

RESOLUTION NO. 11-318

**A RESOLUTION TERMINATING THE ECONOMIC
INCENTIVE CONTRACT AND LOAN AGREEMENT
BETWEEN TRIANGLE WASTE SOLUTIONS, LLC AND THE
CITY OF PORT ARTHUR SECTION 4A ECONOMIC
DEVELOPMENT CORPORATION**

WHEREAS, on July 17, 2007, the City Council of the City of Port Arthur approved Resolution No. 07-344 authorizing an Economic Incentive Contract and Loan Agreement (the "Agreement") between Triangle Waste Solutions, LLC ("Triangle") and the City of Port Arthur Section 4A Economic Development Corporation (the "PAEDC"); and

WHEREAS, on November 13, 2008, the City Council of the City of Port Arthur approved Resolution No. 08-455 approving the First Amendment to the Agreement to revise performance milestone schedules; and

WHEREAS, on March 2, 2010, the City Council of the City of Port Arthur approved Resolution No. 10-090 approving the Second Amendment to the Agreement to revise promised performance by Triangle and to further revise the performance milestone schedule; and

WHEREAS, Triangle has proceeded through a corporate reorganization, and the business plan of Triangle will not provide for the development of a facility on the 10-acre parcel of land in the PAEDC Business Park (the "Property") in compliance with the performance milestone schedule of the amended Agreement as provided in the Third Amendment to the Agreement; and

WHEREAS, Triangle has notified the PAEDC of its inability to meet its performance milestones and has requested to terminate its contractual obligations with the PAEDC.

WHEREAS, Triangle agrees to terminate subject to the following conditions:

- (i) Triangle will re-convey the Property to PAEDC by executing a Special Warranty Deed on the property to PAEDC;

- (ii) Triangle assumes all closing cost and attorney fees associated with the conveyance of the Property to PAEDC; and

WHEREAS, PAEDC concurrently has agreed to terminate the contractual obligations under the Agreement as revised through the Third Amendment to the Agreement by:

- (i) releasing the Deed of Trust lien on the Property;
- (ii) releasing the security interest in the certificate of deposit of BBVA Compass Bank (formerly Texas State Bank) as referenced in Exhibit "C" and "E" to the Agreement (the "Certificate of Deposit");
- (iii) PAEDC pays the original discounted sales price of \$186,000 to Triangle; and

WHEREAS, on June 13, 2011, the Board of Directors of PAEDC voted to terminate its contractual obligations with Triangle, thereby, concluding the Agreement with Triangle.

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 City Council of the City of Port Arthur approves terminating the contractual obligations between Triangle and PAEDC set forth in the Agreement as revised through the Third Amendment to the Agreement. Upon conveyance of the Property by Triangle to PAEDC in consideration of payment in the amount of \$186,000 for the Property, PAEDC is authorized to release the Deed of Trust lien on the Property and the Certificate of Deposit securing the contractual performance under the Agreement.

Section 3. That a copy of the caption of this Resolution be spread upon the Minutes of the City Council.

READ, ADOPTED AND APPROVED on this 9th day of Aug A.D., 2011, at a Meeting of the City Council of the City of Port Arthur, Texas, by the following vote: AYES:

Mayor Prince; Mayor Pro Tem Duncanson

Councilmembers Scott, Segler, Albright, Beardsley, Williamson, Freeman and Thomas

NOES: None

Deloris Prince
Deloris "Bobbie" Prince, Mayor

ATTEST:

Sherr Bellard
Sherr Bellard, Acting City Secretary

APPROVED:

Floyd Batiste
Floyd Batiste, PAEDC CEO

APPROVED AS TO FORM:

Guy N. Goodson
Guy N. Goodson, PAEDC Attorney

Valecia R. Tizeno
Valecia R. Tizeno, City Attorney