CA092345

**SHELBY COUNTY BOARD OF COMMISSIONERS**
**AGENDA ROUTE SHEET**

Referred to Commission Committee 4-Law Enforcement, Fire Corrections & Courts

For Commission Action on May 11, 2009

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A RESOLUTION TO APPROVE THE TRANSFER OF THE WEATHER/EMERGENCY SIREN LOCATED ON THE NORTH SIDE OF DAVIES PLANTATION ROAD, EAST OF THE INTERSECTION OF DAVIES PLANTATION ROAD AND ST. PHILIP DRIVE, TO THE CITY OF BARTLETT, WITHOUT MONETARY CONSIDERATION, FOR ITS CONTINUED USE, OPERATION AND MAINTENACE SPONSORED BY COMMISSIONER SIDNEY CHISM.

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**CHECK ALL THAT APPLY BELOW:**

__X__ This Action does NOT require expenditure of funds.

_____ This Item requires/approves expenditure of funds as follows (complete all that apply):

County General Funds: $_____; County CIP Funds $_____

State Grant Funds: $_____; State Gas Tax Funds: $_____

Federal Grant Funds: $_____

Other funds (Specify source and amount): $_____

Other pass-thru funds (Specify source and amount): $ _____

**Originating Department:** **Office of Preparedness**

**APPROVAL:**

| | (Print your name & phone #) | (Initials) | (Date) |
|---|---|---|---|
| Dept. Head: | Robert Nations, Jr. 901-515-2601 | BN | 04/26/09 |
| Elected Official: | | | |
| Division Director: | Grace Hutchinson 901-545-4429 | | |
| CIP – A&F Director: | | | |
| Finance Dept.: | Mike Swift 901-545-4269 WRichards 4/29/09 | MAS | 4/29/09 |
| County Attorney: | Lisa Kelly 901-545-4363 | LK | 4/28/09 |
| CAO/Mayor: | James F. Huntzicker 901-545-4514 | | |

# SUMMARY SHEET

I. Description of Item:

Shelby County Government wishes to transfer a weather/emergency siren to the City of Bartlett without any monetary compensation, along with all obligations, duties, responsibilities and liabilities associated.

II. Source and Amount of Funding:

N/A

III. Contract Items:

Type of Contract – Inter-Local Agreement relating to Shelby County's transfer of the weather/emergency siren

IV. Additional Relevant Information:

The general public would best be served having this weather/emergency siren subject to the same testing schedule as other similar sirens within the community. It is deemed to be in the best interest of Shelby County to transfer the ownership, operation and maintenance of said weather/emergency siren, along with the obligations, duties and responsibilities associated therewith to the City of Bartlett, without monetary consideration.

Administration recommends approval of this resolution

ITEM #:_____ Prepared by: Patrina Chambers

Commissioner: _____ Approved by: Lisa Kelley
County Attorney

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**RESOLUTION TO APPROVE THE TRANSFER OF THE WEATHER /EMERGENCY SIREN LOCATED ON THE NORTH SIDE OF DAVIES PLANTATION ROAD, EAST OF THE INTERSECTION OF DAVIES PLANTATION ROAD AND ST. PHILIP DRIVE, TO THE CITY OF BARTLETT, WITHOUT MONETARY CONSIDERATION, FOR ITS CONTINUED USE, OPERATION AND MAINTENANCE. SPONSORED BY COMMISSIONER.**

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**WHEREAS**, By Ordinance 05-11, adopted on October 25, 2005, the City of Bartlett annexed a 970 acre tract of land which includes the Plantation Estates-Davieshire Subdivision, the Davies Manor properties and Brunswick Road from Ellis Road, South to Hillman Way; and

**WHEREAS**, Shelby County Government had previously installed a weather/emergency siren on the north side of Davies Plantation Road, east of the intersection of Davies Plantation Road and St. Philip Drive, which siren lies within the 970 acre tract of land which was annexed by the City of Bartlett; and

**WHEREAS**, The weather/emergency siren has been affixed to the land in a way that would create a permanent fixture to the real property which has been annexed by the City of Bartlett; and

**WHEREAS**, The City of Bartlett wishes to synchronize the weekly testing of the aforementioned siren with the weekly testing of the other weather/emergency sirens owned and maintained by the City of Bartlett; and

**WHEREAS**, Shelby County Government, which conducts weekly testing of weather/ emergency sirens on a different schedule, wishes to transfer ownership of the aforementioned weather/emergency siren to the City of Bartlett, along with all obligations, duties, responsibilities and liabilities associated therewith, for the continued operation, maintenance and use of said siren; and

**WHEREAS**, The City of Bartlett has agreed to take over the ownership, operation and maintenance of said weather/emergency siren, along with all of the obligations, duties, responsibilities and liabilities associated therewith; and

**WHEREAS**, The general public would best be served having this weather/emergency siren subject to the same testing schedule as other similar sirens within the community. It is deemed to be in the best interest of Shelby County to transfer the ownership, operation and maintenance of said weather/emergency siren, along with the obligations, duties and responsibilities associated therewith to the City of Bartlett, without monetary consideration.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE**, That the aforedescribed transfer of ownership, operation and maintenance of the weather/emergency siren located on the north side of Davies Plantation Road, east of the intersection of Davies Plantation Road and St. Philip Drive, along with all of the obligations, duties, responsibilities and liabilities associated therewith to the City of Bartlett, without monetary consideration.

**BE IT FURTHER RESOLVED,** That the County Mayor is hereby authorized to execute any and all documents necessary to the intents of this resolution, executed copies of which documents shall be placed on file in the Purchasing Department.

**BE IT FURTHER RESOLVED,** That this Resolution shall take effect from and after the date it shall have been enacted according to due process of law, the public welfare requiring it.

_____
A C Wharton, Jr., County Mayor

Date: _____

ATTEST:

_____
Clerk of County Commission

ADOPTED: _____

**INTER-LOCAL AGREEMENT RELATING TO SHELBY COUNTY'S TRANSFER OF THE WEATHER/EMERGENCY SIREN ON THE NORTH SIDE OF DAVIES PLANTATION ROAD, EAST OF THE INTERSECTION OF DAVIES PLANTATION ROAD AND ST. PHILIP DRIVE, TO THE CITY OF BARTLETT**

THIS INTER-LOCAL AGREEMENT relating to Shelby County's transfer of the weather/emergency siren at the north side of Davies Plantation Road, east of the intersection of Davies Plantation Road and St. Philip Drive, to the City of Bartlett (the "Agreement"), dated this ___ day of _____, 2009, by and between Shelby County, Tennessee, a Political Subdivision of the State of Tennessee (the "County"), and the City of Bartlett, Tennessee, a Municipal Corporation of the State of Tennessee (the "City").

WHEREAS, By Ordinance 05-11, adopted on October 25, 2005, the City of Bartlett annexed a 970 acre tract of land which includes the Plantation Estates-Davieshire Subdivision, the Davies Manor properties and Brunswick Road from Ellis Road, South to Hillman Way; and

WHEREAS, Shelby County Government had previously installed a weather/emergency siren on the north side of Davies Plantation Road, east of the intersection of Davies Plantation Road and St. Philip Drive, which siren lies within the 970 acre tract of land which was annexed by the City of Bartlett; and

WHEREAS, The weather/emergency siren has been affixed to the land in a way that would create a permanent fixture to the real property which has been annexed by the City of Bartlett; and

WHEREAS, The City of Bartlett wishes to synchronize the weekly testing of the aforementioned siren with the weekly testing of the other weather/emergency sirens owned and maintained by the City of Bartlett; and

WHEREAS, Shelby County Government, which conducts weekly testing of weather/ emergency sirens on a different schedule, wishes to transfer ownership of the aforementioned weather/emergency siren to the City of Bartlett, without monetary compensation, along with all obligations, duties, responsibilities and liabilities associated therewith, for the continued operation, maintenance and use of said siren; and

WHEREAS, The City of Bartlett has agreed to take over the ownership, operation and maintenance of said weather/emergency siren, along with all of the obligations, duties, responsibilities and liabilities associated therewith; and

WHEREAS, The general public would best be served having this weather/emergency siren subject to the same testing schedule as other similar sirens within the community. It is deemed to be in the best interest of Shelby County to transfer the ownership, operation and maintenance of said weather/emergency siren, along with the obligations, duties and responsibilities associated therewith to the City of Bartlett, without monetary consideration.

NOW, THEREFORE, For and in consideration of the above-stated purposes, as the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The County hereby conveys, grants, transfers and confirms unto the City the above-referenced weather/emergency siren in its present condition, AS IS, WHERE IS and WITH ALL FAULTS. The City accepts the weather/emergency siren accordingly. The County makes no warranties or representations, express or implied, or arising by operation of law whatsoever in respect to the weather/emergency siren. Furthermore, the City hereby fully releases the County, its officers, agents and employees, from any claim, cost, loss, liability, damage, expense, demand and cause of action arising from or related to any construction or installation defects, errors, omissions, or other conditions affecting the weather/emergency siren.

2. As of the date of this Agreement, the City shall become liable, obligated and responsible for and shall otherwise pay for the maintenance, repair, operation and all other economic burdens of, pertaining to and associated with the weather/emergency siren. Should any further document be necessary to effect the transfer of the aforesaid weather/emergency siren, the parties agree to execute such document upon request.

3. This Agreement shall be deemed drafted by both parties equally.

IN WITNESS WHEREOF, The parties hereto have caused this Agreement to be duly executed and delivered by their respective officials thereunto duly authorized as of the date first above written.

**CITY OF BARTLETT, TENNESSEE**

By: _____
A. Keith McDonald, Mayor

**Approved as to Form:**

By: _____
City Attorney

**SHELBY COUNTY, TENNESSEE**

By: _____
A C Wharton, Jr. County Mayor

**Approved as to Form:**

By: _____
Assistant County Attorney