



P.R. NO. 19480

08/02/2016

RESOLUTION NO. 16-232

A RESOLUTION AUTHORIZING THE CITY OF PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION TO ENTER INTO A CONSULTANT AGREEMENT WITH LEGACY COMMUNITY DEVELOPMENT CORPORATION ("LEGACY CDC") TO MANAGE ITS AFFORDABLE HOUSING PROGRAM AT A COST NOT TO EXCEED \$35,000 PER YEAR

WHEREAS, the citizens of the City Port Arthur approved Proposition 2, allowing the City of Port Arthur Section 4A Economic Development Corporation (the "PAEDC") to allocate \$300,000 per year of its sales and user tax for affordable housing in a target area of the City; and

WHEREAS, PAEDC advertised twice in the *Port Arthur News* soliciting proposals for a consultant service to manage and operate its Affordable Housing Program; and

WHEREAS, Legacy Community Development Corporation ("Legacy CDC") was the only respondent to PAEDC's request for proposal; and

WHEREAS, PAEDC desires to retain and engage Legacy CDC as a consultant to furnish certain homeownership program services as defined in the services attached hereto as 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 the City Council of the City of Port Arthur approves PAEDC to entering into a consultant agreement with Legacy CDC for a cost not to exceed \$35,000 per year with an option to renew for two additional years.


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


Derrick Freeman, Mayor

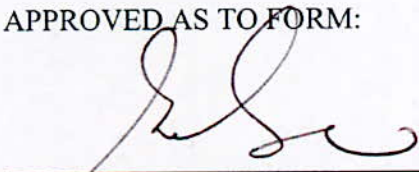
ATTEST:


Sherri Bellard, City Secretary on behalf of

APPROVED:


Floyd Batiste, PAEDC CEO

APPROVED AS TO FORM:


Guy N. Goodson, PAEDC Attorney

APPROVED AS TO FORM:

Merry Ustul (on behalf of)
Valécia R. Tizenó, City Attorney

APPROVED AS TO AVAILABILITY OF FUNDS:

X H. Hankins, COMPTROLLER
Jerry Dale, CPA/GFOA, Interim Director Finance
6/1 9/15/16

CONSULTANT AGREEMENT

THIS CONSULTANT AGREEMENT (the "Agreement") made and entered into effective as of the 23rd day of August, 2016 (the "Effective Date"), by and between Legacy Community Development Corporation ("Legacy CDC") and City of Port Arthur Section 4A Economic Development Corporation ("PAEDC").

RECITAL

PAEDC desires to retain and engage Legacy CDC as a Consultant and Legacy CDC desires to contract with PAEDC to furnish certain homeownership program services (the "Services") as defined in the Proposal for Services attached hereto as **Exhibit "A"**.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, PAEDC hereby engages and retains Legacy CDC as an Independent Contractor:

- (A) Recital: The recital set forth above and the Proposal for Services attached hereto as **Exhibit "A"** are incorporated into this Agreement as if fully set forth herein, for all purposes.
- (B) Term: The term of this Agreement shall begin effective August 23, 2016 and shall continue July 31, 2017, for completion of Services, or until earlier terminated pursuant to paragraph D below. The term of this Agreement may be extended by PAEDC on or before the termination date of any term of this Agreement for such time periods to correspond with the ballot proposition approved by the City of Port Arthur under an affordable housing program ballot proposition dated on the 7th day of May 2016.
- (C) Compensation: During the term of this Agreement, Legacy CDC shall be paid compensation as defined in the Budget incorporated within **Exhibit "A"**, and as verified by PAEDC. Legacy CDC shall submit invoices to PAEDC for such services as identified in Task Order One, and said invoices shall be payable within ten (10) business days of receipt.
- (D) Services: Legacy CDC agrees to provide Services to PAEDC as set forth in **Exhibit "A"** provided that such services may be modified from time to time by written agreement of both parties.
- (E) Termination: PAEDC shall be entitled to terminate this Agreement in the event that Legacy CDC fails or refuses to perform its obligations. In addition, PAEDC may also terminate this agreement upon thirty (30) days written notice for convenience or in the event of the termination or lack of funding.
- (F) Independent Contractor: Nothing in this Agreement shall be construed to create the relationship of employer and employee or a joint venture or partnership

agreement. Legacy CDC shall be at all times and for all purposes an Independent Contractor and, accordingly, PAEDC will not make any deductions for taxes or other deductions from compensation. As an Independent Contractor, Legacy CDC will pay its own taxes and be responsible for securing its own vehicle insurance and shall fully indemnify PAEDC for any such liability. Legacy CDC recognizes and agrees that it has no authority to bind or commit PAEDC except as expressly authorized by PAEDC.

- (G) Performance: Legacy CDC agrees that it will to the best of its ability and experience perform all of the duties which may be required pursuant to this Agreement, and will exercise the same degree of skill and care in performing said services as normally employed by persons performing the same or similar services.
- (H) Insurance: Legacy CDC shall, at its own expense, maintain liability insurance on any personal automobile used for business purposes with a minimum of \$1,000,000 combined single limit. Legacy CDC shall further maintain, at its own expense, general liability insurance in the amount of \$2,000,000 each occurrence, and Workers Compensation coverage as required by law. Proof of insurance shall be furnished to PAEDC upon request, and shall list PAEDC as an additional insured upon request.
- (I) Outside Activities: This Agreement is not intended to prohibit Legacy CDC from accepting other employment or providing services to its own clients provided that such employment does not compete with or substantially interfere with the business of PAEDC and does not create a conflict with PAEDC partners including the City or PAEDC incentive recipients.
- (J) Confidentiality: Any information, including client information, which PAEDC may disclose to Legacy CDC in connection with this Agreement will be considered confidential and Legacy CDC will not disclose said confidential information to any person unless expressly authorized by PAEDC. Legacy CDC shall not at any time or in any manner, either directly or indirectly, divulge, disclose or communicate to any person, firm, or corporation in any manner whatsoever any information concerning any matters affecting or relating to the business of PAEDC, including its manner of operation, its plans, processes, data or any other information not generally known in the practice but which has been disclosed to LEGACY CDC or become known by it as a consequence of this engagement by PAEDC. All documents, records, word papers and correspondence prepared by Independent Contractor while in the engagement of PAEDC are the property of PAEDC and after termination of this Agreement shall remain with PAEDC.
- (K) No Assignment: Legacy CDC acknowledges that the services to be performed hereunder are unique and personal. Accordingly, Legacy CDC may not assign

any of his rights or delegate any of his duties or obligations hereunder without the prior written consent of PAEDC.

- (L) Mutual Limitation of Liability: Notwithstanding any other provision of this Agreement, neither party hereto, including their respective officers, agents, servants, and employees, shall be liable to the other party for lost profits or punitive damages or for any special, indirect, incidental, or consequential damages in any way arising out of this Agreement however caused or based on any theory of liability (including, but not limited to: contract, tort, or warranty) even if advised about the possibility of such damages.
- (M) Governing Law: This Agreement is deemed to be effective in and shall be construed in accordance with the laws of Texas, and shall not be modified or amended except in writing signed by all parties. Jurisdiction shall be in a court of competent jurisdiction in Jefferson County, Texas.

WITNESS our signature, this the ____ day of _____, 2016.

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

By: _____

WITNESS our signature, this the ____ day of _____, 2016.

**Legacy Community Development
Corporation**

By: _____

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EXECUTED this the ____ day of _____, 2016.

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

By: _____

EXECUTED this the ____ day of _____, 2016.

**Legacy Community Development
Corporation**

By: _____

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EXECUTED this the 9 day of September 2016.

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

By: Floyd Batiste

EXECUTED this the 13 day of September 2016.

**Legacy Community Development
Corporation**

By: Urian Ballon