

# CITY OF BELLAIRE TEXAS

MAYOR AND COUNCIL

NOVEMBER 7, 2016

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<b>Council Chamber</b>	<b>Regular Session</b>	<b>7:00 PM</b>
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7008 S. RICE AVENUE  
BELLAIRE, TX 77401



## Mayor

Andrew S. Friedberg

## Mayor Pro Tem

Roman F. Reed

## Council Member

Gus E. Pappas

## Council Member

Michael Fife

## Council Member

Trisha S. Pollard

## Council Member

Pat B. McLaughlan

## Council Member

David R. Montague

### **Mission Statement:**

***The City of Bellaire is dedicated to outstanding quality service and facilities to ensure an open, progressive, and secure community.***

**REGULAR SESSION - 7:00 P.M.****A. Call to Order and Announcement of a Quorum - Andrew S. Friedberg, Mayor.****B. Inspirational Reading and/or Invocation - Pat B. McLaughlan, Council Member.****C. Pledges of Allegiance - Pat B. McLaughlan, Council Member.****1. U.S. Pledge of Allegiance:**

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

**2. Pledge to the Texas Flag:**

Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible.

**D. Recognition of Proclamations - Andrew S. Friedberg, Mayor.**

Issuance of a proclamation by Andrew S. Friedberg, Mayor, proclaiming Saturday, November 12, 2016, as Diwali Day ("Festival of Lights") in the City of Bellaire, Texas, in commemoration of the triumph of light over darkness, good over evil, knowledge over ignorance, hope over despair, charitable giving, and selfless service.

**E. Personal/Audience Comments.**

In order to address the City Council, please complete a sign-up sheet (located at the entrance to the Council Chamber), and submit it to City Clerk Tracy L. Dutton prior to the time for personal/audience comments. Each speaker shall have a time limit of up to five (5) minutes, with no extension, and with notice after four (4) minutes that one (1) minute is left. In the event of pressing business before the City Council or matters requiring its immediate attention or action, the City Council may, prior to the opening of audience comments, set a different maximum time limit for each speaker by a vote of four (4) members of the City Council.

The purpose of this item is to allow the residents of Bellaire and other interested persons an opportunity to address the City Council on agenda issues and on non-agenda issues that are a matter of the jurisdiction of the City Council (i.e., City policy and legislative issues). Non-agenda issues regarding daily operational or administrative matters should be first dealt with at the administrative level by calling City Hall at (713) 662-8222 during business hours.

[Note: The Texas Open Meetings Act, Texas Government Code, Chapter 551, prohibits the City Council from fully discussing, debating, or considering subjects for which public notice has not been given on the agenda. Issues that cannot be referred to the City Staff for action may be placed on the agenda of a future City Council Session.]

**F. Reports:**

1. City Manager's Report regarding communication, field and personnel updates, calendar reminders, and notes of appreciation - Submitted by Paul A. Hofmann, City Manager.
2. Presentation of the Beautification/Urban Design Conceptual Master Plan, as prepared by Terrain Studio - Submitted by Cheryl Bright, Assistant Director of Parks, Recreation and Facilities.

3. Presentation by ARKK Engineers, LLC, of an update to the findings and recommendations from the City of Bellaire Drainage Study Report - Requested by Trisha S. Pollard, Council Member.

## **G. New Business:**

### **1. Consent Agenda:**

Items set out in the consent agenda are considered routine and are recommended for approval by the passage of a single motion, without discussion or debate, that the consent agenda be adopted. Upon request of any member of City Council, items shall be removed from the consent agenda and considered separately.

#### **a. Adoption of Minutes:**

Consideration of and possible action on the adoption of the minutes of the Special Session held on September 29, 2016, and Regular Session held on October 10, 2016.

- i. Mayor and Council - Special Session - Sep 29, 2016 6:00 PM
- ii. Mayor and Council - Regular Session - Oct 10, 2016 6:00 PM

#### **b. Addendum to Agreement with Advance Data Processing, Inc., a subsidiary of Intermedix Corporation:**

Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, amending Exhibit A to Ordinance No. 16-044, Agreement Between City of Bellaire, Texas, and Advance Data Processing, Inc., a subsidiary of Intermedix Corporation, for Ambulance Billing and Related Services ("Agreement"), for the purpose of adding a new Section 5.01.1, Settlement Fee (Ambulance Supplemental Payment Program), to allow the City of Bellaire, Texas, to partner with Intermedix and Intermedix's Consultant, Public Consulting Group, Inc., to develop, for a fee, an Ambulance Supplemental Payment Program, and authorizing the Mayor of the City of Bellaire, Texas, to execute, for and on behalf of the City of Bellaire, Texas, an addendum to said Agreement entitled "Addendum to Service Agreement, Option of Ambulance Supplemental Payment Program" - Submitted by Darryl Anderson, Fire Chief.

#### **c. Interlocal Agreement with Harris County Concerning The Nature Discovery Center:**

Consideration of and possible action on the adoption of an ordinance authorizing the Mayor and the City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, for and on behalf of the City of Bellaire, Texas, an Interlocal Agreement with Harris County concerning The Nature Discovery Center for the purpose of receiving a payment in the amount of \$50,000.00 from Harris County, Texas, to be used for the operation and maintenance of The Nature Discovery Center at Russ Pitman Park, 7112 Newcastle Drive, Bellaire, Texas - Submitted by Tracy L. Dutton, City Clerk, on behalf of the Office of Steve Radack, Harris County Commissioner for Precinct Three.

### **2. Adoption of Resolution:**

Consideration of and possible action on the adoption of a resolution of the City Council of the City of Bellaire, Texas, supporting a grant application to the Houston-Galveston Area Council for their 2017 Pedestrian/Bicycle Studies program in the amount of \$125,000 - Submitted by John McDonald, Director of Development Services.

### **3. Adoption of Ordinances:**

- a. Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Mayor to execute, for and on behalf of the City of Bellaire, Texas, a New Case Questionnaire and Renewal Decisions, as well as any related documentation including an Employer Agreement, with Cigna, for the purpose of providing employee group medical and dental insurance for a period of one (1) year commencing January 1, 2017, and ending December 31, 2017, with an option to renew said insurance coverage for additional one (1) year periods of time upon mutual consent of the Mayor, acting on behalf of the City of Bellaire, Texas, and Cigna - Submitted by Yolanda Howze, Director of Human Resources.
- b. Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, establishing a Charter Review Commission of the City of Bellaire, Texas ("Commission"), for the purpose of reviewing the Charter of the City of Bellaire, Texas, as amended on November 7, 2006, and appointing up to seven (7) members to serve on the Commission for a term of seven (7) months commencing on December 1, 2016, and ending on June 30, 2017 - Submitted by Alan P. Petrov, City Attorney.

### **H. Community Interest Items from the Mayor and City Council.**

It is the intent of this item to provide members of the City Council the opportunity to make a report about items of community interest, which may include expressions of thanks, congratulations, or condolence; information regarding holiday schedules; honorary recognition of City officials, employees, or other citizens or entities; reminders of upcoming events sponsored by the City or another entity that is scheduled to be attended by a City official or City employee; and announcements involving an imminent threat to the public health and safety of people in Bellaire that has arisen after the posting of the agenda.

No action may be taken on a reported item of community interest, and no possible action discussed except a proposal to place the subject on the agenda for a subsequent meeting.

*See Texas Government Code, Chapter 551, Open Meetings Act.*

### **I. Adjourn.**



**Mayor and Council**

7008 S. Rice Avenue  
Bellaire, TX 77401



Meeting: 11/07/16 07:00 PM  
Department: City Clerk  
Category: Proclamation  
Department Head: Tracy L. Dutton  
DOC ID: 2070

**SCHEDULED  
PROCLAMATION (ID #  
2070)**

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**Item Title:**

Issuance of a proclamation by Andrew S. Friedberg, Mayor, proclaiming Saturday, November 12, 2016, as Diwali Day ("Festival of Lights") in the City of Bellaire, Texas, in commemoration of the triumph of light over darkness, good over evil, knowledge over ignorance, hope over despair, charitable giving, and selfless service.

**Background/Summary:**

On Saturday, November 12, 2016, many Bellaire residents of Indian descent will celebrate and commemorate Diwali Day ("Festival of Lights") in the City of Bellaire, Texas. Neighbors are invited to join in this community celebration to learn about Indian culture, customs, and traditions in an effort to build bridges between neighbors of all faiths.

In honor of the celebration, Andrew S. Friedberg, Mayor, has prepared a proclamation proclaiming Saturday, November 12, 2016, as Diwali Day in the City of Bellaire.

The attached proclamation will be read and presented at the Bellaire Diwali Celebration on November 12, 2016.

**Previous Council Action Summary:**

N/A

**Fiscal Impact:**

N/A

**Recommendation:**

N/A

**ATTACHMENTS:**

- Diwali Day - November 12, 2016 (PDF)



## *Proclamation*

*Whereas*, Diwali, the "Festival of Lights," is one of the most widely recognized celebrations observed by Hindus, Sikhs and Jains throughout the world, including by many Bellaire residents of Indian descent; and

*Whereas*, Diwali spiritually commemorates the triumph of light over darkness, good over evil, knowledge over ignorance and hope over despair; and

*Whereas*, it is a time of great happiness and joy, and also a time for *dana* (charitable giving) and *seva* (selfless service) by the alleviation of tangible forms of suffering, such as hunger, disease and poverty; and

*Whereas*, Bellaire residents of Indian descent have invited their neighbors to join in a community Diwali celebration, and in doing so to learn about Indian culture, customs and traditions in an effort to build bridges between neighbors of all faiths;

*Now, Therefore*, I, **Andrew S. Friedberg, Mayor of the City of Bellaire, Texas**, do hereby proclaim **November 12, 2016**, as

### *Diwali Day*

in the City of Bellaire, Texas, and encourage all residents to join in friendship and fellowship with our neighbors from all backgrounds and traditions, through the rich cultural experience of the Festival of Lights.



*In Witness Whereof*, I have hereunto set my hand and caused the seal of the City of Bellaire, Texas, to be affixed this 7th day of November, 2016.

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Andrew S. Friedberg  
Mayor  
City of Bellaire, Texas

**Mayor and Council**

7008 S. Rice Avenue  
Bellaire, TX 77401



Meeting: 11/07/16 07:00 PM  
Department: City Manager's Office  
Category: Presentation  
Department Head: Paul A. Hofmann  
DOC ID: 1927

**SCHEDULED  
ACTION ITEM (ID # 1927)**

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**Item Title:**

City Manager's Report regarding communication, field and personnel updates, calendar reminders, and notes of appreciation - Submitted by Paul A. Hofmann, City Manager.

**Background/Summary:**

City Manager's Report regarding communication, field and personnel updates, calendar reminders, and notes of appreciation.

**Previous Council Action Summary:**

N/A

**Fiscal Impact:**

N/A

**Recommendation:**

N/A

**Mayor and Council**

7008 S. Rice Avenue  
Bellaire, TX 77401



Meeting: 11/07/16 07:00 PM  
Department: Parks, Recreation and  
Facilities  
Category: Presentation  
Department Head: Cheryl Bright-  
West  
DOC ID: 2017 A

**SCHEDULED  
INFORMATION ITEM (ID  
# 2017)**

**Item Title:**

Presentation of the Beautification/Urban Design Conceptual Master Plan, as prepared by Terrain Studio - Submitted by Cheryl Bright, Assistant Director of Parks, Recreation and Facilities.

**Background/Summary:**

Scott Slaney, FASLA and Principal of Terrain Studio will present a draft of the Beautification/Urban Design Master Plan to City Council for their review and input. The plan includes input from various stakeholder groups including citizens, boards and commissions and City of Bellaire staff.

On Thursday, November 3, Terrain Studio will be hosting a public meeting to receive additional citizens comments regarding the Beautification/Urban Design Master Plan. During the Council meeting on November 7, Terrain Studio will present to City Council a draft copy of the Beautification/Urban Design Master Plan which will reflect citizens comments from November 3.

The final version of the Beautification/Urban Design Master Plan will be completed and presented to City Council on December 5.

**Previous Council Action Summary:**

On the evening of June 6, members of City Council, at the request from Citizens For A Beautiful Bellaire, had an opportunity to hear a presentation from Scott Slaney, FASLA and Principal of Terrain Studio (landscape, architecture, urban design, and planning firm), regarding a proposal to provide the structure and process to be followed for Bellaire's beautification efforts and to create a Beautification Master Plan for the City of Bellaire, Texas.

On June 6th, an ordinance was approved by City Council authorizing the Mayor and City Clerk to execute and attest, respectively, a Standard Form of Agreement with Terrain Studio for the referenced services in an amount not to exceed \$70,000, plus expenses.

**Fiscal Impact:**

Funds included in the Beautification Capital Improvement Plan.

**Recommendation:**

The Assistant Director of Parks, Recreation and Facilities, Cheryl Bright, and Terrain Studio request that City Council review the plan and provide input related to the presentation of the plan.

**Mayor and Council**

7008 S. Rice Avenue  
Bellaire, TX 77401



Meeting: 11/07/16 07:00 PM  
Department: Public Works  
Category: Presentation  
Department Head: Brant Gary  
DOC ID: 2066

**SCHEDULED  
INFORMATION ITEM (ID  
# 2066)**

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**Item Title:**

Presentation by ARKK Engineers, LLC, of an update to the findings and recommendations from the City of Bellaire Drainage Study Report - Requested by Trisha S. Pollard, Council Member.

**Background/Summary:**

Council approved Capital Project 1605 - Storm Water Drainage Plan, as a part of the FY 2016 Budget. Total costs for this project were \$45,000.00. ARKK Engineers was awarded the contract to develop the plan which was presented to Council at their September 19, 2016 meeting. James Andrews with ARKK Engineers will present updates to the original presented study along with recommendations for moving forward.

**Previous Council Action Summary:**

Council adopted the FY 2016 Annual Budget on September 30, 2015. Included in the approved CIP was Capital Project 1605 - Storm Water Drainage Plan.

James Andrews with ARKK Engineers originally presented the drainage study to Council on September 19, 2016.

**Fiscal Impact:**

\$45,000.00 was budgeted in the approved FY 2016 Budget as a part of the CIP for this project.

**Recommendation:**

The Public Works Department recommends acceptance of the update, and requests feedback if appropriate.

**ATTACHMENTS:**

- Drainage Update Memo (PDF)



# MEMO

**To:** Paul Hofmann - City Manager  
Brant Gary – Director of Public Works

**From:** James B Andrews P.E. – City Engineer

**Date:** November 3, 2016

**Re:** Bellaire Drainage Study Recommendations Update

As requested, the following is an update on our progress for items recommended for consideration in the Drainage Study presented to City Council in September.

You will recall, the purpose of the Drainage Study was to investigate possible alternatives to reduce the occurrence of structures flooding within the city and plans for removing certain areas of the City of Bellaire from the floodplain by Letter of Map Revision or LOMR.

Our focus over the last few weeks has been on several of the recommendations described in the report with our heaviest concentration on working with the Harris County Flood Control District (HCFCD) on the LOMR.

The Study recommended the City of Bellaire consider nine recommendations listed below followed by a brief update on the progress of each one:

## Recommendation 1

Construct local underground storage systems by increasing the normal two-year design storm sewer system to store the 100-year storm volumes at selected strategic locations.

We have started developing a plan for prioritizing street and drainage improvements with Public Works. In the coming weeks, we will finalize our draft criteria for selecting streets to be totally reconstructed by considering such things as drainage/flooding problems identified in the Drainage Study and the current street condition. The Drainage plan recommended preliminary location and sizes for underground detention systems and by combining that data with the street and sidewalk condition assessment that is currently underway, we should have the two most critical components for choosing one street over another. We anticipate also giving priority consideration to blocks previously designed but not constructed in Rebuild Bellaire because of funding limitations. There of course can be other selection criteria such as homes served by a



particular improvement or traffic mobility facilitated that may be offered for council's consideration to select streets to be reconstructed. We are working to provide a selection process for Council to review and approve that is objective and fair. We will be presenting that criteria for Council's consideration after the physical roadway and sidewalk assessment is completed and analyzed. We are planning to complete the new condition assessment in a couple of months.

## Recommendation 2

Construct backflow prevention systems at several of the major drainage system outfalls to prevent back water flow from Brays Bayou or Cypress Ditch from backing up into these systems during high water flood stages.

We will be examining this further in the future as part of conversations with other entities because this either will be constructed outside the City of Bellaire or will affect others drainage as well. Brant Gary has reached out to the City of Houston to begin this dialogue.

We will also look to incorporate these items in future City projects.

## Recommendation 3

Prepare and submit a LOMR to the HCFCD for approval to remove certain areas of the Bellaire from the floodplain.

We have met with HCFCD on the following three occasions:

- September 9 – We discussed that it was our opinion that the FEMA map within the City of Bellaire was in error and did not represent spatial ground realities. This was reported to Council on September 19<sup>th</sup>. HCFCD was in general agreement and requested we determine if any significant issues in the FEMA Hydrology model would be caused by removing floodplain from Bellaire.
- September 29 – We presented the findings of our review. The removal of the City of Bellaire floodplain volume does lower storage for the Brays Hydrology model but the flows are not affected. HCFCD requested that we start to develop the new floodplain boundary for consideration.
- October 14 – We presented a revised preliminary floodplain map to HCFCD. HCFCD requested we remap with a tolerance of 0.5 feet on the ground topography and the Base Flood Elevation (BFE). We have completed this task and are hopeful much of Bellaire can be removed from the 100 year floodplain. The majority of the will remain in the 500 year floodplain. The HCFCD has requested that the City of Bellaire still require new homes to be one foot above the BFE even if they are outside the new 100 year floodplain but are within the 500 year floodplain. The HCFCD does not want to give the impression that because a certain property was removed from the 100 year floodplain,

it is not subject to flooding. HCFCD has indicated that they will recommend the City of Bellaire to develop an ordinance that requires the new finished floor of new residential homes to be constructed at or above the BFE if they are located in the 100 – year floodplain.

We have scheduled what we hope will be the final meeting with HCFCD on Thursday November 10<sup>th</sup> to discuss the development of the ordinance and submission of the LOMR for approval.

### **Recommendation 4 and 5**

Request TxDOT to improve the I-610 drainage system to properly receive the existing drainage area storm water runoff and convey to Brays Bayou.

Request interim improvements to the system directly adjacent to the proposed improvements associated with the I69/I610 interchange improvements.

We have provided TxDOT with a copy of the Drainage Study. They are aware of our findings and request for additional underground drainage capacity. We have requested the TxDOT Drainage Report for I69/I610 Interchange work and have been told they are still reviewing it and will provide soon.

### **Recommendation 6**

Request the City of Houston/Texas Water Development Board/FEMA to participate in conveyance and storage capability improvements within the Chimney Rock and S. Rice Ave. drainage systems.

We have had very preliminary discussions with the City of Houston to discuss the need for major improvements to the Chimney Rock drainage system because of their preliminary plans to reconstruct the City of Houston streets bounded by Bissonnet, Mapleridge, Evergreen and Alder. They are in the preliminary stages of this street and drainage reconstruction project and we have expressed our concern with the already overloaded Chimney Rock drainage system.

### **Recommendation 7 and 8**

Develop inter-local agreements with the City of Houston for future improvements and maintenance for drainage facilities that serve both entities.

Request the City of Houston and/or City of West University Place to consider installing back flow prevention systems in Cypress Ditch and Kilmarnock Ditch.

No updates at this time. These items will be part of future discussions with these outside entities.



**Recommendation 9**

Remove existing identified utility conflicts where possible.

This will be completed through existing and planned projects, where possible. The information found will be provided to all firms participating in the design process for City of Bellaire projects.

I hope this information is helpful.



# CITY OF BELLAIRE TEXAS

MAYOR AND COUNCIL

SEPTEMBER 29, 2016

Council Chamber

Special Session

6:00 PM

7008 S. RICE AVENUE  
BELLAIRE, TX 77401

## SPECIAL SESSION (PUBLIC HEARING) - 6:00 P.M.

### A. Call to Order and Announcement of a Quorum - Andrew S. Friedberg, Mayor.

**Andrew S. Friedberg, Mayor**, called the Special Session (Public Hearing) of the City Council of the City of Bellaire, Texas, to order at 6:00 p.m. on Thursday, September 29, 2016. The Special Session was held in the Council Chamber, First Floor of City Hall, 7008 South Rice Avenue, Bellaire, Texas 77401-4411.

Mayor Friedberg announced that a quorum of the members of City Council was present as set forth in the table below.

Name	Title	Status
Andrew S. Friedberg	Mayor	Present
Roman F. Reed	Mayor Pro Tem	Present
Trisha S. Pollard	Council Member	Present
Gus E. Pappas	Council Member	Absent
Pat B. McLaughlan	Council Member	Present
Michael Fife	Council Member	Present
David R. Montague	Council Member	Present

Other officials present were Paul A. Hofmann, City Manager; Terrence Beaman, Chief Financial Officer; and Tracy L. Dutton, City Clerk.

**Mayor Friedberg** announced that the Special Session this evening was called for the purpose of conducting the first of two public hearings on the proposed property tax rate for the 2016 tax year.

### B. Reading of Notice of Public Hearing - Tracy L. Dutton, City Clerk.

**Tracy L. Dutton, City Clerk**, read the notice of the public hearing, entitled "Notice of 2016 Tax Year Proposed Property Tax Rate for City of Bellaire," into the record. She indicated that the notice was published in the Southwest News on Tuesday, September 20, 2016, and in the Examiner on Wednesday, September 21, 2016.

### C. Summary of Public Hearing Procedure - Paul A. Hofmann, City Manager.

**Paul A. Hofmann, City Manager**, summarized the procedure for the evening's public hearing.

Minutes Acceptance: Minutes of Sep 29, 2016 6:00 PM (Adoption of Minutes:)

**D. Presentation of Proposal:**

Presentation regarding a proposal to increase total tax revenues for the 2016 tax year from properties on the tax roll in the preceding year by 5.7% percent by proposing a tax rate of \$0.3874 per \$100 valuation - Submitted and presented by Terrence Beaman, Chief Financial Officer.

**Terrence Beaman, Chief Financial Officer (CFO)**, presented a proposal to increase tax revenues for the 2016 tax year by proposing a tax rate of \$0.3874 per \$100 valuation. He advised that the City's effective tax rate was calculated as \$0.3665 per \$100 valuation, and the rollback rate as \$0.3974 per \$100 valuation.

CFO Beaman advised that the recommended tax rate of \$0.3874 would bring in approximately \$18.6 million of revenue for the City, \$1.4 million of which was additional revenue. Since the recommended rate was above the City's effective tax rate, it was necessary to hold two public hearings on the proposal. This evening represented the first of the two public hearings.

**E. Public Comment.**

**Mayor Friedberg** recognized Keith Bowers, who had completed a sign-up sheet prior to the commencement of the public hearing. As stated earlier, the time limit for public hearings was five (5) minutes with notice after four (4) minutes that one (1) minute remained.

**Keith Bowers:**

Mr. Bowers addressed City Council regarding the proposed tax rate and indicated that he did not believe that Bellaire's tax rate was too high.

Secondly, Mr. Bowers thanked the City Manager and City Staff for preparing the City's budget and commended the City Manager for a great job. He also commended the City Engineer for a very thorough job on a flood study recently conducted for the City and urged City Council to consider implementing the underground storm water detention system recommended by the City Engineer.

In closing, Mr. Bowers urged City Council to adopt the proposed tax rate.

**F. Questions from the Mayor and Council.**

**Mayor Friedberg** opened the floor for questions from the Mayor and City Council. Hearing none, he proceeded to close the public hearing.

**G. Close of Public Hearing.**

**Mayor Friedberg** closed the public hearing at 6:12 p.m. on Thursday, September 29, 2016. He noted that oral comment would again be received during a second public hearing on the same subject matter on Monday, October 10, 2016. Written comments were to be directed to the City Council in care of the City Clerk's office by noon on the Thursday preceding the meeting of final deliberation for inclusion in the public record. The date set for final deliberation was Monday, October 17, 2016; therefore, written comments were due by noon on Thursday, October 13, 2016.

**H. Adjourn.**

**Mayor Friedberg** announced that the Special Session (Public Hearing) of the City Council of the City of Bellaire, Texas, was adjourned at 6:12 p.m. on Thursday, September 29, 2016.

Minutes Acceptance: Minutes of Sep 29, 2016 6:00 PM (Adoption of Minutes:)



# CITY OF BELLAIRE TEXAS

## MAYOR AND COUNCIL

OCTOBER 10, 2016

Council Chamber

Regular Session

6:00 PM

7008 S. RICE AVENUE  
BELLAIRE, TX 77401

### REGULAR SESSION - 6:00 P.M.

#### A. Call to Order and Announcement of a Quorum - Andrew S. Friedberg, Mayor.

**Andrew S. Friedberg, Mayor,** called the Regular Session of the City Council of the City of Bellaire, Texas, to order at 6:00 p.m. on Monday, October 10, 2016. The Regular Session was held in the Council Chamber, First Floor of City Hall, 7008 South Rice Avenue, Bellaire, Texas 77401-4411.

Mayor Friedberg announced that a quorum of the members of the City Council were present as set forth in the table below.

Name	Title	Status
Andrew S. Friedberg	Mayor	Present
Roman F. Reed	Mayor Pro Tem	Absent*
Trisha S. Pollard	Council Member	Present
Gus E. Pappas	Council Member	Present
Pat B. McLaughlan	Council Member	Present
Michael Fife	Council Member	Present
David R. Montague	Council Member	Present

Other officials present were Paul A. Hofmann, City Manager, and Tracy L. Dutton, City Clerk.

\*Roman F. Reed, Mayor Pro Tem, arrived at the conclusion of the public hearing and participated in the regular meeting following.

#### B. Inspirational Reading and/or Invocation - Gus E. Pappas, Council Member.

**Gus E. Pappas, Council Member,** provided in the inspirational reading for the evening.

#### C. Pledges of Allegiance - Gus E. Pappas, Council Member.

**Council Member Pappas** led members of the City Council and the audience in the U.S. Pledge of Allegiance and the Pledge to the Texas Flag.

#### D. Recognition of Proclamation - Andrew S. Friedberg, Mayor.

Issuance of a proclamation by Andrew S. Friedberg, Mayor, proclaiming the week of October 9-15, 2016, as "Fire Prevention Week" in the City of Bellaire, Texas, and urging the citizens of Bellaire to heed the Fire Prevention Week message "Don't Wait--Check the Date! Replace Smoke Alarms Every 10 Years" - Requested by Darryl Anderson, Fire Chief.

Minutes Acceptance: Minutes of Oct 10, 2016 6:00 PM (Adoption of Minutes:)

Before presenting the proclamation for Fire Prevention Week, **Mayor Friedberg** advised that members of City Council and City Staff had gathered in the City Hall Lobby just prior to the evening's meeting to recognize employees and volunteers who had participated in last week's "National Night Out" event. In the course of doing so, **a special tribute was paid to Chief of Police Byron Holloway, including the presentation of a proclamation, recognizing with great honor his forty (40) years of dedicated service to the City of Bellaire** and expressing our community's appreciation for his leadership, devotion to duty, and selfless sacrifice for the protection of our citizens.

Mayor Friedberg advised further that he was pleased to recognize the week of **October 9-15, 2016, as Fire Prevention Week** in the City and to support our Fire Department's efforts to educate our public with truly lifesaving information. Following the reading of the proclamation, Mayor Friedberg presented it to **Fire Chief Darryl Anderson**.

## I. PUBLIC HEARING

**Mayor Friedberg** announced that this evening's public hearing was the second of two public hearings on the property tax rate for the City for the 2016 tax year, the first such public hearing having been held on September 29, 2016.

### A. Reading of Notice of Public Hearing - Tracy L. Dutton, City Clerk.

**Tracy L. Dutton, City Clerk**, read the notice of the public hearing, entitled "Notice of 2016 Tax Year Proposed Property Tax Rate for City of Bellaire," into the record. She indicated that the notice was published in the Southwest News on Tuesday, September 20, 2016, and in the Examiner on Wednesday, September 21, 2016.

### B. Summary of Public Hearing Procedure - Paul A. Hofmann, City Manager.

**Paul A. Hofmann, City Manager**, summarized the public hearing procedure for the evening.

### C. Presentation of Proposal:

Presentation regarding a proposal to increase total tax revenues for the 2016 tax year from properties on the tax roll in the preceding year by 5.7% percent by proposing a tax rate of \$0.3874 per \$100 valuation - Submitted and presented by Terrence Beaman, Chief Financial Officer.

**Terrence Beaman, Chief Financial Officer (CFO)**, presented a proposal to increase tax revenues for the 2016 tax year by proposing a tax rate of \$0.3874 per \$100 valuation. He advised that the City's effective tax rate was calculated as \$0.3665 per \$100 valuation, and the rollback tax rate as \$0.3924 per \$100 valuation.

The recommended tax rate of \$0.3874 was approximately two cents above the City's effective tax rate, which triggered the necessity to hold two public hearings and to adopt the tax rate in a separate meeting, which was scheduled on October 17, 2016.

The proposed rate of \$0.3874 would bring in approximately \$18.6 million of revenue for the City, \$1.4 million of which was additional revenue. CFO Beaman concluded by mentioning that the proposed revenue amount was included in the FY 2017 budget approved by City Council on September 19, 2016.

**D. Public Comment.**

**Mayor Friedberg** recognized Richard Franke, who had completed a sign-up sheet prior to the commencement of the public hearing. As stated earlier, the time limit for public hearings was five (5) minutes with notice after four (4) minutes that one (1) minute remained.

**Richard Franke:**

Mr. Franke advised that he trusted the judgment of City Council with respect to the tax rate. On the other hand, he stated that he did not know how the City could continue to effectively evaluate tax rates without an objective, current, independently verified, status of the City's infrastructure and capital assets (on a street-by-street and block-by-block basis). He urged City Council to change the way business was done in Bellaire, which included raising taxes to pay for infrastructure needs.

**E. Questions from Mayor and Council.**

Following public comment, **Mayor Friedberg** opened the floor for questions from City Council. Hearing none, Mayor Friedberg proceeded to close the public hearing.

**F. Close of Public Hearing.**

**Mayor Friedberg** announced that the public hearing was concluded at 6:19 p.m. on Monday, October 10, 2016. He noted that oral public comment on the subject matter of the public hearing would no longer be received; however, written comments would be received prior to final deliberation on the matter. All written comments were to be received in the office of the City Clerk on the Thursday preceding the meeting of final deliberation for inclusion in the public record of the proceedings. It was anticipated that final deliberation would occur on Monday, October 17, 2016; therefore, written comments were due by noon on Thursday, October 13, 2016.

**G. Adjourn.**

**Mayor Friedberg** announced that the public hearing was adjourned at 6:19 p.m. on Monday, October 10, 2016, and that the Regular Meeting would commence promptly at 7:00 p.m.

**II. REGULAR MEETING - 7:00 P.M.****A. Call to Order and Announcement of a Quorum - Andrew S. Friedberg, Mayor.**

**Mayor Friedberg** called the Regular Meeting of the City Council of the City of Bellaire, Texas, to order at 7:00 p.m. on Monday, October 10, 2016. The Regular Meeting was held in the Council Chamber.

Mayor Friedberg announced that all members of City Council were present as set forth in the table below.

Name	Title	Status
Andrew S. Friedberg	Mayor	Present
Roman F. Reed	Mayor Pro Tem	Present
Trisha S. Pollard	Council Member	Present
Gus E. Pappas	Council Member	Present

Pat B. McLaughlan	Council Member	Present
Michael Fife	Council Member	Present
David R. Montague	Council Member	Present

Other officials present were Paul A. Hofmann, City Manager; Alan P. Petrov, City Attorney; and Tracy L. Dutton, City Clerk.

#### **B. Personal/Audience Comments:**

**Mayor Friedberg** announced that City Council had concluded a public hearing approximately 45 minutes prior to the start of the evening's regular meeting. Oral comment on the subject of that public hearing, which was the tax rate proposal for the 2016 tax year, could no longer be accepted. Written comments could be accepted until noon on Thursday, October 13, 2016, with final deliberations on that matter anticipated for Monday, October 17, 2016.

Mayor Friedberg recognized speakers who had completed a sign-up sheet and advised that the time limit for speakers was five (5) minutes with notice after four (4) minutes that one (1) minute remained.

#### **David Almaguer, Assistant Fire Chief, Houston Fire Department:**

Assistant Fire Chief Almaguer addressed City Council and advised that his command was under the Emergency Medical Services Division for the City of Houston. He announced that he was pleased to present a letter from Houston Interim Fire Chief Rodney C. West to Bellaire Fire Chief Darryl Anderson regarding an active shooter area-wide incident that had occurred in the early morning of September 26, 2016, and was responded to by the Houston, Bellaire, and West University Place Fire Departments. Fire Chief West advised in his letter that the joint and cooperative response of the three fire departments ensured that those injured and those that were still in harm's way received the best care and protection that the fire departments could offer.

The letter set forth Interim Fire Chief West's and the Houston Fire Department's gratitude to the members of the Bellaire Fire Department that worked with them side-by-side that day and every day when called to duty. Specifically cited for their service were Bellaire Fire Department Units 1713 (command), Engine 30, Medic 81 (ambulance), and Cascade 21.

In closing, Assistant Fire Chief Almaguer personally spoke to the professionalism and dedication he observed from the Bellaire Fire Department, and thanked City Council for their support of the department.

#### **Lynn McBee:**

Ms. McBee addressed City Council and expressed concern that City Council no longer received direct reports from those they hired in public session. She emphasized the City's Financial Advisor because he was present for the meeting, but had not always been invited to speak to City Council.

Secondly, Ms. McBee provided a memorandum to members of City Council referencing the charge for the West University Place's Charter Review Committee and urged City Council to open the door and let the group to be appointed determine the matters which would be most beneficial for the City.



**C. Report:**

City Manager's Report regarding communication, field and personnel updates, calendar reminders, and notes of appreciation - Submitted by Paul A. Hofmann, City Manager.

**Paul A. Hofmann, City Manager**, presented the City's Manager Report dated October 10, 2016, to members of the City Council.

**Mayor Friedberg** opened the floor for questions from City Council. Following questions, Mayor Friedberg announced that the City Manager's Report was concluded and continued to the Consent Agenda.

**D. New Business:****1. Consent Agenda:****a. Adoption of Minutes:**

Consideration of and possible action on the adoption of minutes of the City Council of the City of Bellaire, Texas, for a Special Session held on Monday, August 29, 2016, and a Regular Session held on Monday, September 12, 2016.

- i. Mayor and Council - Special Session (Town Hall Meeting and Workshop) - Aug 29, 2016 6:00 PM
- ii. Mayor and Council - Regular Session - Sep 12, 2016 6:00 PM

**b. Approval of Ordinances:**

- i. Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, temporarily suspending the application of Chapter 27, Streets, Sidewalks and Public Places, Article V, Public Parks, Section 27-95(a), Curfew Imposed, of the Code of Ordinances of the City of Bellaire, Texas, for the purpose of allowing the Patrons for Bellaire Parks to hold a special event, Tents in Town, in Bellaire Zindler Park located in Bellaire Town Square, 7008 South Rice Avenue, Bellaire, Texas, on Saturday, November 5, 2016, said suspension to commence at 11:00 p.m. on Saturday, November 5, 2016, and to terminate at 5:00 a.m. on Sunday, November 6, 2016 - Submitted by Cheryl Bright-West, Assistant Director of Parks, Recreation and Facilities.
- ii. Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Mayor and the City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, an Agreement Between Harris County and City of Bellaire Relating to Joint Elections to be held November 8, 2016, to provide election services for the City of Bellaire Bond Election - Submitted by Tracy L. Dutton, City Clerk.

- iii. Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Mayor and the City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, for and on behalf of the City of Bellaire, Texas, a Standard Form of Agreement with One Way Striping & Signs, for the performance of striping services in an amount not to exceed \$78,143.00.

After reading the captions of the items on the evening's Consent Agenda, **Mayor Friedberg** asked if any member of City Council wished to remove any of the items from the Consent Agenda. Hearing none, Mayor Friedberg entertained a motion to adopt the Consent Agenda.

**Motion:**

**To adopt the Consent Agenda dated October 10, 2016.**

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Roman F. Reed, Mayor Pro Tem
<b>SECONDER:</b>	Gus E. Pappas, Council Member
<b>AYES:</b>	Friedberg, Reed, Pollard, Pappas, McLaughlan, Fife, Montague
<b>NAYS:</b>	None
<b>ABSENT:</b>	None

**2. Adoption of Ordinance(s)/Resolution(s):**

- a. Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Mayor and the City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, a Contract and Agreement for City Engineer Services with ARKK Engineers, LLC, for the provision of professional city engineer services in an amount of \$90,000.00 for a one-year period commencing on October 16, 2016, and ending on October 15, 2017 - Submitted by Brant Gary, Director of Public Works.

**Brant Gary, Director of Public Works**, introduced the agenda item before City Council, noting that the item was a renewal for one (1) year for professional city engineer services with ARKK Engineers, LLC, the Principal of which was James Andrews, P.E., in an amount not to exceed \$90,000. Director Gary advised that the contract provided for seven primary functions as follows: (1) community outreach and information services; (2) assisting with goals, budgeting, and policy services; (3) planning and review; (4) conceptual planning; (5) records management; (6) assisting with the City's environmental permits; and (7) traffic engineering services.

**Motion:**

**To adopt the ordinance authorizing a contract for city engineer services as presented.**

{Moved by Pat B. McLaughlan, Council Member, and seconded by Gus E.

Pappas, Council Member}

**Mayor Friedberg** opened the floor for questions of Director Gary and City Engineer James Andrews regarding the city engineer services contract. Following questions, Mayor Friedberg called for action on the motion.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Pat B. McLaughlan, Council Member
<b>SECONDER:</b>	Gus E. Pappas, Council Member
<b>AYES:</b>	Friedberg, Reed, Pollard, Pappas, McLaughlan, Fife, Montague

- b. Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the issuance of City of Bellaire, Texas (Harris County, Texas), General Obligation Refunding Bonds, Series 2016, in an amount not to exceed \$10,000,000; specifying the terms and features of said refunding bonds; establishing certain parameters for the sale of said bonds; and enacting provisions incident and related to the issuance, delivery, and payment of a security for said bonds - Submitted by Terrence Beaman, Chief Financial Officer.

**Terrence Beaman, Chief Financial Officer (CFO)**, introduced the agenda item before City Council. He noted that adoption of the proposed ordinance would result in the authorization of the issuance of City of Bellaire, Texas (Harris County, Texas), General Obligation Refunding Bonds, Series 2016, in an amount not to exceed \$10,000,000 through a parameter sale. Issuance of the refunding bonds would result in potential savings for the City in an amount of over \$1,000,000 over a 20-year period of time. If approved, the tentative date of sale for the bonds was noted to be December 6th.

CFO Beaman concluded his introduction by recognizing the City's Financial Advisor, James Gilley of US Capital Advisors, LLC.

**Mayor Friedberg** opened the floor for questions of CFO Beaman, Financial Advisor Gilley, and City Attorney Alan P. Petrov regarding the ordinance. Following questions, Mayor Friedberg entertained a motion to adopt the ordinance as presented.

**Motion:**

**To adopt the ordinance as presented authorizing the issuance of General Obligation Refunding Bonds in an amount not to exceed \$10,000,000.**

{Moved by Roman F. Reed, Mayor Pro Tem, and seconded by Trisha S. Pollard, Council Member}

**Mayor Friedberg** opened the floor for discussion regarding the motion. Hearing none, Mayor Friedberg called for action on the motion.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Roman F. Reed, Mayor Pro Tem
<b>SECONDER:</b>	Trisha S. Pollard, Council Member
<b>AYES:</b>	Friedberg, Reed, Pollard, Pappas, McLaughlan, Fife, Montague

- c. Consideration of and possible action on proposed amendments to the Rules of Procedure of the City Council of the City of Bellaire, Texas ("Rules"), by the adoption of a resolution of the City Council of the City of Bellaire, Texas, adopting new Rules, replacing and superseding all prior Rules - Submitted by Andrew S. Friedberg, Mayor.

**Mayor Friedberg** referenced the agenda statement included in the agenda packet which outlined amendments he had proposed to the Rules of Procedure of the City Council of the City of Bellaire, Texas, and opened the floor for questions from City Council. Hearing none, he entertained a motion to adopt the resolution as presented.

**Motion:**

**To adopt the resolution as presented adopting the proposed new Rules of Procedure.**

{Moved by David R. Montague, Council Member, and seconded by Trisha S. Pollard, Council Member}

**Mayor Friedberg** opened the floor for discussion regarding the motion. Following discussion (a comment of thanks to Mayor Friedberg for his hard work), action was taken on the motion.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	David R. Montague, Council Member
<b>SECONDER:</b>	Trisha S. Pollard, Council Member
<b>AYES:</b>	Friedberg, Reed, Pollard, Pappas, McLaughlan, Fife, Montague

- d. Consideration of and possible action on the adoption of a resolution of the City Council of the City of Bellaire, Texas, designating a Representative and an Official Alternate to the General Assembly of the Houston-Galveston Area Council for the year 2017 - Submitted by Tracy L. Dutton, City Clerk.

**Mayor Friedberg** provided a brief summary of the item before City Council and suggested that nominations be taken separately for the Representative and the Official Alternate to the General Assembly of the Houston-Galveston Area Council for the year 2017.

Mayor Friedberg opened the floor for nominations for the Representative. **Gus E. Pappas, Council Member, nominated Pat B. McLaughlan, Council Member, to serve as the City's Representative.** Mayor Friedberg asked Council Member McLaughlan if he was willing to serve, and Council Member McLaughlan advised that he was.

**Hearing no further nominations for Representative, Mayor Friedberg**

**advised that nominations were closed and announced that Council Member Pat B. McLaughlan was designated by acclamation to be the City's Representative.**

Mayor Friedberg opened the floor for nominations for the Official Alternate. **David R. Montague, Council Member, nominated Gus E. Pappas, Council Member, to serve as the City's Official Alternate.** Mayor Friedberg asked Council Member Pappas if he was willing to serve, and Council Member Pappas advised that he was.

**Hearing no further nominations for Official Alternate, Mayor Friedberg advised that nominations were closed and announced that Council Member Gus E. Pappas was designated by acclamation to be the City's Official Alternate.**

**Motion:**

**To adopt a resolution as presented designating Council Member McLaughlan as the City's Representative and Council Member Pappas as the City's Official Alternate to the General Assembly of the Houston-Galveston Area Council for the year 2017.**

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Michael Fife, Council Member
<b>SECONDER:</b>	Roman F. Reed, David R. Montague
<b>AYES:</b>	Friedberg, Reed, Pollard, Pappas, McLaughlan, Fife, Montague

**3. Item for Individual Consideration:**

Discuss and provide feedback and direction on the process for considering revisions to the City Charter, including the creation and responsibilities of, and procedural matters associated with, a Charter Review Commission - Requested by Mayor Andrew S. Friedberg.

**Mayor Friedberg** noted that while there was no express requirement in the City of Bellaire's Charter for a periodic review, a period of ten years had passed since the City's last review. He advised that he personally wished to see a review conducted in time to get charter amendments on the ballot for November 2017.

Reference was made to materials at the dais outlining the process City Council followed in 2004 to establish and appoint a Charter Review Commission. Mayor Friedberg stated that items to be addressed this evening to assist City Staff in preparing such an ordinance included the Commission's charge and procedure, the question of professional facilitation, the appointment process of members of the Commission, and the Commission's schedule.

Discussion ensued among members of City Council regarding the creation, responsibilities, and procedural matters associated with a Charter Review Commission.

**Trisha S. Pollard, Council Member,** offered to serve as the Council Liaison

to the Charter Review Commission.

**Mayor Friedberg** suggested a time frame for work by the Charter Review Commission beginning in early December 2016 to June 2017 in order to allow for ballot language preparation necessary for a November 2017 election.

**David R. Montague, Council Member**, recommended that each member of City Council propose a member to serve on the Charter Review Commission, with City Council making the final decision as to whether all or a subset of those proposed would serve on the Charter Review Commission.

**Mayor Friedberg** suggested that credentials for the nominees be provided to the City Clerk for inclusion in the agenda packet in order to be considered on November 7.

**Gus E. Pappas, Council Member**, suggested that the Charter Review Commission use procedures already established for the City's boards and commissions.

**Mayor Friedberg** summarized the discussion by City Council and stated that what had been contemplated was an ordinance to be prepared for City Council consideration on November 7 with seven blanks to be filled in. He advised that each member of City Council should go forward and talk to interested citizens willing to serve, who would then submit their credentials as was done in 2004 for City Council review in advance of November 7th.

#### **E. Community Interest Items from the Mayor and Council.**

Community interest items from the Mayor and City Council included an expression of appreciation to the Bellaire Police and Fire Departments for their hard work, efforts, and exceptional service to the community, as well as their cooperation with neighboring communities; an expression of thanks to the Houston Fire Department for their kind letter regarding the Bellaire Fire Department; an expression of thanks to the City Staff, boards and commissions, and citizens working on the City's beautification efforts with Terrain Studio; an expression of condolence to the family of Iola Pickul on her passing; an expression of congratulations to Police Chief Byron Holloway for his 40 years of service to the City of Bellaire; an expression of thanks to Council Member Michael Fife for her role in leadership for facilitating communication with the Evelyn's Park Conservancy and nearby neighbors, as well as to the Evelyn's Park Conservancy for their responsiveness to the neighbors; and reminders to attend a fundraiser on October 20th, the proceeds of which would benefit the Bellaire City Library in honor of their 65th Anniversary and the 65th Anniversary of the Friends of the Bellaire Library as well as a tour of the City's Wastewater Treatment Plant on October 11th, a Bond Election Open House on October 13th at City Hall, and a Bellaire Historical Society Meeting on October 13th, also in celebration of the Bellaire City Library's 65th Anniversary.

#### **F. Adjourn.**

**Mayor Friedberg** announced that the Regular Meeting of the City Council of the City of Bellaire, Texas, was adjourned at 8:52 p.m. on Monday, October 10, 2016.

**Mayor and Council**

7008 S. Rice Avenue  
Bellaire, TX 77401



Meeting: 11/07/16 07:00 PM  
Department: Fire Department  
Category: Amendment  
Department Head: Darryl Anderson  
DOC ID: 2031 C

**SCHEDULED  
ORDINANCE (ID # 2031)**

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**Item Title:**

Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, amending Exhibit A to Ordinance No. 16-044, Agreement Between City of Bellaire, Texas, and Advance Data Processing, Inc., a subsidiary of Intermedix Corporation, for Ambulance Billing and Related Services ("Agreement"), for the purpose of adding a new Section 5.01.1, Settlement Fee (Ambulance Supplemental Payment Program), to allow the City of Bellaire, Texas, to partner with Intermedix and Intermedix's Consultant, Public Consulting Group, Inc., to develop, for a fee, an Ambulance Supplemental Payment Program, and authorizing the Mayor of the City of Bellaire, Texas, to execute, for and on behalf of the City of Bellaire, Texas, an addendum to said Agreement entitled "Addendum to Service Agreement, Option of Ambulance Supplemental Payment Program" - Submitted by Darryl Anderson, Fire Chief.

**Background/Summary:**

Bellaire Fire Department has recently received correspondence from Intermedix, the ambulance billing company utilized for collections of patient responses by the Bellaire EMS, concerning state funds that are available via the Texas Ambulance Supplemental Payment Program. This program offers EMS providers the potential to receive additional funds above the standard Medicaid rate to supplement transport cost for Medicaid and under insured patients. The lengthy and complicated process to receive these funds can be accomplished through the use of an Intermedix subcontractor. Intermedix will be responsible for payment to the subcontractor and Bellaire will have no out-of-pocket expense requirement. Initial estimates put the total available at \$84,000 minus the 15% collection fee to be paid from those collected funds.

Action on this item will amend the previously approved agreement with Intermedix (16-044).

**Previous Council Action Summary:**

This is the initial attempt to realize these funds.

**Fiscal Impact:**

These collected monies will be placed into the general fund.

**Recommendation:**

Darryl Anderson, Fire Chief recommend Council approve the effort and accept the collected funds.

**ATTACHMENTS:**

- Amendment to Ord. No. 16-044 - Ambulance Supplemental Payment Program Addendum (DOC)
- 2016-10 Bellaire Addendum to Service Agreement for Ambulance Supplement Payment Program (PDF)
- 16-044 - Advance Data Processing - Intermedix - Ambulance Billing Services (2) (PDF)





## ORDINANCE NO. 16-\_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLAIRE, TEXAS, AMENDING EXHIBIT A, AGREEMENT BETWEEN CITY OF BELLAIRE, TEXAS, AND ADVANCE DATA PROCESSING, INC., A SUBSIDIARY OF INTERMEDIX CORPORATION, FOR AMBULANCE BILLING AND RELATED SERVICES ("AGREEMENT"), FOR THE PURPOSE OF ADDING A NEW SECTION 5.01.1, SETTLEMENT FEE (AMBULANCE SUPPLEMENTAL PAYMENT PROGRAM), TO ALLOW THE CITY OF BELLAIRE, TEXAS, TO PARTNER WITH INTERMEDIX CORPORATION AND INTERMEDIX CORPORATION'S CONSULTANT, PUBLIC CONSULTING GROUP, INC., TO DEVELOP, FOR A FEE, AN AMBULANCE SUPPLEMENTAL PAYMENT PROGRAM AND AUTHORIZING THE MAYOR OF THE CITY OF BELLAIRE, TEXAS, TO EXECUTE, FOR AND ON BEHALF OF THE CITY OF BELLAIRE, TEXAS, AN ADDENDUM TO SAID AGREEMENT ENTITLED *ADDENDUM TO SERVICE AGREEMENT, OPTION OF AMBULANCE SUPPLEMENTAL PAYMENT PROGRAM*, IN A FORM AS ATTACHED HERETO AND MARKED ATTACHMENT "A."**

**WHEREAS**, on August 1, 2016, the City of Bellaire, Texas ("City"), and Advance Data Processing, Inc., a subsidiary of Intermedix Corporation ("Intermedix"), entered into an Agreement, which was passed and approved by Ordinance No. 16-044, for ambulance billing and related services; and

**WHEREAS**, the Bellaire Fire Department was advised by Intermedix of state funding, available through the Texas Ambulance Supplemental Payment Program, to supplement transport costs for patients under Medicaid and under insured patients; and

**WHEREAS**, Intermedix has partnered with Public Consulting Group, Inc., to develop an "Ambulance Supplemental Payment Program"; and

**WHEREAS**, the City desires to partner with Intermedix and the Public Consulting Group, Inc., on an Ambulance Supplemental Payment Program for the City; and

**WHEREAS**, an *Addendum to Service Agreement, Option of Ambulance Supplemental Payment Program*, has been prepared for the purpose of amending Exhibit A to Ordinance No. 16-044, to allow for a partnership between the City, Advance Data Processing, Inc., a subsidiary of Intermedix, and Public Consulting Group, Inc., on the development of an Ambulance Supplemental Payment Program; **NOW, THEREFORE,**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLAIRE, TEXAS:**



**1. THAT** the recitals set forth above are true and correct.

**2. THAT** the Mayor of the City of Bellaire, Texas, is hereby authorized to execute an "Addendum to Service Agreement, Option of Ambulance Supplemental Payment Program," thereby allowing the City to partner with Advance Data Processing, Inc., a subsidiary of Intermedix, and Public Consulting Group, Inc., on the development of an Ambulance Supplemental Payment Program.

**3. THAT** the "Addendum to Service Agreement, Option of Ambulance Supplemental Payment Program" shall become effective immediately upon passage of this Ordinance.

**PASSED AND APPROVED** this 7th day of November, 2016.

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Andrew S. Friedberg, Mayor  
City of Bellaire, Texas

ATTEST:

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Tracy L. Dutton, TRMC  
City Clerk  
City of Bellaire, Texas

APPROVED AS TO FORM:

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Alan P. Petrov, City Attorney  
City of Bellaire, Texas

### Addendum to Service Agreement Option of Ambulance Supplemental Payment Program

This Addendum ("Addendum") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2016 (the "Addendum Effective Date") by and between City of Bellaire, a Texas Municipality with principal offices located at 7008 S. Rice Ave, Bellaire, TX 77401 ("Client") and Advanced Data Processing, Inc., a subsidiary of Intermedix Corporation, a Delaware Corporation with principal offices located at 6451 North Federal Highway, Suite 1000, Fort Lauderdale, Florida 33308 ("Intermedix").

**WHEREAS**, Client and Intermedix are parties to the Agreement for Ambulance Billing and Related Professional Services (the "Agreement") as of its Effective Date; and

**WHEREAS**, The Centers for Medicare and Medicaid Services (CMS) allows States to establish alternative payment methodologies (herein referred as the "Ambulance Supplemental Payment Program") for certain classes of providers pursuant to 42 CFR 447.321, section 1902 (a)(30) of the Social Security Act, and

**WHEREAS**, Client has elected to partner with Intermedix and Intermedix's Consultant, Public Consulting Group, Inc., to develop, for a fee, an Ambulance Supplemental Payment Program.

**NOW THEREFORE**, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree to amend the Agreement as follows:

1. A new section 5.01.1 will be added to the Agreement to read as follows:

**"5.01.1 Settlement Fee (Ambulance Supplemental Payment Program).** Intermedix will charge to Client a Settlement Fee as follows:

"Fifteen Percent (15%) of the Client's revenue from the Ambulance Supplemental Payment Program when the funding settlement is received."

2. Capitalized terms not otherwise defined in this Amendment shall have the meanings ascribed to such terms in the Agreement. All terms and conditions of the Agreement are hereby ratified and shall remain in full force and effect except to the extent this Amendment expressly modifies or is inconsistent with the terms and conditions of the Agreement, in which case the terms of this Amendment shall be controlling.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date written above.

Client:  
City of Bellaire

Intermedix:  
Advanced Data Processing, Inc., a subsidiary  
of Intermedix Corporation, a Delaware  
corporation

By: \_\_\_\_\_  
Name: Andrew S. Friedberg  
Title: City Mayor  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_



# ORDINANCE NO. 16-044


**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLAIRE, TEXAS, AUTHORIZING THE MAYOR OF THE CITY OF BELLAIRE, TEXAS, TO EXECUTE, FOR AND ON BEHALF OF THE CITY OF BELLAIRE, TEXAS, AN AGREEMENT BETWEEN CITY OF BELLAIRE, TEXAS, AND ADVANCED DATA PROCESSING, INC., A SUBSIDIARY OF INTERMEDIX CORPORATION, FOR AMBULANCE BILLING AND RELATED SERVICES ("AGREEMENT"), INCLUDING EXHIBITS A, B, C, AND D, ALL OF WHICH HAVE BEEN INCORPORATED INTO AND MADE A PART OF SAID AGREEMENT, COLLECTIVELY IN A FORM AS ATTACHED HERETO AND MARKED "ATTACHMENT A," FOR AMBULANCE BILLING AND RELATED PROFESSIONAL SERVICES FOR THE BELLAIRE FIRE DEPARTMENT'S EMERGENCY MEDICAL SERVICES DIVISION FOR AN INITIAL TERM OF THREE (3) YEARS COMMENCING ON AUGUST 1, 2016, AND ENDING ON JULY 31, 2019; SAID AGREEMENT SHALL RENEW FOR SUCCESSIVE, AUTOMATIC ONE (1) YEAR PERIODS THEREAFTER.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLAIRE, TEXAS:**

**THAT** the Mayor of the City of Bellaire, Texas, is hereby authorized to execute, for and on behalf of the City of Bellaire, Texas, an *Agreement Between City of Bellaire, Texas, and Advanced Data Processing, Inc., a subsidiary of Intermedix Corporation, for Ambulance Billing and Related Professional Services* ("Agreement"), including Exhibits A, B, C, and D, all of which have been incorporated into and made a part of said Agreement, collectively in a form as attached hereto and marked "Attachment A," for the Bellaire Fire Department's Emergency Medical Services Division for an initial term of three (3) years commencing on August 1, 2016, and ending on July 31, 2019; said Agreement shall renew for successive, automatic one (1) year periods thereafter.

**PASSED, APPROVED, and ADOPTED** this 1st day of August, 2016.

**ATTEST:**



*Tracy L. Dutton*  
Tracy L. Dutton, TRMC  
City Clerk

**SIGNED:**

*Andrew S. Friedberg*  
Andrew S. Friedberg  
Mayor

**APPROVED AS TO FORM:**

A handwritten signature in black ink, appearing to read 'A. Petrov', written over a horizontal line.

Alan P. Petrov  
City Attorney

**AGREEMENT BETWEEN  
CITY OF BELLAIRE, TEXAS  
AND  
ADVANCED DATA PROCESSING, INC., A SUBSIDIARY OF INTERMEDIX  
CORPORATION  
FOR AMBULANCE BILLING AND RELATED PROFESSIONAL SERVICES**

THIS AGREEMENT ("Agreement") is made and entered into this 1st day of August, 2016 ("Effective Date") by and between City of Bellaire, Texas, a Texas Municipality, with principal offices located at 7008 South Rice, Bellaire, Texas 77401 ("Client") and Advanced Data Processing, Inc., dba Intermedix, a Delaware Corporation with principal offices located at 6451 North Federal Highway, Suite 1000, Fort Lauderdale, Florida 33308 ("Intermedix").

**RECITALS**

WHEREAS, Client provides emergency and non-emergency medical services, including ambulance transport ("EMS"), for residents and visitors in its jurisdiction, and charges for such services; and

WHEREAS, Intermedix provides billing, collection and related consulting services and equipment for municipalities and other providers of EMS; and

WHEREAS, the parties hereto now wish to enter into an agreement, pursuant to which Intermedix will render the Services as hereinafter provided;

NOW THEREFORE, the parties hereto agree as follows:

**AGREEMENT**

1. **ENGAGEMENT OF INTERMEDIX.** During the Term of this Agreement, except for accounts referred to a collection agency as provided herein, Intermedix shall be exclusively responsible for the billing and collection of all charges and fees resulting from the delivery of EMS by Client, including but not limited to all charges and fees to private insurers, Medicare, Medicaid, other governmental programs, individual patients and their responsible parties (collectively, "Payors").
2. **SCOPE OF SERVICES.** Intermedix shall perform and carry out Services as specifically described in Exhibit A (the "Scope of Services"; collectively the Scope of Services and the Billing System (as defined in Section 3.01) are the "Services"), which is attached hereto and incorporated herein by this reference. Client reserves the right to request changes in the Scope of Services within Intermedix's capabilities, which changes shall be implemented upon mutual written agreement of the parties specifying such changes and any change in compensation attributable thereto.
3. **ACCESS TO BILLING SYSTEM.**

**3.01 Right to Use.** During the Term of this Agreement, Intermedix grants to Client, access to Intermedix billing system solely to view Client's accounts, run various reports, and access to all data associated with the billing and collection process which is wholly owned by Client ("Billing System"). During the Term of this Agreement, Intermedix will not in any way transfer to any third party or use in direct or indirect competition with Client any information or data posted by or for the benefit of Client on Intermedix's website and acknowledges that all such information is confidential ("Confidential Information"). Intermedix further acknowledges that its handling of information on behalf of Client is or may be subject to federal, state or local laws, rules, regulation and restrictions regarding the privacy of consumer information. Intermedix agrees to comply with all of such laws, rules and regulations and restrictions, as is commercially reasonably possible, at its sole cost and expense. This Access to Billing System Section and all obligations contained therein will survive any termination or expiration of this Agreement.

**3.02 User Restrictions.** Client shall not, and shall not permit others to, without the express written consent of Intermedix: (i) use, receive, reproduce, copy, market, sell, distribute, license, sublicense, lease, timeshare, or rent the Billing System, any other Service or any component thereof; (ii) modify, alter, translate or prepare derivative works based on the Billing System or Documentation is permitted; (iii) disassemble, decompile, decrypt or reverse engineer the Billing System or in any way attempt to discover or reproduce source code for the Billing System, or any portion thereof; or (iv) develop or license any third party programs, applications, tools or other products which interface or interact with the Billing System. Client agrees not to remove the copyright, trade secret or other proprietary protection legends or notices which appear on or in the Billing System, any other Service or the Documentation.

**3.03 Internet Access.** Client shall be responsible for providing its own Internet access necessary to provide the Billing System, and in no event shall Client be provided with direct access (by modem or otherwise) to the Billing System server, other than access that is available to third parties generally through the Internet. The parties acknowledge that, since the Internet is neither owned nor controlled by any one entity, Intermedix makes no guarantee that any given user will be able to access the Billing System at any given time. There are no assurances that access will be available at all times and uninterrupted, and Intermedix shall not be liable to Client for its inability to access the Billing System.

**3.04 Reporting.** Operational and financial data reports for Client will be available on the Billing System when the Billing System is available. The format and content of the data will be established and defined by Intermedix and such reports may be added, modified or deleted without notice to Client. Notwithstanding the foregoing, Client may request that specific, custom reports be made available to it at an additional charge to be negotiated between Intermedix and Client.

**3.05 Acknowledgement with Respect to Reports.** With respect to each report generated for Client as part of the Billing System, Client acknowledges and agrees: (i) such report represents a "snapshot" of a moment in time, and as such, the snapshot may not be accurate with respect to financial results on the whole; (ii) the underlying data may be subject to correction from time-to-time, which may change the results of the report or its interpretation; and (iii) the data represented in the report constitutes only a limited portion of all data available

regarding Client's business. Accordingly, any particular report may not accurately represent the Client's then-current or future financial condition.

**3.06 Intellectual Property.** Client agrees that the equipment, computer hardware and software, billing and collection processing, Services, Billing System and other related systems and equipment are the property and trade secrets of Intermedix, and that Client will not release any information regarding such Confidential Information (as such term is defined in Section 11.01) and/or trade secrets of Intermedix to any third party without the prior written consent of Intermedix. Client further agrees that, in connection with the use of certain data entry devices, Client may gain access to the intellectual property of third parties. Client understands and agrees that it may be required to enter into agreements with respect to such intellectual property in order to use such equipment. Client agrees to enter into such arrangements at Intermedix's request.

**3.07 Audit Rights.** From time to time and upon reasonable prior written notice, Intermedix may audit Client's use of the Services to help ensure that Client is in compliance with the terms and conditions of this Agreement, including, but not limited to, any payment terms. Any such audit will be conducted during regular business hours at the applicable facilities of Client. Client will identify and cooperate with Intermedix (or its representatives) to provide Intermedix (or its representatives) with reasonable access to all relevant equipment, personnel and records.

#### 4. **CLIENT RESPONSIBILITY.**

**4.01 Generally.** Client is responsible for all activity occurring under its User accounts and shall abide by all applicable laws and regulations in connection with its use of the Billing System. Client will immediately (and in no greater than twenty four (24) hours from Client's knowledge of the following) notify Intermedix and use best efforts to cease any further of the following: (i) any unauthorized use of a password or account or any other known or suspected breach of security; (ii) any copying or distribution of any content or other intellectual property of Intermedix related to the Services that is known or suspected by Client or its Users; (iii) any use of false identity information to gain access to or use the Billing System or (iv) any loss or theft of a hardware device on which a User has access to the Billing System (each of subsections (i) through (iv) a "Security Breach Event"). To the extent that any Security Breach Event involves Protected Health Information (as defined below), and is subject to the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191, 110 Stat. 1936), including the privacy and security rules promulgated thereunder ("HIPAA"), as amended by the Health Information Technology for Clinical Health Act (Pub. L. No. 111-5, 123 Stat. 115) (the "HITECH Act"), Client shall comply with all applicable requirements under such laws, including any applicable breach notification requirements (i.e. notifications to affected individuals, the Department of Health and Human Services ("HHS"), and prominent media outlets) (the "HIPAA Notifications") triggered by the Security Breach Event. "Protected Health Information" means Individually Identifiable Health Information (defined at 45 C.F.R. § 164.501), transmitted or maintained in any form or medium, concerning individuals for whom the Client has performed EMS.



**4.02 Rights Following Notification.** Upon Intermedix's receipt of notification given by the Client of a Security Breach Event, Intermedix shall have the right to immediately, without notice to Client, suspend Client's access to the Billing System until such time as the Security Breach Event has been fully resolved, and no longer presents a threat of inappropriate access to: (i) the Billing System, (ii) any other intellectual property rights of Intermedix or its affiliates or (iii) the personal data or Protected Health Information gathered by Client in the performance of EMS by the Client. To the extent that a Security Breach Event requires Client to provide HIPAA Notifications, any such notifications shall not include a reference to Intermedix or any of its affiliates unless such a reference is specifically required by HIPAA or other applicable law. Further, if Client intends to reference Intermedix in a HIPAA Notification based on its belief that such a reference is required by HIPAA or other applicable law, Client shall provide Intermedix written notice of its intent to do so no later than ten (10) days prior to Client's provision of each required HIPAA Notification (i.e. no later than ten (10) days prior to Client's provision of notifications to affected individuals, HHS, and/or prominent media outlets, as applicable).

**4.03 Security.** Client acknowledges that it is solely responsible for providing security software, including without limitation, firewalls and similar applications, to prevent unauthorized access to its computer systems, including malware prevention software on User's computers. Client is responsible for requiring its Users to use a password to access the Billing System in compliance with the Billing Security Characteristics. The "Billing Security Characteristics" means a password to access the Billing System, which must be at least eight (8) characters in length, and contain three (3) of four (4) of the following characteristics: lowercase letter, uppercase letter, special character or a number. Intermedix shall use commercially reasonable efforts to maintain the security of the Billing System, but shall not be responsible for the Client's loss or dissemination of passwords or other breaches beyond Intermedix's reasonable control.

## 5. **COMPENSATION AND METHOD OF PAYMENT.**

**5.01 Fees.** Intermedix shall be paid by Client a monthly amount representing fees for the Services provided by Intermedix hereunder, computed as follows:

(a) Five and eighty-seven hundredths percent (5.87%) of all monies collected by Intermedix for EMS billing provided by Client less refunds ("Net Collections"), plus

(b) Two and sixty-three hundredths percent (2.63%) of all monies collected for use of Intermedix-provided field data capturing and reporting system consisting of two (2) Pen-based Panasonic Toughbook Tablets, Field Automation Software, Administrative Reporting System, including training and support (referred heretofore as "TripTix®"), less refunds ("Net Collections"), plus

(c) Three percent (3%) credit card processing fees, plus

(d) All amounts set forth in any Exhibit, attached hereto.

**5.02** Intermedix shall submit the monthly invoices for fees for the Services to City of Bellaire ATTN: William Mize, Accounting Manager, 7008 S. Rice, Bellaire, TX 77401.



Client shall pay the amount invoiced within thirty (30) days of receipt of such invoice. In the event Client disputes any part of the invoiced amounts, such dispute shall be raised in writing to Intermedix within such thirty (30) day period or the invoice shall conclusively be deemed to be accurate and correct. Intermedix shall respond to any such notice of dispute within thirty (30) days of receipt thereof. Any overdue amounts which are not the subject of a good faith notice of dispute shall accrue interest at the rate of twelve percent (12%) per annum.

**5.03 Bank Accounts.** Client agrees that it will be solely responsible for the cost and maintenance of any and all of Client's bank accounts, lock-box and/or remote deposit services. Client agrees to assume and be responsible for all costs associated with such program. Client agrees to utilize and be responsible for a lockbox or remote deposit capturing. Client agrees to give Intermedix access to the lockbox for payment posting verification.

**5.04 Taxes.** All amounts payable under this Agreement are exclusive of all sales, use, value-added, withholding and other taxes and duties. Client shall promptly pay, and indemnify Intermedix against, all taxes and duties assessed in connection with any such amounts, this Agreement and its performance by any authority within or outside of the U.S., except for taxes payable on Intermedix's net income.

## **6. COLLECTION EFFORTS.**

**6.01 Alternative Collection Arrangements.** Intermedix will have the right, on Client's behalf, in its sole and complete discretion, to enter into an alternative collection arrangement with respect to any patient encounter performed by the Client if: (i) the total payments are for at least 80 percent of the amount of the bill; (ii) an insurance company offers at least 70% of the total amount billed with a stipulation that the insured not be billed for the balance; or (iii) Intermedix is able to make arrangements for the payment of patient account that provide a substantially similar economic benefit to Client, as Intermedix determines in its sole and complete discretion.

**6.02 Scope of Collection Efforts.** If reasonable efforts have been made to collect a patient account of Client and such efforts have not been successful, Intermedix shall have the right to terminate collection efforts and close the account as an unpaid debt. As used herein "reasonable efforts" shall be defined to mean at least but not limited to one hundred twenty (120) days of active collection efforts in the ordinary course of business. In addition, Intermedix may terminate or suspend collection efforts in the event that Client has supplied Intermedix with materially incomplete or inaccurate billing and/or patient information. Absent contrary instructions from Client with respect to any patient encounter, the accounts that Intermedix has deemed to be uncollectible may be forwarded to a third-party collection agency for further collection effort.

**6.03 Administrative Fee/Third Party Collection Costs.** Client will be responsible for engaging any third party collection service for uncollectible accounts after Intermedix has exhausted its collection efforts. Client will be directly liable for all fees of third party collection agency.

**6.04 Excluded Persons.** If any refunds of patient accounts of Client are required to be refunded to or offset by any government and commercial payor as a result of Client's violation of its obligations set forth in Exhibit A (Scope of Services), Section B.9. (an "Excluded Person Refund"), Intermedix shall not be required to refund to Client any commissions or fees earned or previously paid to Intermedix as a result of its collection of such Excluded Person Refund or otherwise include such Excluded Person Refunds in its calculation of Net Collections as set forth herein.

7. **SYSTEM SUPPORT.** Support and training of Client's Users will be provided subject to and in accordance with the terms of the Scope of Services.

8. **INDEPENDENT CONTRACTORS.** Intermedix is an independent contractor of Client and not an employee or agent of Client; provided, however, to the extent necessary to fulfill its billing and collection efforts under this Agreement, Intermedix is authorized to sign *in an administrative capacity* for Client the following types of standard forms and correspondence only; letters to patients or their representatives verifying that an account is paid in full; forms verifying the tax-exempt status of Client; and insurance filings and related forms. Intermedix has no authority to sign any document that imposes any additional liability on Client. Intermedix shall retain full control over the employment, direction, compensation and discharge of all persons assisting in the performance of the Services. Intermedix shall be fully responsible for all matters relating to payment of its employees, including compliance with social security, withholding tax and all other laws and regulations governing such matters. Each party shall be responsible for its own acts and those of its agents and employees during the Term of this Agreement.

9. **LIMITATION ON LIABILITY.** INTERMEDIX'S TOTAL CUMULATIVE LIABILITY UNDER THIS AGREEMENT WITH RESPECT TO THE BILLING SYSTEM, EQUIPMENT OR OTHER SERVICES DELIVERED UNDER THIS AGREEMENT WILL BE LIMITED TO THE TOTAL FEES PAID (LESS ANY REFUNDS OR CREDITS) BY CLIENT TO INTERMEDIX PURSUANT TO THIS AGREEMENT DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE LIABILITY. IN NO EVENT WILL INTERMEDIX BE LIABLE TO CLIENT UNDER, IN CONNECTION WITH, OR RELATED TO THIS AGREEMENT FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, WHETHER BASED ON BREACH OF CONTRACT, WARRANTY, TORT, PRODUCT LIABILITY, OR OTHERWISE, AND WHETHER OR NOT INTERMEDIX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE FOREGOING LIMITATIONS OF LIABILITY ARE A CONDITION AND MATERIAL CONSIDERATION FOR THEIR ENTRY INTO THIS AGREEMENT.

10. **INSURANCE.** Intermedix shall procure and maintain for the duration of the Agreement, the following insurance coverage: (i) workers' compensation insurance in compliance with the applicable state and federal laws; (ii) general liability insurance in an amount no less than \$1,000,000 per occurrence; (iii) coverage for business interruption, destruction of data processing equipment and media, liabilities affecting accounts receivable, and valuable documents in an amount no less than \$100,000 aggregate; and (iv) liability coverage for all vehicles whether owned, hired or used in the amount of \$500,000.

## 11. CONFIDENTIALITY AND HIPAA BUSINESS ASSOCIATE OBLIGATIONS.

**11.01 Confidential Information.** Each party (the “Discloser”) may disclose to the other party (the “Recipient”) certain non-public information relating to the Discloser’s business, including technical, marketing, financial, personnel, planning, medical records and other information that is marked confidential or which the Recipient should reasonably know to be confidential given the nature of the information and the circumstance of disclosure (“Confidential Information”). Confidential Information of each party shall also include the terms of this Agreement, but not the existence and general nature of this Agreement. Confidential Information will not include any information: (i) lawfully obtained or created by the Recipient independently of, and without use of, Discloser’s Confidential Information and without breach of any obligation of confidence or violation of HIPAA or the HITECH Act; or (ii) that is in or enters the public domain without breach of any obligation of confidence. Client shall be responsible for any breach by any of its Users, employees or agents of any of the confidentiality obligations set forth herein.

**11.02 Use and Disclosure.** Except as expressly permitted by this Agreement or the BA Agreement (as applicable) and subject to applicable law, the Recipient will:

(a) not disclose Discloser’s Confidential Information except: (i) to the employees or contractors of the Recipient to the extent that they need to know that Confidential Information for the purpose of performing the Recipient’s obligations under this Agreement, and who are bound by confidentiality terms with respect to that Confidential Information no less restrictive than those contained in this Section 11.02; or (ii) as required to be disclosed by law, to the extent required to comply with that legal obligation, provided that the Recipient will promptly notify the Discloser of such obligation;

(b) use the Discloser’s Confidential Information only for the purpose of performing Recipient’s obligations under this Agreement;

(c) use all reasonable care in handling and securing the Discloser’s Confidential Information, and employ all reasonable data security measures that the Recipient ordinarily uses with respect to its own proprietary information of similar nature and importance; and

(d) use and disclose Confidential Information that contains Protected Health Information in accordance with the terms of the Business Associate Agreement attached hereto as Exhibit B (the “BA Agreement”), if applicable.

**11.03 Return of Confidential Information.** Subject to Intermedix’s internal data retention policies and applicable law, the Recipient will return to the Discloser, and destroy or erase all of the Disclosure Confidential Information in tangible form, upon the expiration or termination of this Agreement, and the Recipient will promptly certify in writing to the Discloser that it has done so.

**11.04 HIPAA Business Associate Exhibit/Changes In HIPAA.** Each party agrees to the obligations set forth in the BA Agreement attached hereto as Exhibit B (the “BA

Agreement"). Such BA Agreement constitutes the complete and exclusive agreement between the parties with respect to Intermedix's obligations regarding Protected Health Information, superseding and replacing any and all prior agreements, communications, representations, and understandings (both written and oral) regarding such subject matter; provided, however, that in the event of any additions, modifications or amendments to any statute or regulation including HIPAA or future federal regulations adopted pursuant thereto, then Intermedix and Client shall promptly enter into negotiations to revise the BA Agreement to reflect such changes. Upon the execution by the parties of a revised BA Agreement (a "Revised BA Agreement"), such Revised BA Agreement will supersede the current BA Agreement in its entirety and such current BA Agreement will no longer be of any force or effect.

**11.05 Right to Injunctive Relief.** The parties expressly acknowledge and agree that the breach, or threatened breach, by a party of any provision of this Section 11 may cause the other party to be irreparably harmed and that the harmed party may not have an adequate remedy at law. Therefore, the parties agree that upon such breach, or threatened breach, the harmed party will be entitled to seek injunctive relief to prevent the other party from commencing or continuing any action constituting such breach without having to post a bond or other security and without having to prove the inadequacy of any other available remedies. Nothing in this paragraph will be deemed to limit or abridge any other remedy available to either party at law or in equity.

12. **NON-SOLICITATION.** For the Term of this Agreement and for one (1) year after its termination, Client or Intermedix shall not employ or hire any employee or former employees - who, pursuant to this Agreement, has had any contact with employees or representatives of either party or has worked on Client's accounts, without the prior written consent of Client and Intermedix.

13. **ATTACHMENTS.** The following named attachments are made an integral part of this Agreement:

- a. Scope of Services (Exhibit A attached hereto and made a part hereof);
- b. Business Associate Agreement (Exhibit B attached hereto and made a part hereof);
- c. Optional Services (Exhibit C attached hereto and made a part hereof); and
- d. TripTix Program (Exhibit D attached hereto and made a part thereto).

14. **TERM AND TERMINATION.**

**14.01 Term.** This Agreement shall be effective for an initial three-(3) year period, commencing on the Effective Date unless terminated as provided in Section 14.02 below (the "Initial Term"). Following the expiration of the Initial Term, subject to the payment of all fees due hereunder, this Agreement shall renew for successive, automatically renewable one (1) year periods ("Renewal Terms"; collectively, the Initial Term together with any Renewal Terms are the "Term"), unless either party provides the other party with written notice of termination of this Agreement as provided in Section 14.02 below. All terms and conditions hereof shall

remain in full force and effect during the Term unless this Agreement is amended in a writing executed by each Party hereto.

**14.02 Events Triggering Termination.** This Agreement shall be subject to termination under the following conditions.

a. Termination without Cause. Following the initial term either Client or Intermedix may terminate this Agreement without cause upon six (6) months prior written notice to the other party.

b. Termination with Cause. If Intermedix materially fails to perform any obligation required hereunder, and such default continues for thirty (30) calendar days after written notice from Client specifying the nature and extent of the failure to materially perform such obligation, this Agreement shall terminate upon the expiration of said thirty (30) calendar day period.

c. If Client materially fails to perform any obligation required hereunder, and such default continues for thirty (30) calendar days after written notice from Intermedix specifying the nature and extent of the failure to materially perform such obligation, this Agreement shall terminate upon the expiration of said thirty (30) calendar day period.

d. Termination Due to Bankruptcy. If Client or Intermedix: (i) apply for or consent to the appointment of a petition in bankruptcy; (ii) make a general assignment for the benefit of creditors; (iii) file a petition or answer seeking reorganization or arrangement with creditors; or (iv) take advantage of any insolvency, or if any order, judgment, or decree shall be entered by any court of competent jurisdiction on the application of a creditor or otherwise adjudicating either party bankrupt or approving a petition seeking reorganization of either party or appointment of a receiver, trustee or liquidator of either party or all or a substantial part of its assets (subsections (i) through (iv), each a "Bankruptcy Event"), this Agreement shall terminate automatically and immediately upon written notice from the other party to the party who has incurred a Bankruptcy Event.

**14.03 Rights Upon Termination.** If this Agreement is terminated for any reason, including, without limitation, the breach of this Agreement by any party, Intermedix shall be entitled to recover when due and payable hereunder, all amounts owed to Intermedix hereunder accrued but unpaid as of the date of termination. Following termination of this Agreement, for a period of ninety (90) days (the "Transition Period"), Intermedix, at its sole discretion and upon written notice to Client of its election to do so, may continue its billing and collection efforts as to those accounts referred to Intermedix prior to the effective date of termination, subject to the terms and conditions of this Agreement, for the fee set forth in Section 5 above. At the end of the Transition Period, Intermedix shall return all records to Client in a commercially standard format on a commercially standard media as determined by Intermedix in its sole discretion; provided, however, that Intermedix may keep any copies of records in accordance with applicable law. The expiration or termination of this Agreement, for whatever reason, will not discharge or relieve either party from any obligation which accrued prior to such expiration or termination, will not relieve either party that has breached this Agreement from liability for damages resulting from such breach and will not destroy or diminish the binding force and effect



of any of the provisions of this Agreement that expressly, or by reasonable implication, come into or continue in effect on or after expiration or termination hereof.

15. **FORCE MAJEURE.** Except for Client's obligation to pay, when due, the fees and compensation owed to Intermedix pursuant to the terms and conditions of this Agreement, neither Client nor Intermedix shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to a Force Majeure Event (as defined below), the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. The term "Force Majeure Event" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the non-performing party and includes, but is not limited to fire, flood, earthquakes, storms, lightning, natural disaster, epidemic, war, riot, civil disturbance, sabotage, terrorism and governmental actions. The non-performing party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement.

16. **GOVERNING LAW.** This Agreement will be governed by and construed in accordance with the laws of the State in which the Client is located, exclusive of its rules governing choice of law and conflict of laws.

17. **GENERAL WARRANTIES AND DISCLAIMERS.**

**17.01 Corporate Authority.** Each party warrants that it is a duly organized and validly existing corporation and has complete and unrestricted corporate power and authority to enter into this Agreement.

**17.02 Disclaimer.** THE WARRANTIES EXPRESSLY PROVIDED IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, WHICH WARRANTIES ARE HEREBY SPECIFICALLY DISCLAIMED. NO REPRESENTATIVE OF INTERMEDIX SHALL HAVE THE RIGHT TO MAKE WARRANTIES ON INTERMEDIX'S BEHALF UNLESS THOSE WARRANTIES ARE IN WRITING AND EXECUTED BY A DULY AUTHORIZED OFFICER OF INTERMEDIX.

18. **EXPORT LAWS.** Client shall comply with all then current export laws and regulations of the U.S. Government and the government of the country in which Client receives access to the Services.

19. **ASSIGNMENT OF AGREEMENT.** This Agreement will bind and inure to the benefit of each party's permitted successors and assigns. Neither party shall assign this Agreement without the express written consent of the other party, and such consent shall not be unreasonably withheld. Notwithstanding the foregoing sentence, Intermedix may, upon notice to Client, assign this Agreement to any affiliate or any entity resulting from the sale, combination or transfer of all or substantially all of the assets or capital stock, or from any other corporate form of reorganization by or of Intermedix. Intermedix may subcontract any of its obligations

under this Agreement, and may perform those obligations through personnel employed by or under contract with Intermedix.

20. **NOTICES.** Any notice directed to the parties' legal rights and remedies under this Agreement will be provided in writing and will reference this Agreement. Such notices will be deemed given if sent by: (i) facsimile, when complete transmission to the recipient is confirmed by the sender's facsimile machine; (ii) postage prepaid registered or certified U.S. Post mail, then five (5) working days after sending; or (iii) commercial courier, then at the time of receipt confirmed by the recipient to the courier on delivery. All notices to a party will be sent to its address set forth below, or to such other address as may be designated by that party by notice to the other party in accordance with this Section:

To Client: City of Bellaire  
Attn: Fire Chief, Darryl Anderson  
7008 South Rice  
Bellaire, TX 77401

To Intermedix: Intermedix Corporation  
6451 North Federal Highway, Suite 1000  
Fort Lauderdale, Florida 33308  
Attn: Brad Williams, CAO & VP

21. **SEVERABILITY.** If all or a part of a provision of this Agreement is found illegal or unenforceable, it will be enforced to the maximum extent permissible, and the legality and enforceability of the remainder of that provision and all other provisions of this Agreement will not be affected.

22. **ENTIRE AGREEMENT.** This Agreement, including exhibits, attachments and written terms incorporated by reference, is the complete and exclusive agreement between the parties with respect to the subject matter hereof, superseding and replacing any and all prior agreements, communications, and understandings (both written and oral) regarding such subject matter. Pre-printed terms and conditions on or attached to any Client purchase orders or other business forms shall be of no force or effect, even if Intermedix acknowledges or accepts them.

23. **AMENDMENT/WAIVER.** This Agreement may be modified, or any rights under it waived, only by a written document executed by both parties. Any failure of a party to exercise or enforce any of its rights under this Agreement will not act as a waiver of such rights.

24. **ATTORNEYS FEES.** Should either party institute any action or procedure to enforce this Agreement or any provision hereof, or for damages by reason of any alleged breach of this Agreement or of any provision hereof, or for a declaration of rights hereunder (including, without limitation, arbitration), the prevailing party in any such action or proceeding shall be entitled to receive from the other party all costs and expenses, including without limitation reasonable attorneys' fees, incurred by the prevailing party in connection with such action or proceeding.

25. **CONSTRUCTION OF AGREEMENT.** This Agreement has been negotiated by the parties and its provisions will not be presumptively construed for or against the other party. The headings and Section titles in this Agreement are for convenience only, and will not affect the construction or interpretation of this Agreement.

26. **NO THIRD PARTY BENEFICIARIES.** Except as expressly provided in this Agreement, nothing in this Agreement shall confer upon any person other than the parties and their respective successors and assigns, any rights, remedies, obligations or liabilities whatsoever.

27. **COUNTERPARTS.** The parties may execute this Agreement in one or more counterparts, each of which shall be an original, and which together shall constitute one instrument.

**IN WITNESS WHEREOF,** the parties have caused this Agreement to be signed by their authorized representatives as of the Effective Date.

<b>ADVANCED DATA PROCESSING, INC.,</b> a subsidiary of <b>INTERMEDIX</b> <b>CORPORATION, a DELAWARE</b> <b>CORPORATION</b>	<b>CITY OF BELLAIRE, TEXAS</b>
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By: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_

Name: Andrew S. Friedberg  
Title: Mayor



**Exhibit A**  
**Scope of Services**

***Base Services and Obligations:***

**B.** Intermedix shall provide revenue cycle management services for Client as described below. Intermedix shall, during the Term:

1. Prepare and submit initial claims and bills for Client promptly upon receipt thereof, and prepare and submit secondary claims and bills promptly after identification of the need to submit a secondary claim.
2. Assist Client in identifying necessary documentation in order to process and bill the accounts.
3. Direct payments to a lockbox or bank account designated by Client, to which Client alone will have signature authority.
4. Pursue appeals of denials, partial denials and rejections when deemed appropriate by Intermedix.
5. Respond to and follow up with Payors and respond to messages or inquiries from a Payor.
6. Provide appropriate storage and data back-up for records pertaining to Client's bills and collections hereunder, accessible to Client at reasonable times.
7. Maintain records of services performed and financial transactions.
8. Meet, as needed, with representatives of Client to discuss results, problems and recommendations.
9. Provide any Client-designated collection agency with the data necessary for collection services to be performed when an account is referred to such agency.
10. Intermedix will support Client in filing and maintaining required documentation and agreements with commonly-used Payors (e.g. Medicare, Medicaid, Champus, etc. Client will maintain responsibility for enrollment, required documentation, and agreements with Out of State Payors, such as Out of State Medicaid programs, and other payors not commonly billed
11. Provide reasonably necessary training periodically, as requested by Client, to Client's emergency medical personnel regarding the gathering of the necessary information and proper completion of run reports.

12. Utilize up-to-date knowledge and information with regard to coding requirements and standards, to comply with applicable federal, state and local regulations.
13. Provide a designated liaison for Client, patient and other Payor concerns.
14. Provide a toll free telephone number for patients and other Payors to be answered as designated by Client.
15. Facilitate proper security of confidential information and proper shredding of disposed materials containing such information.
16. Establish arrangements with hospitals to obtain/verify patient insurance and contact information.
17. Respond to any Client, Payor or patient inquiry or questions promptly.
18. Maintain appropriate accounting procedures for reconciling deposits, receivables, billings, patient accounts, adjustments and refunds.
19. Provide reasonable access to Client for requested information in order for Client to perform appropriate and periodic audits. Reasonable notice will be given to Intermedix for any planned audit and will be conducted during normal business hours of Intermedix, all at the Client's expense.
20. Provide timely reports facilitating required aspects of monitoring, evaluating, auditing and managing the Services provided.
21. Process refund requests and provide Client with documentation substantiating each refund requested.
22. Assign billing to patient account numbers providing cross-reference to Client's assigned transport numbers.
23. Maintain responsibility for obtaining missing or incomplete insurance information.
24. Provide accurate coding of medical claims based on information provided by Client.
25. Negotiate and arrange modified payment schedules for individuals unable to pay full amount when billed.

26. Retain accounts for a minimum of twelve (12) months (unless otherwise specified by mutual agreement) and after twelve (12) months turn over accounts for which no collection has been made (unless insurance payment is pending) to an agency designated by Client.

27. Permit real-time read only electronic look-up access by Client to Intermedix's Billing System to obtain patient data and billing information.

28. Maintain records in an electronic format that is readily accessible by Client personnel and that meets federal and state requirements for maintaining patient medical records.

29. Create, implement and comply with a Compliance Plan consistent with the Compliance Program Guidance for Third Party Medical Billing Companies 63 FR 70138; (December 18, 1998) promulgated by the Office of Inspector General of the Department of Health and Human Services (OIG).

**C. *Client's Responsibilities and Obligations:***

1. From each person who receives EMS from Client ("Patient"), Client shall use its best efforts to obtain and forward the following information ("Patient Information") to Intermedix:

- (i) the Patient's full name and date of birth;
- (ii) the mailing address (including zip code) and telephone number of the Patient or other party responsible for payment ("Guarantor");
- (iii) the Patient's social security number;
- (iv) the name and address of the Patient's health insurance carrier, name of policyholder or primary covered party, and any applicable group and identification numbers;
- (v) the auto insurance carrier address and/or agent's name and phone number if an automobile is involved;
- (vi) the employer's name, address and Workers Compensation Insurance information if the incident is work related;
- (vii) the Patient's Medicare or Medicaid HIC numbers if applicable;
- (viii) the Patient's or other responsible party's signed payment authorization and release of medical authorization form or other documentation sufficient to comply with applicable signature requirements;
- (ix) the call times, transporting unit, and crew members with their license level, i.e. EMT-B, EMT-I, or EMT-P;

(x) odometer readings or actual loaded miles transported such that loaded miles may be calculated;

(xi) physician certification statements (PCS) for non-emergency transports that are to be billed to Medicare pursuant to CMS regulations; and

(xii) any other information that Intermedix may reasonably require to bill the Patient or other Payor.

2. Client represents and warrants that all information provided to Intermedix shall be accurate and complete. Intermedix shall have no obligation to verify the accuracy of such information, and Client shall be solely responsible for such accuracy. Client agrees to indemnify and hold Intermedix, its agents, and employees harmless from any and all liabilities and costs, including reasonable attorneys' fees, resulting from (a) any inaccurate or misleading information provided to Intermedix that results in the actual or alleged submission of a false or fraudulent claim or (b) any other actual or alleged violation of local, state or federal laws., including but not limited laws applicable to Medicare, Medicaid or any other public or private Payor or enforcement agency.

3. Client will provide Intermedix with necessary documents required by third parties to allow for the electronic filing of claims by Intermedix on Client's behalf.

4. Client will provide Intermedix with its approved billing policies and procedures, including dispatch protocols, fee schedules and collection protocols. Client will be responsible for engaging any third party collection service for uncollectible accounts after Intermedix has exhausted its collection efforts.

5. Client will timely process refunds identified by Intermedix for account overpayments and provide to Intermedix confirmation, including copies of checks and other materials sent.

6. Client will provide a lock box or bank account address to Intermedix and will instruct the lock box or bank custodian agency to forward all documents to Intermedix for processing.

7. Client will provide Intermedix with daily bank balance reporting capabilities via the bank's designated web site.

8. Client will cooperate with Intermedix in all matters to ensure proper compliance with laws and regulations.

9. Client represents and warrants that all of its employees, personnel and independent contractors involved in the delivery of EMS or otherwise performing services for Client: (i) hold the licensure or certification required to perform such services, (ii) have not been convicted of a criminal offense related to health care or been listed as debarred, excluded or

otherwise ineligible for participation in a Federal health care program and (iii) are not excluded persons listed on any of the following: (a) the Office of the Inspector General List of Excluded Individuals and Entities; (b) the General Services Administration's Excluded Parties List; and (c) the Office of Foreign Asset Control's Specially Designated Nationals List.

10. Client agrees that it will forward to Intermedix copies of checks, or other payment documentation requested by Intermedix relating to the subject matter of this Agreement, within 10 days of the date of receipt of those payments.

11. Client agrees to notify Intermedix in the event that their Electronic Patient Care Reporting (ePCR) vendor performs any system upgrades. Notification may be made in writing to support@Intermedix.com.

## Exhibit B Business Associate Agreement

This Business Associate Agreement ("BA Agreement") supplements and is made part of the Underlying Agreement (as defined below).

This BA Agreement is entered into between **City of Bellaire, Texas** ("Covered Entity") and **Advanced Data Processing, Inc., dba Intermedix, a Delaware Corporation** ("Business Associate"), effective as of the Effective Date of the Underlying Agreement.

WHEREAS, Covered Entity and Business Associate have entered into, or plan to enter into, an agreement or other documented arrangement (the "Underlying Agreement"), pursuant to which Business Associate may provide services for Covered Entity that require Business Associate to access, create and use Protected Health Information ("PHI") that is confidential under state and federal law; and

WHEREAS, Covered Entity and Business Associate intend to protect the privacy and provide for the security of PHI disclosed by Covered Entity to Business Associate, or collected or created by Business Associate pursuant to the Underlying Agreement, in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), and the regulations promulgated there under, including, without limitation, the regulations codified at 45 CFR Parts 160 and 164 ("HIPAA Regulations"); the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009, and its implementing regulations and guidance issued by the Secretary of the Department of Health and Human Services (the "Secretary") (the "HITECH Act"); and other applicable state and federal laws, all as amended from time to time, including as amended by the Final Rule issued by the Secretary on January 17, 2013 titled "Modifications to the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules under the Health Information Technology for Economic and Clinical Health Act and the Genetic Information Nondiscrimination Act; Other Modifications to the HIPAA Rules"; and

WHEREAS, the HIPAA Regulations require Covered Entity to enter into an agreement with Business Associate meeting certain requirements with respect to the Use and Disclosure of PHI, which are met by this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein and the exchange of information pursuant to this Agreement, the parties agree as follows:

1. **Definitions.**

Capitalized terms used herein without definition shall have the meanings ascribed to them in the HIPAA Regulations or the HITECH Act, as applicable unless otherwise defined herein.

2. **Obligations of Business Associate.**

a. **Permitted Uses and Disclosures.** Business Associate shall only Use or Disclose PHI for the purposes of (i) performing Business Associate's obligations under the Underlying Agreement and as permitted by this Agreement; or (ii) as permitted or Required By Law; or (iii) as otherwise permitted by this Agreement. Business Associate shall not Use or

further Disclose PHI other than as permitted or required by this Agreement or as Required By Law. Further, Business Associate shall not Use or Disclose PHI in any manner that would constitute a violation of the HIPAA Regulations or the HITECH Act if so used by Covered Entity, except that Business Associate may Use PHI (i) for the proper management and administration of Business Associate; and (ii) to carry out the legal responsibilities of Business Associate. Business Associate may Disclose PHI for the proper management and administration of Business Associate, to carry out its legal responsibilities or for payment purposes as specified in 45 CFR § 164.506(c)(1) and (3), including but not limited to Disclosure to a business associate on behalf of a covered entity or health care provider for payment purposes of such covered entity or health care provider, with the expectation that such parties will provide reciprocal assistance to Covered Entity, provided that with respect to any such Disclosure either: (i) the Disclosure is Required By Law; or (ii) for permitted Disclosures when Required By Law, Business Associate shall obtain a written agreement from the person to whom the PHI is to be Disclosed that such person will hold the PHI in confidence and will not use and further disclose such PHI except as Required By Law and for the purpose(s) for which it was Disclosed by Business Associate to such person, and that such person will notify Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been breached.

b. Creation and Use of De-Identified Data. Business Associate may de-identify any and all PHI, provided that any process or mechanism used to de-identify the data meets the requirements of 45 C.F.R 164.514(a)-(b). Business Associate may use or disclose (and permit others to use or disclose) such de-identified data on a perpetual unrestricted basis, but in no case shall Business Associate attempt to run or develop any keys, codes or algorithms that may be used to re-identify the data.

c. Appropriate Safeguards. Business Associate shall implement administrative, physical and technical safeguards that (i) reasonably and appropriately protect the confidentiality, integrity and availability of electronic PHI that it creates, receives, maintains or transmits on behalf of Covered Entity; and (ii) prevent the Use or Disclosure of PHI other than as contemplated by the Underlying Agreement and this Agreement.

d. Compliance with Security Provisions. Business Associate shall: (i) implement and maintain administrative safeguards as required by 45 CFR § 164.308, physical safeguards as required by 45 CFR § 164.310 and technical safeguards as required by 45 CFR § 164.312; (ii) implement and document reasonable and appropriate policies and procedures as required by 45 CFR § 164.316; and (iii) be in compliance with all requirements of the HITECH Act related to security and applicable as if Business Associate were a “covered entity,” as such term is defined in HIPAA.

e. Compliance with Privacy Provisions. Business Associate shall only Use and Disclose PHI in compliance with each applicable requirement of 45 CFR § 164.504(e). Business Associate shall comply with all requirements of the HITECH Act related to privacy and applicable as if Business Associate were a “covered entity,” as such term is defined in HIPAA. To the extent Business Associate is to carry out one or more of Covered Entity’s obligation(s) under Subpart E of 45 CFR Part 164, Business Associate shall comply with the requirements of Subpart E that apply to Covered Entity in the performance of such obligation(s).



f. Duty to Mitigate. Business Associate agrees to mitigate, to the extent practicable and mandated by law, any harmful effect that is known to Business Associate of a Use or Disclosure of PHI by Business Associate in violation of the requirements of this Agreement.

g. Encryption. To facilitate Business Associate's compliance with this Agreement and to assure adequate data security, Covered Entity agrees that all PHI provided or transmitted to Business Associate pursuant to the Underlying Agreement shall be provided or transmitted in a manner which renders such PHI unusable, unreadable or indecipherable to unauthorized persons, through the use of a technology or methodology specified by the Secretary in the guidance issued under section 13402(h)(2) of the HITECH Act. Covered Entity acknowledges that failure to do so could contribute to or permit a Breach requiring patient notification under the HITECH Act and further agrees that Business Associate shall have no liability for any Breach caused by such failure.

### 3. Reporting.

a. Security Incidents and/or Unauthorized Use or Disclosure. Business Associate shall report to Covered Entity a successful Security Incident or any Use and/or Disclosure of PHI other than as provided for by this Agreement or permitted by applicable law within a reasonable time of becoming aware of such Security Incident and/or unauthorized Use or Disclosure (but not later than ten (10) days thereafter), in accordance with the notice provisions set forth herein. Business Associate shall take (i) prompt action to cure any such deficiencies as reasonably requested by Covered Entity, and (ii) any action pertaining to such Security Incident and/or unauthorized Use or Disclosure required by applicable federal and state laws and regulations. If such successful Security Incident or unauthorized Use or Disclosure results in a Breach as defined in the HITECH Act, then Covered Entity shall comply with the requirements of Section 3.b below. The Parties acknowledge and agree that this Section constitutes notice by Business Associate to Covered Entity of the ongoing existence and occurrence of attempted but Unsuccessful Security Incidents as defined herein. "Unsuccessful Security Incidents" will include, but not be limited to, pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of PHI.

b. Breach of Unsecured PHI. The provisions of this Section 3.b are effective with respect to the Discovery of a Breach of Unsecured PHI occurring on or after September 23, 2009. With respect to any unauthorized acquisition, access, Use or Disclosure of Covered Entity's PHI by Business Associate, its agents or subcontractors, Business Associate shall (i) investigate such unauthorized acquisition, access, Use or Disclosure; (ii) determine whether such unauthorized acquisition, access, Use or Disclosure constitutes a reportable Breach under the HITECH Act; and (iii) document and retain its findings under clauses (i) and (ii). If Business Associate Discovers that a reportable Breach has occurred, Business Associate shall notify Covered Entity of such reportable Breach in writing within thirty (30) days of the date Business Associate Discovers such Breach. Business Associate shall be deemed to have discovered a Breach as of the first day that the Breach is either known to Business Associate or any of its employees, officers or agents, other than the person who committed the Breach, or by exercising reasonable



diligence should have been known to Business Associate or any of its employees, officers or agents, other than the person who committed the Breach. To the extent the information is available to Business Associate, Business Associate's written notice shall include the information required by 45 CFR § 164.410(c). Business Associate shall promptly supplement the written report with additional information regarding the Breach as it obtains such information. Business Associate shall cooperate with Covered Entity in meeting Covered Entity's obligations under the HITECH Act with respect to such Breach.

4. Business Associate's Agents. To the extent that Business Associate uses one or more subcontractors or agents to provide services under the Underlying Agreement, and such subcontractors or agents receive or have access to PHI, Business Associate shall sign an agreement with such subcontractors or agents containing substantially the same provisions as this Agreement.

5. Rights of Individuals.

a. Access to PHI. Within ten (10) days of receipt of a request by Covered Entity, Business Associate shall make PHI maintained in a Designated Record Set available to Covered Entity or, as directed by Covered Entity, to an Individual to enable Covered Entity to fulfill its obligations under 45 CFR § 164.524. Subject to Section 5.b below, (i) in the event that any Individual requests access to PHI directly from Business Associate in connection with a routine billing inquiry, Business Associate shall directly respond to such request in compliance with 45 CFR § 164.524; and (ii) in the event such request appears to be for a purpose other than a routine billing inquiry, Business Associate shall forward a copy of such request to Covered Entity and shall fully cooperate with Covered Entity in responding to such request. In either case, a denial of access to requested PHI shall not be made without the prior written consent of Covered Entity.

b. Access to Electronic Health Records. If Business Associate is deemed to use or maintain an Electronic Health Record on behalf of Covered Entity with respect to PHI, then, to the extent an Individual has the right to request a copy of the PHI maintained in such Electronic Health Record pursuant to 45 CFR § 164.524 and makes such a request to Business Associate, Business Associate shall provide such Individual with a copy of the information contained in such Electronic Health Record in an electronic format and, if the Individual so chooses, transmit such copy directly to an entity or person designated by the Individual. Business Associate may charge a fee to the Individual for providing a copy of such information, but such fee may not exceed Business Associate's labor costs in responding to the request for the copy. The provisions of 45 CFR § 164.524, including the exceptions to the requirement to provide a copy of PHI, shall otherwise apply and Business Associate shall comply therewith as if Business Associate were the "covered entity," as such term is defined in HIPAA. At Covered Entity's request, Business Associate shall provide Covered Entity with a copy of an Individual's PHI maintained in an Electronic Health Record in an electronic format and in a time and manner designated by Covered Entity in order for Covered Entity to comply with 45 CFR § 164.524, as amended by the HITECH Act.

c. Amendment of PHI. Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 CFR

§ 164.526 at the request of Covered Entity or an Individual, and in the time and manner designated by Covered Entity.

d. Accounting Rights. This Section 5.d is subject to Section 5.e below. Business Associate shall make available to Covered Entity, in response to a request from an Individual, information required for an accounting of disclosures of PHI with respect to the Individual, in accordance with 45 CFR § 164.528, incorporating exceptions to such accounting designated under such regulation. Such accounting is limited to disclosures that were made in the six (6) years prior to the request and shall not include any disclosures that were made prior to the compliance date of the HIPAA Regulations. Business Associate shall provide such information as is necessary to provide an accounting within ten (10) days of Covered Entity's request. Such accounting must be provided without cost to the Individual or to Covered Entity if it is the first accounting requested by an Individual within any twelve (12) month period; however, a reasonable, cost-based fee may be charged for subsequent accountings if Business Associate informs Covered Entity and Covered Entity informs the Individual in advance of the fee, and the Individual is afforded an opportunity to withdraw or modify the request. Such accounting obligations shall survive termination of this Agreement and shall continue as long as Business Associate maintains PHI.

e. Accounting of Disclosures of Electronic Health Records. The provisions of this Section 5.e shall be effective on the date specified in the HITECH Act. If Business Associate is deemed to use or maintain an Electronic Health Record on behalf of Covered Entity, then, in addition to complying with the requirements set forth in Section 5.d above, Business Associate shall maintain an accounting of any Disclosures made through such Electronic Health Record for Treatment, Payment and Health Care Operations, as applicable. Such accounting shall comply with the requirements of the HITECH Act. Upon request by Covered Entity, Business Associate shall provide such accounting to Covered Entity in the time and manner specified by Covered Entity and in compliance with the HITECH Act. Alternatively, if Covered Entity responds to an Individual's request for an accounting of Disclosures made through an Electronic Health Record by providing the requesting Individual with a list of all business associates acting on behalf of Covered Entity, then Business Associate shall provide such accounting directly to the requesting Individual in the time and manner specified by the HITECH Act.

f. Agreement to Restrict Disclosure. If Covered Entity is required to comply with a restriction on the Disclosure of PHI pursuant to Section 13405 of the HITECH Act, then Covered Entity shall, to the extent necessary to comply with such restriction, provide written notice to Business Associate of the name of the Individual requesting the restriction and the PHI affected thereby. Business Associate shall, upon receipt of such notification, not Disclose the identified PHI to any health plan for the purposes of carrying out Payment or Health Care Operations, except as otherwise required by law. Covered Entity shall also notify Business Associate of any other restriction to the Use or Disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR § 164.522.

6. Remuneration and Marketing.

a. Remuneration for PHI. This Section 6.a shall be effective with respect to exchanges of PHI occurring six (6) months after the date of the promulgation of final regulations implementing the provisions of Section 13405(d) of the HITECH Act. On and after such date, Business Associate agrees that it shall not, directly or indirectly, receive remuneration in exchange for any PHI of Covered Entity except as otherwise permitted by the HITECH Act.

b. Limitations on Use of PHI for Marketing Purposes. Business Associate shall not Use or Disclose PHI for the purpose of making a communication about a product or service that encourages recipients of the communication to purchase or use the product or service, unless such communication: (1) complies with the requirements of subparagraph (i), (ii) or (iii) of paragraph (1) of the definition of marketing contained in 45 CFR § 164.501, and (2) complies with the requirements of subparagraphs (A), (B) or (C) of Section 13406(a)(2) of the HITECH Act, and implementing regulations or guidance that may be issued or amended from time to time. Covered Entity agrees to assist Business Associate in determining if the foregoing requirements are met with respect to any such marketing communication.

7. Governmental Access to Records. Business Associate shall make its internal practices, books and records relating to the Use and Disclosure of PHI available to the Secretary for purposes of determining Covered Entity's compliance with the HIPAA Regulations and the HITECH Act. Except to the extent prohibited by law, Business Associate agrees to notify Covered Entity of all requests served upon Business Associate for information or documentation by or on behalf of the Secretary. Business Associate shall provide to Covered Entity a copy of any PHI that Business Associate provides to the Secretary concurrently with providing such PHI to the Secretary.

8. Minimum Necessary. To the extent required by the HITECH Act, Business Associate shall limit its Use, Disclosure or request of PHI to the Limited Data Set or, if needed, to the minimum necessary to accomplish the intended Use, Disclosure or request, respectively. Effective on the date the Secretary issues guidance on what constitutes "minimum necessary" for purposes of the HIPAA Regulations, Business Associate shall limit its Use, Disclosure or request of PHI to only the minimum necessary as set forth in such guidance.

9. State Privacy Laws. Business Associate shall comply with state laws to extent that such state privacy laws are not preempted by HIPAA or the HITECH Act.

10. Termination.

a. Breach by Business Associate. If Covered Entity knows of a pattern of activity or practice of Business Associate that constitutes a material breach or violation of Business Associate's obligations under this Agreement, then Covered Entity shall promptly notify Business Associate. With respect to such breach or violation, Business Associate shall take reasonable steps to cure such breach or end such violation, if possible. If such steps are either not possible or are unsuccessful, upon written notice to Business Associate, Covered Entity may terminate its relationship with Business Associate.

b. Breach by Covered Entity. If Business Associate knows of a pattern of activity or practice of Covered Entity that constitutes a material breach or violation of Covered

Entity's obligations under this Agreement, then Business Associate shall promptly notify Covered Entity. With respect to such breach or violation, Covered Entity shall take reasonable steps to cure such breach or end such violation, if possible. If such steps are either not possible or are unsuccessful, upon written notice to Covered Entity, Business Entity may terminate its relationship with Covered Entity.

c. Effect of Termination. Upon termination of this Agreement for any reason, Business Associate shall either return or destroy all PHI, as requested by Covered Entity, that Business Associate or its agents or subcontractors still maintain in any form, and shall retain no copies of such PHI. If Covered Entity requests that Business Associate return PHI, such PHI shall be returned in a mutually agreed upon format and timeframe. If Business Associate reasonably determines that return or destruction is not feasible, Business Associate shall continue to extend the protections of this Agreement to such PHI, and limit further uses and disclosures of such PHI to those purposes that make the return or destruction of such PHI not feasible. If Business Associate is asked to destroy the PHI, Business Associate shall destroy PHI in a manner that renders the PHI unusable, unreadable or indecipherable to unauthorized persons as specified in the HITECH Act.

11. Amendment. The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of this Agreement may be required to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement any new or modified standards or requirements of HIPAA, the HIPAA Regulations, the HITECH Act and other applicable laws relating to the security or confidentiality of PHI. Upon the request of Covered Entity, Business Associate agrees to promptly enter into negotiation concerning the terms of an amendment to this Agreement incorporating any such changes.

12. No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

13. Effect on Underlying Agreement. In the event of any conflict between this Agreement and the Underlying Agreement, the terms of this Agreement shall control.

14. Survival. The provisions of this Agreement shall survive the termination or expiration of the Underlying Agreement.

15. Interpretation. This Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HIPAA Regulations and the HITECH Act. The parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with such laws.

16. Governing Law. This Agreement shall be construed in accordance with the laws of the State of Florida.

17. Notices. All notices required or permitted under this Agreement shall be in writing and sent to the other party as directed below or as otherwise directed by either party,

from time to time, by written notice to the other. All such notices shall be deemed validly given upon receipt of such notice by certified mail, postage prepaid, facsimile transmission, e-mail or personal or courier delivery:

If to Covered Entity: City of Bellaire  
Attn: Darryl Anderson, Fire Chief  
7008 South Rice  
Bellaire, TX 77401  
Telephone no: #713.662.8201  
Facsimile no: #713.662.8199  
Email Address: danderson@bellairetx.gov

If to Business Associate: Intermedix Corporation  
6451 N. Federal Highway, Suite 1000  
Ft. Lauderdale, FL 33308  
Attn: Chief Compliance Officer  
Telephone no: 954-308-8700  
Facsimile no: 954-308-8725

### **Exhibit C Optional Services**

Intermedix will provide the following specific optional services by mutual written agreement between Intermedix and Client:

If Client has purchased TripTix® product pursuant to the terms and conditions of the Addendum to this Agreement, Intermedix shall provide TripTix® based reporting extract of data required by state or local regulatory authorities' connectivity/interface in a format reasonably required by such authorities.

**Exhibit D**  
**(TripTix® Program)**

This Exhibit D, effective as of the Effective Date of the Agreement, hereby sets forth terms and conditions that apply only to the Product and Product Units listed in this Exhibit D. In regards to the Product, to the extent the terms and conditions of the Agreement are in conflict with this Exhibit D, the terms of this Exhibit D shall control. Where not different or in conflict with the terms, conditions and definitions of this Exhibit D, all applicable terms, conditions, and definitions set forth in the Agreement are incorporated within this Exhibit D as if set forth herein. Capitalized terms used herein and not otherwise defined herein shall have the meaning given to such terms in the Agreement.

WHEREAS, Intermedix has developed the TripTix® solution or product running on personal tablet devices to enter medical records and data into and interact with its main billing and medical records system or Billing System ("Product" as more particularly defined herein) that Intermedix is willing to make available to Client to use during the Term of the Agreement, as well as subject to the terms and conditions set forth herein; and

WHEREAS, Client has expressed a desire to obtain a right to use the Product; and

WHEREAS, Client acknowledges that, in connection with the provision of the Product and the Product Unit, Intermedix is incurring significant per unit and, in some cases, per User out of pocket expenses;

NOW, THEREFORE, the parties agree as follows:

**ARTICLE I. DEFINITIONS**

**1.01 Definitions.** For purposes of this Exhibit D, the following definitions shall apply:

(a) "Addendum Effective Date" shall mean the date on which the last party to this Addendum executed it.

(b) "Intellectual Property" shall mean all of Intermedix's rights in and to the Product and Product Unit, including, without limitation, Intermedix's copyrights, trademarks, trade dress, trade secrets, patents and patent applications (if any), and "know how" and any other proprietary information developed by Intermedix relevant to the Product and/or Product Unit, recognized in any jurisdiction in the world, now or hereafter existing, whether or not registered or registerable.

(c) "Product" shall mean, collectively, each TripTix® Product Unit (a tablet PC, personal digital assistant or similar device), the Software, a third party wireless card in the name of Intermedix and any Third-Party Intellectual Property Rights, as applicable.

(d) "Product Unit" shall mean a single data collection device delivered pursuant to the terms and conditions of this Exhibit D containing one or more elements of the



Product but shall not mean any ancillary devices or products provided by persons other than Intermedix.

(e) "Software" means the copies of Intermedix's software programs as are contained in the Product, including any documentation included therewith. Intermedix may, at its sole discretion, provide corrections and modifications to the Software from time to time.

(f) "Third-Party Interface Devices" shall mean those devices that interface with the Product to transfer information, including medical monitoring devices for which Third-Party Intellectual Property Royalty Payments are made.

(g) "Third-Party Intellectual Property Rights" shall mean the Intellectual Property rights of any third-party used in connection with the Product.

(h) "Third-Party Intellectual Property Royalty Payments" shall mean the payments to be made directly by Client or, indirectly, on Client's behalf, as consideration for the licensing of any Third-Party Intellectual Property Rights or use of any Third-Party Interface Devices.

(i) "Users" shall mean: (i) any employees of Client and (ii) any medical professional who is authorized to perform medical services for Client in the area in which Client operates its emergency medical services as of the Addendum Effective Date.

## ARTICLE II. PRICE AND PAYMENT

**2.01 Adjustment to Rates of Compensation under the Agreement.** The compensation due and owing Intermedix by Client shall be increased as described in Section 4.01 of this Exhibit D during the Term. Additionally, in the event that Client terminates this Exhibit D during the period eighteen (18) months following the Agreement Effective Date, it shall pay an early termination fee as set out on Schedule 2.01 hereto.

**2.02 Product Fees.** In addition to the payments required pursuant to the provisions of Section 5 (Compensation and Method of Payment) of the Agreement, Client shall make the following payments: (i) all Third-Party Intellectual Property Royalty Payments as further set out on Schedule 2.02 hereto.

**2.03 Additional Services.** The additional Services shall be provided to Client at no additional charge, as long as the Agreement is in effect, as set out on Schedule 2.03 hereto. Should the contractual relationship between the parties change, then terms and conditions of the Agreement and Product pricing shall be negotiated between the parties in good faith.

## ARTICLE III. RIGHT TO USE PRODUCT AND PROPRIETARY RIGHTS

**3.01 Right to Use.** Commencing on the Effective Date and subject to the terms and conditions of this Exhibit D, Intermedix grants Client and its Users a non-exclusive, non-transferable right to use the Product during the Term. This right to use the Product during the Term does not constitute a sale of the Product or any portion or piece thereof.



**3.02 Delivery and Acceptance.** Intermedix will deliver to Client, the Product at mutually agreeable times, after or simultaneously with the Effective Date.

**3.03 No Other Rights.** Client's rights in the Product will be limited to those expressly granted in this Article III. All changes, modifications or improvements made or developed with regard to the Product by Intermedix, whether or not made or developed at Client's request, shall be and remain the property of Intermedix. Intermedix reserves all Intellectual Property rights and any other rights in and to the Product not expressly granted to Client hereunder.

**3.04 Restrictions.** Client acknowledges that Intermedix and its suppliers, including, without limitation, the suppliers of certain Third-Party Intellectual Property Rights, have, retain and own all right, title and interest in and to the Product, and all patent, copyright, trademark and service mark and trade name and the goodwill associated therewith, trade secret, inventions, technology, ideas, know-how, and all other intellectual property rights and all other rights pertaining thereto. All such right, title and interest shall be and remain the sole property of Intermedix. Client shall not be an owner of, or have any interest in the Product but rather, such Client only has a right to use the Product pursuant to this Addendum. Neither Client nor its Users shall: (i) remove any copyright, patent or other proprietary legends from the Product; (ii) sub-license, lease, rent, assign, transfer or allow any third-party any right to use the Product; (iii) alter, modify, copy, enhance or adapt any component of the Product; (iv) attempt to reverse engineer, covert, translate, decompile, disassemble or merge any portion of the Product with any other software or materials; (v) otherwise create or attempt to create any derivative works from this Product, or permit persons who are not Users any access to the Product or its operations, and any attempt to do any of the above shall void all warranties given Client by Intermedix and shall be a material breach of this Addendum.

**3.05 Material Change to Product.** If there is any material change in any rules, orders, laws or regulations governing the manner in which this Product operates or in the data provided by third parties (such as changes in the manner of operation of global distribution systems or standards in wireless or non-wireless communications protocols); then upon written notice to Client, Intermedix will have the right, retroactive to the date of such material change, to modify the way in which this Product delivers data in order to comport with any change in law or regulations or functionality governing the Product. All data used by Intermedix for testing and development shall be supplied by Client at its expense to Intermedix promptly upon request by Intermedix to Client.

#### **ARTICLE IV. PRODUCT UNITS**

**4.01 Generally.** Client and Intermedix understand and agree that Intermedix shall make available one or more Product Units. Client understands and acknowledges that any of the aforementioned Product Units provided by Intermedix will be subject to the additional fee described in Section 2.02 of this Exhibit D. Also, in connection with the potential provision of such Product Units, Client agrees:

**4.02** Client will be responsible for any loss or damage to such Product Units. Client agrees to pay:

(a) the cost of repairs in excess of manufacturer extended warranty of any such Product Unit provided to it or (ii), if the Product Unit is irreparable, lost or stolen, for the replacement cost of the Product Unit. Client is responsible for repair or replacement costs not covered by extended warranty provided by Intermedix. Client agrees that Client may obtain insurance for such devices provided that Intermedix is named as a beneficiary under such insurance. Intermedix will use commercially reasonable efforts to provide Client with a replacement Product Unit within one (1) business day following the business day on which the request is made.

(b) Client agrees that it shall immediately (and in no greater than twenty four (24) hours from Client's knowledge of the following) notify Intermedix of any loss or theft of a Product Unit (a "Product Unit Loss Event"). Upon Intermedix's receipt of notification given by the Client of a Product Unit Loss Event, Intermedix shall have the right to immediately, without notice to Client, suspend Client's access to the Product and the Product Unit until such time as the Product Unit Loss Event has been fully resolved, and no longer presents a threat of inappropriate access to: (i) the Product, (ii) any other intellectual property rights of Intermedix or (iii) the personal data or Protected Health Information gathered by Client in the performance of EMS by the Client. To the extent that any Product Unit Loss Event involves Protected Health Information, and is subject to HIPAA, as amended by the HITECH Act, Client shall comply with all applicable requirements under such laws, including any applicable HIPAA Notification requirements triggered by the Product Unit Loss Event. To the extent that a Product Unit Loss Event requires Client to provide HIPAA Notifications, any such notifications shall not include a reference to Intermedix unless such a reference is specifically required by HIPAA or other applicable law. Further, if Client intends to reference Intermedix in a HIPAA Notification based on its belief that such a reference is required by HIPAA or other applicable law, Client shall provide Intermedix written notice of its intent to do so no later than ten (10) days prior to Client's provision of each required HIPAA Notification (i.e. no later than ten (10) days prior to Client's provision of notifications to affected individuals, Health & Human Services, and/or prominent media outlets, as applicable). Client acknowledges that they are responsible for configuring the Product Unit security password configuration (the "Product Unit Security Configuration") and providing that Users provide adequate safeguard password security.

(c) Client may be required to enter into additional agreements with the makers of third-party devices (monitors, scanners, EKG machines, etc.) with respect to the transmission of information between the third party device and the Product Unit. Client understands and agrees that Intermedix will not be able to provide Product Units unless and until agreements are entered into with the third-party manufacturers of such third party devices. Client understands and agrees that its failure to enter into or reach agreements with such third-parties (and any and all consequences of such failure) shall not be deemed to be a default of Intermedix under this Exhibit D or any other arrangement between Client and Intermedix. Client further understands and agrees that the failure to enter into such agreements with these third

parties may hinder Client's use of certain software features that might otherwise be available to it (for instance, a direct data connection between a third party device and the Product Unit).

**4.03** Client may be required to obtain new or different medical or other equipment capable of communicating with the Product Unit. Client understands and agrees that such new or different medical or other equipment must be obtained at Client's sole cost and expense.

**4.04** Client may request Intermedix to support additional medical or other devices. Client understands and agrees that the costs of developing an interface may be significant and may involve the payment of royalties to the third-party manufacturers of the device. Client further understands and agrees that Intermedix has no obligation to undertake the development of interfaces with additional medical or other devices.

**4.05** Client agrees to indemnify and hold Intermedix, its agents, and employees harmless from any and all liabilities and costs, and against any claim, suit, fine, or damages, including loss of profits, reasonable attorneys' fees, or interest, or any incidental, indirect, special, or consequential damages incurred as a result of any loss or damage to a Product Unit, the failure to utilize and require that its Users utilize one or more Product Unit Security Configurations which comply with the Billing Security Characteristics, or an actual or alleged violation of local, state or federal laws, including, but not limited to, laws applicable to Medicare, Medicaid, HIPAA, the HITECH Act, or any other public or private Payor or enforcement agency.

## ARTICLE V. TERM AND TERMINATION

**5.01** Generally. The term of this Exhibit D shall begin on the Effective Date and shall continue the termination or expiration of the Agreement, unless terminated as provided in Section 5.03 below.

**5.02** Termination. Notwithstanding any other language herein or in the Agreement, a termination of this Exhibit D shall not operate to terminate the Agreement, but a termination of the Agreement shall operate as a termination of this Exhibit D.

### **5.03** Termination of Exhibit D.

(a) If Intermedix, at any time, materially fails to perform any obligation required under this Exhibit D, or breaches any material term or condition of this Exhibit D, and such material default or breach, being curable, continues uncured for thirty (30) calendar days after written notice from Client to Intermedix specifying the nature and extent of the failure to materially perform such obligation, Client shall have the right to terminate this Exhibit D upon the expiration of said thirty (30) calendar day period, without any obligation to pay any early termination payment outlined in Schedule 2.01.

(b) If Client, at any time, fails to materially perform any obligation required under this Exhibit D, or breaches any material term or condition of this Exhibit D, and such material default or breach, being curable, continues uncured for thirty (30) calendar days after

written notice from Intermedix to Client specifying the nature and extent of the failure to materially perform such obligation, Intermedix shall have the right to terminate this Addendum upon the expiration of said thirty (30) calendar day period, and any early termination payment required by Client outlined in Schedule 2.01 shall be immediately due and payable to Intermedix.

(c) **Termination without Cause.** Client may terminate this Exhibit D (but not the Agreement) at any time without cause by providing thirty (30) calendar days prior written notice to Intermedix, and making payment in full of the required early termination payment disclosed on Schedule 2.01 with respect to each Product Unit delivered pursuant to this Exhibit D, which shall be immediately due and payable as of the date of such written notice of termination. As of the effective date of such termination, Client shall return all Product Units to Intermedix and shall have no further right to access the Product provided hereunder.

(d) Intermedix may terminate this Exhibit D at any time without cause upon six (6) months prior written notice to Client.

(e) **Obligations Following Termination.** Any termination of this Exhibit D shall not release Client or Intermedix from any claim of the other accrued hereunder prior to the effective date of such termination. Upon termination of this Exhibit D, Intermedix shall remain the sole owner of the Product and all Intellectual Property and goodwill associated therewith, and Client shall assert no rights thereto. Upon termination of this Exhibit D for any reason, Client shall immediately discontinue use of the Product, and within ten (10) calendar days, return each of the Product Units and certify in writing to Intermedix that all copies, extracts or derivatives of any item comprising the Product, in whole or in part, in any form, have either been delivered to Intermedix or destroyed in accordance with Intermedix's instructions. All payments made by Client to Intermedix hereunder are non-refundable.

## **ARTICLE VI. LIMITED WARRANTY AND DISCLAIMER:**

**6.01 Product Warranty.** Intermedix warrants that each Product Unit delivered to Client will be free from material defects when delivered.

**6.02 Information/Disclaimer of Warranties with Respect to Data and Information Provided by Third Parties.** Some information transmittable or accessible through any Product Unit may have been obtained through sources believed to be reliable (such as various Internet providers, real-time data provided by GPS systems or medical devices or other third party information sources). Client agrees that Intermedix shall not have any liability whatsoever for the accuracy, completeness, timeliness or correct sequencing of the information, or for any decision made or action taken by Client in reliance upon such information or the Product. Client further agrees that Intermedix shall have no liability whatsoever for the transmission, non-transmission or partial transmission of data through third-party data systems and that such transmission shall be undertaken at Client's sole risk, cost and expense.

**6.03 Disclaimer.** Intermedix and its third party suppliers do not warrant that any Product will meet Client's requirements or that access to the Product, or the operation of the Product, will be uninterrupted, error-free, that all errors will be timely corrected, or that the data and/or reports generated by the Product will be accurate in the event that any third party

information providers have provided inaccurate information. THE WARRANTIES EXPRESSLY PROVIDED IN THIS EXHIBIT D AND THE AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, WHICH WARRANTIES ARE HEREBY SPECIFICALLY DISCLAIMED. NO REPRESENTATIVE OF INTERMEDIX SHALL HAVE THE RIGHT TO MAKE WARRANTIES ON INTERMEDIX'S BEHALF UNLESS THOSE WARRANTIES ARE IN WRITING AND EXECUTED BY A DULY AUTHORIZED OFFICER OF INTERMEDIX.

**6.04 Exclusive Remedy.** For any breach of the warranties set forth in Section 6.01, Intermedix, shall, following written notice thereof by Client, use diligence efforts, at Intermedix's sole expense, promptly to repair or replace the nonconforming Product or Product Unit. This is Intermedix's sole and exclusive liability, and Client's sole and exclusive remedy, for the breach of the above warranties. Intermedix shall have no obligation to replace any defective Product Unit which is not returned to Intermedix immediately following delivery or which has failed because of accident, abuse or misapplication.

**Schedule 2.01**  
**Early Termination Fee**

The Initial Term Early Termination Payments with respect to each Product Unit are as follows:

<b>Period</b>	<b>Amount</b>
(1) For an Early Termination during the first twelve (12) months from the beginning of the Term:	\$4,300.00
(2) For an Early Termination during the remainder of the Term:	\$0.00

**Schedule 2.02**  
**Third-Party Intellectual Property Royalty Payments**

In addition to the other compensation required under this Exhibit D, Third-Party Intellectual Property Payments shall be made as follows:

Licensing/Royalty agreement to be executed between Client and the manufacturer of Client's defibrillating equipment when the manufacturer has cleared the Product Unit for direct interface between their equipment and Intermedix provided data devices.



**Schedule 2.03****Additional Services**

(1) Client has purchased TripTix product pursuant to the terms and conditions of this Exhibit D and Intermedix shall provide TripTix based reporting extract of data required by state or local regulatory authorities' connectivity/interface in a format reasonably required by such authorities.

(2) Provide an interface to Client's Computer-Aided Dispatch ("CAD") system for the purpose of supplying to the TripTix software dispatch information in a format suitable as prescribed by Intermedix. Client agrees to pay any charges for this purpose as required by its CAD vendor and that Intermedix is not responsible for such charges, nor is Intermedix responsible for any lack of cooperation by the Client's CAD vendor in attempting to develop such interface for client. Should Client change CAD Vendor or substantially change CAD software version after initial implementation, Client shall be responsible for costs to implement the new CAD interface.

**Mayor and Council**

7008 S. Rice Avenue  
Bellaire, TX 77401



Meeting: 11/07/16 07:00 PM  
Department: City Clerk  
Category: Agreement  
Department Head: Tracy L. Dutton  
DOC ID: 2068

**SCHEDULED  
ORDINANCE (ID # 2068)**

---

**Item Title:**

Consideration of and possible action on the adoption of an ordinance authorizing the Mayor and the City Clerk of the City of Bellaire, Texas, to execute and attest, respectively, for and on behalf of the City of Bellaire, Texas, an Interlocal Agreement with Harris County concerning The Nature Discovery Center for the purpose of receiving a payment in the amount of \$50,000.00 from Harris County, Texas, to be used for the operation and maintenance of The Nature Discovery Center at Russ Pitman Park, 7112 Newcastle Drive, Bellaire, Texas - Submitted by Tracy L. Dutton, City Clerk, on behalf of the Office of Steve Radack, Harris County Commissioner for Precinct Three.

**Background/Summary:**

On October 27, 2016, the Office of Steve Radack, Harris County Commissioner for Precinct Three, notified my office of an Interlocal Agreement that Commissioner Radack wanted to bring forward to the Harris County Commissioners' Court for approval. The Interlocal Agreement is between Harris County and the City of Bellaire and concerns The Nature Discovery Center at Russ Pitman Park, 7112 Newcastle Drive, Bellaire, Texas. Under the terms of the Interlocal Agreement, the City would receive a payment in the amount of \$50,000.00 from Harris County, Texas, to be used for the operation and maintenance of The Nature Discovery Center.

If approved by the Bellaire City Council, Commissioner Radack plans to place the Interlocal Agreement on the November 15th Harris County Commissioners' Court agenda.

**Previous Council Action Summary:**

Harris County, Texas, has provided payments to the City of Bellaire, Texas, for the operation and maintenance of The Nature Discovery Center at Russ Pitman Park for a number of years. According to City records, the earliest payment was provided in 1992 in the amount of \$10,000, and the latest was provided in December of 2014 in the amount of \$50,000.

**Fiscal Impact:**

N/A

**Recommendation:**

The City Clerk recommends adoption of the ordinance as presented.

**ATTACHMENTS:**

- Interlocal Agreement with Harris County for Operating and Maintaining the Nature Discovery Center - 2016 (DOC)
- Interlocal Agreement with Harris County Concerning NDC - 2016 (PDF)



**ORDINANCE NO. 16-\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLAIRE, TEXAS, AUTHORIZING THE MAYOR AND THE CITY CLERK OF THE CITY OF BELLAIRE, TEXAS, TO EXECUTE AND ATTEST, RESPECTIVELY, FOR AND ON BEHALF OF THE CITY OF BELLAIRE, TEXAS, AN *INTERLOCAL AGREEMENT* WITH HARRIS COUNTY, TEXAS, IN A FORM AS ATTACHED HERETO AND MARKED "EXHIBIT A," CONCERNING A PAYMENT IN THE AMOUNT OF \$50,000.00 FROM HARRIS COUNTY, TEXAS, TO BE USED FOR THE OPERATION AND MAINTENANCE OF THE NATURE DISCOVERY CENTER AT RUSS PITMAN PARK, 7112 NEWCASTLE DRIVE, BELLAIRE, TEXAS.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLAIRE, TEXAS:**

**THAT** the Mayor and the City Clerk of the City of Bellaire, Texas, are each hereby authorized to execute and attest, respectively, for and on behalf of the City of Bellaire, Texas, an *Interlocal Agreement* with Harris County, Texas, in a form as attached hereto and marked "Exhibit A," concerning a payment in the amount of \$50,000.00 from Harris County, Texas, to be used for the operation and maintenance of The Nature Discovery Center at Russ Pitman Park, 7112 Newcastle Drive, Bellaire, Texas.

**PASSED and APPROVED** this 7th day of November, 2016.

(SEAL)

**ATTEST:**

\_\_\_\_\_  
Tracy L. Dutton, TRMC  
City Clerk

**SIGNED:**

\_\_\_\_\_  
Andrew S. Friedberg  
Mayor

**APPROVED AS TO FORM:**

---

Alan P. Petrov  
City Attorney

## INTERLOCAL AGREEMENT

THE STATE OF TEXAS     §  
                                       §  
 COUNTY OF HARRIS     §

This Interlocal Agreement is made and entered into by and between HARRIS COUNTY, a body corporate and politic under the laws of the State of Texas, hereinafter sometimes referred to as the "County," and the CITY OF BELLAIRE, a municipal corporation under the laws of the State of Texas, hereinafter sometimes referred to as the "City."

## WITNESSETH:

WHEREAS, the City operates and maintains the Nature Discovery Center ("Center") in Russ Pitman Park, a City-owned park ("Park") located at 7112 Newcastle in Bellaire, Harris County, Texas, for the use of the residents of the City and County; and

WHEREAS, the County is willing to participate in the operation and maintenance of the Center by contributing a portion of the cost thereof, as hereinafter provided, in consideration of the City operating and maintaining the Center; and

WHEREAS, the County and City are authorized to enter into this Interlocal Agreement by Tex. Loc. Gov't Code §§ 332.002 & 332.021, pursuant to which the County and City may cooperate with each other to provide, maintain, construct, and operate park and recreational facilities located on property owned or acquired by either political subdivision;

NOW, THEREFORE, for and in consideration of the mutual covenants, agreements, and benefits to the parties herein named, it is agreed as follows:

## I.

After the execution of this Interlocal Agreement by both parties, the County will pay the City a one-time, lump sum payment of \$50,000.00. The City will place said funds in a separate bank account for the purpose of paying for the operation and maintenance of the Center.

## II.

The City shall expend the funds paid to it by the County only for the operation and maintenance of the Center. The City may arrange with The Nature Discovery Center, Inc., a Texas nonprofit corporation (formerly, Friends of Bellaire Parks, Inc.), to operate and maintain the Center. One year after receipt of the funds from the County, the City will submit to Harris County Commissioner, Precinct 3, in a form approved by the Harris County Auditor, a detailed written report itemizing how the funds paid by the County to the City have been expended. If the report indicates that any portion of the funds have not been expended by the City for the

operation and maintenance of the Center, then the City will refund the balance of said funds to the County, simultaneously with the delivery of the report.

### III.

The City shall not use or permit the property upon which the Center is constructed to be used for any purpose other than in connection with the operation and maintenance of the Center, or take any action inconsistent with such use, for a period of at least one year after receipt of the funds from the County, during which time the Park, the Center, and their facilities shall be open to all residents of the County on the same basis as residents of the City. In no event shall the County be obligated to provide maintenance of the Park or Center.

### IV.

In the event the City discontinues the operation or maintenance of the Center prior to one year after receipt of the funds from the County, this Agreement terminates automatically and the City will immediately, without demand, refund to the County all unexpended funds paid to the City by the County, along with a detailed written report itemizing how the funds paid by the County to the City have been expended.

### V.

The County may terminate this Interlocal Agreement, with or without cause, at any time by giving the City thirty (30) days prior written notice of its intent to terminate. Within fifteen (15) days after the termination date of this Interlocal Agreement, the City shall refund to the County all unexpended funds paid to the City by the County, along with a detailed written report itemizing how the funds paid by the County to the City have been expended.

### VI.

In performing its obligations hereunder, the City will comply with all applicable federal, state, county, and city ordinances, rules, and regulations, now in force or which may hereafter be enacted or promulgated.

### VII.

The County has appropriated and has available the maximum sum of \$50,000.00 to satisfy its obligations under this Interlocal Agreement.

### VIII.

Upon request by the County Commissioner of Precinct 3, the City will place a sign in the Park, at a location and in a form to be approved by the County Commissioner of Precinct 3, which acknowledges the County's participation in the operation and maintenance of the Center.

## IX.

All notices and communications under this Interlocal Agreement will be mailed by certified mail, return receipt requested, or delivered to the County at the following address:

Harris County Commissioners Court  
Harris County Administration Building  
1001 Preston, 9th Floor  
Houston, Texas 77002  
Attention: Clerk of Commissioners Court

All notices and communications under this Interlocal Agreement will be mailed by certified mail, return receipt requested, or delivered to the City at the following address:

Parks & Recreation Department  
7008 South Rice Avenue  
Bellaire, Texas 77401-4495  
Attention: Director

Notice will be considered given and completed upon deposit of the notice in a United States Postal Service receptacle.

## X.

This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any modifications concerning this instrument are of no force and effect excepting a subsequent modification in writing, signed by both parties.

[END OF PAGE – SIGNATURE PAGE FOLLOWS]



IN TESTIMONY OF WHICH, this Interlocal Agreement has been executed in triplicate counterparts, each to have the force and effect of an original as follows:

- (a) It has been executed on behalf of the County on the \_\_\_\_\_ day of \_\_\_\_\_ 2016, by the County Judge of Harris County, Texas, pursuant to an order of the Commissioners Court of Harris County, Texas, authorizing such execution; and
- (b) It has been executed on behalf of the City on the \_\_\_\_\_ day of \_\_\_\_\_ 2016, by its Mayor, and attested by its City Clerk, pursuant to an ordinance of the City Council of the City of Bellaire authorizing such execution.

APPROVED AS TO FORM:

VINCE RYAN  
County Attorney

HARRIS COUNTY

By M. Scott Bresk  
M. SCOTT BRESK  
Assistant County Attorney

By \_\_\_\_\_  
ED EMMETT  
County Judge

ATTEST:

CITY OF BELLAIRE

\_\_\_\_\_  
TRACY DUTTON  
City Clerk

By \_\_\_\_\_  
ANDREW S. FRIEDBERG  
Mayor

APPROVED AS TO FORM:

COUNTERSIGNED:

\_\_\_\_\_  
ALAN PETROV  
City Attorney

\_\_\_\_\_  
TERRENCE BEAMAN  
Chief Financial Officer

Countersignature Date: \_\_\_\_\_

## AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$50,000.00 to accomplish and pay the obligation of Harris County under this Interlocal Agreement.

---

BARBARA J. SCHOTT, County Auditor

THE STATE OF TEXAS     §  
                                      §  
 COUNTY OF HARRIS     §

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on the \_\_\_\_\_ day of \_\_\_\_\_ 2016, with the following members present, to-wit:

Ed Emmett	County Judge
Gene L. Locke	Commissioner, Precinct No. 1
Jack Morman	Commissioner, Precinct No. 2
Steve Radack	Commissioner, Precinct No. 3
R. Jack Cagle	Commissioner, Precinct No. 4

and the following members absent, to-wit: \_\_\_\_\_,  
 constituting a quorum, when among other business, the following was transacted:

ORDER AUTHORIZING THE COUNTY JUDGE TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN HARRIS COUNTY AND THE CITY OF BELLAIRE FOR THE OPERATION AND MAINTENANCE OF THE NATURE DISCOVERY CENTER LOCATED IN RUSS PITTMAN PARK IN THE CITY OF BELLAIRE, HARRIS COUNTY, TEXAS

Commissioner \_\_\_\_\_ introduced an order and made a motion that the same be adopted. Commissioner \_\_\_\_\_ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

	Yes	No	Abstain
Judge Ed Emmett	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Gene L. Locke	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Jack Morman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Steve Radack	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. R. Jack Cagle	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order thus adopted follows:

WHEREAS, the City of Bellaire operates and maintains the Nature Discovery Center ("Center") in Russ Pitman Park, a City-owned park located at 7112 Newcastle in Bellaire, Harris County, Texas, for the use of the residents of the City and Harris County; and

WHEREAS, the County is willing to participate in the operation and maintenance of the Center by contributing a portion of the cost thereof, in consideration of the City operating and maintaining the Center; and

WHEREAS, the County and City are authorized to enter into this Interlocal Agreement by Tex. Loc. Gov't Code §§ 332.002 & 332.021, pursuant to which the County and City may cooperate with each other to provide, maintain, construct, and operate park and recreational facilities located on property owned or acquired by either political subdivision;

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF HARRIS COUNTY, TEXAS, THAT:

Section 1: The recitals set forth in this Order are true and correct.

Section 2: The Harris County Judge is authorized to execute, for and on behalf of Harris County, an Interlocal Agreement between Harris County and the City of Bellaire, the Interlocal Agreement being incorporated herein by reference and made a part hereof for all intents and purposes as though fully set forth herein word for word.

Section 3: All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purpose of this Order.

**Mayor and Council**

7008 S. Rice Avenue  
Bellaire, TX 77401



Meeting: 11/07/16 07:00 PM  
Department: Development Services  
Category: Resolution  
Department Head: John McDonald  
DOC ID: 2065

**SCHEDULED  
INFORMATION ITEM (ID  
# 2065)**

---

**Item Title:**

Consideration of and possible action on the adoption of a resolution of the City Council of the City of Bellaire, Texas, supporting a grant application to the Houston-Galveston Area Council for their 2017 Pedestrian/Bicycle Studies program in the amount of \$125,000 - Submitted by John McDonald, Director of Development Services.

**Background/Summary:**

For the first time in six years, the Houston-Galveston Area Council (HGAC) is requesting proposals from local governments to conduct pedestrian/bicycle implementation studies which focus on improving mobility for pedestrians and cyclists. The City will seek the grant in the amount of \$125,000. The City would have a matching requirement of \$25,000 plus an additional 3% Texas Department of Transportation fee (\$3,750).

This grant seeks to address the issues of barriers to safe routes; connection to transit and activity centers (private and public), and improve overall safety for pedestrians and cyclists. This grant would also help the City address goals outlined in the Comprehensive Plan for an improved pedestrian and bicycle network. This application is benefitted by our Comprehensive Plan, which includes the Park Master Plan, the Right-of-way study, which is currently underway, and the scheduled Community Pathways Plan.

The final product will include specific recommendations for improvements to include policies and infrastructure upgrades.

**Fiscal Impact:**

If City receives the grant, the required match of \$25,000 will come from funds set aside for the Community Pathways Plan.

**Recommendation:**

The Director of Development Services recommends that City Council approve the resolution endorsing the grant application to HGAC.

**ATTACHMENTS:**

- Resolution - HGAC Grant Pedestrian\_Bike Nov 2016 (DOCX)



# RESOLUTION NO. 16-\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELLAIRE, TEXAS, SUPPORTING THE SUBMISSION OF A GRANT APPLICATION BY THE CITY OF BELLAIRE, TEXAS, TO THE HOUSTON-GALVESTON AREA COUNCIL FOR THE 2017 PEDESTRIAN/BICYCLE (SPECIAL DISTRICTS) STUDIES PROGRAM IN THE AMOUNT OF \$125,000.**

**WHEREAS**, the City Council of the City of Bellaire, Texas, finds it in the best interest of the Citizens of the City of Bellaire, Texas, to submit an application under the 2017 Pedestrian/Bicycle (Special Districts) Studies Program to assist in the identification of cost-effective policies, projects and programs designed to make walking and biking safe, comfortable and convenient transportation options; and

**WHEREAS**, the City Council of the City of Bellaire, Texas, finds the proposed application for assistance from said program, in the amount of \$125,000, to be submitted to the Houston-Galveston Area Council as beneficial to the Citizens of the City of Bellaire, and Texas, and to the region as a whole; and

**WHEREAS**, the City Council of the City of Bellaire, Texas, agrees to provide matching monies for said program in the amount of \$25,000 plus a 3% Texas Department of Transportation fee, as required by the grant application, if the City of Bellaire is awarded such grant;

NOW THEREFORE,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLAIRE, TEXAS:**

**Section 1.** That the facts and recitations set forth in the preamble of this resolution are hereby adopted, ratified, and confirmed.

**Section 2.** **THAT** the City Council of the City of Bellaire, Texas, approves and supports the submission of a grant application by the City of Bellaire for the 2017 Pedestrian/Bicycle (Special Districts) Studies Program to the Houston-Galveston Area Council, in the amount of \$125,000.00.

**PASSED, APPROVED, and RESOLVED** on this 7<sup>th</sup> day of November, 2016.

---

Andrew S. Friedberg, Mayor  
City of Bellaire, Texas

ATTEST:

---

Tracy L. Dutton, City Clerk  
City of Bellaire, Texas



**Mayor and Council**

7008 S. Rice Avenue  
Bellaire, TX 77401



Meeting: 11/07/16 07:00 PM  
Department: Human Resources  
Category: Ordinance  
Department Head: Yolanda Howze  
DOC ID: 2067

**SCHEDULED  
ORDINANCE (ID # 2067)**

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**Item Title:**

Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, authorizing the Mayor to execute, for and on behalf of the City of Bellaire, Texas, a New Case Questionnaire and Renewal Decisions, as well as any related documentation including an Employer Agreement, with Cigna, for the purpose of providing employee group medical and dental insurance for a period of one (1) year commencing January 1, 2017, and ending December 31, 2017, with an option to renew said insurance coverage for additional one (1) year periods of time upon mutual consent of the Mayor, acting on behalf of the City of Bellaire, Texas, and Cigna - Submitted by Yolanda Howze, Director of Human Resources.

**Background/Summary:**

Higginbotham, our benefits consultant, evaluated the carrier market for our 2017 health and dental insurance renewal. The market results provided more competitive pricing for our plans than our current carrier, Aetna.

In the latest 12 month claim experience period ending in June, our medical loss ratio was 74%. This means that out of our total paid premium, 74% paid claims and the remaining 26% applied towards Aetna's administration and margin as well as Patient Protection and Affordable Care Act (PPACA) taxes. Although, our 74% loss ratio was well below Aetna's target loss ratio of 83%, Aetna was only willing to provide a "best and final" renewal offering of 15.3% above current premiums for our existing medical plans. Aetna's renewal is based on 60% of our claim experience and 40% of their manual ratings, or their book of business claims experience and how well they have or have not fared overall.

In spite of Aetna's renewal, our claims experience is favorable and there a number of contributing factors including our wellness efforts. We continue to focus on programs and activities that directly correlate with the health risks impacting our employee population, namely high blood pressure, diabetes, and high cholesterol. During 2016, we continued the relationship with Diabetes of America to assist some employees with managing diabetes to a point that some were able to reduce/eliminate medications and have experienced significant weight loss. Our Compass concierge services remain effective in assisting employees and their families with choosing cost-effective providers and medical services. To promote wellness and keep employees engaged in healthy living, we hosted a number of wellness lunch 'n' learns and health and fitness challenges which have been well-received with overwhelming participation.

As aforementioned, Higginbotham reached out to the market's major carriers on our behalf to obtain proposals for our 2017 medical and dental insurance renewals. Cigna substantially exceeded other proposals with their offer of 11.3% below current premiums for medical and 1.6% below current premiums for our combined dental plans. Cigna has also provided a \$5,500 Transition fund and \$5,000 Health Improvement fund.

We currently have three High Deductible Health Plans (HDHPs) with Health Savings Accounts (HSAs) and one Traditional PPO (co-pay) plan. Approximately 10% of enrolled employees/retirees are currently enrolled in the two plan designs that will no longer be offered. With this transition, a couple of modifications will take place: 1) the number of HSA plan offerings will be reduced from three to one; 2) the traditional PPO will remain in place; however, the Out of Network benefits, except for cases of emergencies, will be eliminated. It is not administratively feasible or cost-effective to maintain four plans. The remaining two plans offer balanced health care options with more affordable rates for all employees.

Currently, the plans offer an Out of Network benefit which of course comes with higher deductibles and Out of Pocket Maximums. With the transition to Cigna, the Traditional PPO plan will not have an Out of Network option, except in the case of emergencies. As a point of reference, due to the broad network of providers in the Houston metropolitan areas, plan participants have not had to utilize Out of Network benefits for the past two years. Like Aetna, Cigna is a national carrier with a strong, vast physician and hospital network of providers, so the opportunity to select Out of Network providers will be limited. We fully expect and will continue to encourage our employees to utilize network providers, as it saves money for employees and the plan.

#### **PREVIOUS COUNCIL ACTION SUMMARY:**

City Council last approved a similar ordinance (11-080) November 21, 2011, and since such time the City maintained these insurance options with Aetna.

#### **FISCAL IMPACT:**

Transitioning to Cigna with the above noted modifications will result in an estimated 2017 calendar year overall plan savings of \$190,000-approximately \$127,000 reduction for the city and \$63,000 reduction for employees.

#### **RECOMMENDATION:**

It is the recommendation of Yolanda Howze, Director of Human Resources, that the City Council of the City of Bellaire accept Cigna's offer and transition our medical and dental benefits to them for the 2017 plan year by approving the ordinance authorizing the Mayor to execute, on behalf of the City of Bellaire, Texas, a New Case Questionnaire and Renewal Decisions, as well as any related documentation including an Employer Agreement, with Cigna, for the purpose of providing employee group medical and dental insurance for a period of one (1) year commencing January 1, 2017, and ending December 31, 2017, with an option to renew said insurance coverage for additional one (1) year periods of time upon

mutual consent of the Mayor, acting on behalf of the City of Bellaire, Texas and Cigna.

**ATTACHMENTS:**

- Cigna Authorization Ordinance (DOCX)

ORDINANCE NO. 16 -

AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF BELLAIRE, TEXAS, TO EXECUTE, FOR AND ON BEHALF OF THE CITY OF BELLAIRE, TEXAS, A *NEW CASE QUESTIONNAIRE AND RENEWAL DECISIONS*, AS WELL AS ANY RELATED DOCUMENTATION INCLUDING AN EMPLOYER AGREEMENT, WITH CIGNA, FOR THE PURPOSE OF PROVIDING EMPLOYEE GROUP MEDICAL AND DENTAL INSURANCE FOR A PERIOD OF ONE (1) YEAR COMMENCING JANUARY 1, 2017, AND ENDING DECEMBER 31, 2017, WITH AN OPTION TO RENEW SAID INSURANCE COVERAGE FOR ADDITIONAL ONE (1) YEAR PERIODS OF TIME UPON MUTUAL CONSENT OF THE MAYOR, ACTING ON BEHALF OF THE CITY OF BELLAIRE, TEXAS AND CIGNA.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLAIRE, TEXAS:

THAT the Mayor of the City of Bellaire, Texas, is hereby authorized to execute, for and on behalf of the City of Bellaire, Texas, a *New Case Questionnaire and Renewal Decisions*, as well as any related documentation including an Employer Agreement, with CIGNA, for the purpose of providing employee group medical and dental insurance for a period of one (1) year commencing January 1, 2017, and ending December 31, 2017, with an option to renew said insurance coverage for additional one (1) year periods of time upon mutual consent of the Mayor, acting on behalf of the City of Bellaire, Texas, and Cigna.

PASSED and APPROVED this, 7<sup>th</sup> day of November, 2016.

---

Andrew S. Friedberg, Mayor  
City of Bellaire, Texas

ATTEST:

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Tracy L. Dutton, TRMC  
City Clerk  
City of Bellaire, Texas

APPROVED AS TO FORM:

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Alan P. Petrov, City Attorney  
City of Bellaire, Texas

Attachment: Cigna Authorization Ordinance [Revision 1] (2067 : Health Insurance Renewal - 2017)

**Mayor and Council**

7008 S. Rice Avenue  
Bellaire, TX 77401



Meeting: 11/07/16 07:00 PM  
Department: City Manager's Office  
Category: Ordinance  
Department Head: Paul A. Hofmann  
DOC ID: 2063

**SCHEDULED  
INFORMATION ITEM (ID  
# 2063)**

**Item Title:**

Consideration of and possible action on the adoption of an ordinance of the City Council of the City of Bellaire, Texas, establishing a Charter Review Commission of the City of Bellaire, Texas ("Commission"), for the purpose of reviewing the Charter of the City of Bellaire, Texas, as amended on November 7, 2006, and appointing up to seven (7) members to serve on the Commission for a term of seven (7) months commencing on December 1, 2016, and ending on June 30, 2017 - Submitted by Alan P. Petrov, City Attorney.

**Background/Summary:**

On October 10, 2016, members of City Council held discussions concerning establishing a Charter Review Commission ("Commission") for the purpose of reviewing the Charter of the City of Bellaire, Texas, as last amended on November 7, 2006. Discussions included a possible charge, method for appointing members to serve on the Commission, and setting a term.

Following those discussions, City Attorney Alan P. Petrov prepared an ordinance for City Council consideration this evening that would establish a Charter Review Commission for the purpose of reviewing the Charter of the City of Bellaire, Texas, as amended November 7, 2006, and appointing up to seven (7) members to serve for a term of seven (7) months commencing on December 1, 2016, and ending on June 30, 2017.

Additionally, as suggested and recommended by City Council on October 10, 2016, the City Clerk has received applications and resumes from five (5) interested citizens contacted by members of City Council to consider serving as a member of the Charter Review Commission. Those applications and resumes, as well as the ordinance prepared by City Attorney Petrov, are attached to this agenda statement.

**Previous Council Action Summary:**

A Charter Review Commission was last appointed by the City Council in 2004.

**Fiscal Impact:**

General Fund

**Recommendation:**

Action as City Council deems appropriate.

**ATTACHMENTS:**

- Charter Review Committee Ordinance 2016 (00183658xD8318) (DOC)
- Charter Review Commission Applications - November 2016 (PDF)

## ORDINANCE NO. 16-\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLAIRE, TEXAS, ESTABLISHING A CHARTER REVIEW COMMISSION ("COMMISSION") AS AN AD HOC COMMITTEE OF THE CITY OF BELLAIRE, TEXAS, FOR THE PURPOSE OF REVIEWING THE *CHARTER OF THE CITY OF BELLAIRE, TEXAS*, AS AMENDED ON NOVEMBER 20, 2006, AND APPOINTING UP TO SEVEN (7) MEMBERS TO SERVE ON THE COMMISSION FOR A TERM OF SEVEN (7) MONTHS COMMENCING DECEMBER 1, 2016, AND EXPIRING ON JUNE 30, 2017.

**WHEREAS**, the City of Bellaire, Texas, is a home-rule municipality located within Harris County, Texas; and

**WHEREAS**, the City of Bellaire, Texas, adopted its first *Charter* on April 2, 1949, as authorized by *Article XI, Section 5* of the *Texas Constitution*; and

**WHEREAS**, *Article XI, Section 5*, of the *Texas Constitution* and *Article XII, General Provisions, Section 10, Amending the Charter of the City of Bellaire, Texas ("Charter")*, provide for amendments to be made to the Charter; and

**WHEREAS**, the Charter has not been amended since November 20, 2006, and, it is important that the Charter provision be reviewed periodically to ensure that such provisions do not conflict with state law and remain clear and unambiguous; and

**WHEREAS**, the City Council of the City of Bellaire, Texas, now finds that the establishment of a Commission for the purpose of reviewing the City Charter is in order;

**NOW, THEREFORE,**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLAIRE,  
TEXAS:**

1. **THAT** an ad hoc committee of the City of Bellaire, Texas, is hereby established as the Charter Review Commission (the "Commission"), and said Commission shall remain in existence from December 1, 2016 until June 30, 2017, unless sooner terminated or extended by action of the City Council of the City of Bellaire, Texas.

2. **THAT** the Commission is hereby charged to conduct an independent review of the Charter and report to the City Council of the City of Bellaire, Texas, by June 30, 2017, any proposed amendments meeting the following objectives:

- a. Amendments to sections of the Charter which are in conflict with applicable provisions of the general laws of the State of Texas, by reason of amendments or new statutes enacted by the Texas State Legislature since the Charter was first drafted and last amended;
- b. Amendments to sections of the Charter needed to resolve any inaccuracies related to construction of case law;
- c. Amendments to state more clearly certain provisions of the Charter, which, as currently expressed, are either ambiguous or inaccurate; and
- d. Amendments to correct certain provisions of the Charter, which, as currently expressed, are either inconsistent with our form of government or contain requirements that create unnecessary inefficiencies.

3. **THAT** the Commission shall be composed of the following seven (7) members nominated and selected from a cross-section of the community and appointed herein by action of the City Council of the City of Bellaire, Texas, for a seven (7) month term commencing on the 1<sup>st</sup> day of December, 2016, and expiring on the 30<sup>th</sup> day of



June, 2017, unless sooner terminated or extended by action of the City Council of the City of Bellaire, Texas:

- a. NAME
- b. NAME
- c. NAME
- d. NAME
- e. NAME
- f. NAME
- g. NAME

4. **THAT**, no later than its second meeting, the Commission shall appoint a Chair and Vice-Chair from among its members. In addition the Commission may adopt such rules of procedure as it deems necessary.

5. **THAT** this Ordinance shall be effective immediately upon its passage and adoption.

**PASSED, APPROVED and ADOPTED** this, the 7<sup>th</sup> day of November, 2016.

\_\_\_\_\_  
Andrew S. Friedberg, Mayor  
City of Bellaire, Texas

ATTEST:

\_\_\_\_\_  
Tracy L. Dutton, City Clerk  
City of Bellaire, Texas

APPROVED AS TO FORM:

\_\_\_\_\_  
Alan P. Petrov, City Attorney  
City of Bellaire, Texas

# *City of Bellaire, Texas*



## **Charter Review Commission**

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### **Applications**

### **(Ordered Alphabetically)**

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# *City of Bellaire, Texas*



## **Charter Review Commission**

### **Table of Contents**

<b><u>Tab*</u></b>	<b><u>Applicant</u></b>
1.	Jill Bullard Almaguer
2.	James P. Avioli, Sr. (Jim)
3.	Doug Christians
4.	Aaron Swerdlin
5.	Neil Verma

\*Blue Separator Sheets have been used in lieu of tabs.

# *City of Bellaire, Texas*



## **Charter Review Commission**

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**Tab No. 1**

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**Jill Bullard Almaguer**

Attachment: Charter Review Commission Applications - November 2016 (2063 : Ordinance Creating Charter Review Committee)



# City of Bellaire

## Application for Board, Commission, and Committee Appointment

**Instructions:** Please type or print using black ink.

**Board/Commission/Committee** (indicate selection(s) by marking each with "1" or "2" or "3" in rank order of your preference (1 = most preferred).

<input type="checkbox"/> Board of Adjustment	<input type="checkbox"/> Environmental and Sustainability Board	<input type="checkbox"/> Evelyn's Park Conservancy Board
<input type="checkbox"/> Building & Standards Commission	<input type="checkbox"/> L.I.F.E. Advisory Board	<input type="checkbox"/> Audit Finance Board
<input type="checkbox"/> Planning & Zoning Commission	<input type="checkbox"/> Cultural Arts Board	<input checked="" type="checkbox"/> 1 Ad Hoc Committee (if applicable)
<input type="checkbox"/> Parks and Recreation Advisory Board		Charter Review Committee

Name: JILL BULLARD ALMAGUER

Address: [REDACTED], BELLAIRE, TX 77401

Mailing Address (if different): \_\_\_\_\_

Contact Number: [REDACTED]

Occupation: ENGINEER

Number of Years in Bellaire: 26 yrs \*

\*Must be a resident for at least six (6) months before appointment date. If applying for Audit Finance Board, you must be a resident with financial and/or audit experience. Please attach resume with application.

Are you a registered voter in a Bellaire precinct? yes  
Yes or No

Are you 18 years of age or older? yes  
Yes or No

First Time Appointment? no  
Yes or No

If No, indicate the name(s) of board(s), commission(s), committee(s) and time period of previous service: BOARD OF ADJUSTMENT - 3 MONTHS



Have you ever attended a meeting of the board(s), commission(s), or committee(s) to which you seek appointment?

No

Yes or No

Name(s) of board(s), commission(s), or committee(s)

Please write a brief summary of your qualifications for service on the board, commission, and/or committee to which you see appointment.

AS A BELLAIRE NATIVE, I HAVE OVER 50 YEARS EXPERIENCE IN THE CITY. I HAVE AN MBA AND AM A PROJECT MANAGEMENT PROFESSIONAL FAMILIAR WITH PROJECT CHARTERS. I WANT TO CONSIDER ALL STAKEHOLDERS AS WE REVIEW THE CITY'S CHARTER.

Briefly describe previous community activities associated with the City of Bellaire, as well as any outside civic, charitable, and other community work.

I GREW UP IN BELLAIRE AND SWAM ON THE BELLAIRE SWIM TEAM. I WORKED FOR THE CITY OF BELLAIRE AS A LIFE GUARD PRIOR TO GRADUATION FROM BELLAIRE HIGH SCHOOL. I SERVE AS CHAIR OF BIOMEDICAL ENGINEERING SOCIETY AND AS MEMBERSHIP DIRECTOR OF FEDERATION OF HOUSTON PROFESSIONAL WOMEN.

Do you anticipate any conflicts of interest arising on connection with your service on the selected board(s), commission(s) or committee(s)?

No

Yes or No or Possibly

If you answered yes or possibly and a conflict of interest did arise, how would you propose to resolve it?

Do you understand the time commitment required on this board, commission, and/or committee for meetings as well as preparation prior to meetings? (As a reference, previous board, commission, and committee members have stated that their time commitment ranged, on average, from two to six hours per month.)



Yes



No

Please complete the following only if you are applying for reappointment to a particular board, commission, or committee.

Do you have any thoughts regarding the responsibilities of and/or recent actions by your board, commission, or committee?

\_\_\_\_\_

\_\_\_\_\_

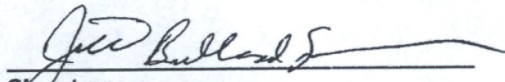
Do you have any ideas on how the effectiveness of your board, commission, or committee can be improved?

\_\_\_\_\_

\_\_\_\_\_



The City of Bellaire appreciates your commitment and willingness to serve. Thank you for taking the time to complete this application.

  
Signature

Date: 10/22/16

JILL BULLARD ALMAGUER  
Printed Name



**Jill B. Almaguer, PE, MBA, PMP**

Bellaire, TX 77401

**SUMMARY**

Strong leader with experience in technical consulting, sales, project and program management. Excellent interpersonal communications and engineering skills in multiple industries including Healthcare, Information Technology, Telecom, and Semiconductors. Demonstrated success in managing implementations for entire value chain from requirements development, to request for proposal, vendor evaluation and selection, contract negotiations, product deployment, network monitoring and optimization, service level agreement compliance and vendor management. Ability to hire and develop cross-functional, multi-cultural teams and generate improved results on multi-million dollar, complex, multi-institutional, cutting-edge sponsored research programs.

**SKILLS**

Project Management	Business Process Management	Customer Relations Mgt.
Program Management	Supply Chain Management	MS Office Suite, Visio
Six Sigma Quality	Technical Requirements Development	MS Project, SharePoint
Contracting, Negotiations	Problem Solving and Escalation Mgt.	Software Development
Written/Verbal Communication	Data Analysis and Decision Making	Strategic Planning
Wireless Technologies, RFID	Leadership and Team Building	Risk Assessment
Systems Integration	Safety Planning & Disaster Recovery	Life Cycle Management
GLP, GMP and PCI Compliance	Software Licensing and Governance	Finance and Budgeting
Product Development (R&D)	Sales, Marketing, Account Management	Performance Coaching

**PROFESSIONAL EXPERIENCE****NordStar Group, Houston, TX 2016-present**

Information Technology Systems Integrator

Sales Account Manager

**Texas Heart Institute, Houston, TX 2013-2016**

Private not for profit research and educational institution in the Texas Medical Center

**Program Manager, Regenerative Medicine Research**

- Launched Center for Cell and Organ Biotechnology at THI and Texas A&M University.
- Completed all 2 year milestones on \$3,000,000 Texas Emerging Technology Fund grant.
- Hired diverse team and achieved first in Texas CAP accreditation for biorepository core.

**Harris Health System, Houston, TX 2009-2013**

One of the largest public integrated healthcare systems in US with over \$1 Billion annual budget

**Operations Manager - Project Management, LBJ Hospital & System Ancillary Services**

- Tracked and managed dependencies of portfolio of up to 30 projects at LBJ campus.
- Trained and mentored project managers in 6 system Ancillary and Support departments.
- Facilitated Space Committee for VP and Executive VP in LBJ Hospital Administration.

**DeVry University, Houston, TX 2004-2012 (independent contractor)**

Private university specializing in application of Information Technology to business education

**Adjunct Faculty**

- Management, E-Commerce, Customer Relations, and Business and Technology professor

**Adams Harris, Houston, TX 2008-2009 (independent contractor)**

Consulting firm specializing in Information Technology, Accounting and Tax practices

- Initiated SAP conversion project for over \$1 Billion spend in Supply Chain group at BP.



**Texas Children's Hospital, Houston, TX 2005-2008 (contract to perm)**

Integrated Delivery System providing excellence in pediatric patient care, education and research

**Business Process Consultant, Senior Project Manager and Senior Contracts Specialist**

- Negotiated over \$1,000,000 in savings on hardware and software purchasing agreements.
- Tracked Epic Systems implementation costs and reduced payment process time over 30 days.

**Sheriff and Company, Houston, TX 2004-2005**

Software development and Business Process Management consulting practice

**Director of Development**

- Developed and launched healthcare Resource Management optimization RFID system.
- Provided HP computing, printing and data storage system solutions to healthcare clients.

**Dynamic Health Strategies, Houston, TX 2003-2004 (independent contractor)**

Bioinformatics data mining/warehousing software/services to employers & health care providers

**Director – Sales & Marketing**

- Developed marketing materials and delivered sales training for local and remote employees.

**Agilent Technologies (Formerly medical/instrument organization of HP)**

Multi-billion dollar communications, test, medical and life science electronics manufacturer

**Application Engineering Mgr, Electronic Design Automation, Dallas, TX (2002-03)**

Lead western U.S. team of App. Engineers with multi-million dollar software sales/delivery quota

- Won President's Club recognition for team member's cross-functional product development.
- Championed WLAN R&D Connected Solutions that won 2003 Wireless Product of the Year.
- Led field management for quality improvement tour to gather major customer requirements.

**District Sales Manager, Wireless Named Accounts, Dallas, TX (2001-02)**

Over \$50m revenue & executive relationships with global wireless telecom equip. manufacturers.

- Managed Americas HQ relationship with Nokia purchasing and showcased yearlong Supplier Development Program results presented to Agilent CEO and the Quest Best Practices Forum.
- Led RFP team for "world-class" Nortel response and received stock option award from CEO.
- Negotiated custom test system integration for Motorola cellular base station manufacturing.

**Consulting Mgr, US Wireless Communications Service Providers, Dallas (1999-2001)**

Build nationwide pre-sales and delivery team for wireless network monitoring systems & consulting.

- Successfully hosted 3 annual International Users' Conferences for mission critical application.
- Managed customer co-development of Business Intelligence application presented at Telecom '99 in Geneva. New product resulted in multi-million dollar sales in the first year.
- Delivered first high speed link monitoring system in U.S. on-schedule and within budget.

**Hewlett-Packard (HP)**

Diversified electronics manufacturer with innovative high-tech solutions in multiple industries.

**Consulting Mgr, East Coast Comm. Service Providers, Piscataway, NJ (1997-99)**

Manage P&L for Customer Focused Communications Solutions Delivery Team.

- Met multi-million dollar FY00 revenue target with 21 FTE direct reports in 10 offices.
- Conducted Operational Assistance new product training & launched Operational Reviews
- Hired and developed diverse team of Project Managers, System Engineers, Solution Architects & Principal Engineers for nationwide telecommunications system deployment.

**Alliance Development Program Mgr, HP Medical Products, Houston, TX (1996-97)**

Recruit, evaluate and implement contract relationships to deliver turn-key integrated solutions.

- Led Kaiser Permanente 3<sup>rd</sup> party Clinical Information System integration project team.
- Negotiated nationwide agreement with Johnson Controls for HP installation services.



**New Enterprise Start-up Team Manager, HP Medical, Houston, TX (1995-96)**

Hire and develop nationwide project delivery team to launch a new software imaging application.

- Developed value propositions to sell project management and network design services.
- Delivered training for sales team that had no previous experience selling total solutions.

**District Mgr, Clinical Systems Services, HP Medical Products, Houston (1994-95)**

Deliver million dollar installation, repair and preventative maintenance services in three states.

- Won and delivered on time largest order (\$10,000,000) received to date by HP Medical.
- Met annual profit and loss targets. Hired, relocated and trained Customer Engineers.

**Sales Representative, HP Computer Products Organization, Houston (1990-94)**

Grow sales through reseller channel, manage contracts, lead marketing programs & resolve issues.

- Exceeded 115% of quota in multiple years selling PCs, storage, networks, and printers.
- Networked computing solution for 1992 Republican National Convention in Houston.

**Customer Feedback Analyst, HP West Area Quality, Houston (1988-1990)**

Gather and analyze Voice of the Customer (VoC) data; coach quality teams to improve processes.

- Produced and emceed the first annual Regional Quality Olympiad best practices event.
- Trained over 600 employees in 6 states on root cause analysis and process improvement.

**EDUCATION**

- M.B.A. from Houston Baptist University, Houston, Texas
- B.S. in Bioengineering, Texas A&M University, College Station, Texas
- Summer internships at MD Anderson Cancer Center and Memorial Southwest Hospital
- Deming Quality Seminar and American Quality Center Customer Service Metrics Seminar
- Leadership Texas Class of 2002, Leadership America Class of 2003
- Keller Graduate School of Management–April 2016 Certificate in Health Systems Mgt.

**LICENSES AND CERTIFICATIONS**

- Registered Professional Engineer (PE) in the State of Texas
- Project Management Professional (PMP) from Project Management Institute
- Six Sigma Yellow Belt Certification

**SELECTED PUBLICATIONS AND PRESENTATIONS**

- Co-presenter “Leadership for Technical Professionals” at 2014 SWE National Conference in Los Angeles and 2016 SWE Region C Conference in Arkansas
- Co-author of *Study Guide for the Biomedical Equipment Technician Certification Exam* published by the Association for the Advancement of Medical Instrumentation (AAMI)

**PROFESSIONAL ASSOCIATION LEADERSHIP AND ACCOMPLISHMENTS**

Cypress Creek Emergency Medical Services Bd.    Fed. of Houston Prof. Women Board  
 Houston Engineering and Scientific Society Bd.    City of Bellaire Board of Adjustment  
 Association of Information Technology Professionals – 2007 AITP Houston Chapter President  
 Society of Women Engineers (SWE) – FY13 SWE Houston Area Section President  
 TAMU Biomedical Engineering Industry Advisory Bd. – senior student design project sponsor  
 Biomedical Engineering Society (BMES) – BMES Houston Industry Chapter Chair  
 Leukemia and Lymphoma Society – 2008 first place in division for Capital of Texas Triathlon  
 Healing Handbell Music Therapy – program founder and volunteer at Ronald McDonald House

# *City of Bellaire, Texas*



## **Charter Review Commission**

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### **Tab No. 2**

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**James P. Avioli, Sr. (Jim)**



# City of Bellaire

## Application for Board, Commission, and Committee Appointment



**Instructions:** Please type or print using black ink.

**Board/Commission/Committee** (indicate selection(s) by marking each with "1" or "2" or "3" in rank order of your preference (1 = most preferred).

<input type="checkbox"/> Board of Adjustment	<input type="checkbox"/> Environmental and Sustainability Board	<input type="checkbox"/> Evelyn's Park Conservancy Board
<input type="checkbox"/> Building & Standards Commission	<input type="checkbox"/> L.I.F.E. Advisory Board	<input type="checkbox"/> Audit Finance Board
<input type="checkbox"/> Planning & Zoning Commission	<input type="checkbox"/> Cultural Arts Board	<input checked="" type="checkbox"/> 1 Ad Hoc Committee (if applicable)
<input type="checkbox"/> Parks and Recreation Advisory Board		Charter Review Committee

Name: JAMES P. AVIOLI SR. (JIM)

Address: [REDACTED] BELLAIRE, TX. 77401

Mailing Address (if different): \_\_\_\_\_

Contact Number: [REDACTED]

Occupation: RETIRED NATURAL GAS PIPELINE EXECUTIVE

Number of Years in Bellaire: 25+ YRS.

\*Must be a resident for at least six (6) months before appointment date. If applying for Audit Finance Board, you must be a resident with financial and/or audit experience. Please attach resume with application.

Are you a registered voter in a Bellaire precinct? YES  
Yes or No

Are you 18 years of age or older? YES  
Yes or No

First Time Appointment? NO  
Yes or No

If No, indicate the name(s) of board(s), commission(s), committee(s) and time period of previous service: 8 YRS. SERVICE BELLAIRE CITY COUNCIL MAN (2007 - 2015)  
PRESENTLY SERVING AS CHAIRMAN BOARD OF ADJUSTMENT



Have you ever attended a meeting of the board(s), commission(s), or committee(s) to which you seek appointment?

YES

Yes or No

SERVED ON PRIOR CHARTER REVIEW COMMITTEE (2005-2006)?

Name(s) of board(s), commission(s), or committee(s)

Please write a brief summary of your qualifications for service on the board, commission, and/or committee to which you see appointment.

45 YRS. SERVICE W/ WILLIAM'S TRANS CO - 25 YRS. AS COMPANY OFFICER

8 YRS. SERVICE ON CITY COUNCIL

VERSED IN CITY AFFAIRS THROUGH ATTENDANCE @ COUNCIL MEETING

Briefly describe previous community activities associated with the City of Bellaire, as well as any outside civic, charitable, and other community work.

ACTIVE PARISHIONER OF ST. VINCENT DE PAUL CHURCH

SPONSOR OF BELLAIRE FIRE & POLICE FOUNDATION

SUPPORTER OF EUGEN'S PARK

Do you anticipate any conflicts of interest arising on connection with your service on the selected board(s), commission(s) or committee(s)? NO

Yes or No or Possibly

If you answered yes or possibly and a conflict of interest did arise, how would you propose to resolve it?

Do you understand the time commitment required on this board, commission, and/or committee for meetings as well as preparation prior to meetings? (As a reference, previous board, commission, and committee members have stated that their time commitment ranged, on average, from two to six hours per month.)



Yes



No

Please complete the following only if you are applying for reappointment to a particular board, commission, or committee.

Do you have any thoughts regarding the responsibilities of and/or recent actions by your board, commission, or committee?

\_\_\_\_\_

Do you have any ideas on how the effectiveness of your board, commission, or committee can be improved?

\_\_\_\_\_



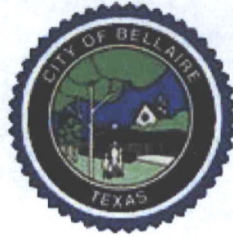
The City of Bellaire appreciates your commitment and willingness to serve. Thank you for taking the time to complete this application.

James P. Aviohi SR.  
Signature

Date: Nov. 02, 2016

JAMES P. AVIOHI SR.  
Printed Name

# *City of Bellaire, Texas*



## **Charter Review Commission**

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**Tab No. 3**

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**Doug Christians**

Attachment: Charter Review Commission Applications - November 2016 (2063 : Ordinance Creating Charter Review Committee)



# City of Bellaire

## Application for Board, Commission, and Committee Appointment



**Instructions:** Please type or print using black ink.

**Board/Commission/Committee** (indicate selection(s) by marking each with "1" or "2" or "3" in rank order of your preference (1 = most preferred).

☐ Board of Adjustment

☐ Building & Standards Commission

☐ Planning & Zoning Commission

☐ Parks and Recreation Advisory Board

☐ Environmental and Sustainability Board

☐ L.I.F.E. Advisory Board

☐ Cultural Arts Board

☐ Evelyn's Park Conservancy Board

☐ Audit Finance Board

☒ 1 Ad Hoc Committee (if applicable)

Charter Review Committee

Name: Doug Christians

Address: [REDACTED]

Mailing Address (if different): \_\_\_\_\_

Contact Number: [REDACTED]

Occupation: Software Developer

Number of Years in Bellaire: 21 \*

\*Must be a resident for at least six (6) months before appointment date. If applying for Audit Finance Board, you must be a resident with financial and/or audit experience. Please attach resume with application.

Are you a registered voter in a Bellaire precinct? Yes  
Yes or No

Are you 18 years of age or older? Yes  
Yes or No

First Time Appointment? No  
Yes or No

If No, indicate the name(s) of board(s), commission(s), committee(s) and time period of previous service: Environmental and Sustainability Board, Parks and

Recreation Advisory Board (2 years each)



Have you ever attended a meeting of the board(s), commission(s), or committee(s) to which you seek appointment?

No

Yes or No

New

Name(s) of board(s), commission(s), or committee(s)

Please write a brief summary of your qualifications for service on the board, commission, and/or committee to which you see appointment.

Worked on bylaws update for Patrons. Served as secretary for multiple organizations. Current on all things Bellaire.

Briefly describe previous community activities associated with the City of Bellaire, as well as any outside civic, charitable, and other community work.

Patrons for Bellaire Parks (2 years), Bellaire Historical Society (2 years President), Serenity Retreat for Healing (15 years), PM Pals (6 years) Bellaire Little League (5 years), Bellaire Beautification Committee (Inception)

Do you anticipate any conflicts of interest arising on connection with your service on the selected board(s), commission(s) or committee(s)? No

Yes or No or Possibly

If you answered yes or possibly and a conflict of interest did arise, how would you propose to resolve it?

Should be no conflict for this committee

Do you understand the time commitment required on this board, commission, and/or committee for meetings as well as preparation prior to meetings? (As a reference, previous board, commission, and committee members have stated that their time commitment ranged, on average, from two to six hours per month.)



Yes



No

Please complete the following only if you are applying for reappointment to a particular board, commission, or committee.

Do you have any thoughts regarding the responsibilities of and/or recent actions by your board, commission, or committee?

\_\_\_\_\_

Do you have any ideas on how the effectiveness of your board, commission, or committee can be improved?

\_\_\_\_\_



The City of Bellaire appreciates your commitment and willingness to serve. Thank you for taking the time to complete this application.

Douglas K. Christians  
Signature

Date: 10/24/16

Douglas K. Christians  
Printed Name

# *City of Bellaire, Texas*



## **Charter Review Commission**

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**Tab No. 4**

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**Aaron Swerdlin**

Attachment: Charter Review Commission Applications - November 2016 (2063 : Ordinance Creating Charter Review Committee)



# City of Bellaire

## Application for Board, Commission, and Committee Appointment

Instructions: Please type or print using black ink.

Board/Commission/Committee (indicate selection(s) by marking each with "1" or "2" or "3" in rank order of your preference (1 = most preferred).

☐ Board of Adjustment

☐ Building & Standards Commission

☐ Planning & Zoning Commission

☐ Parks and Recreation Advisory Board

☐ Environmental and Sustainability Board

☐ L.I.F.E. Advisory Board

☐ Cultural Arts Board

☐ Evelyn's Park Conservancy Board

☐ Audit Finance Board

☒ 1 Ad Hoc Committee (if applicable)

Charter Review Committee

Name: ARON A. Swardlin

Address: [REDACTED] Bellaire, TX 77401

Mailing Address (if different): \_\_\_\_\_

Contact Number: [REDACTED]

Occupation: Real Estate Capital Markets

Number of Years in Bellaire: 10 \*

\*Must be a resident for at least six (6) months before appointment date. If applying for Audit Finance Board, you must be a resident with financial and/or audit experience. Please attach resume with application.

Are you a registered voter in a Bellaire precinct? Yes  
Yes or No

Are you 18 years of age or older? Yes  
Yes or No

First Time Appointment? Yes  
Yes or No

If No, indicate the name(s) of board(s), commission(s), committee(s) and time period of previous service: \_\_\_\_\_



Have you ever attended a meeting of the board(s), commission(s), or committee(s) to which you seek appointment?

No

Yes or No

Name(s) of board(s), commission(s), or committee(s)

Please write a brief summary of your qualifications for service on the board, commission, and/or committee to which you see appointment.

I have been active in commercial and investment real estate, nationwide, for more than 20 years. Dealing with planning/zoning dynamics in numerous jurisdictions give a diverse Act base from which to draw.  
Briefly describe previous community activities associated with the City of Bellaire, as well as any outside civic, charitable, and other community work.

I have served on multiple committees related to non-profits, including the Jewish Federation, Congregation Beth Israel, The Shlenker School and multiple business-related entities. Currently, I serve as Treasurer for The Shlenker School and also  
Do you anticipate any conflicts of interest arising on connection with your service on the selected board(s), commission(s) or committee(s)? NO

Yes or No or Possibly

If you answered yes or possibly and a conflict of interest did arise, how would you propose to resolve it?

Do you understand the time commitment required on this board, commission, and/or committee for meetings as well as preparation prior to meetings? (As a reference, previous board, commission, and committee members have stated that their time commitment ranged, on average, from two to six hours per month.)



Yes



No

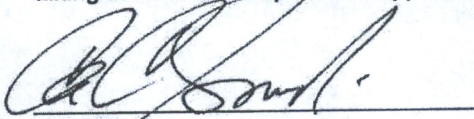
Please complete the following only if you are applying for reappointment to a particular board, commission, or committee.

Do you have any thoughts regarding the responsibilities of and/or recent actions by your board, commission, or committee?

Do you have any ideas on how the effectiveness of your board, commission, or committee can be improved?



The City of Bellaire appreciates your commitment and willingness to serve. Thank you for taking the time to complete this application.



Signature

Date: 10/28/16

Arxon A. Sverdlin

Printed Name



## Aaron Swerdlin

Executive Managing Director at NGKF Capital Markets

### Summary

Focused exclusively on the self storage product type since 1993, Aaron has led more than \$5.6 billion in capital transactions. Aaron is widely regarded as one of the industry's foremost real estate investment experts.

### Notable Transactions:

2016 - \$186.4 MM portfolio disposition on behalf of Harrison Street  
 2015 - \$242.5MM portfolio disposition on behalf of Storage Pros  
 2015 - Cubesmart portfolio disposition of El Paso, TX holdings  
 2014 - \$226MM portfolio disposition on behalf of Harrison Street  
 2014 - 22-Property portfolio disposition on behalf of Budget Self Storage  
 2013 - \$326.2MM portfolio disposition of 36-assets on behalf of Private Mini Storage  
 2013 - \$160MM+ portfolio disposition on behalf of SSG in New England & Florida  
 2012 - \$100MM+ portfolio disposition in NY and NJ on behalf of Hampshire Properties  
 2011 - \$560MM portfolio disposition in NY, CT and PA on behalf of Storage Deluxe  
 2010 - 2 Separate lender-owned nationwide portfolio dispositions of 28-properties  
 2009 - \$70MM portfolio disposition on behalf of Private Mini Storage  
 2008 - \$144MM portfolio disposition on behalf of Lock-N-Key  
 2007 - \$60MM portfolio disposition of assets in NY and NJ on behalf of Boston Capital  
 2006 - \$55MM portfolio disposition of NY assets on behalf of Wharton Equity  
 2005 - Portfolio disposition of assets in Buffalo, NY on behalf of Premier Self Storage  
 2004 - \$100MM portfolio disposition of assets in NY and NJ on behalf of Storage Post/Walton Street  
 2004 - Disposition of more than \$151MM worth of assets on behalf of GE/Storage USA  
 2003 - Public Storage portfolio disposition Knoxville, TN holdings  
 2002 - Portfolio disposition of Hampton Self Storage (Hamptons, NY) on behalf of Wharton Equity  
 2001 - \$100MM portfolio disposition on behalf of Whitehall-Goldman

Aaron is a frequent speaker at CRE industry events and a contributing author on real estate investment topics for regional and national publications.

### Experience

**Executive Managing Director at NGKF Capital Markets (a BGC Partners Company)**

May 2013 - Present (3 years 6 months)



Serve as the firm's national practice leader for the self storage properties sector. In this capacity, is responsible for steering the direction and development strategies of the specialty practice nationally as well as serve as the senior producer for the practice group.

**Senior Managing Director at HFF**

February 2008 - April 2013 (5 years 3 months)

Provided the overall direction for the self storage platform at HFF and was the primary producer with institutional self storage investors and select private capital sources nationwide. Was the lead producer and originator of more than \$1.15 billion worth of self storage asset sales, as well as being involved with more than \$500 million in capital markets executions (debt, JV-equity and note sales).

**Senior Managing Director and Managing Partner at Storage Investment Advisors, LLP**

January 2006 - January 2008 (2 years 1 month)

Real estate & capital markets firm solely focussed on the self storage industry. Founding member and the managing partner of the firm.

**Senior Vice President at CB Richard Ellis, Inc.**

August 1997 - December 2005 (8 years 5 months)

Founded and managed CBRE's Self Storage Advisory Group (SSAG) and also functioned as the senior self storage producer for the platform.

**Director of Acquisitions at Storage Trust Realty**

January 1996 - August 1997 (1 year 8 months)

Director of the acquisition department with a focus on acquisitions for the Eastern two-thirds of the US. At the time, Storage Trust Realty (NYSE: SEA) was among the top-4 operators of self storage facilities in the US.

**Senior Associate at CBRE**

February 1995 - January 1996 (1 year)

**Managing Partner at SCIG**

January 1994 - February 1995 (1 year 2 months)

Small boutique commercial real estate firm with a concentration on transactions in the Clear Lake sub-market of Houston, TX.

**Salesperson at Alliance Commercial Real Estate**

May 1990 - December 1992 (2 years 8 months)

Small boutique commercial real estate firm with a concentration on transactions in the Clear Lake sub-market of Houston, TX



## Volunteer Experience

### **Member of Multiple Committees at Jewish Federation of Greater Houston**

October 2015 - Present

The mission of the Jewish Federation of Greater Houston is to preserve and enrich Jewish communal life through innovative and visionary leadership that is responsive to Jewish communities locally, nationally, in Israel and around the world.

### **Member, Board of Trustees at The Shlenker School**

May 2015 - 2016

Congregation Beth Israel, the oldest Reform Jewish synagogue in Texas, accepted its first nursery school class of 15 children in 1967. The Congregation stepped forward as a leader of the Reform Jewish Day School Movement in 1982 by establishing one of the first Reform Jewish Day Schools in North America and the first in the State of Texas. The Shlenker School is named for the late Irvin M. Shlenker, a prominent Jewish Houston philanthropist and a past president of Congregation Beth Israel.

The school is on the campus of Congregation Beth Israel. The Shlenker School does not discriminate on the basis of race, color, gender, sexual orientation, sexual identity, or national or ethnic origin in the administration of its educational policies, admission policies, financial aid policies, or other school-administered programs. Currently, 76 staff members are employed at Shlenker.

### **Treasurer, Executive Committee Member of the Board of Trustees at The Shlenker School**

May 2016 - Present

Congregation Beth Israel, the oldest Reform Jewish synagogue in Texas, accepted its first nursery school class of 15 children in 1967. The Congregation stepped forward as a leader of the Reform Jewish Day School Movement in 1982 by establishing one of the first Reform Jewish Day Schools in North America and the first in the State of Texas. The Shlenker School is named for the late Irvin M. Shlenker, a prominent Jewish Houston philanthropist and a past president of Congregation Beth Israel.

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# *City of Bellaire, Texas*



## **Charter Review Commission**

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**Tab No. 5**

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**Neil Verma**



# City of Bellaire

## Application for Board, Commission, and Committee Appointment

**Instructions:** Please type or print using black ink.

**Board/Commission/Committee** (indicate selection(s) by marking each with "1" or "2" or "3" in rank order of your preference (1 = most preferred).

☐ Board of Adjustment

☐ Building & Standards Commission

☐ Planning & Zoning Commission

☐ Parks and Recreation Advisory Board

☐ Environmental and Sustainability Board

☐ L.I.F.E. Advisory Board

☐ Cultural Arts Board

☐ Evelyn's Park Conservancy Board

☐ Audit Finance Board

☒ 1 Ad Hoc Committee (if applicable)

Charter Review Committee

Name: Neil Verma

Address: [REDACTED] Bellaire Tx 77401

Mailing Address (if different): \_\_\_\_\_

Contact Number: [REDACTED]

Occupation: Attorney

Number of Years in Bellaire: 3

\*Must be a resident for at least six (6) months before appointment date. If applying for Audit Finance Board, you must be a resident with financial and/or audit experience. Please attach resume with application.

Are you a registered voter in a Bellaire precinct? Yes  
Yes or No

Are you 18 years of age or older? Yes  
Yes or No

First Time Appointment? No  
Yes or No

If No, indicate the name(s) of board(s), commission(s), committee(s) and time period of previous service: Parks Board ; 2014 - current.



Have you ever attended a meeting of the board(s), commission(s), or committee(s) to which you seek appointment?

No (Ad Hoc)

Yes or No

Name(s) of board(s), commission(s), or committee(s)

Please write a brief summary of your qualifications for service on the board, commission, and/or committee to which you see appointment.

I am an attorney, but more importantly I am a consistent observer and interested citizen in the functions of Bellaire city government.

Briefly describe previous community activities associated with the City of Bellaire, as well as any outside civic, charitable, and other community work.

I am active in city government, serving on the Parks Board and on the inaugural class of the Citizen's Academy. I speak at council meetings on a regular basis. I am also on the Board of Bike Houston.

Do you anticipate any conflicts of interest arising on connection with your service on the selected board(s), commission(s) or committee(s)?

No

Yes or No or Possibly

If you answered yes or possibly and a conflict of interest did arise, how would you propose to resolve it?

N/A

Do you understand the time commitment required on this board, commission, and/or committee for meetings as well as preparation prior to meetings? (As a reference, previous board, commission, and committee members have stated that their time commitment ranged, on average, from two to six hours per month.)



Yes



No

Please complete the following only if you are applying for reappointment to a particular board, commission, or committee.

Do you have any thoughts regarding the responsibilities of and/or recent actions by your board, commission, or committee?

N/A

Do you have any ideas on how the effectiveness of your board, commission, or committee can be improved?

N/A

The City of Bellaire appreciates your commitment and willingness to serve. Thank you for taking the time to complete this application.

  
Signature

Date:

10/31/16

Neil Verma  
Printed Name



## Neil (Neeraj) Verma

Bellaire, Texas 77401

### EXECUTIVE SUMMARY

Corporate generalist with experience in corporate transactions (including M&A and real estate), contracts, litigation (first chair and management), and compliance.

### RELEVANT EXPERIENCE

**Advanced Diagnostics Healthcare & Landmark Houston Hospitality Group Houston, TX**  
March 2015 to present.

Chief Legal Officer & Executive Vice President

- Employer's first in-house attorney, reducing outside counsel spend 85% in first year.
- Coordinated business and strategic planning for asset acquisition and management.
- Drafted documents and negotiated sale of goodwill and assets of the largest mobile radiology company in Texas, and for the acquisition of multiple medical groups (including real estate).
- Drafted documents and negotiated acquisition of two hospitals.
- Reorganized corporate structure of medical businesses.
- Negotiated private lender arrangements, construction loans and equipment leases.
- Scouted and negotiated acquisition of real estate holdings in Austin, Houston, and Galveston.
- Managed litigation for both medical and hospitality businesses.
- Oversee regulatory and corporate compliance matters.
- Drafted and negotiated various contracts including employment, service, vendor, third party payer, management, non-compete and non-disclosure, and marketing agreements.
- Revised employee policies and procedures as part of comprehensive internal controls review.
- Created form agreements for hospitality and medical businesses.
- As EVP, lead contact on corporate finance, and business unit risk management.
- Established protocol for management of intellectual property.
- Invited speaker at Texas Bar TMCP conference ("*What keeps GCs up at Night*"); Nov. 9, 2016.
- Named to 2015 list of *Texas Super Lawyers — Rising Stars*.

**Greenberg Traurig Houston, TX** October 2008 to March 2015

Shareholder as of January 2013 (Litigation, Corporate and Securities, Compliance).

- Acting in-house counsel for three clients (two public, one private):
  - Goldman Sachs Group Inc. managing large scale litigation docket in preparation for and after sale of subsidiary business unit (October 2010 to February 2015),
  - Coordinating creation of Foreign Corrupt Practices Act compliance program for Wal-Mart in India (January 2013 to March 2014), and
  - Hedge fund that acquired a Houston pipeline company managing corporate acquisition and contract assumption process (January 2012 to April 2013).
- Drafted various transactional documents, including partnership, limited liability company, operating, management, employment, services, credit, JDA, and ancillary agreements.
- Drafted documents for several private offerings, including private placement memoranda, subscription documents and Blue Sky filings.
- Reviewed S.E.C. filings for compliance including 10-Ks, 10-Qs and drafted public offering documents (high yield debt) and 8-Ks; coordinated private equity acquisitions.
- Co-counsel for successful (reversed and rendered) Fifth Circuit appellate matter including drafting appellate brief and participated at hearing before the Circuit Court. (December 2013).
- Co-chaired trial before the Federal Eastern District of Texas for hedge fund client on issues related to lending arrangement (August 2012).
- Experience taking depositions (including defending other Shareholders of the firm), drafting briefs and pleadings, and attending hearings in state and federal courts.



- Drafting International Engineering and Procurement Agreement for international chemical and refining company taking into account intentional tax, environmental and labor law.
- Drafting Management Services Agreement, Marketing Services Agreement, Participation Agreements, Power of Attorney in connection with exploration and development of undivided interests in offshore Gulf of Mexico federal oil and gas leases.
- Overseeing implementation of anti-corruption financial controls across ten different international jurisdictions for large firm client.
- Named to 2009, 2010, 2011, 2012, 2013 and 2014 lists of *Texas Super Lawyers — Rising Stars*.
- Texas Lawyer magazine, *Legal Leaders on the Rise*, 2013; awarded to twenty-five lawyers across the state.
- Recipient of an “*Outstanding Asian Americans in Business Award*,” by the Asian American Business Development Center; awarded annually to fifty Asian Americans across the nation (presented in New York, New York).
- Recipient of the North American South Asian Bar Association’s 2011 Cornerstone Award.

**Mayer Brown LLP Houston, TX.** July 2003 to October 2008

Associate (Litigation)

- From March to June 2008, worked with *Amarchand Mangaldas & Suresh A Shroff & Co.* in New Delhi, India, as a visiting consultant with their transactional and arbitration practice groups. Included successful prosecution of arbitration claim against state owned engineering and manufacturing company at proceedings held in Cochin, India.
- Arbitration experience:
  - ICDR Arbitration: Successfully prosecuted breach of contract claim for a Canadian railcar parts company against a Ukrainian manufacturer of railroad wheels resulting in a \$12,000,000 award. Was lead attorney on engineering and damages issues.
  - AAA Arbitration: Second chaired successful defense of a California power company against contract and fraud claims exceeding \$10,000,000 resulting in a “zero award.”
- Solely managed large scale toxic tort (asbestos) docket for Philips Electronics North America Corporation.
- Lead associate on Enron related finance litigation; responsible for management of joint defense group of fifteen financial institutions.
- Lead drafter of extensive summary of port, safety, health, tax, and environmental liability for client developing LNG facilities on the Gulf Coast.
- Drafter of several rounds of federal court appellate briefing on alter ego and single business enterprise liability for energy client based in the Commonwealth of Independent States.
- Assisted in prosecution of New York insurance/construction litigation related to acts of 9/11.
- Assisted in trial defense of California based fair labor and employment class action lawsuit.
- Lead attorney for commercial property real estate litigation prosecuting fraud claims.
- Named to 2007 and 2008 *Lawyers on the Fast Track* by *H Texas Magazine*.

**Locke Lord Bissell & Liddell LLP Houston, TX.** August 2000 to July 2003

Associate (Litigation)

Experience undertaking and managing discovery, drafting briefs and motions, taking depositions, and attending hearings in state and federal courts.

#### EDUCATION

**University of Michigan Law School.** Ann Arbor, MI.

Juris Doctor, May 2000.

- *Michigan Journal of International Law*: Managing Editor: ‘99-‘00; Associate Editor: ‘98-‘99.

**George Washington University.** Washington D.C.

Bachelor of Arts, Political Science, Honors Program Graduate, Presidential Scholar, May 1997.



## Neil (Neeraj) Verma

Bellaire, Texas 77401

### DEAL SHEET: SELECTED TRANSACTIONS

#### M&A

- Drafted lease agreement with purchase option (and ancillary documents) for acquisition of twenty-nine bed hospital located in Pasadena, Texas. (2016)
- Drafted asset purchase agreement (and ancillary documents) for acquisition of four bed in-network and Medicare hospital located in East Houston. (2016)
- Drafted stock purchase agreement (and ancillary documents) for acquisition of two medical groups. (2015)
- Drafted asset purchase agreement (and ancillary documents) for sale of the largest Texas mobile radiology company. (2015)
- Assisted with acquisition of NBA sports agency company and associated documents in compliance with player union and NBA agent rules. (2012)
- Drafted joint venture documents for U.S. social media client with Indian television network. (2011)
- Reverse merger of a Delaware limited liability company into a Canadian public company. (2010)
- Acquisition of Arizona software company's assets by Delaware technology company. (2009)
- Acquisition of Texas software company's assets by Delaware technology company. (2008)

#### Securities (Public/Private Equity)

- Hospitality company's private placement of up to \$20 million in member LLC units. (2015).
- Ferrellgas, L.P. & Ferrellgas Finance Corp. \$300 million in 9.125% Senior Notes due 2017; (2009) (and associated exchange offer in 2010).
- Ferrellgas Partners, L.P. & Ferrellgas Partners Finance Corp. \$280 million in 8.625% Senior Notes due 2020. (2009)
- Oilfield company's private placement of up to \$240 million in limited and general partner units. (2009)
- Drilling company's private placement of up to \$25 million in general partner units. (2009)
- Drilling company's private placement of up to \$20 million in limited partner units. (2009)
- Drilling company's private placement for 12% Senior Secured Debentures Due 2013. (maximum offering of \$15 Million) (2008)
- Sale of 49.9% interest of a Delaware limited liability company and issuance of \$5 million in escrowed promissory notes. (2008)

#### Finance

- Represented debtor (and drafted loan documents) in connection with \$2,000,000 revolver in connection with Pasadena, Texas hospital acquisition. (2016)
- Represented borrower in connection with a \$200,000,000 loan facility for the acquisition of and development activities on certain oil and gas properties located in Gaines County, Texas. The security documents included pledge, subordination, limited guaranty, assignment and deposit account control agreements. (2010)

#### S.E.C. Reporting

- Form and substance check for Ferrellgas, L.P. and FMC Technologies, Inc. of their 10Qs and 10Ks. (2008 to 2010)
- Drafted various 8-Ks in connection with M&A and securities transactions. (2009-2011)