



interoffice

MEMORANDUM

To: Mayor, City Council, and Interim City Manager
From: Valecia R. Tizeno, City Attorney *Val Tizeno*
Date: February 5, 2019
Subject: P.R. No. 20671 - Amendment No. 1 to the Economic Incentive Contract & Loan Agreement between PAEDC and KLV Ventures, Inc.

Resolution No. 17-234 is the original incentive agreement between the PAEDC and KLV. PAEDC agreed to provide a conditional grant to KLV in the amount of \$326,000. The agreement contained various milestones which are attached hereto.

The milestones required that the company achieve the employment of 7 full-time permanent employees that are Port Arthur residents with an average annualized payroll of \$385,000 and completion of construction of a permanent facility at the Highway 73 Business Park. Therefore, pursuant to Resolution No. 18-398, the City Council approved a purchase agreement between the PAEDC and KLV for the purchase of land in the Hwy 73 Business Park in the amount of \$175,000.

In this resolution, PAEDC board is requesting that the City of Port Arthur authorize an amendment to the milestones. The PAEDC board has requested that the provision related to the purchase of land be removed from the milestones.

The legal department recommends that the City Council carefully review the attached milestones and determine whether the deletion of the land purchase is an appropriate change to the incentive agreement. The resolution requires the City Council to determine whether the amended milestone schedule meets the requirements for a conditional grant or loan. At a later date, the PAEDC will request that you consider rescinding its purchase agreement with KLV. All of the above referenced factors need to be taken into consideration prior to acting on this request.

Recipient in this expansion by providing the hereinafter described conditional grant or other incentives in exchange for the promise by Incentive Recipient of creation of permanent jobs.

4. The Performance Milestone Schedule is amended as follows:

**KLV VENTURES
MILESTONE SCHEDULE**

	<u>Deadline</u>	<u>Milestone</u>
(a)	December 31, 2017	<u>Status Report</u> for September 1, 2017 to December 31, 2017
(b)	March 31, 2018	<u>Status Report</u> – Business Operations from January 1, 2018 to March 31, 2018
(c)	August 31, 2018	<u>Operational Report</u> - Achieve employment of 7 full-time permanent employees that are Port Arthur residents with an average annualized payroll of \$385,000.
(d)	March 31, 2019	<u>Payroll Report</u> - Submit W-2's for Port Arthur residents from January 1, 2018 to December 31, 2018
(e)	August 31, 2019	<u>Operational Report</u> - Achieve employment of 7 additional full-time permanent employees that are Port Arthur residents with an average annualized payroll of \$385,000; Total Port Arthur resident's payroll for year 1 and 2 averaging \$770,000 annualized.
(f)	March 31, 2020	<u>Payroll Report</u> - Submit W-2's for Port Arthur residents from January 1, 2019 to December 31, 2019
(g)	August 31, 2020	<u>Operational Report</u> – KLV to maintain annualized payroll of \$770,000 for year ending December 31, 2020
(h)	March 31, 2021	<u>Payroll Report</u> – Submit W-2's for Port Arthur Residents from January 1, 2020 to December 31, 2020
(i)	August 31, 2021	<u>Operational Report</u> – KLV to maintain annualized payroll of \$770,000 for year ending December 31, 2021
(j)	March 31, 2022	<u>Payroll Report</u> – Submit W-2's for Port Arthur Residents from January 1, 2021 to December 31, 2021
(k)	April 2022	<u>Operational and Close Out Report</u>

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

6. Other than the amendment set forth herein, KLV Ventures, Inc. and PAEDC ratify and affirm all terms and conditions of the Agreement dated [REDACTED].

SIGNED AND AGREED to on this ____ day of _____, 2019.

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

By: _____
President

ATTEST:

Secretary

THE STATE OF TEXAS §
 §
COUNTY OF JEFFERSON §

This instrument was acknowledged before me on the ____ day of _____, 2019, by _____ as President and _____ as Secretary on behalf of City of Port Arthur Section 4A Economic Development Corporation.

Notary Public, State of Texas

KLV Ventures, Inc.

By: _____
Its: _____

THE STATE OF TEXAS

§

COUNTY OF JEFFERSON

§

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This instrument was acknowledged before me on the ____ day of _____, 2019, by
_____ behalf of KLV Ventures, Inc.

Notary Public, State of Texas

RESOLUTION NO. 19-055

A RESOLUTION APPROVING AMENDMENT NO. 1 TO THE ECONOMIC INCENTIVE CONTRACT & LOAN AGREEMENT BETWEEN THE CITY OF PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION AND KLV VENTURES, INC.

WHEREAS, per Resolution 17-234 dated September 26, 2017, the City Council of the City of Port Arthur approved an Economic Incentive Contract & Loan Agreement (the "Agreement") between the City of Port Arthur Section 4A Economic Development Corporation ("PAEDC") and KLV Ventures, Inc. ("KLV") in an amount of \$326,000.00 to reimburse KLV for equipment purchased for the expansion of their operations into the Highway 73 Business Park in the City of Port Arthur; and

WHEREAS, KLV contracted to purchase approximately 2.9 acres of vacant land in the Highway 73 Business Park for the purpose of the development of an office and parking facilities for their transportation and logistics operations; and

WHEREAS, KLV has determined that due to un-anticipated infrastructure costs at the Highway 73 Business Park, they will not move forward with the purchase of the property at the Highway 73 Business Park and have leased property elsewhere in Port Arthur and are currently operating out of that property; and

WHEREAS, the PAEDC Board of Directors at their regular Board meeting of February 4, 2019, will consider amending the performance milestone schedule in the Agreement with KLV to reflect the change of location of KLV's Port Arthur facility from the Highway 73 Business Park to another location in the City of Port Arthur.

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 Amendment No. 1 to the Economic Incentive Contract & Loan Agreement between PAEDC and KLV Ventures, Inc. as denoted in the Amendment attached hereto as **Exhibit "A"**.

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

READ, ADOPTED AND APPROVED on this 5th day of Feb. A.D., 2019,

at a Meeting of the City Council of the City of Port Arthur, Texas, by the following vote: **AYES:**

Mayor Freeman; Mayor Pro Tem Kinlan

Councilmembers Scott, Jones, Osuek
and Frank.

NOES: None.



Derrick Freeman, Mayor

ATTEST:



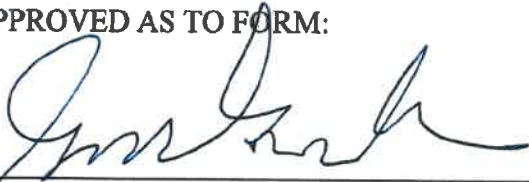
Sherri Bellard, City Secretary

APPROVED:



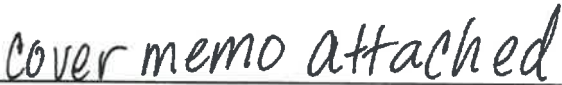
Floyd Batiste, PAEDC CEO

APPROVED AS TO FORM:



Guy N. Goodson, PAEDC Attorney

APPROVED AS TO FORM:



Valecia R. Tizeno, City Attorney

see memo

EXHIBIT "A"

**FIRST AMENDMENT TO THE
ECONOMIC DEVELOPMENT CONDITIONAL GRANT AGREEMENT
BETWEEN
THE CITY OF PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT
CORPORATION
AND
KLV VENTURES, INC.**

WHEREAS, KLV Ventures, Inc. (“KLV”) and the City of Port Arthur Section 4A Economic Development Corporation (“PAEDC”) entered into an Economic Development Contract and Loan Agreement (the “Agreement”) on [REDACTED] pursuant to Resolution No. 17-234;

WHEREAS, the Agreement provided that KLV would purchase approximately 2.9 acres of vacant land in the Highway 73 Business Park for the development of an office and parking facilities for their transportation and logistics operations;

WHEREAS, KLV has determined that due to un-anticipated infrastructure costs at the Highway 73 Business Park, they will not move forward with the purchase of the property at the Highway 73 Business Park and have leased property elsewhere in Port Arthur, specifically [REDACTED] and are currently operating out of that property;

WHEREAS, PAEDC Board of Directors considered amending the Performance Milestone Schedule to reflect the new location of KLV’s business operation; and

WHEREAS, the PAEDC Board of Directors agreed to amend the Agreement and performance milestones at its February 4, 2019 regular meeting.

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 Economic Development Contract and Loan Agreement between PAEDC and KLV Ventures, Inc. was approved by the PAEDC Board of Directors on February 4, 2018.

2. This Amendment to the Agreement shall be effective upon approval by the City of Port Arthur, Texas.

3. The Introduction is amended as follows:

The Incentive Recipient is a Texas for profit corporation in Port Arthur, Texas. The Incentive Recipient shall expand their operations at a new facility located at [REDACTED], Port Arthur, Texas 77642 (the “Property”). The City of Port Arthur Section 4A Economic Development Corporation (“PAEDC”) will assist Incentive

PERFORMANCE MILESTONE SCHEDULE

**KLV VENTURES
MILESTONE SCHEDULE**

	<u>Deadline</u>	<u>Milestone</u>
(a)	December 31, 2017	<u>Status Report</u> for September 1, 2017 to December 31, 2017
(b)	March 31, 2018	<u>Status Report</u> – Business Operations from January 1, 2018 to March 31, 2018
(c)	March 31, 2018	<u>Operational Status Report</u> – On Construction of permanent Facility at Hwy 73 Business Park
(d)	August 31, 2018	<u>Operational Report</u> - Achieve employment of 7 full-time permanent employees that are Port Arthur residents with an average annualized payroll of \$385,000.
(e)	March 31, 2019	<u>Payroll Report</u> - Submit W-2's for Port Arthur residents from January 1, 2018 to December 31, 2018
(f)	March 31, 2019	<u>Operational Status Report</u> – On Construction of permanent Facility at Hwy 73 Business Park
(g)	July 31, 2019	<u>Status Report</u> – Complete Construction of permanent Facility at Hwy 73 Business Park
(h)	August 31, 2019	<u>Operational Report</u> - Achieve employment of 7 additional full-time permanent employees that are Port Arthur residents with an average annualized payroll of \$385,000; Total Port Arthur resident's payroll for year 1 and 2 averaging \$770,000 annualized.
(i)	March 31, 2020	<u>Payroll Report</u> - Submit W-2's for Port Arthur residents from January 1, 2019 to December 31, 2019
(j)	August 31, 2020	<u>Operational Report</u> – KLV to maintain annualized payroll of

		\$770,000 for year ending December 31, 2020
(k)	March 31, 2021	<u>Payroll Report</u> – Submit W-2's for Port Arthur Residents from January 1, 2020 to December 31, 2020
(l)	August 31, 2021	<u>Operational Report</u> – KLV to maintain annualized payroll of \$770,000 for year ending December 31, 2021
(m)	March 31, 2022	<u>Payroll Report</u> – Submit W-2's for Port Arthur Residents from January 1, 2021 to December 31, 2021
(n)	April 2022	<u>Operational and Close Out Report</u>