



P.R. No. 19479
8/11/2016 KVM

RESOLUTION NO. 16-231

**A RESOLUTION APPROVING A FIRST AMENDMENT TO
THE ECONOMIC INCENTIVE CONTRACT AND LOAN
AGREEMENT BETWEEN THE CITY OF PORT ARTHUR
SECTION 4A ECONOMIC DEVELOPMENT CORPORATION
AND GULF COAST WAREHOUSING, LLC**

WHEREAS, on May 22, 2013 pursuant to Resolution 13-224, the City of Port Arthur Section 4A Economic Development Corporation ("PAEDC") entered into an Economic Incentive Contract and Loan Agreement (the "Agreement") with Gulf Coast Warehousing, LLC ("Gulf Coast Warehousing") for the renovation of the building at 1520 Woodworth Blvd. as a warehouse for shipping, receiving, and storage for industrial customers; and

WHEREAS, Gulf Coast Warehousing has advised PAEDC of issues arising with the completion of construction and permitting of the facilities such that Gulf Coast Warehousing was not able to solicit and execute leases with major industrial enterprises as originally contemplated in the Agreement; and

WHEREAS, Gulf Coast Warehousing has requested that the Agreement be amended to provide for a modified milestone schedule extending the term of the Agreement; and

WHEREAS, the PAEDC Board of Directors at its August 1, 2016 meeting, approved the first Amendment to the Agreement as set forth in **Exhibit "A"** modifying the milestone schedule.

**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 herein approves the First Amendment to the Economic Incentive Contract and Loan Agreement between PAEDC and Gulf Coast Warehousing.

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 23rd day of August A.D., 2016, at a

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

AYES:

Mayor Freeman, Mayor Pro Tem Scott

Councilmembers Hamilton, Albright, Richard,
Lewis, Swati, Moses and Frank

NOES: none

Due
Derrick Freeman, Mayor

ATTEST:

Kelly Moore
Sherri Bellard, City Secretary on behalf of

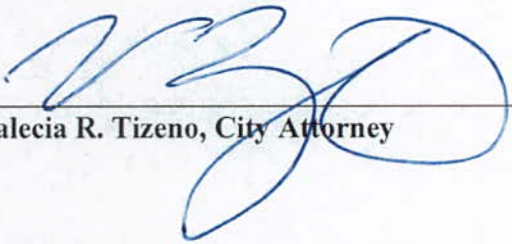
APPROVED:

Floyd Batiste
Floyd Batiste, PAEDC CEO

APPROVED AS TO FORM:

Guy N. Goodson
Guy N. Goodson, PAEDC Attorney

APPROVED AS TO FORM:



A handwritten signature in blue ink, appearing to read 'V. Tizen', is written over a horizontal line.

Valecia R. Tizen, City Attorney

EXHIBIT “A”

**AMENDMENT TO THE
ECONOMIC INCENTIVE CONTRACT & LOAN AGREEMENT
BETWEEN
THE CITY OF PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT
CORPORATION
AND
GULF COAST WAREHOUSING, LLC**

WHEREAS, Gulf Coast Warehousing, LLC ("Incentive Recipient") and the City of Port Arthur Section 4A Economic Development Corporation ("PAEDC") entered into an Incentive Contract & Loan Agreement (the "Agreement") on May 22, 2013 pursuant to Resolution No. 13-224;

WHEREAS, Incentive Recipient has advised PAEDC of issues arising with the completion of construction and permitting of the Facilities such that Incentive Recipient was not able to solicit and execute leases with Major Industrial Enterprises as originally contemplated in the Agreement by and between PAEDC and Incentive Recipient executed on or about May 22, 2013, pursuant to Resolution No. 13-224;

WHEREAS, Incentive Recipient has requested that the Agreement be amended to provide for a modified Milestone Schedule as hereinafter provided; and

WHEREAS, the PAEDC Board of Directors met on August 1, 2016, and agreed to amend the Agreement as set forth below.

AGREEMENT TERM

TERMINATION DATE

2. This Agreement expires on June 30, 2021, after Incentive Recipient performs fully or breaches the Agreement, subject to earlier termination or extension, voluntary or involuntary as provided herein (the "Termination Date"). The period from the Effective Date of this Agreement through and including the Termination Date of this Agreement as provided in the previous sentence hereof, is sometimes referred to in this Agreement as the "Term" of this Agreement.

PERFORMANCE MILESTONE SCHEDULE

7. Incentive Recipient's performance milestones are contained in the following table. Upon receipt of any status report listed below, PAEDC shall, as requested by Incentive Recipient, issue documentation to the Incentive Recipient setting forth the total uncredited/unpaid amount remaining. The deadlines in the Performance Milestone Schedule may be adjusted by PAEDC based on the date of initiation of business operations on the Property by Incentive Recipient.

**GULF COAST WAREHOUSING, LLC
PERFORMANCE MILESTONE SCHEDULE**

	<u>Deadline</u>	<u>Milestone</u>
(a)	May 1, 2014	Gulf Coast Warehousing, LLC Issue a <u>status report</u> to PAEDC CEO on retrofitting of Old Sear building
(b)	September 1, 2014	Gulf Coast Warehousing, LLC Issue an updated <u>status report</u> on building construction build out and estimated construction completion date.
(c)	June 30, 2017	Achieve annualized space lease payment of \$246,600 and Issue a <u>business operational report</u> to PAEDC CEO for the period ending June 30, 2017
(d)	June 30, 2018	Achieve annualized space lease payment of \$246,600 and Issue a <u>business operational report</u> to PAEDC CEO for the period ending June 30, 2018
(e)	June 30, 2019	Achieve annualized space lease payment of \$246,600 and Issue a <u>business operational report</u> to PAEDC CEO for the period ending June 30, 2019
(f)	June 30, 2020	Achieve annualized space lease payment of \$246,600 and Issue a <u>business operational report</u> to PAEDC CEO for the period ending June 30, 2020
(g)	June 30, 2021	Achieve annualized space lease payment of \$246,600 and Issue a <u>business operational report</u> to PAEDC CEO for the period ending June 30, 2021
(h)	December 30, 2021	Issue a <u>business operational report</u> to PAEDC CEO for the period June 30, 2021 to December 30, 2021

PAEDC'S CONDITIONAL OBLIGATIONS AND LIMITED LIABILITY

8. It is expressly understood and agreed by the parties hereto that the PAEDC funding obligations herein are contingent upon the actual receipt of adequate sales tax revenue funds to meet the PAEDC's liabilities under this Agreement. If adequate funds are not available to make payments under this Agreement, the PAEDC shall notify Incentive Recipient in writing within a reasonable time after such fact is reasonably determined by the PAEDC Board of Directors. The PAEDC, at its sole option, may then terminate this Agreement without further liability. In the event of such termination by the PAEDC, the PAEDC may, at its sole option, immediately cease all further funding, if any, required by this Agreement and the PAEDC shall not be liable to Incentive Recipient or to any third parties for failure to make payments to Incentive Recipient under the terms and conditions of this Agreement, and likewise Incentive Recipient shall be released from all further duties, liabilities and obligations under this Agreement.

9. The PAEDC shall not be liable, in Agreement or otherwise, to Incentive Recipient, or to any person or entity claiming by or through Incentive Recipient, for any expense, expenditure or cost incurred by or on behalf of Incentive Recipient related to the project made the basis of this Agreement. The PAEDC's sole liability/obligations, if any, shall be to Incentive Recipient and shall be limited to the obligations detailed in Section 5(a) of this Agreement.

10. Incentive Recipient shall not use the funds herein for any purpose(s) other than that specifically disclosed herein and as further disclosed within that certain application made by or on behalf of Incentive Recipient, which application is incorporated herein for all purposes.

11. Funds granted by the PAEDC hereunder shall not be utilized by Incentive Recipient for repayment of costs, expenditures or expenses incurred prior to the date of this Agreement

ADDRESS OF NOTICE AND COMMUNICATIONS

City of Port Arthur Section 4A Economic Development Corporation
501 Procter Street
Suite 100
Port Arthur, Texas 77640
ATTN: Floyd Batiste, Chief Executive Officer

Incentive Recipient
1520 Woodworth Blvd.
Port Arthur, Texas 77640
ATTN: Don Paige

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

1. This Amendment to the Incentive Contract & Loan Agreement between PAEDC and Incentive Recipient was approved by the PAEDC Board of Directors on August 1, 2016.

2. The amendment as to Agreement shall be effective upon approval by the City of Port Arthur, Texas.

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

4. Other than the amendment set forth herein, Incentive Recipient and PAEDC ratify and affirm all terms and conditions of the Agreement dated May 22, 2013.

SIGNED AND AGREED to on this ____ day of _____, 2016.

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

By: _____
President

ATTEST:

Secretary

THE STATE OF TEXAS

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COUNTY OF JEFFERSON

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This instrument was acknowledged before me on the ____ day of _____, 2016, by
_____ as President and _____ as Secretary on
behalf of City of Port Arthur Section 4A Economic Development Corporation.

Notary Public, State of Texas

Gulf Coast Warehousing, LLC

By: _____

THE STATE OF TEXAS

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COUNTY OF JEFFERSON

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This instrument was acknowledged before me on the ____ day of _____, 2016, by
_____ behalf of Gulf Coast Warehousing, LLC.

Notary Public, State of Texas

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WHEREAS, Incentive Recipient has requested that the Agreement be amended to provide for a modified Milestone Schedule as hereinafter provided; and

WHEREAS, the PAEDC Board of Directors met on August 1, 2016, and agreed to amend the Agreement as set forth below.

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1. This Amendment to the Incentive Contract & Loan Agreement between PAEDC and Incentive Recipient was approved by the PAEDC Board of Directors on August 1, 2016.
2. The amendment as to Agreement shall be effective upon approval by the City of Port Arthur, Texas.
3. The recitals to this Amendment are incorporated and fully referenced in this Amendment.
4. Other than the amendment set forth herein, Incentive Recipient and PAEDC ratify and affirm all terms and conditions of the Agreement dated May 22, 2013.

SIGNED AND AGREED to on this 6th day of September, 2016.

City of Port Arthur Section 4A
Economic Development Corporation

By: Ingrid Holmes
President

ATTEST:

Dallas Smith
Secretary

THE STATE OF TEXAS

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COUNTY OF JEFFERSON

This instrument was acknowledged before me on the 6th day of September, 2016, by Ingrid Holmes as President and Dallas Smith as Secretary on behalf of City of Port Arthur Section 4A Economic Development Corporation.



Rachel A. Jacquet
Notary Public, State of Texas

Gulf Coast Warehousing, LLC

By: *Don E. Page Jr.*
Don E. Page Jr.

THE STATE OF TEXAS

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COUNTY OF JEFFERSON

This instrument was acknowledged before me on the 15th day of September, 2016, by
Don E. Page Jr. behalf of Gulf Coast Warehousing, LLC.



Rachel A. Jacquet
Notary Public, State of Texas