

RESOLUTION NO. 19-298

A RESOLUTION AUTHORIZING THE CITY OF PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION TO ENTER INTO A CONTRACT WITH EXCAVATION & CONSTRUCTION, LLC FOR THE INSTALLATION OF A OF JUNCTION BOX WITHIN THE SPUR 93 BUSINESS PARK IN AN AMOUNT NOT TO EXCEED \$87,319.00; FUNDING AVAILABLE IN EDC ACCOUNT NO. 120-1429-582.59-02

WHEREAS, per Resolution 18-386, the City Council of the City of Port Arthur approved the City of Port Arthur Section 4A Economic Development Corporation (“PAEDC”) selling land in the Spur 93 Business Park to Walden Road Properties, LLC for the purpose of the development of the property for the relocation of Industrial Scaffolding, LLC from Beaumont, Texas to Port Arthur, Texas; and

WHEREAS, in order to properly serve the new development’s infrastructure, the installation of a junction box for the storm sewer lines is necessary on the north end of South Business Park Drive; and

WHEREAS, three (3) bids were submitted for the project scope necessary for the installation of the junction box, the bid tabulation is attached hereto as **Exhibit “A”**; and

WHEREAS, the lowest and most responsive bidder for the overall project is Excavation & Construction, LLC of Port Arthur, Texas with a total bid of \$87,319.00; and

WHEREAS, the City Council of the City of Port Arthur hereby authorizes the PAEDC to enter into a contract for this project with Excavation & Construction, LLC on the basis of their total bid of in the amount of \$87,319.00, a copy of the contract is attached hereto in substantially the same form as Exhibit “B”.

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 authorizes the PAEDC to enter into a contract with Excavation & Construction, LLC of Port Arthur, Texas for the installation of a junction box on the north end of South Business Park Drive in the Spur 93 Business Park for an amount not to exceed \$87,319.00, in substantially the same form as attached hereto as Exhibit "B".

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 16th day of July A.D., 2019, at a Meeting of the City Council of the City of Port Arthur, Texas, by the following vote:

AYES:

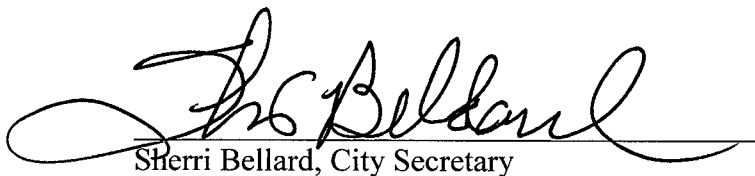
Mayor Bartie

Councilmembers Scott, James and Frank

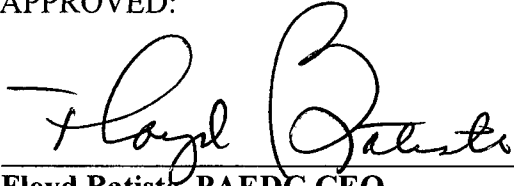
NOES: None


Thurman "Bill" Bartie, Mayor

ATTEST:

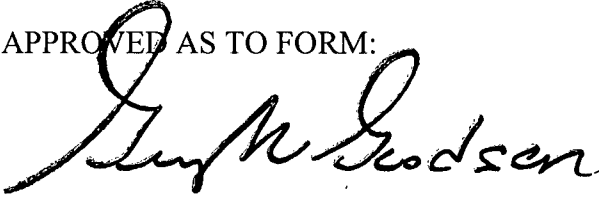

Sherri Bellard, City Secretary

APPROVED:



Floyd Batiste, PAEDC CEO

APPROVED AS TO FORM:



Guy N. Goodson, PAEDC Attorney

APPROVED AS TO FORM:



on behalf of

Valecia R. Tizenor, City Attorney

APPROVED AS TO AVAILABILITY OF FUNDS:



Kandy Daniel, Interim Finance Director

EXHIBIT "A"

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

Installation of Junction Box within the Spur 93 Business Park

Description	Excavation & Construction, LLC	Bo-Mac Contractors, Ltd	Mason Construction, LLC
Installation of Junction Box – Spur 93 Business Park	\$87,319.00	\$192,135.43	\$199,339.00
Location	Port Arthur, TX	Beaumont, TX	Beaumont, TX

EXHIBIT "B"



EXCAVATION CONSTRUCTION

CONTRACT

This Contract Agreement ("the Contract") is made and entered into effective as of the 12 day of July, 2019, by and between **Port Arthur Economic Development Corporation**, with principal business establishment at **501 Procter Street, Suite 100 Port Arthur, Texas 77640** ("Owner") and **Excavation and Construction, LLC** a limited liability company, with an address at **6601 Procter Street, Port Arthur Texas 77642** ("Contractor"). Owner and Contractor are hereinafter sometimes referred to individually as a "Party" or collectively as the "Parties."

WITNESSETH:

Whereas, Owner and Contractor have entered into this agreement under the following terms and conditions;

Whereas, Owner desires to engage Contractor to provide certain services (the "Services") which are part of the scope of Services as outlined hereafter;

Now, therefore, for and in consideration of the premises and the mutual covenants contained herein, the Parties hereto agree as follows:

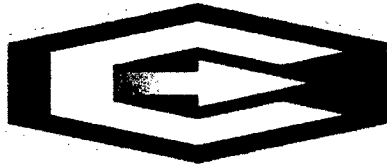
In addition to other defined terms used throughout this Contract, when used herein, the following capitalized terms shall have the meanings:

"Change Order" means a written document signed by authorized representatives of the parties authorizing changes to the Services.

"Construction Equipment" means the equipment, machinery, structures, scaffolding, materials, tools, supplies and systems, purchased, owned, rented or leased by Contractor or its Contractors for use in accomplishing the Services

"Contract Documents" mean the documents that establish the rights and obligations of the parties engaged in the Services, which include this Contract, the Attachments and Schedules to this Contract, other documents listed in this Contract, Drawings, Specifications, and Change Orders.

"Contractor" has the meaning set forth in the preamble.



EXCAVATION CONSTRUCTION

“Owner Representative” means that Person or Persons designated by Owner in a written notice, who shall have complete authority to act on behalf of Owner on all matters pertaining to this Contract or the Services, including making changes in the Services.

“Drawings” means the graphic and pictorial documents (in written or electronic format) showing the design, location and dimensions of the Services, generally including plans, elevations, sections, details, schedules and diagrams.

“Effective Date” has the meaning set forth in the preamble.

“Equipment” means all equipment, materials, supplies and systems required for the completion of and incorporation into the Services, excluding those to be supplied by Owner or Owner.

“Extra Work” shall mean any item of work not specified by or set out in this Agreement and not within the reasonable intent of its provisions, which Contractor is required or authorized to perform, pursuant to this Agreement.

“Governmental Instrumentality” means any federal, state or local department, office, instrumentality, agency, board or commission having jurisdiction over a Party or any portion of the Services, the Project or the Site.

“Invoice” means Contractor’s request for a payment, which invoices shall be in a form mutually agreed upon by the Parties.

“Jobsite, Job Site, Work Site or Construction Site” shall be interchangeable and shall mean any real property on which Contractor will be performing Services.

“Owner” has the meaning set forth in the preamble.

“Party” or **“Parties”** means Owner and/or Contractor and their successors and permitted assigns.

“Person” means any individual or any company, joint venture, corporation, partnership, association, limited liability company, unincorporated organization or other entity having legal capacity, including the Parties, any Contractors, and their respective directors, officers, agents and employees.

“Services” means all obligations, duties and responsibilities required of Contractor pursuant to this Contract, including all construction, procurement, fabrication, erection, installation, manufacture,

delivery, transportation and storage of Equipment and Construction Equipment, assembly, erection and installation of Equipment, delivery, transportation, storage, workmanship, labor, inspection and any other



EXCAVATION CONSTRUCTION

services, work or things furnished or used or required to be furnished or used, by Contractor in the performance of this Contract.

“Specifications” means those documents consisting of the written requirements for Equipment standards and workmanship for the Services, assembly, erection and installation of the Equipment, and performance of related services.

“Contract” means this Contract for the performance of the Services (including all Attachments and Schedules attached hereto), as it may be amended from time to time.

“Taxes” means any and all taxes, assessments, levies, duties, fees, charges and withholdings of any kind or nature whatsoever and howsoever described incurred in connection with the performance of the Services, including value-added, sales and use taxes, gross receipts, license, payroll, federal, state, local or foreign income, environmental, profits, premium, franchise, property, excise, capital stock, import, stamp, transfer, employment, occupation, generation, privilege, utility, regulatory, energy, consumption, lease, filing, recording and activity taxes, levies, duties, fees, charges, imposts and withholding, together with any and all penalties, interest and additions thereto.

1. **Scope of Services.** Owner hereby engages the Contractor, and the Contractor hereby agrees to timely and properly perform, those services described in the attached Exhibit A, (the “Services”)

2. **Contractor Supplied Items, Tools and Equipment.**

2.1 Provision of Contractor Items. Contractor shall furnish all Construction Equipment necessary and appropriate for the timely and safe completion of the Services in strict compliance with this Contract. Notwithstanding anything to the contrary contained in this Contract, Contractor shall be responsible for damage to or destruction or loss of, from any cause whatsoever, all Construction Equipment owned, rented or leased by Contractor or its Contractors for use in performing the Services

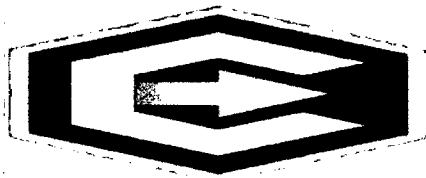
3. **Representation.** Both Owner and the Contractor will designate one “Project Representative”, each with full authority to act on its behalf. Each Project Representative may appoint, from time to time, one or more persons to act in his stead, or to receive delegation(s) of his authority.

4. **Reports.** Contractor shall assist Owner in preparing and submitting progress reports to Owner.



EXCAVATION & CONSTRUCTION

5. **Warranties.** Contractor warrants to Owner that all Services to be performed hereunder shall be performed in a good and workmanlike manner in strict compliance with this Contract
 6. **Compensation for the Services.** Compensation to the Contractor for the proper performance of the Services shall be invoiced on a monthly basis for work completed. Payment will be made to Contractor within 30 days of receipt invoice and supporting documentation.
 7. **Changes and Extra Services.** Owner shall have the right to make changes to the scope of Services. The Contractor's prices and/or schedule for performance of the Services may need to be adjusted in the event of changes, reductions or additions to the scope of the Services. In connection with any such change or addition, Contractor shall propose a price and/or schedule adjustment for consideration and mutual agreement with Owner prior to performance of the change or additional Services.
 8. **Taxes.** All work performed under this agreement will be for the Port Arthur Economic Development Corporation and therefore Tax Exempt. Owner will provide the Tax Exempt Certificate to Contractor.
 9. **Books, Records, and Audits.** Contractor shall keep full and detailed books, construction logs, records, daily reports, accounts, schedules, payroll records, receipts, statements, electronic files, correspondence and other pertinent documents as may be necessary for proper management under this Contract.
 10. **Limitation.** Neither Party shall be liable one to the other for any indirect, incidental, special or consequential damage suffered by the other, irrespective of the fault or negligence of either party.
 11. **Insurance.** The Owner and Contractor shall carry and maintain during the performance of Services, the insurance coverage with the minimum coverages, levels, limits and conditions as required.
 12. **Governing Law.** This Contract shall be governed and construed in accordance with the laws of the State of Texas, excluding any conflict of law or other provision referencing the laws of another jurisdiction. Nothing contained herein should be construed as contravening the express intention of the Parties that the laws
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EXCAVATION & CONSTRUCTION

13. Notices. All notices, requests, demands and other communications required or permitted to be given by either Owner or the Contractor hereunder shall be given in writing and shall be deemed to have been given if delivered in person, or by facsimile, or by a numbered receipted properly e-mail, or first class mail, to the address of the intended recipient as set forth below.

To Contractor:

Port Arthur EDC
501 Procter Street, Suite 100
Port Arthur, Texas 77640
Attention: Floyd Batiste
Telephone: 409-963-0579
E Mail: fbatiste@paedc.org

To Contractor:

Excavation and Construction, LLC
6601 Procter Street
Port Arthur, Texas 77642
Attention: Eric Gilchriest
cc: Richard Harrington
Telephone: 409-962-2677
Facsimile: 409-962-2771
E Mail: eric.gilchriest@exconllc.com
Cc: ricky.harrington@industriallogistics.com

14. Severability. In the event that any clause or provision in this Contract shall for any reason be deemed invalid or unenforceable, the remaining provisions and clauses shall not be affected, impaired or invalidated and shall remain in full force and effect, and the offending clause shall be modified only to the extent necessary to be deemed enforceable.

15. Survival. This Contract shall remain effective, and all indemnities, warranties, confidentiality and other such undertakings of the Contractor shall remain in full force and effect until Contractor is unconditionally released by Owner from its performance obligations.



EXCAVATION CONSTRUCTION

16. **Entire Contract.** This Contract, Attachments, constitutes the entire agreement between the Parties relating to the subject matter hereof, and supersedes all previous bids, proposals, contracts, understandings, terms and conditions and other undertakings between them. This Contract may not be changed, modified or amended except in writing signed by both Parties.

In Witness Whereof, the Parties hereto have caused this Contract to be executed by their duly authorized representatives as of the date first written above.

Port Arthur Economic Development Corporation (Owner)

_____ (sign/date)

_____ (print)

Excavation and Construction, LLC (Contractor)

Richard Harrington 7/11/19 (sign/date)

Richard Harrington (print)

CONSTRUCTION BID FORM



OWNER INFORMATION

Name Port Arthur EDC
Address
City, State ZIP
Phone
Email

Project name Walden Properties

CONTRACTOR INFORMATION

Company EXCAVATION & CONSTRUCTION, LLC.
Eric Gilchrist
6601 Proctor Street Ext.
City, State ZIP Port Arthur, TX 77642
(409)728-4366
Email Eric.gilchrist@exconllc.com
Completion date TBD

SCOPE OF WORK

Item 1: To provide labor, equipment and material to saw and remove roadway, install 144' of 30" RCP, pour junction box to connect 30" and 48" RCP, backfill all pipe with stabilize sand and replace 135 sq. roadway.
15' Wide x 42' long (Joint to Joint)

Item 2: To provide one 30" 4x1 safety end treatment to be placed on new 30" RCP.

Item 3: To provide one Grate Inlet to be place midway on 30" RCP.

Item 4: To provide 144' of 30" RCP.

NOT INCLUDED

Taxes if applicable

COMPANY PROPOSAL

Item 1:	\$	76,233.00
Item 2:	\$	1,250.00
Item 3:	\$	3,500.00
Item 4:	\$	6,336.00

Eric Gilchrist

Submitted by (Company Representative)

6/25/2019

Date

OWNER ACCEPTANCE

Submitted by

Date