

RESOLUTION NO. 23-433

**A RESOLUTION APPROVING THE FIRST AMENDMENT
TO THE PERFORMANCE AGREEMENT BETWEEN THE
CITY OF PORT ARTHUR SECTION 4A ECONOMIC
DEVELOPMENT CORPORATION AND MID CO.
SHOPPING PLAZA, LLC; FUNDS AVAILABLE IN EDC
ACCOUNT NO. 120-80-625-5478-00-00-000**

WHEREAS, per Resolution No. 21-529, the City Council of the City of Port Arthur approved the City of Port Arthur Type 4A Economic Development Corporation (“PAEDC”) to enter into an Economic Development Conditional Grant Agreement (the “Agreement”) with Mid Co. Shopping Plaza, LLC (“Mid Co”) for an amount of \$108,911.73; and

WHEREAS, the Agreement was for the purpose of providing incentives to Mid Co in consideration for certain infrastructure improvements to the property located at 3701 41st street in Port Arthur for the development of a multi-tenant shopping center; and

WHEREAS, construction costs for the project have increased significantly since execution of the Agreement; and

WHEREAS, at their Regular Board Meeting of June 12, 2023, the PAEDC Board of Directors found and determined that it is beneficial to reimburse the Recipient a percentage of the increased costs for the Project and approved the First Amendment to the Agreement increasing the incentive amount by an additional \$61,039.15 as detailed in the First Amendment to the Agreement attached hereto as **Exhibit “A”**.

**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 approves the First Amendment to the Performance Agreement between the Port Arthur Economic Development Corporation and Mid Co. Shopping Plaza, LLC.

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 10th day of Oct. A.D., 2023,
at a Meeting of the City Council of the City of Port Arthur, Texas, by the following vote:

AYES:

Mayor Bartie; Mayor Pro Lem Hamilton
Councilmembers Lewis, Beckcom, Doerdt,
Kindau and Frank.

NOES: None.


ATTEST [Signature]
Sherri Bellard, City Secretary

[Signature]
Thurman Bartie, Mayor

APPROVED:
[Signature]
Terry Stokes, PAEDC CEO

APPROVED AS TO FORM:
[Signature] PAEDC Asst Counsel
Charles E. Zech, PAEDC Attorney

APPROVED AS TO FORM:



Val Tizen, City Attorney

APPROVED AS TO AVAILABILITY OF FUNDS:



Kandy Daniel, Finance Director

23216

Exhibit "A"

**FIRST AMENDMENT TO ECONOMIC
DEVELOPMENT PERFORMANCE AGREEMENT
BETWEEN THE CITY OF PORT ARTHUR SECTION
4A ECONOMIC DEVELOPMENT CORPORATION
AND MID CO. SHOPPING PLAZA, LLC**

This First Amendment (“First Amendment”) to the Performance Agreement between the City of Port Arthur Section 4A Economic Development Corporation and Mid Co. Shopping Plaza, LLC (“Agreement”) is entered into to be effective as of the date as executed below, by and between the Port Arthur Economic Development Corporation, located in Port Arthur, Jefferson County, Texas (hereinafter called “PAEDC”), a Texas Type A non-profit economic development corporation under the Development Corporation Act and governed by TEX. LOC. GOV. CODE chapters 501, 502 and 504 and the Texas Non-Profit Corporation Act and Mid Co. Shopping Plaza, LLC, a Texas Limited Liability Corporation (hereinafter called “Recipient”), otherwise known as the “Parties” to this Agreement.

RECITALS

WHEREAS, the Parties previously entered into an Agreement on the 6th day of January, 2022 for the purpose of providing incentives to the Recipient in consideration for certain infrastructure improvements (the “Project”); and

WHEREAS, construction costs for the Project have increased significantly since execution of the Agreement; and

WHEREAS, the PAEDC finds and determines that it is beneficial to reimburse the Recipient a percentage of the increased costs for the Project.

NOW, THEREFORE, in consideration of the mutual covenants, benefits and agreements described and contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and further described herein, the Parties agree as follows:

**ARTICLE I
RECITALS**

1. Recitals. The recitals set forth above are declared true and correct by the Parties and are hereby incorporated as part of this Agreement.

**ARTICLE II
AGREEMENT AMENDMENT**

1. Amendment. Section 6.a.i. is hereby amended to read as follows:

PAEDC shall conditionally grant Incentive Recipient an amount not to exceed one hundred sixty-nine thousand nine hundred fifty dollars and 88 cents (\$169,950.88) for the purpose of constructing a 6,084 square-foot metal building with concrete parking, driveways and all utilities required for the developed site located on the Property;

2. Amendment of Agreement. Except as specifically amended by this First Amendment, the terms and provisions stated in the Agreement shall continue to govern the rights and obligations of the Parties, and all provisions and covenants of the Agreement, as amended by this First Amendment, shall remain in full force and effect. The terms and provisions of the Agreement, as hereby amended by this First Amendment, are hereby ratified and confirmed. In the event of any inconsistency, the terms and provisions of this First Amendment shall control over and modify the terms and provisions of the Agreement.

3. Binding Agreement. The terms and conditions of this Agreement shall be binding on and inure to the benefit of the Parties, and their respective successors and assigns. The Executive Director of the PAEDC shall be responsible for the administration of this Agreement and shall have the authority to execute any instruments, duly approved by the PAEDC, on behalf of the Parties related thereto.

[SIGNATURE PAGE FOLLOWS]

Approved as to Form

Charles E. Zech - 20190222, Assistant Counsel

Charles E. Zech, PAEDC General Counsel

Verification of Consistency with City Council Approval

Valecia Tizenso

Executed on this _____ day of _____, 2023.

**COMPANY:
MID CO. SHOPPING PLAZA, LLC**

By: _____
Name: Heraldo Munoz
Title: _____

**PORT ARTHUR ECONOMIC
DEVELOPMENT CORPORATION (PAEDC)**

By: _____
Name: Terry Stokes
Title: Chief Executive Officer