

RESOLUTION NO. 08-053

RESOLUTION APPROVING FIRST AMENDMENT TO
ECONOMIC DEVELOPMENT CONDITIONAL GRANT
AGREEMENT BETWEEN THE CITY OF PORT ARTHUR
SECTION 4A ECONOMIC DEVELOPMENT CORPORATION
AND REDWINE FAMILY PARTNERS, LTD.

WHEREAS, Redwine Family Partners, Ltd. ("Redwine"), a Texas limited partnership, has planned to construct roadway improvements along Anchor Drive (the "Anchor Drive Extension") and to undertake construction of hotels and adjacent commercial property for business enterprises within the City of Port Arthur, Texas; and

WHEREAS, the City of Port Arthur Section 4A Economic Development Corporation ("PAEDC") has agreed to provide a \$285,000 conditional grant to offset a portion of the construction costs for the Anchor Drive Extension. Said conditional grant to be funded in two phases based upon the completion by Redwine of construction of the Anchor Drive Extension, construction of a hotel along the Anchor Drive Extension and satisfaction of certain reporting requirements; and

WHEREAS, Redwine was to be reimbursed one-half of the conditional grant or \$142,500 upon completion of construction of the Anchor Drive Extension, and the balance of the conditional grant or \$142,500 once one hotel was fully constructed and open for business along the Anchor Drive Extension, said construction to be completed as of September 30, 2007; and

WHEREAS, due to delays in the completion of construction of the Anchor Drive Extension, the hotel has not been constructed and open for business as of September 30, 2007; and

WHEREAS, Redwine has requested that its Economic Development Conditional Grant Agreement (the "Original Agreement") be amended to provide that the PAEDC fund the entire conditional grant of \$285,000 after the completion of construction of the Anchor Drive Extension and the opening of the hotel adjacent to Anchor Drive now planned as of September 30, 2008; and

WHEREAS, Redwine has provided the status reports on its project as required by the Original Agreement; and

WHEREAS, PAEDC has authorized an amendment to the Original Agreement to provide that no payment shall be due under the conditional grant until Redwine has not only completed construction of the Anchor Drive Extension, but has one hotel adjacent to Anchor Drive fully constructed and open for business as of September 30, 2008, at which time the PAEDC would reimburse Redwine the total conditional grant of \$285,000; and

WHEREAS, the Original Agreement was approved by the PAEDC on January 8, 2007; and

WHEREAS, this First Amendment to the Original Agreement is being presented to the Port Arthur City Council for approval. (attached as Exhibit "A")

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 the First Amendment to Economic Development Conditional Grant Agreement with Redwine Family Partners, Ltd.

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 12th day of February A.D., 2008, at a Meeting of the City Council of the City of Port Arthur, Texas, by the following

vote: AYES:

Mayor Prince;

Councilmembers Jones, Henderson,
Williamson and Lewis.

NOES:

None.

Delores Prince
Delores "Bobbie" Prince, Mayor

ATTEST:

Terri Hanks

ACTING CITY SECRETARY

APPROVED:

Floyd Batiste

Floyd Batiste, PAEDC CEO

APPROVED AS TO FORM:

Val Ingano
Mark T. Sokolow, City Attorney (ON BEHALF OF)

APPROVED AS TO THE AVAILABILITY OF FUNDS:

Deborah Echeles for
Rebecca Underhill, Director of Finance

**FIRST AMENDMENT
TO ECONOMIC DEVELOPMENT CONDITIONAL GRANT AGREEMENT
BETWEEN
THE CITY OF PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORP.
&
REDWINE FAMILY PARTNERS, LTD.**

The Economic Development Conditional Grant Agreement (the "Original Agreement") between the City of Port Arthur Section 4A Economic Development Corporation ("PAEDC") and Redwine Family Partners, Ltd. ("Redwine") dated January 8, 2007 is hereby amended to revise the promised performance by Redwine, to revise the Performance Milestone Schedule and to revise the reimbursement commitment of PAEDC.

The Original Agreement is modified and amended by this First Amendment to Economic Development Conditional Grant Agreement (the "First Amendment"), and except as specified herein, all terms, conditions, performance obligations, covenants and agreements of Redwine or PAEDC as specified in the Original Agreement are ratified and affirmed, and each party covenants and represents that there are no defaults in the Original Agreement.

1. The Executive Summary is amended and restated to read as follows:

EXECUTIVE SUMMARY

Redwine Family Partners, Ltd. ("Redwine") is a Texas limited partnership whose general partner is Redwine Enterprises-I, LLC, a Texas limited liability company which has undertaken to construct hotels on property owned by Redwine. The planned hotels and adjacent commercial properties for business enterprises is dependent upon the extension of Anchor Drive in Port Arthur, Texas to a distance sufficient to serve the hotels with said extension referred to as the "Anchor Drive Extension".

PAEDC agreed to a \$285,000 conditional grant to offset a portion of the construction costs for the Anchor Drive Extension. The conditional grant was to be funded in two phases based upon Redwine's completion of construction of Anchor Drive Extension and satisfaction of certain reporting requirements, and the PAEDC would reimburse Redwine half of the conditional grant or \$142,500. PAEDC further agreed that if one hotel was fully constructed and open for business as of September 30, 2007, the PAEDC would reimburse Redwine the remaining Fifty (50%) percent of the conditional grant or \$142,500.00 based upon certain limitations in the Original Agreement relative to the construction costs for the Anchor Drive Extension.

If Redwine breached or defaulted on the Original Agreement including the providing of guarantees as provided in the Original Agreement, then all funds granted by PAEDC would automatically convert to a three (3) year loan at an interest rate of ten (10%) percent per annum.

Further, Redwine agreed to provide PAEDC reports quarterly or otherwise as required reporting on the construction status of the Anchor Drive Extension and the two hotels. Due to construction and other related issues, Redwine has been able to complete the construction of the Anchor Drive Extension and has provided invoices confirming that the cost was \$400,819.59. Therefore, the conditional grant from the PAEDC at eighty (80%) percent of the cost to extend Anchor Drive up to but not to exceed \$285,000 has been affirmed.

Redwine has agreed to forego any requests for reimbursement from PAEDC of fifty (50%) percent of the conditional grant or \$142,500.00 until such time as one hotel is fully constructed and open for business at which time Redwine will request that the PAEDC reimburse Redwine the total conditional grant of \$285,000.00.

Redwine has provided all reports required under its Performance Milestone Schedule.

Redwine has agreed to amendments to its promised performance and revisions to the Performance Milestone Schedule and agrees to a revised reimbursement commitment by the PAEDC.

2. The following sections of the Original Agreement are amended and restated to read as follows:

- (a) **Section 6(a)(3):** PAEDC will reimburse Redwine One Hundred (100%) percent of the conditional grant up to 285,000.00 once the following conditions are met:
 - (i) the extension of Anchor Drive is constructed to the specifications of the City of Port Arthur with a one (1) year contractor's warranty provided;
 - (ii) Redwine provides a copy of an executed construction contract for the hotel;
 - (iii) Redwine provides a copy of permits for the construction of the hotel;
 - (iv) the designs necessary to construct the hotel are filed and approved by the City of Port Arthur, Texas; and
 - (v) the hotel along the Anchor Drive Extension is fully constructed and open for business on or before September 30, 2008.
- (b) **Section 6(a)(4):** This section is deleted.
- (c) **Section 6(b)(1)(a):** Once started, the Anchor Drive Extension must be completed and dedicated to the City of Port Arthur by December 31, 2008.
- (d) **Section 6(b)(2):** Redwine guarantees at least one hotel will be built fronting the Anchor Drive Extension by September 30, 2008.
- (e) **Performance Milestone Schedule:** The Performance Milestone Schedule is amended as included below:

REDWINE'S AMENDED PERFORMANCE MILESTONE SCHEDULE

	<u>Deadline</u>	<u>Milestone</u>
(a)	November 30, 2006	Review Anchor Drive extension construction plans and projected costs and schedule with the EDC Staff
(b)	December 31, 2006	Issue a <i>status report</i> ¹ to PAEDC's Chief Executive Officer ("CEO") for the period from the effective date of this contract to December 1, 2006
(c)	February 28, 2007	<i>Status report</i> ² for January 1, 2006 to December 31, 2006
(d)	March 31, 2007	Foundations of both hotels completed
(e)	April 30, 2007	<i>Status report</i> for January 1, 2007 to March 31, 2007
(f)	July 31, 2007	<i>Status report</i> for April 1, 2007 to June 30, 2007

¹ 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.


² February 5th status reports shall also include the identity of all Redwine partners or owners owning more than 5% of Redwine.

(g)	October 31, 2007	<i>Status report</i> for July 1, 2007 to September 30, 2007
(h)	March 31, 2008	<i>Status report</i> for September 30, 2007 to February 28, 2008
(i)	July 1, 2008	<i>Status report</i> for February 28, 2008 to May 31, 2008
(j)	September 30, 2008	Hotel constructed and open for business
(k)	October 31, 2008	<i>Close out report</i> for June 1, 2008 to September 30, 2008 to the PAEDC Board to compare actual economic development results against expectations as presented to the Board on March 22, 2006.

3. Paragraph 6 of the Original Agreement is modified to include a reference to the EXECUTIVE SUMMARY as a part of the Original Agreement for all purposes and constitutes promise performance by Redwine and/or PAEDC as the case may be in accordance with the Original Agreement.

ATTORNEY APPROVALS

APPROVED AS TO FORM:



 Guy N. Goodson
 General Counsel for PAEDC

VERIFIED AS CONSISTENT
WITH CITY COUNCIL RESOLUTION:

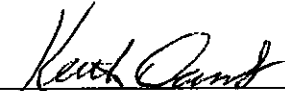
Resolution Number: _____

 Mark T. Sokolow, City Attorney

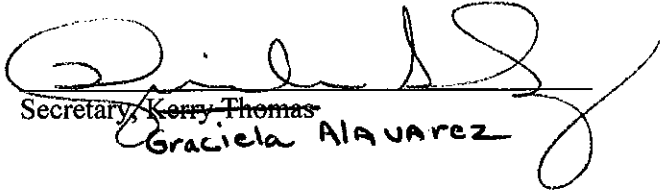
AMENDMENT EXECUTION

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

SIGNED AND AGREED TO on the ____ day of _____, 2008.



President, Keith Daws, Sr.



Secretary, ~~Kerry Thomas~~
Graciela ALVAREZ

Witness

Witness

REDWINE FAMILY PARTNERS, LTD.

SIGNED AND AGREED TO on the ____ day of _____, 2008.

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

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

By: _____
Pat Redwine, Manager

Witness