

BEAUMONT

TEXAS

REGULAR MEETING OF THE CITY COUNCIL COUNCIL CHAMBERS JUNE 9, 2015 1:30 P.M.

CONSENT AGENDA

- * Approval of minutes – June 2, 2015
- * Confirmation of committee appointments

Clarke Baker would be appointed to the Parks and Recreation Advisory Committee. The term would commence June 9, 2015 and expire June 8, 2017. (Councilmember Mike Getz)

Donna Forgas would be appointed to the Library Commission. The term would commence June 9, 2015 and expire June 8, 2017. (Councilmember Mike Getz)

- A) Authorize the City Manager to sign an amended Interlocal Agreement related to the management and operation of the 800MHz radio system
- B) Approve a resolution accepting maintenance of the street, storm sewer, water and sanitary sewer improvements in Windemere Subdivision Section Three
- C) Authorize the City Manager, or his designee, to execute all documents related to a Memorandum of Understanding Addendum with the Garth House, Mickey Mehaffy Children's Advocacy Program, Inc.
- D) Authorize the City Manager to apply for and receive funding through the Edward Byrne Memorial Justice Assistance Grant program and to execute all documents necessary, specifically, an inter-local agreement with the City of Port Arthur, Texas and Jefferson County, Texas in order to reallocate Justice Assistance Grant funds

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL OF THE

CITY OF BEAUMONT:

THAT the following appointments be made:

<u>Appointment</u>	<u>Commission</u>	<u>Beginning of Term</u>	<u>Expiration of Term</u>
Clarke Baker	Parks and Recreation Advisory Committee	06/09/15	06/08/17
Donna Forgas	Library Commission	06/09/15	06/08/17

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 9th day of
June, 2015.

- Mayor Becky Ames -

BEAUMONT

— T E X A S —

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Bart Bartkowiak, Chief Technology Officer **BB**

MEETING DATE: June 9, 2015

REQUESTED ACTION: Council consider a resolution authorizing the City Manager to sign an amended Interlocal Agreement related to the management and operation of the 800MHz radio system.

BACKGROUND

The 800 MHz radio system consists of software and hardware for four simulcast tower sites in Jefferson County, two repeater tower sites in Hardin County, and one repeater tower site in Orange County hereinafter called "South East Texas Regional Radio System (SETRRS).

Since 2008 we have expanded the simulcast system in Jefferson County from eleven (11) to twenty-one (21) channels, added two repeater tower sites in Hardin County and one repeater tower site in Orange County through expansion of our agreement by including the cities of Groves, Nederland, Port Arthur, Port Neches, Hardin County and the City of Orange. We have also reduced the per radio maintenance costs and improved regional interoperability by adding the Port of Beaumont, Lamar University's Police Department, Acadian Ambulance and many other agencies to the system.

Orange County and the Texas Department of Public Safety have requested to join the SETRRS. They have determined that a unified and integrated radio communications system would improve the ability of public safety and public service agencies to communicate and cooperate with each other. Orange County has agreed to provide a suitable tower site including tower, equipment building, generator backup, utilities, and a T-1 circuit to connect the additional tower site to the master site in Beaumont. The Texas Department of Public Safety has agreed to provide six (6) additional compatible frequencies, communications equipment, installation, and integration including microwave backup for the tower site. The additional tower site will enhance the overall communication capabilities of the SETRRS.

FUNDING SOURCE

Not applicable.

RECOMMENDATION

Approval of resolution.

RESOLUTION NO.

WHEREAS, the City of Beaumont, Texas, Jefferson County, the City of Port Arthur, City of Nederland, City of Groves, City of Port Neches, Texas, municipal corporations of Jefferson County, Hardin County, the City of Orange, a municipal corporation of Orange County, Texas, initially entered and currently operate a joint 800 MHz trunked radio communications system, hereinafter called "South East Texas Regional Radio System (SETRRS), under agreement outlining ownership, management, maintenance, guidelines for additional membership, purchasing of additional equipment and operation of the system using assets and resources belonging to each party; and,

WHEREAS, Orange County and the Texas Department of Public Safety have determined that a unified and integrated radio communications system would improve the ability of public safety and public service agencies to communicate and cooperate with each other; and,

WHEREAS, Orange County and the Texas Department of Public Safety have determined that sharing resources is the most efficient use of funding and equipment for public safety radio communications and seek to become Stakeholder Agencies in the current SETRRS radio communications system;

NOW, THEREFORE, BE IT RESOLVED BY THE

CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the City Manager be and he is hereby authorized to execute an Amendment to the Interlocal Agreement between the City of Beaumont, Texas, Jefferson County, the City of Port Arthur, City of Nederland, City of Groves, City of Port Neches, Texas, municipal corporations of Jefferson County, Hardin County, the City of Orange, a municipal corporation of Orange County, Texas and Orange County and the Texas Department of Public Safety for the management and operation of the 800 MHz radio system. The Amendment is substantially in the form attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 9th day of June, 2015.

- Mayor Becky Ames -

Amendment
Interlocal Agreement
South East Texas Regional Radio System

THIS AGREEMENT is made by and between the City of Beaumont, Texas, Jefferson County, the City of Port Arthur, City of Nederland, City of Groves, City of Port Neches, Texas, municipal corporations of Jefferson County, Hardin County, the City of Orange, a municipal corporation of Orange County, Texas, Orange County, and the Texas Department of Public Safety authorized to enter into interlocal agreements in accordance with Chapter 791 of the Government Code of the State of Texas.

WHEREAS, Orange County and the Texas Department of Public Safety have determined that a unified and integrated radio communications system would improve the ability of public safety and public service agencies to communicate and cooperate with each other, and

WHEREAS, the Texas Department of Public Safety owns 700/800 MHz trunked radio communications system equipment consisting of software, communications equipment infrastructure, project management and warranty further identified by the equipment list attached and incorporated herein for all purposes, and

WHEREAS, the City of Beaumont, Texas, Jefferson County, the City of Port Arthur, City of Nederland, City of Groves, City of Port Neches, Texas, municipal corporations of Jefferson County, Hardin County, the City of Orange, a municipal corporation of Orange County, Texas, initially entered and currently operate a joint 800 MHz trunked radio communications system, hereinafter called "South East Texas Regional Radio System (SETRRS), under agreement outlining ownership, management, maintenance, guidelines for additional membership, purchasing of additional equipment and operation of the system using assets and resources belonging to each party, and

WHEREAS, Orange County and the Texas Department of Public Safety have determined that sharing resources is the most efficient use of funding and equipment for public safety radio communications and wish to become a Stakeholder Agency of the current system, and

WHEREAS, the City of Beaumont has agreed to insure all radio equipment housed at 610 Marina Drive, Beaumont Texas, 77703, and

WHEREAS, Orange County has agreed to provide a suitable tower site including tower, equipment building, generator backup, utilities, and a T-1 circuit to connect the additional tower site to the master site in Beaumont, and

WHEREAS, the Texas Department of Public Safety has agreed to provide for the tower site, six (6) additional compatible frequencies, communications equipment, installation, and integration including microwave backup for the purpose of enhancing the communication capabilities of the SETRRS; thereby reducing coverage gaps

identified in the western part of Orange County and becoming a fully integrated part of the SETRRS supporting Texas Department of Public Safety users and current/future users of the SETRRS, and

WHEREAS, the Texas Department of Public Safety shall retain ownership of said equipment and provide continued support and maintenance of the equipment for the greater of 10 years or the useable life of the equipment; thereby offsetting Texas Department of Public Safety's payment of normal annual system user fees due by each agency on the SETRRS. Texas Department of Public Safety shall become a Stakeholder and user of the SETRRS and provide a primary contact -Project Manager- to represent Texas Department of Public Safety interests on the system, and

NOW, THEREFORE, upon the mutual covenants, conditions and promises contained herein, the foregoing Interlocal Agreement executed on the 27th day of March, 2012, is hereby amended by the undersigned upon the terms and conditions stated herein and the premises herein above recited, approved and adopted on this the ____ day of _____, 2015.

The terms and conditions of the foregoing Interlocal Agreement are hereby approved and adopted
this the _____ day of _____ 2015.

CITY OF ORANGE, TEXAS

By: _____

Title: _____

The terms and conditions of the foregoing Interlocal Agreement are hereby approved and adopted
this the _____ day of _____ 2015.

HARDIN COUNTY, TEXAS

By: _____

Title: _____

The terms and conditions of the foregoing Interlocal Agreement are hereby approved and adopted
this the _____ day of _____ 2015.

CITY OF PORT NECHES, TEXAS

By: _____

Title: _____

The terms and conditions of the foregoing Interlocal Agreement are hereby approved and adopted
this the _____ day of _____ 2015.

JEFFERSON COUNTY, TEXAS

By: _____

Title: _____

The terms and conditions of the foregoing Interlocal Agreement are hereby approved and adopted
this the _____ day of _____ 2015.

CITY OF PORT ARTHUR, TEXAS

By: _____

Title: _____

The terms and conditions of the foregoing Interlocal Agreement are hereby approved and adopted
this the _____ day of _____ 2015.

CITY OF BEAUMONT, TEXAS

By: _____

Title: _____

The terms and conditions of the foregoing Interlocal Agreement are hereby approved and adopted
this the _____ day of _____ 2015.

CITY OF NEDERLAND, TEXAS

By: _____

Title: _____

The terms and conditions of the foregoing Interlocal Agreement are hereby approved and adopted
this the _____ day of _____ 2015.

ORANGE COUNTY, TEXAS

By: _____

Title: _____

The terms and conditions of the foregoing Interlocal Agreement are hereby approved and adopted
this the _____ day of _____ 2015.

CITY OF GROVES, TEXAS

By: _____

Title: _____

BEAUMONT

— T E X A S —

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Dr. Joseph Majdalani, P.E., Public Works Director *JM*

MEETING DATE: June 9, 2015

REQUESTED ACTION: Council consider a resolution accepting maintenance of the street, storm sewer, water and sanitary sewer improvements in Windemere Subdivision Section Three.

BACKGROUND

On May 14, 2015, a final inspection from all entities was completed and the administration recommends approval of the following:

- North Windemere Drive approximately 249 feet addition east of existing North Windemere Drive to Windoak Circle.
- Windoak Circle approximately 181 feet east of North Windemere Drive to and including the Cul-de-Sac.
- East Windemere Drive approximately 605 feet east of Windoak Circle to the 3-OM4-3 Dead End Roadway Markers.

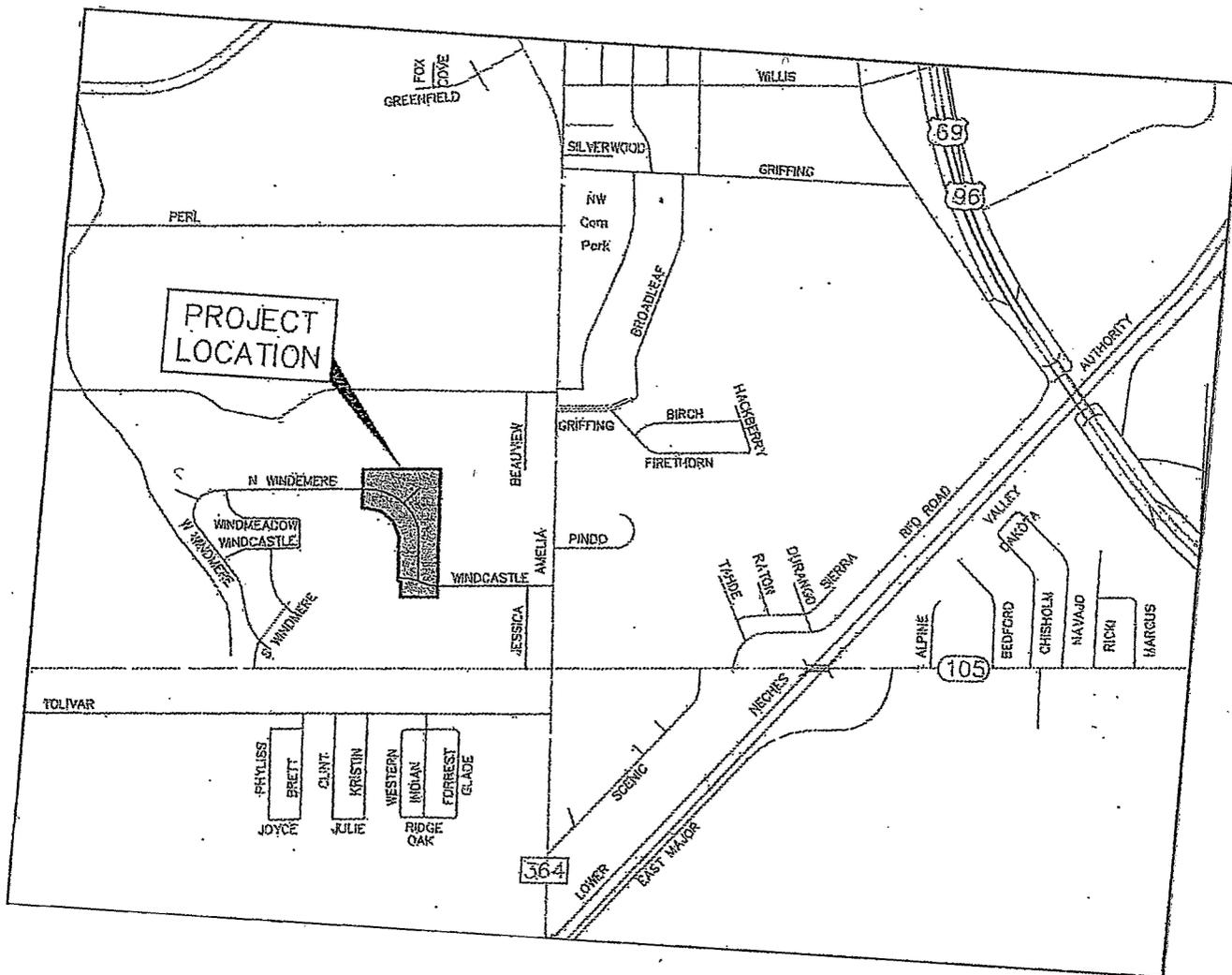
Recommended for approval are the storm sewer, water and sanitary sewer improvements for Windemere Subdivision Section Three right-of-way only.

FUNDING SOURCE

Not applicable

RECOMMENDATION

Approval of resolution.



**WINDEMERE SUBDIVISION
SECTION THREE**

RESOLUTION NO.

WHEREAS, construction of the streets, storm sewer, water and sanitary sewer improvements constructed in Windemere Subdivision Section Three have been completed as follows:

Streets

- North Windemere Drive approximately 249 feet addition east of existing North Windemere Drive to Windoak Circle.
- Windoak Circle approximately 181 feet east of North Windemere Drive to and including the cul-de-sac.
- East Windemere Drive approximately 605 feet east of Windoak Circle to the 3-OM4-3 Dead End roadway markers.

Storm Sewer, Water and Sanitary Sewer Improvements

- Windemere Subdivision Section Three, right-of-way only.

; and,

WHEREAS, the developers of said street desire to have these improvements accepted and maintained by the City; and,

WHEREAS, the director of the Public Works and Engineering Department has determined that said improvements meet city standards and qualify for acceptance for permanent maintenance, and the City Council is of the opinion that said improvements should be accepted and maintained by the City of Beaumont;

NOW, THEREFORE, BE IT RESOLVED BY THE
CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the above-referenced street, storm sewer, water and sanitary sewer improvements in Barrington Heights Phase X Subdivision, with the exception of

streetlights, are hereby accepted by the City of Beaumont and shall be continuously maintained by the City contingent upon filing of the final plat, complete with filings of dedication of all rights-of-way and easements required on the preliminary and final plats and installation of the streetlights.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 9th day of June, 2015.

- Mayor Becky Ames -

BEAUMONT

— T E X A S —

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: James P. Singletary, Chief of Police

MEETING DATE: June 9, 2015

REQUESTED ACTION: Council consider a resolution authorizing the City Manager or his designee to execute all documents related to a Memorandum of Understanding Addendum with the Garth House, Mickey Mehaffy Children's Advocacy Program, Inc.

BACKGROUND

Child Protective Services (CPS) and law enforcement have jointly been investigating cases for years. But often times CPS is not involved due to the alleged perpetrator being someone outside the home. For this reason, the CPS State Commissioner has asked the 84th Texas Legislative Session to officially designate in House Bill 1 that the Children's Advocacy Centers across Texas be given the CPS intake reports for better communication and coordination between CPS and Law Enforcement to make sure none of the alleged child victims go unseen. Our local Children's Advocacy Center (Garth House) does not take over or direct the investigation, they are only a tool to review all reports of child abuse to ensure that the cases are not dropped. The addendum to the MOU for the Multidisciplinary Team Enhancement Program would be able to ensure effective communication, coordination and collaboration at all stages of the child abuse case.

FUNDING SOURCE

Not Applicable.

RECOMMENDATION

Approval of resolution.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF BEAUMONT:

THAT the City Council hereby approves an Addendum to the Memorandum of Understanding Agreement for the Multidisciplinary Team Enhancement Program between the Cities of Beaumont, Groves, Nederland and Port Neches to provide Child Protective Services (CPS) intake reports to Children's Advocacy Centers across Texas in order to ensure effective communication, coordination and collaboration at all stages of child abuse cases. The Addendum to the Memorandum of Understanding is substantially in the form attached hereto as Exhibit "A" and made a part hereof for all purposes; and,

BE IT FURTHER RESOLVED THAT the City Manager, or his designee, be and he is hereby authorized to execute the Addendum to the Memorandum of Understanding necessary to implement the Multidisciplinary Team Enhancement Program.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 9th day of June, 2015.

- Mayor Becky Ames -

Memorandum of Understanding Addendum Multidisciplinary Team Enhancement Program

We the undersigned agencies, by and through our supervisory heads and through our designated representatives, do agree to the following policy supporting the implementation and operation of the Multidisciplinary Team Enhancement Program of the Garth House, Mickey McHaffey Children's Advocacy Program, Inc. of Beaumont, TX.

Whereas, we acknowledge that the multidisciplinary team approach is at the core of the children's advocacy center model, and therefore commit to participation in the Multidisciplinary Team Enhancement Program with the intent to achieve the following goals:

- to proactively strengthen and sustain the children's advocacy center multidisciplinary team;
- to fortify the overall multidisciplinary component within the children's advocacy center to ensure effective communication, coordination, and collaboration at all stages of child abuse cases; and
- to ensure timely access to the full array of children's advocacy center/multidisciplinary team services for *all* children within the children's advocacy center's official service area and existing protocol case criteria.

Whereas, we recognize that one of the primary tools to be utilized in the achievement of the aforementioned goals will be intake reports generated by Department of Family and Protective Services Statewide Intake and delivered to the children's advocacy center. We understand that the children's advocacy center's role in reviewing the reports is to review and identify Statewide Intake reports within the case acceptance criteria as defined by the children's advocacy center's Working Protocol, and facilitate children's advocacy center/multidisciplinary team services related to case investigation, assessment, and intervention.

Whereas, we understand that the children's advocacy center's access to the Statewide Intake reports shall not be construed to change, reduce, or expand the authority or jurisdiction of the children's advocacy center or any multidisciplinary team partner agency as it relates to initiating and conducting investigations, assessments, and/or interventions. No part of the Multidisciplinary Team Enhancement Program supplants any statutorily required duties of the children's advocacy center or any multidisciplinary team partner agency.

Whereas, we understand that this addendum does not replace or supersede the children's advocacy center's current, executed memorandum of understanding to which this addendum is made.

All State and Federal confidentiality laws will be followed in connection with this agreement. This agreement can be terminated by any party without cause by giving written notice to the other parties.

Memorandum of Understanding Addendum Multidisciplinary Team Enhancement Program

We the undersigned have reviewed and accepted the attached Garth House, Mickey McHaffy Children's Advocacy Program, Inc. of Beaumont, TX Memorandum of Understanding Addendum pertaining to the MDT Enhancement Program. We hereby approve of the contents and agree, on behalf of our respective agencies, to abide by the goals, objectives and activities addressed therein.

_____ Signature	_____ Date
James P. Singletary _____ Printed Name	Chief/Beaumont Police Department _____ Title/Agency

_____ Signature	_____ Date
<i>Norman Reynolds, Jr</i> _____ Signature	5/22/2015 _____ Date

_____ Printed Name	_____ Title/Agency
Norman Reynolds _____ Printed Name	Marshall/Groves Police Department _____ Title/Agency

_____ Signature	_____ Date
<i>Darrell Bush</i> _____ Signature	5-22-15 _____ Date

_____ Printed Name	_____ Title/Agency
Darrell Bush _____ Printed Name	Chief/Nederland Police Department _____ Title/Agency

_____ Signature	_____ Date
<i>Paul Lemoine</i> _____ Signature	5/24/2015 _____ Date

_____ Printed Name	_____ Title/Agency
Paul Lemoine _____ Printed Name	Chief/Port Neches Police Department _____ Title/Agency

BEAUMONT

— T E X A S —

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: James P. Singletary, Chief of Police *JPS*

MEETING DATE: June 9, 2015

REQUESTED ACTION: Council consider a resolution authorizing the City Manager to apply for and receive funding through the Edward Byrne Memorial Justice Assistance Grant program and to execute all documents necessary, specifically, an inter-local agreement with the City of Port Arthur, Texas and Jefferson County, Texas in order to reallocate Justice Assistance Grant funds.

BACKGROUND

The City of Beaumont has been awarded funding through the Edward Byrne Memorial Justice Assistance Grant program for the past nine years. The funding has been used to upgrade technology through the purchase of computer hardware and software, purchase additional officer safety equipment and to fund several community policing programs. Due to Jefferson County being designated a disparate jurisdiction by the Department of Justice, an inter-local agreement must be filed with the joint application, and the agencies must agree to funding allocations prior to application for funding. Total allocation for 2015 is \$116,463.

FUNDING SOURCE

There will be an additional \$70,657 for law enforcement equipment at the Beaumont Police Department. The remainder of the funds would be allocated to the Port Arthur Police Department (\$28,337) and the Jefferson County Sheriff's office (\$17,469). No matching funds are required.

RECOMMENDATION

Approval of resolution.

Resolution No.

The State of Texas)
County of Jefferson)
City of Beaumont, Texas)
City of Port Arthur, Texas)

Know All by These Present

Inter-Local Agreement

**Between the County of Jefferson, Texas; City of Beaumont, Texas; and City of Port Arthur, Texas
2015 Edward Byrne Justice Assistance Grant (JAG) Program Award**

**This Agreement is made and entered into this _____ day of _____ 2015, by and between
The County of Jefferson, Texas acting by and through its governing body, the Commissioners
Court; the City of Beaumont, Texas acting by and through its governing body, the City Council;
and the City of Port Arthur, Texas acting by and through its governing body, the City Council,
witnesseth:**

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party: and

WHEREAS, each governing body finds that the performance of this Agreement is in the best interests of all parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this agreement: and

WHEREAS, the total funding allocation is \$116,463; and the City of Beaumont, Texas, and the City of Port Arthur, Texas, agree to provide Jefferson County, Texas \$17,469 from the JAG award and the City of Beaumont, Texas, and the City of Port Arthur, Texas agree to allocate the remaining funds as follows:

\$70,657 to the City of Beaumont, Texas, and \$28,337 to the City of Port Arthur, Texas.

WHEREAS, Jefferson County, Texas, the City of Beaumont, Texas, and the City of Port Arthur, Texas, believe it to be in their best interests to reallocate the JAG funds.

NOW THEREFORE, Jefferson County, Texas, the City of Beaumont, Texas, and the City of Port Arthur, Texas agree as follows:

Section 1.

The City of Beaumont, Texas and the City of Port Arthur, Texas agree to provide Jefferson County, Texas \$17,469 from the JAG award; and the City of Beaumont, Texas and the City of Port Arthur, Texas agree to allocate the remaining funds as follows:

\$70,657 to the City of Beaumont, Texas; and \$28,337 to the City of Port Arthur, Texas.

Section 2.

Jefferson County, Texas agrees to use the funding for the Technology Enhancement Program until 2018.

The City of Beaumont, Texas agrees to use the funding for the Technology Enhancement Program until 2018.

The City of Port Arthur, Texas agrees to use the funding for the Technology Enhancement Program until 2018.

Section 3.

Each party to this agreement will be responsible for its own actions in providing services under this Agreement and shall not be liable for any civil liability that may arise from the furnishing of the services by the other party.

Section 4.

The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

Section 5.

By entering into this Agreement, the parties do not intend to create any obligations express or implied other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

Section 6.

The City of Beaumont agrees to act as the fiscal agent in applying for, dispersing, monitoring, and reporting for this JAG funding.

City of Beaumont, Texas

CITY MANAGER

City of Port Arthur, Texas

CITY MANAGER

Jefferson County, Texas

COUNTY JUDGE

*By law, the District Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contracts or legal document on behalf of other parties. Our view of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval and should seek review and approval by their own respective attorney(s).

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL

OF THE CITY OF BEAUMONT:

THAT the City Manager be and he is hereby authorized to apply for and receive funding for the City of Beaumont in the amount of \$116,463 from the Edward Byrne Memorial Justice Assistance Grant Program for law enforcement equipment and programs; and,

BE IT FURTHER RESOLVED that the City Manager be and he is hereby authorized to execute an interlocal agreement to reallocate funds in the amounts of \$28,337 to the City of Port Arthur and \$17,469 to Jefferson County.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 9th day of June, 2015.

- Mayor Becky Ames -

BEAUMONT

TEXAS

REGULAR MEETING OF THE CITY COUNCIL COUNCIL CHAMBERS JUNE 9, 2015 1:30 P.M.

AGENDA

CALL TO ORDER

- * Invocation Pledge Roll Call
- * Presentations and Recognition
- * Public Comment: Persons may speak on scheduled agenda items 1-4/Consent Agenda
- * Consent Agenda

GENERAL BUSINESS

1. Consider a request to repeal Ordinance 15-010 approving a Specific Use Permit to allow a retail, used clothing and merchandise store in an RCR (Residential Conservation Revitalization) District at 1795 Park

PUBLIC HEARING

- * Receive comments related to the creation of the Beaumont Municipal Local Provider Participation Fund
- 2. Consider approving an ordinance authorizing participation in a Municipal Health Care Provider Participation Program
- 3. Consider approving a resolution authorizing the execution of Indigent Care Affiliation Agreements with Christus Hospital and Baptist Hospitals of Southeast Texas
- 4. Consider a resolution authorizing the execution of a Certification of Governmental Entity Participation for Hospital Affiliates

WORK SESSION

- * Review and discuss amending the Code of Ordinances to allow the riding of bicycles on sidewalks adjacent to roadways without designated bike lanes

COMMENTS

- * Councilmembers/City Manager comment on various matters
- * Public Comment (Persons are limited to 3 minutes)

EXECUTIVE SESSION

- * Consider matters related to contemplated or pending litigation in accordance with Section 551.071 of the Government Code:

Pamela Cole v. Emilio Romero; Cause No. 23081

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact Mitchell Normand at 880-3777 three days prior to the meeting.

June 9, 2015

Consider a request to repeal Ordinance 15-010 approving a Specific Use Permit to allow a retail, used clothing and merchandise store in an RCR (Residential Conservation Revitalization) District at 1795 Park

BEAUMONT

TEXAS

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: ^{CSB} Chris Boone, Planning & Community Development Director

MEETING DATE: June 9, 2015

REQUESTED ACTION: Council consider repealing Ordinance 15-010, an ordinance approving a request for a Specific Use Permit to allow a retail, used clothing and merchandise store in an RCR (Residential Conservation Revitalization) District at 1795 Park.

BACKGROUND

In May, 2015, City Council approved a Specific Use Permit (File 2227-P) at 1795 Park for a used clothing and merchandise store. Following this approval, staff received a written protest from LinMarie Garsee, a neighbor, claiming that she was not provided proper notification of the Joint Public Hearing on April 20, 2015.

For public hearing notification, the ordinance requires that in addition to publication in a newspaper, written notice is to be given "...to all such owners who have rendered their said property for city taxes as the ownership appears on the last approved city tax roll."

Research showed that notification had been mailed to Ms. Garsee's Post Office Box. However, in July, 2014, Ms. Garsee submitted a request to the Jefferson County Appraisal District to change her ownership billing address from the Post Office Box to her home address at 495 Craig. Because the city's computer system reflected the older address, the notification was sent to the Post Office Box.

If the City Council feels that a new hearing is necessary, the item could be reconsidered at the June 15, 2015 Joint Public Hearing of the Planning Commission and City Council.

FUNDING SOURCE

Not applicable.

RECOMMENDATION

Approve the repeal of the ordinance and reconsider the item at the June 15, 2015 hearing.

LinMarie
Garsee & Associates
A Private Investigations Firm

495 Craig Street
Beaumont, Texas 77701
Phone: 409-656-5955
weculmg@aol.com
License: A08005

May 30, 2015

Christopher S. Boone, AICP
Director of Planning & Community Development
City of Beaumont
801 Main, Suite 201
Beaumont, Texas 77701

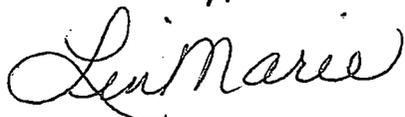
Dear Mr. Boone:

As per your request, I am formally protesting the SUP permit for the business HUGS - located at 1785 Park Street. None of us in the surrounding area were properly given notice to said business' attempt to open. My legal address changed in July, 2013 when I began giving up my PO Box. The owner of 1814 Park Street, Dale Cartier became the owner last year, and he was not notified. Tom and Dawn at 508 Irma were not notified as well - they have been property owners for about 3 or 4 years now.

We believe a rehearing through Planning and Zoning should take place.

Thanking you in advance for all considerations. You are greatly appreciated.

Sincerely,



RESOLUTION NO.

WHEREAS, on May 5, 2015 the City Council of the City of Beaumont, Texas adopted Ordinance No. 15-010 granting a Specific Use Permit to allow a retail, used clothing and merchandise store in an RCR (Residential Conservation Revitalization) District at 1795 Park Street; and,

WHEREAS, City Ordinance requires that in addition to publication in a newspaper, written notice is to be given "...to all such owners who have rendered their said property for city taxes as the ownership appears on the last approved city tax roll;" and,

WHEREAS, staff received a written protest from an owner within 200 feet of the subject property claiming she was not provided proper notification of the Joint Public Hearing held on April 20, 2015; and,

WHEREAS, it was discovered that the notice was sent to the owner's Post Office Box that was no longer being used; and,

WHEREAS, it is necessary to repeal Ordinance 15-010 due to the defective notice;

NOW, THEREFORE, BE IT RESOLVED BY THE

CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT Ordinance No. 15-010 be and it is hereby repealed.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 9th day of
June, 2015.

- Mayor Becky Ames -

PUBLIC HEARING

- * Receive comments related to the creation of the Beaumont Municipal Local Provider Participation Fund

BEAUMONT

TEXAS

TO: City Council

FROM: Kyle Hayes, City Manager

PREPARED BY: Laura Clark,

MEETING DATE: June 9, 2015

REQUESTED ACTION: Council consider actions necessary to meet the requirements of Health and Safety Code Chapter 295 authorizing participation in a Municipal Health Care Provider Participation Program.

BACKGROUND

Medicaid Supplemental Hospital Payment Programs help address challenges of providing healthcare to the indigent in the community by allowing the local safety-net hospitals to access the Texas Waiver payment without increasing any taxes on local residents. Because the State has traditionally required the local governments to use funds to supply the state's share of the Medicaid supplemental hospital payments, municipalities without hospital districts are adversely affected in the share of funding received. Senate Bill 1387 signed by Governor Abbot on May 23, 2013, adds Chapter 295 Municipal Health Care Provider Participation Program in Certain Municipalities to the Health and Safety Code. This bill authorizes the City to establish a local provider participation fund (LPPF) to support the payment of Medicaid supplemental hospital payments to safety-net hospitals in the City. The LPPF relies on mandatory payments from the safety-net hospitals to provide the required matching funds. For an administrative fee (approximately \$20,000 annually) allowed by the bill, the City will administer the LPPF including collecting the mandatory payments from the local safety-net hospitals and making the intergovernmental transfers to the state for the required match out of a restricted account that will be set up with Wells Fargo Bank N.A., the City's depository bank.

The following documents are required to be executed to establish the Municipal Care Provider Participation Program and Local Provider Participation Fund:

1. Ordinance Authorizing the City of Beaumont's Participation in a Municipal Health Care Provider Participation Program, Collection of a Mandatory Payment, and Use of Funds from Mandatory Payments
2. Resolution Implementing Requirements of the City of Beaumont's Participation in a Municipal Health Care Provider Participation Program
3. Certification of Governmental Entity Participation for Hospital Affiliates

Municipal Care Provider Program

June 9, 2015

Page 2

4. Indigent Care Affiliation Agreement Between the City of Beaumont and Baptist Hospitals of Southeast Texas
5. Indigent Care Affiliation Agreement Between the City of Beaumont and Christus Hospital

FUNDING SOURCE

Local safety-net hospitals (Hospital Affiliates) will provide funds for the mandatory payment to be held and accounted for in the Local Provider Participation Fund.

RECOMMENDATION

Approval of resolution.

June 9, 2015

Consider approving an ordinance authorizing participation in a Municipal Health Care Provider Participation Program

ORDINANCE NO.

ENTITLED AN ORDINANCE AUTHORIZING THE CITY OF BEAUMONT'S PARTICIPATION IN A MUNICIPAL HEALTH CARE PROVIDER PARTICIPATION PROGRAM, COLLECTION OF A MANDATORY PAYMENT, AND USE OF FUNDS FROM MANDATORY PAYMENTS.

WHEREAS, the Texas Legislature enacted by unanimous consent Senate Bill 1387 84(R) Leg.(2015), which added Chapter 295 to the Health and Safety Code and which went into effect immediately upon being signed by the Governor on May 23, 2015; and,

WHEREAS, pursuant to new Section 295.003 of the Health and Safety Code, the governing body of a municipality may by order authorize the municipality to participate in a municipal health care provider participation program and establish a Local Provider Participation Fund; and,

WHEREAS, the purpose of participation in a municipal health care provider participation program is to help local providers gain access to the Texas Transformation & Quality Improvement 1115 Medicaid Waiver; and,

WHEREAS, the funding for the Local Provider Participation Fund is generated from revenue from a mandatory payment that may be required by the municipality from an institutional health care provider to fund certain intergovernmental transfers and indigent care programs; and,

WHEREAS, pursuant to Section 295.052 of the Health and Safety Code, the governing body of a municipality that participates in a municipal health care provider participation program may, by an affirmative vote of the majority of the members of the

governing body, authorize the municipality to collect a mandatory payment from each institutional health care provider located in the municipality; and,

WHEREAS, pursuant to Health and Safety Code Section 295.103, a municipality that participates in a municipal health care provider participation program may use the funds collected through mandatory payments only for specified purposes;

NOW, THEREFORE, BE IT ORDAINED BY THE
CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the City Council of the City of Beaumont authorizes the City of Beaumont to:

1. Participate in a municipal health care provider participation program;
2. Establish a Local Provider Participation Fund;
3. Collect a mandatory payment from each institutional health care provider located in the City of Beaumont; and
4. Use the funds collected through mandatory payments for the purposes specified in Health and Safety Code Section 295.103.

BE IT FURTHER ORDAINED THAT the City Manager is hereby authorized to execute on behalf of the City any and all documents necessary for the participation of the City in the Municipal Health Care Provider Participation Program.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 9th day of June, 2015.

- Mayor Becky Ames -

Attest:

Tina Broussard, City Clerk

Approved as to form:

Tyrone E. Cooper, City Attorney

June 9, 2015

Consider approving a resolution authorizing the execution of Indigent Care Affiliation Agreements with Christus Hospital and Baptist Hospitals of Southeast Texas

RESOLUTION NO.

WHEREAS, the City of Beaumont has some responsibility and interest under Texas law to provide health care for indigent persons who reside in the City; and,

WHEREAS, the State of Texas historically has reimbursed health care services furnished through the Texas Medicaid program at levels that are inadequate to cover the costs of health care providers; and,

WHEREAS, a core mission of the Affiliated Hospitals is to provide health care services to the needy residents of the community; and,

WHEREAS, it is in the best interest of the citizens of the City of Beaumont for the City to enter into an Indigent Care Affiliation Agreement with Christus Hospital and an Indigent Care Affiliation Agreement between the City of Beaumont and Baptist Hospitals of Southeast Texas to ensure that the indigent residents of the community continue to have access to and receive quality health care services;

NOW, THEREFORE, BE IT RESOLVED BY THE
CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the City Manager be and he is hereby authorized to execute an Indigent Care Affiliation Agreement between the City of Beaumont and Christus Hospital, substantially in the form attached hereto as Exhibit "A" and made a part hereof for all purposes; and,

BE IT FURTHER RESOLVED THAT the City Manager be and he is hereby authorized to execute an Indigent Care Affiliation Agreement between the City of

Beaumont and Baptist Hospitals of Southeast Texas, substantially in the form attached hereto as Exhibit "B" and made a part hereof for all purposes.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 9th day of June, 2015.

- Mayor Becky Ames -

STATE OF TEXAS

COUNTY OF JEFFERSON

**INDIGENT CARE AFFILIATION AGREEMENT
BETWEEN
THE CITY OF BEAUMONT
AND
CHRISTUS HOSPITAL**

This INDIGENT CARE AFFILIATION AGREEMENT (the Agreement) is entered between the City of Beaumont, a political subdivision of the State of Texas (the City or Governmental Entity), and Christus Hospital, a hospital organized and licensed under the laws of the State of Texas and having its principal office at 2830 Calder Street, Beaumont, TX 77702 (the Affiliated Hospital). The City and Affiliated Hospital may be referred to individually in this Agreement as a Party or collectively as the Parties.

Article I. BACKGROUND AND PURPOSE

Section 1.01 The Parties' responsibility to provide Indigent Care.

- (a) The City has some responsibility and interest under Texas law to provide health care for indigent persons who reside in the city.
- (b) As a safety-net hospital, a core mission of Affiliated Hospital is to provide health care services to the needy residents of the community.

Section 1.02 Inadequacy of state funding and insurance for the needy.

- (a) The State of Texas historically has reimbursed healthcare services furnished through the Texas Medicaid program at levels that are inadequate to cover the costs of health care providers, including Affiliated Hospital. Additionally, the State has elected not to expand Medicaid eligibility under the Affordable Care Act.
- (b) Neither the City nor Affiliated Hospital dispute these actions and in fact recognize the important state policies that these decisions represent. However, both the City and Affiliated Hospital acknowledge that these actions have had and will continue to have several effects:
 - (1) The number of community residents who are unable to pay for primary and emergency healthcare has risen and will continue to rise for the foreseeable future;
 - (2) A significant number of these residents is eligible for indigent care services;
 - (3) These residents typically obtain their primary healthcare through hospital emergency room services, which the Parties recognize is costly, inefficient, and does not promote good public health outcomes or effective primary or preventive healthcare; and

(4) The lack of insurance and adequately funded state programs has increased demand on the local indigent care programs and the amount of uncompensated care for Affiliated Hospital.

(5) These factors place the financial burden for indigent care largely on the local taxpayers, Affiliated Hospital, and the local community.

Section 1.03 The Parties therefore agree that, without an effective source of revenue to support services to the indigent and needy of the community, the financial burden for indigent care will continue to rise, strain the local communities' budgets, and ultimately threaten the availability of quality healthcare. Medicaid Supplemental Hospital Payment Programs help address these challenges by allowing our local safety-net hospitals to access Texas Waiver payments without increasing any taxes on local residents.

(a) Medicaid is a joint state and federal program established under Title XIX of the Social Security Act that provides healthcare primarily to children, pregnant women, the elderly, and persons with disabilities. Federal law requires the State to bear a portion of the cost of care to persons who are eligible for Medicaid.

(b) Texas Medicaid also administers programs to support public and private hospitals that furnish a significant amount of uncompensated healthcare services to people who do not have the ability to pay for their healthcare. Affiliated Hospital traditionally has participated in these supplemental payment programs.

(c) The State traditionally has required that local governments use local funds to supply the state's share of the Medicaid supplemental hospital payments.

(1) This practice has favored counties with a hospital district, which assess property taxes to fund district operations.

(2) Because the local community does not have a hospital district, hospitals like Affiliated Hospital are not assured of receiving their fair share of such funding.

(d) The State also requires hospitals and local governments that wish to participate in these programs to certify certain facts that demonstrate the parties' compliance with state and federal laws. The certifications for Affiliated Hospital and the City are attached to this Agreement as Exhibits 1 and 2, respectively.

Section 1.04 Local Provider Participation Fund

(a) The 84th Texas Legislatures, in recognition of the financial burden borne by the local governments and taxpayers and the potential loss of available Medicaid funding to hospitals like Affiliated Hospital, enacted S.B. 1387, which is codified as Chapter 295 of the Health and Safety Code and authorized the City to establish a local provider participation fund (LPPF) to support the payment of Medicaid supplemental hospital payments to Affiliated Hospital and other eligible hospitals in the City.

(b) The LPPF relies on mandatory payments by institutional healthcare providers like Affiliated Hospital and does not add to the burden of the City's property taxpayers.

(c) The city council of Beaumont voted in open session on _____ to approve implementation of the LPPF. Affiliated Hospital supports the City's decision to implement the LPPF.

Section 1.05 Purpose and Intent of the Parties

(a) The Parties desire to ensure that the indigent residents of the community continue to have access to and receive quality healthcare services.

(b) The Parties recognize that it is in their mutual best interests to access greater amounts of federal funding to help cover the costs of services to indigent persons and people who are eligible for Medicaid. The Parties also agree that another benefit of such additional funding is that all residents of the local community will continue to have access to quality healthcare.

(c) The City and Affiliated Hospital recognize that implementation of the LPPF will help achieve these benefits for all residents of the City.

ACCORDINGLY, in view of their common interests and desire to ensure the availability of health care services to the residents of the community, the Parties agree as follows:

Article II. INDIGENT CARE COLLABORATION

Section 2.01 Improving Access to Healthcare for Indigent.

The City and Affiliated Hospital will assess opportunities to improve access to healthcare for indigent persons residing in the community through participation in the Medicaid program including the Medicaid payments authorized by supplemental hospital payment programs, including the Texas Healthcare Transformation and Quality Improvement Program Section 1115 Waiver (the "Section 1115 Waiver"), the Disproportionate Share Hospital Program and their successors.

Section 2.02 Implementation of the LPPF

The City and Affiliated Hospital will also cooperate to ensure the prompt, efficient, and accurate implementation of the LPPF in the City in a manner consistent with state and federal law.

Section 2.03 Administration of the LPPF

(a) The City will retain discretion to determine:

(1) The term and content of rules to govern the LPPF; and

(2) The timing and amount of the mandatory payment to be paid by institutional healthcare providers, consistent with the requirements of state and federal law.

(b) Except as provided in Section 2.04, the City also retains the discretion to apply the LPPF to uses authorized under the law, including conduct intergovernmental transfers of funds to the Texas Health and Human Services Commission

Article III. GENERAL PROVISIONS

Section 3.01 Term and Termination.

The term of this Agreement shall be one year from Effective Date and shall automatically continue thereafter for additional terms of one year unless the parties agree otherwise; provided, however, that this Agreement shall terminate immediately upon written notice by either the Governmental Entity or the Affiliated Hospital to the other party.

Section 3.02 Notices.

All notices required or permitted hereunder shall be in writing and shall be sufficiently given and deemed to have been received upon personal delivery, by overnight carrier, by email, or by United States mail, postage prepaid, registered or certified mail, addressed to the parties as follows:

Governmental Entity: _____

Affiliated Hospital: _____

With copies to: Carlos Zaffirini Jr.
Adelanto HealthCare Ventures, L.L.C.
401 W. 15th Street, Suite 840
Austin, TX 78701

and:

Charles Luband
Dentons
1221 Avenue of the Americas
New York, NY 10020-1089

Section 3.03 Relationship Between the Parties.

The relationship between the City and the Affiliated Hospital is solely a contractual relationship between independent contractors. No party hereto is an agent or employee of any other party. Nothing in this Agreement shall prevent any affiliation or contracting by any party with any third party, with the exception that no party may contract or affiliate with other party to gain entitlement to Medicaid supplemental payments pursuant to this Agreement.

Section 3.04 Governing Law.

This Agreement is governed by the laws of the State of Texas.

Section 3.05 Assignment.

No party may assign any right, obligation, or responsibility under this Agreement except to a successor in interest.

Section 3.06 Third Party Beneficiaries.

The parties to this Agreement do not intend to establish any third party beneficiary relationship by virtue of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date(s) set forth below.

CITY OF BEAUMONT

AFFILIATED HOSPITAL:

By: _____

By _____

Date _____

Date _____

Exhibit B

2.0 REPRESENTATIONS AND WARRANTIES

2.1 Affiliated Hospital Representations and Warranties. The Affiliated Hospital represents and warrants that:

- a. It is a Texas corporation or partnership, duly established and created pursuant to applicable law with all requisite power and authority to enter into this Agreement in all respects;
- b. There is no agreement to condition any amounts transferred by the Governmental Entity nor the amount of Medicaid payments received on the amount of indigent care the Affiliated Hospital has provided or will provide;
- c. There is no agreement to condition the amount of the Affiliated Hospital's indigent care obligation on the amount transferred by the Governmental Entity nor the amount of any Medicaid payment the Affiliated Hospital might receive;
- d. No escrow, trust, or other funding mechanism exists, the amount of which is conditioned or contingent on the amount of indigent care services provided or to be provided by the Affiliated Hospital; and that any escrow, trust or other funding mechanism utilized in connection with an anticipated intergovernmental transfer ("IGT") from the Governmental Entity has been disclosed to HHSC and is not used to effect a quid pro quo for the provision of indigent care services by or on behalf of the Affiliated Hospital;
- e. The Affiliated Hospital will not return or refund any Medicaid payments received to the Governmental Entity;
- f. No part of any Medicaid payment received under the Section 1115 Waiver program will be used to pay a contingent fee, consulting fee, or legal fee associated with the Affiliated Hospital's receipt of payments under the Section 1115 Waiver program.
- g. This Agreement has been duly and validly executed and delivered by the Affiliated Hospital.

2.2 Governmental Entity Representations and Warranties. The Governmental Entity represents and warrants that:

- a. It is a political subdivision of the State of Texas created under the authority of Article 11 of the Texas Constitution, duly established and created with all requisite power and authority to enter into this Agreement in all respects;
- b. There is no agreement to condition the amount transferred by the Governmental Entity nor the amount of Medicaid supplemental payments

INDIGENT CARE AFFILIATION AGREEMENT

on the amount of indigent care the Affiliated Hospital have provided or will provide;

- c. There is no agreement to condition the amount of the Affiliated Hospital's indigent care obligation on the amount transferred by the Governmental Entity nor the amount of any Medicaid supplemental payment the Affiliated Hospital might receive;
- d. No escrow, trust, or other funding mechanism exists, the amount of which is conditioned or contingent on the amount of indigent care services provided or to be provided by the Affiliated Hospital; and that any escrow, trust or other funding mechanism utilized in connection with an anticipated intergovernmental transfer ("IGT") from the Governmental Entity has been disclosed to HHSC and is not used to effect a quid pro quo for the provision of indigent care services by or on behalf of the Affiliated Hospital;
- e. The Governmental Entity has not received and will not receive refunds of payments the Governmental Entity made or makes to the Affiliated Hospital for any purpose in consideration for an IGT by the Governmental Entity to fund Medicaid supplemental payments;
- f. The execution, delivery, and performance by the Governmental Entity of this Agreement are within the Governmental Entity's powers, are not in contravention of any other instruments governing the Governmental Entity and have been duly authorized and approved by the Board of Directors of the Governmental Entity as and to the extent required by applicable law;
- g. This Agreement has been duly and validly executed by the Governmental Entity;
- h. The Governmental Entity has not received and has no agreement to receive any portion of any Medicaid payments made to Affiliated Hospital;
- i. The Governmental Entity has not entered into a contingent fee arrangement related to its participation in the Section 1115 Waiver program;
- j. The Governmental Entity is authorized to participate in the Section 1115 Waiver program pursuant to a vote of its governing body in a public meeting preceded by public notice published in accordance with its usual and customary practices or the Texas Open Meetings Act, as applicable; and
- k. Notwithstanding anything in this Agreement to the contrary, any decision by the Governmental Entity to provide funding for the Medicaid program is at the sole discretion of the Governmental Entity.

3.0 OBLIGATIONS OF THE AFFILIATED HOSPITAL

- 3.1 **Agreement to Collaborate with the Governmental Entity.** The Affiliated Hospital agrees to work cooperatively with the Governmental Entity to improve access to health care for indigent persons.
- 3.2 **Compliance with State and Federal Law.** The Affiliated Hospital agrees to retain qualified professionals to ensure health care is provided in compliance with state and federal charity care laws, anti-trust laws, and any other applicable laws, and the Medicare and Medicaid programs.

4.0 OBLIGATIONS OF THE GOVERNMENTAL ENTITY

- 4.1 **Agreement to Cooperate with the Affiliated Hospital.** The Governmental Entity agrees to work cooperatively with the Affiliated Hospital to improve access to health care for indigent persons.
- 4.2 **No Condition on Medicaid Funding.** The Governmental Entity agrees that it will not condition the amount to which it funds the non-federal share of Medicaid supplemental payments on a specified or required minimum amount of prospective indigent care.
- 4.3 **Retrospective Evaluation of Services.** The Governmental Entity may retrospectively evaluate the amount and impact of the Affiliated Hospital's indigent care delivery and can rely on such historical information in determining whether and to what degree it will provide an IGT in the future.
- 4.4 **Documents Publicly Available.** The Governmental Entity agrees to make publicly available any documentation utilized in connection with intergovernmental transfers of funds and any documentation executed by the Governmental Entity related to its participation in the Section 1115 Waiver, including this Agreement.
- 4.5 **Use of Public Funds.** To the extent the Governmental Entity decides to provide funding for Medicaid supplemental payments, the Governmental Entity agrees to use public funds for such funding.

STATE OF TEXAS

COUNTY OF JEFFERSON

**INDIGENT CARE AFFILIATION AGREEMENT
BETWEEN
THE CITY OF BEAUMONT
AND
BAPTIST HOSPITALS OF SOUTHEAST TEXAS**

This INDIGENT CARE AFFILIATION AGREEMENT (the Agreement) is entered between the City of Beaumont, a political subdivision of the State of Texas (the City or Governmental Entity), and Baptist Hospitals of Southeast Texas, a hospital organized and licensed under the laws of the State of Texas and having its principal office at 3080 College St Beaumont, TX 77701 (the Affiliated Hospital). The City and Affiliated Hospital may be referred to individually in this Agreement as a Party or collectively as the Parties.

Article I. BACKGROUND AND PURPOSE

Section 1.01 The Parties' responsibility to provide Indigent Care.

(a) The City has some responsibility and interest under Texas law to provide health care for indigent persons who reside in the city.

(b) As a safety-net hospital, a core mission of Affiliated Hospital is to provide health care services to the needy residents of the community.

Section 1.02 Inadequacy of state funding and insurance for the needy.

(a) The State of Texas historically has reimbursed healthcare services furnished through the Texas Medicaid program at levels that are inadequate to cover the costs of health care providers, including Affiliated Hospital. Additionally, the State has elected not to expand Medicaid eligibility under the Affordable Care Act.

(b) Neither the City nor Affiliated Hospital dispute these actions and in fact recognize the important state policies that these decisions represent. However, both the City and Affiliated Hospital acknowledge that these actions have had and will continue to have several effects:

(1) The number of community residents who are unable to pay for primary and emergency healthcare has risen and will continue to rise for the foreseeable future;

(2) A significant number of these residents is eligible for indigent care services;

(3) These residents typically obtain their primary healthcare through hospital emergency room services, which the Parties recognize is costly, inefficient, and does not promote good public health outcomes or effective primary or preventive healthcare; and

(4) The lack of insurance and adequately funded state programs has increased demand on the local indigent care programs and the amount of uncompensated care for Affiliated Hospital.

(5) These factors place the financial burden for indigent care largely on the local taxpayers, Affiliated Hospital, and the local community.

Section 1.03 The Parties therefore agree that, without an effective source of revenue to support services to the indigent and needy of the community, the financial burden for indigent care will continue to rise, strain the local communities' budgets, and ultimately threaten the availability of quality healthcare. Medicaid Supplemental Hospital Payment Programs help address these challenges by allowing our local safety-net hospitals to access Texas Waiver payments without increasing any taxes on local residents.

(a) Medicaid is a joint state and federal program established under Title XIX of the Social Security Act that provides healthcare primarily to children, pregnant women, the elderly, and persons with disabilities. Federal law requires the State to bear a portion of the cost of care to persons who are eligible for Medicaid.

(b) Texas Medicaid also administers programs to support public and private hospitals that furnish a significant amount of uncompensated healthcare services to people who do not have the ability to pay for their healthcare. Affiliated Hospital traditionally has participated in these supplemental payment programs.

(c) The State traditionally has required that local governments use local funds to supply the state's share of the Medicaid supplemental hospital payments.

(1) This practice has favored counties with a hospital district, which assess property taxes to fund district operations.

(2) Because the local community does not have a hospital district, hospitals like Affiliated Hospital are not assured of receiving their fair share of such funding.

(d) The State also requires hospitals and local governments that wish to participate in these programs to certify certain facts that demonstrate the parties' compliance with state and federal laws. The certifications for Affiliated Hospital and the City are attached to this Agreement as Exhibits 1 and 2, respectively.

Section 1.04 Local Provider Participation Fund

(a) The 84th Texas Legislatures, in recognition of the financial burden borne by the local governments and taxpayers and the potential loss of available Medicaid funding to hospitals like Affiliated Hospital, enacted S.B. 1387, which is codified as Chapter 295 of the Health and Safety Code and authorized the City to establish a local provider participation fund (LPPF) to support the payment of Medicaid supplemental hospital payments to Affiliated Hospital and other eligible hospitals in the City.

(b) The LPPF relies on mandatory payments by institutional healthcare providers like Affiliated Hospital and does not add to the burden of the City's property taxpayers.

(c) The city council of Beaumont voted in open session on _____ to approve implementation of the LPPF. Affiliated Hospital supports the City's decision to implement the LPPF.

Section 1.05 Purpose and Intent of the Parties

(a) The Parties desire to ensure that the indigent residents of the community continue to have access to and receive quality healthcare services.

(b) The Parties recognize that it is in their mutual best interests to access greater amounts of federal funding to help cover the costs of services to indigent persons and people who are eligible for Medicaid. The Parties also agree that another benefit of such additional funding is that all residents of the local community will continue to have access to quality healthcare.

(c) The City and Affiliated Hospital recognize that implementation of the LPPF will help achieve these benefits for all residents of the City.

ACCORDINGLY, in view of their common interests and desire to ensure the availability of health care services to the residents of the community, the Parties agree as follows:

Article II. INDIGENT CARE COLLABORATION

Section 2.01 Improving Access to Healthcare for Indigent.

The City and Affiliated Hospital will assess opportunities to improve access to healthcare for indigent persons residing in the community through participation in the Medicaid program including the Medicaid payments authorized by supplemental hospital payment programs, including the Texas Healthcare Transformation and Quality Improvement Program Section 1115 Waiver (the "Section 1115 Waiver"), the Disproportionate Share Hospital Program and their successors.

Section 2.02 Implementation of the LPPF

The City and Affiliated Hospital will also cooperate to ensure the prompt, efficient, and accurate implementation of the LPPF in the City in a manner consistent with state and federal law.

Section 2.03 Administration of the LPPF

(a) The City will retain discretion to determine:

- (1) The term and content of rules to govern the LPPF; and
- (2) The timing and amount of the mandatory payment to be paid by institutional healthcare providers, consistent with the requirements of state and federal law.

(b) Except as provided in Section 2.04, the City also retains the discretion to apply the LPPF to uses authorized under the law, including conduct intergovernmental transfers of funds to the Texas Health and Human Services Commission

Article III. GENERAL PROVISIONS

Section 3.01 Term and Termination.

The term of this Agreement shall be one year from Effective Date and shall automatically continue thereafter for additional terms of one year unless the parties agree otherwise; provided, however, that this Agreement shall terminate immediately upon written notice by either the Governmental Entity or the Affiliated Hospital to the other party.

Section 3.02 Notices.

All notices required or permitted hereunder shall be in writing and shall be sufficiently given and deemed to have been received upon personal delivery, by overnight carrier, by email, or by United States mail, postage prepaid, registered or certified mail, addressed to the parties as follows:

Governmental Entity: _____

Affiliated Hospital: _____

With copies to: Carlos Zaffirini Jr.
Adelanto HealthCare Ventures, L.L.C.
401 W. 15th Street, Suite 840
Austin, TX 78701

and:

Charles Luband
Dentons
1221 Avenue of the Americas
New York, NY 10020-1089

Section 3.03 Relationship Between the Parties.

The relationship between the City and the Affiliated Hospital is solely a contractual relationship between independent contractors. No party hereto is an agent or employee of any other party. Nothing in this Agreement shall prevent any affiliation or contracting by any party with any third party, with the exception that no party may contract or affiliate with other party to gain entitlement to Medicaid supplemental payments pursuant to this Agreement.

Section 3.04 Governing Law.

This Agreement is governed by the laws of the State of Texas.

Section 3.05 Assignment.

No party may assign any right, obligation, or responsibility under this Agreement except to a successor in interest.

Section 3.06 Third Party Beneficiaries.

The parties to this Agreement do not intend to establish any third party beneficiary relationship by virtue of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date(s) set forth below.

CITY OF BEAUMONT

AFFILIATED HOSPITAL:

By: _____

By _____

Date _____

Date _____

Exhibit B

2.0 REPRESENTATIONS AND WARRANTIES

2.1 Affiliated Hospital Representations and Warranties. The Affiliated Hospital represents and warrants that:

- a. It is a Texas corporation or partnership, duly established and created pursuant to applicable law with all requisite power and authority to enter into this Agreement in all respects;
- b. There is no agreement to condition any amounts transferred by the Governmental Entity nor the amount of Medicaid payments received on the amount of indigent care the Affiliated Hospital has provided or will provide;
- c. There is no agreement to condition the amount of the Affiliated Hospital's indigent care obligation on the amount transferred by the Governmental Entity nor the amount of any Medicaid payment the Affiliated Hospital might receive;
- d. No escrow, trust, or other funding mechanism exists, the amount of which is conditioned or contingent on the amount of indigent care services provided or to be provided by the Affiliated Hospital; and that any escrow, trust or other funding mechanism utilized in connection with an anticipated intergovernmental transfer ("IGT") from the Governmental Entity has been disclosed to HHSC and is not used to effect a quid pro quo for the provision of indigent care services by or on behalf of the Affiliated Hospital;
- e. The Affiliated Hospital will not return or refund any Medicaid payments received to the Governmental Entity;
- f. No part of any Medicaid payment received under the Section 1115 Waiver program will be used to pay a contingent fee, consulting fee, or legal fee associated with the Affiliated Hospital's receipt of payments under the Section 1115 Waiver program.
- g. This Agreement has been duly and validly executed and delivered by the Affiliated Hospital.

2.2 Governmental Entity Representations and Warranties. The Governmental Entity represents and warrants that:

- a. It is a political subdivision of the State of Texas created under the authority of Article 11 of the Texas Constitution, duly established and created with all requisite power and authority to enter into this Agreement in all respects;
- b. There is no agreement to condition the amount transferred by the Governmental Entity nor the amount of Medicaid supplemental payments

INDIGENT CARE AFFILIATION AGREEMENT

on the amount of indigent care the Affiliated Hospital have provided or will provide;

- c. There is no agreement to condition the amount of the Affiliated Hospital's indigent care obligation on the amount transferred by the Governmental Entity nor the amount of any Medicaid supplemental payment the Affiliated Hospital might receive;
- d. No escrow, trust, or other funding mechanism exists, the amount of which is conditioned or contingent on the amount of indigent care services provided or to be provided by the Affiliated Hospital; and that any escrow, trust or other funding mechanism utilized in connection with an anticipated intergovernmental transfer ("IGT") from the Governmental Entity has been disclosed to HHSC and is not used to effect a quid pro quo for the provision of indigent care services by or on behalf of the Affiliated Hospital;
- e. The Governmental Entity has not received and will not receive refunds of payments the Governmental Entity made or makes to the Affiliated Hospital for any purpose in consideration for an IGT by the Governmental Entity to fund Medicaid supplemental payments;
- f. The execution, delivery, and performance by the Governmental Entity of this Agreement are within the Governmental Entity's powers, are not in contravention of any other instruments governing the Governmental Entity and have been duly authorized and approved by the Board of Directors of the Governmental Entity as and to the extent required by applicable law;
- g. This Agreement has been duly and validly executed by the Governmental Entity;
- h. The Governmental Entity has not received and has no agreement to receive any portion of any Medicaid payments made to Affiliated Hospital;
- i. The Governmental Entity has not entered into a contingent fee arrangement related to its participation in the Section 1115 Waiver program;
- j. The Governmental Entity is authorized to participate in the Section 1115 Waiver program pursuant to a vote of its governing body in a public meeting preceded by public notice published in accordance with its usual and customary practices or the Texas Open Meetings Act, as applicable; and
- k. Notwithstanding anything in this Agreement to the contrary, any decision by the Governmental Entity to provide funding for the Medicaid program is at the sole discretion of the Governmental Entity.

3.0 OBLIGATIONS OF THE AFFILIATED HOSPITAL

- 3.1 **Agreement to Collaborate with the Governmental Entity.** The Affiliated Hospital agrees to work cooperatively with the Governmental Entity to improve access to health care for indigent persons.
- 3.2 **Compliance with State and Federal Law.** The Affiliated Hospital agrees to retain qualified professionals to ensure health care is provided in compliance with state and federal charity care laws, anti-trust laws, and any other applicable laws, and the Medicare and Medicaid programs.

4.0 OBLIGATIONS OF THE GOVERNMENTAL ENTITY

- 4.1 **Agreement to Cooperate with the Affiliated Hospital.** The Governmental Entity agrees to work cooperatively with the Affiliated Hospital to improve access to health care for indigent persons.
- 4.2 **No Condition on Medicaid Funding.** The Governmental Entity agrees that it will not condition the amount to which it funds the non-federal share of Medicaid supplemental payments on a specified or required minimum amount of prospective indigent care.
- 4.3 **Retrospective Evaluation of Services.** The Governmental Entity may retrospectively evaluate the amount and impact of the Affiliated Hospital's indigent care delivery and can rely on such historical information in determining whether and to what degree it will provide an IGT in the future.
- 4.4 **Documents Publicly Available.** The Governmental Entity agrees to make publicly available any documentation utilized in connection with intergovernmental transfers of funds and any documentation executed by the Governmental Entity related to its participation in the Section 1115 Waiver, including this Agreement.
- 4.5 **Use of Public Funds.** To the extent the Governmental Entity decides to provide funding for Medicaid supplemental payments, the Governmental Entity agrees to use public funds for such funding.

June 9, 2015

**Consider a resolution authorizing the execution of a Certification of Governmental Entity
Participation for Hospital Affiliates**

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF BEAUMONT:

THAT the City Manager be and he is hereby authorized to execute the Certification of Governmental Entity Participation for Hospital Affiliates, substantially in the form attached hereto as Exhibit "A," in accordance with the requirements of establishing a Municipal Health Care Provider Participation Program.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 9th day of June, 2015.

- Mayor Becky Ames -



HEALTH AND HUMAN SERVICES COMMISSION

TEXAS HEALTHCARE TRANSFORMATION AND QUALITY IMPROVEMENT PROGRAM
1115 DEMONSTRATION WAIVER PROGRAM

**CERTIFICATION OF GOVERNMENTAL ENTITY PARTICIPATION
FOR HOSPITAL AFFILIATES
Version 2012-1 (09/05/2012)**

EXHIBIT "A"

DOCUMENT HISTORY LOG

STATUS ¹	DOCUMENT REVISION ²	EFFECTIVE DATE	DESCRIPTION ³
Baseline	n/a		Initial version of the Certification of Governmental Entity Participation
Revision	1.1	09/05/2012	Added cover page.
Revision	1.2	09/05/2012	Added Document History Log.
Revision	1.3	09/05/2012	Various formatting changes.
Revision	1.4	09/05/2012	Added version number (Version 2012-1) and date of issuance to cover page and page footer.
Revision	1.5	09/05/2012	Deleted "Texas" from "Health and Human Services Commission" to reflect agency's statutory name.
Revision	1.6	09/05/2012	Revised paragraph 4.g. to replace "and" at the end of subparagraph ii following the semicolon with "or."
<p>¹ "Baseline" indicates initial document issuances, "Revision" indicates changes to the Baseline version, and "Cancellation" indicates withdrawn versions.</p> <p>² Numbering conventions: Revisions are numbered according to the version of the document and the sequential revision—e.g., "1.2" refers to the first version of the document and the second revision.</p> <p>³ Brief description of the changes to the document made in the revision.</p>			



HEALTH AND HUMAN SERVICES COMMISSION

**TEXAS HEALTHCARE TRANSFORMATION AND QUALITY IMPROVEMENT
PROGRAM 1115 DEMONSTRATION WAIVER PROGRAM**

***CERTIFICATION OF GOVERNMENTAL ENTITY PARTICIPATION FOR
HOSPITAL AFFILIATES***

On behalf of _____, a _____
organized under the laws of the State of Texas (hereinafter referred to as "the
Governmental Entity"), I, _____, affirm and certify the
following:

1. Legal Authorization.

- a. The Governmental Entity is legally authorized to levy and collect ad valorem taxes, generate public revenue, or receive and expend appropriated public funds ("Public Funds");
- b. The Governmental Entity is legally authorized to enter into and has entered into Affiliation Agreements with one or more private hospitals ("the Affiliated Hospitals") for, among other purposes, providing indigent care in the community served by the Governmental Entity.

2. Public Adoption and Access.

- a. The governing body of the Governmental Entity adopted the conditions described in this certification by recorded vote taken in a public meeting held in compliance with the Texas Open Meetings Act, Chapter 551, Government Code;
- b. Copies of all Affiliation Agreements will be made available as provided under the Texas Public Information Act, Chapter 552, Government Code, and will be provided to HHSC on request.

3. *Funding of Intergovernmental Transfers and Supplemental Payments.*

- a. The Governmental Entity has or has agreed to transfer Public Funds to the Health and Human Services Commission ("HHSC") via intergovernmental transfer ("IGT") for use as the non-federal share of supplemental waiver payments (the "Supplemental Payments") to the Affiliated Hospitals in accordance with 1 Tex. Admin. Code §355.8201, Waiver Payments to Hospitals (the "Waiver Program");
- b. All transfers of Public Funds by the Governmental Entity to HHSC to support the Supplemental Payments to the Affiliated Hospitals under the Waiver Program comply with:
 - i. The applicable regulations that govern provider-related donations codified at section 1903(w) of the Social Security Act (42 U.S.C. §1396b(w)), and Title 42, Code of Federal Regulations, Part 433, subpart B, sections 433.52 and 433.54;
 - ii. HHSC administrative rules codified at 1 Tex. Admin Code §355.8201, Waiver Payments to Hospitals.

4. *Assurances and Representations.*

- a. The Governmental Entity does not and will not at any time receive any part of the supplemental payments that are made by HHSC to the Affiliated Hospitals under the Waiver Program;
- b. The Governmental Entity has not entered into a contingent fee arrangement related to the Governmental Entity's participation in the Waiver Program;
- c. The Governmental Entity has not entered and will not enter into any agreement to condition either the amount of the Public Funds transferred by the Governmental Entity or the amount of Supplemental Payments an Affiliated Hospital receives on the amount of indigent care the Affiliated Hospital has provided or will provide;
- d. The Governmental Entity has not entered and will not enter into any agreement to condition the amount of any Affiliated Hospital's indigent care obligation on either the amount of Public Funds transferred by the Governmental Entity to HHSC or the amount of Supplemental Payment an Affiliated Hospital may be eligible to receive;
- e. With regard to any escrow, trust or other financial mechanism (an "Account") utilized in connection with an indigent care Affiliation Agreement or an IGT issued for a payment period that occurs after the effective date of this Certification, the following representations are true and correct:

- i. The amount of any Account is not conditioned or contingent on the amount of indigent care services that an Affiliated Hospital provided or will provide;
 - ii. The Governmental Entity has disclosed the existence of any Account to HHSC; and
 - iii. Any such Account will not be used to effect a quid pro quo for the provision of indigent care services by or on behalf of the Affiliated Hospitals;
- f. The Governmental Entity has not received and will not receive refunds of payments the Governmental Entity made or makes to an Affiliated Hospital for any purpose in consideration for an IGT of Public Funds by the Governmental Entity to HHSC to support the Supplemental Payments;
- g. The Governmental Entity has not received and will not receive any cash or in-kind transfers from an Affiliated Hospital or any other entity acting on behalf of an Affiliated Hospital or group of Affiliated Hospitals other than transfers and transactions that:
 - i. Following the date this Certification was executed, are unrelated to the administration of the Waiver Program or the delivery of indigent care services under an Affiliation Agreement;
 - ii. Constitute fair market value for goods or services rendered or provided by the Governmental Entity to an Affiliated Hospital; or
 - iii. Represent independent, bona fide transactions negotiated at arms-length and in the ordinary course of business between the Affiliated Hospital and the Governmental Entity;
- h. The Governmental Entity has not:
 - i. Following the date this Certification was executed, assigned or agreed to assign a contractual or statutory obligation of the Governmental Entity to an Affiliated Hospital or any other entity acting on behalf of an Affiliated Hospital or group of Affiliated Hospitals; or
 - ii. Authorized or consented to the assumption of a statutory or contractual obligation of the Governmental Entity by an Affiliated Hospital or any other entity acting on behalf of an Affiliated Hospital or group of Affiliated Hospitals.

5. Evaluation.

- a. Consistent with its constitutional, statutory, and fiduciary obligations, the Governmental Entity may evaluate a private hospital's historical experience in providing indigent care in the community or performance under an Affiliation Agreement including the impact and amount of indigent care provided by the hospital, for the following purposes:
 - i. To determine whether the Governmental Entity will enter into an Affiliation Agreement with a private hospital;
 - ii. To determine whether and to what degree the Governmental Entity will supply an IGT, provided such decision does not include consideration of matters prohibited under paragraph 4 of this Certification;
 - iii. To determine whether an Affiliated Hospital's participation benefited the community and whether its continued participation in the indigent care program is likely to continue to benefit the community; or
 - iv. To provide accountability to local taxpayers;
- b. The Governmental Entity's evaluation under this paragraph 5 may:
 - i. Be documented in a manner sufficient to confirm achievement of the Governmental Entity's mission and provide an appropriate and constitutional basis on which to transfer the Public Funds to HHSC; and
 - ii. Not include consideration of matters prohibited under paragraph 4 of this Certification ;

On behalf of the Governmental Entity, I hereby certify that I have read and understood the above statements; that the statements are true, correct, and complete; and that I am authorized to bind the Governmental Entity and to certify to the above.

Signature

Date

Name and Title



WORK SESSION

- * Review and discuss amending the Code of Ordinances to allow the riding of bicycles on sidewalks adjacent to roadways without designated bike lanes