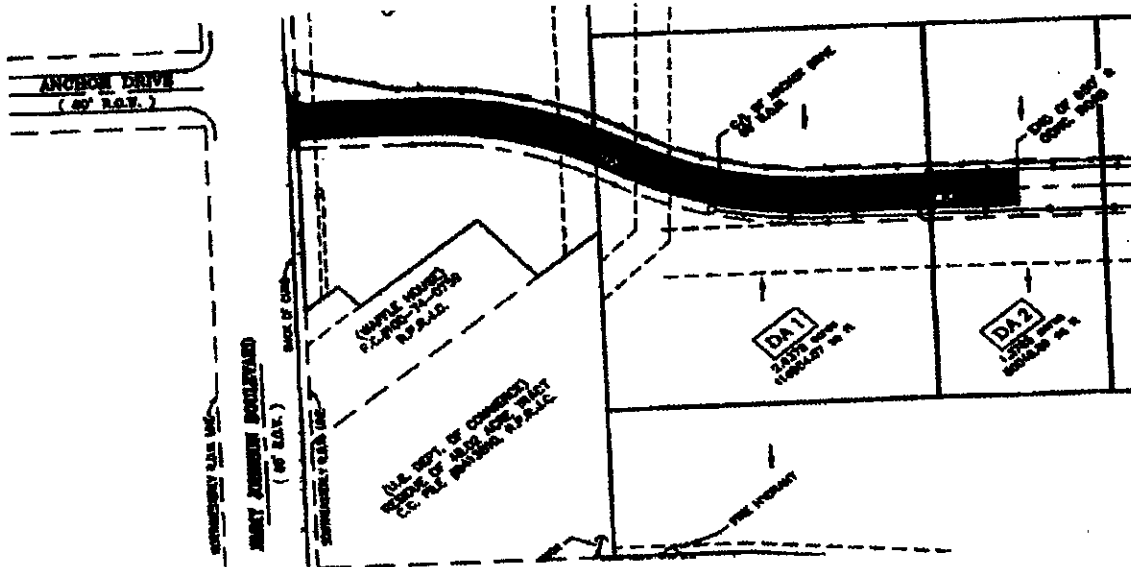
**Executive Summary**

The City of Port Arthur Section 4A Economic Development Corporation ("PAEDC") Board has found that the extension of Anchor Drive is necessary for the development and expansion of business enterprises in Port Arthur. For that reason, PAEDC agrees to pay eighty percent (80%) of the costs to extend Anchor Drive in Port Arthur, including related infrastructure, up to \$285,000.

In return for the \$285,000 grant, Redwine will extend Anchor Drive a sufficient length to serve the needs of two planned hotels and adjacent commercial properties. Once Redwine starts construction of the Anchor Drive extension, Redwine must complete it within three (3) months and must dedicate the extension to the City of Port Arthur within six (6) months of the start date. Redwine shall use architect(s), engineer(s), and general contractor(s) from the Nine-County Southeast Texas Region;

Redwine guarantees that two hotels will be built fronting the Anchor Drive extension, one of which must be completed by September 30, 2007. If Redwine breaches or defaults on this contract, including the guarantee, then any funds granted by PAEDC will automatically convert to a three-year (3-year) loan, at an interest rate of ten percent (10%), secured by a first priority deed of trust on another parcel of Redwine property valued at \$285,000 or more.

Finally, Redwine agrees to send PAEDC brief reports each quarter reporting on the construction status of the Anchor Drive Extension and the two hotels.



# **EXHIBIT “B”**



**ECONOMIC DEVELOPMENT GRANT AGREEMENT BETWEEN  
THE CITY OF PORT ARTHUR SECTION 4A  
ECONOMIC DEVELOPMENT CORPORATION  
AND  
REDWINE FAMILY PARTNERS, LTD.**

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**EXHIBIT "B" -- ANCHOR DRIVE EXTENSION SCOPE AND ESTIMATED COST**

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**EXHIBIT "D" -- DEED OF TRUST**

**ECONOMIC DEVELOPMENT GRANT AGREEMENT  
BETWEEN  
THE CITY OF PORT ARTHUR SECTION 4A  
ECONOMIC DEVELOPMENT CORPORATION  
AND  
REDWINE FAMILY PARTNERS, LTD.**

**RECITALS**

**WHEREAS**, two hotel companies desire to build hotels on property owned by Redwine Family Partners, Ltd. (hereinafter sometimes referred to as "Redwine");

**WHEREAS**, the success of the planned hotels and adjacent commercial properties for business enterprises is dependant on the extension of Anchor Drive in Port Arthur to a distance sufficient to serve the hotels, said extension hereinafter referred to as the "Anchor Drive extension";

**WHEREAS**, Section 2(11)(C) of the Development Corporation Act of 1979 authorizes expenditures on infrastructure by the City of Port Arthur Section 4A Economic Development Corporation ("PAEDC") if the PAEDC Board finds the expenditure "to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises";

**WHEREAS**, on March 22, 2006, after Redwine's representative Jim Hendrix presented the facts contained in Exhibit "A", the PAEDC Board found that the facts reasonably support the finding that the Anchor Drive extension is required to promote the two new hotel enterprises and adjacent commercial properties for business enterprises;

**WHEREAS**, the PAEDC Board approved an economic development grant to Redwine to build the Anchor Drive extension; and

**WHEREAS**, the PAEDC and Redwine desire to set forth in this Agreement the terms and conditions for PAEDC's grant payments for the Anchor Drive extension.

**NOW THEREFORE**, the parties agree as follows:

**CONTRACT DATES**

**CONTRACT START DATE**

1. This Economic Development Grant Agreement ("Agreement") is entered into with an effective date of \_\_\_\_\_, 2006, but in no case later than December 31, 2006, by and between the City of Port Arthur Section 4A Economic Development Corporation ("PAEDC") and Redwine Family Partners, Ltd.

**CONTRACT END DATE**

2. This contract expires 30 days after Redwine either performs fully or breaches the contract, subject to earlier termination or extension, voluntary or involuntary, as provided herein.

**PARTIES**

3. City of Port Arthur Section 4A Economic Development Corporation ("PAEDC"), located at 4173-39<sup>th</sup> Street, Port Arthur, Texas, 77642, is a corporation. It is duly authorized to do business in the State of Texas under Section 4A, Article 5190.6 V.T.C.A. (the Development Corporation Act of 1979) and duly authorized by Resolution of the City Council of the City of Port Arthur to enter into this contract. So authorized and as provided by the PAEDC bylaws, the President and Secretary of the PAEDC Board have the authority to execute this contract.

4. Redwine Family Partners, Ltd. (hereinafter sometimes referred to as "Redwine") is a Texas Limited Partnership, whose general partner is Redwine Enterprises-I, L.L.C., a Texas limited liability company. The partnership's registered agent in Texas is Pat Redwine, 2114 Lee Street, Nederland, TX 77627. This is also the partnership's and the general partner's address. Pat Redwine is duly authorized to enter into and execute contracts for Redwine.

**CONDITIONS PRECEDENT**

5. This contract has no legal consequences unless and until
- (a) both the PAEDC Board and the City of Port Arthur City Council approve the contract in its final form;
  - (b) Redwine delivers to PAEDC copies of the fully executed agreements between both planned hotels and Redwine for the purchase of Redwine's land; and
  - (c) Redwine executes a Deed of Trust for property that is free of prior liens and has a fair market value of at least \$285,000.

**PROMISED PERFORMANCE**

6. The parties agree to perform as follows.

**(a) PERFORMANCE BY PAEDC**

- (1) PAEDC shall conditionally grant Redwine \$285,000 or eighty-percent (80%) of the cost of constructing the Anchor Drive extension, whichever is less, subject to the limitations detailed herein.
- (2) Redwine will send invoices to PAEDC and PAEDC will pay invoices directly to the contractors and subcontractors for the construction work identified in Exhibit "B", within forty-five (45) days of receipt by PAEDC.

These are PAEDC's only obligations.

**(b) PERFORMANCE BY REDWINE**

- (1) Redwine shall construct or have constructed the Anchor Drive extension outlined in Exhibit "B", subject to the following time constraints:
  - a. Once started, the Anchor Drive extension must be completed within three (3) months and dedicated to the City of Port Arthur within six (6) months;
  - b. Construction work on the Anchor Drive extension may commence at any time, but PAEDC will not pay for construction costs unless and until Redwine has a contract with at least one of the two hotels wherein Redwine agrees to build the Anchor Drive extension and the hotel agrees to build a hotel on one of the lots serviced by the new road;
- (2) Redwine guarantees that at least one hotel will be built fronting Anchor Drive extension, by September 30, 2007 or Redwine will refund PAEDC for any monies released for the Anchor Drive extension construction project.
- (3) Redwine shall use architect(s), engineer(s), and general contractor(s) from the Nine-County Southeast Texas Region;
- (4) Redwine will use its best efforts to ensure that Port Arthur, Texas residents are hired for the Anchor Drive extension construction to the maximum extent feasible, and shall track and report actual performance, as a percent of total contractors hired; and
- (5) On written demand by PAEDC and in response to Redwine's failure to achieve a performance milestone, Redwine shall provide PAEDC within 10 business days following receipt of such written demand with assurances that it has both the intention and the capabilities to perform fully its contractual obligations.

**REDWINE'S PERFORMANCE MILESTONE SCHEDULE**

7. Although failure to achieve a performance milestone is not a breach of contract, a failure is grounds for PAEDC to demand reasonable assurances<sup>1</sup> from Redwine that it can and will fully perform its contractual obligations. Failure to provide demanded assurances is a breach of contract.

8. Redwine's performance milestones are contained on the next page.

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<sup>1</sup> Examples of reasonable assurances are copies of pending contracts and commitment letters.

## REDWINE'S PERFORMANCE MILESTONE SCHEDULE

	<u>Deadline</u>	<u>Milestone</u>
(a)	Sept. 30, 2006	Review Anchor Drive extension construction plans and projected costs and schedule with the EDC Staff
(b)	Oct. 31, 2006	Issue a <u>status report</u> <sup>2</sup> to PAEDC's Chief Executive Officer ("CEO") for the period from the effective date of this contract to September 30, 2006
(c)	Feb. 28, 2007	<u>Status report</u> <sup>3</sup> for January 1, 2006 to December 31, 2006
(d)	Mar. 31, 2007	Foundations of both hotels completed
(e)	April 30, 2007	<u>Status report</u> for January 1, 2007 to March 31, 2007
(f)	July 31, 2007	<u>Status report</u> for April 1, 2007 to June 30, 2007
(g)	Sept 30, 2007	Both hotels open for business.
(h)	Oct. 31, 2007	<u>Status report</u> for July 1, 2007 to September 30, 2007
(i)	Feb. 28, 2008	<u>Status report</u> for January 1, 2007 to December 31, 2007
(j)	February 2008	<u>Close out report</u> to the PAEDC Board, at one of its February 2008 meetings, to compare actual economic development results against expectations as presented to the Board on March 22, 2006.

<sup>2</sup> Status reports shall include, but are not limited to spending for the construction of the Anchor Drive extension; the status of construction against the plan presented to the PAEDC; Port Arthur residents' involvement in the Anchor Drive extension construction; and Southeast Texas business participation in Anchor Drive extension design and construction.

<sup>3</sup> February 5<sup>th</sup> status reports shall also include the identity of all Redwine partners or owners owning more than 5% of Redwine.

## **PAEDC'S CONDITIONAL OBLIGATIONS AND LIMITED LIABILITY**

9. The PAEDC's sole liability/obligations, if any, shall be to Redwine and shall be limited to the conditional incentive obligations detailed in this Agreement. The PAEDC shall not be liable, in contract or otherwise, to Redwine, or to any person or entity claiming by or through Redwine, for any expense, expenditure or cost incurred by or on behalf of Redwine related to the Anchor Drive extension made the basis of this Agreement.

## **LIQUIDATED DAMAGES FOR BREACH OF CONTRACT BY REDWINE**

10. In the event Redwine breaches this contract the funds granted to Redwine will automatically convert to a loan (liquidated damages), effective on the day of breach, as agreed by Redwine in the executed Commercial Promissory Note contained in Exhibit "C". Said loan shall be secured by a Deed of Trust in the form attached as Exhibit "D" on property owned by Redwine with a fair market value of at least \$285,000. Redwine shall have the right to select the property covered by the Deed of Trust, but the selection must be approved by the PAEDC.

11. It is expressly understood and agreed by the parties that any right or remedy shall not preclude the exercise of any other right or remedy under this Contract or under any provision of law, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies. Failure to exercise any right or remedy hereunder shall not constitute a waiver of the right to exercise that or any other right or remedy at any time.

## **RECORDS / INSPECTION / PAEDC AUDIT**

12. Redwine shall maintain records as necessary to allow the PAEDC to audit in compliance with this Agreement and the representations and warranties contained herein and in Redwine's application.

13. Redwine shall give the PAEDC, or any of its duly authorized representatives, access to and right to examine all books, accounts, records, reports, files and other papers, things or property belonging to or in use by Redwine pertaining to this Agreement. Such rights to access shall continue as long as the records are maintained by Redwine. Redwine agrees to maintain such records in an accessible location. Driver's license information is appropriate for Interim reporting of Port Arthur residents hired. The reporting objective is to include documentation necessary to for PAEDC to verify Redwine's reports without further outside inquiry.

14. All records pertinent to this Agreement shall be retained by Redwine at least three years following the date of termination of this Agreement, whether said termination is a result of default or whether said termination is a result of final submission of a close out report by Redwine detailing Redwine's compliance with its obligations provided herein. Further, in the event any litigation, claim or audit arising out of or related to this Agreement is instituted before the expiration of the three (3) year period and extends beyond the three year period, the records will be maintained until all litigation, claims or audit findings involving this Agreement and the records made the basis of same have been resolved.

15. Upon written request, Redwine shall provide PAEDC with all reports reasonably necessary for PAEDC compliance with Article 5190.6 V.T.C.A.

16. It is expressly understood and agreed by the parties hereto that if Redwine fails to submit to PAEDC in a timely and satisfactory manner any report required by this Contract, PAEDC may, at its sole discretion, demand assurances that Redwine can and will fully perform its contractual obligations. If Redwine fails to provide adequate assurances in ten (10) business days then Redwine is in breach and the conditional grant automatically become a loan, as described herein.

17. The PAEDC reserves the right, from time to time, to carry out field inspections/audits to ensure compliance with the requirements of this Agreement. After completion of any such audit, the PAEDC, at its option, may provide Redwine with a written report of the audit findings. If the audit report details deficiencies in Redwine's performance under the terms and conditions of this Agreement, the PAEDC may establish requirements for the timely correction of any such deficiencies by Redwine.

### **HOLD HARMLESS**

18. Redwine shall indemnify, defend and hold the PAEDC and the City of Port Arthur (together the "Indemnified Parties") harmless from all injuries, claims, liabilities, costs or damages (including court costs and reasonable attorney's fees) sustained by or threatened against any of the Indemnified Parties for injury or death to persons or physical damage to property arising out of relating to Redwine's activities.

### **SUBCONTRACTS**

19. Redwine may subcontract; however, Redwine, in subcontracting for any performances described in this contract, expressly understands that in entering into such subcontracts, PAEDC is in no way liable to Redwine's subcontractor(s).

20. Redwine is responsible for performances, as if such performances rendered were rendered by Redwine. PAEDC's maintains any right of action which may exist or which may subsequently accrue to PAEDC under this Contract.

21. Redwine, as well as all of its subcontractors, shall comply with all applicable federal, state, and local laws, regulations, and ordinances relating to the operations and activities of the Anchor Drive extension.

### **CONFLICT OF INTEREST / DISCLOSURE OBLIGATION**

22. Conflict of Interest: No employee, agent, officer or elected or appointed official of the City of Port Arthur or the PAEDC who has participated in a decision making process related to this contract (without recusing him/herself and executing a conflict affidavit) may obtain a personal or financial interest or benefit from an PAEDC assisted activity, or have an interest in any contract, subcontract, or agreement (or proceeds thereof) with respect to an PAEDC assisted activity, during their tenure or for one (1) year thereafter. Redwine

shall ensure compliance with applicable provisions under Article 5190.6 V.T.C.A. and Chapter 171 Local Government Code V.T.C.A.

23. **Disclosure:** In conjunction with execution of this Agreement, Redwine has fully disclosed to PAEDC all known and potential owners of interests in Redwine and its general partner (whether stockholder, manager, member or otherwise). In the event of any change in ownership or control of Redwine of five percent (5 %) or greater, Redwine shall notify PAEDC in writing. Further, Redwine shall be obligated to notify in writing the PAEDC in the event any time prior to, during or one (1) year after the term of this Contract, any City or PAEDC employee or representative or any third party with a conflict of interest obtains or proposes to obtain a financial benefit, direct or indirect, from Redwine or its general partner. Failure to provide said notice immediately or no later than five (5) business days after receipt of information shall constitute a default herein.

### **NONDISCRIMINATION / EMPLOYMENT / REPORTING**

24. Redwine shall ensure that no person shall on the grounds of race, color, religion, sex, handicap, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any Anchor Drive extension activity. Additionally:

- (a) To the greatest extent feasible, opportunities for training and employment arising in connection with the Anchor Drive extension will be given to Port Arthur residents;
- (b) To the greatest extent feasible, contracts for work to be performed in connection with the Anchor Drive extension will be awarded first to Port Arthur residents and businesses, then to the residents and businesses of the nine-county Southeast Texas Region; and
- (c) If Redwine advertises for workers in any media then it will advertise in the "Port Arthur News".

### **LEGAL AUTHORITY**

25. Redwine assures and guarantees that Redwine possesses legal and/or corporate authority to enter into this Contract, and to perform the services Redwine has obligated to perform hereunder and has provided, and will in the future provide, as requested by the PAEDC, such corporate resolutions necessary to evidence this authority.

26. The person or persons signing and executing this Contract on behalf of Redwine, or representing themselves as signing and executing this Contract on behalf of Redwine, do hereby warrant and guarantee that he, she or they have been duly authorized by Redwine to execute this Contract on behalf of Redwine and to validly and legally bind Redwine to all terms, performances, and provisions herein set forth.



## **NOTICE OF LEGAL OR REGULATORY CLAIMS AGAINST REDWINE**

27. Redwine shall give PAEDC immediate notice in writing of 1) any legal or regulatory action; including any proceeding before an administrative agency filed against Redwine, directly or indirectly; and 2) any material claim against Redwine or its general partner, which may impact continued operations. For purposes herein, "material" claims shall mean claims in excess of \$15,000. Except as otherwise directed by PAEDC, Redwine shall furnish immediately to PAEDC copies of all pertinent documentation of any kind received by Redwine with respect to such action or claim.

## **CHANGES AND AMENDMENTS**

28. Except as specifically provided otherwise in this Contract, any alterations, additions, or deletions to the terms of this Contract shall be by amendment in writing and executed by all parties to this Contract.

29. It is understood and agreed by the parties hereto that performances under this Contract must be rendered in accordance with Article 5190.6 V.T.C.A. (the Development Corporation act of 1979), the regulations promulgated under Article 5190.6 V.T.C.A., the assurances and certifications made to PAEDC by Redwine, and the assurances and certifications made to the City of Port Arthur with regard to the construction of the Anchor Drive extension. Based on these considerations, and in order to ensure the legal and effective performance of this Contract by all parties, it is agreed by the parties hereto that the performances under this Contract may be amended in the following manner: PAEDC may from time to time during the period of performance of this Contract issue policy directives which serve to establish interpret or clarify performance requirements under this Contract consistent with the intent of the parties. Such policy directives shall be promulgated by the PAEDC Board of Directors in the form of PAEDC issuances, shall be approved by the City Council and shall have the effect of qualifying the terms of this Contract and shall be binding upon Redwine, as if written herein.

30. Any alterations, additions, or deletions to the terms of this Contract which are required by changes in Federal, state law or local law are automatically incorporated into this Contract without written amendment hereto, and shall become effective on the date designated by such law or regulation. Redwine agrees to comply with all Federal, State and local laws whether existing or hereinafter enacted.

## **DEFAULT / TERMINATION**

31. In the event of default of any of the obligations of Redwine detailed herein or in the event of breach of any of the representations of or warranties of Redwine either detailed herein or in Redwine's application to the PAEDC, the PAEDC may, at its sole and exclusive option and remedy, terminate this Agreement, in whole or in part. In the event of such termination, but subject to the provisions of Section 8 hereof, in addition to (i) any other remedies available to the PAEDC as provided by the laws of the State of Texas or (ii) any other remedies available to the PAEDC as provided herein, the PAEDC may, at its sole option:

(a) declare the Commercial Promissory Note (Exhibit "C") executed in conjunction with this Agreement immediately effective, and if Redwine defaults on the note then PAEDC may exercise its default remedies provided under said Note, including non-judicial foreclosure of the Deed of Trust in Exhibit "D"; and

(b) withhold and/or disallow further PAEDC grant payments or incentives to Redwine, including funds to be advanced to Redwine by PAEDC hereunder.

32. In addition to the foregoing, the parties agree that this Agreement may be terminated at any time when both parties agree, in writing, to the terms and conditions of any such voluntary termination.

### **REDWINE AUDITS**

33. If directed by the PAEDC Board, Redwine shall arrange for a compliance audit by a certified public accountant to verify performances reported under this Contract.

34. Redwine shall take all necessary actions to facilitate the performance of any and all such audits, whether annual, mandatory or otherwise requested under this Agreement.

35. Subject to financial privacy requirements of Redwine and properly designated requests for non-disclosure due to proprietary reasons, all approved audit reports may be made available for public disclosure to the extent required by the Public Information Act.

### **ENVIRONMENTAL CLEARANCE REQUIREMENTS**

36. Redwine understands and agrees that by execution of this Contract, Redwine shall be responsible for making all reasonable efforts in providing to PAEDC all information, concerning this PAEDC funded project, required for PAEDC to meet its responsibilities for environmental review, decision making, and other action which applies to PAEDC in accordance with and to the extent specified in Federal, State and Local Law. Redwine further understands and agrees that Redwine shall make all reasonable efforts to assist PAEDC in handling inquiries and complaints from persons and agencies seeking redress in relation to environmental reviews covered by approved certifications.

### **ORAL AND WRITTEN CONTRACTS / PRIOR AGREEMENTS**

37. All oral and written contracts between the parties to this Contract relating to the subject matter of this Contract that were made prior to the execution of this Contract have been reduced to writing and are contained in this Contract.

38. The documents listed below are hereby made a part of this Contract for all purposes, and constitute promised performances by Redwine and/or PAEDC, as the case may be, in accordance with this Contract:

Exhibit "B" Anchor Drive extension Scope and Estimated Cost;  
Exhibit "C" Commercial Promissory Note;  
Exhibit "D" Deed of Trust; and

Redwine Application to PAEDC for funding, by reference.

**VENUE**

39. For purposes of litigation that may accrue under this Contract, venue shall lie in Jefferson County, Texas, where substantially all the performance will occur.

**ADDRESS OF NOTICE AND COMMUNICATIONS**

City of Port Arthur Section 4A Economic Development Corporation  
4173 39th Street  
Port Arthur, Texas 77642  
ATTN: Floyd Batiste, Chief Executive Officer

Redwine Family Partners, Ltd.  
2114 Lee Street  
Nederland, Texas 77627

**CAPTIONS**

40. This contract has been supplied with captions to serve only as a guide to the contents. The caption does not control the meaning of any paragraph or in any way determine its interpretation or application.

**COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS**

41. Redwine shall comply with all Federal, State and local laws, statutes, ordinances, resolutions, rules, regulations, orders and decrees of any court or administrative body or tribunal related to Redwine's performance under this Contract. Upon request by PAEDC or by the City of Port Arthur, Redwine shall furnish reasonably satisfactory proof of its compliance herewith.

**ASSIGNMENT**

42. This contract may not be assigned by Redwine Family Partners, Ltd. to another entity unless and until the PAEDC, by the action of the PAEDC Board, approves the assignment. This includes assignment to an entity controlled by Redwine Family Partners, Ltd. or its partners.

**ATTORNEY APPROVALS**

APPROVED AS TO FORM:

\_\_\_\_\_  
Guy Goodson, General Counsel for PAEDC

VERIFIED AS CONSISTANT  
WITH CITY COUNCIL RESOLUTION:

Resolution Number : \_\_\_\_\_

\_\_\_\_\_  
Mark T. Sokolow, City Attorney

**CONTRACT EXECUTION**

**CITY OF PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION**

**SIGNED AND AGREED TO** on the \_\_\_\_ day of \_\_\_\_\_, 2006.

By: \_\_\_\_\_  
Eli Roberts, President

By: \_\_\_\_\_  
Linda Spears, Secretary

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

**REDWINE FAMILY PARTNERS, LTD.**

**SIGNED AND AGREED TO** on the \_\_\_\_ day of \_\_\_\_\_, 2006.

**REDWINE FAMILY PARTNERS, LTD.,  
a Texas limited partnership**

By: Redwine Enterprises-I, L.L.C.,  
General Partner

By: \_\_\_\_\_  
Pat Redwine, Manager

\_\_\_\_\_  
Witness

**EXHIBIT "A"**

**FACTS USED BY PAEDC BOARD  
FOR FINDING ON  
ECONOMIC DEVELOPMENT**

**EXHIBIT "B"**

**ANCHOR DRIVE EXTENSION SCOPE AND ESTIMATED COST**

**ANCHOR DRIVE DEVELOPMENT  
FROM JIMMY JOHNSON TO APPROXIMATELY 650 FEET  
SOUTH TOWARD LAKE ARTHUR DRIVE  
PORT ARTHUR, TEXAS  
MARCH 2006**

*Joint Venture Soutex Surveyors, Inc. and Stanley G. "George" Newsome, Jr., P.E.*

**ESTIMATE IS BASED ON FIRST QUARTER OF 06 COST**

<b>Mobilization/Bonds</b>	<b>7,000</b>
<b>Street</b> ( <i>37' back of curb and considers roadway excavation, Lime stabilized sub-grade, 6" thick reinforced concrete, 6" curb, pavement tie-in, St. Augustine grass behind the curb, concrete cap over pipelines, pavement marking/signage, street lights, 5' sidewalks, and barricades for traffic control</i> )	<b>137,906</b>
<b>Drainage</b> ( <i>considers curb inlets, manhole, concrete Rip-rap at outfall ditch, storm sewer and trench protection</i> )	<b>75,740</b>
<b>Water</b> ( <i>considers 8" water line, fittings and fire hydrants</i> )	<b>24,700</b>
<b>Sewer</b> ( <i>considers 8" sanitary sewer, service lines, manholes and trench protection</i> )	<b>48,600</b>
<b>Pollution Prevention</b> ( <i>considers silt fence, inlet protection And trench entrance/exit treatment</i> )	<b>6,200</b>
<b>Total Construction Cost</b>	<b>\$300,146</b>

**EXHIBIT "C"**

**COMMERCIAL PROMISSORY NOTE**

Port Arthur, Texas

This COMMERCIAL PROMISSORY NOTE becomes effective on the date when Redwine Family Partners, Ltd., a Texas limited Partnership (hereinafter called "Maker") breaches that certain Economic Development Grant Agreement between the City of Port Arthur Section 4A Economic Development Corporation (hereinafter called "Lender") and Maker, dated \_\_\_\_\_, 2006.

**Effective Date:** the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_ ("date of breach").

**Principal Amount:** \$ \_\_\_\_\_, the amount paid by Lender pursuant to that certain Economic Development Grant Agreement between the Lender and Maker (described hereinbefore), up to \$285,000.00.

**Term of the Loan:** Three years from effective date.

**Payment Schedule:** Principal and interest payable monthly until principal is paid fully.

FOR VALUE RECEIVED, the undersigned "Maker", promises to pay to Lender, at its office at P.O. Box 1089, Port Arthur, Texas, 77640-1089, or such other place or places as the holder hereof shall from time to time designate in written notice to Maker, the principal amount, in legal and lawful money of the United States of America, together with interest thereon from the date hereof until maturity at the rate of **ten percent (10%)** per annum as detailed herein.

All past due principal and interest shall bear interest from date of maturity until paid at the rate of **fifteen percent (15%)** per annum, or to the maximum extent allowed by law (whichever is less) as may hereafter be in effect, payable on demand after maturity.

This note is due and payable as follows: Thirty-six (36) equal monthly installments of principal and interest commencing thirty (30) days after the Effective Date set forth hereinabove and continuing until paid in full.

Any notices required or permitted to be given by the holder hereof to Maker pursuant to the provisions of this note shall be in writing and shall be either personally delivered or transmitted by first class United States mail, addressed to Maker at the address designated below for receipt of notice (or at such other address as Maker may, from time to time, designate in writing to the holder hereof for receipt of notices hereunder). Any such notice personally delivered shall be effective as of the date of delivery, and any notice transmitted by mail, in accordance with the foregoing provisions, shall be deemed to have been given to and received by Maker as of the date on which such notice was deposited with the United States Postal Service, properly addressed and with postage prepaid.

This note is also secured by and entitled to the benefits of all other security agreements, pledges, collateral assignments, deeds of trust, guaranties, mortgages, assignments, and lien instruments, if any, of any kind executed by Maker or by any other party as security for any loans owing by Maker to the Lender. Such lien instruments shall include those executed simultaneously herewith, those heretofore executed, and those hereafter executed.

If any installment or payment of principal or interest of this note is not paid when due or any drawer, acceptor, endorser, guarantor, surety, accommodation party or other person now or hereafter primarily or secondarily liable upon or for payment of all or any part of this note (each hereinafter called an "other liable party") shall die, or become insolvent (however such insolvency may be evidenced); or if any proceeding, procedure or remedy supplementary to or in enforcement of judgment shall be resorted to or commenced against Maker or any other liable party, or with respect to any property of any of them; or if any governmental authority or any court at the instance thereof shall take possession of any substantial part of the property of or assume control over the affairs or operations of, or a receiver shall be appointed for or take possession of the property of, or a writ or order of attachment or garnishment shall be issued or made against any of the property of Maker or any other liable party; or if any indebtedness for which Maker or any other liable party is primarily or secondarily liable shall not be paid when due or shall become due and payable by acceleration of maturity thereof, or if any event or condition shall occur which shall permit the holder of any such indebtedness to declare it due and payable upon the lapse of time, giving of notice or otherwise; or if Maker or any other liable party (if other than a natural person) shall be dissolved, wound up, liquidated or otherwise terminated, or a party to any merger or consolidation without the written consent of Lender; or if Maker or any other liable party shall sell substantially all or an integral portion of its assets without the written consent of Lender; or if Maker or any other liable party fails to furnish financial information requested by Lender; or if Maker or any other liable party furnishes or has furnished any financial or other information or statements which are misleading in any respect; or if a default occurs under any instrument now or hereafter executed in connection with or as security for this note; or any event occurs or condition exists which causes Lender to in good faith deem itself insecure or in good faith believe the prospect of payment or performance by Maker or any other liable party under this note, under any instrument or agreement executed in connection with or as security for this note, or under any other indebtedness of Maker or any other liable party to Lender is impaired; thereupon, at the option of Lender, the principal balance and accrued interest of this note and any and all other indebtedness of Maker to Lender shall become and be due and payable forthwith without demand, notice of default, notice of acceleration, notice of intent to accelerate the maturity hereof, notice of nonpayment, presentment, protest or notice of dishonor, all of which are hereby expressly waived by Maker and each other liable party. Lender may waive any default without waiving any prior or subsequent default.

If this note is not paid at maturity whether by acceleration or otherwise, and is placed in the hands of any attorney for collection, or suit is filed hereon, or proceedings are had in probate, bankruptcy, receivership, reorganization, arrangement or other legal proceedings for collection hereof, Maker and each other liable party agree to pay Lender its collection costs, including court costs and a reasonable amount for attorney's fees.

It is the intention of Maker and Lender to conform strictly to applicable usury laws. Accordingly, if the transaction contemplated hereby would be usurious under applicable law, then, in that event, notwithstanding anything to the contrary herein or in any agreement entered into in connection with or as security for this note, it is agreed as follows: (i) the aggregate of all consideration which constitutes interest under applicable law that is taken, reserved, contracted for, charged or received under this note or under



any of the other aforesaid agreements or otherwise in connection with this note shall under no circumstances exceed the maximum amount of interest allowed by applicable law, and any excess shall be credited on this note by the holder hereof (or, if this note shall have been paid in full, refunded to Maker); (ii) in the event that maturity of this note is accelerated by reason of an election by the holder hereof resulting from any default hereunder or otherwise, or in the event of any required or permitted prepayment, then such consideration that constitutes interest may never include more than the maximum amount allowed by applicable law, and excess interest, if any, provided for in this note or otherwise shall be canceled automatically as of the date of such acceleration or prepayment and, if theretofore prepaid, shall be credited on this note (or if this note shall have been paid in full, refunded to Maker); and (iii) all calculations of the rate of interest taken, reserved, contracted for, charged or received under this note or under any of the other aforesaid agreements or otherwise in connection with this note, that are made for the purpose of determining whether such rate exceeds the maximum lawful rate shall be made, to the extent permitted by applicable law, by amortizing, prorating, allocating, and spreading such interest over the entire term of the loan evidenced by this note (including all renewal and extended terms).

Maker may prepay all or any part of the principal of this note before maturity without penalty. No partial prepayment shall reduce, postpone or delay the obligation of Maker to continue paying the installments herein provided on their respective due dates following any such partial prepayment until this note is fully paid.

The Maker shall be directly and primarily liable for the payment of all sums called for hereunder; and, except for notices specifically required to be given by the holder hereof to Maker pursuant to the earlier provisions of this note, Maker and each other liable party hereby expressly waive demand, presentment for payment, notice of nonpayment, protest, notice of protest, notice of intention to accelerate maturity, notice of acceleration of maturity, and all other notice, filing of suit and diligence in collecting this note or enforcing or handling any of the security  herefore, and do hereby agree to any substitution, exchange or release, in whole or in part, of any security here-for or the release of any other liable party, and do hereby consent to any and all renewals or extensions from time to time, of this note, or any part hereof, either before or after maturity, all without any notice thereof to any of them and without affecting or releasing the liability of any of them. Each holder hereof, in order to enforce payment of this note by any other liable party, shall be required to first institute suit or exhaust its remedies against Maker and to enforce its rights against any security  herefore prior to enforcing payment of this Note by any other liable party.

**SIGNED AND AGREED TO** on the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

**REDWINE FAMILY PARTNERS, LTD., a  
Texas limited partnership**

By: Redwine Enterprises-I, L.L.C.,  
General Partner

By: \_\_\_\_\_  
Pat Redwine, Manager

**ACKNOWLEDGEMENT**

**THE STATE OF TEXAS** \*

**COUNTY OF JEFFERSON** \*

**BEFORE ME, THE UNDERSIGNED** Notary Public, on this day personally appeared Pat Redwine, a Manager of Redwine Enterprises-I, L.L.C., a Texas limited liability company, known to me to be the person and Manager whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same as the act and deed of said Company in its capacity as General Partner of Redwine Family Partners, Ltd., a Texas limited partnership, for the purposes and consideration therein expressed.

**GIVEN UNDER MY HAND AND SEAL OF OFFICE,** this the \_\_\_\_ day of

\_\_\_\_\_, 2008.

**NOTARY PUBLIC, STATE OF TEXAS**

**MAKERS' ADDRESS FOR RECEIPT OF NOTICE:**

Redwine Family Partners, Ltd.  
2114 Lee Street  
Nederland, Texas, 77627

**EXHIBIT "D"**

**DEED OF TRUST**

Date: \_\_\_\_\_, 2006

Grantor: Redwine Family Partners, Ltd.

Grantors' Mailing Address  
(including county): 2114 Lee Street  
Nederland, Texas 77627  
(Jefferson County)

Trustee: KATHLEEN A. MCGLYNN

Trustee's Mailing Address: Germer Gertz, L.L.P.  
P.O. Box 4915  
Beaumont, Texas 77704  
(Jefferson County)

Beneficiary: PORT ARTHUR SECTION 4A ECONOMIC  
DEVELOPMENT CORPORATION ("PAEDC")

Beneficiary's Mailing Address  
(including county): 4173 39<sup>th</sup> Street  
Port Arthur, Texas 77642  
(Jefferson County)

**Note (No. 1)**

Date: \_\_\_\_\_, 2006

The date Redwine Family Partners, Ltd. breaches that  
certain Economic Development Grant Agreement between  
Grantor and Beneficiary, dated \_\_\_\_\_, 2006.

Amount: up to \$285,000.00

Maker: Redwine Family Partners, Ltd.

Payee: PAEDC (Beneficiary)

Final Maturity Date: Three years after date of Note

**Property:** See Attachment for legal description.

The Property covered by this Instrument includes the Land and the following items, whether now owned or hereafter acquired, all of which, including replacements and additions thereto, shall be deemed to be and remain part of the Property covered by this Instrument, and all rights, hereditaments and appurtenances pertaining thereto, all of which are referred to as the "Property":

- (a) Any and all buildings, improvements, and tenements now or hereafter attached to or placed, erected, constructed, or developed on the Land;
- (b) all fixtures, now or hereafter attached to Land or Improvements, that are necessary or useful for the complete and comfortable use and occupancy of the Land and Improvements;
- (c) all water and water rights, timber, crops, and mineral interest pertaining to the Land;
- (d) all building materials and fixtures now or hereafter delivered to and intended to be installed in or on the Land or the Improvements;
- (e) all plans and specifications for the Improvements and for any future development of or construction on the Land;
- (f) all Grantor's rights (but not Grantor's obligations) under any contracts relating to the Land or the Improvements;
- (g) all deposits (including tenant security deposits), bank accounts, funds, instruments, notes or chattel paper arising from or by virtue of any transactions related to the Land or the Improvements;
- (h) all Grantor's rights (but not Grantor's obligations) under any documents, contract rights, accounts, commitments, construction contracts (and all payment and performance bonds, statutory or otherwise, issued by any surety in connection with any such construction contracts, and the proceeds of such bonds), architectural contracts and engineering contracts arising from or by virtue of any transactions related to the Land or the Improvements;
- (i) all permits, licenses, franchises, certificates, and other rights and privileges now owned or held or hereafter obtained in connection with the Land and the Improvements;
- (j) all development rights, utility commitments, water and wastewater taps, capital improvement project contracts, utility construction agreements with any governmental authority, including municipal utility districts, or with any utility companies (and all refunds and reimbursements thereunder) relating to the Land or the Improvements;
- (k) all proceeds arising from or by virtue of the sale, lease or other disposition of the Land or the Improvements;
- (l) all proceeds (including premium refunds) of each policy of insurance relating to the Land and the Improvements;
- (m) all proceeds from the taking of any of the Land or the Improvements or any rights appurtenant thereto by right of eminent domain or by private or other purchase in lieu thereof, including change of grade of streets, curb cuts or other rights of access, for any public or quasi-public use under any law;
- (n) all right, title, and interest of Grantor in and to all streets, roads, public places, easements, and rights-of-way, existing or proposed, public or private, adjacent to or used in connection with, belonging or pertaining to the Land;

- (o) all of the Leases, rents, royalties, bonuses, issues, profits, revenues, or other benefits of the Land or the Improvements, including without limitation cash or securities deposited pursuant to leases to secure performance by the tenants of their obligations thereunder (subject to the Assignment of Rents made in Article V below); and
- (p) other interest of every kind and character that Grantor now has or at any time hereafter acquires in and to the Land and the Improvements, including rights of ingress and egress and all reversionary rights or interests of Grantor with respect to such property and all of Grantor's rights (but not Grantor's obligations) under any covenants, conditions, and restrictions for the Land, as the same may be amended from time to time, including Grantor's rights, title, and interests thereunder as declarant or developer, if applicable.

Prior Lien(s) (including recording information): None.

Other Exceptions to Conveyance and Warranty:

This conveyance is made expressly SUBJECT TO any and all restrictions, covenants, conditions, easements, right-of-ways, and mineral and/or royalty reservations of record, if any, affecting this Property.

For value received and to secure payment of the note, Grantor conveys the property to Trustee in trust. Grantor warrants and agrees to defend the title to the property. If Grantor performs all the covenants and pays the notes according to their terms, this deed of trust shall have no further effect, and Beneficiary shall release it at Grantor's expense.

#### Grantor's Obligations

Grantor agrees to:

1. keep the property in good repair and condition;
2. pay all taxes and assessments on the property when due and by January 31 of the year immediately following, furnishing Beneficiary copies of tax receipts showing that all such taxes and assessments have been paid;
3. preserve the lien's priority as it is established in this deed of trust;
4. maintain, in a form acceptable to Beneficiary, an insurance policy that
  - a. covers all improvements for their full insurable value as determined when the policy is issued and renewed, unless Beneficiary approves a smaller amount in writing;
  - b. contains an 80% coinsurance clause;
  - c. provides fire and extended coverage, including windstorm coverage;
  - d. protects Beneficiary with a standard mortgage clause;
  - e. provides flood insurance at any time the property is in a flood hazard area; and
  - f. contains such other coverage as Beneficiary may reasonably require;
5. comply at all times with the requirements of the 80% coinsurance clause;
6. deliver the insurance policy to Beneficiary and deliver renewals to Beneficiary at least ten days before expiration;
7. keep any buildings occupied as required by the insurance policy; and

8. if this is not a first lien, pay all lien notes that Grantor is personally liable to pay and abide by all prior lien instruments.

### **Beneficiary's Rights**

1. Beneficiary may appoint in writing a substitute or successor trustee, succeeding to all rights and responsibilities of Trustee;
2. If the proceeds of the note are used to pay any debt secured by prior liens, Beneficiary is subrogated to all of the rights and liens of the holders of any debt so paid;
3. Beneficiary shall apply any proceeds received under the insurance policy to repair or replace damaged or destroyed improvements covered by the policy, unless Grantor is in default of Notes or Deed of Trust in which case insurance proceeds may be applied to reduce Grantor's obligation under Notes or Deed of Trust;
4. If Grantor fails to perform any of Grantor's obligations, Beneficiary may perform those obligations and be reimbursed by Grantor on demand at the place where the note is payable for any sums so paid, including attorney's fees, plus interest on those sums from the dates of payments at the rate stated in the note for matured, unpaid amounts. The sum to be reimbursed shall be secured by this deed of trust.
5. If Grantor defaults on the note or fails to perform any of Grantor's obligations or if default occurs on a prior lien note or other instrument, and the default continues after Beneficiary gives Grantor notice of the default and the time within which it must be cured, as may be required by law or by written agreement, then Beneficiary may:
  - a. Declare the unpaid principle balance and earned interest on the note immediately due;
  - b. Request Trustee to foreclose this lien, in which case Beneficiary or Beneficiary's agent shall give notice of the foreclosure sale, as provided by the Texas Property Code as then amended; and
  - c. Purchase the property at any foreclosure sale by offering the highest bid and then have the bid credited on the note(s).

### **Trustee's Duties**

If requested by Beneficiary to foreclose this lien, Trustee shall:

1. Either personally or by agent give notice of the foreclosure sale as required by the Texas Property Code as then amended;
2. Sell and convey all or part of the property to the highest bidder for cash with a general warranty binding Grantor subject to prior liens and other exceptions to conveyance and warranty; and
3. From the proceeds of the sale, pay in this order
  - a. Expenses of foreclosure;
  - b. To Beneficiary, the full amount of principle, interest, attorney's fees, and other charges due and unpaid;
  - c. Any amount required by law to be paid before payment to Grantor; and
  - d. To Grantor, any balance.

### General Provisions

1. If any of the property is reconveyed under this deed of trust, Grantor shall immediately surrender possession to the Beneficiary. If Grantor fails to do so, Grantor shall become a tenant at sufferance of the Beneficiary, subject to an action for forcible detainer.
2. Recitals in any Trustee's deed conveying the property will be presumed to be true.
3. Proceeding under this deed of trust, filing suit or pursuing any other remedy will not constitute an election of remedies.
4. This lien shall remain superior to liens later created even if the time of payment of all or part of the note is extended or part of the property is released.
5. If any portion of the note cannot be lawfully secured by this deed of trust, payments shall be applied first to discharge that portion.
6. Grantor assigns to Beneficiary all sums payable to or received by Grantor from condemnation, of all or part of the property, from private sale in lieu of condemnation, and from damages caused by public works or construction on or near the property. After deducting any expenses incurred, including attorney's fees, Beneficiary may release any remaining sums to Grantor or apply such sums to reduce the note. Beneficiary shall not be liable for failure to collect or to exercise diligence in collecting any such sums.
7. Grantor assigns to Beneficiary absolutely, not only as collateral, all present and future rent and other income and receipts from the property. Leases are not assigned. Grantor warrants the validity and enforceability of the assignment. Grantor may as Beneficiary's licensee collect rent and other income and receipts as long as Grantor is not in default under the note or this deed of trust. Grantor will apply all rent and other income and receipts to payment of the note and performance of this deed of trust, but if the rent and other income and receipts exceed the amount due under the note and deed of trust, Grantor may retain the excess. If Grantor defaults in payment of the note or performance of this deed of trust, Beneficiary may terminate Grantor's license to collect and then as Grantor's agent may rent the property if it is vacant and collect all rent and other income and receipts. Beneficiary neither has nor assumes any obligations as lessor or landlord with respect to any occupant of the property. Beneficiary may exercise Beneficiary's rights and remedies under this paragraph without taking possession of the property. Beneficiary shall apply all rent and other income and receipts collected under this paragraph first to expenses incurred in exercising Beneficiary's rights and remedies and then to Grantor's obligations under the note and this deed of trust in the order determined by Beneficiary. Beneficiary is not required to act under this paragraph, and acting under this paragraph does not waive any of Beneficiary's other rights or remedies. If Grantor becomes a voluntary or involuntary bankrupt, Beneficiary's filing a proof of claim in bankruptcy will be tantamount to the appointment of a receiver under Texas law.
8. Interest on the debt secured by this deed of trust shall not exceed the maximum amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law; any interest in excess of that maximum amount shall be credited on the principal of the debt or, if that has been paid, refunded. ~~On any acceleration or required or permitted prepayment, any such excess shall~~

be canceled automatically as of the acceleration or prepayment or, if already paid, credited on the principal of the debt or, if the principal of the debt has been paid, refunded. This provision overrides other provisions in this and all other instruments concerning the debt.

9. When the context requires, singular nouns and pronouns include the plural.
10. The term note includes all sums secured by this deed of trust.
11. This deed of trust shall bind, insure to the benefit of, and be exercised by successors in interest of all parties.
12. If Grantor and Maker are not the same person, the term Grantor shall include Maker.
13. If all or any part of the Property is sold, conveyed, leased for a period longer than three (3) years, leased with the option to purchase, or otherwise sold (including contract for deed), without the prior written consent of Beneficiary, then Beneficiary may at its option declare the outstanding balance of the Note(s), plus accrued interest to be immediately due and payable. The creation of a subordinate lien, any sale thereunder, any deed under threat or order of condemnation, any conveyance solely between Makers, the passage of title by reason of the death of a Maker or by operation of law shall not be construed as a sale or conveyance of the Property.
14. THIS DEED OF TRUST IS GRANTED IN CONJUNCTION WITH THAT CERTAIN ECONOMIC DEVELOPMENT GRANT AGREEMENT OF EVEN DATE.

**REDWINE FAMILY PARTNERS, LTD.,  
a Texas limited partnership**

By: Redwine Enterprises-I, L.L.C.,  
General Partner

By: \_\_\_\_\_  
Pat Redwine, Manager



COUNTY OF JEFFERSON  
STATE OF TEXAS

\*  
\*  
\*

**BEFORE ME, THE UNDERSIGNED** Notary Public, on this day personally appeared Pat Redwine, a Manager of Redwine Enterprises-I, L.L.C., a Texas limited liability company, known to me to be the person and Manager whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same as the act and deed of said Company in its capacity as General Partner of Redwine Family Partners, Ltd., a Texas limited partnership, for the purposes and consideration therein expressed.

**GIVEN UNDER MY HAND AND SEAL OF OFFICE**, this the \_\_\_\_ day of

\_\_\_\_\_, 2006.

**NOTARY PUBLIC, STATE OF TEXAS**

**AFTER RECORDING RETURN TO:**

Kathleen A. McGlynn  
Germer Gertz, L.L.P.  
P.O. Box 4915  
Beaumont, Texas 77704

**Attachment to Deed of Trust**

**Legal Property Description**

**ADD LEGAL DESCRIPTION OF REDWINE PROPERTY, SELECTED BY REDWINE AND APPROVED BY PAEDC, WITH NO LIENS AND A FAIR MARKET VALUE OF AT LEAST \$285,000.**