

RESOLUTION NO. 07-357

A RESOLUTION AUTHORIZING THE CITY OF PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION'S CEO TO EXECUTE CHANGE ORDER NO. 01 TO THE CONTRACT BETWEEN THE CITY OF PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION AND EXCAVATORS & CONSTRUCTORS, LTD FOR CONSTRUCTION OF THE JADE AVENUE EXTENSION, INCREASING THE CONTRACT AMOUNT BY \$835.49 TO A NEW TOTAL OF \$246,295.34 AND TO EXECUTE A CERTIFICATE OF ACCEPTANCE

WHEREAS, on April 5, 2007, the Port Arthur Section 4A Economic Development Corporation entered into a contract with Excavators & Constructors, Ltd, for construction of the Jade Avenue Extension inside the Business Park in the amount of \$245,459.85; and

WHEREAS, the Project Engineer has recommended the approval of Change Order No. 01 in the amount of \$835.49 and for an extension of twenty-seven (27) days attached hereto as Exhibit "A", which increases the scope of work Excavators & Constructors, Ltd contracted for by adding a sanitary sewer manhole and sewer line at Triangle Waste Solutions and for steel pipe increase from delayed Notice To Proceed; and

WHEREAS, the check in the amount of \$10,688.17 from Triangle Waste Solutions attached hereto as Exhibit "B" for the construction of the sanitary sewer manhole and sewer line at Triangle Waste Solutions; and

WHEREAS, approval of Change Order No. 01 in the amount of \$835.49 and the extension of 27 days, increasing the contract to a new amount of \$246,295.34 and to a new term of 87 days, is herein deemed an appropriate action; and

WHEREAS, Excavators & Constructors, Ltd, has completed the Jade Avenue Extension Project and desires that the Port Arthur Section 4A Economic Development Corporation accept the Jade Avenue Extension to the Spur 93 Business Park; and

WHEREAS, the Port Arthur Section 4A Economic Development Corporation has received an Engineer's Certificate of Completion dated July 20, 2007 (attached hereto as Exhibit "C"), Contractor's Certificate of Guarantee (one year warranty) dated July 19, 2007 (attached hereto as Exhibit "D"), a Contractor's Certificate and Release (attached hereto as Exhibit "E") and Final Pay Estimate No. 4 (attached hereto as Exhibit "F") certifying that the project has been completed; and

WHEREAS, representatives from the Public Works Department and Utility Operation's Department have inspected the completed roadway and drainage; and

WHEREAS, the EDC Board of Directors have approved the final payment and change order.

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

THAT, the facts and opinions in the preamble are true and correct.

THAT, the final payment and Change Order No. 01 is herein approved and the City of Port Arthur Section 4A Economic Development Corporation's CEO is authorized to execute Change Order No. 01.

THAT, the City of Port Arthur Section 4A Economic Development Corporation's CEO is hereby authorized to execute a Certificate of Acceptance as denoted in Exhibit "G" for ownership and maintenance of the street and drainage structures in the Jade Avenue Extension Project, and is authorized to issue final payment.

THAT, a copy of the caption of this Resolution be spread upon the Minute of the City Council.

READ, ADOPTED AND APPROVED ON THE 31st day of July

A.D. 2007, at a Regular Meeting of the City Council of the City of Port Arthur, Texas by the following vote:

AYES:

Mayor

Prince;

City Council:

Chatman, Jones, Henderson
Flood and Williamson.

NOES:

None.

Deloris Prince

DELORIS "BOBBIE" PRINCE, MAYOR

Attest:

Evangelini Green

EVANGELINE GREEN, CITY SECRETARY

APPROVED AS TO FORM:

Val Sokolow

MARK T. SOKOLOW, CITY ATTORNEY

(ON Behalf of)

APPROVED AS TO THE AVAILABILITY OF FUNDS:

REBECCA UNDERHILL
DIRECTOR OF FINANCE

EXHIBIT “A”

Excavators & Constructors, Ltd.
8869 S. Hwy 69
Port Arthur, TX 77640

Phone: (409) 721-6030
Fax: (409) 721-6037

May 14, 2007

Arceneaux & Gates
3501 Turtle Creek Drive, Suite 102
Port Arthur, TX 77642

Attn: Mr. Joe Wilson, P.E.

Ref: Jade Avenue Extension

Dear Mr. Wilson,

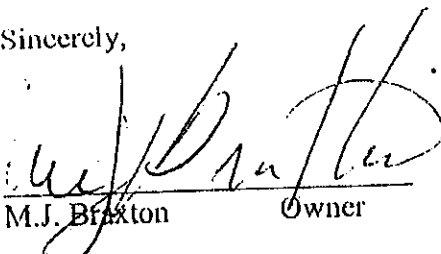
As previously discussed, due to delays from bid date to notice to proceed, we have been notified that some material costs have increased.

Original quotations for paving baskets, and re-inforcement, were effective for 60 days from bid date, February 6, 2007, and subject to change thereafter.

Enclosed are copies of quotes that reflect an increase of \$951.73 in cost. An additional mark-up of 15%, as allowed, generates a total of \$1,094.49.

Please prepare, and approve, a change order to cover this addition.

Sincerely,



M.J. Braxton Owner



CHANGE ORDER NO. 1
July 19, 2007
Job No. EDC-030, Contract No. 1

CHANGE TO CONTRACT PRICE:

ORIGINAL CONTRACT PRICE: \$245,459.85

CURRENT CONTRACT PRICE adjusted by previous CHANGE ORDER(S): \$245,459.85

The CONTRACT PRICE due to this CHANGE ORDER will be [increased]

[decreased]

by: \$835.49 Dollars

The new CONTRACT PRICE, including this CHANGE ORDER, will be \$246,295.34

CHANGE TO CONTRACT TIME:

ORIGINAL CONTRACT TIME: 60 Calendar Days

CURRENT CONTRACT TIME adjusted by previous CHANGE ORDER: 60 Calendar Days

CURRENT DATE OF COMPLETION: June 28, 2007

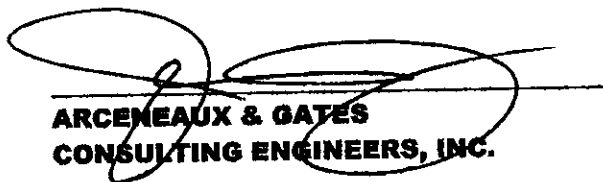
CONTRACT TIME due to this CHANGE ORDER will be *increased* by 27 Days

The New DATE OF COMPLETION: July 25, 2007

No other Terms and Conditions of the Contract are changed as a result of this Change Order. Contractor's acceptance of Change Order relieves OWNER of any liability for additional costs incurred by Contractor in his performance of the work covered by the Change Order.

RECOMMENDED BY ENGINEER:

ACCEPTED BY:


ARCENEUX & GATES
CONSULTING ENGINEERS, INC.


[CONTRACTOR, OFFICER OR OWNER]
Excavators & Constructors, Ltd.

ACCEPTED BY:

PORT ARTHUR ECONOMIC DEVELOPMENT CORP.



CHANGE ORDER No. 1

DATE: July 20, 2007 JOB NO. EDC-030, Contract No. 1

AGREEMENT DATE: April 5, 2007

NAME OF PROJECT: JADE AVENUE EXTENSION

OWNER: PORT ARTHUR ECONOMIC DEVELOPMENT CORP.

CONTRACTOR: EXCAVATORS & CONSTRUCTORS, LTD.

The following changes are hereby made to the CONTRACT DOCUMENTS:

1. Adjust the following Base Bid Items to reflect actual quantities used.

a. Bid Item No. 3, decrease quantity by 0.3 STA.	[-]	\$ <u>(728.40)</u>
b. Bid Item No. 4, decrease quantity by 183 S.Y.	[-]	\$ <u>(8,170.95)</u>
c. Bid Item No. 5 decrease quantity by 136 S.Y.	[-]	\$ <u>(136.00)</u>
d. Bid Item No. 6 decrease quantity by 136 S.Y..	[-]	\$ <u>(544.00)</u>
e. Bid Item No. 7 decrease quantity by 5.45 TON	[-]	\$ <u>(784.80)</u>
f. Bid Item No. 8 increase quantity by 60 L.F.	[+]	\$ <u>231.00</u>
g. Bid Item No. 9 decrease quantity by 28 L.F.	[-]	\$ <u>(107.80)</u>
h. Bid Item No. 10 decrease quantity by 23 S.Y.	[-]	\$ <u>(747.50)</u>
i. Bid Item No. 13 decrease quantity by 3 L.F.	[-]	\$ <u>(206.85)</u>
j. Bid Item No. 18 decrease quantity by 1 L.S.	[-]	\$ <u>(450.00)</u>

2. Adjust the following Supplemental Items to reflect actual quantities.

a. Bid Item No. 19 decrease quantity by 500 LB.	[-]	\$ <u>(375.00)</u>
b. Bid Item No. 20 decrease quantity by 2.5 C.Y.	[-]	\$ <u>(375.00)</u>
c. Bid Item No. 21 increase quantity by 64.3 C.Y.	[+]	\$ <u>2,636.30</u>

3. Add the following Items.

a. Sanitary sewer manhole and sewer line at Triangle Waste 1 EA.	[+]	\$ <u>9,500.00</u>
b. Steel price increase from delayed Notice To Proceed 1 L.S.	[+]	\$ <u>1,094.49</u>

TOTAL \$ 835.49

Manhole Estimate Detail

Provide sanitary sewer Mahole to Triangelwaste 1000 South Bus. Park

ITEM DESCRIPTION	Unit	Quantity	Unit Price	Total
SDR-26 Pipe				
4"	LF		0.76	0.00
6"	LF		1.43	0.00
8"	LF		2.72	0.00
10"	LF		5.00	0.00
12"	LF		5.64	0.00
18"	LF		11.14	0.00
6" C900 FM	LF		1.99	0.00
Manhole - 4'	EA		668.80	0.00
Manhole - 6'	EA		840.70	0.00
Manhole - 8'	EA		876.60	0.00
Manhole - 10'	EA		1025.50	0.00
Manhole - 12'	EA	1	1013.00	1,013.00
Ring & cover	EA	1	175.71	175.71
DD7 ditch bore	LS			
Hwy bore	LS			
Lift Station	LS			
Average depth	FT			
Backfill - pipe zone	LF		4.00	0.00
Backfill - street	LF		-7.50	0.00
Backfill - open area	LF		-1.11	0.00
Asphalt Pavement	SY		25.00	0.00
Concrete Pavement	SY		50.00	0.00
4" Sewer Tap	EA		300.00	0.00
Material Total				\$1,188.71
Rental equipment				
Labor & Eq. (Excavator)	Days	1	9500.00	9,500.00
Subtotal				\$10,688.71
Contingencies	10%			0.00
Engineering	12%		10,688.71	0.00
Grand Total				\$10,688.71

RECEIVED JUL 23 2007

EXHIBIT “B”

12636

TRIANGLE WASTE SOLUTIONS LP

TEL: (409) 727-0511
P.O. BOX 1714
NEDERLAND, TX 77627-1714

TEXAS STATE BANK
88-001-1149

7/15/2007

PAY TO THE
ORDER OF

Economic Development Center

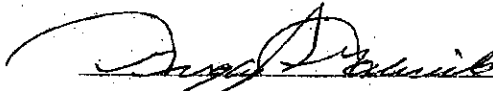
\$ **10,688.71

Ten Thousand Six Hundred Eighty-Eight and 71/100*****

DOLLARS

Economic Development Center

MEMO



⑈012636⑈ ⑆114909013⑆ ⑈160110278⑈

TRIANGLE WASTE SOLUTIONS LP

12636

Economic Development Center
1875 - Triangle Waste Properties

Provide Sanitary Sewer Manhole

7/15/2007

10,688.71

Texas State Bank

10,688.71

EXHIBIT “C”



ARCENEUX & GATES
Consulting Engineers, Inc.

Engineers • Surveyors • Planners

July 20, 2007

Mr. Floyd Batiste, CEO
PORT ARTHUR E.D.C.
P.O. Box 3934
Port Arthur, Texas 77641

RE: RECOMMENDATION for FINAL PAYMENT and RELEASE of RETAINAGE
JADE AVENUE EXTENSION TO SERVE THE CITY OF PORT ARTHUR
Job No. EDC-030

Dear Mr. Batiste:

Attached for your records are the project completion documents for the Jade Avenue Extension Project. These documents include the *Engineer's Certificate of Completion*, *Contractor's Certificate of Guarantee* and the *Contractor's Certificate of Release*.

These documents were executed showing a balance due the Contractor from the Port Arthur Economic Development Corp. This balance is the retainage withheld from the monthly estimates as well as any payments due from completion of work. As stipulated in the contract documents the retainage for this project is five percent (5%) of the work completed and billed. It is our recommendation that the retainage held by the Port Arthur Economic Development Corp. be released to the Contractor and final payment made. This will result in a final payment to EXCAVATORS & CONSTRUCTORS, LTD. from the Port Arthur Economic Development Corp. in the amount of **TWENTY THREE THOUSAND FOUR HUNDRED FIFTY THREE Dollars and Ninety Eight Cents (\$23,453.98)**. Should you have any questions or require further information please do not hesitate to contact me at 409-724-7888.

Sincerely,

Joe M. Wilson, Jr., P.E.
Project Manager

Attachments: Engineer's Certificate of Completion
Contractor's Certificate of Guarantee
Contractor's Certificate and Release
Change Order No. 1
Final Pay Estimate No. 4



CONTRACT FOR CONSTRUCTION OF
JADE AVENUE EXTENSION
TO SERVE
PORT ARTHUR ECONOMIC DEVELOPMENT CORPORATION

OWNER: Port Arthur EDC
4173 39th Street
P.O. Box 3934
Port Arthur, Texas 77641

CONTRACTOR: Excavators & Constructors, Ltd.
8869 S. Hwy 69
Port Arthur, Texas 77640

A&G Job No. EDC-030

Date: July 20, 2007

A&G Construction Phase No. EDC-031

Estimate Period: 7/13/2007 - 7/20/2007

Monthly Estimate No. 4 and FINAL

Contract Date: April 5, 2007

Contract Amount \$ 245,459.85

Notice to Proceed: April 30, 2007

Change Order No. 1 [+] \$ 835.49

Contract Time: 60 Calendar Days

Total Contract Amount
to Date: \$ 246,295.34

Approved Time Extensions: 27 Days

Amount Placed to Date: \$ 246,295.34

Revised Contract Time: 87 Calendar Days

Material on Hand Not
in Place: \$ -

Days to Date: 82 Days

Subtotal: \$ 246,295.34

Original Completion Date: June 28, 2007

Less 0% Retainage: \$ -

Revised Completion Date: July 25, 2007

Balance: \$ 246,295.34

Percent Time Used: 94%

Less Amounts on
Previous Estimates: \$ 222,841.36

Percent Complete: 100%

**TOTAL AMOUNT DUE
THIS ESTIMATE \$ 23,453.98**

Recommended for Approval:

Floyd Probst
7-20-07



7-20-07

JOE M. WILSON, JR., P.E.

[SEAL]

ENGINEER'S CERTIFICATE OF COMPLETION

Project: JADE AVENUE EXTENSION

Date Of Issuance: JULY 20, 2007

Owner(s): PORT ARTHUR ECONOMIC DEVELOPMENT CORP.

Owner's Project No.: EDC-030, Contract No. 1

Engineer: ARCENEUX & GATES CONSULTING ENGINEERS, INC.

Contractor: EXCAVATORS & CONSTRUCTORS, INC.

This Engineer's Certificate of Completion applies to all Work under the Contract Documents or to the following specified parts thereof:

TO PORT ARTHUR ECONOMIC DEVELOPMENT CORP.
[OWNER]

AND TO EXCAVATORS & CONSTRUCTORS, INC.
[CONTRACTOR]

The Work to which this Certificate applies has been inspected by authorized representatives of Owner, Contractor and Engineer, and that Work is hereby declared to be complete in accordance with the Contract Documents on

7-20-07
DATE OF COMPLETION

Executed by Engineer on July 20, 2007

BY: 
ARCENEUX & GATES CONSULTING ENGINEERS, INC.



[SEAL]

EXHIBIT “D”

CONTRACTOR'S CERTIFICATE OF GUARANTEE

FROM: EXCAVATORS & CONSTRUCTORS, LTD

TO: PORT ARTHUR ECONOMIC DEVELOPMENT CORP.

FOR: JADE AVENUE EXTENSION

REFERENCE CONTRACT NO. EDC-030, Contract No. 1 ENTERED INTO THE 5TH DAY OF APRIL, 2007 BETWEEN THE PORT ARTHUR ECONOMIC DEVELOPMENT CORP. AND EXCAVATORS & CONSTRUCTORS, LTD

OF PORT ARTHUR, TEXAS

FOR: JADE AVENUE EXTENSION

KNOW ALL MEN BY THESE PRESENTS:

1. EXCAVATORS & CONSTRUCTORS, LTD. does hereby guarantee all of the work done under the above referenced contract to be free from faulty materials in every particular, and free from improper workmanship, and against injury from proper and usual wear; and agrees to replace or re-execute without cost to the Owner and Operator such work as may be found to be improper or imperfect, and to make good all damage caused to other work or materials, due to such required replacement or re-execution.
2. This guarantee shall cover a period of one (1) year from the date of acceptance of all work under this Contract, as evidenced by the Engineer's Certificate of Completion.
3. This Certificate is given in connection of the final payment under the contract between the Owner and EXCAVATORS & CONSTRUCTORS, LTD and with the knowledge that it will be relied upon in making such payment and that such payment would not be made except upon the truth of the matter contained in this affidavit.

IN WITNESS WHEREOF, the undersigned has signed and sealed this instrument this 19 day
of July, 2007.

[CORPORATE SEAL]

EXCAVATORS & CONSTRUCTORS, LTD

(Contractor)

BY:

[Signature]

M.F. Braxton, being first duly sworn on oath, deposes and says, first that
he is the President

second, that he has read the foregoing certificate by him subscribed as President

of EXCAVATORS & CONSTRUCTORS, LTD

Affiant further states that the matters and things stated herein are true.

M F BRAXTON

(Affiant)

Subscribed and sworn to before me this 19th day of July,
2007.

My commission expires 4-29-11

(Date)



Patricia K Trahan

(Notary Public)

EXHIBIT “E”

CONTRACTOR'S CERTIFICATE AND RELEASE

FROM: EXCAVATORS & CONSTRUCTORS, LTD.
(Name of Contractor)

TO: PORT ECONOMIC DEVELOPMENT CORPORATION
(Owner)

REFERENCE CONTRACT NO. EDC-030, Contract No. 1 ENTERED INTO THE 5th

DAY OF APRIL, 2007, BETWEEN THE PORT ECONOMIC DEVELOPMENT CORPORATION

AND EXCAVATORS & CONSTRUCTORS, LTD.
(Name of Contractor)

OF PORT ARTHUR, TEXAS
(City) (State)

FOR THE JADE AVENUE EXTENSION
(Name of Project)

KNOW ALL MEN BY THESE PRESENTS:

1. The undersigned hereby certifies that there is due from, and payable by, the Owner to the Contractor under the contract and duly approved Change Orders and modifications the balance of TWENTY-THREE THOUSAND FOUR HUNDRED FIFTY THREE and 98/100 (\$23,453.98)
2. The undersigned further certifies that in addition to the amount set forth in Paragraph 1, there are outstanding and unsettled the following items which he claims are just and due and owing by the Owner to the Contractor:
 - (a) None
 - (b) None
 - (c) None
 - (d) None

(Itemize claims and amounts due) (If none, so state)
3. The undersigned further certifies that all work required under this contract, including work required under Change Order(s) numbered 1, has been performed in accordance with the terms thereof, and that there are no unpaid claims for materials, supplies, or equipment and no claims of laborers or mechanics for unpaid wages arising out of the performance of this contract, and that the wage rates paid by the Contractor were in conformity with the contract provisions relating to said wage rates.

hereof, he will release the Owner and Operator from any and all claims of any nature whatsoever arising out of said contract or modification thereof, and will execute such further releases or assurances as the Owner and Operator may request.

IN WITNESS WHEREOF, the undersigned has signed and sealed this instrument this 19 day of July, 2007.

[SEAL]

EXCAVATORS & CONSTRUCTORS, LTD.
(Contractor)

BY: [Signature]
(Signature and Title of Officer)

M.F. Braxton, being first duly sworn on oath, deposes and says, first, that
(Affiant)
he is the President of EXCAVATORS & CONSTRUCTORS, LTD
(Title) (Name of Company)

second, that he has read the foregoing certificate by him subscribed as M.F. Braxton Pres.
(Title)

of EXCAVATORS & CONSTRUCTORS, LTD
(Name of Company)

Affiant further states that the matters and things stated herein are true.

[Signature]
(Affiant)

Subscribed and sworn to before me this 19th day of July,
2007.

My commission expires 4-29-11.
(Date)



Patricia K. Trahan
(Notary Public)

EXHIBIT “F”



MONTHLY ESTIMATE NO. 4 and FINAL

JADE AVENUE EXTENSION

A&G Job No. EDC-030

July 20, 2007

Item	Description of Bid Item	Approx. QTY	Unit	Quantity This Estimate	Total Quantity To Date	Unit Price	Amount This Estimate	Total Amount To Date
Base Bid Items								
1.	Mobilization	1	L.S.		1	\$ 9,000.00	\$ -	\$ 9,000.00
2.	Clearing and Grubbing	1	L.S.		1	\$ 12,200.00	\$ -	\$ 12,200.00
3.	Roadway Excavation ²	5	STA.		5	\$ 2,428.00	\$ -	\$ 12,140.00
4.	8" Pavement ²	2617	SY.		2617	\$ 44.85	\$ -	\$ 116,849.05
5.	Compacted Subgrade ²	2889	SY.		2889	\$ 1.00	\$ -	\$ 2,889.00
6.	Manipulation of Lime ²	2889	SY.		2889	\$ 4.00	\$ -	\$ 11,556.00
7.	Lime for Stabilization ²	60.55	TON		60.55	\$ 144.00	\$ -	\$ 8,719.20
8.	6" Curb ²	935	L.F.	60	935	\$ 3.85	\$ 231.00	\$ 3,599.75
9.	Laydown Curb ²	0	L.F.		0	\$ 3.85	\$ -	\$ -
10.	4" Sidewalk ²	227	SY.		227	\$ 32.50	\$ -	\$ 7,377.50
11.	Type "C" Manhole	1	EA		1	\$ 1,650.00	\$ -	\$ 1,650.00
12.	Type "C" Inlet	2	EA		2	\$ 2,040.00	\$ -	\$ 4,080.00
13.	24" Reinforced Concrete Pipe ²	589	L.F.		589	\$ 68.95	\$ -	\$ 40,611.55
14.	Demo 24" Reinforced Concrete Pipe	125	L.F.		125	\$ 2.70	\$ -	\$ 337.50
15.	Demo 8" Sanitary Sewer Svc.	1	EA		1	\$ 256.00	\$ -	\$ 256.00
16.	Extend Drainage Swale	24	L.F.		24	\$ 4.75	\$ -	\$ 114.00
17.	Seeding	1	L.S.	1	1	\$ 900.00	\$ 900.00	\$ 900.00
18.	Relocate Electrical Conduit ²	0	L.S.		0	\$ 450.00	\$ -	\$ -
Supplemental Items								
19.	Extra Reinforcing Steel ²	0	LB		0	\$ 0.75	\$ -	\$ -
20.	Extra Class "A" Concrete ^{1,2}	2.5	C.Y.		2.5	\$ 150.00	\$ -	\$ 375.00
21.	Cement Stabilized Sand ^{1,2}	74.3	C.Y.		74.3	\$ 41.00	\$ -	\$ 3,048.30
Change Orders								
22.	Change Order No. 1							
	Sanitary Sewer Manhole	1	EA	1	1	\$ 9,500.00	\$ 9,500.00	\$ 9,500.00
	Steel Price Increase	1	L.S.	1	1	\$ 1,094.49	\$ 1,094.49	\$ 1,094.49
						TOTAL	\$ 11,725.49	\$ 246,295.34

1. This item was increased by Engineer due to relocation of existing water line.
2. Item quantities modified by CHANGE ORDER NO. 1

EXHIBIT “G”

CERTIFICATE OF ACCEPTANCE

FOR

Ownership of Street Improvements and Drainage Structures

IN THE

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

TO: Excavators & Constructors, Ltd

This is to certify that the City of Port Arthur Section 4A Economic Development Corporation, accepts the completion of Jade Avenue Street extension and drainage structures on the basis of the Engineer's Certificate of Completion as executed by Arceneaux & Gates Consulting Engineers, Inc.; and the Contractor's Certificate of Guarantee and Contractor's Certificate and Release, both as executed by M. J. Braxton of Excavators & Constructors, Ltd.

**FLOYD BATISTE
CEO OF EDC**

Attest:

City Secretary