

RESOLUTION NO. 14-315

A RESOLUTION APPROVING THE CITY OF PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION TO ENGAGE THE SERVICES OF ARCENEUX & GATES CONSULTING ENGINEERS, INC. TO AMEND A PLAT OF THE SPUR 93 BUSINESS PARK IN THE AMOUNT OF \$8,000.00; ACCOUNT NO. 120-1429-582.59-02

WHEREAS, at their July 7, 2014 regular Board meeting, the Board of Directors of the City of Port Arthur Section 4A Economic Development Corporation (the "PAEDC") approved entering into a Professional Services Contract attached hereto as **Exhibit "A"** with Arceneaux & Gates Consulting Engineers, Inc. ("Arceneaux & Gates") in the amount of \$8,000.00 to amend the plat of the PAEDC Spur 93 Business Park (the "Business Park"); and

WHEREAS, the Business Park plat was last amended in 2011; and

WHEREAS, it is deemed in the best interest of the public to authorize the services of Arceneaux & Gates to prepare an amended plat of the Business Park in order to dedicate roads, reserves and easements consistent with the current and known future developments in the Business Park.

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

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

Section 2. That the City Council of the City of Port Arthur approves PAEDC to enter into a Professional Services Contract with Arceneaux & Gates Consulting Engineers, Inc. in the amount of \$8,000.00 for amending the plat of the Spur 93 Business Park.

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 22nd day of July A.D., 2014,
at a Meeting of the City Council of the City of Port Arthur, Texas, by the following vote:

AYES:

Mayor

Prince; Mayor Pro Tem Freeman

Councilmembers

Scott, Hamilton, Albright,
Lewis, Williamson and
Frank.

NOES:

None.

Deloris Prince
Deloris "Bobbie" Prince, Mayor

ATTEST:

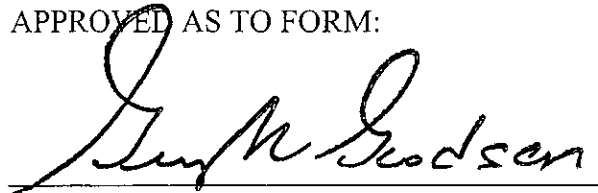
Sherri Bellard

Sherri Bellard, City Secretary

APPROVED:

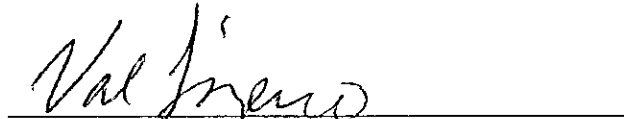
Floyd Batiste
Floyd Batiste, PAEDC CEO

APPROVED AS TO FORM:

A handwritten signature in cursive script, appearing to read "Guy N. Goodson", written over a horizontal line.

Guy N. Goodson, PAEDC Attorney

APPROVED AS TO FORM:

A handwritten signature in cursive script, appearing to read "Valecia R. Tizenb", written over a horizontal line.

Valecia R. Tizenb, City Attorney

EXHIBIT “A”

Exhibit A
Total of 10 pages

THE STATE OF TEXAS §
 §
COUNTY OF JEFFERSON §

CONTRACT
FOR PROFESSIONAL SERVICES
(NON-FEDERAL FORM)

PART I - AGREEMENT

THIS AGREEMENT, entered into as of this ___ day of _____, by and between the City of Port Arthur, Port Arthur, Texas (hereinafter called the "CITY") acting herein by its City Manager, hereunto duly authorized and Arceneaux & Gates Consulting Engineers, Inc. (hereinafter called the "ENGINEER") acting herein by Joe M. Wilson, Jr., P.E., Vice President hereunto duly authorized:

WITNESSETH THAT:

WHEREAS, the CITY desires to engage the Engineer to (1) render certain technical and professional services hereafter described in "Scope of Services" or (2) perform certain work hereafter described in "Scope of Services": NOW, THEREFORE, the Parties hereto do mutually agree as follows:

1. EMPLOYMENT OF ENGINEER

The CITY hereby agrees to engage the ENGINEER and the ENGINEER hereby agrees to perform the "Scope of Services" hereinafter set forth. This contract shall be performed in Jefferson County, Texas.

2. SCOPE OF SERVICES

A. BASIC SERVICES

AMMEND PLAT at PORT ARTHUR ECONOMIC DEVELOPMENT CORPORATION SPUR 93 BUSINESS PARK.

ENGINEER'S compensation for Basic Services shall be as set forth in Paragraph 5.

B. ADDITIONAL SERVICES

All work performed by ENGINEER at request of CITY which is not included in the

Basic Services defined above, shall constitute Additional Services. Unless included in said Basic Services, Additional Services may include but are not limited to the following:

- (1) Studies, tests, and process determination to establish basis of design for water and waste treatment facilities.
- (2) Land surveys and establishment of boundaries and monuments, and related office computation and drafting.
- (3) Preparation of property or easement descriptions.
- (4) Preparation of any special reports required for marketing of bonds.
- (5) Small design assignments (estimated construction cost less than \$100,000).
- (6) Appearances before regulatory agencies.
- (7) Assistance to the CITY as an expert witness in any litigation with third parties, arising from the development or construction of the Project, including preparation of engineering data and reports.
- (8) Special investigations involving detailed consideration of operation, maintenance and overhead expenses; preparation of rate schedules; earnings and expense statements; special feasibility studies; appraisals; evaluations; and material audits or inventories required for certification of force account construction performed by the CITY.
- (9) Special soil and foundation investigations, including field and laboratory tests, borings, related engineering analyses, and recommendations.
- (10) Detailed mill, shop and/or laboratory inspection of materials or equipment.
- (11) Travel and subsistence required of the ENGINEER and authorized by the CITY to points other than CITY'S or ENGINEER'S offices and Project site.
- (12) Additional copies of reports over ten (10) sets and additional sets of Contract Document over twenty (20) sets.
- (13) Preparation of applications and supporting documents for government grants or planning advances for public works projects.
- (14) Preparation of environmental statements and assistance to CITY in preparing for, and attending public hearings.
- (15) Plotting, computing, and filing plats of subdivisions; staking of lots; and related land planning and partitioning functions.
- (16) Revision of contract drawings after a definite plan has been approved by the CITY, redrawing of plans to show work as actually constructed.
- (17) Services after issuance of Certificate of Completion.
- (18) Services to investigate existing conditions or facilities or to make measured drawings thereof, or to verify accuracy of drawings or other information furnished by Client.
- (19) Preparation of operating instructions and manuals for facilities and training of personnel and assistance in operation of facilities.
- (21) Additional or extended services during construction made necessary by work damaged by fire or other cause during construction, defective or neglected work of contractor; services rendered after prolongation of

- construction contract time by more than 20%, acceleration of work schedule involving services beyond normal working hours; or default under construction contract due to delinquency or insolvency.
- (22) Providing any other service not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted engineering practice.
 - (23) Any other special or miscellaneous assignments specifically authorized by CITY.

ENGINEER'S compensation for Additional Services shall be as set forth in Paragraph 5.

3. TIME OF PERFORMANCE

ENGINEER will proceed immediately upon execution of this Contract with performance of the services called for under the Basic Services with completion within 365 days after execution, unless delayed by causes outside the control of ENGINEER, and will proceed with subsequent work only on authorization by CITY. ENGINEER shall immediately submit to CITY in writing evidence of delay satisfactory to the CITY Engineer's reasonable discretion, upon which an extension of time equal to the period of actual delay shall be granted in writing.

4. INFORMATION AND SERVICES TO BE FURNISHED ENGINEER

It is agreed that the CITY will furnish, without charge, for the use of the Contract information, data, reports, records, and maps as are existing, available, and necessary for the carrying out of the work of the ENGINEER as outlined under "Scope of Services." The CITY and its agencies will cooperate with the ENGINEER in every way possible to facilitate the performance of the work described in this Contract.

5. COMPENSATION AND METHOD OF PAYMENT

A. COMPENSATION

CITY will pay ENGINEER for work performed and services rendered under Paragraph 2 "Scope of Services", (Basic Services and Additional Services) at the following rates shown in ATTACHMENT 1.

It is agreed that total fees for Basic Services (including subcontracted engineering services as described herein) under this Contract, as defined in Paragraph 2A and based on the preceding schedule, shall not exceed the sum of **EIGHT THOUSAND DOLLARS (\$8,000.00)**. Additional Services authorized in writing by the CITY will be compensated based upon hourly rates established by the ENGINEER in Attachment 1.

B. PAYMENT

ENGINEER will invoice CITY monthly for its services and charges incurred by

ENGINEER for subcontracted engineering services performed under the direction and control of ENGINEER as described herein.

CITY agrees to pay ENGINEER at his office the full amount of each such invoice upon receipt or as otherwise specified in this Agreement. A charge of one percent per month shall be added to the unpaid balance of invoices not paid within 31 days after date of invoice. The engineer shall pay any subcontractors no later than the tenth day after he receives payment as required under Chapter 2251 Government Code of the Revised Civil Statutes of Texas.

6. RECORDS

ENGINEER shall keep accurate records, including time sheets and travel vouchers, of all time and expenses allocated to performance of Contract work. Such records shall be kept in the office of the ENGINEER for a period of not less than five (5) years and shall be made available to the CITY for inspection and copying upon reasonable request.

7. OWNERSHIP OF DOCUMENTS

All documents, including original drawings, estimates, specifications, field notes and data are property of CITY. ENGINEER may retain reproducible copies of drawings and other documents.

All documents, including drawings and specifications prepared by ENGINEER are instruments of service in respect to the project. They are not intended or represented to be suitable for reuse by CITY or others on extensions of the Project or on any other project. Any reuse without written verification or adaption by ENGINEER for the specific purpose intended will be at CITY'S sole risk and without liability or legal exposure to ENGINEER and CITY shall indemnify and hold harmless ENGINEER from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaption will entitle ENGINEER to further compensation at rates to be agreed upon by CITY and ENGINEER.

8. INSURANCE

All insurance must be written by an insurer licensed to conduct business in the State of Texas, unless otherwise permitted by Owner. The ENGINEER shall, at his own expense, purchase, maintain and keep in force insurance that will protect against injury and/or damages which may arise out of or result from operations under this contract, whether the operations be by himself or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, of the following types and limits (no insurance policy or certificate of insurance required below shall contain any aggregate policy year limit unless a specific dollar amount (or specific formula for determining a specific dollar amount) aggregate policy year limit is expressly provided in the specification below which covers the particular insurance policy or certificate of insurance):

1. Standard Worker's Compensation Insurance (with Waiver of Subrogation in favor of

- the CITY of Port Arthur, its officers, agents and employees.)
2. Commercial General Liability occurrence type insurance. (No "XCU" restrictions shall be applicable.) Products/completed operations coverage must be included, and the CITY of Port Arthur, its officers, agents and employees must be named as an additional Insured.
 - a. Bodily injury \$500,000 single limit per occurrence or \$500,000 each person/\$500,000 per occurrence.
 - b. Property Damage \$100,000 per occurrence.
 - c. Minimum aggregate policy year limit \$1,000,000.
 3. Commercial Automobile Liability Insurance (including owned, non-owned and hired Vehicles coverage's).
 - a. Minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage.
 - b. If individual limits are provided minimum limits are \$300,000 per person, \$500,000 per occurrence for bodily injury and \$100,000 per occurrence for property damage.
 4. Contractual Liability Insurance covering the indemnity provision of this contract in the same amount and coverage as provided for Commercial General Liability Policy, specifically referring to this Contract by date, job number and location.
 5. ENGINEER also agrees to maintain Professional Liability Insurance coverage of \$250,000 minimum per occurrence/claim/policy year aggregate limits against ENGINEER for damages arising in the course of, or as a result of, work performed under this Contract. Coverage shall continue for a minimum of two (2) years after the ENGINEER'S assignment under this Contract is completed. Additional Professional Liability Insurance required is \$0 .

ENGINEER shall cause ENGINEER'S insurance company or insurance agent to fill in all information required (including names of insurance agencies, ENGINEER and insurance companies, and policy numbers, effective dates and expiration dates) and to date and sign and do all other things necessary to complete and make into a valid certificate of insurance the CERTIFICATE OF INSURANCE Form attached to and made a part of this Contract, and pertaining to the above listed Items 1,2,3,4, and 5; and before commencing any of the work and within the time otherwise specified, ENGINEER shall file said completed Form with the CITY. None of the provisions in said Form shall be altered or modified in any respect except as herein expressly authorized. Said CERTIFICATE OF INSURANCE Form contains a provision that coverages afforded under the policies will not be altered, modified or cancelled unless at least fifteen (15) days prior written notice has been given to the CITY. ENGINEER shall also file with the CITY valid CERTIFICATE(s) OF INSURANCE on like form from or for all Subcontractors and showing the Subcontractor(s) as the Insured. Said completed CERTIFICATE OF INSURANCE Form(s) shall in any event be filed with CITY not more than ten (10) days after

execution of this Contract.

~~Deductible on policy for Professional Liability shall not exceed \$5,000 unless specifically approved by the Owner.~~

9. PROFESSIONAL LIABILITY

A. ENGINEER shall be responsible for the use and employment of reasonable skill and care befitting the profession in the designs, drawings, plans, specifications, data, reports and designation of materials and equipment provided by ENGINEER for the Project covered by this Contract. Approval by CITY shall not constitute nor be deemed a release or waiver of the responsibility and liability of ENGINEER for the accuracy and competency of such designs, drawings, plans, specifications, data, reports and designation of materials and equipment. Contractor will be responsible for the actual supervision of Construction operations and safety measures involving the work, his employees and the public, but the ENGINEER will advise the Contractor of any items requiring the attention and action of the Contractor.

B. If services include periodic visits to the site to inspect work performed by another Contractor, ENGINEER is responsible for exercising reasonable care and skills befitting the profession to assure that the Contractor performs the work in accordance with Contract Documents and to safeguard the CITY against defects and deficiencies in the work; provided, however, ENGINEER does not guarantee or insure the work completed by the Contractor. During visits to the construction site, and on the basis of the ENGINEER'S on-site observations as an experienced and qualified design professional, he will keep the CITY informed on the extent of the progress of the work, and advise the CITY of material and substantial defects and deficiencies in the work of material and substantial defects and deficiencies in the work of Contractors which are discovered by the ENGINEER or otherwise brought to the ENGINEER'S attention in the course of construction, and may, on behalf of the CITY exercise whatever rights the CITY may have to disapproved work and materials as failing to conform to the Contract Documents.

C. In connection with the services of Resident Project Representatives, ENGINEER will use the usual degree of care and prudent judgement in the selection of competent Project Representatives, and the ENGINEER will use its best efforts to see that the Project Representatives are on the job to perform their required duties. In performing these duties and services (described in this sub-paragraph), ENGINEER is responsible for exercising reasonable care and skill befitting the profession to assure that the Contractor performs the work in accordance with Contract Documents and to safeguard the CITY against defects and deficiencies in the work; provided, however, ENGINEER does not guarantee or insure the work completed by the Contractor.

D. In performing these services the ENGINEER will at all times endeavor to protect the CITY on the Project and work sites and safeguard the CITY against defects and deficiencies in the work of the Contractor; provided, however, ENGINEER does not guarantee or insure

the work completed by the Contractor, nor is ENGINEER responsible for the actual supervision of construction operations or for the safety measures that the Contractor takes or should take.

E. ENGINEER shall not be responsible for any excess of construction costs over an amount estimated.

10. INDEMNIFICATION

ENGINEER shall comply with the requirements of all applicable laws, rules, and regulations in connection with the services of ENGINEER and shall exonerate, indemnify and hold harmless the CITY, its officers, agents and all employees from any and all liability, loss or damage arising out of noncompliance with such laws, rules and regulations; without limitation, ENGINEER shall assume full responsibility for payments of Federal, State and Local taxes or contributions imposed or required under the Social Security, Worker's Compensation, and Income Tax Laws with respect to ENGINEER'S employees. Further, ENGINEER shall exonerate, indemnify and hold harmless the CITY, its officers, agents and all employees from any and all liability, loss, damages, expenses or claims arising out of negligence of ENGINEER, its officers, agents and employees in connection with any of the work performed or to be performed under this Contract by ENGINEER or as a result of ENGINEER'S failure to use and employ reasonable skill and care befitting the profession in accordance with paragraph 9 hereof. Further, ENGINEER shall exonerate, indemnify and hold harmless the CITY, its officers, agents, and all employees from any and all liability, loss, damages, expenses or claims for infringement of any copyright or patents arising out of the use of any plans, design, drawings, or specifications furnished by ENGINEER in the performance of this Contract.

The foregoing indemnification provision shall apply to ENGINEER regardless of whether or not said liability, loss, damages, expenses, or claims is caused in part by a party indemnified hereunder.

11. ADDRESS OF NOTICE AND COMMUNICATIONS

CITY:

Mr. John A. Comeaux, PE
Interim City Manager
PO Box 1089
Port Arthur, TX 77641

ENGINEER:

Arceneaux & Gates
Consulting Engineers, Inc.
2901 Turtle Creek Dr., Suite 320
Port Arthur, TX 77642
Attn: Joe M. Wilson, Jr., PE

All notices and communications under this Contract shall be mailed or delivered to CITY and ENGINEER at the above addresses.

12. CAPTIONS

Each paragraph of this Contract has been supplied with a caption 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.

13. SUCCESSORS AND ASSIGNMENTS

The CITY and the ENGINEER each binds himself and his successors, executors, administrators, and assigns to the other party of this Contract and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the CITY nor the ENGINEER shall assign, sublet, or transfer his interest in this Contract without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto.

14. TERMINATION OF CONTRACT FOR CAUSE

If, through any cause, the ENGINEER shall fail to fulfill in timely and proper manner his obligations under this Contract, or if the ENGINEER shall violate any of the covenants, agreements, or stipulations of this Contract, the CITY shall thereupon have the right to terminate this Contract by giving written notice to the ENGINEER of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, survey, drawings, maps, models, photographs, and reports prepared by the ENGINEER under this Contract shall, at the option of the CITY, become its property and the ENGINEER shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notwithstanding the above, the ENGINEER shall not be relieved of liability to the CITY for damages sustained by the CITY by virtue of any breach of the Contract by the ENGINEER and the CITY may withhold any payment to the ENGINEER for the purpose of setoff until such time as the exact amount of damages due the CITY from the ENGINEER is determined.

15. TERMINATION FOR CONVENIENCE OF THE CITY

The CITY may terminate this Contract at any time by giving at least thirty (30) days notice in writing to the ENGINEER. If the Contract is terminated by the CITY as provided herein, the ENGINEER will be paid for the time provided and expenses incurred up to the termination date. If this Contract is terminated due to the fault of the ENGINEER, Paragraph 14 hereof relative to termination shall apply.

16. CHANGES

The CITY may, from time to time, request changes in the scope of the services of the ENGINEER to be performed hereunder. Such changes, including any increase or decrease in the amount of the ENGINEER'S compensation, which are mutually agreed upon by and between the CITY and ENGINEER shall be incorporated in written amendments to this Contract.

17. PERSONNEL

- A. The ENGINEER represents that he has, or will secure at his own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the CITY.
- B. All of the services required hereunder shall be performed by the ENGINEER or under his supervision and all personnel engaged in the work shall be fully qualified and, if applicable shall be authorized or permitted under State and local law to perform such services.
- C. None of the work or services covered by this Contract shall be subcontracted without the prior written approval of the CITY. Any work or services subcontracted hereunder shall be specified by written Contract or agreement and shall be subject to each provision of this Contract.

18. REPORTS AND INFORMATION

The ENGINEER at such times and in such forms as the CITY may require, shall furnish the CITY such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.

19. CIVIL RIGHTS

Under Chapter 106 Civil Practice and Remedies Code of the Revised Civil Statutes of Texas, no person shall, on the grounds of race, religion, color, sex or national origin, be excluded due to discrimination under any program or activity of the CITY.

The ENGINEER will carry out its work under this Contract in a manner which will permit full compliance by the CITY with the Statute.

20. INTEREST OF ENGINEER AND EMPLOYEES

The ENGINEER covenants that he presently has no interest and shall not acquire any interest, direct or indirect, in the study area or any parcels therein or any other interests which would conflict in any manner or degree with the performance of his services hereunder.

The ENGINEER further covenants that in the performance of this Contract, no person having any such interest shall be employed.

21. INCORPORATION OF PROVISIONS REQUIRED BY LAW

Each provision and clause required by law to be inserted into the Contract shall be deemed to be enacted herein and the Contract shall be read and enforced as though each were included herein.

If through mistake or otherwise any such provision is not inserted or is not correctly inserted, the Contract shall be amended to make such insertion on application by either party.

EXECUTED IN TWO (2) counterparts (each of which is an original) on behalf of ENGINEER by Joe M. Wilson, Jr., P.E., its Vice President shown below, and on behalf of the CITY by its Executive Director.

ACCEPTED:

CITY:

John A. Comeaux, PE
Interim City Manager

EXECUTIVE DIRECTOR

DATE: _____

ATTEST

CITY Secretary

APPROVED AS TO FORM:

CITY Attorney

DATE: _____

PROPOSED AND AGREED TO:

ENGINEER:

ARCENEUX & GATES
CONSULTING ENGINEERS, INC.

DATE: _____

ATTEST:



**SCHEDULE OF BILLABLE RATES
FOR PROFESSIONAL SERVICES**

CLASSIFICATION	RATE
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ENGINEERING SERVICES

- | | |
|-------------------------------|-------------------|
| • Principal Engineer | \$225.00 per hour |
| • Engineering Project Manager | \$200.00 per hour |
| • Staff Engineer | \$160.00 per hour |
| • Graduate Engineer, EIT | \$130.00 per hour |
| • Engineering Intern | \$ 30.00 per hour |

SURVEYING SERVICES

- | | |
|---|-------------------|
| • Registered Professional Land Surveyor | \$145.00 per hour |
| • 2-Man Crew | \$165.00 per hour |
| • 3-Man Crew | \$216.00 per hour |
| • Survey Coordinator | \$100.00 per hour |

TECHNICAL SERVICES

- | | |
|---------------------------------|-------------------|
| • Engineering Technician III | \$100.00 per hour |
| • Engineering Technician II | \$ 82.00 per hour |
| • Engineering Technician I | \$ 68.00 per hour |
| • Resident Field Representative | \$ 80.00 per hour |

SECRETARIAL/ADMINISTRATIVE SERVICES

\$ 60.00 per hour

NON-LABOR EXPENSES

- | | |
|------------------------------------|-------------------|
| • Vehicle Travel | IRS standard rate |
| • Computer Plotting, Reproductions | At Cost |
| • Subcontracted Services | Cost + 10% |
| • Materials | Cost + 10% |
| • GPS Base Station w/One (1) Rover | \$250.00 per day |