

RESOLUTION NO. 18-211

**A RESOLUTION AUTHORIZING THE SECOND AND FINAL RENEWAL OF THE CITY OF PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION CONTRACT WITH LEGACY COMMUNITY DEVELOPMENT CORPORATION ("LEGACY CDC") TO MANAGE THE AFFORDABLE HOUSING PROGRAM AT A COST NOT TO EXCEED \$35,000 PER YEAR; PAEDC FUNDING ACCOUNT NO. 120-1429-582.54-11**

**WHEREAS**, pursuant to Resolution No. 16-232, the Port Arthur City Council approved the City of Port Arthur Section 4A Economic Development Corporation ("PAEDC") entering into an agreement with Legacy Community Development Corporation ("Legacy CDC") for management of the downtown payment assistance program for affordable housing in a target area of the City; and

**WHEREAS**, the citizens of the City Port Arthur approved Proposition 2 allowing PAEDC to allocate \$300,000 per year of its sales and use tax for affordable housing in a target area of the City; and

**WHEREAS**, pursuant to Resolution 17-157, the Port Arthur City Council approved the first renewal of the PAEDC agreement with Legacy CDC for management of the downtown affordable housing program; and

**WHEREAS**, on May 7, 2018, the PAEDC Board of Directors approved the second and final renewal agreement between PAEDC and Legacy CDC; and

**WHEREAS**, PAEDC desires to retain the service of Legacy CDC as its consultant to furnish certain homeownership program services as defined in the service agreement 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 their second and final consultant agreement with Legacy CDC for a cost not to exceed \$35,000 per year.

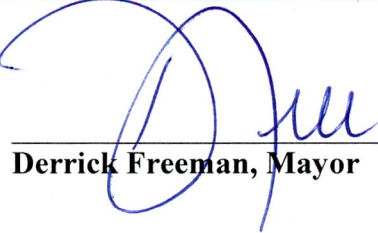
**Section 3.** That a copy of the caption of this Resolution be spread upon the Minutes of the City Council.

**READ, ADOPTED AND APPROVED** on this 22<sup>nd</sup> day of May A.D., 2018,  
at a Meeting of the City Council of the City of Port Arthur, Texas, by the following vote: AYES:

Mayor Freeman; Mayor Pro Tem Kinlaw,

Councilmembers Jasti, Jones, Asuncet, Moses  
and Frank.

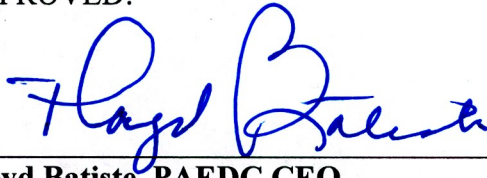
NOES: None.

  
Derrick Freeman, Mayor

ATTEST:

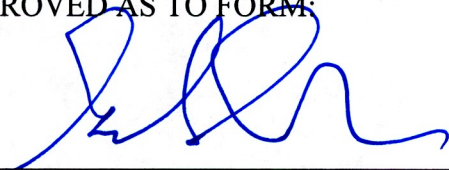
  
Sherri Bellard, City Secretary

APPROVED:

A handwritten signature in blue ink, appearing to read "Floyd Batiste", written over a horizontal line.

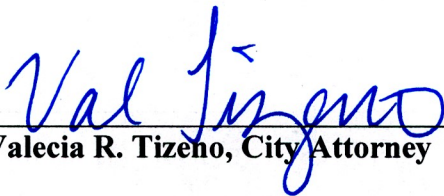
**Floyd Batiste, PAEDC CEO**

APPROVED AS TO FORM:

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

**Guy N. Goodson, PAEDC Attorney**

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read "Valecia R. Tizeno", written over a horizontal line.

**Valecia R. Tizeno, City Attorney**

# **EXHIBIT “A”**



## CONSULTANT AGREEMENT

THIS CONSULTANT AGREEMENT (the "Agreement") made and entered into effective as of the 23<sup>rd</sup> 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 7<sup>th</sup> 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.

EXECUTED this the 9 day of September 2016.

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

By: Flayd Batisle

EXECUTED this the 13 day of September 2016.

**Legacy Community Development  
Corporation**

By: Urian Ballon