

HEWITT TEXAS

CITY COUNCIL MEETING AGENDA

April 16, 2018

Workshop/Regular Meeting – 5:30 PM/7:00 PM

CITY HALL, 200 PATRIOT COURT

HEWITT, TX 76643

MAYOR AND CITY COUNCIL

Travis Bailey – Mayor, Ward 1

Ed Passalugo – Mayor Pro Tem, Ward 3

Wilbert Wachtendorf – Council Member, Ward 1

Bill Fuller – Council Member, Ward 2

James Vidrine – Council Member, Ward 2

Steve Fortenberry – Council Member, Ward 3

Kurt Krakowian – Council Member At-Large

CITY STAFF

Adam Miles, City Manager
Charlie Buenger, City Attorney
Miles Whitney, City Engineer

Lydia Lopez, City Secretary	Jim Devlin, Police Chief
Lee Garcia, Finance Director	Lance Bracco, Fire Chief
Waynette Ditto, Library Director	Katie Allgood, Managing Director
Tracy Lankford, Community Dev. Director	Tuck Saunders, Assistant Police Chief
Kevin Reinke, Utilities Director	

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 **16th day of April, 2018, at 5:30 PM** in **Hewitt City Hall, Council Workshop Room, 200 Patriot Court**, Hewitt, Texas, at which time the following subjects will be discussed:

1. Call meeting to order.
2. City Manager's update on municipal business:
 - a. Report from City Engineer
 - b. Briefing and discussion concerning upcoming events:
 - Earth Day Celebration - Warren Park – April 21, 2018, 10:00 AM to 12:00 PM
 - Citizens Police Academy – February 20, 2018 through April 24, 2018
 - Nacho Daddy (Greater Hewitt Chamber Event) Warren Park – May 12, 2018, 5:30 to 9:00 PM
 - Waste Diversion Day – May 19, 2018
 - c. Briefing and discussion concerning financial reports.
 - d. Briefing and discussion concerning Brush and Bulk Collection Site.
 - e. Briefing and discussion concerning vacancies and appointments.
 - f. Briefing and discussion concerning Public Safety operations – Police & Fire.
 - Midway ISD – School Resource Officer (SRO)
3. Review of the regular meeting agenda.
4. Convene Executive Session pursuant to the Open Meetings Act, Chapter 551, Texas Government Code to discuss the following:
 - Pursuant to §551.072 – Purchase, Exchange, Lease, or Value of Real Property.
5. Close Executive Session.
6. 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 3:00 AM/PM on April 13, 2018.

CITY OF HEWITT


Lydia Lopez, TRMC
City Secretary

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 **16th day of April, 2018, at 7:00 PM in the City Council Chambers at Hewitt City Hall, 200 Patriot Court**, Hewitt, Texas, at which time the following subjects will be discussed:

1. Call meeting to order.
2. Pledge of Allegiance to the U.S. Flag
3. Consider approval of minutes of the City Council Workshop and Regular Meeting of April 2, 2018.
4. Hear visitors on matters pertaining to city business. *Under the Texas Open Meetings Act, the Council is prohibited from discussing, responding, or acting on any comments or items that have not been properly posted on the agenda.*
5. Public hearing on an ordinance amending Appendix A - Zoning of the Code of Ordinances of the City of Hewitt by the rezoning of 699 Sun Valley Blvd. (being property located in the Hewitt Mobile Home District, Block A, Lot 16, +/- 1.6774 Acres) from MH Manufactured Home District to BP Business Park District, providing an effective date.
6. Confirm City Manager's appointment of Sammy L. Thomas to the Police Officers' Civil Service Commission in accordance with Chapter 143 of the Texas Local Government Code.
7. Consider reappointments to the Board of Adjustment.
8. Consider action to amend the City of Hewitt Policy for Administration of Boards, Commissions, and Committees to allow individuals to concurrently serve on more than one board, commission, or committee unless prohibited by law.
9. Consider award of bid for 2018 – Various Street Improvements; Slurry Seal to Viking Construction, Inc., in the amount of \$177,740.30.
10. Consider award of bid for 2017 – 209/213 Cross Country Drive Drainage Improvements to Holy Contractors, LLC in an amount of \$63,417.21.
11. Authorize City Manager to negotiate and execute Waco Metropolitan Area Regional Sanitary Sewerage System (WMARSS) Project Agreement related to the La Salle Transfer Lift Station/Force Main project in an amount not to exceed \$3,304,502.24.
12. Authorize City Manager to negotiate and execute a memorandum of agreement concerning acquisition of land related to the Ritchie Road widening project.
13. Consider an ordinance amending Chapter 78 - Utilities, ARTICLE VII. - Use and Occupancy of City's Rights-of-Way for Provision of Utility, Telecommunications and Cable Services, of the Code of Ordinances of the City of Hewitt, providing rules and regulations related to Network Nodes, Transport Facilities and Node Support Poles, adopting a Design Manual, amending the Master Fee Schedule, and providing an effective date.
14. Consider an Ordinance Amending Part II, Appendix A - Zoning, Section 12.102 - Definitions, of the Code of Ordinances of the City of Hewitt, providing for the definition of a Beauty Shop, a Barber Shop, and Semi-Permanent Cosmetics, providing an effective date.

15. Consider an ordinance amending Chapter 30 - Environment of the Code of Ordinances of the City of Hewitt establishing Article XI - Stormwater, establishing rules and regulations related to management of stormwater runoff, establishing best management practices, providing for definitions, providing for a penalty, repealing all other ordinances in conflict herewith, and providing an effective date.
16. 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 3:00 AM/PM on April 13, 2018.

CITY OF HEWITT

A handwritten signature in blue ink, appearing to read "Lydia Lopez", written over a horizontal line.

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

COUNCIL WORKSHOP AGENDA ITEM #2.a



CITY ENGINEER'S REPORT

April 12, 2018

2015 Bond Projects:

Lift Station No. 5 Removal

At this time, we are working towards getting easements signed.

IH - 35 Waterline

- Phase 2; Sun Valley to Flat Rock Trailers
 - Plans to be submitted to TxDOT for permitting shortly, pending Lift Station No. 5 issues.

Sun Valley Rd.; Waterline Bores.

Contract documents are being executed.

2018 Street Improvements; Slurry Seal

Bids were received on April 11, 2018. Within the Council packet you should find the Bid Tabulation and my Letter of Recommendation of Award for the Council's consideration.

Alamo Lift Station (Lift Station No. 7)

Will provide update at meeting, if any.

Drainage

209/213 Cross Country Drainage Improvements

Bids were received on April 11, 2018. Within the Council packet you should find the Bid Tabulation and my Letter of Recommendation of Award for the Council's consideration.

Old Temple Rd; Phase 2

Contractor has been pouring ribbon curb and driveways for the northern portion of the project.

Ritchie Road Improvements; (From Warren Dr. to Park Place Dr.)

We are finalizing plans.

HEWITT TEXAS

CITY ENGINEER'S REPORT

April 12, 2018

Hewitt Dr. and Panther Way

Revised plans have been submitted to TxDOT for their review and recommendations. I will be getting this out for bids shortly.

Sierra Slope / Angel Fire Intersection Repair

Bids for this project are to be opened April 26, 2018 at 10:00 a.m. The Utility Dept. is to replace the waterline crossing at this intersection prior to reconstruction of the street intersection.

Stormwater Ordinance

Will discuss at meeting.

Plant No. 1; Chemical Disinfectant Building; (Community Services)

We are working on a plan to add onto the existing chemical feed building to provide a place for the L.A.S. equipment to be kept. At this time the existing chemical feed equipment is housed within the electrical control building.

By:



Miles W. Whitney P.E.
Miles W. Whitney, P.E.

Note: All dates are approximate and subject to change.

HEWITT TEXAS

COUNCIL WORKSHOP AGENDA ITEM #2.d

HEWITT TEXAS

MEMORANDUM

FROM: Adam Miles, City Manager 
TO: Mayor and City Council
DATE: April 10, 2018
RE: Ritchie Road Construction - Brush & Bulk Site relocation

The reconstruction of Ritchie Road is currently in the design process, however work is slated to begin in a few weeks. As we look forward to this time, city staff has worked to address and minimize conflicts with ongoing city operations located within this construction zone. Reconstruction of Ritchie Road will include intermittent road closures and temporarily narrowed lane widths.

Due to the construction, the scheduled Brush and Bulk drop off site will change beginning May 19, 2018 to the City property located at **1501 S. Hewitt Drive**. This is the site immediately adjacent to the Spring Valley overpass. This site was used in the past for the Brush and Bulk collection days, but they were moved to Ritchie Road after renovations to the water plant site were completed.

As of May 19, the Hewitt Drive site will be utilized into the foreseeable future. City staff will work in the next few days to put out information to the public concerning the change in Brush and Bulk collection site.

HEWITT TEXAS

COUNCIL WORKSHOP AGENDA ITEM #2.e

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
Mayor Travis Bailey Ward 1 (05-2019) 412 Oklahoma Avenue 666-1492	Chairman (04-2018) Jim Winton 1136 Heatherwood 857-9436	(06-2019) VACANCY	(12-2018) Jerry Snider 108 Brenda Drive 307-0613	President (12-2018) Eric Ames 249 Fieldcrest Dr. 710-1576
Wilbert (Walky) Wachtendorf Ward 1 (05-2018) 328 Travis Lane 666-3759	(04-2018) Bradley T. Turner 600 Yukon Pass 723-4912	(06-2019) Bobby Wolske 109 Devonshire 366-4743	(12-2019) Kathy Krakowian 804 Pebble Creek Cr. 424-7192	(12-2019) Gayle H. Shipp 704 Cheyenne Trail 495-1044
Bill Fuller Ward 2 (05-2018) 218 Chelsea/PO Box 568 666-3304	(04-2019) Douglas Bergen 264 Earle Rd. 666-0855	(06-2019) Walter H. Peterson 500 Moss Hill Rd. 757-5128	(12-2019) VACANCY	(12-2018) Karen Copeland 616 Crestwood Dr. 717-4906
James Vidrine Ward 2 (05-2019) 504 Rowan Oak 666-2115	(04-2019) Charles Howard 155 Ellis Farm Rd. 732-4746	(06-2017) Jonathan Denton Dulus 332 Bowie Ln. 855-4013	(12-2019) Fred Bridger 613 Durango Circle 749-8810	Secretary (12-2018) Lydia Dashner 520 Angel Fire Dr. 666-9623
Mayor Pro Tem Ed Passalugo Ward 3 (05-2019) 137 E. Chapman Rd. 420-1926	(04-2019) R. Don Vardeman 432 S First St. 666-2670	(06-2017) Charlie Turner 209 Laredo 666-0087	(12-2018) Davis D. Thigpen 606 Madison Dr. 749-9500	(12-2018) Beth Oakley 708 Angel Fire Drive 644-3594
Steve Fortenberry Ward 3 (05-2018) 701 Oakmont Drive 744-1697	Alternate (04-2018) VACANCY	(06-2017) Michael Lee Hix 336 Bowie Lane 723-5071	(12-2018) Veronica Molina 1201 Radisson (434) 531-2014	(12-2019) VACANCY
Kurt Krakowian At Large (05-2019) 804 Pebble Creek Cr. 224-1202 (cell)	Alternate (04-2019) VACANCY	(06-2017) John J. Baker 317 Bonham Drive 235-0464	(12-2018) VACANCY	Vice President (12-2019) Sally Goldman 132 Texas 666-2436

Updated: 04/12/2018

HEWITT TEXAS

COUNCIL AGENDA ITEM FORM

MEETING DATE: April 16, 2018

AGENDA ITEM #: 3

SUBMITTED BY: Lydia Lopez, City Secretary

ITEM DESCRIPTION:

Consider approval of minutes of the City Council Workshop and Regular Meeting of April 2, 2018.

STAFF RECOMMENDATION/ITEM SUMMARY:

Attached is a draft copy of the meeting minutes. 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 – 200 PATRIOT COURT April 2, 2018 – 5:30 PM/7:00 PM

Members present: Mayor Travis Bailey (presiding), Mayor Pro Tem Ed Passalugo, Council Members Wilbert “Walky” Wachtendorf, Bill Fuller, James Vidrine, Kurt Krakowian and Steve Fortenberry

Staff present: City Attorney Charlie Buenger, City Engineer Miles Whitney, City Manager Adam Miles, Police Chief Jim Devlin, Assistant Police Chief Tuck Saunders; Fire Chief Lance Bracco, Community Development Director Tracy Lankford, Managing Director Katie Allgood, Finance Director Lee Garcia, Parks & Media Coordinator Caz Muske, Community Development Coordinator Jared DeVries, and City Secretary Lydia Lopez

Staff absent: Library Director Waynette Ditto, Utilities Director Kevin Reinke

WORKSHOP – 5:30 PM

1. Mayor Travis Bailey called the meeting to order at 5:30 PM.
2. City Manager presented update on municipal business:
 - a. Report from City Engineer
 - b. Briefing and discussion concerning upcoming events:
 - o Earth Day Celebration – April 21, 2018
 - o Citizens Police Academy – February 20, 2018 – April 24, 2018
 - o Nacho Daddy (Greater Hewitt Chamber Event) – May 12, 2018
 - o Household Hazardous Waste Day – May 19, 2018
 - c. Briefing and discussion concerning financial reports.
 - d. Briefing and discussion concerning Waco-McLennan County Public Health District.
 - e. Briefing and discussion concerning Residential Electricity Aggregation Program.
 - f. Briefing and discussion concerning Semi-Permanent Cosmetic.
 - g. Briefing and discussion concerning Waco Metropolitan Area Regional Sanitary Sewerage System (WMARSS).
 - h. Briefing and discussion concerning vacancies and appointments.
 - i. Briefing and discussion concerning Public Safety operations – Police & Fire.
3. *A motion was made by Mayor Pro Tem Ed Passalugo and second by Council Member Bill Fuller to convene Executive Session at 6:28 PM pursuant to the Open Meetings Act, Chapter 551, Texas Government Code to discuss the following:*

➤ **Pursuant to §551.072 – Purchase, Exchange, Lease, or Value of Real Property.**

➤ **Pursuant to §551.074 - Personnel Matters (City Manager's Annual Evaluation).**

A motion was made by Mayor Pro Tem Ed Passalugo and second by Council Member Bill Fuller to recess the Executive Session at 6:58 PM, all seven in favor, motion passed.

Note: Council reconvened the Executive Session following the Regular Meeting.

REGULAR MEETING – 7:00 PM

1. **CALL TO ORDER.** Mayor Travis Bailey called the meeting to order at 7:00 PM.
2. **PLEDGE OF ALLEGIANCE TO THE U.S. FLAG** – Mayor Travis Bailey asked Mayor Pro Tem Ed Passalugo to lead the Pledge of Allegiance.
3. **CONSIDER APPROVAL OF MINUTES OF THE CITY COUNCIL WORKSHOP AND REGULAR MEETING OF MARCH 19, 2018.** *A motion was made by Mayor Pro Tem Ed Passalugo and second by Council Member Bill Fuller to approve the minutes as submitted but allow for corrections; all seven in favor, motion passed.*
4. **SPECIAL PRESENTATION TO THE PARKS DEPARTMENT FROM THE TEXAS SPORTS AND SOCIAL CLUB.** Tanisha Johnson with Texas Sports and Social Club presented a check in the amount of \$752 raised from their Adult Easter Egg Hunt on March 24, 2018. The funds were raised for the renovation of Hewitt Park's sand volleyball pit.
5. **HEAR VISITORS ON MATTERS PERTAINING TO CITY BUSINESS.** *Under the Texas Open Meetings Act, the Council is prohibited from discussing, responding, or acting on any comments or items that have not been properly posted on the agenda. NONE*
6. **CONSIDER AWARD OF BID FOR 2017 SUN VALLEY BLVD. ROAD BORES PROJECT TO TTG UTILITIES, L.P., IN THE AMOUNT OF \$152,295.00.** *A motion was made by Council Member Kurt Krakowian and second by Mayor Pro Tem Ed Passalugo to approve; all seven in favor, motion passed.*
7. **AUTHORIZE WACO METROPOLITAN AREA REGIONAL SANITARY SEWERAGE SYSTEM (WMARSS) PROJECT AGREEMENT "MLK AT HERRING - SINKHOLE #2" IN THE TOTAL AMOUNT OF \$128,264.80.** *A motion was made by Council Member Bill Fuller and second by Mayor Pro Tem Ed Passalugo to approve; all seven in favor, motion passed.*
8. **ADJOURN.** *A motion was made by Mayor Pro Tem Ed Passalugo and second by Council Member Bill Fuller to adjourn the regular meeting at 7:10 PM and reconvene the Executive Session; all seven in favor, motion passed.*

EXECUTIVE SESSION

The Executive Session reconvened at 7:13 PM pursuant to the Open Meetings Act, Chapter 551, Texas Government Code to discuss the following:

- **Pursuant to §551.074 - Personnel Matters (City Manager's Annual Evaluation).**

ADJOURN. *A motion was made by Mayor Pro Tem Ed Passalugo and second by Council Member Kurt Krakowian to adjourn the Executive Session at 7:29 PM, all seven in favor, motion passed..*

Approved: April 16, 2018

Lydia Lopez, City Secretary

Travis Bailey, Mayor

HEWITT TEXAS

ITEM #4 – HEARING OF VISITORS

PROCEDURES FOR CITIZEN PARTICIPATION AT MEETINGS

1. Citizens are encouraged to discuss matters of concern with the staff and individual council members prior to placing items on the agenda. This will allow the matter to be properly investigated before it is presented to the entire council and will often expedite a resolution.

NO CITIZEN OR STAFF MEMBER MAY SPEAK OR OTHERWISE INTERRUPT ANY MEETING UNTIL RECOGNIZED BY THE PRESIDING OFFICER.

2. To maintain decorum at public hearings, the mayor will ask citizens in attendance if they wish to speak for or against the item on the agenda. If so, they will be given an opportunity to speak at the proper time and 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 a spokesperson to present their case.

Only under the agenda item “Hear Visitors” are citizens permitted to speak regarding matters that pertain to city business or address an item on the agenda. **The council is prohibited by law from discussing or acting on any item that has not been posted on the agenda.**

3. Individual citizens that discuss items not listed on the agenda shall be limited to **five minutes**. If five or more citizens wish to discuss a single item or topic that is not listed on the agenda, then the total presentation will be limited to a maximum of twenty-five minutes. City council members shall **not** enter into discussion on any subject that has not been properly placed on the agenda; however, council members may ask questions for clarification purposes.
4. As a general rule, citizens may not participate or address the council or staff during the workshop session.



COUNCIL AGENDA ITEM FORM

MEETING DATE: April 16, 2018

AGENDA ITEM #: 5

SUBMITTED BY: Adam Miles, City Manager

ITEM DESCRIPTION:

Public hearing on an ordinance amending Appendix A - Zoning of the Code of Ordinances of the City of Hewitt by the rezoning of 699 Sun Valley Blvd. (being property located in the Hewitt Mobile Home District, Block A, Lot 16, +/- 1.6774 Acres) from MH Manufactured Home District to BP Business Park District, providing an effective date.

STAFF RECOMMENDATION/ITEM SUMMARY:

A zoning application was submitted to the City with the intention rezoning residential land for future commercial development. The surrounding land use is generally characterized as an area with commercial development along Sun Valley Blvd to the East as well as North of this site along with residential (manufactured home) uses to the West. This parcel is adjacent to an existing BP - Business Park zoning district. City Staff recommends approval of this request. The Planning and Zoning Commission met and held a public hearing on Tuesday, April 3, 2018, and recommended approval of this item by a vote of 5 to 0.

ATTACHMENTS:

P&Z Information
Draft Ordinance

APPLICATION REVIEW

Z-2018-2

CASE #: Z-2018-2

NOTICES: 3 mailed; returned,

HEARING DATE: April 3, 2018

PROPERTY ADDRESS: 639 Sun Valley

LEGAL DESCRIPTION: Lot 16 Block A Hewitt Mobile Home Park Part Two

APPLICANT: Maria Concepcion Feregrino

MAILING ADDRESS: 3621 N. 27th St. Waco, Texas 76708

Comprehensive Plan Future Land Use Plan Staff Review

The City of Hewitt adopted "Comprehensive Plan 2022" A Comprehensive Plan for the City of Hewitt, Texas, under Ordinance No. 2003-04-21 on April 21, 2003. When a zoning change is received, the City evaluates it to determine whether it is consistent with the Comprehensive Plan. This evaluation will be based on the goals and objectives and policies of the plan, as well as the land use categories depicted on the Future Land Use Map. A zoning change proposal has been submitted by the applicant that is not consistent with the Comprehensive Plan. The City may consider to uphold the current land use category or a change in the plan's Future Land Use Map.

LAND USE DESIGNATION REQUEST: GENERAL COMMERCIAL and INDUSTRIAL to RESIDENTIAL

The applicant is not requesting a land use designation change.

ZONING:

The applicant requests a zone change from **MH Manufactured Home District to BP Business Park District.**

SUMMARY DESCRIPTION OF USES IN BP: The purpose of the BP Business Park District is to provide a unique zone incorporating commercial and industrial uses into one district with quality architectural and landscape design development standards. The BP Business Park District differs from other districts by allowing a mixture of compatible commercial and industrial land uses with limitation of associated outside uses.

PLANNING & COMMUNITY DEVELOPMENT REVIEW

NEIGHBORHOOD CHARACTER:

The neighborhood is generally characterized as an area of commercial mixed with residential uses. The majority of the surrounding properties are residential and commercial based. This property borders on residential use to the west and commercial uses to the north and east.

STAFF RECOMMENDATION

ZONING:

Planning Services recommends **approval** of this request to change the zoning from **MH to BP** based on the following findings:

- 1) The proposed zoning is in keeping with the land use component of the Comprehensive Plan.
- 2) The public infrastructure is adequate to provide for uses allowed in BP zoning district.
- 3) The property meets all the size and width requirements for BP zoning.
- 4) The property is located along Sun Valley Boulevard.

TRAFFIC DATA

1. Description of the adjacent street system:

Road	Classification	# of Lanes	Avg. Daily Traffic
Sun Valley	Arterial	5	data not available

Estimated increase in traffic on adjacent streets at full build out:

Immediate: none

Future: none

3. Will the development's impact be of sufficient magnitude to require mitigation for:
 - a) Access problems: no
 - b) Increased traffic congestion: no
 - c) Pedestrian traffic: no
 - d) Visibility problems: no
4. Traffic Department comments and recommendations:

No significant traffic impact anticipated.

PUBLIC WORKS DATA

1. Street condition: Good X Acceptable Needs Reconstruction
2. Street width: Existing: ROW 100' Pavement 65'
Required: ROW 100' Pavement 65'
3. Curb and Gutter:
Does not apply Needs to be installed Exists X Needs Reconstruction
4. Offsite Drainage facilities are adequate to meet additional runoff resulting from the rezoning.
5. Water is available to the property, and it will serve the heaviest uses allowed under the requested zoning.
6. Sewer is available to the property.
7. Public Works comments and recommendations:
The property is served with public water and there has been no damage reported.

INSPECTION DEPARTMENT REVIEW

Comments

None

FIRE DEPARTMENT REVIEW:

Anticipated Fire Response Time:

Is the Fire Response Time Adequate?: (Y) Yes (N) No

Fire Department Comments and Recommendations:

MCLENNAN COUNTY HEALTH DISTRICT REVIEW

Inspection/Permit Required N (Y) Yes (N) No

Date of Inspection: None

Community Development

Comments

POLICE DEPARTMENT REVIEW

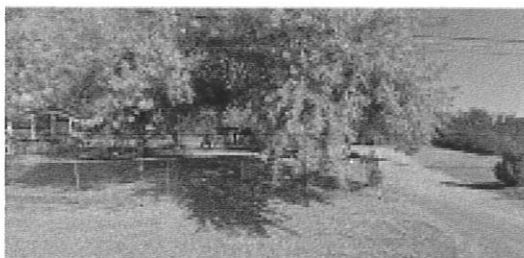
Comments None

City of Hewitt, Texas

Google Maps 639 Sun Valley Blvd



Map data ©2018 Google 200 ft



639 Sun Valley Blvd
Hewitt, TX 76643



ORDINANCE NO. 2018-3

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HEWITT, TEXAS AMENDING ORDINANCE NO. 11-15-99 AND ALL AMENDMENTS THERETO, KNOWN AS THE ZONING ORDINANCE OF THE CITY OF HEWITT, TEXAS, CHANGING THE ZONING CLASSIFICATIONS OF THE HEREIN DESCRIBED PROPERTY FROM MH (MANUFACTURED HOME DISTRICT) TO BP (BUSINESS PARK DISTRICT) PROVIDING FOR PENALTY; PROVIDING FOR PUBLICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, in accordance with the Code of Ordinances of the City of Hewitt, a request was submitted by Maria Concepcion Feregrino to rezone Lot 16 Section A Hewitt Mobile Home Park Addition Part Two located at 639 Sun Valley Blvd, Hewitt, McLennan County, Texas, from **MH (Manufactured Home District) to BP (Business Park District)**.

WHEREAS, public notice was given and property owners within 200' were notified of the rezoning request as required by state law, and

WHEREAS, a public hearing in relation thereto at which parties in interest and citizens had an opportunity to be heard was held by the City Council of the City of Hewitt on April 16, 2018, after due notice in the manner provided by law; and

WHEREAS, a public hearing of the Planning and Zoning Commission at which parties in interest and citizens had an opportunity to be heard was held on Tuesday, April 3, 2018, after due notice in the manner provided by law; and

WHEREAS, a site plan of the proposed development was presented and discussed, and

WHEREAS, the said Commission has made a report to the City Council of the City of Hewitt, Texas, recommending approval of this rezoning request by a unanimous vote; and

WHEREAS, the City Council of the City of Hewitt, Texas deems that this rezoning is in accordance with the Comprehensive Land Use Plan and is in the public interest;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HEWITT, TEXAS, THAT:

SECTION ONE. All that certain tract or parcel of land in McLennan County, Texas, known as Lot 16 Section A, Hewitt Mobile Home Park Addition Part Two located at 639 Sun Valley Blvd, Hewitt, McLennan County, Texas, from **MH (Manufactured Home District) to BP (Business Park District)**.

SECTION TWO. A proposed map of area is shown in Exhibit "A".

SECTION THREE. All ordinances, statutes, restrictions and regulations applicable to this property shall be complied with as well as all zoning restrictions and regulations that are applicable to this property.

SECTION FOUR. That all provisions of the ordinances of the City of Hewitt in conflict with the provisions of this Ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Hewitt not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION FIVE. Should any section, paragraph, sentence, clause, or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

SECTION SIX. Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed Two Thousand and No/100 Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION SEVEN. The caption of this Ordinance shall be published within ten (10) days of its passage in a newspaper of general circulation in the City of Hewitt.

SECTION EIGHT. This Ordinance shall become effective ten (10) days after the date of its passage and upon its publication as required by law.

PASSED AND APPROVED this the 16th day of April, 2018 at a Regular Meeting of the City Council of the City of Hewitt, Texas.

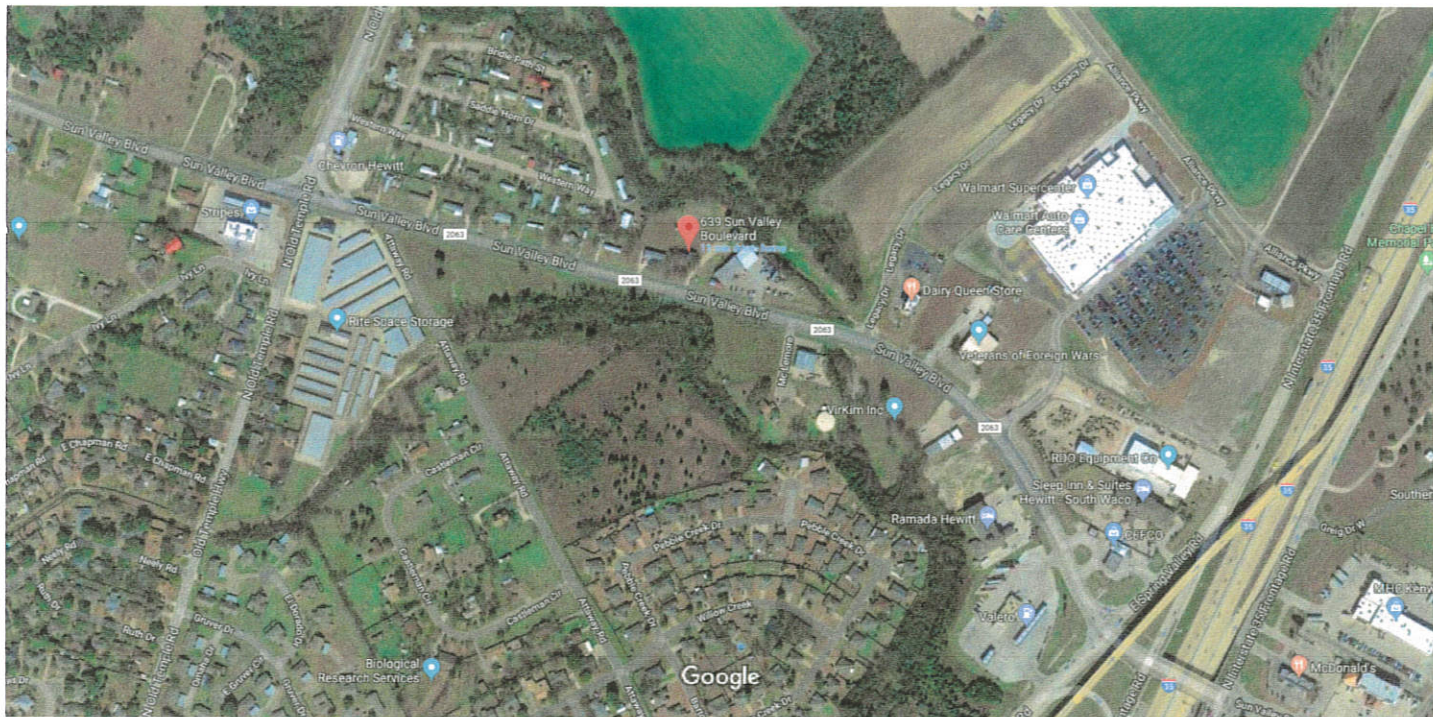
CITY OF HEWITT

BY: _____
Travis Bailey, Mayor

ATTEST:

Lydia Lopez, City Secretary

Google Maps 639 Sun Valley Blvd



Map data ©2018 Google 200 ft



639 Sun Valley Blvd
Hewitt, TX 76643





COUNCIL AGENDA ITEM FORM

MEETING DATE: April 16, 2018

AGENDA ITEM #: 6

SUBMITTED BY: Adam Miles, City Manager

ITEM DESCRIPTION:

Confirm City Manager's appointment of Sammy L. Thomas to the Police Officers' Civil Service Commission in accordance with Chapter 143 of the Texas Local Government Code.

STAFF RECOMMENDATION/ITEM SUMMARY:

Sammy L. Thomas has been recommended for appointment to the Civil Service Commission by the City Manager. If confirmed, Mr. Thomas will serve the unexpired term of David Buckles who recently resigned.

ATTACHMENTS:

None



COUNCIL AGENDA ITEM FORM

MEETING DATE: April 16, 2018

AGENDA ITEM #: 7

SUBMITTED BY: Lydia Lopez, City Secretary

ITEM DESCRIPTION:

Consider reappointments to the Board of Adjustment.

STAFF RECOMMENDATION/ITEM SUMMARY:

Jim Winton and Brad Turner have terms that expire this month on the Board of Adjustment. Both have agreed to serve another term. These members are in good standing and staff recommends approval of this item.

Alternate Member Jim Pless has advised that he would not be able to accept reappointment. There are now two alternate positions to be filled.

ATTACHMENTS:

None



COUNCIL AGENDA ITEM FORM

MEETING DATE: April 16, 2018

AGENDA ITEM #: 8

SUBMITTED BY: Adam Miles, City Manager

ITEM DESCRIPTION:

Consider action to amend the City of Hewitt Policy for Administration of Boards, Commissions, and Committees to allow individuals to concurrently serve on more than one board, commission, or committee unless prohibited by law.

STAFF RECOMMENDATION/ITEM SUMMARY:

As has been previously discussed, the City Policy related to Boards, Commissions, and Committees is established by and subject to revision by the City Council at any time. Ultimately, the City Council has authority to make appointments and remove members as needed. The current policy states, "No individual shall be appointed nor shall they serve at one time on more than one board, commission, or committee as a voting member, except that the City Council may appoint Library Board Members or Parks & Beautification Board members to serve on the Board of Adjustment."

Based on recent conversations, the following proposed language would replace this sentence with, "The City Council may authorize individuals to concurrently serve on more than one board, commission, or committee as a voting member, except as prohibited by law." This clarifies the City Council has the authority to appoint any person they deem appropriate to any Board, Commission, or Committee unless there is a conflict with State Laws. For example, it would be a legal conflict for a member of the Planning and Zoning (P&Z) Commission to be a member of the Board of Adjustment (BOA) since the BOA is actually a quasi-judicial Board of the City with jurisdiction over decisions of the P&Z commission and City Council. However, for most Boards and Commissions a legal conflict does not exist. For example, there is no legal conflict if an individual serves on both the Library Board and the Parks and Beautification Committee. If approved, this new policy would be in effect immediately.

ATTACHMENTS:

Draft Policy

CITY OF HEWITT

POLICY FOR ADMINISTRATION

OF

BOARDS, COMMISSIONS AND COMMITTEES

Adopted: July 6, 1987

Amended: March 21, 1994
April 7, 1997
October 5, 1998
August 20, 2001
July 29, 2013
May 2, 2016

**CITY OF HEWITT POLICY
FOR ADMINISTRATION OF
BOARDS, COMMISSIONS, AND COMMITTEES**

APPLICABILITY:

This policy shall be applicable to the following Boards, Commission, and Committees of the City of Hewitt.

Planning and Zoning Commission
Parks and Beautification Committee

Board of Adjustment
Library Board

PURPOSE:

It is the purpose of the City of Hewitt to provide the community with a viable force of interested citizens serving on various boards, commissions and committees as the basis for strong municipal government.

These boards, commissions and committees will continue to be composed of interested citizens throughout the community without regard to race, creed, ethnic background, and economic status.

It is the intent of the Hewitt City Council that the various boards, commissions, committees and authorities function as a group and actions and recommendations be the consensus of a majority of membership.

It is further the intent of the Hewitt City Council that no debts of any kind or character shall be made or incurred on behalf of the city by any board, commission, or committee or any member thereof.

Since the City Council is the body responsible for the governance of the city, all boards, committees, and commissions shall be responsible and answerable to the City Council, except as otherwise provided by State law.

All boards, commissions, and committees shall work in harmony with the City Council directives and policies.

TALENT POOL:

The City of Hewitt is constantly in search of new talent to serve on the various boards, commissions, and committees. In order to establish a talent pool of qualified individuals eligible for appointment, the City Council shall consider formal recommendations for appointments from a sitting chairperson of any board, committee, or commission.

The City Council may employ other methods as needed to gather names of interested individuals to consider for appointment.

To be eligible for appointment to the City of Hewitt boards, commissions, and committees, an individual shall be no less than 18 years of age, preferably be a resident of the City of Hewitt, a property owner, or business owner. Any person moving from the corporate limits, selling all real estate interest, or selling a business located in the City of Hewitt shall immediately be ineligible to serve.

APPOINTMENT PROCEDURE:

Names of persons to be considered for appointment to various boards, commissions, and committees shall be submitted on an official form provided by the City Secretary, setting forth vital information and legal requirement to serve the recommended position which will be filed for current action or future considerations.

Prior to appointment to the various boards, commissions, and committees, it is required that the candidate shall become familiar with the duties and responsibilities of the appointment being sought.

The Mayor shall present the names of interested persons to fill each appointive position for consideration by the city council. Unless otherwise prescribed by state statute, the appointment of all board, commission, and committee members is vested in the Hewitt City Council and each appointment must be confirmed, after an interview by the City Council, by a majority vote at a regular City Council meeting.

ORGANIZATION:

The City Manager shall designate one or more city employees to assist each board, commission, or committee with its meeting arrangements and logistics.

In order to facilitate communications with the various boards, commissions and committees, the Mayor may, upon request of any board, commission or committee, appoint one council member to be a council liaison to the respective body. No council member shall be appointed as liaison to more than one city council appointed body. The appointed council member must be willing and able to serve and shall convey the majority opinion of the council in all dealings with the board, commission or committee. Since all appointed bodies are to operate in an advisory capacity to the council, the liaison shall not seek to influence the body in its decisions, but shall act to clarify the council position on matters before the board, commission or committee.

CHARGES & RESPONSIBILITIES:

Each newly appointed representative shall be officially sworn in during the council meeting immediately following their appointment. Each appointee shall receive a certificate of appointment stating the board, commission, or committee to which they have been appointed, the term of office, a copy of the ordinance creating the board, commission, or committee, and any bylaws of the committee. No representative shall be eligible to serve on their respective board,

commission, or committee until they have received their certificate of appointment presented by the Mayor at a regular council meeting or as otherwise arranged.

All appointees shall complete the state required open government training within ninety (90) days of appointment. Any appointee failing to complete the required open government training may subject their appointment to be terminated pursuant to Council action.

~~No individual shall be appointed nor shall they serve at one time on more than one board, commission, or committee as a voting member, except that the City Council may appoint Library Board Members or Parks & Beautification Board members to serve on the Board of Adjustment.~~

The City Council may authorize individuals to concurrently serve on more than one board, commission, or committee as a voting member, except as prohibited by law.

ATTENDANCE:

Attendance of all regular, special and emergency board, commission, and committee meetings is important to the conduct of the business of the City of Hewitt. Lack of quorum is an inconvenience to the citizen appearing for action to be taken, as well as to the other board members who are present and unable to constitute a quorum. Each committee chairperson shall maintain accurate records of attendance for each member. Any representative failing to attend at least seventy-five (75) percent of the regular, special or emergency meetings legally called in the previous twelve (12) month period of time shall be disqualified for service and subject to replacement by council appointment.

CONFLICT OF INTEREST:

No person related within the first degree of affinity or consanguinity to any member of the City Council, the City Manager, Department Head, Planning and Zoning Commission or Board of Adjustment member may be appointed to serve on the Planning and Zoning Commission or Board of Adjustment.

Any appointee prohibited from voting by a conflict of interest as defined by state law, shall announce the same at the commencement of consideration of the matter and shall not enter into discussion or debate on said matter. In such case, the member shall file with the recording secretary the Affidavit Conflict of Interest form indicating the reason for abstaining. The member shall then announce their conflict to the board and leave the meeting room until discussion of and vote on the issue has been completed. Further, that member shall not discuss the matter with other members of the board at any time.

TERM LIMITS:

The limit for consecutive appointments shall not exceed six (6) years. However, the City Council may waive this requirement when the following conditions exist:

1. A reappointment to a board, committee, or commission due to the existence of an insufficient amount of applicants for the position to be filled; or

2. A reappointment to a board, committee, or commission whereupon fifty percent (50%) or more of its members are subject to term limits under their expiring terms. A priority on reappointment shall be given to those members having the least tenure of service on the respective board, committee, or commission.

CONTINUED SERVICE:

A board, committee, or commission member is immediately eligible for all other boards, committees, and commissions upon completion of term limits on a current board or commission. After a one-year break in service, a board member is eligible for appointment to a board, committee, or commission for which the limit of service was previously reached.

REMOVAL FROM APPOINTMENT:

The City Council may remove any appointee at any time, with or without cause.



COUNCIL AGENDA ITEM FORM

MEETING DATE: April 16, 2018

AGENDA ITEM #: 9

SUBMITTED BY: Adam Miles, City Manager

ITEM DESCRIPTION:

Consider award of bid for 2018 – Various Street Improvements; Slurry Seal to Viking Construction, Inc. in the amount of \$177,740.30.

STAFF RECOMMENDATION/ITEM SUMMARY:

After bid solicitation, two bids were received and opened on April 11, 2018. Viking Construction, Inc. provided the lowest bid in the amount of \$177,740.30. City staff recommends award of this project as recommended by City Engineer.

ATTACHMENTS:

Letter from City Engineer
Bid Tabulation

APRIL 11, 2018

CITY COUNCIL

CITY OF HEWITT, TEXAS

VIA: EMAIL

RE: 2018 - VARIOUS STREET IMPROVEMENTS; SLURRY SEAL

COUNCIL:

BIDS WERE OPENED ON THE ABOVE CAPTIONED PROJECT ON APRIL 11, 2018. TWO BIDS WERE SUBMITTED. THE LOWEST BID WAS SUBMITTED BY VIKING CONSTRUCTION, INC.; IN THE AMOUNT OF \$177,740.30. THE BID TABULATION FOR THIS PROJECT SHOULD BE INCLUDED WITHIN YOUR COUNCIL PACKET.

VIKING CONSTRUCTION, INC. HAS CONSTRUCTED PROJECTS FOR THE CITY OF HEWITT IN THE PAST, THAT HAVE BEEN TO THE SATISFACTION OF THE CITY. THE MOST RECENT PROJECT BEING THE 2017 - VARIOUS STREET IMPROVEMENTS - SLURRY SEAL.

IT IS MY RECOMMENDATION THAT THIS CONTRACT BE AWARDED TO VIKING CONSTRUCTION, INC.

SINCERELY:



Miles W. Whitney P.E.
MILES W. WHITNEY, P.E.

Base Bid Tabulation

Project 2018 - Various Street Improvements; Slurry Seal **Prepared By** MWV
Owner City of Hewitt, TX **Date** 4/11/2018
Component Bid Tabulation **Reviewed By** MWV

BASE BID TOTALS				Contractor 1		Contractor 2	
				\$ 177,740.30		\$ 187,000.00	
				Viking Construction Inc.		Intermountain Slurry Seal, Inc.	
Bid Item				Unit Price	Bid Price	Unit Price	Bid Price
1	Micro Slurry Seal, Type II, Minimum 18 Lbs./S.Y.; Installed	Qty.	Unit	\$ 2.90	\$ 164,740.30	\$ 2.95	\$ 167,580.65
2	SWPP Development and Implementation	1	L.S.	\$ 1,000.00	\$ 1,000.00	\$ 3,000.00	\$ 3,000.00
3	Traffic Control Plan Development and Implementation	1	L.S.	\$ 2,000.00	\$ 2,000.00	\$ 5,000.00	\$ 5,000.00
4	Mobilization (Not to Exceed 10% of Total Project Bid)	1	L.S.	\$ 10,000.00	\$ 10,000.00	\$ 11,419.35	\$ 11,419.35

Denotes corrected Bid Price



Miles W. Whitney, P.E.

Cayote Consulting, LLC

T.B.P.E. Firm No. F-16387



COUNCIL AGENDA ITEM FORM

MEETING DATE: April 16, 2018

AGENDA ITEM #: 10

SUBMITTED BY: Adam Miles, City Manager

ITEM DESCRIPTION:

Consider award of bid for 2017 – 209/213 Cross Country Drive Drainage Improvements to Holy Contractors, LLC in the amount of \$63,417.21.

STAFF RECOMMENDATION/ITEM SUMMARY:

After bid solicitation, five bids were received and opened on April 11, 2018. Holy Contractors, LLC provided the lowest bid in the amount of \$63,417.21. City staff recommends award of this project as recommended by City Engineer.

ATTACHMENTS:

Letter from City Engineer
Bid Tabulation

APRIL 12, 2018

CITY COUNCIL

CITY OF HEWITT, TEXAS

VIA: E-MAIL

RE: 2017 - 209/213 CROSS COUNTRY DR.; DRAINAGE IMPROVEMENTS

COUNCIL:

BIDS WERE OPENED ON THE ABOVE CAPTIONED PROJECT ON APRIL 11, 2018. FIVE BIDS WERE SUBMITTED. THE LOWEST BID WAS SUBMITTED BY HOLY CONTRACTORS, LLC IN THE AMOUNT OF \$63,417.21. THE BID TABULATION FOR THIS PROJECT SHOULD BE INCLUDED WITHIN YOUR COUNCIL PACKET.

HOLY CONTRACTORS IS CURRENTLY CONSTRUCTING OUR 2016 - OLD TEMPLE RD; PHASE 2 PROJECT.

IT IS MY RECOMMENDATION THAT THIS CONTRACT BE AWARDED TO HOLY CONTRACTORS, LLC.

SINCERELY:



Miles W. Whitney P.E.
MILES W. WHITNEY, P.E.

Base Bid Tabulation

Project: 2017 - 209/213 Cross Country Dr.; Drainage Improvements
 Owner: City of Hewitt, TX
 Prepared By: MWV
 Date: 4/11/2018
 Reviewed By: MWV

Component		Contractor 1		Contractor 2		Contractor 3		Contractor 4		Contractor 5	
BASE BID TOTALS		Holy Contractors LLC		Barnett Contracting, Inc.		TTG Utilities, LP		Kasparian Contractors, LLC; dba: H&B Contractors		ERS of MS, Inc.	
Bid Item		Unit Price		Unit Price		Unit Price		Unit Price		Unit Price	
Qty.	Unit										
1	L.S.	\$ 20,000.00	\$ 20,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 11,000.00	\$ 11,000.00	\$ 21,000.00	\$ 21,000.00
2	S.Y.	\$ 9.09	\$ 1,999.80	\$ 30.00	\$ 6,600.00	\$ 45.00	\$ 9,900.00	\$ 30.00	\$ 6,600.00	\$ 50.00	\$ 11,000.00
3	S.F.	\$ 9.61	\$ 20,498.13	\$ 10.00	\$ 21,330.00	\$ 12.00	\$ 25,596.00	\$ 15.00	\$ 31,995.00	\$ 30.00	\$ 63,990.00
4	L.F.	\$ 24.00	\$ 7,320.00	\$ 20.00	\$ 6,100.00	\$ 32.00	\$ 9,760.00	\$ 65.00	\$ 19,825.00	\$ 40.00	\$ 12,200.00
5	L.F.	\$ 28.57	\$ 1,599.92	\$ 30.00	\$ 1,680.00	\$ 18.00	\$ 1,008.00	\$ 14.00	\$ 784.00	\$ 30.00	\$ 1,680.00
6	L.S.	\$ 2,000.00	\$ 2,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,800.00	\$ 3,800.00	\$ 2,500.00	\$ 2,500.00	\$ 27,000.00	\$ 27,000.00
7	S.Y.	\$ 20.83	\$ 3,999.36	\$ 10.00	\$ 1,920.00	\$ 7.00	\$ 1,344.00	\$ 11.00	\$ 2,112.00	\$ 25.00	\$ 4,800.00
8	L.S.	\$ 1,000.00	\$ 1,000.00	\$ 2,500.00	\$ 2,500.00	\$ 2,950.00	\$ 2,950.00	\$ 800.00	\$ 800.00	\$ 5,000.00	\$ 5,000.00
9	L.S.	\$ 1,500.00	\$ 1,500.00	\$ 3,500.00	\$ 3,500.00	\$ 6,000.00	\$ 6,000.00	\$ 2,000.00	\$ 2,000.00	\$ 5,000.00	\$ 5,000.00
10	L.S.	\$ 3,500.00	\$ 3,500.00	\$ 6,000.00	\$ 6,000.00	\$ 4,500.00	\$ 4,500.00	\$ 6,000.00	\$ 6,000.00	\$ 15,000.00	\$ 15,000.00

Denotes corrected Bid Price



Miles W. Whitney, P.E.
 Cayote Consulting, LLC
 T.B.P.E. Firm No. F-16387



COUNCIL AGENDA ITEM FORM

MEETING DATE: April 16, 2018

AGENDA ITEM #: 11

SUBMITTED BY: Adam Miles, City Manager

ITEM DESCRIPTION:

Authorize City Manager to negotiate and execute Waco Metropolitan Area Regional Sanitary Sewerage System (WMARSS) Project Agreement related to the La Salle Transfer Lift Station/Force Main project in an amount not to exceed \$3,304,502.24.

STAFF RECOMMENDATION/ITEM SUMMARY:

Hewitt co-owns a portion of the overall wastewater collection system which includes waste interceptors in other cities and areas of the County. As has been discussed previously, the La Salle transfer lift station and force main is a key component of the interceptor system which is in need of replacement and reconstruction. The City of Waco solicited bids for this project on behalf of the member cities.

The total cost of the overall project totals \$42,988,852.55. Based on Hewitt's percentage ownership in the overall system, Hewitt's portion totals \$3,304,502.24. In 2015, Hewitt issued Certificates of Obligation for this purpose. Each member City is being asked to consider this item in the next few weeks. The City of Waco has scheduled consideration for Tuesday, May 1.

ATTACHMENTS:

WMARSS Project Info

WMARSS Project Allocations

Allocation Code	Project Allocation Basis	Bellmead	Hewitt	Lacy-Lakeview	Robinson	Waco	Woodway	Lorena	Total
NA	Capacity Owned mgd	2,3083	3,5744	1,0546	1,5711	35,0016	2,6700	0,3200	46,50
MGD	Capacity Owned %	4,9640860%	7,6868817%	2,2679570%	3,3787097%	75,2722581%	5,7419355%	0,6881720%	100,0000000%
2012	2011-12 O&M%	3,752%	4,719%	2,290%	2,678%	82,096%	3,935%	0,530%	100,000%
2013	2012-13 O&M%	3,680%	4,666%	1,876%	2,969%	82,153%	3,927%	0,729%	100,000%
2014	2013-14 O&M%	3,388%	4,294%	2,118%	3,506%	82,686%	3,448%	0,560%	100,000%
2015	2014-15 O&M%	3,848%	4,614%	2,263%	2,747%	82,070%	3,399%	1,059%	100,000%
2016	2015-16 O&M%	3,675%	4,405%	2,328%	2,806%	81,714%	3,922%	1,150%	100,000%

Expenditure Allocations:

Allocation Code	Project #	Description	Current Cost Allocated	Bellmead	Hewitt	Lacy-Lakeview	Robinson	Waco	Woodway	Lorena	Total
MGD	WMR029	LaSalle Lift Station/Force Main	42,988,852.55	2,134,003.61	3,304,502.24	974,968.69	1,452,468.53	32,358,680.04	2,468,392.19	295,837.25	42,988,852.55
2015	WMR030	Cottonwood Creek @ Old Rob & Hwy77	-	-	-	-	-	-	-	-	-
2015	WMR031	Biologics Dryer Phase 2	-	-	-	-	-	-	-	-	-
2015	WMR032	Transfer-Lift Sta Emergency Repair	-	-	-	-	-	-	-	-	-
2015	WMR033	Sinkhole @ MLK & Herring	-	-	-	-	-	-	-	-	-
2016	WMR034	Sinkhole @ MLK & Herring #2	2,293,303.40	84,278.90	101,020.01	53,388.10	64,350.09	1,873,949.95	89,943.36	26,372.99	2,293,303.40
2016	WMR035	Sinkhole #3	-	-	-	-	-	-	-	-	-

Total Allocation for Current Period \$ 45,282,155.95 \$ 2,218,282.51 \$ 3,405,522.25 \$ 1,028,356.79 \$ 1,516,818.62 \$ 34,232,629.99 \$ 2,558,335.55 \$ 322,210.24 \$ 45,282,155.95

Amounts Paid in Advance (Includes Amounts Carried Fwd From Previous Billing + New Amounts Paid in Advance)

Allocation Code	Project #	Description	Bellmead	Hewitt	Lacy-Lakeview	Robinson	Waco	Woodway	Lorena	Total
2012	WMR018	Interceptor Rehab Design	\$ -	\$ -	\$ -	\$ -	-	\$ -	\$ -	-
2015	WMR028	Manhole Rehabilitation	-	-	-	-	-	-	-	-
MGD	WMR029	LaSalle Lift Station/Force Main (added interest earned))	-	-	-	-	-	-	-	-
2015	WMR030	Cottonwood Creek @ Old Rob & Hwy77	-	-	-	-	-	-	-	-
2015	WMR031	Biologics Dryer Phase 2	-	-	-	-	-	-	-	-
2015	WMR032	Transfer-Lift Sta Emergency Repair	-	-	-	-	-	-	-	-
2015	WMR033	Sinkhole @ MLK & Herring	-	-	-	-	-	-	-	-
2016	WMR034	Sinkhole @ MLK & Herring #2	-	-	-	-	-	-	-	-
2016	WMR035	Sinkhole #3	-	-	-	-	-	-	-	-

Total Allocation for Current Billing Period \$ - \$ - \$ - \$ - \$ - \$ - \$ - \$ - \$ -

Advance Payments Applied to Current Billing

Allocation Code	Project #	Description	Bellmead	Hewitt	Lacy-Lakeview	Robinson	Waco	Woodway	Lorena	Total
2012	WMR018	Interceptor Rehab Design	\$ -	\$ -	\$ -	\$ -	-	\$ -	\$ -	-
2015	WMR028	Manhole Rehabilitation	-	-	-	-	-	-	-	-
MGD	WMR029	LaSalle Lift Station/Force Main	-	-	-	-	-	-	-	-
2015	WMR030	Cottonwood Creek @ Old Rob & Hwy77	-	-	-	-	-	-	-	-
2015	WMR031	Biologics Dryer Phase 2	-	-	-	-	-	-	-	-
2015	WMR032	Transfer-Lift Sta Emergency Repair	-	-	-	-	-	-	-	-
2015	WMR033	Sinkhole @ MLK & Herring	-	-	-	-	-	-	-	-
2016	WMR034	Sinkhole @ MLK & Herring #2	-	-	-	-	-	-	-	-
2016	WMR035	Sinkhole #3	-	-	-	-	-	-	-	-

Total Allocation for Current Billing Period \$ - \$ - \$ - \$ - \$ - \$ - \$ - \$ - \$ -

WMARSS Project Allocations

Remaining Advance Payments

Allocation

Code	Project #	Description	Bellmead	Hewitt	Lacy-Lakeview	Robinson	Waco	Woodway	Lorena	Total
2012	WMR018	Intercepter Rehab Design	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2015	WMR028	Manhole Rehabilitation	-	-	-	-	-	-	-	-
MGD	WMR029	LaSalle Lift Station/Force Main	-	-	-	-	-	-	-	-
2015	WMR030	Cottonwood Creek @ Old Rob & Hwy77	-	-	-	-	-	-	-	-
2015	WMR031	Bioreactors Dryer Phase 2	-	-	-	-	-	-	-	-
2015	WMR032	Transfer-Lift Sta Emergency Repair	-	-	-	-	-	-	-	-
2015	WMR033	Sinkhole @ MLK & Herring	-	-	-	-	-	-	-	-
2016	WMR034	Sinkhole @ MLK & Herring #2	-	-	-	-	-	-	-	-
2016	WMR035	Sinkhole #3	-	-	-	-	-	-	-	-
Total Allocation for Current Billing Period			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Net Amounts Due

Allocation

Code	Project #	Description	Bellmead	Hewitt	Lacy-Lakeview	Robinson	Waco	Woodway	Lorena	Total
2012	WMR018	Intercepter Rehab Design	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2015	WMR028	Manhole Rehabilitation	-	-	-	-	-	-	-	-
MGD	WMR029	LaSalle Lift Station/Force Main	-	-	-	-	-	-	-	-
2015	WMR030	Cottonwood Creek @ Old Rob & Hwy77	2,134,003.61	3,304,502.24	974,988.69	1,452,488.53	32,358,680.04	2,468,392.19	295,837.25	42,988,852.55
2015	WMR031	Bioreactors Dryer Phase 2	-	-	-	-	-	-	-	-
2015	WMR032	Transfer-Lift Sta Emergency Repair	-	-	-	-	-	-	-	-
2015	WMR033	Sinkhole @ MLK & Herring	-	-	-	-	-	-	-	-
2016	WMR034	Sinkhole @ MLK & Herring #2	84,278.90	101,020.01	53,388.10	64,350.09	1,873,949.95	89,943.36	26,372.99	2,293,303.40
2016	WMR035	Sinkhole #3	-	-	-	-	-	-	-	-
Total Allocation for Current Billing Period			\$ 2,218,282.51	\$ 3,405,522.25	\$ 1,028,356.79	\$ 1,516,818.62	\$ 34,232,629.99	\$ 2,558,335.55	\$ 322,210.24	\$ 45,282,155.95



COUNCIL AGENDA ITEM FORM

MEETING DATE: April 16, 2018

AGENDA ITEM #: 12

SUBMITTED BY: Adam Miles, City Manager

ITEM DESCRIPTION:

Authorize City Manager to negotiate and execute a memorandum of agreement concerning acquisition of land related to the Ritchie Road widening project.

STAFF RECOMMENDATION/ITEM SUMMARY:

The City of Hewitt, along with the City of Waco and McLennan County have worked to acquire land and easements related to the widening and reconstruction of Ritchie Road. If approved, the City Manager will be authorized to finalize negotiations related to this land acquisition.

ATTACHMENTS:

None

HEWITT TEXAS

COUNCIL AGENDA ITEM FORM

MEETING DATE: April 16, 2018

AGENDA ITEM #: 13

SUBMITTED BY: Adam Miles, City Manager

ITEM DESCRIPTION:

Consider an ordinance amending Chapter 78 - Utilities, ARTICLE VII. - Use and Occupancy of City's Rights-of-Way for Provision of Utility, Telecommunications and Cable Services, of the Code of Ordinances of the City of Hewitt, providing rules and regulations related to Network Nodes, Transport Facilities and Node Support Poles, adopting a Design Manual, amending the Master Fee Schedule, and providing an effective date.

STAFF RECOMMENDATION/ITEM SUMMARY:

The City of Hewitt has an important public interest in: protecting municipal rights-of-way for their paramount public purposes; managing the rights-of-way to protect its own utilities; protection of public health, safety and welfare; and maintaining the image and aesthetics of the city for the benefit of its citizens. Recent changes in State Law enacted by the 85th Legislature mandates wireless infrastructure providers and wireless service providers have access to public right-of-way to locate their facilities.

Hewitt provides for the regulation of Utilities and City Right-of-Way in Chapter 78 of our Code of Ordinances. Amendments to Chapter 78 are based on new State requirements as well as current best management practices. Included in the backup material is an "Underline and Strikethrough" version of the proposed changes. Underlined words and phrases are proposed to be added, while strikethrough language is to be removed. Consideration for this item also includes approval of a "Design Manual for the Installation of Network Nodes, Transport Facilities and Node Support Poles" as well as amendments to the City's Master Fee Schedule to account for State Law changes in permitting fees and annual lease payments. The Planning and Zoning Commission met on Tuesday, April 3, 2018, and voted 5 to 0 recommending adopting this ordinance.

ATTACHMENTS:

Draft ordinance

ORDINANCE NO. 2018-4

**AN ORDINANCE OF THE CITY OF HEWITT, TEXAS,
AMENDING CHAPTER 78 - UTILITIES, ARTICLE
VII. - USE AND OCCUPANCY OF CITY'S RIGHTS-
OF-WAY FOR PROVISION OF UTILITY,
TELECOMMUNICATIONS AND CABLE SERVICES,
OF THE CODE OF ORDINANCES OF THE CITY OF
HEWITT, PROVIDING RULES AND REGULATIONS
RELATED TO NETWORK NODES, TRANSPORT
FACILITIES AND NODE SUPPORT POLES,
ADOPTING A DESIGN MANUAL; AMENDING
THE MASTER FEE SCHEDULE; PROVIDING AN
EFFECTIVE DATE; PROVIDING A SAVINGS
CLAUSE; AND FINDING AND DETERMINING THAT
THE MEETING AT WHICH THIS ORDINANCE IS
PASSED IS OPEN TO THE PUBLIC AS REQUIRED
BY LAW.**

WHEREAS, the City Council deems it necessary to amend Chapter 78, Utilities, Article VII. – Use and Occupancy of City’s Rights-of-Way For Provision of Utility, Telecommunications and Cable Services based on new State requirements enacted by the 85th Legislature mandating wireless infrastructure providers and wireless service providers have access to public rights of way;

WHEREAS, protecting municipal rights-of-way for public purposes, managing the rights-of-way to protect its own utilities, protection of public health, safety and welfare of the general public are important to the public interest;

WHEREAS, the Planning & Zoning Commission met on Tuesday, April 3, 2018, and recommended approval of these changes by a vote of 5 to 0.

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

Section 1: That Article VII. – Use and Occupancy of City’s Rights-of-way of the Ordinance of the City of Hewitt is hereby amended and shall be read as set forth in Exhibit “A,” attached hereto and incorporated by reference herein the regulations contained in Chapter 78, Utilities of the City of Hewitt Code of Ordinances.

Section 2: This ordinance shall be cumulative of all provisions of ordinances of the City of Hewitt, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

Section 3: It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 4: Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed Two Thousand and No/100 Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

Section 5: The City Secretary of the City of Hewitt is hereby directed to publish the ordinance or its caption and penalty together in the official City newspaper one time within ten days after passage of this ordinance, as required by the Charter of the City of Hewitt.

Section 6: This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

Section 7: That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required.

PASSED AND APPROVED this 16th day of April, 2018.

CITY OF HEWITT, TEXAS

Travis Bailey, Mayor

ATTEST:

Lydia Lopez, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Charlie Buenger, City Attorney

EXHIBIT "A"

ARTICLE VII. USE AND OCCUPANCY OF CITY'S RIGHTS-OF-WAY FOR PROVISION OF UTILITY, TELECOMMUNICATIONS AND CABLE SERVICES

(additions/deletions)

Sec. 78-351. - Definitions.

Whenever used in this article, the following words and terms, as well as their singulars, plurals, and possessives, shall have the following definitions and meanings, unless the context of the sentence in which they are used indicates otherwise. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory, and "may" is permissive.

City means the City of Hewitt, Texas, a home-rule municipal corporation.

Collocate and collocation mean the installation, mounting, maintenance, modification, operation, or replacement of network nodes in a right-of-way on or adjacent to a pole.

~~*Department* means the public works department of the city.~~

~~*Director* means the director of the public works department of the city, or his/her designee.~~

Emergency means a reasonably unforeseen situation presenting an imminent hazard to personal or public health or safety or to property.

Facilities means personal property, owned by a provider of utility, telecommunications, or cable television services, including, but not limited to conduit, ducts, cables, wires, lines, towers, wave guides, optic fiber, microwave, laser beams, any associated converters, and all equipment used to provide such services within the city.

Network node means equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term:

(a) includes:

- (i) equipment associated with wireless communications;
- (ii) a radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; and
- (iii) coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation; and

(b) does not include:

- (i) an electric generator;
- (ii) a pole; or
- (iii) a macro tower.

Network provider means:

- (a) a wireless service provider; or
- (b) a person that does not provide wireless services and that is not an electric utility but builds or installs on behalf of a wireless service provider:
 - (i) network nodes; or
 - (ii) node support poles or any other structure that supports or is capable of supporting a network node.

Permittee means a person to whom a construction permit has been granted hereunder.

Person means any natural person (individual), corporation, partnership, association, joint venture, organization or legal entity of any kind, and any lawful trustee, successor, assignee, transferee or personal representative thereof.

Public nuisance means a condition dangerous to the health, safety, peace, comfort or convenience of the general public.

Registered user means a person who has complied with the registration provisions of this article.

Right-of-way means the area on, below, or above public roadways, streets, avenues, highways, alleys, sidewalks, boulevards, drives, tunnels, easements, bridges, and other such similar passageways, thoroughfares, and public ways in the city in which the city has an interest. The term does not include the airwaves above a right-of-way with regard to wireless telecommunications.

Use and occupancy means the acquisition, installation, construction, reconstruction, maintenance, repair, or utilization of any facilities within the rights-of-way for any purpose whatsoever.

User means a person who commences, facilitates, or performs construction upon a facility above, upon, or beneath the right-of-way in a manner governed by this chapter and includes user's representatives, designated agents, contractors and subcontractors, if applicable, unless otherwise indicated.

~~Sec. 78-352. — General provisions.~~

~~(a) — No person shall use or occupy the rights-of-way in the city for the provision of utility, telecommunications, cable television, and similar services except in compliance with the provisions of this article.~~

~~(b) — The provisions of this article shall apply to the use and/or occupancy of the rights-of-way by a person under the authority granted by a franchise agreement or ordinance as if fully set forth in the franchise agreement or ordinance. The express terms of this article will prevail over conflicting or inconsistent provisions in a franchise agreement unless such franchise agreement expresses an explicit intent to waive a requirement of this article.~~

~~(c) — The provisions of this article shall be liberally construed in favor of the city in order to effectuate the purposes and objectives of this article and to promote the public interest.~~

Sec. 78-352. Purpose. The purposes of this Chapter include, but are not limited to:

- a) management and keeping track of facilities placed in, on, over, or under the rights-of-way of the city to provide for the orderly maintenance of such rights-of-way, avoid interruptions of utility services, minimize congestion of facilities in the rights-of-way, minimize unsightly visual impacts or other adverse effects, and assure that the rights-of-way are available to serve their paramount public purpose;
- b) govern use and occupancy of the rights-of-way;
- c) serve the interests of public health, safety, and welfare;
- d) conserve the limited physical capacity of the rights-of-way held in public trust by the city;
- e) preserve the integrity of sidewalks, municipal streets and other public thoroughfares;
- f) assist in preventing uses of the rights-of-way that interfere with the city's paramount right to use of the rights-of-way;
- g) comply with the requirements of federal and state law; and
- h) attempt to avoid the unconstitutional grant of public rights and resources to private entities to the extent possible under state law

Sec. 78-353. - Registration of users and occupants of rights-of-way.

(a) *Registration required.* All users and occupants of the rights-of-way shall register with the city pursuant to this section. For existing users and occupants, such registration shall be accomplished within 30 calendar days following the date of final adoption of this article. Persons seeking to use or occupy the rights-of-way after adoption of this article shall register with the city prior to initiating any such use or occupancy. All registrations must be renewed annually on or before January 31 of each calendar year. Registration forms shall be provided by the city. For persons with a current franchise from the city, the franchise will be evidence of renewal. If a registration is not renewed, the facilities will be deemed to have been abandoned. Persons that are not certificated telecommunications providers providing access lines, as defined in V.T.C.A., Local Government Code ch. 283 are also required to obtain a franchise or license from the city in accordance with city ordinances in addition to registering under the provisions of this article prior to entering into the right-of-way.

(b) Purpose of registration. The purpose of registration under this section is to:

- (1) Provide the city with accurate and current information concerning the users and occupants of the rights-of-way;
- (2) Assist the city in enforcement of this article; and
- (3) Assist the city in monitoring compliance with applicable laws.

(c) Contents of registration. The registration shall include:

- (1) The name of the user and occupant of the right-of-way;
- (2) The name, address, and telephone number of people who will be contact person(s) for the user and occupant;
- (3) The name, address and telephone number of any contractor or subcontractor who will be working in the right-of-way on behalf of the user and occupant;
- (4) The name(s) and telephone number of an emergency contact who shall be available 24 hours a day;
- (5) Proof of insurance as required in section 8 hereof; and
- (6) A description of the type of facilities in the rights-of-way, for example, electric conduit, telecommunications cables, natural gas pipelines and the like. This description shall include a statement of whether the applicant is a certificated telecommunications provider as defined in V.T.C.A., Local Government Code § 283.002(2), and, if so, whether the applicant is providing access lines as defined in V.T.C.A., Local Government Code § 283.002(1).

Sec. 78-354. - Use and occupancy of rights-of-way—Regulation by city.

- (a) *Temporary rearrangement or removal of aerial facilities.* At the request of any person holding a valid building moving permit and upon not less than five business days advance notice, the registered user shall temporarily raise, lower, or remove its facilities as necessary to permit the moving of a building. The expense of such temporary changes, including standby time, shall be paid by the moving permit holder, and the registered user may require payment in advance.
- (b) *Right to trim trees.* The registered user, its contractors and agents have the right, permission and license to trim trees upon and overhanging the *rights-of-way* to prevent trees from coming in contact with the registered user's facilities. All trimming shall be done in consideration of the health of the trees. When directed by the city, tree trimming shall be ~~done~~performed in late fall or winter months, or as directed by a certified arborist, under the supervision and direction of the city or under the supervision of the city's delegated representative. Any tree trimmings generated by the registered user, its contractors or agents, shall be removed within 24 hours. Should the registered user, its contractors or agents, fail to timely remove such trimmings, the city may remove same or have them removed, and shall bill registered user for all costs incurred, which costs shall be promptly paid by the registered user. Nothing herein shall be construed to grant to a registered user the right of access to private property.
- (c) *City work.* The city shall have right at all times to lay, and to permit to be laid, sewer, gas, water and other pipelines or cables and conduits, as well as drainage pipes and channels and streets and to do and permit to be done any underground and overhead installation or improvement that may be deemed necessary or proper by the governing body of the city, in, across, along, over or under any right-of-way occupied by a registered user, and to change any curb or sidewalk or the grade of any street and to maintain all of the city's facilities. In permitting such work to be done, the city shall not be liable to permittee for any damages not directly and solely caused by the willful misconduct or negligence of the city; provided, however, nothing herein shall relieve any other person or entity, including any contractor, subcontractor, or agent, from liability for damage to permittee's facilities.
- (d) *Removal of facilities.*
 - (1) Whenever it shall be necessary to require a registered user to relocate its facilities to permit the widening or straightening of a street, the city shall give the registered user 30 calendar days notice of such requirement, and such relocation shall be made by the registered user promptly, with consideration given to the magnitude of such alterations or changes, without claim for reimbursement or damages against the city. If any such requirements impose a financial hardship upon the registered user, the registered user shall have the right to promptly present alternative proposals to the city, and the city shall give due consideration to any such alternative proposals.

If the city determines that the preservation and protection of the public health and safety require removal of facilities from the rights-of-way that are being abandoned, the city shall require registered user to remove its facilities entirely from the abandoned rights-of-way at no cost to the city. If the city requests the registered user to adapt or conform its facilities to enable any other entity or person, except the city, to use, or to use with greater convenience, any rights-of-way, registered user shall not be required to make any such changes until such other entity or person shall reimburse or make arrangements satisfactory to registered user to reimburse the registered user for any loss and expense caused by or arising out of such change; provided, however, that the city shall never be liable for such reimbursement.

(2) For public improvement projects where, after notification that facility relocation is required, the registered user has not, prior to the beginning of construction by the city, relocated its affected facilities within the rights-of-way, the following procedure will be followed:

- a. The city shall provide the registered user with reasonable notice of failure to act and request relocation.
- b. If the registered user continues to delay, the city manager and the registered user will jointly review the relocation request in an expeditious manner to establish a mutually acceptable completion date for the relocation.
- c. If the registered user continues to delay or does not meet the revised completion date, the city manager shall provide not less than five calendar days written notice to registered user advising of the city's intent to perform the public improvement project without relocating the affected facilities.
- d. If after expiration of the written notice required by the preceding sentence, the registered user continues to delay, the city shall have the right to perform the public improvements without relocating or removing registered user's facilities. The city shall not be liable to the registered user for any damage to such facilities, and shall not be liable in any event for any consequential damages relating to service interruptions. If the public improvements performed by the city involve the construction or improvement of base or pavement of rights-of-way, registered user shall not thereafter disturb such improved roadways and/or rights-of-way for a period of ~~three~~ five years after completion of such improvements, except when necessary in the event of an emergency.

- (e.) *Public safety.* The city retains the right to move any facilities within the rights-of-way to cure or otherwise address a public health or safety emergency. The city shall cooperate to the extent possible with the registered user in such instances to assure continuity of service and to afford to the registered user the opportunity to make such relocation itself.
- (f.) *Third party convenience.* If the city requires a registered user to adapt or conform its facilities, or in any way or manner to alter, relocate or change its property to enable any other person, except the city, to use, or to use with greater convenience, any right-of-way, a registered user shall not be required to make any such changes until such other person shall have undertaken with solvent bond, to reimburse the registered user for any loss and expense which will be caused by, or arise out of such removal, change, adaptation, alteration, conformance or relocation of the registered user's facilities; provided, however, that the city shall never be liable for such reimbursement.
- (g.) *Abandonment of facilities.* Whenever a registered user intends to abandon any of its facilities within the rights-of-way, it shall submit to the director or appointed representative an application requesting permission to abandon the facility, describing the facility to be abandoned, and the date of the proposed abandonment. City may require the registered user, at the registered user's expense:
 - (1) To remove the facility from the rights-of-way; or
 - (2) To modify the facility in order to protect the public health and safety or otherwise serve the public interest.

Unless such permission is granted or unless otherwise provided in this article, a registered user shall remove all abandoned above-ground facilities and equipment upon receipt of written notice from the city and shall restore any affected rights-of-way to their former state at the time such facilities and equipment were installed, so as not to impair their usefulness. In removing its plant, structures, and equipment, a registered user shall refill, at its own expense, any excavation necessarily made by it and shall leave all rights-of-way in as good condition as that prevailing prior to such removal without materially interfering with any other facilities or city-owned utility facilities. The city shall have the right to inspect and approve the condition of the rights-of-way, cables, wires, attachments and poles prior to and after removal. The liability, indemnity and insurance provisions of this article shall continue in full force and effect during the period of removal and until full compliance by a registered user with the terms and conditions of this section. Upon abandonment of any facilities in place, a registered user, if required by the city, shall submit to the city a written instrument, satisfactory in form to the city, transferring to the city the ownership of the abandoned facilities. Notwithstanding anything to the contrary set forth in this article, a registered user may abandon any underground facilities in place so long as it

does not materially interfere with the use of the rights-of-way or with the use thereof by any public utility, cable operator, or other registered users.

- (h.) *Public nuisance abatement.* The city may require the removal or abatement of any facility determined by the city to cause a public nuisance. The city shall give registered user written notice of the required removal or abatement. No later than 30 calendar days after the registered user receives such written notice, the registered user shall remove such facility or abate the public nuisance to the satisfaction of the city. If the registered user notifies the city manager in writing within such 30-day period requesting additional time for such removal or abatement, or that the registered user is unable to remove or abate such facility for specified reasons, the city manager may, but is not required to, grant additional time to the registered user or negotiate alternate arrangements with the registered user. If the registered user does not so notify the city and fails or refuses to act, the city may remove or abate the facility, at the sole cost and expense of the registered user, all without compensation or liability for damages to the registered user.
- (i.) Network nodes. Adoption of Design Manual. The city council hereby adopts the most recent administratively approved Design Manual for the Installation of Network Nodes, Transport Facilities and Node Support Poles pursuant to V.T.C.A., Local Government Code Chapter 284 ("Design Manual") which is attached for referenced to this ordinance as Exhibit A. The installation and construction of network nodes, transport facilities, and new node support poles in the rights-of-way is subject to this chapter and the Design Manual.

Sec. 78-355. - Construction permits.

- (a) *Permit required.* No person shall perform any construction, repairs, maintenance, or installation of facilities in the rights-of-way without obtaining a construction permit from the city hereunder. The permit will be in the name of the person who will own the facilities to be constructed. The permit application must be completed and signed by a representative of the owner of the facilities to be constructed. During the term of the permit, the permittee shall be liable for the acts or omissions of any entity used by the permittee, when such entity is involved directly or indirectly in the construction and installation of the permittee's facilities to the same extent as if the acts or omissions of such entity were the acts or omissions of the permittee.
- (b) *Emergency exception.* Emergency responses related to existing facilities may be undertaken without first obtaining a permit; however, ~~the department~~ the City shall be notified within two business days of any construction related to an emergency response, including the provision of a reasonably detailed description of the work performed in the right-of-way and an updated map of any facilities that were relocated, if applicable.

- (c) *Other exceptions.* The phrase "construction or installation of facilities" does not include repair or maintenance of existing facilities or the installation of facilities necessary to initiate service to a customer's property, unless such installation, repair or maintenance requires the breaking of pavement, the closure of a nonresidential traffic lane, excavation, or boring.
- (d) *Permit Application, Process and Use Compensation*
 - (1) A written application shall be filed with the city for a permit pursuant to this article. An applicant has the burden to demonstrate in its application compliance with all requirements of this article and with all applicable laws.
 - (2) To be acceptable for filing, a signed original of the application shall be submitted to the appropriate city official and contain all required information. The permit fee shall be submitted with the application. All applications shall include the names and addresses of persons authorized to act on behalf of the applicant with respect to the application.
 - (3) All applications accepted for filing shall be made available by the city for public inspection.
- (e) *Information in application.* An application for a construction permit shall contain the following information:
 - (1) The proposed, approximate location and route of all facilities to be constructed or installed and the applicant's plan for right-of-way construction.
 - (2) Engineering plans on a scale of one inch equals 50 feet unless otherwise approved by ~~the department~~ the City.
 - (3) Detail of the location of all right-of-way and utility easements that applicant plans to use.
 - (4) Detail of all existing ~~city~~ utilities in relationship to applicant's proposed route.
 - (5) Detail of what applicant proposes to install, such as pipe size, number of interducts, valves, and similar information.
 - (6) Detail of plans to remove and replace asphalt or concrete in streets (include standard construction details).
 - (7) Drawings of any bores, trenches, handholes, manholes, switch gear, transformers, pedestals, etc., including depth.
 - (8) Handhole and/or manhole typicals of type of manholes and/or handholes applicant plans to use or access.
 - (9) Complete legend of drawings submitted by applicant.

- (10) Five sets of engineering plans must be submitted with permit application.
 - (11) The name, address, and phone numbers of the contractor or subcontractor who will perform the actual construction, including the name and telephone number of an individual with the contractor who will be available at all times during the construction.
 - (12) A description of the construction and installation methods to be employed for the protection of existing structures, fixtures, and facilities within or adjacent to the rights-of-way and the dates and times work will occur, all of which (methods, dates, times, etc.) are subject to the approval of the director.
 - (13) A statement that the insurance and bonding requirements contained herein are met.
- (f) Permit fee. To be acceptable for filing, an application shall be accompanied by a permit fee in the amount established in the most recently approved Master Fee Schedule following amount, as appropriate:
- (1) ~~For certificated telecommunications providers providing access lines (as defined in V.T.C.A., Local Government Code ch. 283): No fee.~~
 - (2) ~~For persons occupying the rights-of-way of the city under a franchise ordinance or agreement: No fee.~~
 - (3) ~~For all other applicants: \$200.00.~~
- (g) Construction bond. The applicant shall file a construction surety bond that will be valid prior to the commencement of any construction through one full year after the completion of the construction from a surety company authorized to do business in the state. The bond shall be in the amount of the estimated amount of the value of the work to be performed that year and shall guarantee the restoration of the right-of-way in the event the applicant leaves a job site in the right-of-way unfinished, incomplete, or unsafe. Permittees constructing facilities for cable television systems shall comply with the provisions of Ordinance No. 03-06-2000A [chapter 71, article II of this Code].
- (h) Processing of application. Within 15 calendar days after receipt of a complete application and permit fee, if applicable, the city shall issue a construction permit.

Sec. 78-356. - Construction work—Regulation by city.

- (a) *Existing facilities.* It is the policy of the city to encourage the joint use of facilities to avoid proliferation of poles and other overhead facilities. Permittees are strongly encouraged to co-locate facilities where economically and technically feasible. Toward that end, permittees shall investigate the availability of space on existing poles and shall demonstrate to the city that such investigation has been completed prior to the issuance of city approval for construction of new facilities. Nothing contained in this article shall be construed to require or permit the attachment on or

placement in a permittee's facilities of any electric light or power wires or facilities or other systems not owned by the permittee. If the city desires to attach or place electric light or power wires, communications facilities or other similar systems or facilities in or on the permittee's facilities, then a further separate, noncontingent agreement with the permittee shall be required. Nothing contained in this article shall obligate the permittee to exercise, or restrict the permittee from exercising, its right to enter voluntarily into pole attachment, pole usage, joint ownership or other wire space or facilities agreements with any person authorized to operate in the rights-of-way of the city.

- (b) *Traffic disruptions.* The permittee shall endeavor to minimize disruptions to the efficient use of the rights-of-way by pedestrian and vehicular traffic, and rights-of-way shall not be blocked for a longer period than shall be reasonably necessary to execute all construction, maintenance and/or repair work. The permittee shall also provide the City with a traffic control plan per the Texas Manual on Uniform Traffic Control Devices (TMUTCD).
- (c) *Pole placement.* All poles placed shall be of sound material and reasonably straight, and shall be set so that they will not interfere with the flow of water in any gutter, channel, pipe, or drain, and so that they will not unduly interfere with ordinary travel on the streets or sidewalk. The location and route of all poles, stubs, guys, anchors, conduits, fiber, and cables placed and constructed by the permittee in the construction and maintenance of its facilities in the city shall be subject to the lawful, reasonable and proper control, direction and/or approval of the city.
- (d) *Work in accordance with permit.* All construction and installation in the rights-of-way shall be in accordance with the permit for the facilities. ~~The director~~City shall be provided access to the work and to such further information as he or she may reasonably require to ensure compliance with the permit. A copy of the construction permit and approved engineering plans shall be maintained at the construction site and made available for inspection by the city at all times when construction or installation work is occurring. Permittee shall produce and maintain a copy of "Record Drawings" for all projects with the City's R.O.W. or Public Utility Easements, and they shall be made available to the City upon request.
- (e) *Time for completion.* All construction or installation work authorized by permit must be completed in the time specified in the construction permit. If the work cannot be completed in the specified time periods, the permittee may request an extension from the director.
- (f) *Prior notification.* ~~The department~~ The City must be notified 24 hours in advance that construction is ready to proceed by either the permittee, its contractor, or other representative. All construction shall be in conformance with all city codes and applicable local, state, and federal laws.

- (g) *Signage.* Required information signs measuring a minimum of three feet by three feet, stating the identity of the person doing the work, telephone number and permittee's identity and telephone number shall be placed at the location where construction is to occur at least 48 hours prior to the beginning of work in the right-of-way and shall continue to be posted at the location during the entire time the work is occurring. An information sign will be posted 100 feet before the construction location commences and each 100) feet thereafter, unless other posting arrangements are approved or required by the director.
- (h) *Erosion and stormwater controls.* Erosion control measures (e.g., silt fence) and advance warning signs, markers, cones, and barricades must be in place before work begins. Permittee shall be responsible for storm water management erosion control that complies with city, state, and federal guidelines. Requirements shall include, but not be limited to, silt fencing around any excavation that will be left overnight, silt fencing in erosion areas until reasonable vegetation is established, barricade fencing around open holes, and wire-backed silt fencing around high erosion areas. Upon request, permittee may be required to furnish documentation submitted or received from federal or state governments.
- (i) *Lane closures.* Lane closures on major thoroughfares will be limited to hours after 8:30 a.m. and before 4:00 p.m. unless the ~~department~~ City grants prior approval. Arrow boards will be required on lane closures, with all barricades, advanced warning signs and 36 inch reflector cones placed according to the ~~specifications of the department.~~ Texas Manual on Uniform Traffic Control Devices (TMUTCD).
- (j) *Responsibility of permittee.* Permittees are responsible for the workmanship of, and any damages caused by, contractors or subcontractors. A responsible representative of the permittee shall be available to the ~~department~~ City at all times during construction.
- (k) *Damage to utilities.* Permittee, contractor, or subcontractor shall notify the ~~department~~ City immediately of any damage to other utilities, either city or privately owned.
- (l) *Cuts.* When a street or sidewalk cut is required, prior approval must be obtained from the ~~department~~ City and all requirements of the ~~department~~ City shall be followed. Repair of all street and sidewalk removals shall be made promptly to avoid safety hazards to vehicle and pedestrian traffic.
- (m) *City utilities.* Installation of facilities must not interfere with city utilities, in particular gravity dependent facilities.
- (n) *Installed depth.* New non-municipal facilities must be installed to a depth approved by the ~~Department~~ City.

- (o) *Boring.* All directional boring shall have a locator place bore marks and depths while bore is in progress. The locator shall place a mark at each stem with a paint dot and shall mark the depth of at least every other stem. Existing utilities shall be potholed prior to work to avoid damage and confirm required depths.
- (p) *Working hours.* The working hours in the rights-of-way are 7:00 a.m. to 6:00 p.m., Monday through Friday. Work that needs to be performed after 6:00 p.m. Monday through Friday must be approved in advance by the City. Any work performed on Saturday or Sunday must be approved 24 hours in advance by the ~~department~~City. Directional boring is permitted only Monday through Friday, 7:00 a.m. to 6:00 p.m., unless approved in advance by the City. No work will be done, except for emergencies, on city holidays.

Worksite Safety. Permittee is responsible for following all applicable safety requirements and maintaining a safe worksite

- (q) *Line locations.* Permittees working in the right-of-way are responsible for obtaining line locates from all affected utilities or others with facilities in the rights-of-way prior to any excavation. Use of geographic information system or the plans or records does not satisfy this requirement. Permittee shall be responsible for verifying the location, both horizontal and vertical, of all affected facilities whether by pot-holing or hand-digging prior to any excavation or boring, with the exception of work involving lane closures, as set forth above. A permittee shall not place facilities where they will interfere with any gas, electric, telephone, water, cable television, or sewer facilities or obstruct or hinder in any manner the various utilities serving the residents of the city. All of permittee's facilities placed in the rights-of-way shall be placed as directed by the city in accordance with the established line-up of utility lines.
- (r) *Manholes.* Placement of all manholes and/or hand holes must be approved in advance by ~~the department~~City. Handholes or manholes will not be located in sidewalks, unless approved by the director.
- (s) *Pumping.* Construction that requires pumping of water or mud shall be contained in accordance with city ordinances and federal and state law and the directives of the City.
- (t) *Restoration.* Restoration of rights-of-way shall be to the reasonable satisfaction of the City and the property owner. Restoration shall be made in a timely manner as specified by approved department schedules and to the satisfaction of the director. Permittee shall warrant all pavement repairs for a period of three years after restoration has been complete. If restoration is not satisfactory or is not performed in a timely manner, all work in progress, except that related to the problem, including all work previously permitted but not complete may be halted and a hold may be

placed on any permits not approved until all restoration as required herein is complete. The restoration shall include, but not be limited to:

- (1) Replacing all ground cover with the type of ground cover damaged during work, or better, either by sodding or seeding, as directed by the ~~department~~City;
- (2) Installation of all manholes and handholes, as appropriate;
- (3) All bore pits, potholes, trenches or any other holes shall be filled in daily, unless other safety procedures area approved by the ~~department~~City;
- (4) Leveling of all trenches and backhoe lines; and
- (5) Restoration of all landscaping, ground cover, and sprinkler systems.

Sec. 78-357. - Indemnification and surety bond.

In accordance with Section 284.302 of the Texas Local Government Code, a network provider must further indemnify and hold the city harmless. Furthermore, in accordance with Section 283.057 of the Texas Local Government Code, a certified telecommunications provider must further indemnify and hold the city harmless.

- (a) ~~General provisions. The registered user shall indemnify and hold the city and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney's fees and costs of defense), proceedings, actions, demands, causes of action, liability, and suits of any kind and nature, including personal or bodily injury (including death), property damage, or other harm for which recovery of damages is sought that is found by a court of competent jurisdiction to be caused solely by the negligent act, error, or omission of the registered user, any agent, officer, director, representative, employee, affiliate, or subcontractor of the registered user, or its respective officers, agents, employees, directors, or representatives, while installing, repairing, or maintaining facilities in a public right of way. The indemnity provided by this section does not apply to any liability resulting from the negligence of the city, its officers, employees, contractors, or subcontractors. If a registered user and the city are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of this state without, however, waiving any governmental immunity available to the city under state law and without waiving any defenses of the parties under state law. This section is solely for the benefit of the city and the registered user and does not create or grant any rights, contractual or otherwise, to any other person or entity.~~

- (b) *Notice.* Registered user and the city shall promptly advise the other in writing of any known claim or demand against the registered user or the city related to or arising out of the registered user's activities or facilities in the rights-of-way.
- (c) *Corporate surety bond.*
- (1) Registered user shall obtain and maintain, at its sole cost and expense, and file with the city clerk, a corporate surety bond with a surety company authorized to do business in the state and found acceptable by the city attorney, in the amount of ~~\$50,000.00~~ \$100,000.00 to secure registered user's performance of its obligations and faithful adherence to all requirements of this article. Registered user shall provide this corporate surety bond within 30 days after issuance of the permit hereunder. In the alternative, registered user may provide an irrevocable letter of credit in the same amount in lieu of obtaining a bond.
 - (2) The rights reserved to the city with respect to the bond are in addition to all other rights of the city, whether reserved by this article, or authorized by law; and no action, proceeding or exercise of a right with respect to such bond shall affect any other rights the city may have.
 - (3) The bond shall contain the following endorsement: "It is hereby understood and agreed that this bond may not be canceled by the surety nor any intention not to renew be exercised by the surety until 60 calendar days after receipt by the city, by registered mail, of written notice of such intent."
 - (4) If a registered user fails to pay the city any fees or taxes due to the city, liquidated damages, damages or costs or expenses incurred by the city by reason of any act or default of the registered user, or if the registered user fails to comply with any provision of this article or of its franchise agreement that the city determines can be remedied by a demand upon the corporate surety bond, the city may, after 30 calendar days notice to the registered user, make a demand for payment upon the corporate surety bond, including any interest or penalties. Such notice shall be given by city council resolution. Within 15 calendar days of such city council resolution, the registered user may file a written request for a city council hearing on the matter. Such hearing shall be held within 30 calendar days of the city council resolution authorizing the demand upon the corporate surety bond, unless the city wishes to extend the time period.

Sec. 78-358. - Insurance.

- (a) *Certificate of insurance.* In order to comply with the registration requirements of this article and prior to the issuance of a construction permit, the applicant shall furnish a completed certificate of insurance to the city attorney's office, which shall be completed by an agent authorized to bind the named underwriter(s) and their

company to the coverage, limits, and termination provisions shown thereon, and which shall furnish and contain all required information referenced or indicated thereon. Neither the registration nor the construction permit shall be issued until such certification shall have been delivered to the city attorney, and no officer or employee shall have authority to waive this requirement.

- (b) *Coverage amounts.* A registered user and a permittee shall obtain and maintain in full force and effect for the duration of the use and occupancy of the rights-of-way, or of the work to be performed under the permit, respectively, at the registered user's or permittee's sole expense, insurance coverage written on an occurrence basis, issued by companies authorized to conduct business in the state and rated "A" or better by A.M. Best Company and/or otherwise acceptable to the city, in the following types and minimum amounts:

Type		Amount
Worker's Compensation and Statutory Employers Liability		\$100,000/\$500,000/\$100,000
Commercial General Liability—To include coverage for the following where the exposure exists:		<u>\$2,000,000</u>
(I)	Premises operation	Combined single limit for bodily injury and property damage 5,000,000 per occurrence or its equivalent
(II)	Independent contractors	
(III)	Products/completed operations	
(IV)	Personal injury	
(V)	Contractual liability	
(VI)	Explosion, collapse and underground property damage	
Comprehensive automobile insurance coverage for:		\$1,000,000
(I)	Owned/leased automobiles	Combined single limit for bodily injury and property damage \$1,000,000 per occurrence or its equivalent
(II)	Non-owned automobiles	
(III)	Hired automobiles	

(c) *Required provisions.* All insurance policies will name the city as an additional insured and shall provide that the city must be given 60 calendar days prior written notice of any change in coverage. All insurance policies shall be subject to the examination of and approval by the city for their adequacy as to form, content, form of protection, and insurance company. Permittee shall furnish to city's risk manager, for the city files, certificates plainly and clearly evidencing such insurance, with exclusions, exceptions, or limitations, prior to the execution of this agreement by all parties.

(d) *Self-insurance.* With respect to the registered user's and permittee's obligations to comply with the requirements for commercial general (public) liability insurance coverage, the city may allow the registered user or permittee to self-insure upon annual production of evidence that is satisfactory to the city's risk manager. With respect to the registered user's or permittee's obligations to comply with the requirements for automobile liability insurance and for workers' compensation insurance, the registered user or permittee may self-insure, provided the registered user or permittee tender satisfactory evidence of self-insurance as contemplated by the state motor vehicle financial responsibility law, Tex. Transp. Code § 601.124, and the Texas Workers' Compensation Act, Tex. Labor Code § 407.001, et. seq.

(e) *Franchise provisions.* Utilities with franchise agreements or licenses from the city may meet the above insurance and bonding requirements if their current franchise or license adequately provides for insurance or bonds and provides an indemnity in favor of the city.

Sec. 78-359. - Accounts, records, reports and investigations.

- (a) *Requests for information.* In addition to any requirements that may be contained in a franchise agreement, upon request the registered user shall provide the city information as to all matters in connection with or affecting the construction, reconstruction, removal, maintenance, and repair of its facilities performed by registered user in the rights-of-way.
- (b) *Provision of plans.* The permittee shall cooperate with the city at all times by providing timely and complete information regarding the location of its facilities, along with such maps, plats, construction documents and drawings as may exist or as may be created from time to time. The permittee shall at all times keep on file with the city a current map, in a digital format compatible with the city's Geographic Information System (G.I.S.), of the permittee's facilities within the rights-of-way. As extensions or modifications of the facilities are made from time to time, the permittee shall periodically file with the city updated digital maps showing those extensions or modifications so that the city will have current and accurate information regarding

the location of the facilities. The digital information shall include the location of the facilities, including the depth of any buried facilities, to the extent such information exists. If such information is not available in digital format, a hard copy shall be provided. A hard copy of the digital maps may be requested by the city and shall be provided by the permittee if requested. Permittee shall produce and maintain a copy of "Record Drawings" for all projects with the City's R.O.W. or Public Utility Easements, and they shall be made available to the City upon request.

- (c) Prior to disclosure of information clearly claimed in writing to be confidential or proprietary by registered user or permittee, the city shall give the registered user or permittee reasonable notice of any request for such information made to the city pursuant to the public information act, or other applicable law. The city will use the information provided by permittees and registered users pursuant to this section only for the purposes of protection and management of the public rights-of-way. The data base provided by permittees and registered users in its entirety will be treated as competitive information and will not be disclosed in whole or in part, except that portions of such data may be provided to third parties as necessary for efficient management of the public rights-of-way.

Sec. 78-360. - Transfer or assignment of facilities.

- (a) Within 30 calendar days after the effective date of a transfer of ownership or control of the facilities in the rights-of-way, the transferee shall register with the city in accordance with the provisions of this article.
- (b) The acceptance by the city of the registration of the transferee does not constitute a waiver or release of any of the rights of the city under this article, whether arising before or after the date of the transfer.
- (c) The notification required herein shall be in addition to any permission or notification required in franchise ordinances or agreements.

Sec 78- 361. -Certified Telecommunications Providers.

Certified Telecommunications Providers ("CTPs") must obtain a permit for installation or construction activities in the right-of-way just as other users. As part of the application a CTP must provide evidence of certification as a CTP with the right to use public right-of-way by the Texas Public Utilities Commission. CTP certification does not authorize the provision of wireless services using municipal rights-of-way. A CTP is subject to the city's police powers exercised to manage its rights-of-way, including the applicable provisions of this Chapter, except to the extent, if any, directly exempted therefrom by law. A permit to a CTP does not allow it to provide or allow anyone else to provide services beyond those of a CTP through its lines. Designation as a CTP does not except the user from compliance with Chapter 284 of the Texas Local Government Code if the CTP is in fact providing services covered by Chapter 284, unless otherwise directly and clearly provided by law.

Installations on Private Property. Installation of facilities on private property are governed by the city's zoning ordinance (for wireless facilities the 60 day deadline set by FCC regulations applies).

Compensation for Right-of-Way Use. Any compensation for the use of rights-of-way is generally set by franchise, license agreement, or by law. Chapter 283 of the Local Government Code addresses compensation for lines of Certified Telephone Providers, and does not apply to wireless services.

Sec 78-362. -Chapter 284 Facilities.

The construction and installation of facilities covered by Chapter 284 of the Texas Local Government code must comply with the Design Manual, this chapter, Chapter 284 of the Texas Local Government Code, and other law which is applicable and is not in conflict with Chapter 284 of the Texas Local Government Code. Under Chapter 284 of the Local Government Code, permittees operating or maintaining facilities in the City's rights-of-way must adhere to adjacent regulations and fees established by Chapter 284 of the Texas Local Government Code.

No collocation of a network node on a city service pole may occur unless the network provider enters into a pole attachment agreement with the city in the form approved by the city manager.

Sec. 78- 363. Prohibition of Installation or Construction of Facilities in Certain Areas.

Areas where certain types of facilities are prohibited from being installed or constructed are generally addressed by other Chapters of this Code, or the city's zoning and subdivision regulations. However, as to municipal rights-of-way and facilities covered by Chapter 284 of the Local Government Code, Chapter 284 specifically controls restrictions on the locations where network nodes, node support poles and transport facilities may be installed.

A. Restrictions on Facilities Covered by Chapter 284 of the Texas Local Government Code.

- 1) No network provider may install, construct, or operate a new node support pole on public right-of-way that is in a municipal park without obtaining the written consent of the city manager before a permit application is submitted. In addition, any approvals required under applicable deed restrictions must be obtained. Municipal park as used herein specifically includes: Warren Park, Glaze Park, and Hewitt Park and/or other if applicable.

- 2) No network provider may install, construct, or operate a new node support pole on public right-of-way adjacent to a street of less than 50 feet in width that is adjacent to single family residential lots or multi-family uses, or is zoned for residential use or is restricted to residential use by deed restrictions without obtaining the written consent of the city manager before a permit application is submitted. In addition, any approvals required under applicable deed restrictions must be obtained.
- 3) In the event that a historic district or design district is developed and designated in the future having decorative poles, no network provider may install, construct, or operate a new node or node support pole on public right-of-way in the district without a permit from the city specifically for said location(s), and compliance with concealment and design requirements of the city for the district to minimize the impact on aesthetics.
- 4) If by zoning designation or deed restrictions/restrictive covenants an area has undergrounding requirements, the network provider shall comply with those requirements, but may seek a zoning change as provided for in the applicable regulations; approval of which is not guaranteed. In addition, any approvals required under applicable deed restrictions/restrictive covenants would have to be obtained.

Sec 78-364. -Damage to other Facilities

- A. Without intending to affect or determine the legal relationship between a user and any third party, a user shall be liable for any property damage or destruction caused by the user, or by any contractor or subcontractor of the user, as a result of the user or any contractor or subcontractor of the user constructing in the right-of-way. A designated agent or representative of a user shall be available to the city engineer for contact purposes in the event of damage or destruction.
- B. A user shall immediately notify the city engineer upon occurrence of any damage or destruction to any facility or other property owned or leased by a third party or by the city, in connection with construction occurring in the right-of-way, if such occurrence happens during a city business day. If the occurrence happens on a day other than a city business day, notification must be given by 9 a.m. on the first city business day following the occurrence---unless the damage is causing a leak or disruption of water or sewer service—in which case the user must immediately contact the city.

Sec. 78- 365. -Abandonment

User shall remove its facilities when such facilities are abandoned regardless of whether or not it receives notice from the city to do so. Unless the city sends notice that removal must be completed immediately to ensure public health, safety, and welfare, the removal must be

completed within the earlier of 90 days of the facilities being abandoned or within 90 days of receipt of written notice from the city. When user removes or abandons permanent structures in the right-of-way, the user shall notify the city engineer in writing of such removal or abandonment and shall file with the city engineer the location and description of each facility removed or abandoned. The city engineer may require the user to complete additional remedial measures necessary for public safety and the integrity of the right-of-way.

Sec. 78-366. -Electrical Supply

Users are responsible for obtaining any required electrical power services to their facilities. The city shall not be liable for any stoppages or shortages of electrical power furnished to the facilities, including without limitation, stoppages or shortages caused by any act, omission, or requirement of the public utility serving the facilities or the act or omission of any other tenant of the structure or user of the right-of-way, or for any other cause beyond the control of the city. Generators and back-up generators are prohibited in the right-of-way.

Sec. 78-367. - Notices.

All notices required herein shall be in writing and shall be delivered in person to the respective parties or sent by certified mail at the addresses set forth in the registration or the permit application.

Sec. 78-368. - Violations.

- (a) If the city has reason to believe that the registered user/permittee is in violation of this article, the city shall notify the registered user/permittee in writing of the violation setting forth the nature of such violation. ~~Within 30 calendar days of receipt of such notice, the registered user/permittee shall respond in writing to provide explanation or documentation to support that the violation did not occur.~~ Registered user/permittee shall be allowed 30 calendar days to cure violations after written notice is received from the city, by taking appropriate steps to comply with the terms of this article and any lawful regulations. If the nature of the violation is such that it cannot be fully cured within 30 calendar days, the period of time in which the registered user/permittee must cure the violation shall be extended for such additional time necessary to complete the cure, provided that:
 - (1) Registered user/permittee shall have promptly commenced to cure; and
 - (2) Registered user/permittee is diligently pursuing its efforts to cure.
- (b) Upon evidence being received by the city that violations of this article, any City Charter provisions or any ordinances lawfully regulating registered user/permittee in the construction and operation of its facilities have occurred, or continue to occur after the 30 calendar day cure period, and any additional time necessary to cure, the city may cause an investigation to be made. If the city finds that such a violation

continues to exist or has occurred, then the city may take any action authorized by law, including making a demand upon the corporate surety bond as provided in section 78-357(c) of this article, termination of the permit, and a suit in court to compel compliance.

- (c) Failure by the city to enforce any rights under this article does not constitute a waiver of such rights.
- (d) If the city revokes a permit, if the permit expires because of the expiration of the permittee's franchise, or if for any other reason a permittee abandons its facilities in the rights-of-way, then to protect the public health and safety, and to the extent authorized by law, the city may require the former permittee to remove its facilities and equipment at the former permittee's expense. If the former permittee fails to do so within a reasonable period of time, the city may have the removal done at the former permittee's expense.

Sec. 78-369. - Miscellaneous.

- (a) The obligations and undertakings of both parties hereto shall be performed at Hewitt, McLennan County, Texas. Venue of any suits arising hereunder shall be McLennan County, Texas.
- (b) The city manager, either directly or through a duly appointed designee, shall have the responsibility for overseeing the day-to-day administration of this article. The city manager shall be empowered to take all administrative actions on behalf of the city, except for those actions specified in this article that are reserved to the city council. The city manager may recommend that the council take certain actions with respect to the permit.
- (c) A registered user/permittee shall have the right to appeal to the city council or Board of Adjustments any decision of the city manager relating to such registration or permit. Such appeal must be made by written request within 15 calendar days of receipt of written notice of the city manager's decision that the registered user/permittee seeks to appeal.

Sec. 78-370. - Reservation of rights.

- (a) The city reserves the right to amend this article as it shall find necessary in the lawful exercise of its police powers.
- (b) Any additional regulations adopted by the city shall be incorporated into this article and complied with by all permittees within 30 calendar days of the date of adoption of such additional regulations.

Secs. 78-371—78-400. – Reserved.

CITY OF HEWITT DESIGN MANUAL FOR THE INSTALLATION OF NETWORK NODES, TRANSPORT FACILITIES, AND NODE SUPPORT POLES

1. Introduction. The city has an important public interest in: protecting municipal rights-of-way for their paramount public purposes; managing the rights-of-way to protect its own utilities; protection of public health, safety and welfare; and maintaining the image and aesthetics of the city for the benefit of its citizens. At the same time, network providers are seeking to implement new technologies that will create significant gains in the coverage and speed of wireless data and voice services. The hope is that the city and network providers can cooperate to serve both important interests. Chapter 284 of the Texas Local Government Code has created a need for the city to have in place certain design requirements (and in many cases, requests) in order to maintain a level of management control over its rights-of-way. Due to its lack of history with network provider facilities and the impending nature of the new legislation, this Design Manual may not cover every possible issue that may arise, and it is certainly expected that there will be multiple amendments, additions, and clarifications made over time. However, the goal is to provide basic guidelines and preferences to aid network providers in this process.

2. Incorporation of Chapter 284 of the Texas Local Government Code. Chapter 284 of the Local Government Code itself contains many of the rules regarding the size, type, and location of facilities, and is incorporated by reference herein. These restrictions apply in the city regardless of whether expressly addressed in this Design Manual. Likewise, Chapter 78 of the Code of Ordinances of the city contains many provisions applicable to installation and construction in rights-of-way; some of general application and some specific to network providers and their facilities. To the extent not in violation of Chapter 284, the provisions of Chapter 78 of the Code of Ordinances are incorporated by reference herein as part of this Design Manual. Although most of the applicable provisions relating to design of network provider facilities contained in Chapter 78 will be re-addressed herein, applicable and lawful design requirements of Chapter 78 shall apply whether or not specifically addressed herein.

BASIC RULES AND REQUIREMENTS

4. General Requirements.

A. *Basic Location Rules.* In accordance with Chapter 284.102, a Network Provider shall construct and maintain Network Nodes and Node Support Poles in a manner that does not:

1. obstruct, impede, or hinder the usual travel or public safety on a public right-of-way;
2. obstruct the legal use of a public right-of-way by other utility providers;
3. violate nondiscriminatory applicable codes;

4. violate or conflict with the municipality's publicly disclosed public right-of-way management ordinance or this Design Manual.
5. violate the federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

B. *Size of Facilities.* Network Providers, as part of their permit application, shall provide detailed drawings, with calculations to show strict conformity to the size limitations as set forth in Chapter 284, in accordance with, but not limited to Chapter 284, Sec. 284.002, size of a Micro Network Node, Sec. 284.003, Size of Network Nodes, and Sec. 284.103, Max. pole height, with each application and with each request for a permit for each location.

C. *Other Jurisdictions.* If the project lies within a Highway Right-of-Way, the applicant must provide evidence of a permit from the State or Federal Government.

D. *Confirmation of non-interference with City Safety Communication Networks.* The Network Provider needs to provide analysis that the proposed network node shall not cause any interference with City public safety radio system, traffic signal light system, or other city safety communications components in accordance with Chapter 284, Sec. 284.304. It shall be the responsibility of the Network Provider to evaluate, prior to making application for permit, the compatibility between the existing City infrastructure and Provider's proposed Network Node. A Network Node shall not be installed in a location that causes any interference. Network Nodes shall not be allowed on City's public safety radio infrastructure.

5. One Network Node per Pole. The city desires to prevent the cluttering of network nodes on any one pole; therefore, there can be no more than one network node on any one pole, and this includes, beyond node support poles, utility poles under an agreement with the applicable utility or a service pole of the city under an agreement with the city.

6. Network Node facilities placement.

A. *Height above ground.* Network Node attachments to a pole shall be installed at least eight (8) feet above the ground in accordance with Chapter 284, Sec. 284.108. Although Chapter 284 refers to a minimum height of 8 feet for attachment of network nodes, network providers must be aware that to the extent of any protrusion into the street, nodes not set at least 16 feet high are likely to be hit by service trucks, such as garbage trucks.

B. *Protrusions.* In accordance with Chapter 284, Sec. 284.003 (a) (1) (C), Sec. 284.003 (a) (2) (C) and Sec. 284.003 (a) (3) (B) no protrusion from the outer circumference of the existing structure or pole shall be more than two (2) feet.

C. *Pole Attachment Agreement.* No network node may be placed on a city service pole unless a Pole Attachment Agreement exists for that service pole between the city and the network provider.

7. New Network Node Support Poles.

A. *New Node Support Poles Spacing.* New node support poles should generally be spaced apart from existing utility poles or Node Support poles at the same as the spacing between utility poles in the immediate proximity. This is a preference of the City and not a requirement.

B. *Height of Node Support Poles or modified Utility Pole.* In accordance with Chapter 284, Sec. 284.103 a Node support pole or modified Utility Pole may not exceed the lesser of:

(1) 10 feet in height above the tallest existing utility pole located within 500 linear feet of the new pole in the same public right-of-way; or

(2) 55 feet above ground level.

8. Municipal Service Poles.

A. *In accordance with Agreement:* Installations on all Service Poles shall be in accordance with an agreement as allowed by Chapter 284, Sec. 285.056 and Sec. 284.101 (a) (3), and (b).

B. *Required industry standard pole load analysis:* Installations on all Service Poles shall have an industry standard pole load analysis completed and submitted to the City with each permit application indicating that the Service Pole to which the Network Node is to be attached will safely support the load, in accordance with Chapter 284.108.

C. *Height of attachments:* All attachments on all Service Poles shall be at least 8 feet above grade, in accordance with Chapter 284, Sec. 285.108 (a) (1) - (2).

D. *Installations on Traffic Signals:* Installations on all Traffic signal structures must not interfere with the integrity of the facility in any way that may compromise the safety of the public and must be in accordance with an agreement as allowed by Chapter 284, Sec. 285.056 and Sec. 284.101 (a) (3), and (b). Installation of Network Node facilities on any traffic signal structures shall:

- i. Be encased in a separate conduit than the traffic light electronics;
- ii. Have a separate electric power connection than the traffic signal structure; and
- iii. Have a separate access point than the traffic signal structure.

Any installation on a traffic signal controlled by the Texas Department of Transportation will require the approval of TxDOT.

E. *Installations on Street signage:* Installations on street signage structures must not interfere with the integrity of the facility in any way that may compromise the

safety of the public. Installation of Network Node facilities on any street signage structures that has electrics shall:

- i. Be encased in a separate conduit than any City signage electronics;
- ii. Have a separate electric power connection than the signage structure;
- iii. Have a separate access point than the signage structure.

9. Ground Equipment.

A. *Size.* Ground equipment shall not exceed any size or height limitations applicable to ground equipment contained in Chapter 284.

B. *Ground Equipment near street corners and intersections:* In accordance with Chapter 284.102 (1), ground equipment shall be located to minimize any obstruction, impediment, or hindrance to the usual travel or public safety on a public right-of-way. Ground equipment of more than three (3') feet in height may not be located within the sight triangle of any intersection, which generally will require the ground equipment to be located at least twenty-five (25') from the intersection if it exceeds three foot in height. Furthermore, ground equipment shall be subject to any sight-distance restrictions of the city's ordinances and standards that are applicable to all ground equipment in the rights-of-way.

C. *Minimize Ground equipment density.* It is requested that network providers avoid creating a density of ground equipment in an area to avoid the appearance of clutter. It is requested that applicants be mindful of other options, whether such be a new location, reducing the footprint of the ground equipment, and/or concealment or camouflaging. These are City preferences and not requirements.

10. Electrical Supply. Network providers are responsible for obtaining any required electrical power services to their facilities. The city shall not be liable for any stoppages or shortages of electrical power furnished to the facilities, including without limitation, stoppages or shortages caused by any act, omission, or requirement of the public utility serving the facilities or the act or omission of any other tenant of the structure or user of the right-of-way, or for any other cause beyond the control of the city. **Generators and back-up generators are prohibited in the right-of-way.**

11. Prohibited or Restricted Areas.

A. *Municipal Parks.* No network provider may install, construct, or operate a new node support pole on public right-of-way that is in a municipal park without obtaining the written consent of the city manager before submission of a permit application. In addition, any approvals required under applicable deed restrictions must be obtained. Municipal parks include: Warren Park; Hewitt Park; and Glaze Park.

B. *Certain Residential Areas.* No network provider may install, construct, or operate a new node support pole on public right-of-way adjacent to a street of less than 50 feet in width that is adjacent to single family residential lots or multi-family uses, or is

zoned for residential use or is restricted to residential use by deed restrictions without obtaining the written consent of the of the city manager before submission of a permit application. In addition, any approvals required under applicable deed restrictions must be obtained. [Street width measurement is the actual travel surface of the street]

C. *Historic Districts.* In the event that a historic district or design district is developed and designated in the future having decorative poles, no network provider may install, construct, or operate a new node or node support pole on public right-of-way in the district without a permit from the city specifically for said location(s), and complying with concealment and design requirements of the city to minimize the impact on aesthetics.

D. *Undergrounding.* If by zoning designation or deed restrictions/restrictive covenants an area has undergrounding requirements, the network provider shall comply with those requirements, but may seek a zoning change as provided for in the applicable regulations; approval of which is not guaranteed. In addition, any approvals required under applicable deed restrictions/restrictive covenants would have to be obtained.

12. Transport Facilities. A permit is required for transport facilities, although no application fee will be charged. Transport facilities must comply with all applicable requirements of the city's right-of-way management ordinance (Chapter 78, Hewitt Code of Ordinances). This includes minimum depth requirements, horizontal and vertical spacing, identifying all other users, backfilling, street/sidewalk cuts, and restoration. Improperly buried lines will not be tolerated.

13. Cooperation with City. Water and sewer service is of paramount importance to citizens. Citizens will find a way to survive a cable or internet outage; but water and sewer service are basic necessities for public health, safety, and welfare—including fire protection. Therefore, it is very important that network providers cooperate with the city in providing full information as to the location, type of installation, excavation work, types of equipment to be used, where the equipment will be operated, etc. Network providers shall follow reasonable directives of the city meant to safeguard the city's water and sewer utilities.

14. Line Locates and Avoiding Damage to other Users. The network provider is responsible for requesting and obtaining all line locates and avoiding causing damage to the facilities of other users in the right-of-way.

15. Insurance and Bonding. To the extent not in conflict with state or federal law, the network provider shall comply with the insurance and bond requirements of the right-of-way management ordinance.

16. Indemnification. As provided for in Section 284.302 of the Texas Local Government Code, the network provider indemnifies the city.

17. Inspections. The city shall be allowed to inspect the installation work at any reasonable time as provided for in the right-of-way management ordinance.

Matters Exempted from Permitting but Requiring Notice

18. Permit Not Required, Notice Required. For facilities covered by Chapter 284 of the Local Government Code, an application and permit are not required for replacing or upgrading of facilities that are substantially the same size and appearance, which is determined as set out in Section 284.157 of the Texas Local Government Code. However, advance notice of the work to the city is required. Also, an application and permit are not required for micro network nodes if the installation is strung on lines between poles or node support poles. However, advance notice of the work to the city is required.

Application for Permit Format and Content

19. Format, Content and Submission. The form, content and submission of applications for permit is set forth in Chapter 78 of the Hewitt Code of Ordinances.

City Preferences Stated

20. Location.

A. *The city's least preferred locations for facilities are:*

1. Residential areas or locations immediately adjacent to residential areas;
2. Municipal park and recreation areas, or locations immediately adjacent thereto;
3. Areas where there is already a proliferation of poles, ground equipment, utility boxes, and the like.

B. *The city's more preferred locations for facilities are:*

1. federal or state highway right-of-way that is not adjacent to a "least preferred" area;
2. areas zoned for industrial or heavy commercial use;
3. retail areas with the use of concealment or camouflaging.

21. Attachment Points.

A. *The city's least preferred attachment points are:*

1. New node support poles;
2. city service poles

B. *The city's more preferred attachment points are:*

1. existing utility poles;
2. federal and state service poles.

22. Aesthetics. It is preferred that all facilities be concealed or camouflaged to the greatest extent possible; but of particular concern are facilities that involve locations described in Section 21 (A) above or attachment points described Section 21 (A) above. Any cooperation with the city in this regard will be appreciated.

Time for Completion

23. Rules relating to time for completion of facility installations are as provided in the right-of-way management ordinance and Chapter 284.

Relocation or Removal

24. Relocation or Removal of Facilities. Facilities are subject to relocation or removal in accordance with the provisions of the right-of-way management ordinance and Chapter 284 of the Texas Local Government Code.

For additional information contact the city engineer. This Manual is subject to amendment or change by the city engineer with the approval of the city manager.

RIGHT-OF-WAY PERMIT APPLICATION

1. **Proposed Permittee:** _____
2. **Address:** _____
3. **Telephone:** _____
4. **Contact Person:** _____
 - a. Office telephone: _____
 - b. Mobile telephone: _____
 - c. E-mail: _____
5. **Identification of any contractors or subcontractors to be used for the work:**
6. **Applicant is (check one):**

A gas utility _____

Municipal water utility _____

A non-municipal sewer utility _____

A certified telecommunications provider _____

A cable television and/or cable internet provider _____

A network provider _____
7. **Identification of right-of-way areas to be affected** (attach maps or other information to assist in identification):
8. **General Description of Construction/Installation Sought to be conducted in the right-of-way** (provide three (3) sets of construction and/or installation plans. Plans should include: identification of the location within the right-of-way where each facility will be located and the location of existing city and third-party facilities in the right-of-way area for which the permit is sought; the dimensions from the proposed facilities to permanent reference points; identification of the type, size, and number of facilities to be constructed or installed, with drawings and specifications; the construction methods and materials to be employed by the applicant for the protection of existing facilities within, above, beneath, or adjacent to the right-of-way and, as applicable, the depth, height, separation from other facilities, and structure to which proposed to be affixed):

9. Will the work require the cutting of, breaking of, or boring under any street or sidewalk? _____ If "yes" please explain in detail:

10. Will the work require the closure of any street travel lanes or sidewalks? _____ If "yes" please explain in detail:

11. Identify in detail the Applicant's right-of-way restoration plan (details and specifications must be provided):

12. What is the estimated time for completion of the work, including restoration (as part of this estimate, if any travel lane of a street or any sidewalk will need to be closed, provide a separate estimate of the start and end dates of closure)?

13. Proof of Insurance or qualifying self-insurance as required by the city's right-of-way regulations is being provided herewith. _____ yes _____ no. If "no" please explain:

14. Proof of performance bond or financial responsibility in accordance with the city's right-of-way regulations is being provided herewith. _____ yes _____ no. If "no" please explain:

Additional Information to be provided by Network Providers:

Does the size of all facilities that Applicant intends to construct/install comply with the requirements of Chapter 284 of the Texas Local Government Code? _____ If "no" please explain in detail:

Have you verified that the facilities, and the operation of the facilities, will not interfere with emergency communications systems of the city? _____yes _____no.

Have you provided herewith a certificate that any network nodes to be installed comply with applicable FCC regulations? _____yes _____no.

Do you certify that the proposed network nodes will be placed into active commercial service not later than the 60th day after the date of completion of construction/installation and final testing of each network node? _____yes _____no.

Number of network nodes to be installed: _____

Number of node support poles to be installed: _____

Are seeking to locate facilities on a city service pole? _____yes _____no. If "yes" have you provided an industry standard pole load analysis with this application for each service pole showing that each pole will safely support the load of the facilities? _____yes _____no.

Identify any concealment or camouflaging methods that you intend to employ, if any:

APPLICANT: _____

BY: _____

PRINTED NAME: _____

TITLE: _____

DATE: _____

POLE ATTACHMENT AGREEMENT

This Pole Attachment Agreement is entered into by and between the City of Hewitt, Texas (hereinafter "City") and _____ (hereinafter "Network Provider").

1. Permit. Network Provider has been issued a permit for the installation of one or more network nodes at specified locations in the municipal right-of-way; one or more of which are on service poles of the City as that term is defined in Chapter 284 of the *Texas Local Government Code*.
2. Agreement Required. As provided by Chapter 284 of the *Texas Local Government Code*, the Network Provider cannot proceed with installation of a network node or nodes on a city service pole or service poles without entering into a Pole Attachment Agreement with the City.
3. Location and Identification of Service Poles to which network nodes to be attached:
4. Service Pole Rental. The City hereby agrees to the attachment of network nodes by the network provider to the identified service poles. In consideration thereof, the network provider agrees to pay the City an annual service pole rental of \$20.00 per year, per service pole.
5. Compliance with Regulations. Network provider must comply with all applicable requirements of Chapter 78 of the City's Code of Ordinances, the City's Design Manual, and Chapter 284 of the *Texas Local Government Code* in the installation and operation of the network nodes.
6. Termination. The City may terminate this Agreement at any time:
 - a) upon removal of the node as provided for in Chapter 78 of the City's Code of Ordinances and/or Chapter 284 of the *Texas Local Government Code*;
 - b) if a City project requires the node to be relocated (in which instance an alternate location will be determined, which, if it involves a service pole, will be under a separate agreement);
 - c) on the network provider's abandonment of the facilities;

- d) on failure of the network provider to pay rentals due under this Agreement on 30 days written notice and opportunity to cure; or
 - e) on revocation of the permit for the node.
- The Network Provider must remove the node upon termination of this Agreement at its sole cost and expense.

Network Provider may terminate this Agreement if it determines to abandon and remove the subject node or nodes.

7. Term. The term of this Agreement is five (5) years, commencing on the date this Agreement is signed by the City. This Agreement shall automatically renew for successive one (1) year terms unless one of the parties gives a notice of intent not to renew to the other party at least 60 days prior to the ending of the primary term or applicable renewal term. If this Agreement has terminated either by expiration of its term or early termination, and the Network Provider seeks to re-establish the subject node at the location, the Network Provider will be required to obtain a new permit before a new Pole Attachment Agreement will be entered into with the Network Provider for the subject location/service pole.

8. Additional Terms.

8.1 No more than one network node can be attached on a service pole.

8.2 Chapter 284 of the *Texas Local Government Code* is incorporated herein.

8.3 Network provider indemnifies and holds the City harmless as provided for in Chapter 284, *Texas Local Government Code*.

8.4 The laws of the State of Texas shall govern this Agreement and all matters related hereto.

8.5 Venue of any action about, arising from, or related to this Agreement, or the subject matter hereof, or in any way related to the Network Provider's use or claimed right to use the City's rights-of-way shall be in a court of competent jurisdiction in McLennan County, Texas.

8.6 The signature pages to this Agreement may be executed by the parties hereto, as the case may be, in separate counterparts. Facsimile signatures and signature pages provided in the form of a ".pdf" or similar imaged document transmitted by electronic mail shall be deemed original signatures for all purposes hereunder.

8.7 By his or her signature below, each signatory individual certifies that he or she is the properly authorized agent or officer of the applicable party hereto and has the requisite authority necessary to execute this Agreement on behalf of such party, and each party hereby certifies to the others that any resolutions necessary

to create such authority have been duly passed and are now in full force and effect.

Network Provider: _____

By: _____
(signature)

Printed Name: _____

Its: _____

Date: _____

City of Hewitt, Texas

By: _____
Adam Miles, City Manager

The following are proposed amendments or additions to Hewitt's Master Fee Schedule related to Chapter 78 of Hewitt's Code of Ordinances

Master Fee Schedule - Fees for use of City owned Right of Way:

- (1) For certificated telecommunications providers providing access lines (as defined in V.T.C.A., Local Government Code ch. 283): No fee.
- (2) For persons occupying the rights-of-way of the city under a franchise ordinance or agreement: No fee.
- (3) Application fees for network nodes, node support poles and transfer facilities are outlined in Sec 283.156 (b) of the TLGC and are as follows:

Network nodes:

- Application fee: Lesser of: actual cost or \$500 for up to 5 network nodes, and \$250 for each additional network node on a permit [up to 30, per Sec 284.152(b)]
- Annual rental rate: \$250 per Network Node site, with annual CPI adjustment

Node Support Poles

- Application fee: Lesser of: actual cost or \$1,000 for each pole
- Annual rental rate: No separate rate from Sec. 284.053 of \$250 per Network node site, with annual CPI adjustment

Transfer facilities

- Application fee: lesser of: actual cost or \$500 for an application including up to 5 network node, and \$250 for each additional network node on a permit
- Rental rate: \$28 monthly for each network node site

- (4) For all other applicants: \$200.00.

HEWITT TEXAS

COUNCIL AGENDA ITEM FORM

MEETING DATE: April 16, 2018

AGENDA ITEM #: 14

SUBMITTED BY: Adam Miles, City Manager

ITEM DESCRIPTION:

Consider an ordinance amending Part II, Appendix A - Zoning, Section 12.102 - Definitions, of the Code of Ordinances of the City of Hewitt, providing for the definition of a Beauty Shop, a Barber Shop, and Semi-Permanent Cosmetics, providing an effective date.

STAFF RECOMMENDATION/ITEM SUMMARY:

The City of Hewitt was recently approached concerning allowing microblading in beauty and barber shops. This form of cosmetic application had not previously been identified or otherwise provided in Hewitt's Code of Ordinances. Microblading is a form of cosmetic application where licensed personnel apply micro-injections of pigment to the dermal layer of skin. This process is actually regulated under the Texas Department of State Health Services and is also known as Intradermal Cosmetics. Interestingly, while allowed in C-1 and other commercial zones, neither a Beauty Shop nor a Barber Shop were actually defined in the Code. City staff worked to provide the following three (3) proposed definitions related to this item.

BARBER SHOP: An establishment that cuts, dresses, grooms, styles and shaves hair on the face and head.

BEAUTY SHOP: An establishment in which hairdressing, makeup, and similar non-permanent and semi- permanent cosmetic services are carried out professionally.

SEMI-PERMANENT COSMETICS: Also known as Intradermal Cosmetics or Microblading. A form of cosmetic application where licensed personnel apply micro-injections of pigment to the dermal layer of skin such that facial cosmetics are applied on a semi-permanent basis. This does not include a tattoo parlor.

The Planning and Zoning Commission met on Tuesday, April 3, 2018, and recommended approval of this item by a vote of 5 to 0. If approved, these definitions would be included in Hewitt's Code of Ordinances.

ATTACHMENTS:

Draft Ordinance

ORDINANCE NO. 2018-5

AN ORDINANCE OF THE CITY OF HEWITT, TEXAS, AMENDING PART II, APPENDIX A – ZONING, SECTION 12.102 – DEFINITIONS OF THE CODE OF ORDINANCES PROVIDING FOR A DEFINITION OF A “BEAUTY SHOP”, A “BARBER SHOP”, AND “SEMI-PERMANENT COSMETICS”; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

Section 1. That Section 12.102 in PART II, APPENDIX A - Zoning of the Code of Ordinances of the City of Hewitt, Texas, shall be and is hereby amended by adding the following definitions: (addition)

Barber: An establishment that cuts, dresses, grooms, styles and shaves hair on the face and head.

Beauty Shop: An establishment in which hairdressing, makeup, and similar non-permanent and semi-permanent cosmetic services are carried out professionally.

Semi-Permanent Cosmetics: Also known as Intradermal Cosmetics or Microblading. A form of cosmetic application where licensed personnel apply micro-injections of pigment to the dermal layer of skin such that facial cosmetics are applied on a semi-permanent basis. This does not include a tattoo parlor.

Section 2. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. That the terms and provisions of this ordinance shall be deemed to be severable and that if any section, subsection, sentence, clause, or phrase of this ordinance shall be declared to be invalid or unconstitutional, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance and the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

Section 4. That it is the intention of the City Council and is hereby ordained that the provisions of this ordinance shall become and be a part of the Code of Ordinances of the City of Waco, Texas, and that sections of this ordinance may be renumbered or relettered to accomplish such intention.

Section 5. That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public and that public notice of the time, place and purpose of said meeting was given as required by law.

PASSED AND APPROVED this ____ day of April, 2018.

CITY OF HEWITT, TEXAS

Travis Bailey, Mayor

ATTEST:

Lydia Lopez, City Secretary

APPROVED AS TO FORM & LEGALITY:

Charlie Buenger, City Attorney



COUNCIL AGENDA ITEM FORM

MEETING DATE: April 16, 2018

AGENDA ITEM #: 15

SUBMITTED BY: Adam Miles, City Manager

ITEM DESCRIPTION:

Consider an Ordinance amending Chapter 30 - Environment of the Code of Ordinances of the City of Hewitt establishing Article XI - Stormwater, establishing rules and regulations related to management of stormwater runoff, establishing best management practices, providing for definitions, providing for a penalty, repealing all other ordinances in conflict herewith, and providing an effective date.

STAFF RECOMMENDATION/ITEM SUMMARY:

The City of Hewitt has established regulations concerning management of stormwater runoff. These regulations are in place and serve several purposes. Rules are designed specifically to minimize erosion, protect adjacent property, and reduce pollution from stormwater runoff. Hewitt's regulations mirror existing State (Texas Commission on Environmental Quality) and Federal (Environmental Protection Agency) laws. From time to time, our City rules and regulations are reviewed to ensure the policies are in compliance with current laws as well as current best management practices. At this time, City Staff is recommending establishment of Article XI - Stormwater to formally codify best management practices and ensure compliance with State and Federal Requirements.

Common elements of regulations include rules related to silt fencing for project sites, establishment of pollution control measures, regulations concerning dust control, and even provisions for inspections and enforcement. Our regulations are required to meet standards of the National Pollution and Discharge Elimination System (NPDES) specifically, the Stormwater Discharges from Municipal Sources (also known as Municipal Separate Storm Sewer or MS4). City staff has worked to re-evaluate City Ordinances for compliance. Furthermore, City Staff has reviewed Waco's regulations to ensure local policies are similar or at least somewhat coordinated from jurisdiction to jurisdiction. A complete copy of the proposed language is included for reference and consideration.

ATTACHMENTS:

Draft ordinance

ORDINANCE NO. 2018-6

AN ORDINANCE OF THE CITY OF HEWITT, TEXAS, AMENDING CHAPTER 30 "ENVIRONMENT" OF SAID CODE BY ESTABLISHING ARTICLE XI, STORMWATER REGULATIONS; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PENALTIES; PROVIDING FOR INCLUSION IN THE CODE; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

Section 1. That Chapter 30 "Environment" of the Code of Ordinances of the City of Hewitt, Texas, be amended to add Article XI. Stormwater Regulations:

Sec. 30-270. - Definitions.

BMP means best management practice.

Construction site notice means the statewide form that must be completed and displayed on small construction sites (i.e., where the area being disturbed is more than one acre and less than five acres).

Disturbing means clearing, grading, excavation, or other construction-related activities including the open storage of raw materials, transport and parking of vehicles, etc., on an unpaved area.

Environmentally sensitive area means:

- (1) Receiving waters that are on the state list of impaired water bodies.
- (2) Stream segment, bay or estuary classified as having an exceptional aquatic life use by TCEQ under 30 TAC 307.7(b)(3) and 307.10.
- (3) Areas identified as providing critical habitat for an endangered, threatened, or protected species. The U.S. Fish and Wildlife Service or Texas Department of Parks and Recreation should be consulted, if necessary.
- (4) Wetlands as defined by 33 CFR 328.3(b).
- (5) State owned submerged land.
- (6) Critical dune areas, as determined by the land commissioner under Texas Natural Resources Code § 63.121
- (7) Velocity zones, as determined by the Federal Emergency Management Agency

EPA means the United States Environmental Protection Agency.

Erosion control plan means measures to be used to prevent erosion from construction sites where less than one acre is disturbed, which is not part of a larger development of one acre or more.

Erosion control plan means measures to be used to prevent erosion from construction sites where less than one acre is disturbed, which is not part of a larger development of one acre or more.

FEMA means Federal Emergency Management Agency.

Final stabilization means that all unpaved areas of the site, not covered by permanent structures, which were disturbed by construction activities, have a uniform perennial vegetative cover with a density of 70 percent or equivalent final stabilization has been used, such as coverage with geotextiles and mulch.

Harmful liquid means a liquid that will adversely affect the environment, such as oil, chemicals, and hazardous substances.

Lot means a parcel of land of at least sufficient size, and containing sufficient area after applicable setbacks to meet the minimum zoning requirements for use, coverage and area and to provide such yards and other open spaces as are required for its intended use by the Hewitt Zoning Ordinance as amended. The word "lot" includes the words "plot" and "parcel".

NPDES means a national pollution discharge elimination system.

Notice of intent (NOI) means a written submission to the executive director of the TCEQ (Texas Commission of Environmental Quality) from an applicant requesting coverage under the general construction stormwater permit.

Notice of termination (NOT) means a written submission to the executive director of the TCEQ (Texas Commission of Environmental Quality) from a discharger authorized under a general permit requesting termination of coverage.

Pollutants mean items that include but are not limited to oils, grease, sediment, fertilizers, pesticides, herbicides, bacteria, debris, litter, etc. in which stormwater runoff can wash through the storm drain system and into local streams and drainage basins.

Responsible party means the owner, occupant, developer, builder, or general contractor who has operational control over the site (including the ability to make modifications in specifications), or who has operational control over day to day activities at the site and is able to ensure compliance with plan requirements and permit conditions (e.g., a person who is authorized to direct the conduct of workers at the site). Any person who has filed a notice of intent (NOI) with EPA or TCEQ or completed a construction site notice is presumed to be a responsible party under this article. In instances where only construction site notices are required, the city engineer or building official should be notified of construction termination as appropriate.

Significant redevelopment means a change in the use of a tract of land that increases the proportion of impervious surface, a change in the use of a tract of land that will result in an increase of pollutants that may be carried off the property by storm waters, or the alteration or repair of a facility, which requires the facility to be brought into compliance with any portion of the Code, that includes site disturbances.

Single-lot, single-family residential construction means the construction of a single-family residential structure (zoned R-1, R-1-G, or R-5) and accessory buildings upon a single lot, regardless of size. The construction of each individual residential structure is considered a single-lot, single-family residential construction, even if the responsible party is, simultaneously

constructing another residential structure on an adjoining lot. For the purposes of this article, a lot may include one or more adjoining platted lots that are treated as a single tract of land.

Seventy percent density of vegetative cover means an area that has been disturbed by construction activities has been completely re-vegetated and that the density of said re-vegetation is 70 percent of the pre-construction state.

Stormwater means stormwater runoff, snowmelt runoff, and surface runoff and drainage.

Stormwater pollution prevention plan means a plan that addresses potential sources of pollution that are reasonably expected to affect the quality of discharges from the construction site, including off-site material storage areas, overburden and stockpiles of dirt, borrow areas, equipment staging areas, vehicle repair areas, fueling areas, etc., used solely by the permitted project.

TCEQ means the Texas Commission on Environmental Quality.

TPDES means a Texas Pollution Discharge Elimination System.

Sec. 30-271. - Planning requirements for site construction.

- (a) The stormwater pollution prevention plan (SWPPP) shall describe and ensure the implementation of practices that will be used to reduce the pollutants in stormwater discharges associated with construction activity at the construction site and assure compliance with the terms and conditions of a TCEQ or EPA stormwater permit.
- (b) Except as provided in subsection (2), a site specific storm water pollution prevention plan is required for all residential, commercial, and industrial developments that disturb one acre or more, and on sites that disturb less than 1.0 acre when the site is part of a larger development.
 - (1) For the purpose of this section, the area of the development must include all land of a common plan of development, regardless of the amount of land that will be affected by the specific development activity.
 - (2) A stormwater pollution prevention plan is not required when a portion of a previously developed tract of land is redeveloped, unless the redevelopment will result in the conversion of more than one acre from a porous surface to an impervious surface.
- (c) The stormwater pollution prevention plan must be prepared at the time of submission of the NOI or construction site notice.
- (d) The stormwater pollution prevention plan must identify the location of the outfall from the city's municipal separate storm sewer system into the receiving water and any environmentally sensitive areas that will receive pollutants carried by stormwater pollution from the site.
- (e) The stormwater pollution prevention plan must state whether the plan or an erosion control plan will be submitted to the City of Hewitt under this section.
- (f) Development of sites one acre or more.
 - (1) An NPDES or TPDES stormwater pollution prevention plan is currently required by EPA or TCEQ for all construction projects where one or more acres will be disturbed

during development. Developments of sites that disturb one acre or more within the city's jurisdiction must prepare an NPDES or TPDES stormwater pollution prevention plan that satisfies EPA or TCEQ regulations and the NPDES or TPDES construction general permit.

- a. A copy of the NPDES or TPDES stormwater pollution prevention plan must be provided to the City of Hewitt, building official, or the appropriate city designee upon request.
 - b. A copy of the notice of intent (NOI) (sites > five acres) and/or construction site notice (sites one to five acres) provided to EPA or TCEQ must be provided to the city engineer or the building official, as applicable. Approval of the elements of the NPDES or TPDES stormwater pollution prevention plan is not required. However, the city engineer or building official or other designated city representative may require correction of any observed deficiencies in the NPDES or TPDES stormwater pollution prevention plan. Additional measures may be required to meet the requirements of section 30-272, pollution control measures.
 - c. If the current measures are insufficient (sites > five acres), a copy of the notice of termination (NOT) submitted to EPA or TCEQ must be provided to the city engineer or building official, as applicable.
- (2) Minimum requirement of a stormwater pollution prevention plan (SWPPP) can be found in the most recent version of the TPDES General Stormwater Requirements for Construction Activities
- (g) Development of sites less than one acre, if part of a larger development.
- (1) All projects under this category must meet the requirements in section 30-272(a).
 - (2) The area of the development will be based upon any or all of the following: platted lot(s), site plan of the development, phased-in name of the development and/or ownership of the property or, if not platted, based upon the area of the tract owned by the developer, including all contiguous property owned by the same person. Disturbance of a partial area of a tract is not a condition that will cause a change of the category in development size.
- (h) Development of sites less than one acre, if not part of a larger development.
- (1) An erosion control plan, as defined in section 30-270, is required for commercial construction, industrial construction, multi-family residential construction, and development of a residential subdivision within the city's jurisdictional area where less than one acre will be disturbed, and the site is not part of a larger development of one acre or more. The area of the development will be based upon platted lot(s), site plan of the development, phased-in name of the development, and/or ownership of the property or, if not platted, based upon the area of the tract owned by the developer, including all contiguous property owned by the same person.
 - (2) Contractors are required to implement an erosion control plan that establishes erosion control measures.
 - (3) The erosion control plan shall include any pollution control measures specified in section 30-272.

- (i) Development of sites general requirements.
 - (1) Implementation of the pollution control measures detailed in the plan is required. Inspection of the pollution control measures will be performed by city personnel during normal construction inspections, and at other times when construction activities may be conducted.
 - (2) A certificate of occupancy may not be issued until the temporary and permanent measures specified by the plan are complete.
 - (3) The City of Hewitt will not accept any improvements required by the city's platting ordinance until the City of Hewitt is satisfied that all temporary and permanent measures specified by the plan are complete.
 - (4) A pollution control plan is not required when a portion of a previously developed tract of land is redeveloped, unless the redevelopment will result in the disturbance of more than one acre of land.

Sec. 30-272. - Pollution control measures.

- (a) The responsible party of any construction site within the city shall implement measures necessary to control erosion, sedimentation, debris, and stormwater pollution. The responsible party shall ensure proper maintenance and performance of temporary pollution control measures until permanent measures are in place.
 - (b) Temporary pollution control measures (during construction). This subsection provides examples of temporary pollution control measures that may be used to control erosion and sedimentation.
 - (1) Structural control of soil erosion.
 - a. Silt fences may be utilized, where necessary, to retain the sediments from disturbed areas within the site and decrease the velocity of sheet flows.
 - b. Straw bales may be utilized, where necessary, to retain sediments from disturbed areas within the site and decrease the velocity of sheet flows. Straw bales are particularly useful in paved areas where silt fences cannot be erected.
 - c. Stabilized construction entrances shall be designed to reduce the amount of soil tracked off the construction site by vehicles. A stabilized construction entrance should be utilized, if necessary, to control tracking. The responsible party shall ensure that vehicles entering and leaving the construction site use the stabilized construction entrance. The owner or operator of a vehicle entering or leaving a construction site may not track soil off the construction site.
 - d. Vegetative buffer strips of appropriate size should be maintained where necessary to aid in:
 - 1. reducing the velocity of stormwater and
 - 2. trapping escaping sediments in the stormwater.
- A vegetative buffer may suffice as a structural control until final stabilization is accomplished.

- e. Inlet protection barriers must be installed around all inlets until surrounding area is paved or stabilized.
- (2) Waste controls. Waste must be disposed of in an appropriate manner. This includes, but is not limited to: solid wastes, including building materials, hazardous substances, oil, or packaging except for disposal at an appropriate and approved solid waste management facility, may be allowed to enter the city's municipal separate storm sewer system, the city's streets, or the navigable waters of the United States. The responsible party, who is issued the building permit, shall ensure responsible and appropriate disposal measures for all waste activities at the site.
- (3) Dust control. Reasonable measures shall be taken to control dust, particulate matter, and windblown debris.
- (4) Hazardous material storage. Chemicals, paints, solvents, fertilizers, and other toxic materials must be stored in waterproof containers. Except during applications, the contents must be kept in trucks or in storage facilities. Runoff containing such materials shall be collected, removed from the site, and disposed of at an approved solid waste or chemical disposal facility.
- (5) Concrete trucks. The responsible party may not allow the owner or operator of a concrete truck to wash out or discharge surplus concrete or drum wash water at a construction site, unless the surplus concrete or drum wash water in concrete trucks is discharged at a facility on the construction site that will retain all concrete wash waters or leachates, including any wash waters or leachates mixed with storm water. Concrete wash waters and leachates shall not be allowed to enter the municipal separate storm sewer system, city streets or ground waters.
- (6) The responsible party may adopt alternative procedures, such as regularly scheduled street cleaning in the immediate vicinity of the construction site, instead of adopting temporary structural controls for erosion under subsection 30-272(b)(1). If alternative procedures are used, the responsible party shall include those provisions in its NPDES or TPDES stormwater pollution prevention plan, pollution control plan, or the plans submitted for a building permit if an NPDES or TPDES stormwater pollution prevention plan or pollution control plan is not required.
- (c) Final pollution control measures (post construction). These measures stabilize construction sites where either of the following conditions are met:
 - (1) All soil disturbing activities at the site shall be completed and a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70 percent of the native background vegetative cover for the area established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.
 - (2) For individual lots in a residential construction site by either:
 - a. The homebuilder completing final stabilization as specified in condition (c)(1) above; or

- b. The homebuilder of single-family homes (zoned R-1, R-1-G, or R-5) establishing final stabilization for an individual lot by sodding the front yard with a vegetative cover with a minimum of 70 percent density (no bare spots), and installing a perimeter of sod for the remaining portions of the yard to prevent soil erosion.
- (3) For construction activities on land used for agricultural purposes (e.g. pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its pre-construction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface water, and areas which are not being returned to their pre-construction agricultural use must meet the final stabilization of condition (c)(1) above.
- (4) If the developer agrees to maintain the stabilization until coverage is achieved and all other permanent measures are complete (i.e. performance bond), acceptance of improvement by the city may occur before the final stabilization coverage requirement is met.
- (5) Once final stabilization has been achieved, the responsible party shall notify the city engineer, building official or designated representative that final stabilization has been achieved.
- (6) Erosion control structures must be provided where necessary to control erosive velocities in unlined channels or swales leaving the site.
- (7) Sediment traps must be provided on the site, as necessary, to control sedimentation from concentrated storm water discharges into an environmentally sensitive area. Individual assessments must be made on a site-specific basis. However, a rock rubble low berm must be installed around an outfall that discharges directly into an environmentally sensitive area, unless this requirement is waived by the city engineer because the responsible party has installed another type of sediment trap providing equal or better protection.
- (d) Scheduling of control measures. Measures must be implemented in a sequence that will provide maximum stormwater pollution control based on the following principles:
 - (1) Down slope and side slopes perimeter controls must be installed before land disturbing activity occurs.
 - (2) The responsible party shall not disturb the site until construction is ready to proceed.
 - (3) Efforts to provide cover or stabilize disturbed areas must occur as soon as possible.
 - (4) Temporary perimeter controls shall not be removed until all upstream areas are permanently stabilized.
- (e) Inspection of pollution control measures. The responsible party shall inspect all pollution control measures
 - 1. Every 14 days and within 24 hours following a rainfall of 0.5 inches or greater at the site, or
 - 2. Every seven days regardless of rain events and maintain a record of each inspection.

The inspection reports shall be considered part of the contractor's stormwater pollution plan (SWPPP), and as such, are subject to the same record retention schedule and availability requirements of the SWPPP. The inspection reports and the entire SWPPP shall be made available for inspection by a representative of the city during normal business hours.

(f) Maintenance of pollution control measures.

- (1) The responsible party shall maintain and ensure adequate performance of the temporary pollution control measures until permanent pollution control measures are in place.
- (2) Whenever the temporary or permanent pollution control measures do not keep soil, sediment, and debris on the construction site, such as excessive tracking of dirt offsite by vehicles and runoff of sediments from the site over sidewalks and into the streets and gutters, etc., the responsible party shall remove the soil, sediment, and debris from streets, sidewalks, and inlets, as necessary and return the soil and sediment to the areas to be stabilized, and properly dispose of the debris.
- (3) The responsible party shall ensure proper maintenance of all permanent pollution control measures located on the site.

Sec. 30-273. - Appeals to city manager.

A person adversely affected by a decision of the city engineer or the building official under this article may appeal the decision to the city manager, or the city manager's designee, within 15 days from the date the city engineer or the building official notifies the person of the decision in writing. An appeal must be submitted in writing and must be addressed to the city manager. The appeal must specify why the decision of the city engineer or the building official should be considered for relief.

Sec. 30-274. - Additional requirements.

It is the intent of this article to outline the stormwater regulations that must be followed by contractors, builders, and property owners who wish to conduct construction activities within the city.

There may be portions of the state stormwater regulations that are not specifically mentioned in this article. In such cases, these regulations are to be considered a part of this article, and as such, violators of said segments are subject to the same penalties listed.

Sec. 30-275. - Prosecution for violations of this article.

A violation of any provision of this article is a class C misdemeanor. A conviction is punishable by a fine as provided in section 1-12. Each day a violation continues constitutes a separate offense. Each violation of a separate provision in this article constitutes a separate offense. A culpable mental state is not required to prove an offense under this article.

Failure to appear in response to a citation issued for violation of this article is a separate violation of this article.

Secs. 30-276. -Separability

If the above provisions and sections of this Ordinance contradict any portion of any other ordinance, the stricter of the two shall apply.

Secs. 30-277—30-300. - Reserved.

Section 2. That if any provision of this ordinance shall be held to be invalid or unconstitutional, the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

Section 3. That it is the intention of the City Council and is hereby ordained that the provisions of this ordinance shall become and be a part of the Code of Ordinances of the City of Waco, Texas, and that sections of this ordinance may be renumbered or relettered to accomplish such intention.

Section 4. That a violation of Chapter 30 of the Code of Ordinances of the City of Hewitt, as amended by this ordinance, shall be a misdemeanor and the penalty for violating this ordinance shall be as provided for in Section 1-12 which shall be a maximum fine of \$2,000.00. Each day a violation exists or each occurrence of an event or act shall be a separate offense.

Section 5. That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public as required by law, and that public notice of the time, place and purpose of said meeting was given as required.

PASSED AND APPROVED this ____ day of April, 2018.

CITY OF HEWITT, TEXAS

Travis Bailey, Mayor

ATTEST:

Lydia Lopez, City Secretary

APPROVED AS TO FORM & LEGALITY:

Charlie Buenger, City Attorney