

11-25-14

RESOLUTION NO. 1461

**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 25th day of Nov A.D., 2014, at a Meeting of the City Council of the City of Port Arthur, Texas, by the following vote:

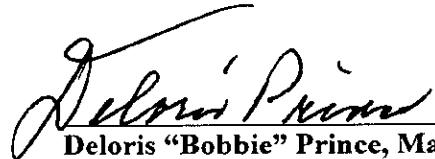
AYES: ✓

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. Tizeno, 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).

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 30th 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. 1461

**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
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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.

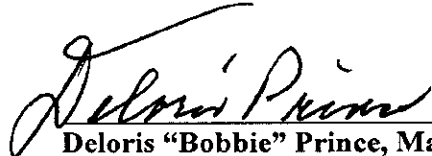
READ, ADOPTED AND APPROVED on this 25th day of Nov A.D., 2014, at a Meeting of the City Council of the City of Port Arthur, Texas, by the following vote:

AYES: ✓

Mayor _____,

Councilmembers Scott, Hamilton, Mosely, Lewis
and Frank.

NOES: Mayor Prince and Councilmember Williamson


Deloris "Bobbie" Prince, Mayor

ATTEST:


Sherri Ballard, City Secretary

APPROVED:

Floyd Batiste, PAEDC CEO

APPROVED AS TO FORM:

Guy N. Goodson, PAEDC Attorney

APPROVED AS TO FORM:

Valecia R. Tizenno, City Attorney

EXHIBIT “A”

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

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RECITALS:

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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

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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

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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

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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).

Section 5. Vacation and Sick Leave

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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.

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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.

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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.

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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. 14-632

**A RESOLUTION AUTHORIZING THE CITY OF PORT ARTHUR
SECTION 4A ECONOMIC DEVELOPMENT CORPORATION TO
MODIFY THE CURRENT LEASE OF A XEROX WORKCENTRE
MULTIFUNCTION PRINTER THROUGH TEXAS COOPERATIVE
PURCHASING NETWORK (TCPN) FOR THE REMAINING 26
MONTHS AT AN ADDITIONAL COST OF \$26.16 PER MONTH**

WHEREAS, on October 28, 2014, the City Council of the City of Port Arthur approved the City of Port Arthur Section 4A Economic Development Corporation ("PAEDC") modifying the current Xerox Lease Agreement by adding 1 Line Fax Lan Ifax at a cost of \$23.70 per month for the remaining 29 months of the Agreement per Resolution 14-524; and

WHEREAS, due to a cost error by Xerox, the correct cost should have been an additional \$26.16 cost per month instead of the \$23.70 quoted to PAEDC; and

WHEREAS, on December 1, 2014, at its regular Board meeting, the PAEDC Board of Directors approved modifying the Xerox Agreement by adding the 1 Line Fax Lan Ifax at a monthly cost of \$26.16 for the remaining 26 months of the Agreement as shown in **Exhibit "A"**.

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

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

Section 2. That PAEDC is herein authorized to modify its current Agreement with Xerox by adding 1 Line Fax Lan Ifax for the remaining term of 26 months at a cost of \$26.16 per month as shown 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 9th day of December 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, Mosley,
Seewis, Williamson and Frank

NOES:

None

Deloris Prince

Deloris "Bobbie" Prince, Mayor

ATTEST:

Kelly Moore

Sherri Bellard, City Secretary on behalf of

APPROVED:

Floyd Batiste

Floyd Batiste, PAEDC CEO

APPROVED AS TO FORM:

Guy N. Goodson

Guy N. Goodson, PAEDC Attorney

APPROVED AS TO FORM:

Val Tizeno

Valecia R. Tizeno, City Attorney

Exhibit “A”

Lease Agreement



Customer: PORT ARTHUR ECONOMIC DEVELOPMENT CORPORATION

Bill To: PORT ARTHUR
ECONOMIC DEV CORP
4173 39TH ST
PORT ARTHUR, TX 77642-2227

Install: PORT ARTHUR
ECONOMIC DEV CORP
4173 39TH ST
PORT ARTHUR, TX 77642-2227

Tax ID#:

State or Local Government Negotiated Contract : 072535300

Solution

Item	Product Description	Agreement Information	Requested Install Date
1. W7120PT	(SOT-WC7120 PRNT/TRAY) S/N XDC392253 - Adding - 1 Line Fax Lan Ifax	Lease Term: 26 months Purchase Option: FMV This agreement modifies the current Xerox Agreement 953466141 for W7120PT S/N XDC392253. Additional monthly cost: \$26.16	12/29/2014

Monthly Pricing

Item	Lease Minimum Payment	Meter	Print Charges Volume Band	Per Print Rate	Maintenance Plan Features
1. W7120PT	\$271.49	1: BW 2: Color	All Prints All Prints	N/A N/A	- Consumable Supplies Included for all prints
Total	\$271.49	Minimum Payments (Excluding Applicable Taxes)			

Authorized Signature

<p>Customer acknowledges receipt of the terms of this agreement which consists of 2 pages including this face page.</p> <p>Signer: FLOYD BATISTE Phone: (409)963-0579</p> <p>Signature: <i>Floyd Batiste</i> Date: <i>12/1/14</i></p>		<p>Thank You for your business!</p> <p>This Agreement is proudly presented by Xerox and</p> <p>Rox Acosta-Hellberg (409)679-3671</p> <p>For information on your Xerox Account, go to www.xerox.com/AccountManagement</p>
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INTRODUCTION:

1. NEGOTIATED CONTRACT. The Products are subject solely to the terms in the Negotiated Contract identified on the face of this Agreement, and, for any option you have selected that is not addressed in the Negotiated Contract, the then-current standard Xerox terms for such option.

2. MODIFICATION OF PRIOR AGREEMENT. This Agreement modifies a prior agreement between you and Xerox for the Products identified as "Modifies Prior Agreement". The prior agreement will remain in effect except that any terms in this Agreement that conflict with or are additive to the prior agreement will control. You may be charged a one-time administrative/processing fee for the modification of a prior agreement.

GOVERNMENT TERMS:

3. REPRESENTATIONS & WARRANTIES. This provision is applicable to governmental entities only. You represent and warrant, as of the date of this Agreement, that: (1) you are a State or a fully constituted political subdivision or agency of the State in which you are located and are authorized to enter into, and carry out, your obligations under this Agreement and any other documents required to be delivered in connection with this Agreement (collectively, the "Documents"); (2) the Documents have been duly authorized, executed and delivered by you in accordance with all applicable laws, rules, ordinances and regulations (including all applicable laws governing open meetings, public bidding and appropriations required in connection with this Agreement and the acquisition of the Products) and are valid, legal, binding agreements, enforceable in accordance with their terms; (3) the person(s) signing the Documents have the authority to do so, are acting with the full authorization of your governing body and hold the offices indicated below their signatures, each of which are genuine; (4) the Products are essential to the immediate performance of a governmental or proprietary function by you within the scope of your authority and will be used during the Term only by you and only to perform such function; and (5) your payment obligations under this Agreement constitute a current expense and not a debt under applicable state law and no provision of this Agreement constitutes a pledge of your tax or general revenues, and any provision that is so construed by a court of competent jurisdiction is void from the inception of this Agreement.

4. FUNDING. This provision is applicable to governmental entities only. You represent and warrant that all payments due and to become due during your current fiscal year are within the fiscal budget of such year and are included within an unrestricted and unencumbered appropriation currently available for the Products, and it is your intent to use the Products for the entire term of this Agreement and make all payments required under this Agreement. If your legislative body does not appropriate funds for the continuation of this Agreement for any fiscal year after the first fiscal year and has no

funds to do so from other sources, this Agreement may be terminated. To effect this termination, you must, at least 30 days prior to the beginning of the fiscal year for which your legislative body does not appropriate funds, notify Xerox in writing that your legislative body failed to appropriate funds. Your notice must be accompanied by payment of all sums then owed through the current fiscal year under this Agreement. You will return the Equipment, at your expense, to a location designated by Xerox and, when returned, the Equipment will be in good condition and free of all liens and encumbrances. You will then be released from any further payment obligations beyond those payments due for the current fiscal year (with Xerox retaining all sums paid to date).

PRICING PLAN/OFFERING SELECTED:

5. PRICE INCREASES. Xerox may annually increase the maintenance component of the Minimum Payment and Print Charges. For Application Software, Xerox may annually increase the software license or support fees. These adjustments will occur at the commencement of each annual contract cycle.

GENERAL TERMS & CONDITIONS:

6. REMOTE SERVICES. Certain models of Equipment are supported and serviced using data that is automatically collected by Xerox or transmitted to or from Xerox by the Equipment connected to Customer's network ("Remote Data") via electronic transmission to a secure off-site location ("Remote Data Access"). Remote Data Access also enables Xerox to transmit to Customer Releases for Software and to remotely diagnose and modify Equipment to repair and correct malfunctions. Examples of Remote Data include product registration, meter read, supply level, Equipment configuration and settings, software version, and problem/fault code data. Remote Data may be used by Xerox for billing, report generation, supplies replenishment, support services, recommending additional products and services, and product improvement/development purposes. Remote Data will be transmitted to and from Customer in a secure manner specified by Xerox. Remote Data Access will not allow Xerox to read, view or download the content of any Customer documents or other information residing on or passing through the Equipment or Customer's information management systems. Customer grants the right to Xerox, without charge, to conduct Remote Data Access for the purposes described above. Upon Xerox's request, Customer will provide contact information for Equipment such as name and address of Customer contact and IP and physical addresses/locations of Equipment. Customer will enable Remote Data Access via a method prescribed by Xerox, and Customer will provide reasonable assistance to allow Xerox to provide Remote Data Access. Unless Xerox deems Equipment incapable of Remote Data Access, Customer will ensure that Remote Data Access is maintained at all times Maintenance Services are being performed.