

RESOLUTION NO. 12-364

**A RESOLUTION APPROVING AMENDMENT NO. 2 TO THE
COVENANTS AND RESTRICTIONS OF THE CITY OF PORT
ARTHUR SECTION 4A ECONOMIC DEVELOPMENT
CORPORATION SPUR 93 BUSINESS PARK**

WHEREAS, the City Council of the City of Port Arthur (the "City") approved the Covenants and Restrictions of the City of Port Arthur Section 4A Economic Development Corporation (the "PAEDC") Business Park located on 9555 W. Port Arthur Rd. per Resolution No. 05-356; and

WHEREAS, on April 24, 2007, the City, per resolution No. 07-189, approved Amendment No. 1 to the Covenants and Restrictions to include Landscaping and Screening Requirements; and

WHEREAS, on May 7, 2012, the PAEDC Board of Directors approved amending the Covenants and Restrictions to increase the annual land assessments to \$500 per acre to allow for security services to be included; and

WHEREAS, on June 4, 2012, the PAEDC Board of Directors approved including in that amendment a change to the requirement for wrought iron fencing to be installed facing all right-of-ways to only require for the wrought iron to be in the front of the building; and

WHEREAS, the motion also called for the disallowance of plastic or wood fencing; and

WHEREAS, the PAEDC Board of Directors recommends the City approve the recommended amendments to the Spur 93 Business Park Covenants and Restrictions as noted in Exhibit "A".

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

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

Section 2. That the Covenants and Restrictions of the Spur 93 Business Park shall be amended to increase the assessment fees to \$500 per acre per year, to change the requirement for wrought iron fencing facing all right-of-ways to only be required for the front of the structures, and to include the disallowance of wooden or plastic fencing as denoted in **Exhibit "A"**.

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 2nd day of August A.D., 2012, at a

Meeting of the City Council of the City of Port Arthur, Texas, by the following vote: AYES:

Mayor Prince Mayor Pro Tem Lewis

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

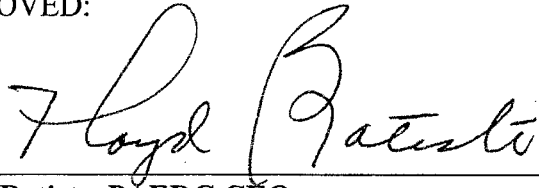
NOES: None

Deloris Prince
Deloris "Bobbie" Prince, Mayor

ATTEST:

Kelly Moore
Sherri Bellard, City Secretary on behalf of

APPROVED:

A handwritten signature in cursive script, reading "Floyd Batiste", written in black ink.

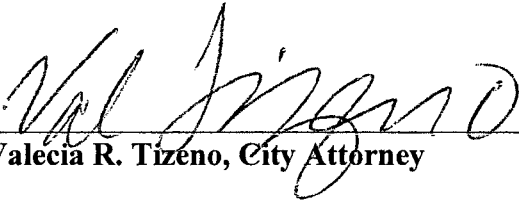
Floyd Batiste, PAEDC CEO

APPROVED AS TO FORM:

A handwritten signature in cursive script, reading "Guy N. Goodson", written in black ink.

Guy N. Goodson, PAEDC Attorney

APPROVED AS TO FORM:

A handwritten signature in cursive script, reading "Valecia R. Tizeno", written in black ink.

Valecia R. Tizeno, City Attorney

EXHIBIT “A”

**AMENDMENT NO. 2 TO
COVENANTS AND RESTRICTIONS
PORT ARTHUR BUSINESS PARK**

WHEREAS, the City of Port Arthur Section 4A Economic Development Corporation (the "PAEDC") filed its original Covenants and Restrictions, Port Arthur Business Park, dated November 30, 2005 in the Official Public Records of Real Property of Jefferson County, Texas on or about January 26, 2006, under File No. 2006003269 as it pertains to the land described in Appendix "A" attached hereto;

WHEREAS, the PAEDC filed the Amendment No. 1 to Covenants and Restrictions in the Official Public Records of Real Property of Jefferson County, Texas on or about May 10, 2007, under File No. 2007017117;

WHEREAS, the PAEDC met on May 7, 2012, and agreed to the following amendment to the Covenants and Restrictions, Port Arthur Business Park:

ASSESSMENT

The lessees and private owners of the land in the Business Park shall pay assessments to the PAEDC for (i) the maintenance of the street signage and landscaping, (ii) the costs to enforce these deed restrictions, (iii) the costs to maintain the Business Park and (iv) costs to provide security services within the Business Park, such assessments shall be a minimum of \$500 per acre per year and shall be payable on or before December 31st of each year. Additional assessments, as determined by the PAEDC Board of Directors shall not exceed the actual proportionate share of the expenditures made by the PAEDC plus a 10% administrative fee. The proportionate share shall be the number of acres owned or leased divided by 246.

Notwithstanding the proportionate allocation of costs set forth in the preceding paragraph, any costs for security services provided to the Business Park on or before December 31, 2012, shall be paid by PAEDC.

WHEREAS, the PAEDC met on June 4, 2012, and agreed to the following amendment to the Covenants and Restrictions, Port Arthur Business Park:

SITE DEVELOPMENT

Category

Requirements

Fencing - visible from front of primary structure constructed on property

decorative iron or as approved by the PAEDC (no wood or plastic fences permitted)

Fencing – visible along sides or rear of structures constructed on property including along any street or right-of-way

chain-link or as approved by PAEDC (no wood or plastic fences permitted)

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF
THE CITY OF PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT
CORPORATION that:**

1. This Amendment No. 2 to the Covenants and Restrictions, Port Arthur Business Park, as to the amendment, as to assessments and as to site development or approved.

2. The amendment as to assessment shall be effective as of January 1, 2013, and the amendment as to site development shall be effective upon approval by the City of Port Arthur, Texas.

3. The recitals to this Amendment are incorporated and fully referenced in this Amendment.

4. Except as amended hereby and as previously amended by the duly noted actions of the PAEDC, the Covenants and Restrictions, Port Arthur Business Park are ratified and affirmed.

SIGNED AND AGREED to on this ____ day of _____, 2012.

**City of Port Arthur Section 4A
Economic Development Corporation**

By: _____
President

ATTEST:

Secretary

STATE OF TEXAS

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§

COUNTY OF JEFFERSON

ACKNOWLEDGEMENT

SWORN and SUBSCRIBED to on this ____ day of _____, 2012.

Notary Public, State of Texas

APPENDIX "A"

DESCRIPTION OF A
297 960 ACRE TRACT OR PARCEL OF LAND
OUT OF AND PART OF
THE WM. McFADDIN SURVEY, ABSTRACT NO 416,
THE T. & N O R.R. SURVEY, SECTION NO. 5, ABSTRACT NO. 238,
AND THE T & N.O.R.R. SURVEY, SECTION NO 9, ABSTRACT NO. 242
JEFFERSON COUNTY, TEXAS

AUGUST 20, 2001

All that certain tract or parcel of land lying and being situated in Jefferson County, Texas, parts of the WM. McFADDIN SURVEY, ABSTRACT NO. 416, the T. & N.O.R.R. SURVEY, SECTION NO. 5, ABSTRACT NO. 238, and the T. & N.O.R.R. SURVEY, SECTION NO. 9, ABSTRACT NO. 242, and being parts of Blocks 14, 15 and 16, Range N, Blocks 14, 15 and 16, Range O, and Blocks 15 and 16, Range P of the Lands of the Port Arthur Land Co, the plat of which said subdivision is of record in Volume 1, Page 22 of the Map Records of Jefferson County, Texas, and being a part of that certain tract of land herein referred to as the "McFaddin and Cordts" tract, which said McFaddin and Cordts tract is designated "TRACT NO. 18-C" and is described in that certain instrument from W P H McFaddin, Jr, and J.L.C McFaddin, as Trustees of the McFaddin Trust to J.L.C. McFaddin, Di McFaddin Houk, Perry McFaddin Duncan, W P H. McFaddin Jr, Mamie McFaddin Ward, Camelia B. McFaddin and Di Vernon McFaddin Cordts, W.P.H. McFaddin Jr., and J.L.C McFaddin, jointly, and Mamie McFaddin Ward, W P H. McFaddin, Jr., J.L.C McFaddin, and Camelia B. McFaddin and Di Vernon McFaddin Cordts, jointly, dated February 26, 1948 and recorded in Volume 692, Page 22 of the Deed Records of Jefferson County, Texas, and which said TRACT NO. 18-C is indicated on that certain plat entitled "PARTITION MAP NO 3 OF THE McFADDIN TRUST PROPERTY IN JEFFERSON COUNTY, TEXAS ." which said plat is of record in Volume 8, Page 110 of the Map Records of Jefferson County, Texas, and being a part of that certain tract of land herein referred to as the "Cordts" tract, which said Cordts tract is described in that certain instrument from E.G Cordts, Jr., Independent Executor of the Estate of Di Vernon McFaddin Bertly to E.G Cordts, Jr., Colleen Clave Cordts and Anna Camelia Cordts, dated September 13, 1994 and recorded under County Clerk's File No 94-9432523 of the Official Public Records of Real Property of Jefferson County, Texas, and the said tract herein described being that exact same certain tract of land herein referred to as the "PAEDC" tract, which said PAEDC tract is described in that certain instrument from E.G. Cordts, Jr., Colleen Clare Cordts Rice, .., and Anna Camelia Cordts Edwardson, to Port Arthur Economic Development Corporation, dated February 28, 2001 and recorded under County Clerk's File No. 2001007554 of the Official Public Records of Real Property of Jefferson County, Texas, and the said tract herein described being more particularly described as follows:

BEGINNING at a iron rod with a Texas Department of Transportation aluminum cap (TxDOT Type 1 Monument) found for the southeast corner of the said tract herein

described, the said corner being the southeast corner of the said PAEDC tract, and the said corner also being the most southerly southwest corner of that certain tract of land herein referred to as the "Parcel 31" tract, which said Parcel 31 tract is so designated and is described in that certain instrument from E.G Cordts, Jr., Colleen Clare Cordts Rice and Anna Camella Cordts Edwardson to Jefferson County, dated March 15, 1999 and recorded under County Clerk's File No 1999009190 of the Official Public Records of Real Property of Jefferson County, Texas, and the said corner being in the north line of that certain tract of land herein referred to as the "Parcel 32" tract, which said Parcel 32 tract is so designated and is described in that certain instrument from The Mamie McFaddin Ward Heritage Foundation to Jefferson County, dated December 12, 1996 and recorded under County Clerk's File No 96-9638512 of the Official Public Records of Real Property of Jefferson County, Texas, the said corner being an interior angle point corner in the southwesterly right-of-way line of Texas State Highway Spur 93, and the said TxDOT Type 1 Monument found for corner being East (Assumed Basis of Bearings - called South 89° 37' 00" East) along and with the south line of the said PAEDC tract, said north line of the Parcel 32 tract and north line of that certain tract of land herein referred to as the "Ward" tract, which said Ward tract is designated "TRACT NO. 19-C" and is described in the hereinbefore referenced instrument recorded in Volume 692, Page 22 of the Deed Records of Jefferson County, Texas, and which said TRACT NO. 19-C is indicated on the hereinbefore referenced plat of record in Volume 8, Page 110 of the Map Records of Jefferson County, Texas, a total distance of 5,430.99 feet (called 5,431.07 feet) from a 5/8" iron rod with a yellow cap stamped "RPLS 3636" found for reference;

THENCE West (called North 89° 37' 00" West) along and with the said south line of the PAEDC tract, north line of the Parcel 32 tract and north line of the Ward tract, passing at a distance of 18.92 feet (called 18.92 feet) a 5/8" iron rod found for the most northerly northwest corner of the said Parcel 32 tract, the said corner being an exterior angle point corner in the said southwesterly right-of-way line of Texas State Highway Spur 93, and passing at a distance of 4,938.57 feet (called 4,938.91 feet) a 5/8" iron rod with a yellow cap stamped "RPLS 3636" found for reference at the southeast corner of that certain tract of land herein referred to as the "TRACT 196-A" tract, which said TRACT 196-A tract is so designated and is described in that certain instrument (titled "RIGHT-OF-WAY EASEMENT") from Di Vernon McFaddin Kibodeaux, formerly Di Vernon McFaddin Cordts, joined therein by her husband, Oren J. Kibodeaux to Jefferson County Drainage District No. 7 dated January 4, 1968 and recorded in Volume 1531, Page 123 of the Deed Records of Jefferson County Texas, and passing at a distance of 5,430.99 feet (called 5,431.07 feet) the hereinbefore said 5/8" iron rod with a yellow cap stamped "RPLS 3636" found for reference at the southwest corner of the said TRACT 196-A tract, and continuing (West) along and with the said south line of the PAEDC tract and north line of the Ward tract, a total distance of 5,545.27 feet (called 5,545.35 feet) to a point for the southwest corner of the said tract herein described, the said corner being the southwest corner of the said PAEDC tract, and the said corner also being the northwest corner of the said Ward tract, and the said corner being in the easterly line of that certain tract of land herein referred to as the "TRACT A" tract, which said TRACT A tract is so designated and is described in that certain instrument from Darling Klaver, et al to Jefferson County Drainage District No. 7 dated November 22, 1971 and recorded in Volume 1727, Page 481 of the Deed Records of Jefferson County, Texas, and the said corner being in the centerline of Rhodiar Gully,

THENCE North 12° 17' 39" West (called North 11° 54' 13" West) along and with the westerly line of the said PAEDC tract, the said easterly line of the TRACT A tract and said centerline of Rhodair Gully, a distance of 724.96 feet (called 724 92 feet) to a point for the most westerly northwest corner of the said tract herein described, the said corner being the most westerly northwest corner of the said PAEDC tract, and the said corner also being the most southerly corner of that certain tract of land herein referred to as the "J.L.C. McFaddin" tract, which said J.L.C. McFaddin tract is designated "TRACT NO. 12-C" and is described in the hereinbefore referenced instrument recorded in Volume 692, Page 22 of the Deed Records of Jefferson County, Texas, and which said TRACT NO 12-C is indicated on the hereinbefore referenced plat of record in Volume 8, Page 110 of the Map Records of Jefferson County, Texas;

THENCE North 39° 57' 00" East (called North 40° 20' 00" East) along and with the most westerly northwest line of the said PAEDC tract and most southerly southeast line of the said J.L.C. McFaddin tract, passing at a distance of 132.53 feet (called 132.53 feet) a 5/8" iron rod with a yellow cap stamped "RPLS 3636" found for reference at the northwest corner of the hereinbefore said TRACT 196-A tract, and passing at a distance of 736.10 feet (called 735.85 feet) a 5/8" iron rod with a red plastic cap stamped "S&P INC" set for reference at the northeast corner of the said TRACT 196-A tract (and which said 5/8" iron rod with a red plastic cap set for reference is North 37° 58' 15" West a distance of 0.39 feet from a 5/8" iron rod with a yellow cap stamped "RPLS 3636" found for reference), and continuing (North 39° 57' 00" East) along and with the said most westerly northwest line of the PAEDC tract and most southerly southeast line of the J.L.C. McFaddin tract, a total distance of 3,925.49 feet (called 3,925.61 feet) to a 1/2" iron rod found for the most northerly corner of the said tract herein described, the said corner being the most northerly corner of the said PAEDC tract, and the said corner also being the most westerly corner of that certain tract of land herein referred to as the "Barnette - 1483/177" tract, which said Barnette - 1483/177 tract is described in that certain instrument from Gulf Refining Company to N.K. Barnette, Jr. dated October 24, 1966 and recorded in Volume 1483, Page 177 of the Deed Records of Jefferson County, Texas;

THENCE South 49° 46' 07" East (called South 49° 23' 24" East) along and with the most northerly northeast line of said PAEDC tract and southwesterly line of the said Barnette - 1483/177 tract, a distance of 1,317.60 feet (called 1,317.54 feet) to a 1/2" iron rod found for an interior corner of the said tract herein described, the said corner being an interior corner of the said PAEDC tract, and the said corner also being the most southerly corner of the said Barnette - 1483/177 tract,

THENCE North 40° 07' 58" East (called North 40° 33' 04" East) along and with the most easterly northwest line of the said PAEDC tract and southeasterly line of the said Barnette - 1483/177 tract, a distance of 151.95 feet (called 151.86 feet) to a 5/8" iron rod with a yellow cap stamped "RPLS 3636" found for the most easterly northwest corner of the said tract herein described, the said corner being the most easterly northwest corner of the said PAEDC tract, and the said corner also being the most westerly corner of that certain tract of land herein referred to as the "Barnette - 1483/176" tract, which said Barnette - 1483/176 tract is described in that certain instrument from Di Vernon McFaddin Cordts joined therein by her husband, Edwin G. Cordts to N.K. Barnette, Jr. dated October 11, 1966

and recorded in Volume 1483, Page 176 of the Deed Records of Jefferson County, Texas, and the said 5/8" iron rod with a yellow cap stamped "RPLS 3636" found for corner being South 40° 11' 19" West (called South 40° 33' 04" West) along and with the said southeasterly line of the Barnette - 1483/177 tract, northwesterly line of the said Barnette - 1483/176 tract and southeasterly line of that certain tract of land herein referred to as the "LNVA" tract, which said LNVA tract is described in that certain instrument from Gulf Refining Company to the Lower Neches Valley Authority dated April 8, 1975 and recorded in Volume 1876, Page 290 of the Deed Records of Jefferson County, Texas, a total distance of 499.44 feet (called 500.00 feet) from a 5/8" iron rod found for the most northerly corner of the said Barnette - 1483/176 tract, the said corner also being the most easterly corner of the said LNVA tract, and the said corner being in the hereinbefore said southwesterly right-of-way line of Texas State Highway Spur 93,

THENCE South 83° 44' 08" East (called South 83° 21' 35" East) along and with the most easterly north line of the said PAEDC tract and southerly line of the said Barnette - 1483/176 tract, a distance of 557.12 feet (called 557.12 feet) to a 5/8" iron rod found for the most northerly northeast corner of the said tract herein described, the said corner being the most northerly northeast corner of the said PAEDC tract, and the said corner also being the most northerly northwest corner of the hereinbefore said Parcel 31 tract, and the said corner being in the said southwesterly right-of-way line of Texas State Highway Spur 93, and the said 5/8" iron rod found for corner being South 27° 38' 14" East (called South 27° 11' 44" East) along and with the said southwesterly right-of-way line of Texas State Highway Spur 93, a distance of 499.26 feet (called 499.56 feet) from the hereinbefore said 5/8" iron rod found for the most northerly corner of the Barnette - 1483/176 tract and most easterly corner of the LNVA tract;

THENCE South 27° 30' 14" East (called South 27° 07' 03" East) along and with the most easterly northeast line of the said PAEDC tract, southwesterly line of the said Parcel 31 tract and said southwesterly right-of-way line of Texas State Highway Spur 93, a total distance of 3,294.33 feet (called 3,294.40 feet) to the Point of Beginning and

Containing 297.960 acres (called 297.9732 acres) of land, more or less

Prepared by
Schaumburg & Polk, Inc
E. James Verrett,
Registered Professional Land Surveyor No. 1781

Res. 12-364

**Interoffice
MEMORANDUM**

To: Mayor, City Council, City Manager
From: Floyd Batiste, CEO *cs on behalf of F. Batiste*
Date: July 18, 2012
Subject: P. R. No. 17053; Council Meeting of July 24, 2012

Attached is P. R. No. 17053 approving Amendment No. 2 to the Covenants and Restrictions of the City of Port Arthur Section 4A Economic Development Corporation Spur 93 Business Park.