

RESOLUTION NO. 21-082

**A RESOLUTION AUTHORIZING THE CITY OF PORT ARTHUR
SECTION 4A ECONOMIC DEVELOPMENT CORPORATION
TO ENTER INTO LEASE AGREEMENT WITH THE CITY OF
PORT ARTHUR FOR 0.605 ACRE TRACT OF LAND IN PORT
ARTHUR, JEFFERSON COUNTY, TEXAS**

WHEREAS, the City of Port Arthur Section 4A Economic Development Corporation ("PAEDC") desires to lease 0.605 acre tract of land from the City of Port Arthur for the purpose of creating a professionally managed public parking lot for The Press Building located at 549 4th Street; and

WHEREAS, the PAEDC Board of Directors at their Board meeting on February 1, 2021 approved said lease; and

WHEREAS, the City of Port Arthur has agreed to lease said land at the cost of \$1.00 per year. This lease contains an option to renew for additional five (5) year periods for a maximum lease term of twenty (20) years based upon a written extension of this lease agreement by both the City of Port Arthur and PAEDC; and

WHEREAS, the City Council deems it is in the public interest to enter into a lease agreement with PAEDC.

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 authorizes PAEDC to enter into a lease agreement with the City of Port Arthur for the 0.605 acre tract of land as described in the proposed lease 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 2nd day of March A.D., 2021,
at a Meeting of the City Council of the City of Port Arthur, Texas, by the following vote: AYES:
Mayor Barty, Mayor Pro Tem Moses,
Councilmembers Holmes, Kirkau, Mark
and Frank

NOES: none

Charlotte Moses

CHARLOTTE MOSES, MAYOR PROTEM

ATTEST:

Kelly Moore
Sherri Bellard, City Secretary on behalf of


APPROVED:

Floyd Batista
Floyd Batista, PAEDC CEO

APPROVED AS TO FORM:

Guy N. Goodson
Guy N. Goodson, PAEDC Attorney

APPROVED AS TO FORM:


Valecia R. Tizeno, City Attorney

21791

Exhibit "A"

PARKING LOT LEASE

THIS PARKING LOT LEASE ("Lease") is entered into and effective as of the Commencement Date (as defined herein) by and between the City of Port Arthur, Texas ("Landlord"), a Texas governmental entity, and the City of Port Arthur Section 4A Economic Development Corporation ("Tenant"), a Texas non-profit corporation.

AGREEMENT

1. **Premises.**

A. Legal description: The property on which the Premises is situated (the "Property") described as:

0.605 acre tract in Port Arthur, Jefferson County, Texas

B. Site Plan: Being a professionally managed public parking lot and parking lot for business conducted at 549 4th Street with the main entry and exit on 4th Street and Waco Street and being more particularly shown in outline form on Exhibit "A".

2. **Term.** The term of this Lease will begin on _____, 2021 (the "Commencement Date") and shall end on _____, 2026 (the "Initial Term"). An option to renew this Lease is available for additional five (5) years periods with a maximum lease term of twenty (20) years. All extensions of this lease agreement must be executed by both the Landlord (City of Port Arthur) and Tenant (PAEDC) through the final maximum lease term ending on _____, 2041.

3. **Rent.** Tenant agrees to pay rent to Landlord in the sum of \$1.00 annually during the Term hereof ("Rent"). The Rent will be paid monthly in advance with the first payment due and payable on the Commencement Date and with a like payment due and payable on the December 31st of each year thereafter during the Term.

4. **Permitted Uses.** The Premises shall be used by Tenant only for purposes of a secured parking lot for business associated with 549 4th Street ("Parking Lot"), and for no other use or purpose without the Landlord's prior written consent, which shall be granted or withheld in Landlord's sole and subjective discretion. The Tenant will not otherwise hold the Parking Lot open for use by the general public nor collect any rate or charge for the parking of a motor vehicle on the Premises. The Tenant shall comply with all federal, state and local laws, ordinances, codes and regulations regarding the Premises and the permitted use upon the Premises, and shall undertake all measures reasonably necessary to ensure to Landlord's satisfaction that all of Tenant's employees, guests and invitees using the Parking Lot shall do so in an acceptably safe manner and shall observe the organization of the Parking Lot as depicted on the attached Exhibit "A", including identified entrances and driveways, leaving the same clear at all times for the safe and unimpeded flow of vehicular traffic to and through the Parking Lot. The Tenant will not maintain or suffer to be maintained any business, conduct, act or thing which will constitute a public or private nuisance or violate any other public ordinance during the Term hereof.

Tenant shall operate the Parking Lot in a safe and courteous manner and keep the Parking Lot clean of any Tenant related trash and debris. The permitted hours of use of the Premises by the Tenant is for twenty four hours a day 7 days a week, 365 days a year. Tenant shall be responsible for damages to the Premises caused by the Tenant.

5. **Permits.** Tenant will apply for, pay for and keep current all permits and licenses required for the lawful operation of the Parking Lot.

6. **Acceptance of Premises.** Tenant acknowledges that: (a) a full and complete inspection of the Premises has been made and Landlord has fully and adequately disclosed the existence of any defects that would interfere with Tenant's use of the Premises for their intended commercial purpose, and (b) as a result of such inspection and disclosure and Tenant accepts the property "As Is."

7. **Signage.** No signs allowed to be placed on the Premises by the Tenant.

8. **Landlord's Access.** Landlord and Landlord's agents reserves the right to enter the Premises: (a) to inspect the general condition and state of repair of the Premises, (b) to make repairs required or permitted under this Lease, and (c) for any other reasonable purpose.

9. **Tenant Assignment.** Tenant shall not assign nor in any manner transfer this Lease or any interest therein, nor sublet the Premises or any part or parts thereof, nor permit occupancy by anyone, without the prior written consent and authority of Landlord which consent may be granted or withheld at the sole and subjective discretion of Landlord. Any such assignment made with the written permission of Landlord shall not relieve Tenant of any liability hereunder, and Tenant shall remain jointly and severally liable for the performance of all obligations hereunder from and after the date of any such permitted assignment.

10. **Insurance.** Tenant must procure and keep in force during the term of this Lease the following insurance coverage in at least the minimum amounts shown, in reputable insurance companies, covering operations of the Tenant: a) General Liability – minimum \$1,000,000 per occurrence, \$2,000,000 aggregate b) Garage Keepers Liability, minimum \$500,000 per occurrence c) Automobile Liability for non-owned/leased/hired autos - minimum \$1,000,000 combined single limit d) Statutory Worker's Compensation Such insurance policies, with the exception of Workers Compensation, must include Landlord and Jefferson County Elected Officers and Agents as additional insureds. Tenant must provide Landlord with a declarations page or endorsement evidencing that Jefferson County has been added as an additional insured on all liability policies. Landlord and Tenant each waive all rights of recovery, claim, action or cause of action against the other for any loss or damage that may occur to the Premises and improvements or any property contained therein, that is damaged or destroyed in any cause that is recovered from an insurance policy described in Article 10 or can be covered by standard All Risk Property Damage Insurance and covenants that no insurer must hold any right of subrogation against the other party for any such claim. This portion of Article 10 survives the termination of this contract.

11. **Taxes.** Landlord represents that it is exempt from property or income taxes and it will pay directly to the taxing authorities those taxes and assessments levied upon or assessed with respect to the real and personal property of, within, or adjacent to the Premises. However, Tenant remains responsible for its income taxes, social security taxes, if any, associated with its operations under this Lease.

12. **Condemnation.** If, during the Term or any extension thereof, all or a substantial part of the Premises are taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain, or are conveyed to the condemning authority under threat of condemnation, this Lease will terminate and the monthly installments of Rent will be abated during the unexpired portion of the Term, effective on the date of the taking. If less than a substantial part of the Premises is taken for public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain, or is conveyed to the condemning authority under threat of condemnation, Landlord, at Landlord's option, may terminate this Lease by delivering a written notice to Tenant. If Landlord does not terminate this Lease, Landlord shall promptly, at Landlord's expense, restore and reconstruct the buildings and improvements (other than leasehold improvements made by Tenant or any assignee, subtenant or other occupant of the Premises) situated on the Premises in order to make the same reasonably suitable for the Permitted Use. The monthly installments of Rent payable under this Lease during the unexpired portion of the Term will be adjusted equitably. Landlord and Tenant will each be entitled to receive and retain such separate awards and portions of lump sum awards as may be allocated to their respective interests in any condemnation proceeding. The termination of this Lease will not affect the rights of the parties to those awards.

13. **Environmental Representations and Indemnity.** (a) Tenant's Compliance with Environmental Laws. Tenant, at Tenant's expense, shall comply with all laws, rules, orders, ordinances, directions, regulations and requirements of Federal, State, county and municipal authorities pertaining to Tenant's use of the Property and with the recorded covenants, conditions and restrictions, regardless of when they become effective, including, without limitation, all applicable Federal, State and local laws, regulations or ordinances pertaining to air and water quality, Hazardous Materials (as defined in Section 13. c), waste disposal, air emissions and other environmental matters, all zoning and other land use matters, and with any direction of any public officer or officers, pursuant to law, which impose any duty upon Landlord or Tenant with respect to the use or occupancy of the Property. (b) Tenant's Indemnification. TENANT SHALL NOT CAUSE OR PERMIT ANY HAZARDOUS MATERIALS TO BE BROUGHT UPON, KEPT OR USED IN OR ABOUT THE PROPERTY BY TENANT, ITS AGENTS, EMPLOYEES, CONTRACTORS OR INVITEES WITHOUT THE PRIOR WRITTEN CONSENT OF LANDLORD. IF THE PRESENCE OF HAZARDOUS MATERIALS ON THE PROPERTY CAUSED OR PERMITTED BY TENANT RESULTS IN CONTAMINATION OF THE PROPERTY OR ANY OTHER PROPERTY, OR IF CONTAMINATION OF THE PROPERTY OR ANY OTHER PROPERTY BY HAZARDOUS MATERIALS OTHERWISE OCCURS FOR WHICH TENANT IS LEGALLY LIABLE TO LANDLORD FOR DAMAGE RESULTING THEREFROM, THEN TENANT, TO THE EXTENT ALLOWED BY STATE LAW, SHALL INDEMNIFY, DEFEND AND HOLD LANDLORD HARMLESS FROM ANY AND ALL CLAIMS, JUDGMENTS, DAMAGES, PENALTIES, FINES, COSTS, LIABILITIES OR LOSSES (INCLUDING, WITHOUT LIMITATION, DIMINUTION IN VALUE OF THE

PROPERTY, DAMAGES FOR THE LOSS OR RESTRICTION ON USE OF RENTABLE OR UNUSABLE SPACE OR OF ANY AMENITY OR APPURTENANCE OF THE PROPERTY, DAMAGES ARISING FROM ANY ADVERSE IMPACT ON MARKETING OF BUILDING SPACE OR LAND AREA, SUMS PAID IN SETTLEMENT OF CLAIMS, REASONABLE ATTORNEYS' FEES, COURT COSTS, CONSULTANT FEES AND EXPERT FEES) THAT ARISE DURING OR AFTER THE TERM AS A RESULT OF THE CONTAMINATION. THIS INDEMNIFICATION OF LANDLORD BY TENANT INCLUDES, WITHOUT LIMITATION, COSTS INCURRED IN CONNECTION WITH ANY INVESTIGATION OF SITE CONDITIONS OR ANY CLEAN-UP, REMEDIAL WORK, REMOVAL OR RESTORATION WORK REQUIRED BY ANY FEDERAL, STATE OR LOCAL GOVERNMENT AGENCY BECAUSE OF HAZARDOUS MATERIALS PRESENT IN THE SOIL OR GROUND WATER ON OR UNDER THE PROPERTY. WITHOUT LIMITING THE FOREGOING, IF THE PRESENCE OF ANY HAZARDOUS MATERIALS ON THE PROPERTY (OR ANY OTHER PROPERTY) CAUSED OR PERMITTED BY TENANT RESULTS IN ANY CONTAMINATION OF THE PROPERTY, TENANT SHALL PROMPTLY TAKE ALL ACTIONS AT TENANT'S SOLE EXPENSE AS ARE NECESSARY TO RETURN THE PROPERTY TO THE CONDITION EXISTING PRIOR TO THE INTRODUCTION OF ANY SUCH HAZARDOUS MATERIALS, PROVIDED THAT LANDLORD'S APPROVAL OF SUCH ACTIONS IS FIRST OBTAINED. (c) Definition. For purposes of this Lease, the term "Hazardous Materials" means any one or more pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, solvent or oil as defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, the Federal Clean Water Act, as amended, or any other Federal, State or local environmental law, regulation, ordinance, or rule, whether existing as of the date of this Lease or subsequently enacted.

14. **Events of Default.** The following events shall be deemed to be events of default by Tenant under this Agreement ("Event of Default"): (a) Tenant shall have, failed to pay the rent or any other charge provided herein, or any portion, thereof, within ten (10) days after the same shall be due and payable; (b) Tenant shall have failed to comply with any other provisions of this agreement and shall not cure such failure within thirty (30) days after Landlord, by written notice, has informed Tenant of such noncompliance; (c) Tenant abandons the Premises.

15. **Notice of Default.** Notwithstanding any other provision herein, in the event of a default pursuant to Paragraph 14 above, Landlord may, by serving five (5) days written notice upon Tenant, terminate this Lease. If Landlord gives Tenant notice of Tenant's default and/or delivers to Tenant a Notice of Demand for Payment or Possession pursuant to the applicable statute (either of which shall hereinafter be referred to as a "Notice of Default"), the Notice of Default will not constitute an election to terminate the Lease unless Landlord expressly states in the Notice of Default that it is exercising its right to terminate the Lease.

16. **Tenant's Right to Terminate.** The Tenant shall have the right to terminate this Lease without cause upon thirty (30) days' prior written notice to the Landlord.

17. **Landlord's Right to Terminate.** The Landlord shall have the right to terminate this Lease without cause upon thirty (30) days prior written notice to the Tenant.

18. **Notice.** Any and all notices given in connection with this Lease shall be deemed adequately given only if in writing and addressed to the party for whom such notices are intended at the address set forth below. All notices shall be sent by personal delivery, FedEx or other overnight messenger service, or by first class certified mail, postage prepaid, return receipt requested. A written notice shall be deemed to have been given to the recipient party on the earlier of (a) the date it is delivered to the address required by this Lease; (b) the date delivered is refused at the address required by this Lease; or (c) with respect to notices sent by mail, the date as of which the postal service indicates such notice to be undeliverable at the address required by this Lease. Any and all notices referred to in this Lease, or that either party desires to give to the other, shall be addressed as follows:

For Landlord:

City of Port Arthur, Texas
Attn: _____

For Tenant:

City of Port Arthur Section 4A Economic Development Corporation
501 Procter Street, Suite 100
Port Arthur, Texas 77640

Any party hereto may, by notice given hereunder, designate any further or different addresses to which subsequent notice or other communications shall be sent.

19. **Miscellaneous.** (a) All obligations under this Lease will be performed and payable in the Jefferson County, Texas. The laws of the State of Texas will govern this Lease and venue for any action under this contract shall be in the state and federal courts located in Jefferson County, Texas (b) Any changes or modifications of this Lease must be in writing, and signed by the parties hereto. This Lease supersedes any previous understandings or agreements between the parties relating to the Premises. (c) Paragraph headings are for convenience only, and in no way define or limit the scope and content of this Lease. (d) No delay or failure by either party to enforce or exercise any rights or remedies hereunder shall constitute a waiver of such right or remedy, nor shall any single or partial exercise of a right or remedy preclude any other or further exercise of rights and remedies.

This Lease may be executed in multiple counterparts, and by use of counterpart signature pages, but all such counterparts shall constitute but one and the same agreement. Signature pages bearing facsimile signatures shall be effective for purposes of binding the parties to this Lease. (f) This Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, provided this paragraph shall not permit any assignment contrary to the provisions of this Lease. (g) In the event of any controversy, claim, or dispute relating to this instrument or the breach thereof, the prevailing party shall be entitled to recover from the losing

party reasonable expenses, attorney's fees and costs. IN WITNESS WHEREOF, the Parties hereto have executed this Lease on the day and date herein above set forth.

LANDLORD:

CITY OF PORT ARTHUR, TEXAS

By: _____
Ronald Burton, City Manager
Date of Execution: _____

TENANT:

**CITY OF PORT ARTHUR SECTION 4A
ECONOMIC DEVELOPMENT
CORPORATION**

By: _____
Darrell Anderson, President
Date of Execution: _____

APPROVED AS TO FORM:

City Attorney

APPROVED AS TO FORM:

PAEDC Attorney

EXHIBIT A

NORTH STREET (151)

SOUTHEAST

Y=7131
P.O. BOX 151
UR

68-55

S 53°-19'-25" E 54.13
CR. MASTERLY R.O.W. LINE

WACO AVENUE (70' R.O.W.)

(70' R.O.W.)

WACO
NOTES:
1. ALL UTILITIES ARE SHOWN AS APPROXIMATE.
2. EXISTING UTILITIES ARE SHOWN AS APPROXIMATE.
3. EXISTING UTILITIES ARE SHOWN AS APPROXIMATE.
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10. EXISTING UTILITIES ARE SHOWN AS APPROXIMATE.



LEGEND

POINT	DESCRIPTION
1	Point of Beginning
2	Point of Beginning
3	Point of Beginning
4	Point of Beginning
5	Point of Beginning
6	Point of Beginning
7	Point of Beginning
8	Point of Beginning
9	Point of Beginning
10	Point of Beginning



City of Point Archaie
Planning Department
1000 N. Main Street
Point Archaie, AL 36571



CITY OF POINT ARCHAE
PLANNING DEPARTMENT
1000 N. MAIN STREET
POINT ARCHAE, AL 36571

SITE PLAN
C-1.0