

RESOLUTION NO. 07-074

**A RESOLUTION APPROVING THE PAYMENT BY
THE CITY OF PORT ARTHUR SECTION 4A
ECONOMIC DEVELOPMENT CORPORATION
FOR LEGAL SERVICES RENDERED BY CRAIN,
CATON & JAMES AND AS IT PERTAINS TO THE
KCS SITE ON WEST 7TH STREET AND ADJACENT
PROPERTY**

WHEREAS, the City Council approved Ordinance No. 04-61 and Resolution No. 05-163 pertaining to the approval and payment process of the City Port Arthur Section 4A Economic Development Corporation; and

WHEREAS, it was deemed in the best interests of the citizens for the City Port Arthur Section 4A Economic Development Corporation to approve a legal services agreement with the Law Firm of Crain, Caton & James as it pertained to the KCS Site on West 7th Street as denoted in attached hereto as Exhibit "A"; and

WHEREAS, the individual invoices denoted in Exhibit "B" were under \$5,000.00 and approved and paid by the Board of Directors of the City of Port Arthur Section 4A Economic Development Corporation without Council approval; and

WHEREAS, the City of Port Arthur Section 4A Economic Development Corporation has received and paid invoices totaling \$10,165.73 as denoted in Exhibit "B"; and

WHEREAS, the City of Port Arthur Section 4A Economic Development Corporation has also approved the invoice of Crain, Caton & James for \$776.77 as denoted in Exhibit "C"; and

WHEREAS, the EDC Board has reviewed these invoices and has authorized an additional \$5,000 to be made available for legal services to Crain, Caton & James as it pertains to the KCS Site on West 7th Street and adjacent land.

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

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

Section 2. That the City Council approves the legal services agreement attached hereto as Exhibit "A", as well as the payment of the invoices as noted in Exhibit "B".

Section 3. That the invoice denoted in Exhibit "C", is hereby approved.

Section 4. That the authorization level for an additional \$5,000 for legal services for Crain, Caton & James is herein approved.

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

READ, ADOPTED AND APPROVED ON THE 14th day of February
A.D. 2007, at a Regular Meeting of the City Council of the City of Port Arthur, Texas by
the following vote:

AYES:

Mayor Pro Tem Prince;
City Council: Lewis, Barker, Henderson,
Flood, Beard, Williamson
and Sinegal.

NOES:

None

Alvin Prince

MAYOR PRO TEM PRINCE

Attest:

Evangeline Green
EVANGELINE GREEN, CITY SECRETARY

APPROVED:

Floyd Batiste
FLOYD BATISTE, EDC CEO

APPROVED AS TO FORM:

Mark Sokolow
MARK T. SOKOLOW, CITY ATTORNEY

EXHIBIT “A”

**CRAIN
CATON
&
JAMES**

TELEPHONE 713.688.2323
FACSIMILE 713.688.1921
DIRECT LINE 713.753.0611

ROBERT E. "ROBIN" MORSE, III
SHAREHOLDER

A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELORS
SINCE 1912

17TH FLOOR
FIVE HOUSTON CENTER
1401 MCKINNEY STREET
HOUSTON, TEXAS 77010-4035

EMAIL: RMORSE@CRAIN.CATON.COM

March 10, 2006

Via Facsimile (409) 962-4445
& Regular U.S. Mail

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

RE: Port Iron Redevelopment Project

Dear Mr. Batiste:

The purpose of this letter is to memorialize the arrangements for Crain, Caton & James, P.C. to represent the City of Port Arthur Section 4A Economic Development Corporation ("EDC") in connection with environmental issues surrounding the proposed acquisition and redevelopment of the Port Iron Site there in Port Arthur. As you know, we have heretofore provided advice to the City and the EDC concerning this project and we would propose to continue to advise you, in consultation with your environmental engineering consultants, as to applicable environmental regulatory requirements, potential liabilities associated with land ownership and redevelopment, and various options on how to minimize potential environmental remediation costs and associated liabilities.

Crain, Caton & James, P.C. will bill this matter in accordance with our standard hourly rates, as those rates may be adjusted from time to time in accordance with normal Firm billing procedures, but discounted by 25% in accordance with the reduced fees that we normally charge the City of Port Arthur. My regular rate for 2006 is \$350 per hour, which would be reduced to \$262.50 per hour in accordance with the 25% discount. The rates of our associate attorneys vary from \$175 per hour to \$235 per hour, depending on their level of experience, and the rates of our paralegals vary from \$65 per hour to \$110 per hour, again depending on their level of experience. All of these rates will be discounted by the aforementioned 25%. We do not mark up our expenses, but rather pass them through as they are incurred. We normally bill on a monthly basis, and our invoices are due upon receipt. Finally, it is our understanding that the initial authorized amount for our bills is proposed to be \$10,000, an amount we will not exceed without further authorization.

March 10, 2006

Page 2

The undersigned will act as the primary attorney in charge of this matter, with possible assistance from others within the Firm where they can complete certain tasks under my direct supervision at a lower cost to you. We will closely coordinate with you all work to be performed.

Crain, Caton & James, P.C. reserves the right to terminate its legal representation of the EDC, without waiver of rights to collect any amount owed prior to termination, upon failure to pay agreed upon fees and expenses when due, or for other reasons as authorized by Rule 1.15(b) of the Texas Disciplinary Rules of Professional Conduct (attached). Any controversy or claim arising out of or relating to our legal services shall be settled by mediation or, if mediation fails or if either party objects to mediation, in accordance with the Rules of the American Arbitration Association, and judgment on the award may be entered in any court having jurisdiction thereof. You understand that, by agreeing to such alternate dispute resolution, EDC will be *waiving its right to trial by jury* in any such dispute.

If you understand and agree to the foregoing terms of our engagement, please sign this engagement letter as provided below and return an executed copy to us. We look forward to working with you on this project.

Sincerely,

CRAIN, CATON & JAMES, P.C.

By: 
Robert E. "Robin" Morse, III

REM/nm
Enclosure

AGREED:

City of Port Arthur Section 4A
Economic Development Corporation

By: _____
Floyd Batiste

cc: Mark Sokolow
City Attorney
City of Port Arthur
P.O. Box 1089
Port Arthur, Texas 77641-1089

Via Facsimile (409) 983-8124

March 10, 2006

Page 3

cc: Steve Fitzgibbons
City Manager
City of Port Arthur
P.O. Box 1089
Port Arthur, Texas 77541-1089

Via Facsimile (409) 982-6743

EXHIBIT “B”

VENDOR ACTIVITY LISTING

VENDOR NUMBER 1326
VENDOR NAME BEGINS WITH : CRAIN, CATON & JAMES
VENDOR NAME CONTAINS . . .

TRANSACTION_SELECTION

CHECK YEAR 0000
FISCAL YEAR.. FROM: 2005 TO: 2007 PERIOD.. FROM: 00 TO: 99
DATE RANGE... FROM: /00/0000 TO: 99/99/9999 TYPES... EN X AP X
FROM: 120-1429-582.21-00 TO: 120-1429-582.99-99
TYPE: R (O-ONLY, R-RANGE, S-SELECTIVE)
REPLACE PO NUMBER WITH VOUCHER NUMBER? (Y/N).. N
PRINT VENDORS WITHOUT TRANSACTIONS? (Y/N/O).. Y
INCLUDE VENDOR ADDRESS? (Y/N).. N
REPORT IN SUMMARY FORM? (Y/N).. N

VENDOR ACTIVITY LISTING

VENDOR # / NAME / STATUS	BATCH	P.O. #	ACCTG PER. CD	DATE	NUMBER	INVOICE NUMBER	DESCRIPTION	ACCOUNT NUMBER	ENCUMBRANCE AMOUNT	TRANSACTION AMOUNT
1326 CRAIN, CATON & JAMES, P.C. A										
01222 108886	4/07	EN	1/05/07	108886			PO ENTRY	120-1429-582.54-00	692.74	
00954 108428	3/07	EN	12/14/06	108428			PO ENTRY	120-1429-582.54-00	3181.31	
01081 108428	2/07	AP	11/15/06	239235	1068994		SERVICES PROVIDED TO COPA	120-1429-582.54-00	3181.31	3181.31
00471 107589	2/07	EN	11/10/06	107589			PO ENTRY	120-1429-582.54-00	839.26	
00689 107589	1/07	AP	10/17/06	238471	1067944		SERVICES PROVIDED TO COPA	120-1429-582.54-00	839.26	839.26
01333 108886	3/07	AP	9/26/06	239960	1067145		SERVICES PROVIDED TO COPA	120-1429-582.54-00	692.74	692.74
03172 103177	8/06	EN	5/19/06	103177			PO ENTRY	120-1429-582.54-00	1224.16	
03177 103177	7/06	AP	4/28/06	232880	1063090		SERVICES PROVIDED TO COPA	120-1429-582.54-00	1224.16	1224.16
02610 102209	7/06	EN	4/13/06	102209			PO ENTRY	120-1429-582.54-00	2280.39	
02546 102078	7/06	EN	4/10/06	102078			PO ENTRY	120-1429-582.54-00	463.19	
02658 102078	5/06	AP	3/22/06	231597	1062319		SERVICES PROVIDED TO COPA	120-1429-582.54-00	463.19	463.19
01919 100757	5/06	EN	2/21/06	100757			PO ENTRY	120-1429-582.54-00	1484.68	
02612 102209	6/06	AP	2/20/06	231597	1061291		SERVICES PROVIDED TO COPA	120-1429-582.54-00	2280.39	2280.39
02093 100757	5/06	AP	2/01/06	230400	1060790		SERVICES PROVIDED TO COPA	120-1429-582.54-00	1484.68	1484.68

VENDOR TOTAL - .00 10,165.73

EXHIBIT “C”

CRAIN
CATON
— & —
JAMES

TELEPHONE: 713.658.2323
FACSIMILE: 713.658.1921
DIRECT LINE: 713.752.8611

ROBERT E. "ROBIN" MORSE, III
SHAREHOLDER

A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELORS
SINCE 1912

17TH FLOOR
FIVE HOUSTON CENTER
1401 MCKINNEY STREET
HOUSTON, TEXAS 77010-4035

EMAIL: RMORSE@CRAINCATON.COM

January 26, 2007

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

RECEIVED JAN 29 2007

RE: Port Iron Site


Dear Mr. Batiste:

Enclosed is our invoice for fees and expenses through December 2006. The invoice includes 1.90 attorney hours by the undersigned billed at the rate of \$262.50 per hour. Pursuant to our legal services agreement, all fees have been reduced by 25 percent from our normal rates. The long distance phone expense includes multi-party conference calls. If the invoice appears to be in order, we would appreciate your placing it in line for payment.

Sincerely,


CRAIN, CATON & JAMES, P.C.

By:


Robin Morse

REM/nm
Enclosure

cc: Mark Sokolow, Esq.
City Attorney
City of Port Arthur
PO Box 1089
Port Arthur, Texas 77641-1089


1-29-07

CRAIN, CATON & JAMES
A PROFESSIONAL CORPORATION
17TH FLOOR . FIVE HOUSTON CENTER
1401 MCKINNEY STREET
HOUSTON, TEXAS 77010-4035
713 . 658 . 2323
FAX 713 . 658 . 1921

TAX ID #76-0323066

Page 1
 Invoice # 1070514
 Date 01-18-07
 14318-000003 - REM

MR. FLOYD BATISTE
 CHIEF EXECUTIVE OFFICER
 CITY OF PORT ARTHUR SECTION 4A
 ECONOMIC DEVELOPMENT CORPORATION
 4173 39TH STREET
 PORT ARTHUR, TX 77642

Re: Port Iron Site

For Services and Expenses Rendered Through December 31, 2006

Date	Atty	Description of Services	Hours
11-07-06	REM	Reviewed submitted Malcolm Pirnie report.	0.30
11-08-06	REM	Conferred with TCEQ Brownfields manager; attention to Sokolow correspondence to KCS; call to Sokolow.	0.70
11-22-06	REM	Call from Terracon (Neely).	0.20
12-05-06	REM	Call from KCS attorney (D. Tripp).	0.30
12-06-06	REM	Called Sokolow; attention to KCS attorney letter.	0.40

Total Fees \$ 498.75

	Hours	Rate	Amount
Robert E Morse III	1.90	262.50	498.75

Disbursement Description	Amount
Duplicating Expense	2.75

CRAIN, CATON & JAMES
A PROFESSIONAL CORPORATION
17TH FLOOR . FIVE HOUSTON CENTER
1401 MCKINNEY STREET
HOUSTON, TEXAS 77010-4035
713 . 658 . 2323
FAX 713 . 658 . 1921

TAX ID #76-0323066

Page 2
Invoice # 1070514
Date 01-18-07
14318-000003 REM

Disbursement Description	Amount
Long Distance Telephone Calls	273.86
Postage	1.41

Total Disbursements this Matter	278.02

Total Due	776.77
	=====

CRAIN, CATON & JAMES
A PROFESSIONAL CORPORATION
17TH FLOOR . FIVE HOUSTON CENTER
1401 MCKINNEY STREET
HOUSTON, TEXAS 77010-4035
713 . 658 . 2323
FAX 713 . 658 . 1921

TAX ID #76-0323066

Page 3
Invoice # 1070514
Date 01-18-07
14318-000003 REM

TOTAL FEES

498.75

TOTAL DISBURSEMENTS

278.02

Total Due

776.77

*1201429 582 5400
Prof. Services*

*Flora Bittencourt
1-29-07*