P.R. No.13698
09/22/06 rw Updated

RESOLUTION NO. 06-376

A RESOLUTION APPROVING AN ECONOMIC INCENTIVE CONTRACT BETWEEN Mc-O CONSTRUCTION AND THE CITY OF PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION

WHEREAS, Mc-OO, Inc. d/b/a Mc-O Construction (hereinafter "Mc-O") is a local company with plans to expand their Port Arthur shop and field fabrication and assembly operations. Currently, Mc-O's customers are almost exclusively within Port Arthur; however, Mc-O Construction has plans to expand its customer base in order to bring new dollars into the Port Arthur economy. Mc-O Construction plans to build a shop for the fabrication and assembly of forms, cages, structural steel and pipe for installation at its customer's facilities. The City of Port Arthur Section 4A Economic Development Corporation ("PAEDC") wants to assist Mc-O with this expansion; and

WHEREAS, the City of Port Arthur Section 4A Economic Development Corporation ("PAEDC) has agreed to provide a $300,000 grant to Mc-O Construction to be applied exclusively toward the purchase of real property improvements and fixtures at the Mc-O facility as part of the business expansion. In return, Mc-O Construction promises to increase its annual payroll by $650,000, bringing its annual payroll to $1,750,000 by January 2, 2009, as measured by the Internal Revenue Service (IRS) W-2 and W-3 forms. In addition, Mc-O

Construction promises that at least half of its employees will be Port Arthur residents. Finally, Mc-O Construction agrees to pay all of PAEDC's attorney fees and expenses incurred for any modification of or amendment to this Agreement, including any legal documents supporting the Agreement; and

WHEREAS, in order to obtain first lien status, PAEDC will loan Mc-O the sum of $88,795.18 payable to Texas State Bank to payoff the current lien against the property, to be paid back over ten years at an interest rate of prime plus one percent, with the first of the 120 payments due three months after the Agreement is executed. Prime interest rate is that as of the date the Agreement is executed. The full $88,795.18 will be used to pay off the existing mortgages and will grant PAEDC a deed of trust on the property. In this way, PAEDC will attain first lien priority status; and

WHEREAS, if Mc-O Construction breaches this agreement then the PAEDC grant of $300,000, minus any credits earned, will automatically convert to a loan (liquidated damages). The resulting loan will have a three-year term, starting on the date of Mc-O Construction's breach, an interest rate of ten percent (10%), and will be secured by a Deed of Trust on the Property; and

WHEREAS, Mc-O Construction may earn credits to reduce the duration of this contract or to reduce liquidated damages in the event of a breach. Starting on the effective date of the contract, Mc-O

Construction will receive a $1.00 credit for each $5.00 of additional payroll distributed to its employees who reside in Port Arthur, up to $300,000 of credit; and

WHEREAS, to avoid surprises, Mc-O agrees to send PAEDC status reports on its physical expansion and its annualized payroll, quarterly for the first year and twice per year, thereafter, for the life of the Contract; and

WHEREAS, Mc-O will forfeit its credits for any reporting period for which it did not issue a report; and

WHEREAS, this economic incentive contract was approved by the EDC Board of Directors on September 20, 2006 at its regular board meeting attached hereto as Exhibit "A".

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 Mc-O Construction in substantially the same form as denoted in Exhibit "A".

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 26th day of September, A.D. 2006, at a Regular Special Meeting of the City Council of the City of Port Arthur, Texas by the following vote:

AYES: Mayor Pro Tem Prince

Councilmembers: Lewis, Barker, Henderson, Flood, Beard and Williamson

NOES: None

Oscar G. Ortiz
OSCAR ORTIZ, MAYOR

ATTEST:

Evangeline Green
EVANGELINE GREEN, CITY SECRETARY

APPROVED AS TO FORM:

SEE CONFIDENTIAL MEMORANDUM
MARK T. SOKOLOW, CITY ATTORNEY

Guy Goodson w/p RMW
GERMER GERTZ, LLP

Pr13698

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:

FLOYD BATISTE, CEO, ECONOMIC DEVELOPMENT CORPORATION

EXHIBIT "A"

ECONOMIC INCENTIVE CONTRACT & LOAN AGREEMENT

BETWEEN

THE CITY OF PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION

AND

MC-OO, INC. D/B/A MC-O CONSTRUCTION

Executive Summary

Mc-OO, Inc. d/b/a Mc-O Construction (hereinafter "Mc-O") is a local company with plans to expand their Port Arthur shop and field fabrication and assembly operations. Currently, Mc-O's customers are almost exclusively within Port Arthur; however, Mc-O has plans to expand its customer base in order to bring new dollars into the Port Arthur economy. Mc-O plans to build a shop for the fabrication and assembly of forms, cages, structural steel and pipe for installation at its customer's facilities. The City of Port Arthur Section 4A Economic Development Corporation ("PAEDC") wants to assist Mc-O with this expansion.

PAEDC has agreed to provide a $300,000 grant to Mc-O to be applied exclusively toward the purchase of real property improvements and fixtures at the Mc-O facility as part of the business expansion. In return, Mc-O promises to increase its annual payroll by $650,000, bringing its annual payroll to $1,750,000 by January 2, 2009, as measured by the Internal Revenue Service (IRS) W-2 and W-3 forms. In addition, Mc-O promises that at least half of its employees will be Port Arthur residents. Finally, Mc-O agrees to pay all of PAEDC's attorney fees and expenses incurred for any modification of or amendment to this Agreement, including any legal documents supporting the Agreement.

Additionally, in order to obtain first lien status, PAEDC will loan Mc-O the sum of $88,795.18 payable to Texas State Bank to payoff the current lien against the property, to be paid back over ten years at prime rate plus one percent, with the first of the 120 payments due three months after the Agreement is executed. Prime interest rate is that as of the date the Agreement is executed. The full $88,795.18 will be used to pay off the existing mortgages and will grant PAEDC a deed of trust on the property. In this way, PAEDC will attain first lien priority status.

If Mc-O breaches this agreement then the PAEDC grant of $300,000, minus any credits earned, will automatically convert to a loan (liquidated damages). The resulting loan will have a three-year term, starting on the date of Mc-O's breach, an interest rate of ten percent (10%), and will be secured by a Second Deed of Trust on the Property.

Mc-O may earn credits to reduce the duration of this contract or to reduce liquidated damages in the event of a breach. Starting on the effective date of the contract, Mc-O will receive a $1.00 credit for each $5.00 of additional payroll distributed to its employees who reside in Port Arthur, up to $300,000 of credit.

To avoid surprises, Mc-O agrees to send PAEDC status reports on its physical expansion and its annualized payroll, quarterly for the first year and twice per year, thereafter, for the life of the Contract.

Mc-O will forfeit its credits for any reporting period for which it did not issue a report.

GERMER GERTZ L.L.P.
ATTORNEYS AT LAW

AUSTIN **BEAUMONT** HOUSTON
www.germer.com

ROBIN M. WOOLRIDGE
ASSOCIATE

Direct line: 409.813.8051
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robinw@germer.com

September 22, 2006

Mr. Mark Sokolow
Port Arthur City Attorney
Port Arthur, Texas

Re: *Mc-OO, Inc d/b/a Mc-O Construction;* GG File #70424
Contract for submission to the City Council;

Dear Mr. Sokolow:

Included are the draft (1) Resolution Approving an Economic Incentive Contract (2) Executive Summary and (3) Economic Incentive Contract and Loan Agreement between the City of Port Arthur Section 4A Economic Development Corporation ("PAEDC") and Mc-OO, Inc d/b/a Mc-O Construction. (Mc-O).

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: Robin M. Woolridge
Robin M. Woolridge

RMW

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

EXHIBIT "A"

ECONOMIC INCENTIVE CONTRACT & LOAN AGREEMENT
BETWEEN

THE CITY OF PORT ARTHUR SECTION 4A
ECONOMIC DEVELOPMENT CORPORATION
AND

MC-OO, INC. D/B/A MC-O CONSTRUCTION

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ECONOMIC INCENTIVE CONTRACT & LOAN AGREEMENT

BETWEEN

THE CITY OF PORT ARTHUR SECTION 4A

ECONOMIC DEVELOPMENT CORPORATION

AND

MC-OO, INC. D/B/A MC-O CONSTRUCTION

INTRODUCTION

Mc-OO, Inc. d/b/a Mc-O Construction (hereinafter "Mc-O") is a local company with plans to expand their Port Arthur shop and field fabrication and assembly operations. Currently, Mc-O's customers are almost exclusively within Port Arthur; however, Mc-O has plans to expand its customer base in order to bring new dollars into the Port Arthur economy. Mc-O plans to build a shop for the fabrication and assembly of forms, cages, structural steel and pipe for installation at its customer facilities. The City of Port Arthur Section 4A Economic Development Corporation ("PAEDC") wants to assist Mc-00 with this expansion. The parties agree as follows.

CONTRACT DATES

CONTRACT START DATE

1. This Economic Incentive Contract and Loan Agreement ("Agreement") is entered into with an effective date of _____, 2006, but in no case later than December 1, 2006, by and between the City of Port Arthur Section 4A Economic Development Corporation ('PAEDC") and Mc-OO, Inc. d/b/a Mc-O Construction ("Mc-O").

CONTRACT END DATE

2. This contract expires the earlier of January 1, 2010, or 30 days after Mc-O either performs fully or breaches the contract, subject to earlier termination or extension, voluntary or involuntary, as provided herein. In the event of breach, although this contract expires, the contracts and agreements contained in the Exhibits to this contract remain effective.

PARTIES

3. City of Port Arthur Section 4A Economic Development Corporation ("PAEDC"), located at 4173 39th Street, Port Arthur, Texas, 77642, is a non-profit Texas corporation. It is duly authorized to do business in the State of Texas under Section 4A, Article 5190.6 V.T.C.A. 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. Mc-OO, Inc. d/b/a Mc-O Construction ("Mc-O") is a Texas corporation, since February 10, 2004. Eric J. McGuire and Wyman Ogden, Mc-O's Officers, are duly authorized to enter into and execute this contract. The registered agent for Mc-OO, Inc. d/b/a Mc-O Construction in Texas is Sandra McGuire, at 605 Countrywood Blvd., Sour Lake, Texas, 77659.

CONDITIONS PRECEDENT

5. This Agreement has no legal consequences, and neither party shall rely on the Agreement, unless and until

a. Mc-O provides the EDC Staff with documented evidence of financing for the remaining $450,000 of the fund required for the expansion project, whether from a third-party financial institution, from the cash reserves of Mc-O or from the personal assets of the Mc-O owners.
b. Mc-O provides the EDC Staff with a business and marketing plan for Mc-O to expand its market to customers outside of the Port Arthur area.
c. Both the PAEDC Board and the Port Arthur City Council approve the Agreement in the form executed.
d. Mc-O's President, Sandra McGuire, executes the Deed of Trust in Exhibit "B".
e. Mc-O obtains the acknowledgement in Exhibit "F" from Texas State Bank.

PROMISED PERFORMANCE

6. The parties agree to perform as follows.

(a) PERFORMANCE BY PAEDC

(1) PAEDC shall grant Mc-O up to $300,000 for the real property improvements and fixtures listed in Exhibit "A", subject to the conditions herein, which Mc-O is not required to pay back unless Mc-O breaches this Agreement.

(2) PAEDC will provide said grant funds by either paying vendor invoices or reimbursing Mc-O for payment of vendor invoices, PAEDC will use its best efforts to pay invoices or reimburse within 30 days of receipt. Mc-O shall facilitate payment by PAEDC by including a copy of Exhibit "A" with every payment request, with the improvement of fixtures involved highlighted.

(3) PAEDC shall loan Mc-O the amount of $88,795.18 to pay off existing liens on Mc-O's property on which the building will be constructed, according to the terms in the Commercial Promissory Note contained in Exhibit "F". with the material terms being prime plus one percent interest for a term of ten (10) years. Prime rate is that as of the date the Agreement is executed.

(b) PERFORMANCE BY MC-O

(1) Mc-O shall use the $300,000 grant monies exclusively toward the purchase of the property improvements and fixtures listed in Exhibit "A", which are required for Mc-O's planned business expansion.

(2) By January 2, 2009, Mc-O shall increase annual wages from $1,099,496 per year to at least $1,750,000 per year, and shall maintain it at or above that level until January 2, 2010. Employment and payroll will be monitored with Mc-O's status reports to PAEDC and Mc-O's filed Internal Revenue Service ("IRS") Forms W-2 and W-3.

Mc-O may use incentive credits to modify this performance obligation, as discussed in the section 6(c).

(3) Mc-O promises that at least fifty percent (50%) of its employees will be Port Arthur residents.

(4) Mc-O shall execute and comply with the following stand-alone, collateral agreements:

Exhibit "B" - Conditional Commercial Promissory Note for $300,000
Exhibit "C" - Deed of Trust
Exhibit "D" - Certification Regarding Lobbying for contracts, grants, loans, and cooperative agreements
Exhibit "E" - Compliance Statement, regarding §176 of the Local Government Code
Exhibit "F"- Commercial Promissory Note for $88,795.18

(5) Mc-O agrees to pay PAEDC's attorney fees and expenses incurred for any modification of or amendment to this Agreement, including any legal documents supporting the Agreement. Mc-O will pay PAEDC, based on invoices to PAEDC, under the file number 70424. **This payment in no way implies that PAEDC's attorney is working for the best interests of any person other than PAEDC.** It is recommended that Mc-O consult its own attorney.

(6) On demand by PAEDC and in response to Mc-O's failure to achieve a performance milestone, Mc-O shall provide PAEDC with assurances that it has both the intention and the capabilities to perform fully its contractual obligations.

(c) CREDITS – SUBSTITUTE PERFORMANCE

Mc-O may earn credits against the $300,000 grant, to either reduce the duration of this contract or reduce the amount of liquidated contract damages in the event of a breach by Mc-O. Starting when Mc-O achieves the performance level described in Paragraph 6(b)(2), and continuing for as long as Mc-O maintains this promised performance, Mc-O will earn performance credits according to the following rules.

(1) Payroll: Mc-O will receive a $1.00 credit for each $5.00 of additional payroll to new employees who are Port Arthur residents, as reported on IRS forms W-2 and W-3[1]. For example, if Mc-O hires 10 new Port Arthur residents at $15,000 per year, increasing annual Port Arthur resident payroll to $150,000, then Mc-O will be credited $30,000, thereby reducing the Conditional Note amount to $270,000.

(2) Maximum credits: Total credits for W-2 Payroll cannot exceed $300,000.

(3) Credit Forfeiture: Mc-O will forfeit any credits it earned during a period for which a report is scheduled but Mc-OO, nonetheless, fails to issue.

MC-O'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 withhold further payments to Mc-O and/or demand reasonable assurances[2] from Mc-O that it can and will fully perform its contractual obligations. Failure to provide adequate assurances is a breach of contract.

8. Mc-O's performance milestones are contained in the table on the following page.

[1] The baseline annual payroll from Mc-O's grant application is $1,099,496.

[2] Examples of reasonable assurances are copies of letters from suppliers or contractors explaining delays and when the expansion will be back on schedule.

MC-O'S PERFORMANANCE MILESTONE SCHEDULE

	Deadline	Milestone
1	Oct. 31, 2006	Issue a *status report*[3] to PAEDC's Chief Executive Officer ("CEO") for the period from the application date to September 30, 2006.
2	Nov. 1, 2006	Obtain building permit and order building.
3	Dec. 31, 2006	Building erected; Driveway and fencing installed; Plumbing and electrical roughed in.
4	Jan 1, 2007	$250,000 additional payroll (annualized), bringing total annual payroll to $1,350,000.
5	Feb. 28, 2007	*Status report*[4] for January 1, 2006 to December 31, 2006.
6	Apr. 30, 2007	*Status report* for January 1, 2007 to March 31, 2007.
7	May 1, 2007	Overhead crane installed; Trim of Building and doors installed; Building operational.
8	July 31, 2007	*Status report* for April 1, 2007 to June 30, 2007.
9	Oct. 31, 2007	*Status report* for July 1, 2007 to September 30, 2007.
10	Jan. 1, 2008	$550,000 additional payroll (annualized), bringing total annual payroll to $1,650,000.
11	Feb. 1, 2008	*Status report* for January 1, 2007 to December 31, 2007.
12	July 31, 2008	*Status report* for January 1, 2008 to June 30, 2008.
13	Jan. 2, 2009	$650,000 additional payroll (annualized), bringing total annual payroll to $1,750,000.
14	Feb. 1, 2009	*Status report* for January 1, 2008 to December 31, 2008.
15	July 31, 2009	*Status report* for January 1, 2009 to June 30, 2009.
16	Jan. 1, 2010 or 14 days after the contract is performed fully or breached	Issue a ***close out report*** to the PAEDC Board and CEO detailing actual performance versus promised performance. After presentation by Mc-O, the Board will take action to determine if performance is complete, thereby, ending the Contract.

[3] Status reports shall include copies of invoices and check payments for assets purchased with PAEDC funds during the reporting period, quarterly balance sheets, quarterly profit and loss statements, and employee reports. As to job creation performance, interim status reports shall include documentation substantiating the accuracy of such reports, including, for example, 941 payment reports, Texas Workforce Commission reports, or other such reports confirming total jobs, payroll and other relevant information. Driver's license information is appropriate for interim reporting of Port Arthur residents hired. In all cases, the reporting objective is to include documentation necessary for PAEDC to verify said report without further outside inquiry.

[4] Beginning of February status reports shall also include identity of all shareholders who own more than five percent (5%) of the company. In addition, these year end reports shall be substantiated with IRS Forms W-2 and W-3.

PAEDC'S CONDITIONAL OBLIGATIONS AND LIMITED LIABILITY

9. It is expressly understood and agreed by the parties hereto that the PAEDC funding obligations herein are contingent upon the actual receipt of adequate sales tax revenue to meet the PAEDC's liabilities under this Agreement. If adequate funds are not available to make payments under this Agreement, the PAEDC shall notify Mc-O in writing within a reasonable time after such fact is reasonably determined by the PAEDC Board of Directors. The PAEDC, at its sole option, may then terminate this Agreement without further liability. In the event of such termination by the PAEDC, the PAEDC may, at its sole option, immediately cease all further funding, if any, required by this Agreement and the PAEDC shall not be liable to Mc-O or to any third parties for failure to make payments to Mc-O under the terms and conditions of this Agreement.

10. The PAEDC shall not be liable, in contract or otherwise, to Mc-OO, or to any person or entity claiming by or through Mc-OO, for any expense, expenditure or cost incurred by or on behalf of Mc-O related to the project made the basis of this Agreement. The PAEDC's sole liability/obligations, if any, shall be to Mc-O and shall be limited to the conditional funding obligations detailed in this Agreement.

11. Mc-O shall not use the funds herein for any purpose(s) other than that specifically disclosed herein and as further disclosed within that certain application made by or on behalf of Mc-OO, which application is incorporated herein for all purposes.

12. Funds loaned or granted by the PAEDC hereunder shall not be utilized by Mc-O for repayment of costs, expenditures or expenses incurred prior to the date of this Agreement.

LIQUIDATED DAMAGES FOR CONTRACT BREACH BY MC-O

13. In the event Mc-O fails to perform its obligations under this Agreement, including the corollary agreements, Mc-O will immediately, by operation of law, owe PAEDC the grant funds, minus any credits previously earned by Mc-O as recorded by Mc-O's IRS Forms W-2 and W-3 and in Mc-O's reports to PAEDC. Further, the PAEDC shall be entitled to recover its reasonable and customary attorney's fees, expenses and costs of Court incurred in collection of said debt and such remedies as are provided at law or in equity.

14. It is expressly understood and agreed by the parties hereto that if Mc-O fails to submit to PAEDC in a timely and satisfactory manner any report required by this Agreement, PAEDC may, at its sole discretion, withhold further payments to Mc-O and demand assurances that Mc-O can and will fully perform its contractual obligations. If Mc-O fails to provide adequate assurances then Mc-O is in breach and PAEDC may stop providing funds for the purchase of real property improvements and fixtures. If PAEDC withholds funds then it shall notify Mc-O in writing of its decision and the reasons therefor.

15. 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

16. Mc-O shall maintain records of the receipt and disposition of grant funds provided hereunder as necessary to allow the PAEDC to audit and verify proper utilization of said funds in compliance with this Agreement and the representations and warranties contained herein and in Mc-O's application.

17. Mc-O 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 Mc-O pertaining to this Agreement. Such rights to access shall continue as long as the records are maintained by Mc-OO. Mc-O agrees to maintain such records in an accessible location.

18. All records pertinent to this Agreement shall be retained by Mc-O 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 Mc-O detailing Mc-O'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.

19. Mc-O shall provide PAEDC with all reports necessary for PAEDC compliance with Article 5190.6 V.T.C.A.

20. 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 Mc-O with a written report of the audit findings. If the audit report details deficiencies in Mc-O's performance under the terms and conditions of this Agreement, the PAEDC may establish requirements for the timely correction of any such deficiencies by Mc-OO.

HOLD HARMLESS

21. Mc-O agrees to hold harmless the PAEDC and the City of Port Arthur from any and all claims, demands, and causes of action of any kind or character which may be asserted by any third party occurring, arising out of or in any way related to this Agreement, the project made the basis of this Agreement and the utilization of grant funds provided by this Agreement.

SUBCONTRACTS

22. Mc-O may not subcontract to another business or company for performance credits described in this Contract without obtaining PAEDC's written approval, which must

be approved by the PAEDC Board and which may be withheld for any reason. Mc-O shall only subcontract for performance credits described in this Contract after Mc-O has submitted Subcontractor Eligibility Request, as specified by PAEDC, for each proposed subcontract, and Mc-O has obtained PAEDC's prior written approval, based on the information submitted, of Mc-O's intent to enter into such proposed subcontract. Mc-OO, in subcontracting for any performances described in this contract, expressly understands that in entering into such subcontracts, PAEDC is in no way liable to Mc-O's subcontractor(s).

23. In no event shall PAEDC's prior written approval of a subcontractor's eligibility, be construed as relieving Mc-O of the responsibility for ensuring that the performances rendered under all subcontracts are rendered so as to comply with all terms of this Contract, as if such performances rendered were rendered by Mc-O . PAEDC's approval does not constitute adoption, ratification, or acceptance of Mc-O's or subcontractor's performance hereunder. PAEDC maintains the right to insist upon Mc-O's full compliance with the terms of this Contract, and by the act of subcontractor approval, PAEDC does not waive any right of action which may exist or which may subsequently accrue to PAEDC under this Contract.

24. Mc-O, as well as all of its approved subcontractors, shall comply with all applicable federal, state, and local laws, regulations, and ordinances for making procurements under this Contract.

CONFLICT OF INTEREST / DISCLOSURE OBLIGATION

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

26. Disclosure: In conjunction with execution of this Agreement, Mc-O has fully disclosed to PAEDC all known and potential owners of interests in Mc-O (whether stockholder, manager, member or otherwise). In the event of any change in ownership or control of Mc-O of five percent (5 %) or greater, Mc-O shall notify PAEDC in writing. Further, Mc-O 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 Mc-OO. Failure to provide said notice immediately or no later than five (5) business days after receipt of information shall constitute a default herein.

27. Mc-O shall fully comply with the disclosure statement requirements of Local Government Code §176, as certified by Exhibit "E".

NONDISCRIMINATION / EMPLOYMENT / REPORTING

28. Mc-O 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 program or activity funded in whole or in part with funds provided under this Contract. Funds shall be used in accordance with the following requirements:

a. To the greatest extent feasible, opportunities for training and employment arising in connection with the planning and carrying out of any project assisted with PAEDC funds provided under this Contract be given to Port Arthur residents; and

b. To the greatest extent feasible, contracts for work to be performed in connection with any such project be awarded to Port Arthur residents and businesses, and secondarily to nine County Southeast Texas residents and businesses, including, but not limited to, individuals or firms doing business in the field of planning, consulting, design, architecture, building construction, rehabilitation, maintenance, or repair.

c. If Mc-O advertises for employment then it will advertise in the Port Arthur News; however, PAEDC has no interest to restrain advertising in additional publications or media.

LEGAL AUTHORITY

29. Mc-O assures and guarantees that Mc-O possesses legal and/or corporate authority to enter into this Contract, receive funds authorized by this Contract, and to perform the services Mc-O 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.

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

NOTICE OF LEGAL/REGULATORY CLAIMS AGAINST MC-O

31. Mc-O shall give PAEDC immediate notice in writing of 1) any legal or regulatory action, including any proceeding before an administrative agency filed against Mc-OO, directly or indirectly; and 2) any material claim against Mc-OO, which may impact continued operations. For purposes herein, "material" claims shall mean claims in excess of $25,000. Except as otherwise directed by PAEDC, Mc-O shall furnish immediately to PAEDC copies of all pertinent documentation of any kind received by Mc-O with respect to such action or claim.

CHANGES AND AMENDMENTS

32. 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 both parties to this Contract, and approved by both the PAEDC and, if substantial, by the Port Arthur City Council.

33. 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), Texas Attorney General Opinions interpreting Article 5190.6 V.T.C.A., the assurances and certifications made to PAEDC by Mc-O, and the assurances and certifications made to the City of Port Arthur with regard to the operation of the PAEDC's Projects. Based on these considerations, and in order to ensure the legal and effective performance of this Contract by both parties, it is agreed by the parties hereto that the performances under this Contract are by the provisions of the PAEDC Program and any amendments thereto and may further 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 interpret or clarify performance requirements under this Contract. 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 Mc-O, as if written herein.

34. 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.

DEFAULT / TERMINATION

35. In the event of default of any of the obligations of Mc-O detailed herein or in the event of breach of any of the representations by or warranties of Mc-O either detailed herein or in Mc-O's application to the PAEDC, the PAEDC may, at its sole option, terminate this Agreement, in whole or in part. In the event of such termination, the PAEDC may, at its sole option, utilize one or more of the following actions to resolve or otherwise remedy said default:

(a) Exercise any remedies provided herein and/or within the Loan/Collateral Documents;

(b) Withhold, whether temporarily or otherwise, disbursement of grant proceeds pending correction of the deficiency(s) by Mc-O;

(c) Disallow all or a part of the incentives which are not in compliance with the terms and conditions of this Agreement or in compliance with the representations and warranties contained within this Agreement and Mc-O's application to the PAEDC;

(d) Withhold and/or disallow further PAEDC incentives to Mc-O;

(e) Take any and all other remedies that may be legally available to the PAEDC, as authorized by the terms and conditions of this Agreement, and as may be authorized by the laws of the State of Texas;

(f) Declare the Conditional Commercial Promissory Note executed in conjunction with this Agreement immediately due and payable, in full and exercise its default remedies provided under collateral documentation executed in conjunction with said Note and this Agreement; and

(g) Any remedies available to PAEDC as provided by the laws of the State of Texas.

36. 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.

MC-O AUDITS

37. If directed by the PAEDC Board, Mc-O shall arrange for the performance of a compliance audit by a certified public accountant of funds received and performances rendered under this Contract, subject to the following conditions and limitations:

(a) Mc-O shall have a compliance audit which may be limited to use of funds received from the PAEDC, made for any of its fiscal years included within the contract period in which Mc-O receives more than $50,000 in PAEDC financial assistance provided by PAEDC in the form of grants, contracts, loans, loan guarantees, property, cooperative agreements, interest subsidies, or direct appropriations. Backup documentation regarding actual expenditures shall be provided by Mc-O. Said audit must be received and accepted by the PAEDC CEO and/or the PAEDC Board.

(b) At the option of Mc-O, each audit required by this section may cover either Mc-O's entire operations or each department, agency, or establishment of Mc-O which received, expended, or otherwise administered PAEDC funds.

(c) Unless otherwise specifically authorized by PAEDC in writing, Mc-O shall submit the report of such audit to PAEDC within thirty (30) days after completion of the audit, but no later than one hundred twenty (120) days after the end of each fiscal period included within the period of this Contract.

(d) As a part of its audit, Mc-O shall verify that planned expenditures were made as described herein and in Mc-O's application to PAEDC to purchase real property improvements and fixtures for Mc-O's business expansion as described in Exhibit "A". Any discrepancies in excess of $1,000 shall be specifically documented in writing.

38. Mc-O understands and agrees that it shall be liable to reimburse immediately PAEDC for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Contract and it may be required to submit formal audits at Mc-O's costs.

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

40. Subject to financial privacy requirements of Mc-O and properly designated requests for non-disclosure due to proprietary reasons, all approved audit reports may be made available for public inspection.

41. PAEDC shall not release any funds for costs incurred by Mc-O under this Contract until PAEDC has received certification from Mc-O that its fiscal control and fund accounting procedures are adequate to assure proper disbursal of and accounting for funds provided under this Contract. PAEDC shall specify the content and form of such certification.

ENVIRONMENTAL CLEARANCE REQUIREMENTS

42. Mc-O understands and agrees that by execution of this Contract, Mc-O shall be responsible for 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. Mc-O further understands and agrees that Mc-O 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

43. 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.

44. The documents listed below are hereby made a part of this Contract, and constitute promised performances by Mc-O in accordance with this Contract:

Exhibit "A" – Real Property Improvements and Fixtures
Exhibit "B" – Conditional Commercial Promissory Note
Exhibit "C" – Deed of Trust
Exhibit "D" – Certification Regarding Lobbying
Exhibit "E" – Compliance Statement
Exhibit "F" – Commercial Promissory Note
Mc-O's Application to the PAEDC.

VENUE

45. For purposes of litigation that may accrue under this Contract, venue shall lie in Jefferson County, Texas.

ADDRESS OF NOTICE AND COMMUNICATIONS

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

Mc-OO, Inc. d/b/a Mc-O Construction
P.O. Box 13072
Beaumont, Texas 77726-3072
ATTN: Eric J. McGuire

CAPTIONS

46. 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

47. Mc-O 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 the activities and performances of Mc-O under this Contract. Upon request by PAEDC and by the City, Mc-O shall furnish satisfactory proof of its compliance herewith.

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:

By:_____
Eli Roberts, President

Date:_____

_____
Witness

By:_____
Linda Spears, Secretary

Date:_____

_____
Witness

MC-OO, INC. D/B/A MC-O CONSTRUCTION

SIGNED AND AGREED TO:

By:_____
Eric J. McGuire, Vice President

Date:_____

_____
Witness

By:_____
Wyman Ogden, Vice President

Date:_____

_____
Witness

EXHIBIT "A"

MC-OO, INC. D/B/A MC-O CONSTRUCTION'S
REAL PROPERTY IMPROVEMENTS AND FIXTURES

Building Slab	$68,578.00
Area Paving 200' X 200'	$67,291.00
Building Estimated	$58,755.00
Erect Building	$48,576.00
Electrical	$17,000.00
Land Behind Shop	$21,000.00
Rest Room	$2,500.00
Fence	$7,996.00
Security System	$3,988.00
Overhead Crane	$19,500.00
TOTAL	**$315,184.00**

OTHER EXPANSION PLANS-NOT FUNDED BY PAEDC GRANT

Six Pack Welder	$32,000.00
4 Diesel Welder @ 5995.00	$23,980.00
All Terrain Fork Lift	$22,500.00
3 Rod Boxes	$1,165.00
1-15 Ton Picker	$180,000.00
Excavator 120	$98,989.00
1 1/2 Ton Truck	$29,000.00
40 Dove Tail	$15,595.00
3 Generators	$2,855.00
3 – 1/2 Ton Trucks	$28,500.00
3" Water Pump	$2,180.00
3 Air Compressors 185 CFM	$19,500.00
TOTAL	**$456,264.00**

EXHIBIT "B"

CONDITIONAL COMMERCIAL PROMISSORY NOTE

Port Arthur, Texas

This CONDITIONAL COMMERCIAL PROMISSORY NOTE becomes effective on the date when Mc-OO, Inc. d/b/a Mc-O Construction, hereinafter called "Maker," breaches that certain Economic Incentive Contract and Loan Agreement, hereinafter the "Contract", 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 Maker breaches Contract")

Principal Amount: $300,000, minus any credits earned lender the contract as substitute performance.

Term of the Loan: Three (3) years from effective date.

Payment Schedule: Monthly until principal is paid fully.

FOR VALUE RECEIVED, the undersigned "Maker", whether one or more, and if more than one, then jointly and severally, promise(s) to pay to the order of 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 principle amount, in legal and lawful money of the United States of America, together with interest thereon from the date effective 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 non-usurious amount 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: Monthly on the 1st of each month, starting the month immediately following the month the Note became effective. The amount of monthly payment will be a payment of principal and interest sufficient to fully amortize the principal amount of this Note by its maturity date.

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 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 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, assignments, and lien instruments covering certificates of deposit or other personal property only 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, 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; 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 and each other liable party are and shall be directly and primarily, jointly and severally, 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, except as otherwise expressly provided herein, 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 therefor, 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 other liable party does further agree that it will not be necessary for the holder hereof, in order to enforce payment of this note by such other liable party, to first institute suit or exhaust its remedies against Maker or any other liable party or to enforce its rights against any security therefor.

SIGNED AND AGREED TO on the _____ day of _____, 200__.

MC-OO, INC. D/B/A MC-O CONSTRUCTION,
a Texas corporation

By: _____
Eric J. McGuire, Vice President

By: _____
Wyman Ogden, Vice President

ACKNOWLEGEMENT

THE STATE OF TEXAS *

COUNTY OF JEFFERSON *

BEFORE ME, THE UNDERSIGNED Notary Public, on this day personally appeared Eric J. McGuire, Vice President of Mc-OO, Inc., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as a managing member of Mc-OO, Inc., for the purposes and consideration therein expressed, and the Capacities therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the ____ day of _____, 200__.

_____
Notary Public, State of Texas

ACKNOWLEGEMENT

THE STATE OF TEXAS *

COUNTY OF JEFFERSON *

BEFORE ME, THE UNDERSIGNED Notary Public, on this day personally appeared Wyman Ogden, Vice President of Mc-OO, Inc., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as a managing member of Mc-OO, Inc., for the purposes and consideration therein expressed, and the Capacities therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the ____ day of _____, 200__.

_____
Notary Public, State of Texas

MAKERS' ADDRESS FOR RECEIPT OF NOTICE:

Mc-OO, Inc. d/b/a Mc-O Construction
P.O. Box 13072
Beaumont, Texas 77726-3072
ATTN: Eric J. McGuire

EXHIBIT "C"

AFTER RECORDING RETURN TO:
Guy N. Goodson
Germer Gertz, L.L.P.
P.O. Box 4915
Beaumont, Texas 77704

DEED OF TRUST

Date:	_____, 2006
Grantors:	Mc-OO, Inc., a Texas Corporation
Grantors' Mailing Address (including county):	P.O. Box 13072 Beaumont, Texas 77726-3072 ATTN: Sandra McGuire (Jefferson County)
Trustee:	GUY N. GOODSON
Trustee's Mailing Address (including county):	Germer Gertz, L.L.P. P.O. Box Beaumont, Texas 77704 (Jefferson County)
Beneficiary:	PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION ("PAEDC")
Beneficiary's Mailing Address	4173 39th Street Port Arthur, Texas 77642 (Jefferson County)

Note (No. 1)

Date:	_____; the date Grantor breaches that certain Economic Incentive Contract and Loan Agreement dated _____, 2006.
Amount:	The sum of Beneficiary's cash grant to Grantee minus credit earned, pursuant to that certain Economic Incentive Contract and Loan Agreement dated _____, 2006 (not to exceed $300,000).
Maker:	Mc-OO, Inc.
Payee:	PAEDC (Beneficiary)
Final Maturity Date:	Three years after Grantor breaches that certain Economic

Incentive Contract and Loan Agreement referenced hereinabove.

Note (No. 2)

Date: _____, 2006.

Amount: $88,795.18

Maker: Mc-OO, Inc.

Payee: PAEDC (Beneficiary)

Final Maturity Date: January 1, 2017

Property: See Legal Description in Attachment "1".

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), 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 amount of indebtedness on the Note which relates to Beneficiaries cash grants to Grantor (not to exceed $300,000) plus all interest attributable to such indebtedness according to its 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 reasonably 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 (10) days before expiration;
7. keep any buildings occupied as required by the insurance policy; and
8. if this is not the first lien, pay all lien notes that Grantor is personally liable to pay and abide by all prior lien instruments;
9. immediately report to Beneficiary in writing any tax, judgment, materialmen's or mechanic's lien on the Property;
10. in the event the Beneficiary herein reasonably deems itself reasonably insecure, because the value of the Property is close to equaling the total amount of indebtedness secured or represented by this Deed of Trust, upon notice thereof to Grantor, provide the Beneficiary with (or cause the Beneficiary to be provided with) such additional collateral as may reasonably secure the Beneficiary's position.

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 senior (prior) liens, Beneficiary is subrogated to all of the rights and liens of the holders of any debt so paid;
3. Subject to the provisions of the Covenants and Restrictions recorded in the Real Property Records of Jefferson County, Texas, 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 Note or Deed of Trust in which case

insurance proceeds may be applied to reduce Grantor's obligation under Note 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 principal balance and earned interest on the note immediately due; and
   b. Request Trustee to reconvey property to Beneficiary following a non-judicial foreclosure as required by law by a proper recorded warranty deed.

Trustee's Duties

If requested by Beneficiary to reconvey this property following a non-judicial foreclosure as required by law, Trustee shall:

1. Either personally or by agent give notice to Grantor at least 30 days before reconveyance.

Beneficiary will pay Trustee's expenses and fees.

General Provisions

1. If any of the property is reconveyed under this deed of trust following a non-judicial foreclosure as required by law, 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 of 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 not 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. THIS DEED OF TRUST IS GRANTED IN CONJUNCTION WITH THAT CERTAIN ECONOMIC INCENTIVE CONTRACT AND LOAN AGREEMENT DATED _____, 2006.

Mc-OO, INC.,
a Texas corporation

By:_____
Sandra McGuire, President

STATE OF TEXAS §
§
COUNTY OF JEFFERSON §

This instrument was acknowledged before me on this the ____ day of _____, 2006, by Sandra McGuire, President of Mc-OO, Inc., a Texas corporation, on behalf of such entities.

_____
Notary Public, State of Texas

ATTACHMENT "1"

Being 0.7427 acres of land more or less, out of a part of Lot Number Seven, Lot Number Two A and all of Lot Number Eight (pt of 7, 2A & all of 8), Block Number Two (2), NOMEPORT ADDITION as shown on map recorded in Vol. 7 page 198 Map Records of Jefferson County, Texas, and a part of Lot Number Eleven (pt of 11), Block Number One (1), of PORT ACRES, a Subdivision adjacent to El Vista, in Jefferson County, Texas, as the same appears upon the map or plat thereof, on file and of record in Vol. 4 pages 42-47 Map Records of Jefferson County, Texas; said 0.7427 acres being more fully described by metes and bounds as follows, to-wit;

COMMENCING, at a found 1/2" iron rod for the intersection of the North right of way line of Highway 365 and the West right of way line of Jade Avenue 70.00 foot right of way, said 1/2" iron rod also being on the South line of Lot 8, Block 1 of the said Nomeport Addition;

THENCE, (Deed = East) along the North right of way line of the said Highway 365, and the South line of the said Nomeport Addition, a distance of 756.44 feet to a set 5/8" iron rod for the POINT O FBEGINNING and being the Southwest corner of said 0.7427 acre tract;

THENCE, North a distance of 210.00 feet crossing the North line of Lot 7, Block 2 Nomeport Addition and continuing a total distance of 210.48 feet to a set 5/8" iron rod for the Northwest corner of the said 0.7427 acre tract;

THENCE, East a distance of 153.71 feet to a set 5/8" iron rod for the Northeast corner of the said 0.7427 acre tract;

THENCE, South a distance of 0.48' crossing the North line of Lot 2A, Block 2, of the said Nomeport Addition and continuing a total distance of 210.48 feet to a set 5/8" iron rod on the South line of Lot 2A, Block 2, Nomeport Addition, the North right of way line of Highway 365, and being the Southeast corner of the said 0.7427 acre tract;

THENCE, (Ref Line = West) along the North right of way line of the said Highway 365 and the South line of the said Nomeport Addition a distance of 29.31 feet to the Southwest corner of said Lot 2A, the Southeast corner of said Lot 8, a distance of 129.31' to the Southwest corner of said Lot 8, the Southeast corner of said Lot 7 for a total distance of 153.71 feet to the POINT OF BEGINNING and containing 0.7427 acres of land more or less.

EXHIBIT "D"

CERTIFICATION REGARDING LOBBYING
For Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his knowledge and belief, that:

1. No funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of the City or of the PAEDC in connection with the awarding of any contract, the making of any grant, the making of any loan, the entering into of any cooperative agreement, or modification of any contract, grant, loan, or cooperative agreement.

2 The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements), and that all shall certify and disclose accordingly.

This certification is material representation of fact which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction.

Signed:

MC-OO, INC. D/B/A MC-O CONSTRUCTION
a Texas corporation

By:_____
Eric J. McGuire, Vice President

By:_____
Wyman Ogden, Vice President

EXHIBIT "E"

COMPLIANCE STATEMENT

Mc-OO, Inc. d/b/a Mc-O Construction hereby certifies that it has fully complied with Local Government Code §176.006, effective June 18, 2005, which mandates the disclosure requirements for persons who contract or seek to contract with a local governmental entity.

MC-OO, INC. D/B/A MC-O CONSTRUCTION
a Texas corporation

By: _____
Eric J. McGuire, Vice President

By: _____
Wyman Ogden, Vice President

EXHIBIT "F"

COMMERCIAL PROMISSORY NOTE

Port Arthur, Texas

Effective Date: the _____ day of _____, 200___

Principal Amount: EIGHTY EIGHT THOUSAND SEVEN HUNDRED NINETY FIVE AND 18/100 DOLLARS ($88,795.18).

Term of the Loan: Ten (10) years from effective date.

Payment Schedule: Monthly until principal is paid fully, starting on the 1st day of January, 2007 (three months after execution).

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 prime plus one per annum as detailed herein.

This note is due and payable as follows: One hundred twenty (120) equal monthly installments of principal and interest paid on the first of each month.

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.

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 therefore, 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 therefor prior to enforcing payment of this Note by any other liable party.

SIGNED AND AGREED TO on the _____ day of _____, 2006.

MC-OO, INC. D/B/A MC-O CONSTRUCTION
a Texas corporation

By:_____
Eric J. McGuire, Vice President

By:_____
Wyman Ogden, Vice President

EXHIBIT "F"

ACKNOWLEGEMENT

THE STATE OF TEXAS *

COUNTY OF JEFFERSON *

BEFORE ME, THE UNDERSIGNED Notary Public, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same as the act and deed of _____, a Texas _____, for the purposes and consideration therein expressed, and the Capacities therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the ____ day of _____, 200__.

_____
Notary Public, State of Texas

THE STATE OF TEXAS *

COUNTY OF JEFFERSON *

BEFORE ME, THE UNDERSIGNED Notary Public, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same as the act and deed of _____, a Texas _____, for the purposes and consideration therein expressed, and the Capacities therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the ____ day of _____, 200__.

_____
Notary Public, State of Texas

EXHIBIT "F"

MAKERS' ADDRESS FOR RECEIPT OF NOTICE:

Mc-OO, Inc. d/b/a Mc-O Construction
P.O. Box 13072
Beaumont, Texas 77726-3072
ATTN: Eric J. McGuire