

11-25-14

RESOLUTION NO. 14611

**A RESOLUTION APPROVING THE CITY OF PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION'S FIRST AMENDED CHIEF EXECUTIVE OFFICER EMPLOYMENT AGREEMENT WITH FLOYD BATISTE**

**WHEREAS**, on November 3, 2014, the City of Port Arthur Section 4A Economic Development Corporation (the "PAEDC") Board of Directors approved extending the Chief Executive Officer Employment Agreement between PAEDC and Floyd Batiste (the "Agreement") for an additional year; and

**WHEREAS**, the Board approved a five (5%) percent salary increase for Mr. Batiste and requested that his salary be modified to reflect the five (5%) percent raise and also requested his range and step be set so that Mr. Batiste could be given incremental salary increases; and

**WHEREAS**, the PAEDC Board authorized Mr. Batiste be placed at the salary range of 77-H, Step 2, in accordance with the current personnel policy of the City on the effective date of the Agreement as shown in **Exhibit "A"**; and

**WHEREAS**, the Board wishes to provide Mr. Batiste with an opportunity for additional compensation, including a Step 3 salary increase twelve (12) months from the effective date of the Agreement and salary adjustment thereafter as set forth in the basic schedule of pay raises and ranges as a part of the personnel policies of the City.

**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 hereby approves the five (5%) percent salary increase for Mr. Batiste and his placement into the salary range of 77-H, Step 2, in accordance with the current personnel policy of the City on the effective date of the Agreement.

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

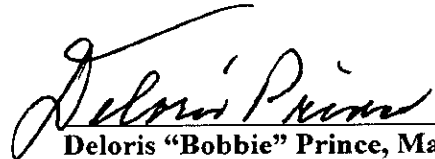
**READ, ADOPTED AND APPROVED** on this 25<sup>th</sup> day of Nov A.D., 2014, at a Meeting of the City Council of the City of Port Arthur, Texas, by the following vote:

AYES: ✓

Mayor \_\_\_\_\_

Councilmembers Scott, Hamilton, Mosely, Lewis  
and Frank.

NOES: Mayor Prince and Councilmember Williamson

  
Deloris "Bobbie" Prince, Mayor

ATTEST:

  
Sherri Bellard, 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”**

**CITY OF PORT ARTHUR SECTION 4A  
ECONOMIC DEVELOPMENT CORPORATION  
FIRST AMENDED CHIEF EXECUTIVE OFFICER EMPLOYMENT AGREEMENT**

THIS FIRST AMENDED CHIEF EXECUTIVE OFFICER EMPLOYMENT AGREEMENT (the "Agreement") is made and entered into by and between the City of Port Arthur Section 4A Economic Development Corporation, an economic development corporation of the City of Port Arthur, Texas (the "Employer") and Floyd Batiste (the "Employee").

**RECITALS:**

A. Employer desires to employ the services of Floyd Batiste as provided by the Bylaws of Employer (the "Bylaws") it being determined that the Employee has or shall meet all of the qualifications to act as Chief Executive Officer of Employer; and

B. The Board of Directors of the Employer (the "Board") has agreed to provide certain salary and benefits, establish certain conditions of employment and set working conditions of the Employee; and

C. The Board desires to (1) secure the services of Employee and to provide inducement for him to remain in such employment, (2) to make possible full work productivity by assuring Employee's morale and peace of mind with respect to future security, (3) to act as a deterrent against malfeasance or dishonesty for personal gain on the part of Employee, and (4) to provide a just means for terminating Employee's services at such time as he may be unable to fully discharge his duties or when Employer may otherwise desire to terminate his employ; and

D. Employee has previously accepted employment as the Chief Executive Officer of Employer on terms and conditions set forth in an Agreement between Employer and Employee. Employer and Employee wish to amend the prior Agreement to provide amendments and clarifications to that Agreement.

NOW, THEREFORE, in consideration of the recitals set forth above which are incorporated in this Agreement as if fully set forth below and in further consideration of the mutual covenants herein contained, Employee and Employer agree as follows:

**Section 1. Duties**

Employer hereby agrees to employ Employee as Chief Executive Officer to perform the functions and duties specified in the Bylaws and to perform other legally permissible and proper duties and functions as the Board shall from time to time assign. Employee agrees to be employed by Employer as its Chief Executive Officer to perform duties specified in the Bylaws and to perform other legally permissible and proper duties and functions as the Board shall from time to time assign. Employee further agrees to perform such duties in accordance with the personnel policies of the City of Port Arthur, Texas (the "City") to the extent that such policies are not in conflict with provisions in this Agreement.

**Example:** range 69-H = 58.1840 Board voted on 5% raise.  $58.1840 \times 1.05 = 61.0932$  at range 77 H – Step 2 = 61.0655

## **Section 2. Salary**

The salary of the Employee shall be ranged 77-H, Step 2 (in accordance with the personnel policies of the City) on the Effective Date of this Agreement as set forth in Section 3 below. Employer and Employee have agreed to the range and step designation, notwithstanding the previous employment by Employer of Employee. It being acknowledged that Employer wishes to provide Employee with an opportunity for additional compensation, including a Step 3 salary increase twelve (12) months from the effective date of this Agreement and salary adjustments thereafter as set forth in the basic schedule of pay raises and ranges as a part of the personnel policies of the City.

## **Section 3. Term**

A. The term of this Agreement shall begin on the date of its approval by the City Council of the City (the "City Council") (the "Effective Date"), and end September 30, 2015 (the "Term of Agreement"), and may be extended upon the Employee's receipt of a favorable evaluation from the Board. Based upon receipt of a favorable evaluation, Employee shall be eligible for any across the Board or other pay increases provided by the City to its employees and shall additionally be entitled to the step increases as specified in Section 2 of this Agreement. The employee's salary range as specified in the then current basic schedule of pay raises and ranges for the City subject, however, that no reduction in steps for the range of Employee may be made and be applicable as to Employee without the prior written consent of Employer and Employee, notwithstanding any provision to the basic schedule of pay raises and ranges by the City.

B. If the Employee does not receive a favorable performance evaluation as specified in this Agreement, then this Agreement may be terminated in accordance with this Agreement or Employee may continue to be employed as the Chief Executive Officer on such salary, automobile allowance and benefits as solely may be determined by Board and by the City Council; however, Employee would be entitled to the receipt of the termination and severance pay benefits provided for in this Agreement if he is thereafter terminated by appropriate action of the Board.

C. If the Board fails to conduct the performance evaluation as specified in this Agreement prior to the end of the term of this Agreement, then this Agreement shall be deemed to have been renewed on the same terms and conditions as this Agreement for an additional twelve (12) month period beginning October 1, 2015. Nothing in this paragraph shall prevent, limit or otherwise interfere with the right of the Board to terminate the services of Employee at any time subject to the provisions in Section 7 of this Agreement.

## **Section 4. Economic Development Certification**

You must maintain your certification in Economic Development through the International Economic Development Council ([www.iedconline.org](http://www.iedconline.org)).

## **Section 5. Vacation and Sick Leave**

From your first day of employment, you were provided with two (2) weeks credit for vacation. You shall be credited with four (4) weeks vacation annually. Employee is authorized for up to 40 hours emergency leave, and in case of emergency or death within his immediate family.

Normal policy accrues two (2) weeks of vacation at the end of the first year, and accrual of ten (10) hours of sick leave per month.

#### **Section 6. Medical/Dental/Life/AD&D**

Your medical, dental, life and AD&D insurance were effective on your first day of employment. Per PAEDC policy, 100% of the premium for your health insurance coverage will be paid by the PAEDC and 50% of the premium for dependents under the plan will be paid by the PAEDC. Also, the PAEDC provides \$6,000 life insurance and \$5,000 AD&D insurance for you at no cost. Additional optional coverage is available for both you and your dependents through payroll deduction.

#### **Section 7. Severance Pay**

A. Should your employment with the PAEDC be terminated by the PAEDC for any reason(s), except for malfeasance in office, other terminable conditions set forth in the personnel policies of the City of Port Arthur or the voluntarily termination by Employee, the PAEDC shall pay a lump sum cash payment equal to six (6) months salary of Employee as set forth in Section 2 of this Agreement as of the date of termination plus (ii) accrued vacation leave credited to Employee prior to the date of termination.

B. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Board to terminate the services of Employee at any time, subject only to the provisions set forth in this Agreement, in the Bylaws of the PAEDC or the City of Port Arthur Personnel Policies. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Employee to resign at any time from his position with Employer, subject only to the provisions set forth in this Agreement, in the PAEDC or the City of Port Arthur Personnel Policies.

C. Additionally, Employee shall continue to receive health and dental insurance benefits for a period equal to the lesser of (i) six (6) months from the date of termination or (ii) the date upon which he receives insurance coverage from another employer, but without any pay for compensatory time or personal leave.

D. In the event Employee voluntarily resigns his position with Employer before expiration of his term of employment, then Employee shall give Employer two (2) months notice in advance, unless Employer otherwise agrees. Upon voluntary resignation and separation, Employee is entitled only to payment of accrued and unused vacation benefits for the current year of the term of the Agreement.

#### **Section 8. Retirement**

You will become a member of the Texas Municipal Retirement System on the first day of your employment with the PAEDC. Your contribution into the plan will be 5% of your salary and the PAEDC will match that contribution on a 2:1 basis.

#### **Section 9. Business Expense**

Standard business expenses shall be provided to you via the policies set forth in the Personnel Policy. Standard business expenses shall be provided to you by the PAEDC including the costs of belonging to and attending professional meetings, such as the American Economic Council, the Southern Economic Development Council and the Texas Economic Council or other organizations as deemed appropriate. Reasonable and necessary travel and entertainment expenses incurred on behalf of the

PAEDC are eligible business expenses Employer shall bear the full cost of any fidelity or other bond required of the Employee under any law or ordinance.

#### **Section 10. Memberships**

Your membership dues in any civic clubs deemed appropriate by the PAEDC will be paid by the PAEDC.

#### **Section 11. Performance Evaluation**

Your performance will be evaluated annually, based on a minimum acceptable performance standard of satisfactory or better accomplishments. The Board shall review and evaluate the performance of the Employee in May in advance of the adoption of the annual operating budget. Said review and evaluation shall be in accordance with specific criteria developed jointly by Employer and Employee. Said criteria may be added to or deleted from as the Board may from time to time determine, in consultation with the Employee. Further, the President of the Board shall provide the Employee with a summary written statement of the findings of the Board by June 30<sup>th</sup> and provide an adequate opportunity for the Employee to discuss his evaluation with the Board.

Annually, in or about the month of May, the Board and Employee shall define such goals and performance objectives which they determine necessary of the proper operation of the Employer and in the attainment of the Board's policy objectives and shall further establish a relative priority among those various goals and objectives, said goals and objectives to be reduced in writing. They shall generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations provided.

In effecting the provisions of this Section, the Board and Employee mutually agree to abide by the provisions of applicable municipal, state and federal law including but not limited to all resolutions and ordinances of the City of Port Arthur, Texas.

#### **Section 12. Drug Screening and Physical Examination**

You have already satisfactorily completed a physical examination and drug screening.

#### **Section 13. Rights Under City of Port Arthur Personnel Policy**

As herein above stated, Employee shall be entitled to all the rights and privileges granted under the City of Port Arthur's Personnel Policies that are not in conflict with this Agreement.

#### **Section 14. Indemnification**

To the fullest extent permitted by law, Employer shall defend, save harmless and indemnify Employee against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties, and shall obtain and keep in full force and effect liability insurance or risk pool coverage, including errors and omissions coverage on a "per occurrence" basis, or such other similar insurance as the City covers its officers and employees in sufficient amounts to assure accomplishment of such hold harmless and indemnification; provided that this Section shall not be construed as creating any right, cause of action or claim of waiver or estoppel for or on behalf of any third party, nor shall it be construed as a waiver or modification of the availability of the defense of governmental immunity or any other legal defense available to either Employer or the Employee as to any third party; and provided



further that Employer shall not indemnify and hold harmless the Employee from and with respect to any claim or liability for which the conduct of the Employee is found by the courts to have been grossly negligent or intentional wrongful conduct.

Employer will compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon. This indemnification shall extend beyond and survive the termination of employment and the expiration of this Agreement.

#### **Section 15. Hours of Work**

It is recognized that Employee provides professional services for the Employer devoting a great deal of time outside the normal office hours to business of the Employer, and to that end Employee will be allowed to take reasonable compensatory time off during said normal office hours.

#### **Section 16. Automobile**

From the effective date of this agreement, Employer agrees to pay Employee a monthly automobile allowance of \$650.00.

#### **Section 17. Professional Development**

A. Employer hereby agrees to budget for and to pay the travel and subsistence expenses of Employee for professional and official travel, meetings and occasions adequate to continue the professional development of Employee and to adequately pursue necessary official and other functions for Employer, including but not limited to the professional meetings of the American Economic Development Council, the Southern Economic Development Council and the Texas Economic Development Council together with regional, state and local government group meetings and committees thereof in which Employee serves as a member or requested to attend with the approval of the Board.

B. Employer also agrees to budget and to pay for the travel and subsistence expenses of Employee for short courses, institutes and seminars that are necessary for his professional development.

#### **Section 18. Business Expenses; Memberships**

Employer recognizes that certain expenses for job-affiliated nature may be incurred by Employee, and hereby agrees to reimburse or to pay said general expenses in amounts as may be requested by the Employee on a reimbursement basis with any reimbursement of job-affiliated expense. Upon completion of travel by Employee, the Board shall verify and approve all travel expenses consistent with the City of Port Arthur's travel policy as most recently in effect prior to the date of this Agreement.

#### **Section 19. Employee Benefits; Retirement**

A. Except for annual base salary or any cost of living or merit increases which shall be determined following the conduct of the performance evaluation specified in Section 11 of this Agreement, Employee shall be entitled to all medical, dental, life insurance and accidental death and disability insurance coverage will be effective from the first date of your employment with Employer. Pursuant to the policies of the City of Port Arthur, Texas, 100% of the premium of your health insurance coverage will be paid and 50% of the premium for dependent coverage will be paid by Employer if you

choose coverage for dependents under said plan. The current provision of plans is \$6,000 of life insurance at no cost to Employee. You may also opt for any additional coverage offered and available to Employee or your dependents through payroll deductions as hereinafter established.

B. Employee will become a member of the Texas Municipal Retirement System ("TMRS") on the first day of his employment with Employer. The Employee will pay 5% percent of his salary as a contribution to the TMRS plan, and the Employer will match that contribution on two:one basis (10%).

#### **Section 20. Bonding**

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

#### **Section 21. Notices**

Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

(1) City of Port Arthur EDC  
Attn: President, Board of Directors  
P.O. Box 3934  
Port Arthur, Texas 77642

(2) Mr. Floyd Batiste  
City of Port Arthur EDC  
P.O. Box 3934  
Port Arthur, Texas 77642

Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

#### **Section 22. General Provisions**

A. The text herein shall constitute the entire agreement between the parties.

B. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Employee.

C. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

D. Any claim or cause of action under this Agreement shall be enforceable under the laws of the State of Texas and shall be brought before the appropriate court of competent jurisdiction in Jefferson County, Texas.

IN WITNESS WHEREOF, the Employer has caused this Agreement to be signed and executed in its behalf by its President, and duly attested by its Secretary of the Board, and the Employee has signed and executed this Agreement in duplicate originals to be effective as of the date first above written.

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

Date: \_\_\_\_\_

By: \_\_\_\_\_  
President, Board of Directors

ATTEST:

\_\_\_\_\_  
Secretary, Board of Directors

[Seal]

APPROVED AS TO FORM:

\_\_\_\_\_  
Guy N. Goodson, City Attorney

**EMPLOYEE**

Date: \_\_\_\_\_

\_\_\_\_\_  
Floyd Batiste

RESOLUTION NO. 14611

**A RESOLUTION APPROVING THE CITY OF PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION'S FIRST AMENDED CHIEF EXECUTIVE OFFICER EMPLOYMENT AGREEMENT WITH FLOYD BATISTE**

**WHEREAS**, on November 3, 2014, the City of Port Arthur Section 4A Economic Development Corporation (the "PAEDC") Board of Directors approved extending the Chief Executive Officer Employment Agreement between PAEDC and Floyd Batiste (the "Agreement") for an additional year; and

**WHEREAS**, the Board approved a five (5%) percent salary increase for Mr. Batiste and requested that his salary be modified to reflect the five (5%) percent raise and also requested his range and step be set so that Mr. Batiste could be given incremental salary increases; and

**WHEREAS**, the PAEDC Board authorized Mr. Batiste be placed at the salary range of 77-H, Step 2, in accordance with the current personnel policy of the City on the effective date of the Agreement as shown in **Exhibit "A"**; and

**WHEREAS**, the Board wishes to provide Mr. Batiste with an opportunity for additional compensation, including a Step 3 salary increase twelve (12) months from the effective date of the Agreement and salary adjustment thereafter as set forth in the basic schedule of pay raises and ranges as a part of the personnel policies of the City.

**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 hereby approves the five (5%) percent salary increase for Mr. Batiste and his placement into the salary range of 77-H, Step 2, in accordance with the current personnel policy of the City on the effective date of 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 25<sup>th</sup> day of Nov A.D., 2014, at a Meeting of the City Council of the City of Port Arthur, Texas, by the following vote:

AYES: ✓

Mayor \_\_\_\_\_,

Councilmembers Scott, Hamilton, Mosely, Lewis  
and Frank.

NOES: Mayor Prince and Councilmember Williamson

  
Deloris "Bobbie" Prince, Mayor

ATTEST:

  
Sherri Bellard, 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"**



**CITY OF PORT ARTHUR SECTION 4A  
ECONOMIC DEVELOPMENT CORPORATION  
FIRST AMENDED CHIEF EXECUTIVE OFFICER EMPLOYMENT AGREEMENT**

THIS FIRST AMENDED CHIEF EXECUTIVE OFFICER EMPLOYMENT AGREEMENT (the "Agreement") is made and entered into by and between the City of Port Arthur Section 4A Economic Development Corporation, an economic development corporation of the City of Port Arthur, Texas (the "Employer") and Floyd Batiste (the "Employee").

**RECITALS:**

A. Employer desires to employ the services of Floyd Batiste as provided by the Bylaws of Employer (the "Bylaws") it being determined that the Employee has or shall meet all of the qualifications to act as Chief Executive Officer of Employer; and

B. The Board of Directors of the Employer (the "Board") has agreed to provide certain salary and benefits, establish certain conditions of employment and set working conditions of the Employee; and

C. The Board desires to (1) secure the services of Employee and to provide inducement for him to remain in such employment, (2) to make possible full work productivity by assuring Employee's morale and peace of mind with respect to future security, (3) to act as a deterrent against malfeasance or dishonesty for personal gain on the part of Employee, and (4) to provide a just means for terminating Employee's services at such time as he may be unable to fully discharge his duties or when Employer may otherwise desire to terminate his employ; and

D. Employee has previously accepted employment as the Chief Executive Officer of Employment on terms and conditions set forth in an Agreement between Employer and Employee. Employer and Employee wish to amend the prior Agreement to provide amendments and clarifications to that Agreement.

NOW, THEREFORE, in consideration of the recitals set forth above which are incorporated in this Agreement as if fully set forth below and in further consideration of the mutual covenants herein contained, Employee and Employer agree as follows:

**Section 1. Duties**

Employer hereby agrees to employ Employee as Chief Executive Officer to perform the functions and duties specified in the Bylaws and to perform other legally permissible and proper duties and functions as the Board shall from time to time assign. Employee agree to be employed by Employer as its Chief Executive Officer to perform duties specified in the Bylaws and to perform other legally permissible and proper duties and functions as the Board shall from time to time assign. Employee further agrees to perform such duties in accordance with the personnel policies of the City of Port Arthur, Texas (the "City") to the extent that such policies are not in conflict with provisions in this Agreement.

**Example: range 69-H = 58.1840 Board voted on 5% raise.  $58.1840 \times 1.05 = 61.0932$  at range 77 H – Step 2 = 61.0655**

## **Section 2. Salary**

The salary of the Employee shall be ranged 77-H, Step 2 (in accordance with the personnel policies of the City) on the Effective Date of this Agreement as set forth in Section 3 below. Employer and Employee have agreed to the range and step designation, notwithstanding the previous employment by Employer of Employee. It being acknowledged that Employer wishes to provide Employee with an opportunity for additional compensation, including a Step 3 salary increase twelve (12) months from the effective date of this Agreement and salary adjustments thereafter as set forth in the basic schedule of pay raises and ranges as a part of the personnel policies of the City.

## **Section 3. Term**

A. The term of this Agreement shall begin on the date of its approval by the City Council of the City (the "City Council") (the "Effective Date"), and end September 30, 2015 (the "Term of Agreement"), and may be extended upon the Employee's receipt of a favorable evaluation from the Board. Based upon receipt of a favorable evaluation, Employee shall be eligible for any across the Board or other pay increases provided by the City to its employees and shall additionally be entitled to the step increases as specified in Section 2 of this Agreement. The employee's salary range as specified in the then current basic schedule of pay raises and ranges for the City subject, however, that no reduction in steps for the range of Employee may be made and be applicable as to Employee without the prior written consent of Employer and Employee, notwithstanding any provision to the basic schedule of pay raises and ranges by the City.

B. If the Employee does not receive a favorable performance evaluation as specified in this Agreement, then this Agreement may be terminated in accordance with this Agreement or Employee may continue to be employed as the Chief Executive Officer on such salary, automobile allowance and benefits as solely may be determined by Board and by the City Council; however, Employee would be entitled to the receipt of the termination and severance pay benefits provided for in this Agreement if he is thereafter terminated by appropriate action of the Board.

C. If the Board fails to conduct the performance evaluation as specified in this Agreement prior to the end of the term of this Agreement, then this Agreement shall be deemed to have been renewed on the same terms and conditions as this Agreement for an additional twelve (12) month period beginning October 1, 2015. Nothing in this paragraph shall prevent, limit or otherwise interfere with the right of the Board to terminate the services of Employee at any time subject to the provisions in Section 7 of this Agreement.

## **Section 4. Economic Development Certification**

You must maintain your certification in Economic Development through the International Economic Development Council ([www.iedconline.org](http://www.iedconline.org)).

## **Section 5. Vacation and Sick Leave**

From your first day of employment, you were provided with two (2) weeks credit for vacation. You shall be credited with four (4) weeks vacation annually. Employee is authorized for up to 40 hours emergency leave, and in case of emergency or death within his immediate family.

Normal policy accrues two (2) weeks of vacation at the end of the first year, and accrual of ten (10) hours of sick leave per month.

#### **Section 6. Medical/Dental/Life/AD&D**

Your medical, dental, life and AD&D insurance were effective on your first day of employment. Per PAEDC policy, 100% of the premium for your health insurance coverage will be paid by the PAEDC and 50% of the premium for dependents under the plan will be paid by the PAEDC. Also, the PAEDC provides \$6,000 life insurance and \$5,000 AD&D insurance for you at no cost. Additional optional coverage is available for both you and your dependents through payroll deduction.

#### **Section 7. Severance Pay**

A. Should your employment with the PAEDC be terminated by the PAEDC for any reason(s), except for malfeasance in office, other terminable conditions set forth in the personnel policies of the City of Port Arthur or the voluntarily termination by Employee, the PAEDC shall pay a lump sum cash payment equal to six (6) months salary of Employee as set forth in Section 2 of this Agreement as of the date of termination plus (ii) accrued vacation leave credited to Employee prior to the date of termination.

B. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Board to terminate the services of Employee at any time, subject only to the provisions set forth in this Agreement, in the Bylaws of the PAEDC or the City of Port Arthur Personnel Policies. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Employee to resign at any time from his position with Employer, subject only to the provisions set forth in this Agreement, in the PAEDC or the City of Port Arthur Personnel Policies.

C. Additionally, Employee shall continue to receive health and dental insurance benefits for a period equal to the lesser of (i) six (6) months from the date of termination or (ii) the date upon which he receives insurance coverage from another employer, but without any pay for compensatory time or personal leave.

D. In the event Employee voluntarily resigns his position with Employer before expiration of his term of employment, then Employee shall give Employer two (2) months notice in advance, unless Employer otherwise agrees. Upon voluntary resignation and separation, Employee is entitled only to payment of accrued and unused vacation benefits for the current year of the term of the Agreement.

#### **Section 8. Retirement**

You will become a member of the Texas Municipal Retirement System on the first day of your employment with the PAEDC. Your contribution into the plan will be 5% of your salary and the PAEDC will match that contribution on a 2:1 basis.

#### **Section 9. Business Expense**

Standard business expenses shall be provided to you via the policies set forth in the Personnel Policy. Standard business expenses shall be provided to you by the PAEDC including the costs of belonging to and attending professional meetings, such as the American Economic Council, the Southern Economic Development Council and the Texas Economic Council or other organizations as deemed appropriate. Reasonable and necessary travel and entertainment expenses incurred on behalf of the

PAEDC are eligible business expenses Employer shall bear the full cost of any fidelity or other bond required of the Employee under any law or ordinance.

#### **Section 10. Memberships**

Your membership dues in any civic clubs deemed appropriate by the PAEDC will be paid by the PAEDC.

#### **Section 11. Performance Evaluation**

Your performance will be evaluated annually, based on a minimum acceptable performance standard of satisfactory or better accomplishments. The Board shall review and evaluate the performance of the Employee in May in advance of the adoption of the annual operating budget. Said review and evaluation shall be in accordance with specific criteria developed jointly by Employer and Employee. Said criteria may be added to or deleted from as the Board may from time to time determine, in consultation with the Employee. Further, the President of the Board shall provide the Employee with a summary written statement of the findings of the Board by June 30<sup>th</sup> and provide an adequate opportunity for the Employee to discuss his evaluation with the Board.

Annually, in or about the month of May, the Board and Employee shall define such goals and performance objectives which they determine necessary of the proper operation of the Employer and in the attainment of the Board's policy objectives and shall further establish a relative priority among those various goals and objectives, said goals and objectives to be reduced in writing. They shall generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations provided.

In effecting the provisions of this Section, the Board and Employee mutually agree to abide by the provisions of applicable municipal, state and federal law including but not limited to all resolutions and ordinances of the City of Port Arthur, Texas.

#### **Section 12. Drug Screening and Physical Examination**

You have already satisfactorily completed a physical examination and drug screening.

#### **Section 13. Rights Under City of Port Arthur Personnel Policy**

As herein above stated, Employee shall be entitled to all the rights and privileges granted under the City of Port Arthur's Personnel Policies that are not in conflict with this Agreement.

#### **Section 14. Indemnification**

To the fullest extent permitted by law, Employer shall defend, save harmless and indemnify Employee against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties, and shall obtain and keep in full force and effect liability insurance or risk pool coverage, including errors and omissions coverage on a "per occurrence" basis, or such other similar insurance as the City covers its officers and employees in sufficient amounts to assure accomplishment of such hold harmless and indemnification; provided that this Section shall not be construed as creating any right, cause of action or claim of waiver or estoppel for or on behalf of any third party, nor shall it be construed as a waiver or modification of the availability of the defense of governmental immunity or any other legal defense available to either Employer or the Employee as to any third party; and provided

further that Employer shall not indemnify and hold harmless the Employee from and with respect to any claim or liability for which the conduct of the Employee is found by the courts to have been grossly negligent or intentional wrongful conduct.

Employer will compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon. This indemnification shall extend beyond and survive the termination of employment and the expiration of this Agreement.

#### **Section 15. Hours of Work**

It is recognized that Employee provides professional services for the Employer devoting a great deal of time outside the normal office hours to business of the Employer, and to that end Employee will be allowed to take reasonable compensatory time off during said normal office hours.

#### **Section 16. Automobile**

From the effective date of this agreement, Employer agrees to pay Employee a monthly automobile allowance of \$650.00.

#### **Section 17. Professional Development**

A. Employer hereby agrees to budget for and to pay the travel and subsistence expenses of Employee for professional and official travel, meetings and occasions adequate to continue the professional development of Employee and to adequately pursue necessary official and other functions for Employer, including but not limited to the professional meetings of the American Economic Development Council, the Southern Economic Development Council and the Texas Economic Development Council together with regional, state and local government group meetings and committees thereof in which Employee serves as a member or requested to attend with the approval of the Board.

B. Employer also agrees to budget and to pay for the travel and subsistence expenses of Employee for short courses, institutes and seminars that are necessary for his professional development.

#### **Section 18. Business Expenses; Memberships**

Employer recognizes that certain expenses for job-affiliated nature may be incurred by Employee, and hereby agrees to reimburse or to pay said general expenses in amounts as may be requested by the Employee on a reimbursement basis with any reimbursement of job-affiliated expense. Upon completion of travel by Employee, the Board shall verify and approve all travel expenses consistent with the City of Port Arthur's travel policy as most recently in effect prior to the date of this Agreement.

#### **Section 19. Employee Benefits; Retirement**

A. Except for annual base salary or any cost of living or merit increases which shall be determined following the conduct of the performance evaluation specified in Section 11 of this Agreement, Employee shall be entitled to all medical, dental, life insurance and accidental death and disability insurance coverage will be effective from the first date of your employment with Employer. Pursuant to the policies of the City of Port Arthur, Texas, 100% of the premium of your health insurance coverage will be paid and 50% of the premium for dependent coverage will be paid by Employer if you

choose coverage for dependents under said plan. The current provision of plans is \$6,000 of life insurance at no cost to Employee. You may also opt for any additional coverage offered and available to Employee or your dependents through payroll deductions as hereinafter established.

B. Employee will become a member of the Texas Municipal Retirement System ("TMRS") on the first day of his employment with Employer. The Employee will pay 5% percent of his salary as a contribution to the TMRS plan, and the Employer will match that contribution on two:one basis (10%).

#### **Section 20. Bonding**

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

#### **Section 21. Notices**

Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

(1) City of Port Arthur EDC  
Attn: President, Board of Directors  
P.O. Box 3934  
Port Arthur, Texas 77642

(2) Mr. Floyd Batiste  
City of Port Arthur EDC  
P.O. Box 3934  
Port Arthur, Texas 77642

Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

#### **Section 22. General Provisions**

A. The text herein shall constitute the entire agreement between the parties.

B. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Employee.

C. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

D. Any claim or cause of action under this Agreement shall be enforceable under the laws of the State of Texas and shall be brought before the appropriate court of competent jurisdiction in Jefferson County, Texas.

IN WITNESS WHEREOF, the Employer has caused this Agreement to be signed and executed in its behalf by its President, and duly attested by its Secretary of the Board, and the Employee has signed and executed this Agreement in duplicate originals to be effective as of the date first above written.

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

Date: \_\_\_\_\_

By: \_\_\_\_\_  
President, Board of Directors

ATTEST:

\_\_\_\_\_  
Secretary, Board of Directors

[Seal]

APPROVED AS TO FORM:

\_\_\_\_\_  
Guy N. Goodson, City Attorney

**EMPLOYEE**

Date: \_\_\_\_\_

\_\_\_\_\_  
Floyd Batiste