

RESOLUTION NO. 09-459

**A RESOLUTION APPROVING THE CITY OF PORT
ARTHUR SECTION 4A ECONOMIC DEVELOPMENT
CORPORATION'S POLICIES AND PROCEDURES FOR
INCENTIVE CONTRACTS AND REPEALING RESOLUTION
NO. 03-307**

WHEREAS, per Resolution No. 03-307, the City Council approved policies and procedures for the City of Port Arthur Section 4A Economic Development Corporation (the "PAEDC") incentive contracts; and

WHEREAS, these policies and procedures were for Type A Projects under Chapter 504 Local Government Code, formerly Section 4A, Article 5190.6 VTCA; and

WHEREAS, on June 1, 2009 at its regular meeting, the Board of Directors of the PAEDC approved new policies and procedures for the PAEDC incentive contracts in substantially the same form as described in Exhibits "A", "B", "C", "D", "E", "F", "G", and "H"; and

WHEREAS, the City Council deems it in the best interests of the citizens of Port Arthur to approve the new PAEDC's policies and procedures for incentive contracts as described in Exhibits "A", "B", "C", "D", "E", "F", "G", and "H"; and

WHEREAS, alternative policies and procedures will be developed and approved for the Section 4B (Type B) projects that

were approved at the May 2006 election and at the May 2009 election;

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

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

Section 2. That the policies and procedures for incentive contracts of the City of Port Arthur Section 4A Economic Development Corporation, as described in Exhibits "A", "B", "C", "D", "E", "F", "G", and "H" are approved for Type A Projects under Chapter 504 Local Government Code, formerly Section 4A, Article 5190.6 VTCA.

Section 3. That Resolution No. 03-307 is hereby repealed.

Section 4. That a copy of the caption of this Resolution be spread upon the Minutes of the City Council.

READ, ADOPTED AND APPROVED on this 6th day of October A.D., 2009, at a Meeting of the City Council of the City of Port Arthur, Texas, by the following vote: AYES:

Mayor Prince;

Councilmembers Mayor Pro Tem Segler;
Chapman, Albright, Flood, Beard
Williamson, Wise & Henderson;

NOES: None.

MAYOR:



DELORIS "BOBBIE" PRINCE

ATTEST:




TERRI HANKS, CITY SECRETARY

APPROVED:



FLOYD BATISTE, PAEDC CEO

APPROVED AS TO FORM:



MARK T. SOKOLOW, CITY ATTORNEY

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EXHIBIT A

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

**INTERNAL AND OPERATING
POLICIES AND PROCEDURES
MANUAL**

PREFACE

The Port Arthur Section 4A Economic Development Corporation (PAEDC) operations are governed by relevant state statutes, Attorney General Opinions and policies of the PAEDC and the City of Port Arthur.

This *Internal and Operating Policies and Procedures Manual*, together with the *Bylaws* and the *City of Port Arthur Personnel Policy* handbook defines and clarifies the daily operations of the PAEDC in order to 1) establish, maintain and clarify the PAEDC's Board and Staff responsibilities, authority and accountability as per the By-laws; and 2) to establish an effective relationship between the City of Port Arthur and the PAEDC.

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4A APPLICATIONS

INTERNAL POLICIES AND PROCEDURES

MISSION STATEMENT

The mission of the Port Arthur Economic Development Corporation (PAEDC) is to implement a proactive, aggressive industrial recruitment process focused upon specific industrial clusters that can achieve world-class competitive stature in Port Arthur.

The Port Arthur Economic Development Corporation is a 4A sales tax corporation created to enhance Port Arthur's business climate and overall economic development. The PAEDC is responsible for encouraging and developing business growth and attracting new business to Port Arthur. Our 300 acre Business Park is especially beneficial to business in the areas of manufacturing, light industrial and commercial development.

Port Arthur is ready to help you work, grow and play. Call us today to find out how we can help you realize better working conditions, higher profits and happier employees. With a mild climate and a supercharged business atmosphere, Port Arthur can help you attain your goals. From economic incentives to old fashioned work ethics, the employees and Board of Directors of the Port Arthur Economic Development Corporation will make every effort to make your business grow.

VISION STATEMENT

Port Arthur 4A Economic Development Corporation provides leadership and technical support related to developing and implementing a citywide economic development strategy which establishes Port Arthur as a model local economy creating quality jobs, stimulating investment in both business opportunities and community amenities, generating tax revenue to support city services, and ultimately creating a high standard of living for all city residents.

OFFICE HOURS

The Economic Development Corporation conducts office hours Monday through Friday of each week from 8:00 a.m. until 5:00 p.m. Employees shall be at their places of work in accordance with these rules and general or departmental regulations. All departments shall maintain daily attendance records of employees. An employee is considered to be on-duty when he/she reports for work to his/her immediate supervisor. An employee shall not be considered on-duty in the commute from home to work or from work to home, nor during lunch breaks or the commute thereto or from.

Employees may be allowed one fifteen (15) minute break for every four (4) hours of actual work, provided the break does not interfere with departmental operations and is approved in advance by the immediate supervisor. Breaks are normally to be taken once in the morning and once in the afternoon.

The taking of a rest period is a privilege and is not to be considered by any employee as an automatic right. If the employee is behind in his/her work, the immediate supervisor has the authority to suspend the granting of rest periods until the employee is caught up.

Employees shall not be allowed to "save" break time as a means to leave the work site early at the end of the day.

The following holidays are considered official paid holidays:

- New Year's Day
- Martin Luther King Day
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- The day after Thanksgiving
- Christmas Day

An additional floating holiday shall be observed and shall be designated annually by the City Council.

If a holiday falls on Saturday, it shall be observed on the preceding Friday or if it falls on Sunday, it shall be observed the following Monday.

PERSONNEL POLICIES

Personnel policies shall comply with the City's personnel policies as stated in the *City of Port Arthur Personnel Policy* handbook.

STAFF POSITIONS & RESPONSIBILITIES

Below is a list of staff positions and responsibilities.

Chief Executive Officer (CEO) – The Chief Executive Officer of the Corporation is responsible for carrying out the Corporation's program as adopted and directed by the Board. The Executive Director oversees all of the administrative functions of the Corporation, develops policies and procedures for the Corporation including financial, accounting, and purchasing policies and procedures to be approved by the Board and the City Council. The Executive Director of the Corporation is also authorized to distribute and manage corporate funds and is bonded as per policy. The Executive Director has authority to employ such full or part-time employees as needed to carry out the programs of the Corporation. These employees shall perform those duties as are assigned to them by the Director. The Director is responsible for hiring, directing and controlling the work of all Corporation employees, consistent with Personnel policies of the City and in keeping with the current fiscal year budget of the Corporation.

Economic Development Specialist (EDS) – The Economic Development Specialist is responsible for collecting all grant/loan application documents as well as providing a financial analysis of those documents. The EDS is also responsible for preparing EDC's annual budget, paying bills, travel advances/reimbursements, financial compliance, monitoring of PAEDC's finances and any special projects that may be assigned. Moreover, the EDS act as a liaison between PAEDC and the National Development Council (NDC).

Business Retention & Expansion Specialist – The Business Retention and Expansion Specialist is responsible for the development, coordination and provision of business development services on behalf of the PAEDC Board. This includes business retention and expansion activities (focused on industrial and manufacturing companies) and assisting in the coordination of the City Revolving Loan Fund. The Business Retention and Expansion Specialist have secondary responsibilities for other economic development programs, including marketing and business recruitment activities.

Attorney – The Port Arthur Section 4A Economic Development Corporation retains an attorney for all legal needs. This attorney is notified of all meetings, workshops, fact-finding tours, and any other gathering of PAEDC Board Members. An agenda packet is also given to the attorney within 72 hours of meetings. The attorney also receives copies of all correspondence sent out by the EDC.

Administrative Secretary – Act as a receptionist assisting the public over the telephone or in person by providing routine information pertaining to policies and procedures of PAEDC and refer inquiries as appropriate. Prepare and review a variety of memorandums, correspondence, reports and public notices. Perform a wide variety of general clerical work including the maintenance of accurate and detailed records and

files, verifying accuracy of information, researching discrepancies and recording information. Sort and file documents and records maintaining alphabetical index and cross-reference files. Research and compile easily accessible information and data for the use in statistical and financial reports; maintain a variety of statistical records; check and tabulate statistical data. Contact the public and outside agencies in acquiring and providing information and making referrals. Schedule appointments and meetings for PAEDC. Receive, sort and distribute incoming and outgoing correspondence; maintain accurate records pertaining to outgoing mail including postage and pieces of mail distributed. Order and maintain office supplies and perform related duties as assigned.

Custodian - The custodian is responsible for the maintenance of PAEDC which includes, but not limited to, vacuuming, mopping, dusting, landscaping, window cleaning, mail pick-up/delivery and maintenance of EDC's vehicle.

BOARD OF DIRECTORS

The Board of Directors shall consist of nine members. The business and affairs of the Corporation and all corporate powers shall be exercised by or under authority of the Board of Directors (the "Board"), appointed by the City Council of the City of Port Arthur, and subject to applicable limitations imposed by the Texas Non-Profit Corporation Act, the Texas Business Corporation Act, the Articles of Incorporation, or the Bylaws. The Board may, by contract, resolution, or otherwise, give general or limited or special power and authority to the officers and employees of the Corporation to transact the general business or any special business of the corporation, and may give powers of attorney to agents of the Corporation to transact any special business requiring such authorization. The number of Directors may only be increased or decreased by an amendment to the Articles of Incorporation as allowed by amendments to the Act. For more information on the Board of Directors, see PAEDC's Bylaws.

BOARD MEETINGS

Board meetings are held every other Monday at 6:00pm at PAEDC's office.

SECURITY

Although most of the files in the EDC office are considered accessible under the Open Meetings Act, all are still considered confidential. Security of these files is to be maintained at all times. All files are to be locked in file cabinets on a daily basis. Computer files are to be backed up on CD on a daily basis.

COMPUTER NETWORK SYSTEM

All computers in the office are connected via an Ethernet System. The server is named "PAEDC", and is located in the server room. There are files located on all of the computers that each staff member may access. Some files are secure and only the appropriate staff member may access these files. The server is running Microsoft

Windows 2003 Server, and all office computers connect to this server using their unique username and password.

Do not share your computer passwords with anyone. Lock your computer every time you leave your desk and shut down at the end of the day. All computers have an anti-virus program installed and running, but this does not completely protect your computer or data. To help protect your data do not go to unfamiliar websites or open unsolicited email attachments. Anti-spam software is available for free and will improve the performance of your computer when run frequently.

OPERATING POLICIES AND PROCEDURES

AGENDAS

Each month the Board of Directors holds two to three meetings. The meetings are held on every other Monday of the month at the EDC office. Each meeting must have an agenda of items to be covered in the meeting. Agenda items should be placed on the agenda on the opposite week of the meeting; on Wednesdays, staff shall meet and review the agenda and the accountant should let the CEO know if funds are available for agenda items that need funding; and on Thursday, staff shall meet with the President of the Corporation for his approval to post the agenda. This agenda **MUST** be posted at the EDC office and on the website no later than 72 hours prior to the meeting date. A copy of the agenda must be broadcasted to all the media groups as well the Chamber of Commerce by fax or email.

In the event of a cancellation of a board meeting, written notice must be posted in City Hall and the media must be notified. There is not always time to contact the media via landline telephone. A fax copy of the cancellation notice must be sent as well.

Each meeting must be recorded in accordance with the Open Meetings Act and copies of the tapes/cd's are to be maintained by the EDC in a secure place.

MINUTES

The minutes of each meeting must be transcribed in a timely manner. Transcription should be made as soon as possible for public viewing and submission to the Secretary of the Board for signature.

The Board has adopted that the minutes be transcribed with minimum explanation of discussion and listing the motion as stated including the person making the motion and the person seconding the motion. In the event that "For the Record" is stated in the meeting, this information must be transcribed completely and be kept in the file with the regular minutes of the meeting.

The minutes of each meeting are kept on file at the EDC office as well as on the website for public viewing and easy access. The minutes are also presented at the following monthly meeting for approval by the Board and at such time of approval, the Secretary of the Board signs the minutes. A preliminary copy is kept in the binder until the original with signature is obtained. The preliminary copy is then replaced with the signed copy.

RESOLUTIONS

Staff shall prepare resolution(s) only if agenda items pertain to project contracts or invoices larger than \$5,000. Resolutions should reflect the agenda items that were approved by the board members in the meeting. After resolutions are prepared, they should be forwarded with necessary attachments to the City Attorney's office for final preparation. City Attorney's staff shall put the resolution on the City's agenda for approval.

FILE ORGANIZATION

A file is prepared when the business prospect has turned in an application. All business prospects file folders should consist of four tabs for Application/Resolutions, Contracts/Status Reports, Outgoing Correspondence/Incoming Correspondence, and finally Notes. Therefore, all file folders are consistent. File folders should be scanned in the Intranet for easy access to Board Members and staff.

APPLICATION PROCESS

When people inquire about receiving an incentive and/or application from PAEDC for their business, we ask them what type of business it is and if at least fifty-one percent of its services/products will be sold outside of Port Arthur. If less than fifty-one percent of a business's services/products are sold outside of Port Arthur, then the company does not qualify for a 4A incentive. In order to qualify for a 4A Incentive, the type of business is also limited to industrial/manufacturing, recycling, distribution, warehousing or commercial, in which case a 4A application is given. If the business does not meet the criteria specified for qualifying for 4A Incentives, then the business may apply for the City Revolving Loan Fund administered by the EDC Board of Directors, in this case a 4A Application is also used to process the business' request for a loan.

Once an evaluation of the type of business and request has been done by staff, an application is given along with instructions on how to complete the application and documents that need to be submitted with the application. When the application is returned to us, we check for completeness, documentation and again for NAICS code and percentage of goods/products sold outside of Port Arthur to make sure the client qualifies for a 4A grant or loan. Notification of the project is given to the EDC board after application is received.

Upon receiving all documents, 4A file is sent to EDC Attorney for review and approval to move forward. A financial analysis and spread is done and the Quality Indicator Check List is prepared. Then the file is sent to CEO for review, approval and preparation of recommendation of the project. After approval from the Attorney, the client makes a presentation to the EDC Board. After the presentation of the project, the EDC Board decides to approve or disapprove of the project.

After the EDC Board approves the project, a resolution, draft of the 4A incentive agreement (prepared by EDC's Attorney) and EDC's CEO/Board recommendation is sent

to the City Attorney for review and approval. The incentive draft is also reviewed by the applicant. After review and approval from the City Attorney, the project is placed on the City Council Agenda for approval by the Council.

COMPLIANCE

During the step of the review of the construction & equipment invoices, payroll, deliverance of materials as to consistency with incentive agreement the EDS and BRES will work together with the CEO. Performance Milestones will be add/delete/update company information or milestones status. View/edit documentation log is updated as information is gathered from project managers. As this operational step is set in place, it is at this time that retention and/or expansion for the active projects of the EDC and existing companies are created.

BUSINESS RETENTION & EXPANSION

The Business Retention and Expansion program is designed to develop and implement Industry needs, screen business assistance inquires, provide counseling and business plan assistance to entrepreneurs and small business owners; oversee, implement and provide services for State programs; assist new and existing companies with development of loan applications to various financing sources, provide information on various business incentive programs, help develop workforce development programs to meet the needs of industry by working with other community-based providers; identify and provide assistance/referrals to companies deemed to be at-risk; identify and assist existing companies who are planning to expand their business and coordinate with local partners involved in providing business assistance, assist in the preparation and submittal of state, federal and private source grant applications.

PAYING BILLS

There are four ways to pay bills or request money from the city.

1. Check Request or Travel Request
2. Release Orders (used for Blanket Orders)
3. Purchase Orders (used when a requisition is done in AS400 to pay invoices)
4. Field Orders (city limit is under \$300)

Below are detailed procedures for paying bills or requesting money from the city.

CHECK REQUESTS – Check requests are used when the vendor you need to pay doesn't have a vendor number set up in the system. Just fill out the check request form located on the share drive. Make sure you state where you want the check to be mailed or sent under the "Special Handling Instructions" section on the check request form. If the invoice you are paying needs to be expensed from more than one account, list the different accounts along with the total for that account under the "Multi-Account Distribution" section of the check request form. Send all check requests to Accounting.

TRAVEL REQUESTS – Travel requests are used to get advanced money for business trips. Make sure the entire form is filled out ahead of time and sent to the City so employees/board members can receive their money in a timely manner. Only transportation (air fares and rental cars) and hotel expenses can be advanced for board members. Employees can be advanced for transportation, hotel and food per diem. All other expenses (such as parking, tolls, tips, mileage or gas, taxi and telephone expenses) will be reimbursed **if receipts are provided**. Send all travel requests to Accounting. The domestic per diem rates for Texas are attached.

RELEASE ORDERS – Release orders are used to pay vendors that we have contracts with and that the City has set up a blanket order to pay the vendor from. A blanket order is an assigned amount of money set aside for a specific vendor to be used in a certain period of time for each contract. In order to pay an invoice that has a blanket order set up, you must have a signed resolution pertaining to the invoices from the City Secretary. Once the resolution is received, the release order must be filled out. The "Date Issued" is the "Effective Date" printed on the blanket order. If multiple invoices exist, then list the invoice numbers and amounts on the release order. Have the CEO sign the release order and send the white copy of the release order, the original invoice and a copy of the resolution to Accounting to process the payment of the invoice(s).

PURCHASE ORDERS – Purchase orders are used to pay recurring bills (invoices) that we have no blanket order for (or not under contract with). These invoices have to be requisitioned in AS400. All utilities (gas, water and telephone) bills do not have to be requisitioned in AS400, just have the CEO review and sign off on the invoice for approval to pay it, make a copy of the invoice and send the original invoice to Accounting for payment. For all other bills that's not a utility bill, fill out a requisition in AS400 for each bill/invoice. Attached are the procedures for filling out a requisition in AS400. When requisition is done have the CEO approve the invoices and wait for Purchasing/Accounting to send you the Purchase Order (PO) for the invoice. When the PO is received, make a copy of it and the invoice for your records and send the original PO and invoice to Accounting for payment.

FIELD ORDERS – Field Orders are used to purchase goods on credit. Field orders can not exceed \$300. When the invoice for the field order come in, check to make sure the items, quantities and amounts are correct. If so, make a copy of the invoice for your records and send the original invoice and a signed copy of the computer generated field order to Accounting for payment.

All invoices need to be date stamped, reviewed and signed by the CEO. And all purchase orders and invoices need to be copied for PAEDC records.

REQUEST FOR INFORMATION

According to the Public Information Act (formerly the Open Records Act), information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction or official business by 1) a governmental body or 2) for a governmental

body and the governmental body owns the information or has a right of access to it are subject to the Public Information Act (PIA).

All requests must be written. PIA does not require that the public direct its written request to any specific employee or officer. An exception to this rule is if the govern body has designated a person that is authorized to receive e-mails or faxes, the PIA is only triggered if the request is directed to the assigned individual.

Release of information shall be promptly, depending on the circumstances within a reasonable time, but no later than ten business days. Requestee can not ask the requestor why the information is wanted, but can ask for clarification and narrowing of the scope. A PIA request can not ask the govern body to compile statistics, perform research or provide answers to questions. PIA only requires providing documents that relate to the information being sought; however, if the request only requires program or manipulating existing data, it is not a request for creation of new information.

Below are the different responses that can be made to a requestor:

- Release the information that the requestor wants.
- Notice to requestor that additional time is needed to produce records.
- Notice to requestor that additional time is needed to produce records that are in active use or in storage.
- Notice to requestor of programming or manipulation cost.
- Notice to requestor that EDC sought Attorney General Open Records Ruling

Every time the EDC wants to withhold requested information, an Attorney General Open Records Ruling must be requested unless there is a previous determination. For more information on previous determination see Section 552.101: Information Confidential by Law, Section 552.110: Certain Commercial Information (trade secrets and commercial or financial information privileged or confidential by law) and Section 552.131: Information Relating to Economic Development Negotiations.

The Economic Development Negotiation Exception states that EDC's are allowed to withhold certain information related to economic development negotiations between a governmental entity and a business that the governmental body is seeking to have locate, stay, or expand within or near the city. Under this provision, the EDC could withhold trade secrets of the business prospect that were related to economic development negotiations.

Prior to issuing any information, the request and information should be reviewed by the CEO.

AUDIT

PAEDC is audited in conjunction with the City's annual audit.

Finance Department

Memo

To: All Departments

RECEIVED APR 09 2009

From: Deborah Echols, Assistant Finance Director

Date: April 9, 2009

Re: New Per Diem Rates for Meals and Incidental Expenses

On April 7, 2009 the City Council adopted the U.S. General Services Administration (GSA) meals and incidental expenses rates to determine the per diem rates for City employees on overnight travel.

Employees requesting travel must go to www.gsa.gov to find the M&IE Rate for their destination city. Print a copy of the rate and attach it to expense report before submitting it to accounting. ~~It is not to be listed in the rate report.~~ The rates are updated annually.

See expense attached

~~When the rates are posted, the City will pay for meals and incidental expenses. The 75% of the rate will be paid on travel days on overnight trips and 25% of the rate will be paid on travel days on Monday and Wednesday and 50% of the rate will be paid on Tuesday.~~

I would like to point out a few things that have not changed. (1) Overnight travel must be authorized in advance by the city manager or his designee. (2) All expense accounts shall be approved by the department head prior to submission to the accounting division for audit within seven days after the trip is complete.

I have attached printouts from the GSA website to show the navigation to the per diem rates. I've also attached a revised Travel and Reimbursement Report.

Thanks for your cooperation.

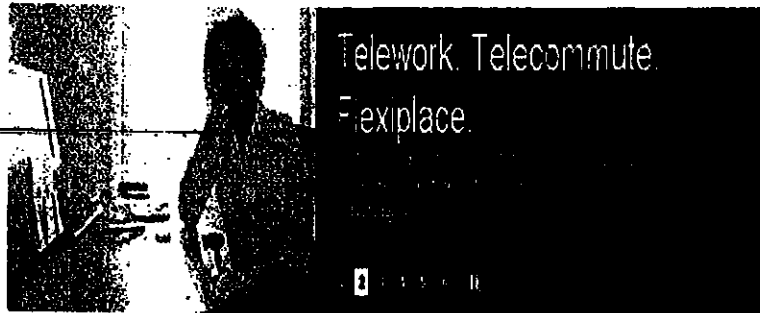


U.S. General Services Administration

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Most Requested Links

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For Businesses

For Citizens & Consumers

DID YOU KNOW?

GSA and its partner agency OPM jointly sponsor telework.gov to make information about telework available for federal employees. [More >>](#)

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 About the goods and services that GSA can help you get. [More»](#)

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Doing Business with GSA

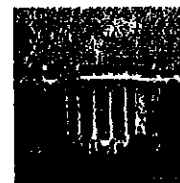


Recovery Act
 GSA's agenda to support America's economic recovery. [More»](#)

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 Help for managers of GSA-owned and managed buildings, where to find business opportunities, and how to go green. [More»](#)

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 GSA streamlines procurement with easy-to-use options tailored to your needs. [More»](#)

GSA Highlights



GSA Steps Up to Assist in Economic Recovery
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GSA Creates Easy-to-Use Application

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Domestic Per Diem Rates

Recent per diem rate changes: [FTR Travel Bulletin 09-05](#)

Rates are set by fiscal year, effective October 1. To look up rates throughout the continental United States (CONUS), select a year and click on a state. [FY 09 Downloadable Files](#).

Find Rates for Fiscal Year: 2009 (Current Year)



CONUS
PER DIEM RATES
(ALASKA, HAWAII,
U.S. TERRITORIES,
& POSSESSIONS)

FOREIGN
PER DIEM RATES

CONTACTS

[Additional Contacts For
Travel Management Policy](#)

REFERENCE

[Federal Travel Regulation
\(FTR\)](#)

RELATED GSA TOPICS

[E-Gov Travel](#)
[State Tax Exemption Forms](#)
[FedRooms®](#)
[Travel E-mail Notification](#)
[POV Mileage Reimbursement
Rates](#)

GOVERNMENT LINKS

[Ask a Per Diem Question](#)
[Fire Safety Information](#)

All valid requests postmarked by 12/31 will be considered for a "special" rate review within the current fiscal year. Valid requests received after the deadline will be included in the next annual per diem review. Rate changes will be announced on our website. [Per Diem Bulletin Announcing Revised Rates](#)

Downloadable Files	Format	Size	Date
FY 09 Per Diem Rates (Downloadable)	Excel	118k	03/20/2009

The shortcut for this page is www.gsa.gov/perdiem.

DATE THIS PAGE

Printer Friendly format

Last Reviewed 3/19/2009

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 Also of interest: [Whitehouse.gov](#) | [Recovery.gov](#) | [USA.gov](#) | [E-Gov.gov](#) | [ExpectMore.gov](#) | [Suggested Government Sites](#)

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U.S. General Services Administration

Domestic Perdiem Rates**Texas - FY 09**

(October 1, 2008 through September 30, 2009)

Cities not appearing below may be located within a county for which rates are listed. To determine what county a city is located in, visit the [National Association of Counties \(NACo\) website](#) (a non-federal website).

NOTE: If neither the city nor the county is listed, the location is a standard CONUS destination with a rate of \$70.00 for lodging and \$39.00 for meals and incidental expenses (M&IE).

State Tax Rates & Exemption Forms**Properties at Per Diem (FedRooms)**

City/County	County	Lodging	Meals	M&IE	Total
Arlington / Fort Worth / Grapevine	Tarrant county and City limits of Grapevine	149	44	193	33.0
Austin (October 1 - March 31)	Travis	114	54	168	40.5
Austin (April 1 - August 31)	Travis	107	54	161	40.5
Austin (September 1 - September 30)	Travis	114	54	168	40.5
Beaumont	Jefferson	82	49	131	36.75
College Station	Brazos	86	39	125	29.25
Corpus Christi	Nueces	89	44	133	33.0
Dallas (October 1 - December 31)	Dallas County and City of Dallas	115	59	174	44.25
Dallas (January 1 - March 31)	Dallas County and City of Dallas	129	59	188	44.25
Dallas (April 1 - September 30)	Dallas County and City of Dallas	115	59	174	44.25
El Paso	El Paso	92	44	136	33.0
Galveston (October 1 - May 31)	Galveston	99	49	148	36.75
Galveston (June 1 - July 31)	Galveston	121	49	170	36.75
Galveston (August 1 - September 30)	Galveston	99	49	148	36.75
Houston (L.B. Johnson Space)	Montgomery, Fort Bend and	110	59	169	44.25

Center)	Harris				
Hunt County	Hunt County	81	39	120	29.25
Laredo	Webb	88	44	132	33.0
McAllen	Hidalgo	84	44	128	33.0
Plano	Collin	108	49	157	36.75
Round Rock	Williamson	95	44	139	33.0
San Antonio	Bexar	117	54	171	40.5
South Padre Island (October 1 - May 31)	Cameron	84	44	128	33.0
South Padre Island (June 1 - July 31)	Cameron	110	44	154	33.0
South Padre Island (August 1 - September 30)	Cameron	84	44	128	33.0
Waco	McLennan	85	39	124	29.25

Receipts are required for all expenses except per diem.
Only actual expenses may be reported. Rounding and estimating are not allowed.

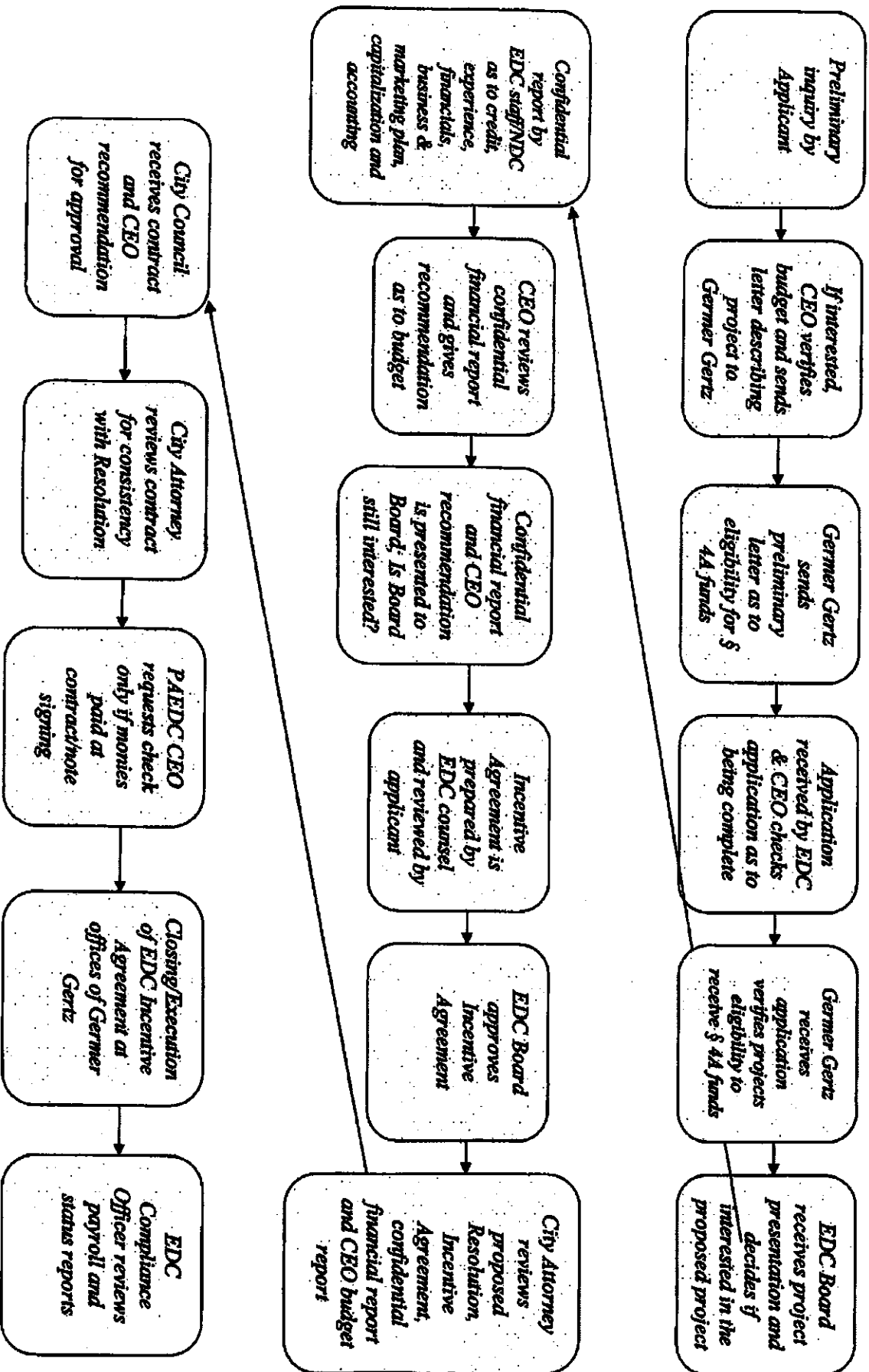
Odometer Beg:	Subtract:	Prepaid Registration	
Odometer End:		Prepaid Lodging	
Total Miles		Prepaid Airfare	
Auto Allowance (circle) Yes No			
x Rate		Prepaid Credit Card	
Mileage Reimbursement: \$0.00			

Subtract:	Advance Amount	
Equals:	Amount Due Employee If positive	
	Amount Due City If negative	

ZACITY FORMSnew model expense report employees

EXHIBIT B

PAEDC INCENTIVE AGREEMENT FLOWCHART



*PAEDC Grant Incentive Committee will be used as necessary to review major projects.

EXHIBIT C

Guidelines for Letter of Intent

All grant applicants are required to submit a letter of intent to the CEO prior to submitting a full application and supporting documents. The letter of intent is a one to two page letter briefly describing the project. Please include the following in your letter:

1. Your organization and its experience in the field.
2. What do you propose to do, state if project is for a new business or expansion.
3. The amount of the grant request, how the funds would be used, the amount of the total project and other sources of funds.

Mail letters to:

Port Arthur Economic Development Corporation
P.O. Box 3934
Port Arthur, TX 77642

Email letters to:

fbatiste@paedc.org

Fax letters to:

(409) 962-4445

PHASE I
Port Arthur Economic Development Corporation

Amount Requested: \$ _____ Date: _____ NAZSC Code _____

Name of Entity: _____

Contact Party: _____

Address: _____

Phone: (____) _____ Street Number _____ City _____ State _____ Zip _____

Fax # (____) _____ Area Code _____ Number _____

Business Structure ☐ Corp. ☐ LLC ☐ Partnership ☐ Sole Proprietorship ☐ HUB/MWBE ☐ Non-Profit

Business Type ☐ Industrial/Manufacturing ☐ Recycling ☐ Distribution ☐ Small Warehouse ☐ Commercial

Date Business Established _____

Date Business Incorporated _____

Present # of Employees or Total Payroll	
Job Classifications & Wage Scale	_____

# of Employees after Grant or Total Payroll	
Job Classifications & Wage Scale	_____

Ownership of Applicant Company
Owners with Five (5%) Percent or Greater Ownership of the Company

Name	Title	% of Ownership
_____	_____	_____
_____	_____	_____
_____	_____	_____

Other Sources of Funds and/or Equity

List all request and/or approvals of funds from other sources (e.g. banks, credit unions, govt. entities, etc.) together with dates of application, status and funding source contact party name: _____

	Project Cost		Source of Funds
	Amount		
Land	\$ _____		_____
Bldg./Renovation	\$ _____		_____
Equipment	\$ _____		_____
Furniture/Fixtures	\$ _____		_____
Working Capital	\$ _____		_____
Total	\$ _____		

EXHIBIT D

City of Port Arthur Section 4A Economic Development Corporation Grant/Loan Incentive Application

Date: _____

Please complete the following information and return along with the requested documents.
We will review the information that you provide to determine if you are eligible for assistance
from the PAEDC.

SECTION 1: BUSINESS INFORMATION	
Business Name:	
Business Address:	
Business Phone:	Business Fax:
Email and/or Website Information:	

Owners: Please list all owners with Five (5%) Percent or Greater Ownership of the Company

Name	SSN #	Date of Birth	Home Address	% Ownership

Type of Business Organization:
(Please Check One)

- ☐ Not Established
- ☐ Sole Proprietorship
- ☐ Partnership
- ☐ S. Corp.
- ☐ C. Corp.
- ☐ LLC
- ☐ HUB/MWBE
- ☐ Non-Profit

Please describe the type of business (product or service):

Date Business Established:

Federal Tax ID Number:

Has the business, or any principals of the business been involved in bankruptcy or insolvency proceedings?

☐ Yes ☐ No If yes, please explain:

Are there any personal/business judgments, liens, unsettled lawsuits or major disputes?

☐ Yes ☐ No If yes, please explain:

Have you taken any business development classes?

☐ Yes

☐ No

Are you working with a counselor at the Small Business Development Center?

☐ Yes

☐ NO

Name of Counselor:

Phone Number:

Are you working with a counselor at the Service Corps or Retired Executive (SCORE)?

☐ Yes

☐ No

Name of Counselor:

Phone Number:

Have you completed a Business Plan?

☐ Yes

☐ No

If yes, when/by whom was the Business Plan prepared?

Name:

Phone Number:

Type of Business:
(Please Check One)

<input type="checkbox"/>	Industrial/Manufacturing (Fill Out Sections A-H)
<input type="checkbox"/>	Recycling (Fill Out Sections A-H)
<input type="checkbox"/>	Distribution (Fill Out Sections A-H)
<input type="checkbox"/>	Warehouse (Fill Out Sections A-H)
<input type="checkbox"/>	Commercial (Fill Out Sections A-H)
<input type="checkbox"/>	Infrastructure (Fill Out Sections A-C)
<input type="checkbox"/>	Land Purchase (Fill Out Section A Only)
<input type="checkbox"/>	Training (Fill Out Sections A-C)

SECTION 2: THE CITY OF PORT ARTHUR

Please indicate the percentage of services or goods sold or to be sold to persons or companies outside of the City or Port Arthur:

_____ %

Please explain:

Please indicate the percentage of services or goods sold or to be sold to persons or companies outside of Jefferson County:

_____ %

Please explain:

Please indicate the percentage of services or goods sold or to be sold to persons or companies outside of the Golden Triangle:

_____ %

Please explain:

Please indicate the NAICS (North American Industry Classification System) number that applies to your industry and the name given that number.

For assistance, please see <http://www.census.gov/epcd/naics02/naicode02.htm>

NAICS Number: _____ / _____

Example: 322222/Coated/Laminated Paper Manufacturing

SECTION 1: PROJECT INFORMATION

PROJECT

Please, briefly describe your project:

Total amount requested: _____

Project Cost

	AMOUNT	SOURCE OF FUNDS
LAND		
BUILDING/RENOVATIONS		
EQUIPMENT		
FURNITURE/FIXTURES		
INVENTORY		
JOB TRAINING		
INFRASTRUCTURE		
OTHER (Please Specify)		
TOTAL:		

Personal cash available to invest in project: \$ _____ Source: _____

What bank have you contacted for financing: _____

Name of Banker: _____ Phone Number: _____

Please list all request and/or approvals of funds from other sources (e.g., banks, credit unions, governmental entities, etc.) together with dates of application, status and funding source contact information:

SECTION 1: CURRENT EMPLOYMENT

Number of Current Employees: FT _____ PT _____

Please list current Job Classifications & Wage Scales:

Job Classification	Wage Scale	No. of Employees in this Classification

Current Total Payroll: \$ _____

Number of Employees after completion of Project: FT _____ PT _____

Please list current Job Classifications & Wage Scales:

Job Classification	Wage Scale	No. of Employees in this Classification

Total Projected Payroll: \$ _____

SECTION 10.15 (a) PUBLIC OFFICIALS WITH OWNERSHIP INTEREST

The undersigned, as officers, shareholders, and/or principals of _____
("Applicant"), acknowledge that:

☐

there are no elected or appointed public officials with any ownership interest
in said company ("Applicant")

☐

there are elected or appointed public officials with ownership interest
in said company ("Applicant"), listed as below:

NAME	ENTITY	% OWNERSHIP

Name (Printed): _____
Signature: _____
Date: _____

Name (Printed): _____
Signature: _____
Date: _____

Name (Printed): _____
Signature: _____
Date: _____

Name (Printed): _____
Signature: _____
Date: _____

Name (Printed): _____
Signature: _____
Date: _____

Name (Printed): _____
Signature: _____
Date: _____

SECTION 4A ECONOMIC DEVELOPMENT CORPORATION

CERTIFICATION: Please read the following and sign the application form below. All owners, officers, partners and/or principals must sign this application.

This is an Equal Opportunity Program. Discrimination is prohibited by Federal Law. Complaints of discrimination may be filed with the appropriate authorities.

The information in this application is provided for the purpose of applying for funds under the City of Port Arthur Section 4A Economic Development Corporation's incentive programs. The information in this application is accurate to the best of my knowledge. I understand that personal and/or business information may be requested pursuant to this application and I hereby give consent for such information to be provided to the City of Port Arthur Section 4A Economic Development Corporation and the City of Port Arthur. I also understand that the City of Port Arthur retains the sole decision as to whether or not this application is approved, disapproved or modified. The approval of this application is subject to the City of Port Arthur as well as the Port Arthur Section 4A Economic Development Corporation. It is my right to accept or decline the grant and/or loan amount, rate and terms as approved by the Program.

I authorize the City of Port Arthur Section 4A Economic Development Corporation to obtain a credit report on me through the credit reporting agency of its choice. If an adverse credit decision is made due totally or partly to the information on the credit report, the City or Port Arthur Section 4A Economic Development Corporation will give me a copy of the credit report, a summary of my rights under the Fair Credit Reporting Act, and the source of the credit report so that I may contact them if I wish.

I UNDERSTAND THAT ALL INFORMATION SUBMITTED TO THE CITY OF PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION WILL BE KEPT ON FILE ACCORDING TO THE RECORDS RETENTION LAWS OF THE STATE OF TEXAS. IF I DO NOT REQUEST THE RETURN OF CERTAIN PRIVILEGED INFORMATION, IT WILL BE DISPOSED ON IN THE MANNER REQUIRED BY LAW.

Name (Printed): _____
Signature: _____
Date: _____

Name (Printed): _____
Signature: _____
Date: _____

Name (Printed): _____
Signature: _____
Date: _____

Name (Printed): _____
Signature: _____
Date: _____

Name (Printed): _____
Signature: _____
Date: _____

Name (Printed): _____
Signature: _____
Date: _____

The undersigned, as officers, shareholders, and/or principals of _____ ("Applicant"), acknowledge that in conjunction with the Applicant's application for economic incentive assistance from the City of Port Arthur Section 4A Economic Development Corporation ("PAEDC"), the PAEDC may require that one or more officers, shareholders and/or principals of applicant execute personal guarantees and/or security agreement-pledge agreements whereby said officer, shareholder and/or principal may be called upon to either guarantee all or a portion of the obligations of the Applicant and/or pledge all or portion of the officer, shareholder and/or principal's ownership interest in the Applicant in order to secure performance of the Applicant's obligations. Said potential guarantee and/or pledge may be in addition to any corporate obligation and/or pledge of corporate assets provided by the Applicant in conjunction with its execution of any future Grant Incentive and Loan Agreement. I acknowledge that I have been advised, in advance, of the potential request by the PAEDC for personal liability, whether direct or indirect, and with full knowledge of said potential, I am requesting that the PAEDC continue its investigation, review and consideration of the application filed on behalf of Applicant.

Name (Printed): _____
Signature: _____
Date: _____

Name (Printed): _____
Signature: _____
Date: _____

Name (Printed): _____
Signature: _____
Date: _____

Name (Printed): _____
Signature: _____
Date: _____

Name (Printed): _____
Signature: _____
Date: _____

Name (Printed): _____
Signature: _____
Date: _____

Please submit the following information along with your application.

	Information Enclosed	Information Not Applicable
Business and Marketing Plan	<input type="checkbox"/>	<input type="checkbox"/>
Business Financial Statements for last 3 years	<input type="checkbox"/>	<input type="checkbox"/>
ProForma Financial Statement	<input type="checkbox"/>	<input type="checkbox"/>
<p>Existing Business: At least one year profit/loss & cash flow on a monthly basis, but not less than the period covered by the grant.</p> <p>Start-Up Business: At least two years profit/loss & cash flow on a monthly basis, but not less than the period covered by the grant.</p>		
Business Tax Returns for the last three years Must be signed and dated. If past April 15th, please include prior year copy of extension.	<input type="checkbox"/>	<input type="checkbox"/>
Interim Business Financial Statement Within the last 90 days.	<input type="checkbox"/>	<input type="checkbox"/>
Resumes on the principals of the business Owners with 20% ownership or greater	<input type="checkbox"/>	<input type="checkbox"/>
Personal Financial Statements of the principals Owners with 20% ownership or greater	<input type="checkbox"/>	<input type="checkbox"/>
Personal Tax Return for each principal Owners with 20% ownership or greater for last 3 years	<input type="checkbox"/>	<input type="checkbox"/>
Anticipated Environmental Impact	<input type="checkbox"/>	<input type="checkbox"/>
Economic Impact Analysis	<input type="checkbox"/>	<input type="checkbox"/>
Certificates of Good Standing Secretary of State State Comptroller	<input type="checkbox"/>	<input type="checkbox"/>
Acknowledgement of Conflict of Interest Policy	<input type="checkbox"/>	<input type="checkbox"/>
Acknowledgement of Grant Incentive Policy & Procedures	<input type="checkbox"/>	<input type="checkbox"/>
Copies of all licenses and permits	<input type="checkbox"/>	<input type="checkbox"/>
Proof of Insurance Coverage	<input type="checkbox"/>	<input type="checkbox"/>
Dun & Bradstreet Report	<input type="checkbox"/>	<input type="checkbox"/>

EXHIBIT E

Port Arthur Economic Development Corporation Economic Impact Data Sheets

The information requested on these data sheets is needed by the Port Arthur Area Economic Development Corporation to perform an economic impact analysis of your firm's proposed facility or expansion in Port Arthur, Texas. Please enter the information requested and email these completed sheets to cstaley@paedc.org.

Port Arthur Economic Development Corporation
4173 39th Street
Port Arthur, TX 77642
(409) 963-0579
(409) 962-4445 fax
www.paedc.org

If you have any questions concerning the information being requested on these data sheets, please call or e-mail Floyd Batiste, CEO, Port Arthur Economic Development Corporation, fbatiste@paedc.org.

About Your Firm:

Name of firm:

Current address:

Phone number:

Fax number:

Person completing this form:

Location of the firm's proposed or existing facility in the Port Arthur, TX area:

Description of the firm's business and plans to develop or expand in the Port Arthur, TX area:

The firm's primary NAICS:

Your Firm's Taxable Assets, Employees and Operations:

Market value of the firm's new or additional property purchased each year at its local facility that will be on local property tax rolls on January 1:

Yr.	Land	Buildings and Improvements	Furniture, Fixtures and Equipment	Total
1				\$ -
2				\$ -
3				\$ -
4				\$ -
5				\$ -
6				\$ -
7				\$ -
8				\$ -
9				\$ -
10				\$ -
Total	\$ -	\$ -	\$ -	\$ -

Will the costs of buildings and real property improvements be new construction?

☐ Yes ☐ No

Percent of construction costs for materials and labor:

Materials

Labor

(Enter 50% for each if unknown.)

Percent of construction materials that will be taxable and purchased in Port Arthur, if known

(Enter 20% if unknown.)

Percent of taxable spending by construction workers that will be in Port Arthur, if known

(Enter 25% if unknown.)

Percent of furniture, fixtures and equipment that will be purchased in Port Arthur, if known

(Enter 25% if unknown. Machinery and equipment used in manufacturing or processing operations are not taxable.)

Percent of furniture, fixtures and equipment that will be purchased that will be subject to sales taxes

(Enter 25% if unknown. Machinery and equipment used in manufacturing or processing operations are not taxable.)

Estimated taxable inventories, at the end of each year:

Year	
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	

The firm's monthly utilities:

Year	Water	Wastewater	Solid Waste	Electricity	Natural Gas	Cable
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

Percent of the firm's electricity and natural gas usage
for manufacturing or processing operations

Number of phone lines

The firm's estimated taxable purchases of materials, supplies and services in Port Arthur:

Year	
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	

The firm's estimated taxable sales in the Port Arthur:

Year	
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	

New employees to be hired:

Year	New employees to be hired each year	The number of these new employees who will move to the Port Arthur from somewhere else to take job with the firm
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

Average annual salaries of new employees in the first year

Percent of expected annual salary increases after the first year

Household size of a typical new worker moving to the County

(Enter 3 if unknown.)

Number of school age children, grades K-12, in the household of a typical new worker who will move to the County

(Enter .75 if unknown.)

Other

Will any of the firm's inventories be subject to freeport exemption?

☐ Yes ☐ No

Inventory items used in assembling, storing, manufacturing, repair, maintenance,

processing or fabricating that will be shipped out of Texas within 175 days of being acquired or brought into Texas are generally subject to freeport exemption. Therefore, property taxes are collected on this exempt inventory. However, not all local taxing districts in the Port Arthur, TX area currently offer this tax break.

Percent of the firm's inventories that would be subject to freeport exemption

Will the firm apply for freeport exemption, if available?

☐ Yes

☐ No

Out-of-Town Visitors the will Visit the Firm:

Number of out-of-town visitors expected at the firm in the first year

Percent of annual increase in the number of visitors

Average number of days that each visitor will stay in the community

Average daily taxable visitor spending, excluding lodging

Average number of nights that a typical visitor will stay in a local motel

Out-of-Town Truckers Loading or Unloading at the Firm

Number of out-of-town truckers expected to load or unload at the firm in the first year

Percent of annual increase in the number out-of-town truckers

Average daily taxable by a typical trucker

Percent of truckers who will stay one night in a local motel

EXHIBIT F

I. BALANCE SHEETCompiled/reviewed/audited
date

ASSETS					
1 Cash & Mktable Securities	\$ -	\$ -			
2 Accounts Receivable	\$ -	\$ -			
3 Inventory	\$ -	\$ -			
4 Prepaid Expenses	\$ -	\$ -			
5					
6					
7					
8 CURRENT ASSETS	\$ -	\$ -	\$ -	\$ -	\$ -
9 Net Fixed Assets					
10 Notes Receivable					
11 Investment in Subsidiaries					
12 Intangibles					
13					
14					
15 TOTAL ASSETS	\$ -	\$ -	\$ -	\$ -	\$ -

LIABILITIES & NET WORTH

16 Note Payable - Bank					
17 Note Payable - Other					
18 Accounts Payable					
19 Accruals					
20 Income Tax Payable					
21 Current Portion of LTD					
22					
23					
24					
25 CURRENT LIABILITIES	\$ -	\$ -	\$ -	\$ -	\$ -
26 Long Term Debt					
27 Subordinated Officer Debt					
28					
29					
30 TOTAL LIABILITIES	\$ -	\$ -	\$ -	\$ -	\$ -
31 Common Stock					
32 Cap. Surplus & Paid in Cap.					
33 Retained Earnings					
34 (Less) Treasury Stock					
35 TOTAL NET WORTH	\$ -	\$ -	\$ -	\$ -	\$ -
36 TOTAL LIABILITIES & NW	\$ -	\$ -	\$ -	\$ -	\$ -
37 Contingent Liabilities					
38 Check if Co. changed Accts.					

II. PROFIT & LOST STATEMENT

# of months		%		%		%		
Period Ending								
39 Sales								
40 COGS								
41 Gross Profit	\$ -		\$ -		\$ -		\$ -	
42 SGA								
43 Operating Profit	\$ -		\$ -		\$ -		\$ -	
44 Owners Salary								
45 Depr. & Amort. Exp.								
46 Interest Expense								
47 Rent								
48 Other Inc./Exp.								
49 EBT	\$ -		\$ -		\$ -		\$ -	
50 Income Taxes								
51 PAT	\$ -		\$ -		\$ -		\$ -	

III. OPERATING CYCLE

52 Days Receivable				
53 Days Inventory				
54 Days Payable				
55 Days Accrual				
56 Operating Cycle				

IV. RATIO ANALYSIS

57 Sales Growth Ratio				
58 Working Capital	\$ -	\$ -	\$ -	\$ -
59 Current Ratio				
60 Quick Ratio				
61 Debt/Equity Ratio				

V. CAPITAL EXPENDITURES

62 Ending Net Fixed Assets	\$ -	\$ -	\$ -	\$ -
63 Depreciation	\$ -	\$ -	\$ -	\$ -
64 Beginning Net Fixed Assets				
65 Net Capital Expenditures				

VI. RECONCILIATION OF NET WORTH

66 Ending Net Worth	\$ -	\$ -	\$ -	\$ -
67 PAT	\$ -	\$ -	\$ -	\$ -
68 Beginning Net Worth	\$ -			
69 New Equity (Distributions)	\$ -			

VII. CASH FLOW STATEMENT

[illegible]

PART I: THE OPERATING CYCLE

PART II: PERMANENT WORKING CAPITAL

Change in PWC

Gross Funds Flow

Operating Cash Flow

[illegible]

EXHIBIT G

NAME OF BUSINESS: _____ DATE _____

QUALITY INDICATOR CHECKLIST			
	Good	Bad	Neutral
Balance Sheet			
Does company collect? Are days A/R nearly equal to collection terms?			
Does company pay? Are days A/P about equal to payment term? Is A/P greater than or equal to inventory? Are day's accruals about equal to the payroll cycle? Are taxes current?			
Does company control inventory? Are days inventory nearly equal to the inventory cycle?			
Are officers committed? Are there notes receivable? Are there notes payable or subordinated officer debt? (officer debt is a good indicator if truly subordinated) Is debt/equity ratio reasonable?			
Does company have a profitable operating history? Are retained earning positive?			
Profit & Loss Statement			
Is company growing? Are sales rising?			
Does company maintain margins? Is COGS/sales stable?			
Does company control overhead? Is SGA/sales profit/sales stable or falling? Is officer compensation reasonable?			
Is company profitable? Is operating profit/sales stable or rising? Is EBT/sales stable or rising?			
Does company have any hidden cash flow? Are there any discretionary expenses available to repay debt?			

CEO RECOMMENDATION: APPROVED _____ NOT APPROVED _____

FLOYD BATISTE – CEO

EXHIBIT H

**ECONOMIC INCENTIVE CONTRACT & LOAN AGREEMENT
BETWEEN THE CITY OF PORT ARTHUR SECTION 4A ECONOMIC
DEVELOPMENT CORPORATION
&**

Executive Summary

A narrative description of the property prepared after the contract is fully created to include:

- Description of the business
- Grant and loan provided
- Promised performance
- Reporting requirements.

**ECONOMIC INCENTIVE & LOAN AGREEMENT BETWEEN
THE CITY OF PORT ARTHUR SECTION 4A
ECONOMIC DEVELOPMENT CORPORATION
AND

("INCENTIVE RECIPIENT")**

INTRODUCTION.....	1
AGREEMENT TERM.....	1
PARTIES.....	1
PROMISED PERFORMANCE.....	2
(A) PERFORMANCE BY PAEDC	2
(B) PERFORMANCE BY INCENTIVE RECIPIENT	2
(C) CREDITS – SUBSTITUTE PERFORMANCE	3
PERFORMANCE MILESTONE SCHEDULE	4
CONDITIONAL OBLIGATIONS AND LIMITED LIABILITY OF PAEDC.....	5
LIQUIDATED DAMAGES FOR BREACH OF AGREEMENT	5
RECORDS / INSPECTION / PAEDC AUDIT	6
HOLD HARMLESS.....	7
SUBCONTRACTS.....	7
CONFLICT OF INTEREST / DISCLOSURE OBLIGATION	8
NONDISCRIMINATION / EMPLOYMENT / REPORTING	8
LEGAL AUTHORITY	9
NOTICE OF LEGAL OR REGULATORY CLAIMS.....	9
CHANGES AND AMENDMENTS.....	10
DEFAULT / TERMINATION.....	10
COMPLIANCE AUDITS.....	11
SUPPLEMENTAL COVENANT.....	12
ENVIRONMENTAL REQUIREMENTS.....	12
ORAL AND WRITTEN AGREEMENTS / PRIOR AGREEMENTS.....	13
VENUE	13
ADDRESS OF NOTICE AND COMMUNICATIONS.....	13
CAPTIONS.....	13
COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS	14
CONDITIONS PRECEDENT	14
ATTORNEY APPROVALS	14
AGREEMENT EXECUTION.....	15
Exhibit "A1" Commercial Promissory Note for Loan	
Exhibit "A2" Commercial Promissory Note for Conditional Grant	
Exhibit "B" Deed of Trust	
Exhibit "C" Commercial Security Agreement	
Exhibit "D" UCC-1 Financing Statement	
Exhibit "E" Manufacturing Equipment List	
Exhibit "F" Certification Regarding Lobbying	
Exhibit "G" Guaranty Agreement	
Exhibit "H" Guaranty Agreement	
Exhibit "I" Compliance Statement	

**ECONOMIC INCENTIVE CONTRACT & LOAN AGREEMENT BETWEEN
THE CITY OF PORT ARTHUR SECTION 4A
ECONOMIC DEVELOPMENT CORPORATION
AND
_____ ("INCENTIVE RECIPIENT")**

INTRODUCTION

The Incentive Recipient is a _____ (description of legal entities) doing business in Port Arthur, Texas. The Incentive Recipient intends to undertake the following business: _____ (summary of business planned). Current market demands are such that Incentive Recipient plans to initiate and/or expand the above-referenced business operations at its facility in Port Arthur. The City of Port Arthur Section 4A Economic Development Corporation ("PAEDC") will assist Incentive Recipient in this business endeavor by providing the hereinafter described conditional grant and/or loan or other incentives in exchange for the promise by Incentive Recipient of creation of fulltime permanent jobs.

AGREEMENT TERM

EFFECTIVE DATE

1. This Economic Incentive Contract and Loan Agreement ("Agreement") is entered into with an effective date of _____, 200__, but in no case later than _____, 200__, by and between the PAEDC and Incentive Recipient.

TERMINATION DATE

2. This Agreement expires the earlier of _____, 200__, or 30 days after _____ either performs fully or breaches the Agreement, subject to earlier termination or extension, voluntary or involuntary, as provided herein. The period from the effective date of this Agreement through and including the expiration date of this Agreement as provided in the previous sentence hereof, is sometimes referred to in this Agreement as the "Term" of this Agreement.

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 Chapter 504, Local Government Code (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 Agreement. As so authorized and as provided by the PAEDC bylaws, the President and Secretary of the PAEDC Board have the authority to execute this Agreement.

4. _____ ("Incentive Recipient") is a _____. The registered agent in Texas for the Incentive Recipient is _____ at _____, Texas 77_____.

PROMISED PERFORMANCE

5. The parties agree to perform as follows.

(a) PERFORMANCE BY PAEDC

- i. PAEDC shall loan Incentive Recipient the amount of \$_____, according to the terms in the Commercial Promissory Note (the "Note") contained in Exhibit "A1", at an interest rate of ____ percent (____%) interest and for a term of ____ () years or;
- ii. PAEDC shall conditionally grant Incentive Recipient up to \$_____, subject to the conditions and limitations herein, which Incentive Recipient is not required to pay back unless Incentive Recipient breaches this Agreement. If Incentive Recipient breaches this Incentive Agreement, then the grant will become a loan as provided in Exhibit "A2".
- iii. PAEDC will use its best efforts to pay invoices, or reimburse Incentive Recipient within forty-five (45) days of receipt for the capital outlays listed in Exhibit "E".

HOWEVER, PAEDC WILL ONLY RELEASE FUNDS IN AN AMOUNT EQUIVALENT TO REAL PROPERTY OR EQUIPMENT FOR WHICH PAEDC HAS DULY EXECUTED COLLATERAL SECURITY INTEREST. AS TO REAL PROPERTY, PAEDC WILL ONLY RELEASE FUNDS TO A MAXIMUM BASED ON THE JEFFERSON COUNTY APPRAISAL DISTRICT'S ASSESSED VALUATION AS TO REAL PROPERTY. AS INCENTIVE RECIPIENT EXPENDS FUNDS FOR IMPROVEMENTS TO REAL PROPERTY, PAEDC WILL RELEASE ADDITIONAL FUNDS BASED ON DEMONSTRATED INCREASES IN REAL PROPERTY VALUE. AS TO CAPITAL OUTLAYS, AS HEREIN DESCRIBED, PAEDC WILL ONLY RELEASE FUNDS UPON RECEIPT OF REQUIRED DOCUMENTATION OF THE PURCHASE, BY INCENTIVE RECIPIENT OF SUCH CAPITAL EQUIPMENT AND MATERIALS FREE OF ANY LIEN OR ENCUMBRANCE.

These payments are PAEDC's only obligations.

(b) PERFORMANCE BY INCENTIVE RECIPIENT

- (1) By the end of the Agreement term, Incentive Recipient promises to employ ____ () employees at an annual total payroll of \$_____,¹ as measured by Internal Revenue Service (IRS) forms W-2 and W-3.
- (2) Incentive Recipient promises that at least ____ percent (____%) of its employees will be Port Arthur residents.
- (3) If the Loan or conditional Grant provided by PAEDC to Incentive Recipient is to be secured by an interest in real property, Incentive Recipient shall execute the Deed of Trust contained in Exhibit "B". Further, if the Loan or conditional Grant by PAEDC to Incentive Recipient is to be secured additionally or alternatively by other collateral security agreements including by not limited to a commercial security agreement as specified in Exhibit "C" and filed of record with the Secretary of State for the State of Texas by a Uniform Commercial Code filing as described in Exhibit

¹ Payroll is based on 2080 hours per year and a starting wage of \$_____ per hour, per Incentive Recipient's application.

"D", Incentive Recipient will provide a detailed outlay of all equipment and material to be acquired and to be secured by the collateral security agreement by providing an enumeration of capital outlays as described on Exhibit "E".

- (4) Incentive Recipient shall use the Grant monies provided by the PAEDC exclusively for the capital outlays that are not materially different² from the list provided to PAEDC by Incentive Recipient, a copy of which is attached as Exhibit "E". With each invoice or request for reimbursement sent to PAEDC, Incentive Recipient will provide a listing of the specific equipment, material or other capital outlays requested for reimbursement and covenant that such request for reimbursement is being made for the specific assets and that all such assets have been acquired by the Incentive Recipient free of any lien or encumbrance. This will enable PAEDC to verify compliance with the list in Exhibit "E".
- (5) On demand by PAEDC and in response to Incentive Recipient's failure to achieve a performance milestone, Incentive Recipient shall provide PAEDC with reasonable assurances, proposed by Incentive Recipient and reasonably acceptable to PAEDC, that it has both the intention and the capabilities to perform fully its contractual obligations.

(C) CREDITS - SUBSTITUTE PERFORMANCE

Incentive Recipient may earn credits according to the following terms, to either reduce the duration of this Agreement or reduce the amount of liquidated damages in the event Incentive Recipient breaches the Agreement.

- (1) Starting on the effective date of the Agreement and for as long as Incentive Recipient performs as specified in Section 5(b)(1) of this Agreement, Incentive Recipient will receive a \$1.00 credit for each \$_____ of payroll paid to residents of Port Arthur. Payroll to non-residents cannot be credited.
- (2) Total credit cannot exceed \$_____.
- (3) Incentive Recipient will forfeit any credits it earned during a period for which a report is scheduled but Incentive Recipient fails to issue the report.
- (4) Once Incentive Recipient has earned credits equal to \$_____, the conditional Grant and all obligations to PAEDC shall terminate; however, no termination of the obligations for a conditional Grant shall eliminate the obligations of Incentive Recipient to PAEDC to repay any loan described in Exhibit "A1" nor to eliminate any obligations under any collateral security agreements including by not limited to those described in Exhibit "B", "C" and "D" which shall remain in full force and effect until the Note is paid in full.

PERFORMANCE MILESTONE SCHEDULE

² "Materially different" is defined as a change in the type of asset that changes the overall business plan in place at the time that this contract was executed.

6. Although failure to achieve a performance milestone is not a breach of contract, a failure is grounds for PAEDC to withhold further payments to Incentive Recipient and/or demand reasonable assurances³ from Incentive Recipient that it can and will fully perform its contractual obligations. Failure to provide such reasonable assurances following demand of PAEDC is a breach of contract.

7. Incentive Recipient's performance milestones are contained in the following table.

PERFORMANCE MILESTONE SCHEDULE

	<u>Deadline</u>	<u>Milestone</u>
(a)		e.g., Issue a <u>status report</u> ⁴ to PAEDC's Chief Executive Officer ("CEO") for the period from the effective date of this Agreement to _____.
(b)		e.g., Achieve performance of ____ full-time, permanent employees; Annualized payroll of \$_____.
(c)		e.g., <u>Status report</u> ⁵ for January 1, 200_ to _____, 200_.
(d)		
(e)		
(f)		
(g)		
(h)		
(i)		
(j)		
(k)		
(l)		
(m)		
(n)		

³ Examples of reasonable assurances are copies of pending contracts and customer commitment letters.

⁴ 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. The reporting objective is to include documentation necessary for PAEDC to verify said report without further outside inquiry.

⁵ End of February status reports shall also include identity of all shareholders who own more than five percent (5%) of the company. Year end reports shall be substantiated with IRS Forms W-2 and W-3.

(o)		
(p)		
(q)		

PAEDC'S CONDITIONAL OBLIGATIONS AND LIMITED LIABILITY

8. 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 funds 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 Incentive Recipient 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 Incentive Recipient or to any third parties for failure to make payments to Incentive Recipient under the terms and conditions of this Agreement.

9. The PAEDC shall not be liable, in Agreement or otherwise, to Incentive Recipient, or to any person or entity claiming by or through Incentive Recipient, for any expense, expenditure or cost incurred by or on behalf of Incentive Recipient related to the project made the basis of this Agreement. The PAEDC's sole liability/obligations, if any, shall be to Incentive Recipient and shall be limited to the obligations detailed in Section 5(a) of this Agreement.

10. Incentive Recipient 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 Incentive Recipient, which application is incorporated herein for all purposes.

11. Funds granted by the PAEDC hereunder shall not be utilized by Incentive Recipient for repayment of costs, expenditures or expenses incurred prior to the date of this Agreement.

LIQUIDATED DAMAGES FOR BREACH OF AGREEMENT

12. In the event Incentive Recipient fails to perform its obligations under this Agreement, following notice thereof from PAEDC and thirty-day (30-day) opportunity to cure the same, the PAEDC grant, minus any credits earned, will automatically convert to a loan (liquidated damages), effective on the day of breach, as agreed by Incentive Recipient in the executed Commercial Promissory Note contained in Exhibit "A2." Following such conversion to a loan as aforesaid, the PAEDC, at its sole option, may terminate its remaining funding obligations, if any, detailed in Section 5 herein. Further, the PAEDC shall be entitled to recover its reasonable and customary attorney's fees and court costs incurred in collection of said obligation and such remedies as are provided at law or in equity.

13. 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 Agreement 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

14. Incentive Recipient must establish and maintain sufficient records, as reasonably determined by the PAEDC, to account for the expenditure and utilization of funds received by Incentive Recipient from PAEDC under the terms and conditions of this Agreement.

15. Incentive Recipient shall maintain records of the receipt and disposition of all 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 Incentive Recipient's application. Incentive Recipient shall provide reports of utilization of said funds, as reasonably requested by the PAEDC, and upon termination of this Agreement.

16. Upon ten-day (10-day) advance notice, Incentive Recipient 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 Incentive Recipient. Such rights to access shall continue as long as the records are maintained by Incentive Recipient. Incentive Recipient agrees to maintain such records in an accessible location. All information obtained by the PAEDC, or its duly authorized representatives, shall be regarded as the confidential business information of Incentive Recipient and the PAEDC shall take reasonable measures to protect such information from disclosure to third parties; however, PAEDC is subject to the requirements of the Texas Open Meetings Act and Open Records Act (Tex.Gov.Code, 551 & 552). Incentive Recipient agrees that disclosures to the public required by the Texas Open Meetings Act, Texas Open Records Act, or any other legal requirement will not expose PAEDC (or any party acting by, through or under PAEDC) to any claim, liability or action by Incentive Recipient (or any party working by, through or under).

17. All records pertinent to this Agreement shall be retained by Incentive Recipient 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 Incentive Recipient detailing its 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. Further, records relating to real property acquisition, including any long-term lease, shall be retained for a period equal to the useful life of any asset purchased with PAEDC funds.

18. Incentive Recipient shall provide PAEDC with all reports necessary for PAEDC compliance with the Development Corporation Act.

19. It is expressly understood and agreed by the parties hereto that if Incentive Recipient 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 Incentive Recipient and/or demand assurances that Incentive Recipient can and will fully perform its contractual obligations. If Incentive Recipient fails to provide adequate assurances then Incentive Recipient is

in breach, and any monies advanced by PAEDC automatically become a loan. If PAEDC withholds such payments, it shall notify Incentive Recipient in writing of its decision and the reasons therefore. Payments withheld pursuant to this paragraph may be held by PAEDC until such time as the delinquent obligations for which funds are withheld are fulfilled by Incentive Recipient.

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 may provide Incentive Recipient with a written report of the audit findings. If the audit report details deficiencies in its performance under the terms and conditions of this Agreement, the PAEDC may establish requirements for the timely correction of any such deficiencies by Incentive Recipient.

HOLD HARMLESS

21. INCENTIVE RECIPIENT 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, PROVIDED THAT SUCH CLAIM, DEMAND OR CAUSE OF ACTION DOES NOT ARISE FROM ANY FRAUD OR MISCONDUCT ON THE PART OF THE PAEDC OR THE CITY OF PORT ARTHUR, OR ANY AGENT, EMPLOYEE OR REPRESENTATIVE OF EITHER.

SUBCONTRACTS

22. Incentive Recipient may not subcontract for performance credits described in this Agreement without obtaining PAEDC's written approval, which may be withheld for any reason. Incentive Recipient shall only subcontract for performance credits described in this Agreement after Incentive Recipient has submitted a Subcontractor Eligibility Request, as specified by PAEDC, for each proposed subcontract, and Incentive Recipient has obtained PAEDC's prior written approval. Incentive Recipient, in subcontracting for any performances described in this Agreement, expressly understands that in entering into such subcontracts, PAEDC is in no way liable to Incentive Recipient's subcontractor(s).

23. In no event shall PAEDC's prior written approval of a subcontractor's eligibility, be construed as relieving Incentive Recipient of the responsibility for ensuring that the performances rendered under all subcontracts are rendered so as to comply with all terms of this Agreement, as if such performances rendered were rendered by Incentive Recipient. PAEDC's approval does not constitute adoption, ratification, or acceptance of Incentive Recipient's or subcontractor's performance hereunder. PAEDC maintains the right to insist upon Incentive Recipient's full compliance with the terms of this Agreement, 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 Agreement.

24. Incentive Recipient, as well as all of its approved subcontractors, shall comply with all applicable federal, state, and local laws, regulations, and ordinances for making procurement under this Agreement.

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 Agreement (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. Insofar as relates to the conduct hereunder of Incentive Recipient, its agents, employees or representatives, Incentive Recipient shall ensure compliance with applicable provisions under Chapter 504, Local Government Code and Chapter 171 Local Government Code V.T.C.A.

26. **Disclosure:** In conjunction with execution of this Agreement, Incentive Recipient has fully disclosed to PAEDC all known and potential owners of interests in Incentive Recipient (whether shareholder, partner, limited partner, manager, member or otherwise). In the event of any change in ownership or control of Incentive Recipient of five percent (5 %) or greater, Incentive Recipient shall notify PAEDC in writing. Further, Incentive Recipient 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 Agreement, 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 Incentive Recipient. 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

27. Incentive Recipient 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 Agreement. Additionally, 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 Agreement be given to Port Arthur residents; and
- (b) To the greatest extent feasible, Agreements for work to be performed in connection with any such project be awarded to Port Arthur 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, which are located in or owned in substantial part by persons residing in the City of Port Arthur, Texas.
- (c) If Incentive Recipient advertises for employment then it shall among any other advertising that it chooses to undertake covenants that it will advertise in the Port Arthur News. Incentive Recipient acknowledges that PAEDC does not intend to restrain any advertising in additional publications or media nor direct any others than that stated.

LEGAL AUTHORITY

28. Incentive Recipient assures and guarantees it possesses legal and/or corporate authority (i) to enter into this Agreement, receive funds authorized by this Agreement, and (ii) to perform the obligations hereunder. Incentive Recipient has provided, or shall provide, as requested by the PAEDC, such resolutions or other required authorizations necessary to evidence this authority.

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

NOTICE OF LEGAL OR REGULATORY CLAIMS

30. Incentive Recipient shall give PAEDC immediate notice in writing of 1) any legal or regulatory action, including any proceeding before an administrative agency filed against Incentive Recipient, directly or indirectly; and 2) any material claim against Incentive Recipient, which may impact continued operations. For purposes herein, "material" claims shall mean claims in excess of \$5,000. Except as otherwise directed by PAEDC, Incentive Recipient shall furnish immediately to PAEDC copies of all pertinent documentation of any kind received by Incentive Recipient with respect to such action or claim.

CHANGES AND AMENDMENTS

31. Except as specifically provided otherwise in this Agreement, any alterations, additions, or deletions to the terms of this Agreement shall be by amendment in writing and executed by all parties to this Agreement. Such amendments must be approved by the PAEDC Board of Directors and, in many cases, by the City Council for City of Port Arthur.

32. It is understood and agreed by the parties hereto that performances under this Agreement must be rendered in accordance with the regulations promulgated under the Development Corporation Act, the assurances and certifications made to PAEDC by Incentive Recipient, 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 Agreement by all parties, it is agreed by the parties hereto that the performances under this Agreement 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 Agreement issue policy directives which serve to interpret, or clarify performance requirements under this Agreement. 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 Agreement and shall be binding upon Incentive Recipient, as if written herein.

33. Any alterations, additions, or deletions to the terms of this Agreement which are required by changes in Federal, state law or local law are automatically incorporated into this Agreement without written amendment hereto, and shall become effective on the date designated by such law or regulation.

DEFAULT / TERMINATION

34. In the event of default of any of the obligations of Incentive Recipient detailed herein or in the event of breach of any of the representations of or warranties of Incentive Recipient either detailed herein or in its application to the PAEDC, and following any notice and opportunity to cure provided for in this Agreement, 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) Declare the Commercial Promissory Note executed in conjunction with this Agreement immediately effective. If Incentive Recipient defaults on the note, then the PAEDC may exercise its default remedies provided under collateral documentation executed in conjunction with said Note and this Agreement
- (b) Exercise any remedies provided herein and/or within the Collateral Security Documents;
- (c) Withhold, whether temporarily or otherwise, disbursement of grant proceeds pending correction of the deficiency(s) by Incentive Recipient;
- (d) 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 Incentive Recipient's application to the PAEDC;

- (e) Withhold and/or disallow further PAEDC incentives to Incentive Recipient; and
- (f) Exercise any and all other remedies that may be legally available to the PAEDC, under the laws of the State of Texas and as authorized by the terms and conditions of this Agreement.

35. 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.

COMPLIANCE AUDITS

36. If directed by PAEDC Board, Incentive Recipient shall arrange for the performance of a compliance audit, by a certified public accountant, of funds received and performances rendered under this Agreement, subject to the following conditions and limitations:

- (a) Incentive Recipient 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 Term of this Agreement in which Incentive Recipient 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 Incentive Recipient. Said audit must be received and accepted by the Chief Executive Officer of PAEDC and/or the PAEDC Board.
- (b) At the option of Incentive Recipient, each audit required by this section may cover either its entire operations or each department, agency, or establishment of Incentive Recipient which received, expended, or otherwise administered PAEDC funds;
- (c) Unless otherwise specifically authorized by PAEDC in writing, Incentive Recipient 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 Term of this Agreement.
- (d) As a part of its audit, Incentive Recipient shall verify that the expenditures were exclusively for the assets listed in Exhibit "E". Any discrepancies in excess of \$500 shall be specifically documented in writing.

37. Incentive Recipient 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 Agreement and it may be required to submit formal audits at its expense.

38. Incentive Recipient shall take all necessary actions to facilitate the performance of any and all such audits, whether annual, mandatory or otherwise requested under this Agreement.

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

40. PAEDC shall not release any funds for costs incurred by Incentive Recipient under this Agreement until PAEDC has received certification from Incentive Recipient that its fiscal control and fund accounting procedures are adequate to assure proper disbursement of and accounting for funds provided under this Agreement. PAEDC shall specify the content and form of such certification.

SUPPLEMENTAL COVENANT

41. Incentive Recipient and any branch, division or department of Incentive Recipient certifies that they have not and will not knowingly employ an "undocumented worker" which means "an individual who, at the time of employment, is not lawfully admitted for permanent residence to the United States or authorized under law to be employed in that manner in the United States."

42. Incentive Recipient acknowledges that it has reviewed Chapter 2264, Texas Government Code and hereby affirmatively agrees by execution of this Agreement to repay the amount of any incentive with interest at the rate of ten (10%) percent per annum not later than the 120th day after the date PAEDC notifies Incentive Recipient of a violation.

43. Incentive Recipient acknowledges PAEDC may bring a civil action or cover any amounts owed under this Chapter and further acknowledges that PAEDC may recover court costs and reasonable attorneys' fees incurred in an action brought under §2264.101(a). Incentive Recipient is not liable for a violation of this Chapter by a subsidiary, affiliate or franchisee of the Incentive Recipient or by a person with whom the Incentive Recipient contracts.

ENVIRONMENTAL REQUIREMENTS

44. Incentive Recipient understands and agrees that by execution of this Agreement, Incentive Recipient 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. Incentive Recipient further understands and agrees that Incentive Recipient 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 AGREEMENTS / PRIOR AGREEMENTS

45. All oral and written contracts between the parties to this Agreement relating to the subject matter of this Agreement that were made prior to the execution of this Agreement have been reduced to writing and are contained in this Agreement.

46. The documents required below are hereby made a part of this Agreement, and constitute promised performances by Incentive Recipient in accordance with this Agreement:

Required

_____ Exhibit "A1" Commercial Promissory Note for Loan
_____ Exhibit "A2" Commercial Promissory Note for Conditional Grant
_____ Exhibit "B" Deed of Trust
_____ Exhibit "C" Commercial Security Agreement
_____ Exhibit "D" UCC-1 Financing Statement
_____ Exhibit "E" Manufacturing Equipment List
_____ Exhibit "F" Certification Regarding Lobbying
_____ Exhibit "G" Guaranty Agreement of _____
_____ Exhibit "H" Guaranty Agreement of _____
_____ Exhibit "I" Compliance Statement
_____ Incentive Recipient Application to PAEDC

VENUE

47. For purposes of litigation that may accrue under this Agreement, 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
444 4th Street
Port Arthur, Texas 77640
ATTN: Floyd Batiste, Chief Executive Officer

Incentive Recipient

_____, Texas 77____
ATTN: _____

CAPTIONS

48. This Agreement 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

49. Incentive Recipient 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, including those related to the activities and performances of Incentive Recipient under this Agreement. Upon request by PAEDC and by the City, Incentive Recipient shall furnish satisfactory proof of its compliance herewith.

CONDITIONS PRECEDENT

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

- a. Both the PAEDC Board and the Port Arthur City Council approve the Agreement in its final executed form.
- b. _____.
- c. _____.
- d. _____.

ATTORNEY APPROVALS

APPROVED AS TO FORM:

Guy Goodson, General Counsel for PAEDC

VERIFIED BY
CITY COUNCIL RESOLUTION:

Resolution Number: _____

Mark T. Sokolow, City Attorney

AGREEMENT EXECUTION

CITY OF PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION

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

By: _____
President

By: _____
Secretary

EDC Representative

EDC Representative

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

a _____.

By: _____

Title

Acknowledgment

EXHIBIT "A1"

COMMERCIAL PROMISSORY NOTE

Port Arthur, Texas

Effective Date: the _____ day of _____, 200__.

Principal Amount: _____ AND ____/100 DOLLARS
(\$_____).

Term of the Loan: _____ () from effective date.

Payment Schedule: Monthly until principal is paid fully, starting on the 15th day of _____, 200__.

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 ____ percent (%) 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 _____) as may hereafter be in effect, payable on demand after maturity.

This note is due and payable as follows: _____.

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

EXHIBIT "A2"

CONDITIONAL COMMERCIAL PROMISSORY NOTE

Port Arthur, Texas

This COMMERCIAL PROMISSORY NOTE becomes effective on the date when _____, a Texas _____ (hereinafter called "Maker") breaches that certain Economic Incentive Contract and Loan Agreement between the City of Port Arthur Section 4A Economic Development Corporation (hereinafter called "Lender") and Maker, dated _____, 2006.

Effective Date of Note: the _____ day of _____, 200____ ("date of breach")

Principal Amount: \$ _____, which is \$ _____ minus the incentive credits earned by Maker according to that certain Economic Incentive Contract and Loan Agreement between the Lender and Maker (described hereinbefore).

Term of the Loan: _____

Payment Schedule: _____

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 greater) as may hereafter be in effect, payable on demand after maturity.

This note is due and payable as follows: _____

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