

Exhibit "A"

MEMORANDUM OF UNDERSTANDING TO REDISTRIBUTE GRANT FUNDED VEHICLES BETWEEN HARRIS COUNTY AND THE CITY OF BAYTOWN

This Memorandum of Understanding ("MOU") is made and entered into by and between the City of Baytown, Texas (the "City") and Harris County, Texas ("County") on behalf of the Harris County Sheriff's Office ("HCSO"), hereafter collectively the "Parties."

SECTION I. BACKGROUND AND PURPOSE

A. In 2006, County received a Federal Port Security Grant in the amount of \$9,145,907.00 from the Department of Homeland Security's (DHS) Infrastructure Protection Program as part of a coordinated, national effort to strengthen the security of America's critical infrastructure.

B. A portion of this funding was used to purchase vehicles for the HCSO, which purchased 22 vehicles in 2011. As a result of the negative economic climate, the HCSO has not been able to hire personnel to use the 22 vehicles and desires to share these vehicles with other appropriate governmental entities, including the City Police Department.

C. The HCSO has contacted the granting agency, FEMA, and received permission to move the vehicles from HCSO inventory to the City inventory with the understanding that the entities would enter into an MOU to memorialize the transaction.

SECTION II. TERM

A. The term of this MOU shall commence on the latest date of execution by a Party, and run for a period of one (1) calendar year, unless sooner terminated in accordance with this MOU. This MOU shall automatically renew for additional one (1) year periods, unless terminated as provided below.

B. This MOU may be terminated at any time, for any reason, by either County or the City, upon thirty (30) days written notice to the other party, specifying a termination date.

SECTION III. RESPONSIBILITIES OF COUNTY

A. County, from HCSO, shall transfer: one (1) White 2011 Ford/Crown Victoria vehicle, equipment #24296, VIN# 2FABP7BV5BX106654, to the City after execution of this MOU. County shall maintain a copy of the paperwork regarding the purchase and transference of the vehicle for audit purposes. County may place written information or insignias on the vehicle as required by the grant.

B. County hereby instructs the City that said vehicle must be used in accordance with all federal, state and local laws, rules and regulations pertaining to the grant and this MOU.

SECTION IV. RESPONSIBILITIES OF CITY

A. Specific use of vehicles:

1. The vehicle will be used in a “very visible” manner to patrol the land-side within the City’s jurisdiction.
2. The vehicle will spend a majority of time patrolling to prevent, detect, manage, and mitigate IED threats/attacks.
 - a. The vehicle will spend a majority of time patrolling the following areas to the extent that the same are within the City’s jurisdiction:
 - i. Quadrant 1: Interstate 10 from 610 Loop east to Highway 146 south to the Fred Hartman Bridge (Baytown Bridge), and the surrounding industry.
 - ii. Quadrant 2: Highway 146 from the Fred Hartman Bridge south to the Kemah Bridge, and the surrounding industry.
 - iii. Quadrant 3: Highway 146 from Red Bluff Road north to Genoa Red Bluff Road West to Beltway 8, and the surrounding industry including Sherman Bridge.
 - iv. Quadrant 4: Beltway 8 North to Highway 225 and all of Highway 225. From Highway 225 North on 610 Loop to Interstate 10, and surrounding industry.
 - b. Patrols will include the Washburn Tunnel, Sherman Bridge, Fred Hartman Bridge, Beltway 8 Toll Bridge, Lynchburg Ferry areas and the Bayport Container Terminal to the extent that the same are within the City’s jurisdiction.
 - c. The City will maintain a written log of patrols. Logs will include officers’ names, times and beginning and ending mileage for the shift, and a list of all the areas patrolled.
 - d. The vehicle will be for on-duty use and official business use ONLY.

B. Additional vehicle provisions:

1. The City agrees to accept and to maintain the vehicle; to carry comprehensive liability insurance, including bodily injury and collision, or self-insurance regarding the vehicle; and to assume all expenses for the vehicle as long as it remains in the possession of the City.
 - a. The City agrees to assume all responsibility and liability for the acts and omissions of its employees with regard to the use of the vehicle, and to release County and HCSO from any claims, causes of action, judgments, or other expenses arising out of any accidents caused by the use or misuse of the vehicle by an employee of the City.

- b. The City agrees to enter into the documents attached hereto and incorporated herein as Exhibits A, B and C required for the grant, and to maintain any written documents required by the grant or by County or HCSO with regard to the vehicle – i.e. documentation of proper maintenance, mileage and log records, insurance coverage, vehicle use, and grant requirements. The City agrees to provide County with evidence of insurance or self-insurance for the vehicle.

SECTION V. RETURN OF VEHICLES

A. In the event that the City determines it no longer desires to use one or more of the vehicles, and desires to return the vehicle to HCSO, or this MOU is terminated, then the City shall give HCSO notice of its intent and make arrangements for the vehicle to be returned to HCSO.

B. In the event that a vehicle becomes inoperable either through age, accumulation of mileage, damage, or other event, which is not economically feasible for the City to repair, the City shall notify County and HCSO to determine appropriate handling of the vehicle, and to document all actions taken in regard to the vehicle.

SECTION VI. NO COUNTY FUNDS

The City understands and agrees that County is *NOT* certifying any funds under this MOU and does not have any funds for the maintenance, insurance, or other operational costs for the vehicle after transfer of the vehicle to the City. The City agrees *NOT* to make any claims against County or HCSO for any expenses after receipt of the vehicle by the City.

SECTION VII. RELATIONSHIP OF THE PARTIES

A. It is understood and agreed that the City is a separate legal entity from County and neither the City nor any of its officers, employees, volunteers, agents, or representatives shall be deemed for any purposes to be employees, agents or representatives of County. The City assumes full responsibility for the actions of its personnel and volunteers while performing any services incident to this MOU, and shall remain solely responsible for their supervision, daily direction and control, payment of their salary (including withholding of income taxes and social security), workers' compensation, disability benefits, liability for any work related accidents, and like requirements and obligations. This MOU is not intended to create a joint enterprise, joint venture, business partnership, agency, franchise, or employment relationship, under Texas law.

B. City may, upon notice to County, place a decal or other insignia on the subject vehicle bearing the name of the Baytown Police Department.

C. Nothing in this MOU shall be deemed or construed to create any third party beneficiaries or otherwise give any third party any claim or right of action against any party to this MOU.

SECTION VIII. NO WAIVER OF IMMUNITY

Neither Party waives or relinquishes any immunity or defense on behalf of itself, its trustees, officers, employees, and agents as a result of its execution of this MOU and performance of the functions or obligations described herein.

SECTION IX. NO WAIVER OF OBLIGATIONS

No waiver of a breach of any provision of this MOU shall be construed to be a waiver of any breach of any other provision. No delay in acting with regard to any breach of any provision shall be construed to be a waiver of such breach.

SECTION X. NOTICE

Any notice required to be given under the provisions of this MOU shall be in writing and shall be duly served when it shall be hand delivered, or faxed to the addresses set out below with a receipt obtained for such delivery, or shall have been deposited, duly registered or certified, return receipt requested, in the United States Mail addressed to the other party at the following addresses:

To: Harris County Sheriff's Office
Attn: Sheriff Adrian Garcia
1200 Baker Street
Houston, TX 77002
Fax: _____

With a copy to:
Harris County Commissioners Court
Attn: County Judge Ed Emmett
1001 Preston. 9th Floor
Houston, TX 77002
Fax: _____

Or to: City of Baytown
Attn: Chief of Police
3200 N. Main Street
Baytown, Texas 77521
Fax: 281-427-5037

With a copy to:
City of Baytown
Attn: City Manager
2401 Market Street
Baytown, TX 77520
Fax: 281-420-6586

Any party may designate a different address by giving the other party ten (10) days prior written notice of the new address, in the manner provided above.

SECTION XI. SECTION HEADINGS

The headings of sections contained in this MOU are for convenience only, and they shall not, expressly or by implication, limit, define, extend, or construe the terms or provisions of the sections of this Agreement.

SECTION XII. RECORDS RETENTION AND AUDITS

The City understands that this is a grant transaction and that an authorized representative of FEMA, the U.S. Department of Homeland Security, the Harris County Auditor, County, HCSO, the State of Texas, the Inspector General of the U.S., or any of their duly authorized representatives, shall be afforded unrestricted access to and permitted to inspect and copy all City records, including but not limited to: accounting records, vehicle logs, maintenance and insurance information, correspondence, drawings, instructions, receipts, vouchers, memoranda, similar data, or other information required by the grant (hard copy as well as computer readable data) pertaining to this MOU. The City shall preserve all such records for a period of five (5) years after termination of this MOU, or for such longer period as may be required by law, or for audit purposes. In the event that any of the vehicles are involved in an accident, the City shall maintain documentation regarding such vehicle until final resolution of any lawsuit, including appeals, or for a period of five years after termination of this MOU, whichever is longer.

SECTION XIII. SEVERABILITY

The provisions of this MOU are severable. If any provision of this MOU or the application thereof to any person or circumstances shall be invalid or unenforceable to any extent, the remainder of the MOU and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

SECTION XIV. COMPLETE UNDERSTANDING

This MOU shall constitute the complete understanding of the County and the City, and may not be modified in any manner without the express written consent of both parties.

IN WITNESS THEREOF, THE CITY OF BAYTOWN and HARRIS COUNTY have executed this MOU through their duly authorized representatives, and the Sheriff of Harris County and the Police Chief for the City of Baytown Police Department have approved it.

CITY OF BAYTOWN

HARRIS COUNTY

By _____
ROBERT D. LEIPER Date
City Manager

By _____
ED EMMETT Date
County Judge

APPROVED:

APPROVED:

By: _____
KEITH DOUGHERTY Date
Chief of Baytown Police Department
APPROVED AS TO FORM:

ADRIAN GARCIA Date
Harris County Sheriff
APPROVED AS TO FORM:
VINCE RYAN
Harris County Attorney

By: _____
IGNACIO RAMIREZ, SR., City Attorney

By: _____
Dori A. Wind, Asst. County Attorney

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 _____, 2012, with the following member's present, to-wit:

Ed Emmett	County Judge
El Franco Lee	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:

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 Emmett	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Lee	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Morman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Radack	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. 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:

ORDER AUTHORIZING EXECUTION OF MEMORANDUM OF UNDERSTANDING TO REDISTRIBUTE GRANT FUNDED VEHICLES BY AND BETWEEN HARRIS COUNTY ON BEHALF OF THE HARRIS COUNTY SHERIFF'S OFFICE AND THE CITY OF BAYTOWN

RECITALS:

WHEREAS in 2006, County received a federal Port Security Grant in the amount of \$9,145,907.00 from the Department of Homeland Security's (DHS) Infrastructure

Protection Program as part of a coordinated, national effort to strengthen the security of America's critical infrastructure; and

WHEREAS, a portion of this funding was used to purchase vehicles for the Harris County Sheriff's Office (HCSO), which purchased 22 vehicles in 2011. As a result of the negative economic climate, the HCSO has not been able to hire personnel to use the 22 vehicles and desires to share these vehicles with other appropriate governmental entities, including the City of Baytown Police Department, and

WHEREAS, the HCSO has contacted the granting agency, FEMA, and received permission to move one vehicle from HCSO inventory to the City of Baytown inventory with the understanding that the entities would enter into an MOU to memorialize the transaction.

NOW THEREFORE, IT IS 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: Harris County Judge Ed Emmett is authorized to execute this Agreement on behalf of Harris County beginning on the latest date of signature by the parties, for HCSO to transfer one vehicle to the City of Baytown Police Department to be used to protect the residents of Harris County as specified in the MOU, at no cost to Harris County.

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.