

RESOLUTION NO. 11-013

A RESOLUTION AUTHORIZING THE CITY OF PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION TO ENTER INTO AN ON-THE-JOB TRAINING CONTRACT WITH BROCK SERVICES, LTD. AND TO EXPEND UP TO \$56,000 OF ITS TRAINING BUDGET FOR REIMBURSEMENT OF 50% OF THE HOURLY TRAINING COSTS .

WHEREAS, at its regularly scheduled meeting on December 13, 2010, the Board of Directors of the Port Arthur Economic Development Corporation (PAEDC) approved entering into an On-the-Job-Training Contract with Brock Services, Ltd. to provide entry level industrial skills training, as delineated in the proposal attached hereto as Exhibit “A”; and

WHEREAS, according to the On-the-Job Training Contract, attached hereto as Exhibit “B”, Brock Services, Ltd. and the PAEDC will identify up to forty (40) Port Arthur residents to participate in the program; and

WHEREAS, said Port Arthur residents will be employed by Brock Services, Ltd. or one of its subcontractors on a full-time basis not to exceed 200 hours and will be trained to develop specific industrial skills, which will enable them to be eligible for apprentice-level employment; and

WHEREAS, PAEDC will reimburse Brock 50% of the hourly training cost , which shall be one-half of a \$14.00/hour wage scale, upon the provision of proper documentation; and

WHEREAS, the total reimbursement per Port Arthur Employee/Trainee shall not exceed \$1,400, which shall equate to 200 hours (i.e. 5 weeks at 40 hours/week); and

WHEREAS, all funds will be solely used to pay for salaries of On-the-Job Trainees; and

WHEREAS, at the completion of the 200 hours of training, the participants shall receive a certificate of completion from Brock Services; and

WHEREAS, those who excel may be eligible to maintain employment with either Brock Services or its subcontractors pending work availability; and

WHEREAS, PAEDC has allocated \$56,000 for the reimbursement, as specified in the contract, attached hereto as Exhibit "A".

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 PAEDC is herein authorized to enter into the On-the-Job-Training Contract with Brock Services attached hereto as Exhibit "B".

Section 3. That the PAEDC is authorized to allocate up to \$56,000 of its training budget to fund reimbursement to Brock Services, Ltd. for on-the-job training of Port Arthur residents according to the terms set forth in the contract between the parties.

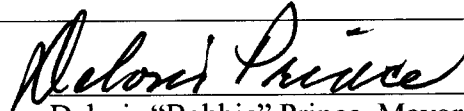
Section 4. That a copy of the caption of this Resolution be spread upon the Minutes of the City Council.

READ, ADOPTED AND APPROVED on this 4th day of January A.D., 2011, at a Meeting of the City Council of the City of Port Arthur, Texas, by the following vote:

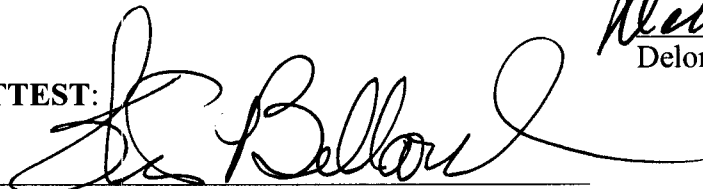
AYES:

Mayor Prince,
Councilmembers Chatman, Segler, Flood, Williamson, Wise,
and Henderson,
_____;

NOES: None


Deloris "Bobbie" Prince, Mayor

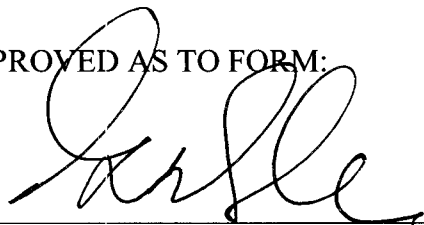
ATTEST:


Sherri Bellard, Acting City Secretary

APPROVED:


Floyd Batiste, PAEDC CEO

APPROVED AS TO FORM:


Guy N. Goodson, PAEDC Attorney

APPROVED AS TO FORM:


Valecia R. Tizen, City Attorney

Exhibit “A”



BROCK SERVICES, LTD.
A Member of the Brock Group

P.O. Box 2353 • Beaumont, Texas 77704-2353 • 409-833-7571 • Fax: 409-833-4608

TO: Port Arthur Economic Development Corporation

December 13, 2010

FROM: Brock Services, Ltd, in partnership with Dixon Quality Services, Inc.

PROPOSAL: Joint venture among the EDC, Brock, and Dixon to employ & train local Port Arthur residents.

GOAL: To increase the skills and employability of the local Port Arthur workforce through on-the-job skills development plus life skills training.

PROPOSAL OUTLINE:

Brock and Dixon would like to propose an arrangement with the EDC that would help us put local Port Arthur residents to work and provide them with marketable job skills. The basic outline would be the following:

1. Approximately 40-60 Port Arthur residents would be identified with the help of the EDC, Dixon, and Simon & Pearlanna Carron, who run a Life Skills Program for Port Arthur residents.
2. Selected participants would be employed by Brock and/or Dixon full-time for a 5-week period, during which time they would develop specific craft skills that would enable them to move from a helper-level to an apprentice-level, a much needed and marketable skill level in this region.
3. The EDC would contribute half of each participant's salary during this 5-week program (50% of \$14/hr = \$7/hr).
4. During the 5 weeks, participants would also take evening classes based on the Columbia University Adkins Life Skills Program, taught by Simon & Pearlanna Carron. This program has proven very successful in helping Port Arthur residents gain the confidence and skills necessary to acquire and maintain gainful employment.
5. At the end of the 5-week program, successful participants would receive a Certificate of Completion outlining the craft skills they have learned. Those who excel would likely maintain employment with either Brock or Dixon, pending work availability. All participants would gain much-needed craft skills that are in consistent demand in this region, thus improving their chances for employment elsewhere, should Brock or Dixon not have enough work at the time.

BENEFITS:

TO PORT ARTHUR RESIDENTS

- Immediate income through initial 5-6 week employment period (\$14/hour x 5 weeks = \$2800).
- Craft skills development via on-the-job training that will increase employability and marketability.
- Certificate of Completion issued by Brock Services that can be used to help gain future employment.
- Life skills training gives additional support outside of work for those in the program.
- Life skills training also enhances program effectiveness and increases participant's ability to gain and maintain future employment.

TO EDC

- Money is spent directly putting Port Arthur residents to work.
- Port Arthur is better able to provide a skilled workforce that will continue to be in demand locally.
- Port Arthur residents gain a better understanding of how to gain employment and improve their career outlook through life skills training.
- Program will continue the development of the relationship between Brock Services, Ltd, the Dixon Group, the EDC, and Port Arthur residents.

TO BROCK & DIXON

- Reduced risk and cost of hiring and training Port Arthur residents via assistance from the EDC.
- Increased chances of program success through life skills development course.
- Improved ability to help local refineries meet their goal of hiring more Port Arthur residents.
- Improved working relationship among Brock, Dixon, EDC, P.A. residents, and refineries.
- Increased availability of a skilled, local workforce.

COSTS:

TO EDC

Total cost for a 5-week program would be:

- 10 people/group x 4 groups = 40 people x \$7/hr for 5 weeks = \$56,000**
- 12 people/group x 4 groups = 48 people x \$7/hr for 5 weeks = \$67,200**
- 15 people/group x 4 groups = 60 people x \$7/hr for 5 weeks = \$84,000**

TO BROCK/DIXON

- Brock/Dixon would pay initial hiring costs (application, background, drug screen, safety training, etc.).
- Brock/Dixon would pay half the salary for each worker during the 5-week period.
- Brock/Dixon would pay for any tools or other needs required for on-the-job skills training.
- Brock/Dixon would pay for the life skills course.

TO PARTICIPANT

- NONE, except consistent participation and effort during the program.

EXHIBIT “B”

PORT ARTHUR ECONOMIC DEVELOPMENT CORPORATION
ON THE JOB TRAINING CONTRACT

This Contract for On The Job Training (the "Contract") is effective as of the ____ day of _____, 2011, and is entered into between the City of Port Arthur Section 4A Economic Development Corporation (the "PAEDC") and Brock Services, Ltd. (the "Employer"). This Contract must be executed and approved by the Executive Director of Economic Development of the PAEDC prior to Employer hiring and receiving any payment for on the job training for the above listed Port Arthur Employee/Trainee(s).

Employer agrees to hire the Port Arthur Employee/Trainee(s) identified in this Contract as full-time employee(s) for the training period, and to provide training in the knowledge or skills essential to the full and adequate performance of the job being trained for, as determined in the on the job training program 2011 (the "Program") in accordance with the program guidelines attached hereto as Exhibit "A" and made a part hereof for all purposes.

In consideration for the extraordinary costs of providing the on the job training and additional supervision related to the on the job training of the Port Arthur Employee/Trainee(s), Employer will be reimbursed at 50% of the Port Arthur Employee/Trainee(s) hourly rate not to exceed total Program reimbursement per Port Arthur Employee/Trainee(s) of **\$1,400.00**, which shall equate to reimbursement for 200 hours (i.e. 5 weeks at 40 hours/week) at seven dollars per hour (\$7.00/hr.) which shall be one-half of a \$14.00/hr. wage scale.

For and in consideration of the provision of training by Employer and the reimbursement by PAEDC, and PAEDC and Employer agree to the following terms and conditions:

Port Arthur Employee/Trainee – This Contract is to provide for the employment and/or training of the Port Arthur Employee/Trainee identified in this Contract. The Employer certifies that the Port Arthur Employee/Trainee was not employed with the Employer prior to the start of the Contract. Individuals funded under this Contract will be provided benefits and working conditions similar to those of other employees working similar length of time and doing the same type of work. Former employees, relatives and in-laws of Employer are ineligible for enrollment under this Contract.

Prevailing Wage for Port Arthur Employee/Trainee – Employer must (i) train for jobs to be met by Port Arthur Employee/Trainee(s) at wages that are not less than the prevailing wage for the applicable occupation in the Port Arthur labor mark area for which the Port Arthur Employee/Trainee is being trained.

Term of Contract – This Contract shall begin on the above-specified effective date, and all training for which Employer will be reimbursed shall be completed by _____, 2011. All contracts for on the job training services including this Contract entered into between PAEDC and Employer shall provide for on the job training funds not to exceed \$56,000 for PAEDC fiscal year 2010-2011.

Assurance of Non-Displacement – The Employer assures that:

- No employee has been dislocated from a job due to a relocation of the business. In the case of an employee dislocation, at least 120 days will have elapsed since the date which the establishment commenced operations at the new location. Currently employed workers will not be displaced by any trainee (including partial displacement such as a reduction in hours of non-overtime work, wages or employment benefits).
- In accordance with the type of work conducted by the employer, employees are retained as appropriate for substantially equivalent jobs, and length of employment is appropriate.
- The employer has not terminated the employment of a regular employee or otherwise reduced it's workforce with the intention of filling the vacancy by hiring a trainee whose wages are subsidized, or the job is created in

a promotional line that will infringe in any way on the promotional opportunities of currently employed individuals.

Health & Safety Standards – Employer will ensure that Health and Safety Standards established under Federal and State law, protecting the working conditions of employees, is equally applicable to the working conditions of the Port Arthur Employee/Trainee.

Drug Free Workplace – Employer will ensure that a drug-free workplace is provided as required by the Drug-Free Workplace Act of 1998.

Worker's Compensation Insurance – Employer will provide the employee-trainee with Texas Worker's Compensation Insurance or comparable insurance. If the insurance policy expires within the training period of Port Arthur Employee/Trainee, the Employer should inform the Port Arthur Economic Development Board of its renewal prior to the expiration date. Failure to report/update information may nullify this Contract.

| | | |
|--|-------------------------|---------------------------------------|
| <i>Workers Compensation (or comparable) Insurance Carrier:</i> | | <i>Local Agent (Adjuster) Agency:</i> |
| <i>Policy Number:</i> | <i>Expiration Date:</i> | <i>Phone Number:</i> |

Equal Opportunity – Employer must provide employment without regards to race, creed, color, national origin, disability, sex, age, political affiliation or beliefs, as prescribed by title VII of the Civil Rights Act of 1964 and the Age Discrimination Act of 1967.

Use of Funds – Funds provided under this Contract will not directly or indirectly be used for political purposes; in support of any religious or anti-religious activity; or to promote, assist, or deter union organization.

Collective Bargaining Agreements – Employer assures that no activities, work or training under this Contract are in conflict with the terms and conditions of an existing collective bargaining agreement.

Fees – Neither Party to the Contract may charge a Port Arthur Employee/Trainee a fee for the referral or placement of the Port Arthur Employee/Trainee under this Contract.

Hiring of Undocumented Workers - The employer has not and will not knowingly employ an undocumented worker (defined as an individual who, at the time of employment, is not lawfully admitted for permanent residence in the United States, or is not authorized under law to be employed in that manner in the United States) as detailed in Texas Government Code, §2264.001(4).” If, after receiving a public subsidy, the entity is convicted of a violation under 8 United States Code §1324a(f) (relating to the unlawful employment of undocumented workers) the entity shall repay the amount of the public subsidy with interest, at the rate provided under the Contract issued pursuant to this offer or application, within 120 days of receiving the notice of violation.

Records, Monitoring/PAEDC Audit – Employer must maintain original time/attendance records for each Port Arthur Employee/Trainee for a period of at least 1 year or a longer period if any litigation or audit may require and as here specified.

The Port Arthur Economic Development Corporation representative will visit the Employer work site during the training period to review and/or discuss employee progress.

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

Employer 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 Contract and the representations and warranties contained herein. Employer shall provide reports of utilization of said funds, as reasonably requested by the PAEDC, and upon termination of this Contract.

Upon ten-day (10-day) advance notice, Employer 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 Employer. Such rights to access shall continue as long as the records are maintained by Employer. Employer 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 Employer 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). Employer 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 Employer (or any party working by, through or under).

All records pertinent to this Contract shall be retained by Employer at least one year following the date of termination of this Contract, whether said termination is a result of default or whether said termination is a result of a final report by Employer detailing its compliance with its obligations under this Contract. Further, in the event any litigation, claim or audit arising out of or related to this Contract is instituted, the records will be maintained until all litigation, claims or audit findings involving this Contract have been resolved.

Employer shall provide PAEDC with all reports necessary for PAEDC compliance with the Development Corporation Act.

It is expressly understood and agreed by the parties hereto that if Employer fails to submit to PAEDC in a timely and satisfactory manner any report required by this Contract, PAEDC may, at its sole discretion, withhold further payments to Employer and/or demand assurances that Employer can and will fully perform its contractual obligations. If Employer fails to provide adequate assurances then Employer is in breach of this Contract. If PAEDC withholds such payments, it shall notify Employer in writing of its decision. 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 Employer.

The PAEDC reserves the right, from time to time, to carry out field inspections/audits to ensure compliance with the requirements of this Contract. After completion of any such audit, the PAEDC may provide Employer with a written report of the audit findings. If the audit report details deficiencies in its performance under the terms and conditions of this Contract, the PAEDC may establish requirements for the timely correction of any such deficiencies by Employer.

Port Arthur Employee/Trainee Termination – In the event of problems with the Port Arthur Employee/Trainee, which may lead to termination, the employer will initiate prompt communication with the Port Arthur Economic Development Corporation representative. Termination of the Port Arthur Employee/Trainee prior to forty (40) hours of employment (for any cause) will result in no reimbursement to Employer.

Training Reimbursements – This Contract is written on a cost reimbursement basis. Employer reimbursement is up to 50% of the Port Arthur Employee/Trainee's wages not to exceed \$1,400 during the agreed upon training period. Reimbursement may not occur for paid holidays, overtime, sick pay, vacation pay, or period of leave. OJT/Subsidized Employment may not exceed 8 hours a day or more than 40 hours per week.

Billing Procedures – Payment to Employer will be made within thirty (30) calendar days upon receipt of employee payroll report that includes the following information:

- Full name, address, social security number, employee number (if applicable), job title;
- Hourly wage paid during the training period;
- Total regular hours worked during the training period; and
- An evaluation of the trainee's progress according to training objectives.

PAEDC's Conditional Obligations and Limited Liability – 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 Contract. If

adequate funds are not available to make payments under this Contract, the PAEDC shall notify Employer 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 Contract 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 Contract and the PAEDC shall not be liable to Employer or to any third parties for failure to make payments to Employer under the terms and conditions of this Contract.

The PAEDC shall not be liable, in Contract or otherwise, to Employer, or to any person or entity claiming by or through Employer, for any expense, expenditure or cost incurred by or on behalf of Employer related to the program made the basis of this Contract.

Employer shall not use the funds herein for any purpose(s) other than that specifically disclosed in this Contract.

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

Liquidated Damages for Breach of Agreement – In the event Employer fails to perform its obligations under this Contract, following notice thereof from PAEDC and ten-day (10-day) opportunity to cure, the PAEDC, at its sole option, may terminate its remaining funding obligations, if any, under this Contract and shall further be entitled to seek recovery of funds advanced together with its reasonable and customary attorney's fees and court costs incurred in collection of program funds from Employer that were not expended as required under the terms of this Contract, and PAEDC further retains rights to such other legal remedies as may be provided by law or in equity.

Employer agrees that any right or remedy provided to PAEDC shall not preclude the exercise of any other right or remedy available to PAEDC to ensure performance under this Contract or under any other provision of law, nor shall any action taken in the exercise of any right or remedy by PAEDC deemed to be a waiver of any other right or remedy to which it may be entitled by law. Failure to exercise any right or remedy hereunder by PAEDC shall not constitute a waiver of the right to exercise that or any other right or remedy at any time to ensure performance by Employer under the terms of this Contract.

Hold Harmless – EMPLOYER 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 CONTRACT, THE PROGRAM MADE THE BASIS OF THIS CONTRACT, 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.

Conflict of Interest – No employee, agent, officer or elected or appointed official of the City of Port Arthur or the PAEDC who has participated in a decision making process related to this Contract (without recusing him/herself and executing a conflict affidavit) may obtain a personal or financial interest or benefit from an PAEDC assisted activity, or have an interest in any contract, subcontract, or agreement (or proceeds thereof) with respect to an PAEDC assisted activity, during their tenure or for one (1) year thereafter. Insofar as relates to the conduct hereunder of Employer, its agents, employees or representatives, Employer shall ensure compliance with applicable provisions under Article 5190.6 V.T.C.A. and Chapter 171 Local Government Code V.T.C.A.

Nondiscrimination – Employer 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 Contract.

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

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

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

It is understood and agreed by the parties hereto that performances under this Contract must be rendered in accordance with the regulations promulgated under the Development Corporation Act, the assurances and certifications made to PAEDC by Employer, and the assurances and certifications made to the City of Port Arthur with regard to the operation of the PAEDC's programs. Based on these considerations, and in order to ensure the legal and effective performance of this Contract by all parties, it is agreed by the parties hereto that the performances under this Contract are by the provisions of the on the job training 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 Contract issue policy directives which serve to interpret, or clarify performance requirements under this Contract. Such policy directives shall be promulgated by the PAEDC Board of Directors in the form of PAEDC issuances, shall be approved by the City Council and shall have the effect of qualifying the terms of this Contract and shall be binding upon Employer, as if written herein.

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

Oral and Written Agreements/Prior Agreements – All oral and written contracts between the parties to this Contract relating to the subject matter of this Contract that were made prior to the execution of this Contract have been reduced to writing and are contained in this Contract.

Venue – For purposes of litigation that may accrue under this Contract, venue shall lie in Jefferson County, Texas, where substantially all the performance will occur.

Address of Notice and Communications –

City of Port Arthur Section 4A Economic Development Corporation
444 4th Street
Port Arthur, Texas 77640

ATTN: Floyd Batiste, Chief Executive Officer

Employer

_____, Texas 77_____

ATTN: _____

Captions – This Contract has been supplied with captions to serve only as a guide to the contents. The caption does not control the meaning of any paragraph or in any way determine its interpretation or application.

Compliance with Federal, State and Local Laws – Employer 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 Employer under this Contract. Upon request by PAEDC and by the City, Employer shall furnish satisfactory proof of its compliance herewith.

By signing this Contract, I attest that I am an authorized official representing my respective party and will abide by the terms of this Contract.

City of Port Arthur Section 4A Economic Development Corporation

Signature *Date*

Typed/Printed Name

Title of Authorized Representative

Employer Representative

Authorized Signature

Signature

Date

Typed/Printed Name

Title of Authorized Representative

[illegible]