

RESOLUTION NO. 22-347

A RESOLUTION AUTHORIZING THE PORT ARTHUR TYPE 4A ECONOMIC DEVELOPMENT CORPORATION APPOINTING DENTON NAVARRO ROCHA BERNAL & ZECH, P.C. AS GENERAL COUNSEL AND ASSISTANT GENERAL COUNSELS; AND AUTHORIZING THE PRESIDENT OF THE BOARD OF DIRECTORS TO EXECUTE A LEGAL SERVICES AGREEMENT IN AN ANNUAL AMOUNT NOT TO EXCEED \$110,000.00; FUNDS AVAILABLE IN EDC ACCOUNT NO. 120-80-625-5420-00-000; AND SETTING AN EFFECTIVE DATE.

WHEREAS, the Port Arthur Type 4A Economic Development Corporation (the "PAEDC") is in need of general counsel legal services; and

WHEREAS, after reviewing all necessary qualifications and proposals submitted to provide General Counsel services, the PAEDC finds and determines that the law firm of Denton Navarro Rocha Bernal & Zech, P.C. is composed of Attorneys that meet the needs and requirements set forth by the PAEDC Board of Directors (the "Board"); and

WHEREAS, the Board strives to provide the greatest flexibility and value to the PAEDC in legal services, and believes that the appointment of Denton Navarro Rocha Bernal & Zech, P.C. will allow them to do so.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ARTHUR, TEXAS THAT:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council of the City of Port Arthur and made a part hereof for all purposes and findings of fact.

Section 2. Appointment of Denton Navarro Rocha Bernal & Zech, P.C. The Port

Arthur Economic Development Corporation Board of Directors is hereby authorized to appoint the law firm of Denton Navarro Rocha Bernal & Zech, P.C. (the "Firm") to provide general counsel legal services to the PAEDC.

Section 3. General Counsel. Charles E. Zech, is hereby designated as General Counsel.

Section 4. Assistant General Counsel. The lawyers from the Firm are hereby designated as Assistant General Counsel and are hereby authorized to represent and provide legal services to the Port Arthur Economic Development Corporation at the direction of the General Counsel subject, ultimately, to the discretion of the PAEDC.

Section 5. Execution of Engagement Letter and Legal Services Agreement. The PAEDC Board President is hereby authorized to execute an Engagement Letter and Legal Services Agreement in substantially the same form as Exhibit "A" with the Firm.

Section 6. 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 Aug A.D., 2022,
at a Meeting of the City Council of the City of Port Arthur, Texas, by the following vote:

AYES:

Mayor Bartie; Mayor Pro Tem Holmes;
Councilmembers Jones, Kinlaw, Marks,
and Moses.

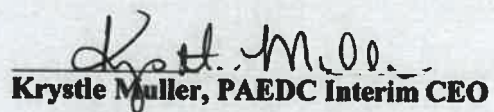
NOES: None


Thurman Bartie, Mayor

ATTEST:


Sherri Bellard, City Secretary

APPROVED:


Krystle Muller, PAEDC Interim CEO

APPROVED AS TO FORM:


Frank Garza, PAEDC Interim Attorney

APPROVED AS TO FORM:


Valecia R. Tizeno, City Attorney

APPROVED AS TO AVAILABILITY OF FUNDS:


Kandy Daniel, Interim Finance Director

Exhibit "A"

LEGAL SERVICES A G R E E M E N T

STATE OF TEXAS

§
§
§

COUNTY OF JEFFERSON

THIS AGREEMENT for General Counsel services, is entered into by and between the **Port Arthur Economic Development Corporation** (the "PAEDC"), situated in Jefferson County, Texas, acting by and through its Board President and **Denton Navarro Rocha Bernal & Zech, P.C.** (hereinafter referred to as "LAW FIRM").

WITNESSETH:

PAEDC and **LAW FIRM**, in consideration of their respective agreements and covenants hereinafter contained, do hereby agree to the following:

I. SCOPE OF REPRESENTATION

PAEDC hereby employs **LAW FIRM** to advise and represent the **PAEDC** as its legal counsel (General Counsel) in various general and litigation matters. **Charles E. Zech** shall be the principal or lead attorney performing the services undertaken by **LAW FIRM** pursuant to this Agreement. All attorneys of the **LAW FIRM** are eligible to perform under the terms of this contract if they are deemed to have the necessary experience to assist the **PAEDC** in any current or future legal matters.

All aspects of **LAW FIRM'S** representation shall be coordinated with the President and CEO. All policy decisions regarding this representation shall be made by the Board of Directors and any questions regarding such matters shall be directed to either the President and CEO or the President of the Board.

LAW FIRM has agreed to represent the **PAEDC's** interest by providing, as directed by the Board of Directors and/or President and CEO, advice, counsel, negotiation assistance and document preparation services in connection with various general counsel matters.

LAW FIRM has agreed to attend all regularly called Board of Director meetings. Any additional regular or special meeting of the Board of Directors during the month requiring the attendance of an attorney will be billed at the **LAW FIRM's** regular rate. **Charles E. Zech** will be the principal attorney attending the Board meetings. **LAW FIRM** agrees to charge the fees in the engagement letter attached as Exhibit A and agrees not to increase fees for the term of this Agreement.

II. BILLING, INVOICING AND COMPENSATION

Billing rates for the **PAEDC** will be at the rates proposed, hereinafter attached as Exhibit A. Billings shall be made only for authorized personnel approved by the **PAEDC** and billings for which time is being billed at an hourly rate shall identify all persons by name and position. The **PAEDC** shall not pay for the attendance of more than one attorney of the firm at any meeting or council meeting, unless approved in advance by the President and CEO. Phone calls to the

LAW FIRM from designated PAEDC officials will be billed at a tenth of an hour for every six (6) minutes.

There shall be no separate charges for rates for clerical support and office supplies. Postage charges and electronic research shall be charged at cost and itemized before reimbursement is considered. Overnight delivery, courier service and messenger service shall be used only when absolutely necessary. With respect to travel, if any, the PAEDC will only reimburse **LAW FIRM** for coach class airfare and daily per diem at a rate no greater than the rate provided to PAEDC personnel to cover hotel accommodations and other travel expenses. No out of town travel may be taken by the **LAW FIRM** without prior approval of the President and CEO. PAEDC will reimburse **LAW FIRM** for mileage at IRS rate and will pay one half of hourly rate for travel time to and from meetings at PAEDC.

All invoices for professional services shall be submitted on **LAW FIRM's** letterhead and should describe in reasonable detail, the services performed, the time spent, the applicable billing rate and the attorney or legal assistant performing said services. The PAEDC will make payment to the firm within thirty (30) days of its receipt of each invoice. If additional time is needed to make payment, PAEDC shall contact principal attorney and notify him of expected date of payment.

III. CONFLICTS OF INTEREST

As part of the Agreement to provide these services to the PAEDC, **LAW FIRM** shall be required to disclose to the PAEDC any existing or potential conflicts of interest related to any services to be performed under this Agreement and during the course of this representation. **LAW FIRM** shall refrain from representing clients whose interests may conflict with those of the PAEDC. Should such a conflict arise, **LAW FIRM** shall be required to immediately contact the President and CEO to discuss and resolve such conflict.

IV. ETHICS

In providing legal services to the PAEDC hereunder, **LAW FIRM** shall conduct itself in accordance with the highest ethical standards and in full compliance with the Texas Disciplinary Rules of Professional Conduct. The **LAW FIRM** shall promptly notify the PAEDC if any disciplinary action or malpractice action is instituted against any attorney providing services under this Agreement.

V. INSURANCE

The **LAW FIRM** shall carry professional liability insurance with minimum policy limits of \$1,000,000.00 per occurrence, and shall not permit such insurance to be canceled or lapse during the engagement. The **LAW FIRM** shall provide an insurance certificate or other proof of insurance to the PAEDC upon request and will name the PAEDC as an additional insured in accordance with Olmos Park's Request for Proposal.

VI. CONTRACT TERM

This Agreement shall become effective on **August 1, 2022** until terminated per Section VII of this Agreement.

VII. TERMINATION

It is understood that the contractual relationship between the **LAW FIRM** and the **PAEDC** is an *at-will relationship* and the **PAEDC** may terminate this Agreement at any time upon thirty (30) days prior notice. Upon receipt of a Notice of Termination, the **LAW FIRM** shall immediately discontinue work under this Agreement and thereafter only those legal services necessary to effectuate termination of representation or transfer to another attorney may be performed, with all such services to be expressly authorized, in writing, by the **PAEDC**.

The **LAW FIRM** may also terminate its performance under this Agreement at any time or in the event the **LAW FIRM** reasonably determines that to continue to provide legal services under this Agreement would cause a violation of law or any applicable provision of the Rules of Professional Conduct or would subject the **LAW FIRM** under applicable law to a risk of liability to any third party provided the **LAW FIRM** otherwise is in compliance with the terms of this Agreement.

It is agreed and understood that all files, reports, including documents, legal memoranda and correspondence produced under this Agreement are the property of the **PAEDC**, and upon termination, shall be forwarded to the **PAEDC**, at no expense to the **PAEDC**, as directed by the **PAEDC**. A copy of the information may be retained by **LAW FIRM** at **LAW FIRM**'s own expense.

VIII GENERAL ASSURANCES

LAW FIRM agrees to use all reasonable care in representing the **PAEDC**. **PAEDC** recognizes, however, the **LAW FIRM'S** entitlement to payment for services rendered hereunder is not contingent upon the results obtained from the final disposition of the matters for which said **LAW FIRM** has been hired. **LAW FIRM** agrees to assert a diligent effort to assure that **PAEDC** is reasonably informed as to the status of any matter arising out of the matter for which **LAW FIRM** has been hired and courses of action which are being followed or recommended by **LAW FIRM**.

During the course of the representation, **LAW FIRM** agrees to provide **PAEDC** and any other representatives **PAEDC** may designate with copies of all important pleadings or correspondence which **LAW FIRM** prepares on **PAEDC'S** behalf and will continue to keep **PAEDC** or its designated representative advised of any new developments.

IX. RETENTION AND ACCESSIBILITY OF RECORDS

LAW FIRM shall retain all records and supporting documentation pertinent to this Agreement for a period of three (3) years from the date of final payment under this Agreement. If, at the end of three (3) years, there is litigation or if any claims covering such Agreement have not been resolved, **LAW FIRM** shall retain the records for three (3) years after the resolution of such litigation or claim.

PAEDC and its designated representatives shall have access to and the right to examine, monitor and audit all records, documents, conditions and activities related to this Agreement.

X. APPLICABLE LAW

This Agreement and all disputes which are part of, or concerning this Agreement shall be governed by the laws of the State of Texas. Venue of any civil action between the parties arising out of, or concerning this Agreement shall be proper in Bexar County, Texas.

XI. SEPARABILITY

If any provision of this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

XII. ASSIGNING INTEREST

LAW FIRM must obtain the prior written consent of **PAEDC** before assigning any interest in or any part of this Agreement. **PAEDC** expressly reserves the right to disapprove or withhold consent of any assignment or proposed assignment. In no event shall such written consent, if obtained, relieve **LAW FIRM** from any and all obligations hereunder, or change the terms of, this Agreement. Furthermore, this Agreement shall not bestow any rights upon any third party, but rather shall bind and benefit the **LAW FIRM** and the **PAEDC** only.

XIII. CAPTIONS

The captions contained herein are for convenience of reference only and in no way limit or enlarge the terms and conditions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date below and by their respective signatures agree to fulfill the terms and conditions contained herein.

**Port Arthur Economic
Development Corporation**

Denton Navarro Rocha Bernal & Zech, P.C.

**Jerry LaBove
President, PAEDC**

**Charles Zech, Attorney
Partner in Charge**

EXHIBIT A

DNRBZ ENGAGEMENT LETTER
June 28, 2022



Denton Navarro Rocha Bernal & Zech, P.C.
attorneys & counselors at law • rampagelaw.com

San Antonio | Austin | Rio Grande Valley | Texas Gulf Coast
2500 W. William Cannon Drive, Suite 609 | Austin, Texas 78745-5320
V 512-279-6431 | F 512-279-6438

June 28, 2022

Krystle Muller
Interim Chief Executive Officer
Port Arthur Economic Development Corporation
501 Procter Street, Suite 100
Port Arthur, Texas 77640

via Email: kwvillarreal-muller@paedc.org

RE: Engagement for Legal Services

Ms. Muller:

I would like to first thank you and the Board for your confidence in Denton Navarro Rocha Bernal & Zech, P.C. to represent the Port Arthur Economic Development Corporation (the "Port Arthur EDC") as General Counsel. I submit this engagement letter to the Port Arthur EDC, on behalf of our Firm, to provide General Counsel services to the Port Arthur EDC. This agreement is terminable by either party at any time.

As Shareholder and Partner, I will be the supervising partner and your primary contact for this engagement. Depending on your needs and workload, other lawyers in the firm may be used when necessary to increase our ability to respond to your needs and reduce your overall costs in connection with our engagement.

The Firm's rates are as follows: \$245 per hour for Shareholders/Partners; \$225 per hour for Associates; and \$110 per hour for Paralegals.

Our invoices are due on receipt and are past due after thirty days. Unless identified, all staff member support time is provided at no charge. All related travel or other expenses are always charged "at cost" with no "mark-up" and all related mileage is charged by multiplying the actual miles traveled by the then current IRS rate. Copy rates are .20 cents per page, color copies are .70 cents per page, and fax rates are .50 cents per page. We do not charge Westlaw, Lexis, or any other online research fees. All invoices shall be sent to your office unless you direct otherwise.

Please execute this letter to act as our agreement and engagement, on behalf of the Port Arthur EDC, in the space provided below. Please return the executed letter to our office via facsimile at (512) 279-6438 or by email at cezech@rampagelaw.com to acknowledge our representation.

We look forward to representing the City of Port Arthur Economic Development Corporation. If you have any questions about the scope or terms of our engagement, please do not hesitate to call me at (512) 279-6431.

Very truly yours,

DENTON NAVARRO ROCHA BERNAL HYDE & ZECH
A Professional Corporation


CHARLES E. ZECH

CEZ/mw

Accepted:

Krystle Muller, Interim CEO
City of Port Arthur
Economic Development Corporation

Date: