

HEWITT TEXAS

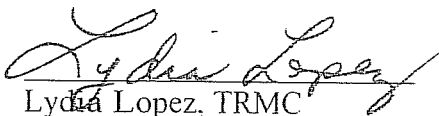
NOTICE OF MEETING OF THE GOVERNING BODY

Notice is hereby given that a **Workshop** meeting of the governing body of the City of Hewitt will be held on the **7th day of January, 2013 at 6:30 PM in Hewitt City Hall, 105 Tampico Drive**, Hewitt, Texas, at which time the following subjects will be discussed:

1. City Manager's update on municipal business:
 - a. Report from City Engineer including review and discussion of Capital Improvement Projects
 - b. Public Safety including Fire & Police
 - c. Automated Meter Reading Project
2. Review regular meeting agenda items.
3. Adjourn.

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the governing body of the City of Hewitt, Texas was posted on the Public Notice Board located in front of City Hall at 5:00 AM~~PM~~ on January 3, 2013.

CITY OF HEWITT


Lydia Lopez, TRMC
City Secretary

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are requested to contact the Hewitt City Secretary at (254) 666-6171 at least 24 hours prior to the meeting, so that appropriate arrangements can be made.

HEWITT TEXAS

NOTICE OF MEETING OF THE GOVERNING BODY

Notice is hereby given that a Regular meeting of the governing body of the City of Hewitt will be held on the 7th day of January, 2013 at 7:00 PM in the City Council Room at Hewitt City Hall, 105 Tampico Drive, Hewitt, Texas, at which time the following subjects will be discussed:

1. Consider approval of minutes of the City Council Dinner Workshop/Regular Meeting of December 3, 2012.
2. Hear visitors on matters pertaining to city business.
3. Consider reappointments to the Parks & Beautification Committee.
4. Confirm reappointment of Adam Feind to the Police Officer's Civil Service Commission as recommended by the City Manager.
5. Consider appointment of Municipal Court Judge.
6. Consider award of bid for Sun Valley Water Line Improvements – PHASE 1 to JNB Construction in the amount of \$218,380.
7. Consider and authorize the City Manager to execute an Interlocal Agreement with the City of Woodway for the use of its radio system.
8. Adjourn.

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the governing body of the City of Hewitt, Texas was posted on the Public Notice Board located in front of City Hall at 5:00 AM/PM on January 3, 2013.

CITY OF HEWITT


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COUNCIL AGENDA ITEM FORM

MEETING DATE: January 7, 2013

AGENDA ITEM #: 1

SUBMITTED BY: Lydia Lopez, City Secretary

ITEM DESCRIPTION:

Consider approval of minutes of the City Council Dinner Workshop/Regular Meeting of December 3, 2012.

STAFF RECOMMENDATION/ITEM SUMMARY:

Attached is a draft copy of the minutes of the meeting. Please review and advise if any corrections are needed.

ATTACHMENTS:

Draft minutes

HEWITT TEXAS

MINUTES OF A CITY COUNCIL WORKSHOP/REGULAR MEETING HEWITT CITY HALL – 105 TAMPICO DRIVE December 3, 2012 - 5:30/7:00 PM

Members Present: Mayor Wilbert “Walky” Wachtendorf (presiding); Mayor Pro Tem Ed Passalugo; Council Members Charles D. “Charlie” Turner, Vincent R. “Pike” Anderson, Bill Fuller, James Vidrine, and Ronnie McNiel

Staff Present: City Attorney Charlie Buenger, City Engineer Linda Turner, EIT Miles Whitney, City Manager Adam Miles, Assistant City Manager Jim Barton, Police Chief Jim Devlin, Deputy Fire Chief Lance Bracco, Utilities Director James Black, Library Director Waynette Ditto, Planning & Community Development Director Bruce Braley, Director of Human Resources/Civil Service Susana Garcia-Gilmore and City Secretary Lydia Lopez

Workshop – 5:30 PM

1. City Manager presented an update on municipal business:
 - a. Report from City Engineer including review and discussion of Capital Improvement Projects
 - b. Public Safety including Fire & Police
 - c. Calendar for future Council meetings and community events
 - d. Meter replacement
 - e. Presentation by Janine Sisak, Senior Vice President/General Counsel and Diana L. McIver, President of DMA Development Company, LLC on a proposed Multi-Family housing project.
2. The regular meeting agenda items were reviewed.
3. Adjourn. *Motion by Pike Anderson, second by Ed Passalugo to adjourn at 6:59 PM; all seven in favor, motion passed.*

REGULAR SESSION – 7:00 PM

1. **CONSIDER APPROVAL OF MINUTES OF THE CITY COUNCIL REGULAR AND JOINT DINNER WORKSHOP WITH THE PLANNING & ZONING COMMISSION MEETING OF NOVEMBER 5, 2012.** *Motion by Ed Passalugo, second by Charlie Turner to approve the minutes as submitted but allow for additional corrections; all seven in favor, motion passed.*

2. **HEAR VISITORS ON MATTERS PERTAINING TO CITY BUSINESS.**
NONE
3. **FIRST OF TWO PUBLIC HEARINGS ON A REQUEST TO ABANDON AN ALLEY LOCATED BETWEEN 1ST STREET AND 2ND STREET AND PARALLEL TO WEST WARREN STREET MORE COMMONLY KNOWN AS 0.160 ACRES BEING A 20 FT. ALLEY IN BLOCK ½ OF THE ORIGINAL TOWN OF HEWITT, ACCORDING TO PLAT OF RECORD IN VOLUME 94, PAGE 114, OF THE DEED RECORDS OF MCLENNAN COUNTY, TEXAS.** The following appeared in opposition: Jeff Smith, 124 W. Warren; John Gamble 913 Landscoving; Mike Staas, 1190 W. Warren/100 W. Warren. No one else appeared. **Hearing Closed.**
4. **CONSIDER REAPPOINTMENTS TO THE LIBRARY BOARD OF DIRECTORS.** *Motion by Charlie Turner, second by Ed Passalugo to approve the reappointments of Annette Davidson, Mary Anna Rocha, Lydia Dashner, and Jerry Waltman; all seven in favor, motion passed.*
5. **CONSIDER APPROVAL OF CHANGE ORDER NO. 1 TO THE CONTRACT WITH K4 CONSTRUCTION FOR CONSTRUCTION OF “HEWITT COMMUNITY SERVICES – SITE FENCING IMPROVEMENTS PHASE 1” IN THE TOTAL AMOUNT OF \$78,923.** *Motion by Charlie Turner, second by Pike Anderson to approve; all seven in favor, motion passed.*
6. **CONDUCT ANNUAL REVIEW AND CONSIDER A RESOLUTION AMENDING THE CITY OF HEWITT’S INVESTMENT POLICY.** *Motion by Ed Passalugo, second by Charlie Turner to approve; all seven in favor, motion passed.*
7. **CONSIDER A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A 457 DEFERRED COMPENSATION PLAN SERVICE AGREEMENT WITH ICMA-RC.** *Motion by Charlie Turner, second by Bill Fuller to approve; all seven in favor, motion passed.*
8. **ADJOURN.** *Motion by Charlie Turner, second by Pike Anderson to adjourn at 7:13 pm, all seven in favor, motion passed.*

Approved: January 7, 2013

HEWITT TEXAS

ITEM #2 – HEARING OF VISITORS

CITIZEN PARTICIPATION AT MEETINGS

1. All citizens are encouraged to discuss matters of concern with the staff and individual council members prior to placing items on the agenda. Many times this will expedite a resolution or allow proper investigation of the matter for presentation to the entire council.

NO CITIZEN NOR STAFF MEMBER MAY SPEAK NOR OTHERWISE INTERRUPT ANY MEETING UNTIL RECOGNIZED BY THE PRESIDING OFFICER.

2. To maintain decorum at public hearings, the mayor will ask the citizens present if they wish to speak for or against the item on the agenda. If so, they will be given an opportunity to do so at the proper time, when recognized by the chair. If more than five citizens wish to address the council on any single agenda item, those citizens are advised to select spokespersons to present their case.
3. Citizens who wish to bring up a matter that pertains to city business or address an item on the agenda may do so, but only under the agenda item “Hear Visitors.” **The council is prohibited by law from discussing or acting on any item that has not been posted on the agenda.**
4. **Citizens addressing the city council on items not on the agenda shall be limited to five minutes each. Total time for presentations on any one item or topic shall be limited to twenty-five minutes. The city council members shall not enter into discussion on any subject not properly placed on the agenda; however, the council members may ask questions for clarification purposes.**
5. As a general rule, citizens may not participate in the discussion of the council workshop session.



COUNCIL AGENDA ITEM FORM

MEETING DATE: January 7, 2013

AGENDA ITEM #: 3

SUBMITTED BY: Lydia Lopez, City Secretary

ITEM DESCRIPTION:

Consider reappointments to the Parks & Beautification Committee.

STAFF RECOMMENDATION/ITEM SUMMARY:

Fred Raby, Lloyd Coffman, Ruth Coffman and Robert Smith have agreed to serve another term on the Committee. These members are in good standing and staff recommends approval of this item.

ATTACHMENTS:

Council, Boards and Commissions Roster

CITY OF HEWITT: COUNCIL, BOARDS, AND COMMISSIONS

City Hall 666-6171 (Fax 666-6014); Community Services 666-2447; Utility Billing 666-3151 (after hrs emergency 666-6272); Police Adm. 666-1661; Drug Tips 666-3333; Animal Control 666-6272; Library 666-2442; Park Reservations 666-6173; Municipal Court 666-1208; Chamber of Commerce 666-1200. City of Hewitt web site: www.cityofhewitt.com; Email: citysecretary@cityofhewitt.com

City Council 2 Yr Term - May	Board of Adjustment 2 Yr Term - April	Planning & Zoning Commission 3 Yr Term - June	Parks & Beautification Committee 2 Yr Term December	Library Board of Directors 2 Yr Term - December
1st & 3rd Mon 7 pm	3rd Thurs 7 pm	1st Tues. 7 pm	2nd Thurs 7 pm	Quarterly as needed
Charlie Turner Ward 1 (05-2013) 209 Laredo 666-0087	Chairman (04-2014) Jim Winton 1136 Heatherwood 857-9436	Chairman (06-2013) Jerral F. Knox 224 Lindenwood Ln. E. PO Box 2223 - 666-1098	(12-2012) Fred Raby 732 Castleman Creek 666-7229	(12-2014) Annette Davidson 209 Fannin Drive 666-1402
Mayor Wilbert (Walky) Wachtendorf Ward 1 (05-2014) 328 Travis 666-3759	(04-2014) VACANCY	(06-2013) Douglas Bennett 225 Fannin 420-4959	(12-2013) Tracy Smith 699 Castleman Creek 666-9354	(12-2013) Beth Oakley 708 Angel Fire Drive 666-1611
Bill Fuller Ward 2 (05-2014) 218 Chelsea/PO Box 568 666-3304	(04-2013) Douglas Bergen 264 Earle Rd. 666-0855	(06-2013) Betty Orton 912 Steamboat Circle 666-2419	(12-2013) Lydia Guerra 148 Crockett 235-0583	Secretary (12-2014) Mary Anna Roch 708 Regina 666-0886
James Vidrine Ward 2 (05-2013) 504 Rowan Oak 666-2115	(04-2013) Charles Howard 1057 Dane 732-4746	(06-2014) David Dossey 1008 Tillamook 722-6325	(12-2013) Farrah M. Burns 425 Sagewood Drive (254) 722-4075	(12-2014) Lydia Dashner 520 Angel Fire Dr. 666-9623
Mayor Pro Tem Ed Passalugo Ward 3 (05-2013) 137 E. Chapman Rd. 420-1926	(04-2014) R. Don Vardeman 432 S First St. 666-2760	(06-2014) Billy Green 1119 Radisson 666-7869	(12-2012) Lloyd Coffman 807 Attaway (254) 855-3655	(12-2014) Jerry Waltman 1205 Steamboat Drive 666-9459
Ronnie McNiel Ward 3 (05-2014) 1409 Ridgeview Drive 717-2752	Alternate (04-2014) VACANCY	(06-2014) Scott M. Bryant 1316 Radisson Drive 710-7678	(12-2012) Robert Smith 412 Texas Avenue (254) 420-2599	Treasurer (12-2013) Shirlene Lands 217 W. Warren P. O. Box 133 666-3490
Vincent R. "Pike" Anderson At Large (05-2013) 916 C-Kay Dr. 300-5654	Alternate (04-2013) VACANCY	(06-2014) John J. Baker 317 Bonham Drive 235-0464	(12-2012) Ruth D. Coffman 807 Attaway (254) 855-6883	President (12-2013) Sally Goldman 132 Texas 666-2436



COUNCIL AGENDA ITEM FORM

MEETING DATE: January 7, 2013

AGENDA ITEM #: 4

SUBMITTED BY: Lydia Lopez, City Secretary

ITEM DESCRIPTION:

Confirm reappointment of Adam Feind to the Police Officers' Civil Service Commission as recommended by the City Manager.

STAFF RECOMMENDATION/ITEM SUMMARY:

Civil Service Commissioner Adam Feind has agreed to serve another term. The initial terms were staggered. Mr. Feind has served a total of four years as commissioner and is in good standing. If confirmed this will be his second consecutive appointment and the term will be for three years.

ATTACHMENTS:

Commission roster

Civil Service Commission

Member	Appointment Date	Reappointment	Term Expires
David Buckles	01/05/2009	02/06/2012	02/06/2015
Greg Davis	01/05/2009	01/04/2010	01/04/2013
Adam Feind	02/02/2009	02/2013	02/2016

NOTE: Members were officially sworn in office on February 16, 2009.



COUNCIL AGENDA ITEM FORM

MEETING DATE: January 7, 2013

AGENDA ITEM #: 5

SUBMITTED BY: Lydia Lopez, City Secretary

ITEM DESCRIPTION:

Consider appointment of Municipal Court Judge.

STAFF RECOMMENDATION/ITEM SUMMARY:

Per the City Charter the Municipal Court Judge must be appointed each year. Dan Francis has agreed to serve if reappointed. Dan has been our Judge for several years, he does an excellent job and has a great working relationship with our Court Personnel. Staff recommends approval of his appointment.

ATTACHMENTS:

None



COUNCIL AGENDA ITEM FORM

MEETING DATE: January 7, 2013

AGENDA ITEM #: 6

SUBMITTED BY: Adam Miles, City Manager

ITEM DESCRIPTION:

Consider award of bid for Sun Valley Water Line Replacement – PHASE 1 to JNB Construction in the amount of \$218,380.

STAFF RECOMMENDATION/ITEM SUMMARY:

Sealed bids were received and opened on January 3, 2013 for Sun Valley Water Line Improvements – Phase 1. JNB Construction is the lowest bidder meeting qualifications. City staff recommends award of the bid to JNB Construction in the amount of \$218,380.

ATTACHMENTS:

Letter from City Engineer
Project Location Map
Bid Tabulations

Duff Consulting Engineers, Inc.

Texas Registered Engineering Firm F-400

4201 No. 19TH St. - WACO, TEXAS 76708
(254)756-5414 FAX: (254)753-2642

E-Mail: b.aston@duffengineering.com

January 3, 2013

Honorable Mayor Wachtendorf & City Council
City of Hewitt, Texas
Via E-mail

Re: *Sun Valley Water Line Improvements – Phase 1*

Dear Mayor Wachtendorf & City Council:

Bids were received and opened at 10:00 AM today for the Sun Valley Water Line Improvements – Phase 1. This project involves replacement of the existing 8 inch and 6 inch waterlines, with a new 16 inch waterline, along Spring Valley Road around Sun Valley Drive to just across from Legacy Drive, as shown on the attached map.

Four bids were submitted with the lowest bid being submitted by JNB Construction in the amount of \$218,380.00. Our most recent opinion of the probable construction cost was \$181,005. From a review of the unit prices, it appears that the bidders feel that the construction area is more congested with less area available for equipment maneuvering than we thought. A tabulation of the bids received is attached.

JNB Construction's most recent project for the City was the Mobile Home Park water and sewer line replacement. Their work on that project was satisfactory.

It is my recommendation that this contract be awarded to JNB Construction.

Sincerely:


William E Aston, P.E.



Ec: Adam Miles, City Manager

BID TABULATION: CITY OF HEWITT - SUN VALLEY WATER LINE REPLACEMENT - PHASE 1

Bid Date: January 3, 2013 10:0 a.m., City Hall, Hewitt, Texas

ITEM NO.	EST. QTY. & UNIT	DESCRIPTION	JNB UNIT PRICE	BEAR UNIT PRICE	BARNETT UNIT PRICE	H&B UNIT PRICE
1.	1480 L.F.	16" C-905 DR-18 Pipe, w/Tracer Wire	\$ 58.00	\$ 69.00	\$75.00	\$ 92.00
2.	10 L.F.	12" C-900 DR-18 PVC Pipe, w/Tracer Wire	200.00	99.00	100.00	73.50
3.	15 L.F.	8" C-900 DR-18 PVC Pipe w/Tracer Wire	200.00	59.00	100.00	60.00
4.	20 L.F.	Open Cut & Install 16" C-905 DR-18 PVC Pipe w/Tracer Wire & Asphalt Surface Repl.	100.00	140.00	150.00	113.00
5.	140 L.F.	24" HDPE Dual Wall Pipe w/16" RJ Carrier Pipe w/Concrete Surface Replacement	160.00	206.00	175.00	222.00
6.	6 EA.	16" Gate Valve & Box	6,800.00	5,330.00	6,200.00	5,740.00
7.	1 EA.	12" Gate Valve & Box	2,100.00	1,950.00	3,000.00	1,905.00
8.	4 EA.	Connect New 16" to Existing 16"	2,500.00	2,920.00	2,000.00	1,962.00
9.	1 EA.	Connect Existing 8" to New 16"	3,000.00	2,960.00	2,000.00	3,800.00
10.	1 EA.	Connect Existing 8" to New 12"	3,000.00	3,830.00	1,500.00	918.00
11.	1 EA.	Connect Existing 8" A.C. Line to New 8"	2,000.00	3,770.00	3,000.00	6,200.00
12.	2 EA.	Reconnect Existing 5/8" x 3/4" Meter	1,200.00	1,700.00	2,000.00	2,530.00
13.	2 EA.	Remove Existing Fire Hydrant Assemblies	600.00	560.00	1,000.00	250.00
14.	4 EA.	Fire Hydrant Assembly	4,500.00	4,200.00	3,500.00	3,675.00
15.	1 EA.	Reconnect Existing 3" Meter	3,000.00	4,220.00	3,000.00	6,410.00
16.	1 EA.	Connect Ex. 6" Fire Line to New 16" Line	4,000.00	5,020.00	3,000.00	6,850.00
17.	1,640 L.F.	Trench Safety	1.00	2.00	2.00	4.10
18.	L.S.	Mobilization (Not to exceed 10% of Bid)	12,000.00	15,700.00	17,000.00	29,440.00
		TOTAL AMOUNT OF BID:	\$ 218,380.00	\$ 241,345.00	\$ 241,980.00	\$ 295,930.00

CITY OF HEWITT - SUN VALLEY WATER LINE REPLACEMENT PHASE 1

Bid Tabulation

Page Two

Prepared By:



William E. Aston, P.E. #34823

January 3, 2013



DUFF CONSULTING ENGINEERS, INC.

Texas Registered Engineering Firm F-400

4201 N. 19th St., Waco, Tx 76708

(254)756-5414 FAX: (254)753-2642

HEWITT TEXAS

COUNCIL AGENDA ITEM FORM

MEETING DATE: January 7, 2013

AGENDA ITEM #: 7

SUBMITTED BY: Adam Miles, City Manager

ITEM DESCRIPTION:

Consider and authorize the City Manager to execute an Interlocal Agreement with the City of Woodway for the use of its radio system.

STAFF RECOMMENDATION/ITEM SUMMARY:

In the summer of 2011 the City of Hewitt entered into a local agreement with the City of Woodway to partner in providing digital public safety radio services. The agreement was intended to reduce the significant cost of the purchase of a “stand-alone” system, promote interoperability between internal public safety components and agencies, and comply with the Federal and State mandate that all public safety radio systems become P-25 digitally compliant.

The new digital system operated on the current licensed “conventional” frequencies licensed to the City of Hewitt, City of Woodway, and the City of Lorena. These frequencies were thought to be substantial enough to work for the digital system, but were later found to suffer from severe interference from other “conventional” radio sources. The interference observed, came from radio sources as far away as Austin, TX and agencies in east Texas. This interference was found to be from licensed radio entities that had a similar frequency or the exact frequency as those licensed by the City of Hewitt, Woodway, and Lorena.

The new Interlocal Agreement will allow the three cities to purchase replacement radio frequencies to correct the interference issues on the digital system. These frequencies have no interference issues and are not currently owned by any entity in the State of Texas. Furthermore, if purchased, no entity can be licensed to use these frequencies within a 150 mile radius from Woodway Texas.

ATTACHMENTS:

Interlocal Agreement

INTERLOCAL COOPERATION AGREEMENT

This agreement is made by and entered into between the City of Woodway, Texas (hereinafter "Woodway") and the City of Hewitt, Texas (hereinafter "Hewitt").

WHEREAS, it is in the best interests of the citizens for governmental entities to cooperate in the provision of governmental services where such cooperation will result in a more efficient, higher quality and/or more cost-effective provision of such services; and

WHEREAS, Woodway has acquired a multi-channel trunking system to upgrade its radio system and deal with interoperability issues, and is acquiring additional frequencies; and

WHEREAS, Hewitt desires use of Woodway's radio system to meet its radio communications needs and address its own interoperability issues; and

WHEREAS, Woodway and Hewitt have found it advisable to enter into an Interlocal Cooperation Act agreement as authorized by Chapter 791, Government Code.

NOW, THEREFORE, in consideration of the promises, covenants and agreements contained herein, the parties hereto mutually agree as follows:

1. Scope. Woodway will allow Hewitt access to and use of its radio system and will assign Hewitt five (5) talk groups for Hewitt's use. It shall be Hewitt's obligation to designate the talk groups and to provide all necessary information for programming and establishing the talk groups. If special programming or services beyond the capabilities of Woodway is required to create a talk group, Hewitt shall be responsible for such additional costs. Limitations on the number of users may exist. This Agreement is for use of Woodway's radio system, and Woodway is not agreeing to provide any dispatching or other such services. Woodway will not be responsible for interference associated with frequency coordination.
2. No Ownership or Legal Interest Created. Neither this Agreement or any payment of funds to Woodway by Hewitt shall ever create any ownership or other legal interest in Hewitt with regard to Woodway's radio system and frequencies. Furthermore, the fact that Hewitt must make an initial capital investment to use the system shall not create any ownership or other legal interest in Hewitt with regard to Woodway's radio system and frequencies, nor shall it create any right to recovery by Hewitt against Woodway in the event of the termination of this Agreement.
3. Usage Fee. In consideration of being allowed to use Woodway's system and frequencies to the extent provided herein, Hewitt shall pay Woodway amount equal to 40% of the cost to Woodway of its annual maintenance agreement with Motorola for the maintenance and support of the radio system and infrastructure. Payment shall be made within 30 days of Hewitt's receipt of an invoice from Woodway for such fee.
4. Start-up Administrative, Coordination and Re-Programming Fee. Hewitt shall also pay a Start-up Administrative, Coordination and Re-Programming Fee to Woodway of \$40,000. The

fee will be payable as follows: \$20,000 shall be paid by January 31, 2014; the remaining \$20,000 shall be paid no later than January 31, 2015. Hewitt shall provide proof to Woodway that it has budgeted funds to pay these obligations in its fiscal year budget on or before October 15, 2013 for the 2014 payment, and on or before October 15, 2014 for the 2015 payment. Woodway may terminate this Agreement for Hewitt's failure to budget funds for the payments on 60 days written notice and opportunity to cure.

5. Additional Fees. The following may also be charged to Hewitt by Woodway as additional fees where appropriate: a) any cost incurred by Woodway solely to address improvements or changes requested by Hewitt; b) participation in the cost of any changes or modifications made necessary by changes in the law, on the same basis as for maintenance costs; c) participation in the cost of any changes or modifications made which benefit both Hewitt and Woodway, on the same basis as for maintenance costs; and d) participation in the cost of the purchase and coordination of additional frequencies that may become necessary in the future in order for Woodway to continue to serve Hewitt on a negotiated basis.

6. Term. The initial term of this Agreement shall commence on _____ and end on September 30, 2013. Thereafter, this Agreement shall be automatically renewed for one (1) year periods (October 1 to September 30) at the end of the initial term and thereafter at the end of any renewal term unless either party gives written notice to the other party of its intent not to renew at least 180 days prior to the expiration of the lease year (September 30th). Woodway may terminate this Agreement on 60 days written notice to Hewitt and opportunity to cure for Hewitt's failure to pay any sums required to be paid to Woodway under this Agreement. Hewitt may terminate this Agreement on 60 days written notice to Woodway and opportunity to cure for Woodway's material failure to provide access and use of the system as provided for in this Agreement. Either party may terminate this Agreement for any reason by giving at least 180 days written notice to the other party.

6. Force Majeure. Except for the obligation of Hewitt to pay the fees provided for herein, either party's delay in, or failure of, performance under this Agreement shall be excused where such delay or failure is caused by an act of God, fire or other catastrophe, electrical, computer or mechanical failure, work stoppage, riot, government regulation, delays or failure to act of any carrier or agent, or any other cause beyond a party's direct control. Furthermore, Hewitt agrees that frequency interference shall be a matter considered beyond Woodway's control.

7. No Third-Party Beneficiaries. This Agreement shall not provide any person not a party to this Agreement with any remedy, claim, liability, reimbursement, commission, cause of action or other right in excess of those existing without reference to this Agreement. This Agreement is for the benefit of the parties hereto, and is not for the benefit of any third party.

8. Additional Terms.

a) Hewitt must comply with applicable FCC requirements in its use of Woodway's system and frequencies. Woodway may suspend Hewitt's access to and use of Woodway's system for Hewitt's violation of FCC regulations until such time as Hewitt shows that the violation has been

appropriately addressed. Hewitt shall be responsible for reimbursing Woodway for any penalties or costs incurred by Woodway as a result of any violation by Hewitt.

- b) Neither party may assign its rights or responsibilities under this Agreement.
- c) No waiver by either party of any provision of this Agreement shall be effective unless in writing and such waiver shall not be construed as or implied to be a subsequent waiver of that provision or any other provision.
- d) Performance under this Agreement by the parties will be undertaken from current revenues available to the parties.
- e) This Agreement was approved by the governing bodies of both parties.
- f) This Agreement represents the entire agreement and understanding between the parties and supersedes all prior understandings. This Agreement may only be amended in writing. Any amendment must be approved and signed by both parties.
- g) NO REPRESENTATION IS MADE BY WOODWAY THAT THE SYSTEM IS ERROR FREE. ACCESS TO THE SYSTEM IS PROVIDED "AS IS" AND WITH ALL FAULTS. NO EXPRESSED OR IMPLIED WARRANTIES ARE MADE AS TO THE FITNESS OF THE SYSTEM FOR HEWITT'S PARTICULAR PURPOSES.

AGREED:

City of Hewitt

By: _____
Its: _____
Date: _____

City of Woodway

By: _____
Its: _____
Date: _____