

RESOLUTION NO. 06-424

**A RESOLUTION APPROVING AN ECONOMIC
INCENTIVE AGREEMENT 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 agrees to pay eighty percent (80%) of the costs to extend Anchor Drive; and

WHEREAS, in return for \$285,000 grant, Redwine Family Partnership will extend Anchor Drive a sufficient length to serve the needs of two planned hotels and adjacent commercial properties; and

WHEREAS, this sale agreement was previously approved by the PAEDC Board of Directors and the City Council; and

WHEREAS, because of a change in collateral, the agreement is being presented again for approval; and

WHEREAS, this agreement was approved by the PAEDC Board of Directors at its October 4, 2006 regular meeting.

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 Partnership, attached hereto as Exhibit "A".

Section 3. That Exhibit "A" to the Agreement will be provided by Germer Gertz as to the facts used and approved by the EDC prior to the agreement being signed.

Section 4. That instead of a letter of credit being provided by Redwine, the EDC shall only reimburse or pay Redwine up to \$285,000 after the road has been completed to City specifications, a one (1) year warranty is given, and one of the hotel companies has purchased land as to commence construction.

Section 5. That said changes shall also be subject to the approval of the EDC Board of Directors.

Section 6. That the contracts attached hereto shall be changed to reflect such modifications with the changes to be approved by Germer Gertz and by the City Attorney.

Section 7. That a copy of the caption be spread upon the minutes of the City Council.

READ, ADOPTED AND APPROVED on this 10th day of Oct., 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;
City Council Barker, Henderson, Flood,
Beard and Williamson


NOES: None.


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:



FLOYD BATISTE, CEO

EXHIBIT "A"

TO THE RESOLUTION

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

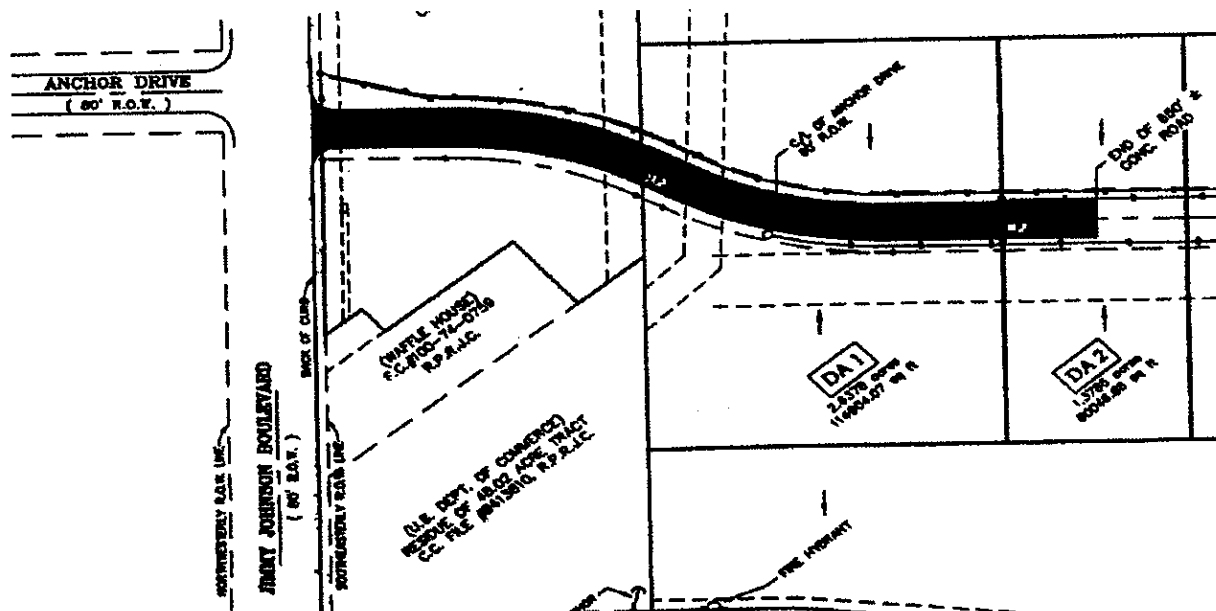
Executive Summary

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 letter of credit from Redwine's financial institution, as approved by PAEDC, in the amount of \$285,000 to be held until this Agreement expires or September 30, 2007, which ever is first.

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



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

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**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 39th 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 delivers to PAEDC a letter of credit from Redwine's financial institution, as approved by PAEDC, in the amount \$285,000 to be held until this Agreement expires or September 30, 2007, whichever is first.

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 assurances¹ 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.

¹ 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> ² 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> ³ 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.

² 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.

³ February 5th 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 the Letter of Credit in the form attached as Exhibit "D" to be delivered upon execution of this Agreement, from Redwine's financial institution, as approved by PAEDC, in the amount of \$285,000 that will be held until either this Agreement expires or September 30, 2007, which ever is first.

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) convert the grant to a loan evidenced by 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 drawing upon the Letter of Credit as referenced 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" Letter of Credit; 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 "A"

**WILL BE PRESENTED
AT OR BEFORE
THE COUNCIL MEETING**

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

Mobilization/Bonds	7,000
Street (<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>)	137,906
Drainage (<i>considers curb inlets, manhole, concrete Rip-rap at outfall ditch, storm sewer and trench protection</i>)	75,740
Water (<i>considers 8" water line, fittings and fire hydrants</i>)	24,700
Sewer (<i>considers 8" sanitary sewer, service lines, manholes and trench protection</i>)	48,600
Pollution Prevention (<i>considers silt fence, inlet protection And trench entrance/exit treatment</i>)	6,200
Total Construction Cost	\$300,146

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 hereof, 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 hereof 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 _____, 2006.

Notary Public, State of Texas

MAKERS' ADDRESS FOR RECEIPT OF NOTICE:

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

EXHIBIT "D"

LETTER OF CREDIT

STATE OF TEXAS

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§

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