

COMMISSIONERS COURT
REGULAR SESSION
June 13, 2005

The Hunt County Commissioners Court met this day at 10:00A.M. with all Commissioners present with Judge Joe Bobbitt presiding. Minutes of the previous meeting were approved as submitted.

NEW BUSINESS:

9448 On the motion by Judge Bobbitt, second by Kenneth Thornton, the Court approved Letter of Recommendation from the Hunt County Elections Commission regarding the purchase of the new voting system required due to the HAVA bill by 2006. Mina Cook- Elections Administrator stated purchase of this new equipment would be provided through grant funding from the Federal Government. After demonstrations of two of the voting system vendors who are certified with the Secretary of State, the Election Commission recommended purchasing the new voting equipment from HartIntercivic. Hunt County has done business with HartIntercivic for many years and has received outstanding customer services. *See Attachment.*

9449 On the motion by Phillip Martin, second by Ralph Green, the Court approved Proclamation making June "National Safety Month". *See Attachment.*

9450 On the motion by Thornton, second by Green, the Court approved Proclamation declaring June 17th and 18th, 2005 as "Audie Murphy Days" in Hunt County.

9451 On the motion by Judge Bobbitt, second by Jim Latham, the Court approved the Tax Abatement Agreement between Hunt County and Evergreen Real Estate, L.L.C., which is the Per Se facility. *See Attachment.*

9452 On the motion by Green, second by Thornton, the Court approved the preliminary plat for Braden Manor Phase Three in Pct 2.

— 'Discuss and possibly take action on Replat of Lot 6 of the John Hackney Resubdivision of Leisure Acres.' Commissioner Martin requested this item be placed on Old Business for next Court.

9453 On the motion by Green, second by Thornton, the Court approved the ROW easement for Cash Special Utility District on property ID# R 108036 located on CR 2548. Easement to be filed in Official Public Records. *See Attachment.*

9454 On the motion by Latham, second by Martin, the Court approved request of FEC Electric to grant permission to construct electrical power distribution facilities along and across CR 4119 in Pct 4, with the usual stipulations.

9455 On the motion by Latham, second by Thornton, the Court approved Inter-Local Agreement between the City of Commerce and Hunt County to provide animal shelter services to County residents, which will also allow expansion of our animal control capacity. Our participation will enable the City of Commerce to waive their \$15 fee currently charged to citizens inside and outside the City of Commerce. The County's portion will be \$50,000 for the addition to the current shelter and \$30,000 per year for maintenance and operation costs. *See Attachment*

HEAR AND DISCUSS:

Alan Brown- Chief Juvenile Probation Officer advised the Court of the State Auditor's inspection of our facilities last week. Hunt County Juvenile Department received high scores:

100% case management

100% administrative side

95% detention facility

Alan Brown stated this was all due to good employees and letting them do their jobs.

George Cullina of 4415 CR 1087 in Celeste, TX, was present concerning the paving of his road, stating he was opposed to having his road paved because it would increase his taxes 37%. Commissioner Thornton stated he is required to look at the complete benefit to all the citizens on the road.

9456 On the motion by Martin, second by Latham, the Court approved accounts payable. Judge Bobbitt abstained from the vote.

9457 On the motion by Green, second by Martin, the Court approved line-item budget transfers.

PERSONNEL AND PAYROLL:

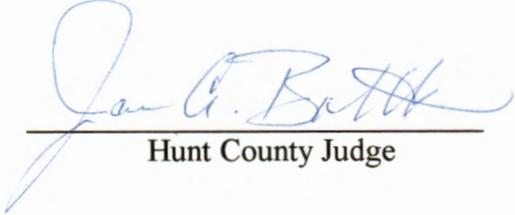
<u>COUNTY AUDITOR</u>	<p>Add Cindy Kirby as Assistant Auditor at \$10 per hour, effective 5-24-05. 90 day training period.</p> <p>Change Cindy Kirby to full time salaried employee at \$23,000.00 per year, effective 6-5-05.</p>
<u>COMMISSIONER PCT 3:</u>	<p>Change Stephen R. Byrd Foreman G/8 from \$34,302.06 to \$36,691.02, effective 6-13-05. Employee evaluation on file; funds available.</p>
<u>COMMISSIONER PCT 4:</u>	<p>Add Bradley Staton part time Equipment Operator at \$9.00 per hour, effective 5-31-05.</p>
<u>COUNTY ATTORNEY:</u>	<p>Remove Jerry McClain as Assistant County Attorney due to his resignation, effective 7-5-05.</p>
<u>DISTRICT ATTORNEY:</u>	<p>Add Omega Hensley as part time Clerk (Summer Help) at \$6.00 per hour, effective 6-13-05.</p>
<u>JP PCT 1 PL 1:</u>	<p>Re-hire Casey Vittetoe as part time (Summer Help) Clerk at \$8.00 per hour, effective 6-6-05.</p>
<u>JUVENILE DETENTION:</u>	<p>Add Terry Palmer as part time Detention Officer at \$8.00 per hour, effective 5-31-05.</p> <p>Add Leesa Cook as part time Detention Officer at \$8.00 per hour, effective 5-26-05.</p> <p>Remove Detention Officer Adam Teer, effective 6-1-05.</p>
<u>MAINTENANCE:</u>	<p>Add Nicholas Bobo as part time Summer Help at \$7.00 per hour, effective 5-31-05.</p> <p>Remove Mike Hopson due to his resignation, taking job in Dallas, effective 5-27-05.</p>
<u>SHERIFF'S DEPARTMENT:</u>	<p>Add Cody Blankenship as part time Summer Help at \$8.50 per hour, effective 6-6-05.</p> <p>Remove Kevin English due to his resignation to enter the Police Academy, effective 6-3-05.</p> <p>Remove Victoria Stastny due to her resignation, effective 6-2-05 at 12:00 PM. To return all uniforms to Personnel.</p> <p>Remove Con Moss due to her resignation, effective 6-2-05.</p>

9458 On the motion by Martin, second by Latham, the Court approved personnel and payroll changes.

— The Court recessed at 10:15 A.M.; Court reconvened at 10:21 A.M.

— The Court went into Executive Session to consult with Attorney per L.G.C. 551.071.

— Court returned to Regular Session and Court Adjourned with no action taken. Minutes approved this 27th day of June, 2005.



Jan A. Batts
Hunt County Judge

Attest:



Hunt County Clerk



HUNT COUNTY

2217A WASHINGTON STREET • GREENVILLE, TEXAS 75401

ELECTIONS ADMINISTRATOR
ALMINA COOK
(903) 454-5467
FAX (903) 454-7905

Hunt County Commissioners Court
Hunt County Courthouse
Greenville Tx 75401

9448
FILED FOR RECORD
at 7 o'clock P M
JUN 13 2005
LINDA BROOKS
County Clerk, Hunt County, Tex.
By L. Brooks

Dear Sirs,

Due to the HAVA bill, Hunt County is being required to change the current voting system. As you know, the Federal Government is also allowing Hunt County grant funding to make the purchase of the new equipment.

The Hunt County Elections Commission have been shown demonstrations with two of the voting system vendors who are certified with the Secretary of State's Office in Austin.

There is one final piece of the HartIntercivic equipment that is in the process of being certified. Pending certification, it is the recommendation of the Hunt County Elections Commission to purchase the new voting equipment from HartIntercivic.

Hunt County has done business with HartIntercivic for many years, and they've continuously provided outstanding customer service.

Thank you for your consideration in this matter.

Signed this the 25th day of May, 2005

Abstained from voting.
Joe Bobbitt,
Hunt County Judge

Linda Brooks
Linda Brooks,
Hunt County Clerk

Don Anderson
Don Anderson,
Hunt County Sheriff

Almina Cook
Almina Cook,
Hunt County
Elections Administrator

Marcia Mainord
Marcia Mainord,
Hunt County Democratic
Party Chair

L. D. "Mickey" Mixson
L. D. "Mickey" Mixson,
Hunt County Republican
Party Chair

I 9448

FILED FOR RECORD
at 3 o'clock P M

JUN 13 2005

LINDA BROOKS
County Clerk, Hunt County, Tex
By *[Signature]*



eSLATE™ AGREEMENT

(SIGNATURE PAGE)

This eSlate™ Agreement ("Agreement") is entered into by and between Hart InterCivic, Inc., a Texas corporation ("Hart"), and Hunt County ("Client"), a governmental subdivision of the State of Texas. This Agreement sets forth the terms under which Client will purchase from Hart the eSlate™ Electronic Voting System. This agreement is incorporated into the state contract by reference. The state term contract supersedes any conflicting terms between this agreement and the state contract. Defined terms used in this Agreement will have the meanings specified in Section 9, Definitions, or as otherwise set forth herein.

For Clients purchasing under the Texas Building and Procurement Commission (TBPC) contract, this Agreement is incorporated into the state contract by reference. The state term contract supercedes any conflicting terms between this Agreement and the state contract.

The following Schedules and Exhibits are attached to this Agreement and made a part hereof:

- Schedule A Equipment and Pricing
- Schedule A1 Hardware and Software Version Numbers
- Schedule B Hart Proprietary Software
- Schedule C Non-Hart Software
- Exhibit A eSlate™ Warranty, Support, and License Agreement

This Agreement is entered into as the result of negotiations between Client and Hart. Client acknowledges it has read and understands this Agreement (including all Schedules and Exhibits) and is entering into this Agreement only on the basis of the terms set forth in this Agreement. This Agreement and its related documents are void if the eScan™ product is not certified by the State of Texas by December 31, 2005. There are no oral agreements, representations, or warranties. The Effective Date of this Agreement is July 25, 2005.

Agreed and Accepted:

	<u>Client</u>	<u>Hart</u>
Name:	Hunt County, Texas	Hart InterCivic, Inc.
Address:	2500 Lee Street, 2 nd Floor Greenville, Texas 75401	15500 Wells Port Drive Austin, Texas 78728 Attn.: Ted Simmonds Vice President/CFO
Primary Phone:	903-454-7634	800-223-4278
Facsimile:	903-454-7905	800-831-1485
E-mail:	mcook@huntcounty.net	tsimmonds@hartic.com
Executed By:	<i>[Signature]</i>	<i>[Signature]</i>
Name:	Joe Bobbitt	Ted Simmonds
Title:	County Judge	Vice President/CFO

This Agreement is not effective until executed by both parties.

In consideration for the agreements set forth herein, the parties agree as follows:

1. Purchase of Equipment; License of Software:

1.1 Sale. Hart agrees to sell and Client agrees to purchase the Equipment, subject to the terms and conditions set forth in this Agreement.

1.2 Licenses and Sublicenses. Simultaneously upon entering into this Agreement, Hart and Client will enter into the eSlate™ Warranty, Support, and License Agreement in the form of Exhibit A, the terms of which are incorporated herein by reference. The eSlate™ Warranty, Support, and License Agreement sets forth additional terms applicable to Client's ownership and use of the eSlate™ Hardware and license of Hart Proprietary Software, including warranty, support of software and hardware, license of software, and other terms.

1.3 Delivery and Installation. Hart will cause the Equipment and Software to be delivered to Client's premises on a date mutually agreed to by Hart and Client. A Hart representative will install the Equipment and Software at the Client's site on a mutually agreed upon date during Hart normal working hours. If additional labor and rigging or Client-specified customization is required for installation due to Client's special site requirements, Client will pay those costs including costs to meet union or local law requirements. Client will be deemed to have accepted the eSlate™ Hardware upon completion of Acceptance Testing or ten (10) days after the delivery date of the eSlate™ Hardware, whichever comes first.

1.4 Training. Hart will provide *user-level documentation* for the Software and operational training before the first election for which the Software will be used. Hart will provide *Client operational training* and on-site support at the first election in which the Equipment and Software are used. Charges for additional training or support services will be invoiced to Client at Hart's then-current hourly rates, plus travel, communication, and other expenses. Any additional training or support services will be mutually agreed to by Hart and Client and documented in an amendment to this Agreement.

1.5 User Documentation; Environmental Specifications. Hart will provide to Client one (1) electronic copy of the applicable then-current user documentation and operator's manuals for the Equipment and Software and, where applicable, environmental specifications for the Equipment. User documentation, operator's manuals, and environmental specifications will be provided in electronic form. Client shall not remove any trademark, copyright, or other proprietary or restrictive notices contained on any Hart user documentation, operator's manuals, and environmental specifications, and all copies will contain such notices as are on the original electronic media.

1.6 Support. Support will be provided as set forth in the eSlate™ Warranty, Support, and License Agreement.

2. Charges; Payments:

2.1 Total Purchase Price. The Total Purchase Price is set forth in Schedule A and includes the purchase price for the Equipment, the Initial Annual Fee under the eSlate™ Warranty, Support, and License Agreement, state and local taxes (if applicable), and delivery and installation charges.

2.2 Payments. Client shall pay Hart the Total Purchase Price upon delivery of the Equipment and Software to Client. All payments are to be made to Hart at its principal office in Austin, Texas, as set forth on the Signature Page or to such other location as may be designated by Hart in a notice to Client.

2.3 Late Charges. If the Total Purchase Price is not paid in full within thirty (30) days after delivery of the Equipment and Software through the fault of the Client, Hart may charge Client interest on the unpaid balance until paid, at the lesser of (a) 1% per month or (b) the maximum rate allowed by law.

2.4 Additional Charges. Additional charges may apply to services rendered outside contracted hours or beyond normal coverage at Client's request, e.g., travel expenses, and premium and minimum charges. There will be an additional charge at Hart's current technician's rate per hour for any technical work required as a result of *other than Hart-recommended hardware* purchased by the Client for use with the Hart eSlate™ Electronic Voting System. Any other additional charges must be mutually agreed to by Hart and Client and documented in an amendment to this Agreement.

2.5 Payment Disputes. If any dispute exists between the parties concerning the amount due or due date of any payment, Client shall promptly pay the undisputed portion. Such payment will not constitute a waiver by Client or Hart of any of their respective legal rights and remedies against each other.

2.6 Taxes. If Client is tax-exempt, Client will provide Hart with proof of its tax-exempt status. If Client is not tax-exempt, (a) Client will pay any tax Hart becomes obligated to pay in connection with this Agreement, exclusive of taxes based on the net income of Hart and (b) Client will pay all personal property and similar taxes assessed after shipment. If Client challenges the applicability of any such tax, Client shall pay the tax and may thereafter seek a refund.

2.7 Suspension of Performance. If any payment due to Hart under this Agreement is past due more than thirty (30) days, Hart may suspend performance under this Agreement until all amounts due are current.

3. Client Responsibilities:

3.1 Independent Determination. Client acknowledges it has independently determined that the eSlate™ Electronic Voting System purchased under this Agreement meets its requirements.

3.2 Cooperation. Client agrees to cooperate with Hart and promptly perform Client's responsibilities under this Agreement and the eSlate™ Warranty, Support, and License Agreement.

4. Title; Risk of Loss:

4.1 Equipment. Subject to Section 4.3, title to Equipment will pass to Client upon delivery of the Equipment to Client. Risk of loss of, or damage to, Equipment will pass to Client upon delivery to Client.

4.2 Confidential and Proprietary Information. Title to Hart's Confidential and Proprietary Information will remain in Hart. Title to Confidential and Proprietary Information of Hart's suppliers and licensors will remain in the relevant suppliers and licensors.

4.3 Proprietary Rights. Client acknowledges and agrees that the design of the eSlate™ Electronic Voting System, design of the eSlate Hardware, Hart Proprietary Software, and any and all related patents, copyrights, trademarks, service marks, trade names, documents, logos, software, microcode, information, and material are the property of Hart. Client agrees that the sale of the eSlate™ Hardware and license of Hart Proprietary Software and other accompanying items under this Agreement does not grant to or vest in Client any right, title, or interest in such proprietary property. All patents, trademarks, copyrights, trade secrets, and other intellectual property rights, whether now owned or

acquired by Hart with respect to the eSlate™ Electronic Voting System, eSlate Hardware, and Hart Proprietary Software, are the sole and absolute property of Hart and no interest therein is being vested in Client by the execution of this Agreement or the sale of the eSlate Hardware or license of the Hart Proprietary Software to Client. Client shall not, under any circumstances, cause or permit the adaptation, conversion, reverse engineering, disassembly, or decompilation of any Software or Equipment. Client will have no authority or right to copy, reproduce, modify, sell, license, or otherwise transfer any rights in any proprietary property of Hart. The provisions of this Section 4.3 will survive the termination or cancellation of this Agreement and the eSlate™ Warranty, Support, and License Agreement.

5. Warranty Terms:

The warranty terms applicable to the eSlate™ Electronic Voting System are set forth in the eSlate Warranty, Support, and License Agreement. EXCEPT FOR THE EXPRESS LIMITED WARRANTIES IN THE ESLATE™ WARRANTY, SUPPORT, AND LICENSE AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, (A) THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE UNDER THIS AGREEMENT AND THE ESLATE WARRANTY, SUPPORT, AND LICENSE AGREEMENT, AND (B) HART DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, TITLE AND NONINFRINGEMENT FOR ALL EQUIPMENT, SOFTWARE, AND SERVICES. THE EXPRESS WARRANTIES EXTEND SOLELY TO CLIENT. SOME STATES (OR JURISDICTIONS) DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES, SO THE ABOVE LIMITATION MAY NOT APPLY TO CLIENT.

6. Limitation of Damages:

6.1 EXCLUSIVE REMEDY. HART DOES NOT ACCEPT ANY LIABILITY FOR WARRANTIES BEYOND THE REMEDIES SET FORTH IN SECTION 1 OF THE ESLATE WARRANTY, SUPPORT, AND LICENSE AGREEMENT. HART'S ENTIRE LIABILITY AND CLIENT'S EXCLUSIVE REMEDY FOR ANY CLAIM CONCERNING THIS AGREEMENT AND THE EQUIPMENT, SOFTWARE, AND SERVICES PROVIDED UNDER THIS AGREEMENT ARE SET FORTH IN THIS SECTION.

6.2 DISCLAIMER. CLIENT IS RESPONSIBLE FOR ASSURING AND MAINTAINING THE BACKUP OF ALL CLIENT DATA. UNDER NO CIRCUMSTANCES WILL HART BE LIABLE TO CLIENT OR ANY THIRD PARTY FOR THE LOSS OF OR DAMAGE TO CLIENT DATA.

6.3 LIMITATION. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, HART, HART'S LICENSORS, AND ANY PARTY INVOLVED IN THE CREATION, MANUFACTURE, OR DISTRIBUTION OF THE EQUIPMENT AND SOFTWARE AND THE PERFORMANCE OF SERVICES UNDER THIS AGREEMENT WILL NOT BE LIABLE TO CLIENT FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS) OR FOR LOST DATA SUSTAINED OR INCURRED IN CONNECTION WITH THE EQUIPMENT, SOFTWARE, SERVICES, OR THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, REGARDLESS OF THE FORM OF ACTION AND WHETHER OR NOT SUCH DAMAGES ARE FORESEEABLE. IN ADDITION, HART'S TOTAL LIABILITY TO CLIENT FOR DIRECT DAMAGES ARISING OUT OF OR RELATING TO THE EQUIPMENT, SOFTWARE, SERVICES, AND THIS AGREEMENT WILL IN NO EVENT EXCEED THE TOTAL AMOUNT ACTUALLY PAID BY CLIENT TO HART UNDER THIS AGREEMENT. HART IS NOT LIABLE FOR DAMAGES CAUSED IN ANY PART BY CLIENT'S NEGLIGENCE OR

INTENTIONAL ACTS OR FOR ANY CLAIM AGAINST CLIENT OR ANYONE ELSE BY ANY THIRD PARTY.

SOME STATES (OR JURISDICTIONS) DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE EXCLUSION OR LIMITATION MAY NOT APPLY TO CLIENT.

6.4 Referrals. Hart may direct Client to third parties having products or services that may be of interest to Client for use in conjunction with the Equipment and Software. Notwithstanding any Hart recommendation, referral, or introduction, Client will independently investigate and test non-Hart products and services and will have sole responsibility for determining suitability for use of non-Hart products and services. Hart has no liability with respect to claims relating to or arising from use of non-Hart products and services, including, without limitation, claims arising from failure of non-Hart products to provide proper time and date functionality.

7. Dispute Resolution:

7.1 Disputes and Demands. The parties will attempt to resolve any claim or controversy related to or arising out of this Agreement, whether in contract or in tort (“**Dispute**”), on a confidential basis according to the following process, which either party may start by delivering to the other party a written notice describing the dispute and the amount involved (“**Demand**”).

7.2 Negotiation and Mediation. After receipt of a Demand, authorized representatives of the parties will meet at a mutually agreed upon time and place to try to resolve the Dispute by negotiation. If the Dispute remains unresolved after this meeting, either party may start mandatory nonbinding mediation under the commercial mediation rules of the American Arbitration Association (“**AAA**”) or such other mediation process as is mutually acceptable to the parties.

7.3 Injunctive Relief. Notwithstanding the other provisions of this Section 7, if either party seeks injunctive relief, such relief may be sought in a court of competent jurisdiction without complying with the negotiation and mediation provisions of this Section 7.

7.4 Time Limit. Neither mediation under this section nor any legal action, regardless of its form, related to or arising out of this Agreement may be brought more than two (2) years after the cause of action first accrued.

8. General Provisions:

8.1 Entire Agreement. This Agreement and the attachments, schedules, and exhibits hereto are the entire agreement and supersede all prior negotiations and oral agreements. Hart has made no representations or warranties with respect to this Agreement or the eSlate™ Electronic Voting System and its components that are not included herein. This Agreement may not be amended or waived except in writing signed by an officer of the party to be bound thereby.

8.2 Preprinted Forms. The use of preprinted forms, such as purchase orders or acknowledgments, in connection with this Agreement is for convenience only and all preprinted terms and conditions stated thereon are void and of no effect. If any conflict exists between this Agreement and any terms and conditions on a purchase order, acknowledgment, or other preprinted form, the terms and conditions of this Agreement will govern and the conflicting terms and conditions in the preprinted form will be void and of no effect. The terms and conditions of this Agreement, including, but not limited to,

this Section 8.2, cannot be amended, modified, or altered by any conflicting preprinted terms or conditions in a preprinted form.

8.3 Interpretation. This Agreement will be construed according to its fair meaning and not for or against either party. Headings are for reference purposes only and are not to be used in construing the Agreement. All words and phrases in this Agreement are to be construed to include the singular or plural number and the masculine, feminine, or neuter gender as the context requires.

8.4 GOVERNING LAW. THIS AGREEMENT WILL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS, WITHOUT REGARD TO ITS CONFLICT OF LAW PROVISIONS, UNLESS CLIENT IS A GOVERNMENTAL SUBDIVISION OF ANOTHER STATE, IN WHICH CASE THE LAWS OF THE STATE IN WHICH CLIENT IS A GOVERNMENTAL SUBDIVISION WILL CONTROL.

8.5 Severability. Whenever possible, each provision of this Agreement will be interpreted to be effective and valid under applicable law; but if any provision is found to be invalid, illegal, or unenforceable, then such provision or portion thereof will be modified to the extent necessary to render it legal, valid, and enforceable and have the intent and economic effect as close as possible to the invalid, illegal, or unenforceable provision. If it is not possible to modify the provision to render it legal, valid, and enforceable, then the provision will be severed from the rest of the Agreement and ignored. The invalidity, illegality, or unenforceability of any provision will not affect the validity, legality, or enforceability of any other provision of this Agreement, which will remain valid and binding.

8.6 Delays. Hart is not responsible for failure to fulfill its obligations when due to causes beyond its reasonable control, including the failure of third parties to timely provide Software, Equipment, materials, or labor contemplated herein. Hart will notify Client in writing of any such delay, and the time for Hart's performance will be extended for a period corresponding to the delay. Hart and Client will determine alternative procedures to minimize delays.

8.7 Force Majeure. "Force Majeure" means a delay encountered by a party in the performance of its obligations under this Agreement that is caused by an event beyond the reasonable control of the party, but does not include any delays in the payment of monies due by either party. Without limiting the generality of the foregoing, "Force Majeure" will include, but is not restricted to, the following types of events: acts of God or public enemy; acts of governmental or regulatory authorities (other than, with respect to Client's performance, the Client, and its governing entities); fires, floods, epidemics, or serious accidents; unusually severe weather conditions; and strikes, lockouts, or other labor disputes. If any event constituting Force Majeure occurs, the affected party shall notify the other party in writing, disclosing the estimated length of the delay and the cause of the delay. If a Force Majeure occurs, the affected party will not be deemed to have violated its obligations under this Agreement, and time for performance of any obligations of that party will be extended by a period of time necessary to overcome the effects of the Force Majeure.

8.8 Compliance with Laws. Client and Hart shall comply with all federal, state, and local laws in the performance of this Agreement, including those governing use of the Equipment and Software. Equipment and Software provided under this Agreement may be subject to U.S. and other government export control regulations. Client shall not export or re-export any Equipment or Software.

8.9 Assignments. Hart may assign this Agreement or its interest in any Equipment or Software, or may assign the right to receive payments, without Client's consent. Any such assignment, however, will not change the obligations of Hart to Client that are outstanding at the time of assignment. Client will be notified in writing if Hart makes an assignment of this Agreement. Client shall not assign

this Agreement without the express written consent of Hart, such consent not to be unreasonably withheld. In the event of any permitted assignment of this Agreement, the assignee shall assume the liabilities and responsibilities of the assignor, in writing.

8.10 Independent Contractors. Client and Hart are independent contractors and are not agents or partners of each other. Hart's employees, agents, and subcontractors will not be entitled to any privileges or benefits of Client employment. Client's employees, agents, and contractors will not be entitled to any privileges or benefits of Hart employment.

8.11 Notices. Any notice required or permitted to be given under this Agreement by one party to the other must be in writing and shall be given and deemed to have been given immediately if delivered in person to the address set forth on the Signature Page for the party to whom the notice is given, or on the fifth (5th) business day following mailing if placed in the United States Mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the party at the party's address set forth on the Signature Page. Each party may change its address for notice by giving written notice of the change to the other party.

8.12 Trademarks. eSlate™, eSlate 3000™, Judge's Booth Controller™, JBC1000™, Disabled Access Unit™, DAU5000™, Mobile Ballot Box™, Ballot Origination Software System™, BOSS™, Tally™, Rally™, FUSION™, and Ballot Now™ are trademarks of Hart.

9. Definitions:

"*Acceptance Testing*" means testing in accordance with the Acceptance Testing Procedure provided Client at time of delivery.

"*Agreement*" has the meaning set forth in the Signature Page.

"*Annual Fee*" means the combined annual license, sublicense, and support fees payable by Client to Hart under the eSlate™ Warranty, Support, and License Agreement.

"*Client*" has the meaning set forth in the Signature Page.

"*Confidential and Proprietary Information*" means Software, firmware, diagnostics, documentation (including operating manuals, user documentation, and environmental specifications), designs and configurations of Equipment, Software, and firmware, trade secrets and related documentation, and any other information confidential to Hart or its suppliers or licensors.

"*DAU™*" means the Disabled Access Unit (DAU5000™) created by Hart as an add-on component to an eSlate that facilitates the performance of voting activities by disabled voters, for example, by providing an audio ballot presentation and/or accepting inputs from specialized switch mechanisms, such as head switches, breath switches, and panel switches that facilitate interaction with disabled voters, as needed.

"*Effective Date*" has the meaning set forth in the Signature Page and indicates the date this Agreement becomes effective.

"*Equipment*" means the eSlate Hardware and Non-Hart Equipment listed on Schedule A.

“*eScan™*” means the eScan™ device created by Hart, consisting of a precinct digital ballot imaging device single-feed scanner that transports and scans both sides of a ballot simultaneously, and a base that provides for secure ballot storage and transport.

“*eSlate™*” means the eSlate 3000™ created by Hart and consisting of hardware including an electronically configurable, network-capable voting station that permits a voter to cast votes by direct interaction, which voting station in its present configuration created by Hart comprises an electronically configurable liquid crystal display (LCD) panel for use in displaying ballot images, a rotary input device for use in ballot navigation, and various buttons that facilitate voter options for selecting ballot choices and casting a ballot.

“*eSlate™ Electronic Voting System*” means the Equipment and the Software.

“*eSlate™ Hardware*” means the eSlate™, JBC™, and DAU™ in the quantities listed on Schedule A.

“*eSlate™ Warranty, Support, and License Agreement*” means the eSlate™ Warranty, Support, and License Agreement in the form of Exhibit A to be entered into by Hart and Client simultaneously upon entering into this Agreement.

“*Firmware*” means the Hart Proprietary Software embedded in eSlate voting devices that allows execution of the software functions, but does not allow access to or modification of the software by an end user.

“*Hart*” means Hart InterCivic, Inc., a Texas corporation.

“*Hart Proprietary Software*” means the run-time executable code and associated support files of the Ballot Origination Software System (BOSS™) Software, Tally™ Software, Rally™ Software, Ballot Now™ Software, computer code and software resident in the eSlate Hardware, and other support software utilities as specified on Schedule B, consisting of computer programs and computer code owned by Hart that are licensed to Client pursuant to the eSlate™ Warranty, Support, and License Agreement, and all updates, upgrades, versions, new releases, derivatives, revisions, corrections, improvements, rewrites, bug fixes, enhancements, and other modifications, including any custom modifications, to such computer programs and code that are provided to Client, and all copies of the foregoing. Hart Proprietary Software also includes all documentation provided by Hart to Client with respect to these computer programs and code, and all copies of the foregoing (electronic and hard copy).

“*Initial Annual Fee*” means the first Annual Fee payable under the eSlate™ Warranty, Support, and License Agreement, which is included in the Total Purchase Price.

“*Installation Date*” means, with respect to eSlate Hardware, the date of delivery to Client and, with respect to Hart Proprietary Software, the date Hart completes delivery and installation of the Hart Proprietary Software.

“*JBC™*” means the Judge’s Booth Controller (JBC1000™) created by Hart that is a local area network controller capable of interacting with one or more eSlate devices or DAU devices by transmitting and receiving signals that manage or control an election, e.g., by opening and closing the polls, providing or recording an audit trail of system events during an election, storing cast ballot data, and applying data security and integrity algorithms.

“*Non-Hart Equipment*” means the equipment listed on Schedule A that is not eSlate Hardware.

“Non-Hart Software” means the run-time executable code and associated support files of computer programs owned by third parties that are identified on Schedule C and sublicensed by Hart to Client pursuant to the eSlate™ Warranty, Support, and License Agreement or licensed directly by the third-party licensor to Client, and all updates, upgrades, versions, new releases, derivatives, revisions, corrections, improvements, rewrites, bug fixes, enhancements, and other modifications to such computer programs and code that are provided to Client, and all copies of the foregoing. Non-Hart Software also includes all documentation provided to Client with respect to these computer programs, and all copies of the foregoing.

“Software” means the Hart Proprietary Software and Firmware and Non-Hart Software.

“Sublicensed Software” means Non-Hart Software and Firmware that is identified on Schedule C as being sublicensed by Hart to Client pursuant to the eSlate™ Warranty, Support, and License Agreement.

“VBO™” means the Voter Verifiable unit used in conjunction with the eSlate™ for a *Voter Verifiable Paper Audit Trail*.

“Total Purchase Price” is defined in Section 2.1.

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SCHEDULE A
EQUIPMENT AND PRICING

QUANTITY	MODEL	DESCRIPTION	UNIT PRICE	TOTAL PRICE
Hardware				
45	eSlate 3000™.	Electronic Voting Appliance.	\$2,500.00	\$112,500.00
45	DAU 5000™ Upgrade.	Disabled Access Unit voting unit upgrade.	\$500.00	\$22,500.00
45	JBC 1000™.	Judge's Booth Controller.	\$2,500.00	\$112,500.00
36	eScan™.	Precinct Ballot Digital Imaging.	\$4,500.00	\$162,000.00
45	eSlate DAU™ Voting Booths.	Voting booths for the Disabled Access Unit voting units.	Included.	No Charge.
126	Mobile Ballot Boxes™ (MBB™s).	Mobile Ballot Boxes.	Included.	No Charge.
135	Additional Mobile Ballot Boxes™.	Spare MBB™s.	\$59.25	\$7,998.75
45	Audio cards.	Audio cards.	Included.	No Charge.
6	eSlate™ Caddy.	Storage caddy for 8 voting booths.	Included.	No Charge.
Software				
1	Election Management Software System.	BOSS™, Tally™, Ballot Now™, and Servo™ electronic voting system software.	\$125,100.00	\$125,100.00
PC Hardware				
2	Personal Computers.	PC workstations.	\$3,000.00	\$6,000.00
1	Notebook Computers.	For use with Servo™ software.	\$3,500.00	\$3,500.00
1	Log Printer.	Dot Matrix Tally™ log printer.	\$500.00	\$500.00
2	Laser Printer.	Low-volume laser printer.	\$850.00	\$1,700.00
1	Laser Printer.	High-volume laser printer.	\$5,000.00	\$5,000.00
1	Scanner.	Low-volume scanner.	\$6,000.00	\$6,000.00

3	MBB™ Card Reader.	ATA card reader.	\$125.00	\$375.00
4	eCM.	Electronic security key.	\$60.00	\$240.00
Services				
12 Days.	Project Management.	Number of project management days.	\$1,500.00 per day.	\$18,000.00
5 Days.	Training.	Number of training days.	\$1,500.00 per day.	\$7,500.00
1	Voter Education Outreach Program Management.	VEO program management budget.	\$4,000.00	\$4,000.00
First Year.	eSlate™ First Year License/Support.	eSlate™ license and support for the first year.	\$19,550.00	\$19,550.00
Second Year.	Extended Warranty	Extended warranty for eScan™s.	\$3,600.00	\$3,600.00

Total Price for Equipment:	\$444,413.75
Total Price for Software:	\$125,100.00
Total Price for Services:	\$29,500.00
Initial Annual Fee:	\$19,550.00
State and Local Taxes (if any):	\$0.00
Total System Price:	\$618,563.75
Less Special County Discount:	-\$89,714.75
Purchase Price:	\$528,849.00

2 Units.	Optional Extended Warranty.	Extended warranty for eSlate™s, DAU™s, and JBC™s.	\$4,500.00 per year.	\$9,000.00
3 Units.	Optional Extended Warranty.	Extended warranty for eScan™s.	\$3,600.00 per year.	\$10,800.00

Optional Extended Warranty: \$19,800.00

Total Purchase Price (including Optional Extended Warranty): \$548,649.00

Note: There will be an additional charge at Hart's current technician's rate per hour for any technical work required as a result of *other than Hart-recommended hardware* purchased by the Client for use with the Hart eSlate™ Electronic Voting System.

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SCHEDULE A1

HARDWARE AND SOFTWARE VERSION NUMBERS

The following are the version numbers of the hardware and software provided to the Client under the eSlate™ Agreement with Hart InterCivic, Inc.:

Software Versions for eSlate Hardware:

eSlate 3000™ (DRE v.2.0.13.)

eSlate DAU 5000™ (v.2.0.13.)

JBC 1000™ (v.2.2.1.).

Software Versions:

BOSS™ (v.3.4.0.)

Tally™ (v.3.2.0.)

Ballot Now™ (v.2.3.0.).

Note: This page only should be forwarded to the Texas Secretary of State to provide the necessary hardware and software version information.

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SCHEDULE B

HART PROPRIETARY SOFTWARE

QUANTITY	MODEL	DESCRIPTION	UNIT PRICE	NUMBER OF LICENSES	INITIAL LICENSE FEE
One (1).	BOSS™, Tally™, Ballot Now™, & SERVO™.	Ballot Origination Software System (BOSS™); Tabulation and Reporting (Tally™); Ballot On Demand (Ballot Now™); and Equipment and Data Management Software (SERVO™).	\$125,100.00	Four (4) (One each for BOSS™, Tally™, Ballot Now™, & SERVO™).	\$125,100.00

Licensed Location: Hunt County, Texas.

NOTE: Hart and Client will update this Schedule as appropriate if Hart releases new Hart Proprietary Software that is made available to Client under the eSlate™ Warranty, Support, and License Agreement.

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SCHEDULE C**NON-HART SOFTWARE**

Non-Hart Software Sublicensed to Client:

QUANTITY	MODEL	DESCRIPTION	UNIT PRICE	NUMBER OF LICENSES	TOTAL PRICE
Four (4).	Sybase Embedded Runtime Program.	Database Engine.	No Charge.	Four (4).	No Charge

NOTE: Hart and Client will update this Schedule as appropriate if Hart provides new or different Non-Hart Software to Client under the eSlate™ Warranty, Support, and License Agreement.

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EXHIBIT A

eSlate™ Warranty, Support, and License Agreement

(See Attached Agreement)



eSLATE™ WARRANTY, SUPPORT, AND LICENSE AGREEMENT

(SIGNATURE PAGE)

This eSlate™ Warranty, Support, and License Agreement (“**Agreement**”) is entered into by and between Hart InterCivic, Inc., a Texas corporation (“**Hart**”), and Hunt County (“**Client**”), a governmental subdivision of the State of Texas. This Agreement is entered into in connection with an eSlate™ Agreement dated July 25, 2005, between Hart and Client under which Client has purchased eSlate™ Hardware. This Agreement sets forth terms between Hart and Client applicable to Client’s ownership and use of the eSlate™ Hardware and license from Hart of Hart Proprietary Software (including Firmware), including warranty, support, license, and other terms. Defined terms used in this Agreement will have the meanings specified in Section 13, Definitions, or as otherwise set forth herein.

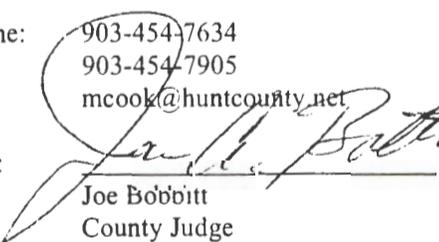
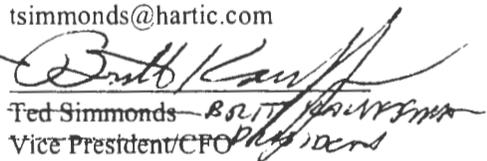
For Clients purchasing under the Texas Building and Procurement Commission (TBPC) contract, this Agreement is incorporated into the state contract by reference. The state term contract supercedes any conflicting terms between this Agreement and the state contract.

The following Schedules are attached to this Agreement and made a part hereof:

Schedule A	Support Contact Information
Schedule B	Hart Proprietary Software
Schedule C	Non-Hart Software
Schedule D	Initial Annual Fee

Client acknowledges it has read and understands this Agreement (including all Schedules) and is entering into this Agreement only on the basis of the terms expressly set forth in this Agreement. There are no oral agreements, representations, or warranties. The Effective Date of this Agreement is July 25, 2005.

Agreed and Accepted:

	<u>Client</u>	<u>Hart</u>
Name:	Hunt County, Texas	Hart InterCivic, Inc.
Address:	2500 Lee Street, 2 nd Floor Greenville, Texas 75401	15500 Wells Port Drive Austin, Texas 78728 Attn.: Ted Simmonds Vice President/CFO
Primary Phone:	903-454-7634	800-223-4278
Facsimile:	903-454-7905	800-831-1485
E-mail:	mcook@huntcounty.net	tsimmonds@hartic.com
Executed By:		
Name:	Joe Bobbitt	Ted Simmonds
Title:	County Judge	Vice President/CFO

This Agreement is not effective until executed by both parties.

In consideration for the agreements set forth herein, the parties agree as follows:

1. WARRANTY TERMS

1.1 eSlate™ Hardware Limited Warranty. Hart warrants that during the warranty period the eSlate Hardware purchased by Client will be free from defects in materials and workmanship and will substantially conform to the performance specifications stated in the Hart Precinct Voting System Operator's Manual for the eSlate Hardware. The hardware warranty period is three (3) years, other than the VBO unit(s) and/or eScan™ unit(s), which is one (1) year, beginning from the Installation Date. Hart will, at Hart's sole discretion, replace or repair any eSlate Hardware that does not comply with this warranty, at no additional charge to Client. To request warranty service, Client must contact Hart in writing within the warranty period. Hart may elect to conduct any repairs at Client's site, Hart's facility, or any other location specified by Hart. Any replacement eSlate Hardware provided to Client under this warranty may be new or reconditioned. Hart may use new and reconditioned parts in performing warranty repairs and building replacement products. If Hart repairs or replaces eSlate Hardware, its warranty period is not extended and will terminate upon the end of the warranty period of the replaced or repaired eSlate Hardware. Hart owns all replaced eSlate Hardware and all parts removed from repaired products. Client acknowledges and agrees that this warranty is contingent upon and subject to Client's proper use of the eSlate™ Electronic Voting System and the Exclusions from Warranty and Support Coverage set forth in Section 1.3. This warranty does not cover any eSlate Hardware that has had the original identification marks and/or numbers removed or altered in any manner. The remedies set forth in this Section are the full extent of Client's remedies and Hart's obligations regarding this warranty.

1.2 Hart Proprietary Software Limited Warranty. Hart warrants that during the term of this Agreement, the Hart Proprietary Software will perform substantially according to the then-current functional specifications described in the BOSS™, Tally™, Rally™, and Ballot Now™ Operators' Manuals accompanying such Hart Proprietary Software. To request warranty service, Client must contact Hart in writing within the warranty period. Failure to conform to the warranty must be reported in writing and be accompanied with sufficient detail to enable Hart to reproduce the error and provide a remedy or suitable workaround. Hart will make commercially reasonable efforts to remedy or provide a suitable workaround for defects, errors, or malfunctions covered by this warranty that have a significant adverse affect upon operation of the Hart Proprietary Software, at no additional charge to Client. Because not all errors or defects can or need to be corrected, Hart does not warrant that all errors or defects will be corrected. Client acknowledges and agrees that this warranty is contingent upon and subject to Client's proper use of the eSlate™ Electronic Voting System and the Exclusions from Warranty and Support Coverage set forth in Section 1.3. The remedies set forth in this Section 1.2 are the full extent of Client's remedies and Hart's obligations regarding this warranty.

1.3 Exclusions from Warranty and Support Coverage. The warranties under this Section 1 and Software Support under Section 2 do not cover defects, errors, or malfunctions that are caused by any external causes, including, but not limited to, any of the following: (a) Client's failure to follow operational, support, or storage instructions as set forth in applicable documentation; (b) the use of noncompatible media, supplies, parts, or components; (c) modification or alteration of the eSlate Electronic Voting System, or its components, by Client or third parties not authorized by Hart; (d) use of equipment or software not supplied or authorized by Hart; (e) external factors (including, without limitation, power failure, surges or electrical damage, fire or water damage, air conditioning failure, humidity control failure, or corrosive atmosphere harmful to electronic circuitry); (f) failure to maintain proper site specifications and environmental conditions; (g) negligence, accidents, abuse, neglect, misuse, or tampering; (h) improper or abnormal use or use under abnormal conditions; (i) use in a manner not authorized by this Agreement or use inconsistent with Hart's specifications and instructions; (j) use of software on Equipment that is not in good operating condition; (k) acts of Client, its agents, servants,

employees, or any third party; (l) servicing or support not authorized by Hart; or (m) Force Majeure. Hart reserves the right to charge for repairs on a time-and-materials basis at Hart's then-prevailing rates, plus expenses, and for replacements at Hart's list prices caused by these exclusions from warranty and support coverage.

1.4 Non-Hart Equipment and Non-Hart Software Excluded. HART MAKES NO REPRESENTATIONS OR WARRANTIES AS TO NON-HART EQUIPMENT AND NON-HART SOFTWARE, IF ANY, PROVIDED BY HART TO CLIENT, ALL OF WHICH IS SOLD, LICENSED, OR SUBLICENSSED TO CLIENT "AS IS." HART HAS NO RESPONSIBILITY OR LIABILITY FOR NON-HART EQUIPMENT AND NON-HART SOFTWARE, IF ANY, PROVIDED BY HART'S DISTRIBUTORS OR OTHER THIRD PARTIES TO CLIENT. If Hart sells, licenses, or sublicenses any Non-Hart Equipment or Non-Hart Software to Client, Hart will pass through to Client, on a nonexclusive basis and without recourse to Hart, any third-party manufacturer's warranties covering the equipment or software, but only to the extent, if any, permitted by the third-party manufacturer. Client agrees to look solely to the warranties and remedies, if any, provided by the manufacturer or third-party licensor.

1.5 Disclaimer. THE WARRANTIES IN THIS WARRANTY TERMS SECTION GIVE CLIENT SPECIFIC LEGAL RIGHTS, AND CLIENT MAY ALSO HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE (OR JURISDICTION TO JURISDICTION). HART'S RESPONSIBILITY FOR MALFUNCTIONS AND DEFECTS IN ESLATE™ HARDWARE AND HART PROPRIETARY SOFTWARE IS LIMITED TO REPAIR AND REPLACEMENT AS SET FORTH IN THIS WARRANTY TERMS SECTION. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT FOR THE EXPRESS LIMITED WARRANTIES IN SECTION 1 OF THIS AGREEMENT, (A) THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE UNDER THIS AGREEMENT OR IN CONNECTION WITH THE SALE OF ESLATE™ HARDWARE AND LICENSE OF HART PROPRIETARY SOFTWARE, AND (B) HART DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, TITLE, AND NONINFRINGEMENT FOR ALL EQUIPMENT, SOFTWARE, AND SERVICES. THE EXPRESS WARRANTIES EXTEND SOLELY TO CLIENT. SOME STATES (OR JURISDICTIONS) DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES, SO THE ABOVE LIMITATION MAY NOT APPLY TO CLIENT.

2. SOFTWARE SUPPORT SERVICES

2.1 Description of Software Support Services. Subject to the terms and conditions of this Agreement, Hart will provide Client the Software Support Services described below. Support Services under this Section 2 do not cover any of the exclusions from warranty and support coverage as described under Section 1.3. If Hart, in its discretion, provides Support Services in addition to the services described under this Section 2, Client will pay Hart for such services on a time-and-materials basis at Hart's then-prevailing rates, plus expenses, and for replacements at Hart's list prices, unless otherwise agreed in writing by Hart and Client.

2.1.1 General Software Support. *General Software Support* will consist of assisting the Client in the design and production of elections, including pre-election and post-election testing and general operation of the eSlate™ Electronic Voting System.

2.1.2 Software Support Services. Software Support Services will consist of periodic updates and any software "bug" corrections to Hart software. A software "bug" is any malfunction that prevents the Hart software from performing substantially as described in the then-current operator's

manual for such software. Because not all errors or defects can or need to be corrected, Hart does not warrant that all errors or defects will be corrected. Hart reserves the right to determine whether any reported, claimed software malfunction is in fact a "bug." Software "bugs" must be reported in writing and be accompanied with sufficient detail to enable Hart staff to reproduce the error and provide a remedy or suitable workaround. The exclusions from warranty coverage under Section 1.3 also are exclusions from Software Support Services under this Section 2.1.2.

2.1.3 Hardware Enhancement(s)/Upgrade(s). Hart will develop and provide to Client upgrades to the eSlate™ Hardware to implement a voter verifiable paper record if required by State and/or Federal law. Such hardware upgrades are not provided free-of-charge, and are dependent on the Client having paid all necessary annual Software Support and Maintenance fees for the Hart Software and Support. Based on Hart's current design for such a product feature add-on, the price is estimated to be approximately \$1,250.00 per unit, not including the cost of retrofitting existing units. This price may change depending on any specific standards mandated by State or Federal law.

2.1.4 Client Suggestions and Recommendations. Client may propose, suggest, or recommend changes to the Software at any time in writing to Hart. Such proposals, suggestions, or recommendations will become Hart's property. Hart may include any such proposals, suggestions, or recommendations, solely at Hart's option, in subsequent periodic Software updates. Hart is under no obligation to change, alter, or otherwise revise the Software according to Client's proposals, suggestions, or recommendations.

2.2 Software Support Services Contact Information. Support contact information is set forth in Schedule A, Support Contact Information.

3. SOFTWARE LICENSES AND SUBLICENSES

3.1 Licenses and Sublicenses. Subject to the terms and conditions of this Agreement, Hart grants to Client a personal, nonexclusive, nontransferable, and limited license to use the Hart Proprietary Software and a personal, nonexclusive, nontransferable, and limited sublicense to use the Sublicensed Software. Hart will provide Client, and Client will be permitted to use, only the run-time executable code and associated support files of the Software for Client's internal data processing requirements as part of the eSlate™ Electronic Voting System. The Software may be used only in the United States at the Licensed Location specified on Schedule B on the Equipment or other computer systems authorized by Hart in writing. Client may temporarily transfer the Software to a backup computer system at an alternative location within Client's county of operation if the Equipment or other authorized computer system is inoperative or the Licensed Location is temporarily unavailable, provided Client must promptly give Hart written notice of such temporary transfer, including a description of the backup computer system and the alternative location. Client's use of the Software will be limited to the number of users specified in Exhibits B and C. Only Client and its authorized employees may use or access the Software. Voters are also authorized to interact with the Software, in a manner consistent with user instructions, for the sole purpose of producing a Cast Vote Record during the course of an election. Client agrees that Hart, the licensors of Sublicensed Software, and their representatives may periodically inspect, conduct, and/or direct an independent accounting firm to conduct an audit, at mutually agreed-upon times during normal business hours, of the computer site, computer systems, Equipment, and appropriate records of Client to verify Client's compliance with the terms of the licenses and sublicenses granted to Client.

3.2 Delivery and Installation. Hart will deliver and install the Software at the Client's site on a mutually agreed-upon date during Hart's normal working hours. The Software will be deemed accepted upon the Installation Date.

3.3 Training and Documentation. Hart will provide standard user-level documentation in electronic form for the Software and standard operational training before the first election for which the Software will be used. Charges for additional training or support services will be invoiced to Client at Hart's then-current hourly rates, plus travel, communication, and other expenses. Any nonstandard or additional training or support services will be mutually agreed to by Hart and Client and documented in an amendment to this Agreement.

3.4 Protection of Software.

(a) The eSlate Hardware and Hart Proprietary Software are designed to be used only with each other and the agreed-upon Non-Hart Software and Non-Hart Equipment. To protect the integrity and security of the eSlate™ Electronic Voting System, without the express written consent of Hart, (i) Client shall use the Software and Equipment only in connection with the eSlate™ Electronic Voting System; (ii) Client shall not install or use other software on or with the Equipment or Software or network the Equipment or Software with any other hardware, software, equipment, or computer systems; and (iii) Client shall not modify the Equipment or Software. If Client does not comply with any provisions of the preceding sentence, then (i) the Limited Warranties under Section 1 will automatically terminate; (ii) Hart may terminate its obligation to provide Support Services under Section 2; (iii) Hart will have no further installation obligations under Section 3.2 (Delivery and Installation), and (iv) Hart will have no further obligations under Section 3.3 (Training and Documentation). Furthermore, if Client uses the Software and Equipment in combination with other software and equipment (other software or equipment being those not provided by Hart or its designees), and the combination infringes Hart proprietary patent claims outside the scope of the software license granted to Client under Section 3, Hart reserves its rights to enforce its patents with respect to those claims.

(b) Client shall not, under any circumstances, cause or permit the adaptation, conversion, reverse engineering, disassembly, or decompilation of any Software. Client shall not use any Software for application development, modification, or customization purposes, except through Hart.

(c) Client shall not assign, transfer, sublicense, time-share, or rent the Software or use it for facility management or as a service bureau. This restriction does not preclude or restrict Client from contracting for election services for other local governments located within Client's jurisdictional boundaries. Client shall not modify, copy, or duplicate the Software; provided, during the term of the Software licenses and sublicenses, Client may have in its possession one (1) copy of the Software for inactive archival or backup purposes. All copies of the Software, in whole or in part, must contain all of Hart's or the third-party licensor's titles, trademarks, copyright notices, and other restrictive and proprietary notices and legends (including government-restricted rights) as they appear on the copies of the Software provided to Client. Client shall notify Hart of the following: (i) the location of all Software and all copies thereof and (ii) any circumstances known to Client regarding any unauthorized possession or use of the Software.

(d) Upon termination of Client's license or sublicense of Software, Client shall immediately discontinue all use of the Software and return to Hart or destroy, at Hart's option, the Software (and all related documentation (electronic and hard copy) and Confidential and Proprietary Information) and all archival, backup, and other copies thereof, and provide certification to Hart of such return or destruction.

(e) Client shall not publish any results of benchmark tests run on any Software.

(f) Although the Hart Proprietary Software and Sublicensed Software are protected by copyright and/or patents, they may be unpublished, and constitute Confidential and Proprietary Information of

Hart and the third-party licensor, respectively. Client shall maintain the Software in confidence and comply with the terms of Section 6, Protection of Confidential and Proprietary Information, with respect to the Software.

(g) This Section 3.4 will survive the termination or cancellation of this Agreement.

3.5 No Transfer of Title. This Agreement does not transfer to Client title to any Software, intellectual property contained in any Software, or Confidential and Proprietary Information. Title to Hart Proprietary Software and all copies thereof, and all associated intellectual property rights therein, will remain in Hart. Title to Non-Hart Software and all copies thereof, and all associated intellectual property rights therein, will remain in the applicable third-party licensor.

3.6 Inherently Dangerous Applications. The Software is not developed or licensed for use in any nuclear, aviation, mass transit, or medical application or in any other inherently dangerous applications. Client shall not use the Software in any inherently dangerous application and agrees that Hart and any third-party licensor will not be liable for any claims or damages arising from such use.

4. ANNUAL FEE

4.1 Amount of Annual Fee. The Annual Fee is a combined licensing, sublicensing, and support fee. Client will pay Hart an Annual Fee upon execution of this Agreement and annually thereafter before each Anniversary Date. The amount of the Initial Annual Fee, payable upon execution of this Agreement, is the amount specified as the "Initial Annual Fee" on Schedule D, Initial Annual Fee. Subsequent Annual Fees are due annually before each Anniversary Date of this Agreement. Hart may adjust the amount of the Annual Fee payable on each Anniversary Date by notifying Client of any price changes with the invoice in which the adjustment is made. Unless adjusted by Hart, each Annual Fee will be the same as the immediately preceding Annual Fee.

4.2 Invoices. Hart will invoice Client annually ninety (90) calendar days before the due date of the Annual Fee.

4.3 Payments. Client must pay each invoiced Annual Fee before the Anniversary Date immediately following the date of invoice. If Client elects not to or fails to timely pay an Annual Fee, this Agreement and the licenses, sublicenses, and software support services will automatically terminate on such Anniversary Date. All payments are to be made to Hart at its principal office in Austin, Texas, as set forth on the Signature Page or to such other location as may be designated by Hart in a notice to Client.

4.4 Additional Charges. Additional charges may apply to services rendered outside contracted hours or beyond normal coverage at Client's request, e.g., travel expenses, and premium and minimum charges. Any additional charges must be mutually agreed to by Hart and Client and documented in an amendment to this Agreement.

4.5 Payment Disputes. If any dispute exists between the parties concerning the amount due or due date of any payment, Client shall promptly pay the undisputed portion. Such payment will not constitute a waiver by Client or Hart of any of their respective legal rights and remedies against each other.

4.6 Taxes. If Client is tax-exempt, Client will provide Hart with proof of its tax-exempt status. If Client is not tax-exempt, (a) Client will pay any tax Hart becomes obligated to pay in

connection with this Agreement, exclusive of taxes based on the net income of Hart and (b) Client will pay all personal property and similar taxes assessed after shipment. If Client challenges the applicability of any such tax, Client shall pay the tax and may thereafter seek a refund.

4.7 Suspension of Performance. If any payment due to Hart under this Agreement is past due more than thirty (30) days, Hart may suspend performance under this Agreement until all amounts due are current.

5. CLIENT RESPONSIBILITIES

5.1 Independent Determination. Client acknowledges it has independently determined that the eSlate™ Electronic Voting System meets its requirements.

5.2 Cooperation. Client agrees to cooperate with Hart and promptly perform Client's responsibilities under this Agreement. Client will (a) provide adequate working and storage space for use by Hart personnel near Equipment; (b) provide Hart full access to the Equipment and Software and sufficient computer time, subject to Client's security rules; (c) follow Hart's procedures for placing hardware warranty or software support service requests and determining if warranty remedial service is required; (d) follow Hart's instructions for obtaining hardware and software support and warranty services; (e) provide a memory dump and additional data in machine-readable form if requested; (f) reproduce suspected errors or malfunctions in Software; (g) provide timely access to key Client personnel and timely respond to Hart's questions; and (h) otherwise cooperate with Hart in its performance under this Agreement.

5.3 Site Preparation. Client shall prepare and maintain the installation site in accordance with instructions provided by Hart. Client is responsible for environmental requirements, electrical interconnections, and modifications to facilities for proper installation, in accordance with Hart's specifications. Any delays in preparation of the installation site will correspondingly extend Hart's delivery and installation deadlines.

5.4 Site Maintenance; Proper Storage. Client shall maintain the appropriate operating environment, in accordance with Hart's specifications, for the Equipment and Software and all communications equipment, telephone lines, electric lines, cabling, modems, air conditioning, and all other equipment and utilities necessary for the Equipment and Software to operate properly. Client shall properly store the Equipment and Software when not in use.

5.5 Use. Client is exclusively responsible for supervising, managing, and controlling its use of the eSlate™ Electronic Voting System, including, but not limited to, establishing operating procedures and audit controls, supervising its employees, making daily backups, inputting data, ensuring the accuracy and security of data input and data output, monitoring the accuracy of information obtained, and managing the use of information and data obtained. Client will ensure that its personnel are, at all times, educated and trained in the proper use and operation of the eSlate™ Electronic Voting System and that the Equipment and Software are used in accordance with applicable manuals, instructions, and specifications. Client shall comply with all applicable laws, rules, and regulations with respect to its use of the eSlate™ Electronic Voting System.

5.6 Backups. Client will maintain backup data necessary to replace critical Client data in the event of loss or damage to data from any cause.

6. PROTECTION OF CONFIDENTIAL AND PROPRIETARY INFORMATION

6.1 Confidentiality. Client will keep in confidence and protect Confidential and Proprietary Information (electronic or hard copy) from disclosure to third parties and restrict its use to uses expressly permitted under this Agreement. Client shall take all reasonable steps to ensure that the trade secrets and proprietary data contained in the Equipment and Software and the other Confidential and Proprietary Information are not disclosed, copied, duplicated, misappropriated, or used in any manner not expressly permitted by the terms of this Agreement. Client shall keep the Software and all tapes, diskettes, CDs, and other physical embodiments of them, and all copies thereof, at a secure location and limit access to those employees who must have access to enable Client to use the Software. Client acknowledges that unauthorized disclosure of Confidential and Proprietary Information may cause substantial economic loss to Hart or its suppliers and licensors. Each permitted copy of Confidential and Proprietary Information, including its storage media, will be marked by Client to include all notices that appear on the original. Title, copyright, and all other proprietary rights in and to the Software at all times remains vested exclusively in Hart or, as applicable, third-party licensors.

6.2 Return of Confidential and Proprietary Information. Upon termination or cancellation of this Agreement or, if earlier, upon termination of Client's permitted access to or possession of Confidential and Proprietary Information, Client shall return to Hart all copies of the Confidential and Proprietary Information in Client's possession (including Confidential and Proprietary Information incorporated in software or writings, electronic and hard copies).

6.3 Intellectual Properties. All ideas, concepts, know-how, data processing techniques, documentation, diagrams, schematics, firmware, equipment architecture, software, improvements, bug fixes, upgrades, and trade secrets developed by Hart personnel (alone or jointly with Client) in connection with Confidential and Proprietary Information, eSlate Hardware, and Hart Proprietary Software will be the exclusive property of Hart.

6.4 Support Materials. Client acknowledges that all support materials are the property of Hart and include Confidential and Proprietary Information of Hart. Client agrees that it will not permit anyone other than Hart installation and support personnel and authorized County employees to use such materials.

6.5 Client Employees. Client will inform its employees of their obligations under this Section 6 to ensure that such obligations are met.

6.6 License Back. If Client possesses or comes to possess a licensable or sublicensable interest in any issued patent with claims that read upon the eSlate™ Electronic Voting System, its method of operation, or any component thereof, Client hereby grants and promises to grant an irrevocable, royalty-free, paid-up license, with right to sublicense, of such interest to Hart permitting Hart to make, have made, use, and sell materials or services within the scope of the patent claims.

6.7 Survival. This Section 6 will survive termination or cancellation of this Agreement.

7. TITLE; RISK OF LOSS

7.1 Software.

(a) *Hart Proprietary Software:* Title to Hart Proprietary Software, all copies thereof, and all associated intellectual proprietary rights therein will remain in Hart including, but not limited to, all patents, copyrights, trade secrets, trademarks, and other proprietary rights.

(b) *Non-Hart Software*: Title to Non-Hart Software, all copies thereof, and all associated intellectual proprietary rights therein will remain in the applicable third-party licensor including, but not limited to, all patents, copyrights, trade secrets, trademarks, and other proprietary rights.

(c) *Risk of Loss*: Risk of loss to Software will pass to Client upon delivery.

7.2 Confidential and Proprietary Information. Title to Hart's Confidential and Proprietary Information will remain in Hart. Title to Confidential and Proprietary Information of Hart's suppliers and licensors will remain in the relevant suppliers and licensors.

7.3 Proprietary Rights. Client acknowledges and agrees that the design of the eSlate Electronic Voting System, design of the eSlate Hardware, Hart Proprietary Software, and any and all related patents, copyrights, trademarks, service marks, trade names, documents, logos, software, microcode, information, and material, are the property of Hart. Client agrees that the sale of eSlate Hardware and license of Hart Proprietary Software to Client does not grant to or vest in Client any right, title, or interest in such proprietary property. All patents, trademarks, copyrights, trade secrets, and other intellectual property rights, whether now owned or acquired by Hart with respect to the eSlate™ Electronic Voting System, eSlate Hardware, and Hart Proprietary Software, are the sole and absolute property of Hart and no interest therein is being vested in Client by the execution of this Agreement or the sale of the eSlate Hardware or license of the Hart Proprietary Software to Client. Client shall not, under any circumstances, cause or permit the adaptation, conversion, reverse engineering, disassembly, or decompilation of any Software or Equipment. Client will have no authority or right to copy, reproduce, modify, sell, license, or otherwise transfer any rights in any proprietary property of Hart. The provisions of this Section 7.3 will survive the termination or cancellation of this Agreement.

8. TERM OF AGREEMENT; TERMINATION

8.1 Term. The initial term of this Agreement and the licenses granted herein is one (1) year commencing on the Effective Date and expiring on the first Anniversary Date.

8.2 Renewal Terms. Except as otherwise provided in this Agreement, Client may renew this Agreement before its expiration or termination by paying the Annual Fee invoiced by Hart, as provided in Section 4.2, before the Anniversary Date immediately following the date of invoice, as provided in Section 4.3. Each renewal term will be a one-year (1-year) term, commencing on the expiration of the prior term and expiring on the immediately following Anniversary Date.

8.3 Defaults. The following events will be deemed to be defaults:

(a) A party committing a material breach of any term of this Agreement or the eSlate™ Agreement if such breach has not been cured within thirty (30) days after written notice of such breach has been given by the nondefaulting party to the defaulting party;

(b) A party filing bankruptcy, becoming insolvent, or having its business placed in the hands of a receiver, assignee, or trustee, whether by voluntary act or otherwise; or

(c) A party failing to comply in any material respect with any federal, state, or local laws applicable to a party's performance under this Agreement or the eSlate™ Agreement.

8.4 Termination.

(a) This Agreement will automatically terminate at the end of its then-current term if Client has elected not to or has failed to timely make full payment to Hart of the invoiced Annual Fee required to renew the term, as provided in Sections 4.3 and 8.2.

(b) Hart may terminate Software Support Services under Section 2 on thirty (30) days prior written notice to Client if Hart determines that any alterations, attachments, or modifications not made by Hart or the failure to install a software or hardware release will interfere with the provision of support.

(c) A party may terminate this Agreement before expiration of its term for default by the other party. If default occurs, the parties will have all remedies provided in this Agreement and otherwise available by statute, law, or equity.

8.5 Survival. Section 1.1 will survive the termination or expiration of this Agreement until the end of the warranty period stated therein. Sections 3.4(b), 3.4(c), 3.4(d), 3.4(e), 3.4(f), 6, 7.3, 8.5, 9, 11, and 12 will survive the termination or expiration of this Agreement.

9. LIMITATION OF DAMAGES

9.1 EXCLUSIVE REMEDY. HART DOES NOT ACCEPT ANY LIABILITY FOR WARRANTIES BEYOND THE REMEDIES SET FORTH IN SECTION 1. HART'S ENTIRE LIABILITY AND CLIENT'S EXCLUSIVE REMEDY FOR ANY AND ALL CLAIMS CONCERNING THE ESTATE HARDWARE PROVIDED TO CLIENT BY HART OR ITS DISTRIBUTORS, THIS AGREEMENT, AND SOFTWARE AND SERVICES PROVIDED UNDER THIS AGREEMENT ARE SET FORTH IN THIS SECTION.

9.2 DISCLAIMER. CLIENT IS RESPONSIBLE FOR ASSURING AND MAINTAINING THE BACKUP OF ALL CLIENT DATA. UNDER NO CIRCUMSTANCES WILL HART BE LIABLE TO CLIENT OR ANY THIRD PARTY FOR THE LOSS OF OR DAMAGE TO CLIENT DATA.

9.3 LIMITATION. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, HART, HART'S LICENSORS, AND ANY PARTY INVOLVED IN THE CREATION, MANUFACTURE, OR DISTRIBUTION OF THE EQUIPMENT, SOFTWARE, AND PERFORMANCE OF SERVICES UNDER THIS AGREEMENT WILL NOT BE LIABLE TO CLIENT FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS) OR FOR LOST DATA SUSTAINED OR INCURRED IN CONNECTION WITH THE EQUIPMENT, SOFTWARE, SERVICES, OR THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, REGARDLESS OF THE FORM OF ACTION AND WHETHER OR NOT SUCH DAMAGES ARE FORESEEABLE. IN ADDITION, HART'S TOTAL LIABILITY TO CLIENT FOR DIRECT DAMAGES ARISING OUT OF OR RELATING TO THE EQUIPMENT, SOFTWARE, SERVICES, AND THIS AGREEMENT WILL IN NO EVENT EXCEED THE TOTAL AMOUNT ACTUALLY PAID BY CLIENT TO HART UNDER THIS AGREEMENT. HART IS NOT LIABLE FOR DAMAGES CAUSED IN ANY PART BY CLIENT'S NEGLIGENCE OR INTENTIONAL ACTS OR FOR ANY CLAIM AGAINST CLIENT OR ANYONE ELSE BY ANY THIRD PARTY.

SOME STATES (OR JURISDICTIONS) DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE EXCLUSION OR LIMITATION MAY NOT APPLY TO CLIENT.

9.4 Referrals. Hart may direct Client to third parties having products or services that may be of interest to Client for use in conjunction with the Equipment and Software. Notwithstanding any Hart recommendation, referral, or introduction, Client will independently investigate and test non-Hart products and services and will have sole responsibility for determining suitability for use of non-Hart products and services. Hart has no liability with respect to claims relating to or arising from use of non-Hart products and services, including, without limitation, claims arising from failure of non-Hart products to provide proper time and date functionality.

10. INFRINGEMENT INDEMNITY

10.1 Indemnity. Hart, at its own expense, will defend and indemnify Client against claims that the eSlate Hardware or Hart Proprietary Software infringe a United States patent, copyright, or misappropriate trade secrets protected under United States law, provided Client (a) gives Hart prompt written notice of such claims; (b) permits Hart to control the defense and settlement of the claims; and (c) provides all reasonable assistance to Hart in defending or settling the claims.

10.2 Remedies. As to eSlate Hardware or Hart Proprietary Software that is subject to a claim of infringement or misappropriation, Hart may (a) obtain the right of continued use of the eSlate Hardware or Hart Proprietary Software for Client or (b) replace or modify the eSlate Hardware or Hart Proprietary Software to avoid the claim. If neither alternative is available on commercially reasonable terms, then, at the request of Hart, any applicable Software license and its charges will end, Client will cease using the applicable eSlate Hardware and Hart Proprietary Software, Client will return to Hart all applicable eSlate Hardware and return or destroy all copies of the applicable Hart Proprietary Software, and Client will certify in writing to Hart that such return or destruction has been completed. Upon return or Hart's receipt of certification of destruction, Hart will give Client a credit for the price paid to Hart for the returned or destroyed eSlate Hardware and Hart Proprietary Software, less a reasonable offset for use and obsolescence.

10.3 Exclusions. Hart will not defend or indemnify Client if any claim of infringement or misappropriation (a) is asserted by an affiliate of Client; (b) results from Client's design or alteration of any eSlate Hardware or Hart Proprietary Software; (c) results from use of any eSlate Hardware or Hart Proprietary Software in combination with any non-Hart product, except to the extent, if any, that such use in combination is restricted to the eSlate™ Electronic Voting System designed by Hart; (d) relates to Non-Hart Software or Non-Hart Equipment alone; or (e) arises from Client-specified customization work undertaken by Hart or its designees in response to changes in Hart Proprietary Software or Non-Hart Software that are made in response to Client specifications.

10.4 EXCLUSIVE REMEDIES. THIS SECTION 10 STATES THE ENTIRE LIABILITY OF HART AND CLIENT'S SOLE AND EXCLUSIVE REMEDIES FOR INFRINGEMENT AND TRADE SECRET MISAPPROPRIATION.

11. DISPUTE RESOLUTION

11.1 Disputes and Demands. The parties will attempt to resolve any claim or controversy related to or arising out of this Agreement, whether in contract or in tort ("**Dispute**"), on a confidential basis according to the following process, which either party may start by delivering to the other party a written notice describing the dispute and the amount involved ("**Demand**").

11.2 Negotiation and Mediation. After receipt of a Demand, authorized representatives of the parties will meet at a mutually agreed-upon time and place to try to resolve the Dispute by negotiation. If the Dispute remains unresolved after this meeting, either party may start mandatory nonbinding mediation under the commercial mediation rules of the American Arbitration Association ("**AAA**") or such other mediation process as is mutually acceptable to the parties.

11.3 Injunctive Relief. Notwithstanding the other provisions of this Section 11, if either party seeks injunctive relief, such relief may be sought in a court of competent jurisdiction without complying with the negotiation and mediation provisions of this Section 11.

11.4 Time Limit. Neither mediation under this section nor any legal action, regardless of its form, related to or arising out of this Agreement may be brought more than two (2) years after the cause of action first accrued.

12. GENERAL PROVISIONS

12.1 Entire Agreement. This Agreement and the attachments, schedules, and exhibits hereto are the entire agreement and supersede all prior negotiations and oral agreements. Hart has made no representations or warranties with respect to this Agreement or the eSlate™ Electronic Voting System and its components that are not included herein. Client acknowledges and agrees that Hart has no responsibility or liability under the eSlate™ Agreement except to the extent, if any, that Hart is a party to the eSlate™ Agreement. This Agreement may not be amended or waived except in writing signed by an officer of the party to be bound thereby.

12.2 Preprinted Forms. The use of preprinted forms, such as purchase orders or acknowledgments, in connection with this Agreement is for convenience only and all preprinted terms and conditions stated thereon are void and of no effect. If any conflict exists between this Agreement and any terms and conditions on a purchase order, acknowledgment, or other preprinted form, the terms and conditions of this Agreement will govern and the conflicting terms and conditions in the preprinted form will be void and of no effect. The terms and conditions of this Agreement, including, but not limited to, this Section 12.2, cannot be amended, modified, or altered by any conflicting preprinted terms or conditions in a preprinted form.

12.3 Interpretation. This Agreement will be construed according to its fair meaning and not for or against either party. Headings are for reference purposes only and are not to be used in construing the Agreement. All words and phrases in this Agreement are to be construed to include the singular or plural number and the masculine, feminine, or neuter gender as the context requires.

12.4 GOVERNING LAW. THIS AGREEMENT WILL BE GOVERNED BY THE LAWS

OF THE STATE OF TEXAS, WITHOUT REGARD TO ITS CONFLICT OF LAWS PROVISIONS, UNLESS CLIENT IS A GOVERNMENTAL SUBDIVISION OF ANOTHER STATE, IN WHICH CASE THE LAWS OF THE STATE IN WHICH CLIENT IS A GOVERNMENTAL SUBDIVISION WILL CONTROL.

12.5 Severability. Whenever possible, each provision of this Agreement will be interpreted to be effective and valid under applicable law; but if any provision is found to be invalid, illegal, or unenforceable, then such provision or portion thereof will be modified to the extent necessary to render it legal, valid, and enforceable and have the intent and economic effect as close as possible to the invalid, illegal, or unenforceable provision. If it is not possible to modify the provision to render it legal, valid, and enforceable, then the provision will be severed from the rest of the Agreement and ignored. The invalidity, illegality, or unenforceability of any provision will not affect the validity, legality, or enforceability of any other provision of this Agreement, which will remain valid and binding.

12.6 Delays. Hart is not responsible for failure to fulfill its obligations when due to causes beyond its reasonable control, including the failure of third parties to timely provide Software, Equipment, materials, or labor contemplated herein. Hart will notify Client in writing of any such delay, and the time for Hart's performance will be extended for a period corresponding to the delay. Hart and Client will determine alternative procedures to minimize delays.

12.7 Force Majeure. "Force Majeure" means a delay encountered by a party in the performance of its obligations under this Agreement that is caused by an event beyond the reasonable control of the party, but does not include any delays in the payment of monies due by either party. Without limiting the generality of the foregoing, "Force Majeure" will include, but is not restricted to, the following types of events: acts of God or public enemy; acts of governmental or regulatory authorities (other than, with respect to Client's performance, the Client, and its governing entities); fires, floods, epidemics, or serious accidents; unusually severe weather conditions; and strikes, lockouts, or other labor disputes. If any event constituting Force Majeure occurs, the affected party shall notify the other party in writing, disclosing the estimated length of the delay and the cause of the delay. If a Force Majeure occurs, the affected party will not be deemed to have violated its obligations under this Agreement, and time for performance of any obligations of that party will be extended by a period of time necessary to overcome the effects of the Force Majeure.

12.8 Compliance with Laws. Client and Hart shall comply with all federal, state, and local laws in the performance of this Agreement, including those governing use of the Equipment and Software. Equipment and Software provided under this Agreement may be subject to U.S. and other government export control regulations. Client shall not export or re-export any Equipment or Software.

12.9 Assignments. Hart may assign this Agreement or its interest in any Equipment or Software, or may assign the right to receive payments, without Client's consent. Any such assignment, however, will not change the obligations of Hart to Client that are outstanding at the time of assignment. Client will be notified in writing if Hart makes an assignment of this Agreement. Client shall not assign this Agreement without the express written consent of Hart, such consent not to be unreasonably withheld. In the event of any permitted assignment of this Agreement, the assignee shall assume the liabilities and responsibilities of the assignor, in writing.

12.10 Independent Contractors. Client and Hart are independent contractors and are not agents or partners of each other. Hart's employees, agents, and subcontractors will not be entitled to any privileges or benefits of Client employment. Client's employees, agents, and contractors will not be entitled to any privileges or benefits of Hart employment.

12.11 Notices. Any notice required or permitted to be given under this Agreement by one party to the other must be in writing and shall be given and deemed to have been given immediately if delivered in person to the address set forth on the Signature Page for the party to whom the notice is given, or on the fifth business day following mailing if placed in the United States Mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the party at their address set forth on the Signature Page. Each party may change its address for notice by giving written notice of the change to the other party.

12.12 Trademarks. eSlate™, eSlate 3000™, Judge's Booth Controller™, JBC1000™, Disabled Access Unit™, DAU5000™, Mobile Ballot Box™, Ballot Origination Software System™, BOSS™, Tally™, Rally™, FUSION™, and Ballot Now™ are trademarks of Hart.

13. DEFINITIONS

"*Agreement*" has the meaning set forth on the Signature Page.

"*Anniversary Date*" means each anniversary of the Effective Date.

"*Annual Fee*" means the combined annual license, sublicense, and support fees payable by Client to Hart as described in Section 4.

"*Client*" has the meaning set forth on the Signature Page.

"*Confidential and Proprietary Information*" means Software, firmware, diagnostics, documentation (including operating manuals, user documentation, and environmental specifications), designs and configurations of Equipment, Software and firmware, trade secrets and related documentation, and any other information confidential to Hart or its suppliers or licensors.

"*DAU™*" means the Disabled Access Unit (DAU5000™) created by Hart as an add-on component to an eSlate that facilitates the performance of voting activities by disabled voters, for example, by providing an audio ballot presentation and/or accepting inputs from specialized switch mechanisms, such as head switches, breath switches, and panel switches that facilitate interaction with disabled voters, as needed.

"*Effective Date*" has the meaning set forth in the Signature Page and indicates the date this Agreement becomes effective.

"*Equipment*" means the eSlate Hardware and Non-Hart Equipment.

"*eScan™*" means the eScan™ device created by Hart, consisting of a precinct digital ballot imaging device single-feed scanner that transports and scans both sides of a ballot simultaneously, and a base that provides for secure ballot storage and transport.

"*eSlate™*" means the eSlate 3000™ created by Hart and consisting of hardware including an electronically configurable, network-capable voting station that permits a voter to cast votes by direct interaction, which voting station in its present configuration created by Hart comprises an electronically configurable liquid crystal display (LCD) panel for use in displaying ballot images, a rotary input device for use in ballot navigation, and various buttons that facilitate voter options for selecting ballot choices and casting a ballot.

“*eSlate™ Agreement*” means the agreement, between Client and Hart or Hart’s authorized distributor of eSlate Hardware, under which Client has purchased the eSlate Hardware. The eSlate Agreement is identified on the Signature Page.

“*eSlate™ Electronic Voting System*” means the Equipment and the Software.

“*eSlate™ Hardware*” means the eSlate™ units, JBC™ units, and DAU™ units purchased by Client pursuant to the eSlate Agreement.

“*Firmware*” means the Hart Proprietary Software embedded in eSlate voting devices that allows execution of the software functions, but does not allow access to or modification of the software by an end user.

“*Force Majeure*” has the meaning set forth in Section 12.7.

“*Hart*” means Hart InterCivic, Inc., a Texas corporation.

“*Hart Proprietary Software*” means the run-time executable code and associated support files of the Ballot Origination Software System (BOSS™) Software, Tally™ Software, Rally™ Software, Ballot Now™ Software, computer code, and software resident in the eSlate Hardware and other support software utilities as specified on Schedule B, consisting of computer programs and computer code owned by Hart that are licensed to Client pursuant to this Agreement, and all updates, upgrades, versions, new releases, derivatives, revisions, corrections, improvements, rewrites, bug fixes, enhancements, and other modifications, including any custom modifications, to such computer programs and code that are provided to Client, and all copies of the foregoing. Hart Proprietary Software also includes all documentation provided by Hart to Client with respect to these computer programs and code and all copies of the foregoing.

“*Initial Annual Fee*” means the first Annual Fee, in the amount specified as the “Initial Annual Fee” on Schedule D, which is payable upon execution of this Agreement.

“*Installation Date*” means, with respect to eSlate Hardware, the date of delivery to Client and, with respect to Hart Proprietary Software, the date Hart completes delivery and installation of the Hart Proprietary Software.

“*JBC™*” means the Judge’s Booth Controller (JBC1000™) created by Hart that is a local area network controller capable of interacting with one or more eSlate devices or DAU devices by transmitting and receiving signals that manage or control an election, e.g., by opening and closing the polls, providing or recording an audit trail of system events during an election, storing cast ballot data, and applying data security and integrity algorithms.

“*Non-Hart Equipment*” means the equipment, if any, not consisting of eSlate Hardware that was sold to Client by Hart or Hart’s distributor for use with, and in connection with the sale of, the eSlate Hardware.

“*Non-Hart Software*” means the run-time executable code and associated support files of computer programs owned by third parties that are identified on Schedule C and sublicensed by Hart to Client pursuant to this Agreement or licensed directly by the third-party licensor to Client, and all updates, upgrades, versions, new releases, derivatives, revisions, corrections, improvements, rewrites, bug

fixes, enhancements, and other modifications to such computer programs and code that are provided to Client, and all copies of the foregoing. Non-Hart Software also includes all documentation provided to Client with respect to these computer programs, and all copies of the foregoing.

“*Software*” means the Hart Proprietary Software and Firmware, and Non-Hart Software.

“*Sublicensed Software*” means Non-Hart Software that is identified on Schedule C as being sublicensed by Hart to Client pursuant to this Agreement.

“*VBO™*” means the Voter Verifiable unit used in conjunction with the eSlate™ for a *Voter Verifiable Paper Audit Trail*.

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SCHEDULE A

SUPPORT CONTACT INFORMATION

The following contact information is to be used by Client for submitting Support requests to Hart InterCivic, Inc.:

Client Support Center:	1-800-750-HART (4278)
Client Support Center Fax:	1-800-396-HART (4278)
E-mail Address:	hartsupport@hartic.com
Hart InterCivic, Inc. Switchboard:	1-800-223-HART (4278)
Client Support Manager:	

The following contact information is to be used by Hart for contacting Client on Software Support Service requests:

Primary Client Contact Point ("CCP"):	<u>903-454-5467</u>
First Alternate CCP:	<u>903-450-6479 (cell #)</u>

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SCHEDULE B

HART PROPRIETARY SOFTWARE

QUANTITY	MODEL	DESCRIPTION	UNIT PRICE	NUMBER OF LICENSES	INITIAL LICENSE FEE
One (1).	BOSS™, Tally™, Ballot Now™, & SERVO™.	Ballot Origination Software System (BOSS™); Tabulation and Reporting (Tally™); Ballot On Demand (Ballot Now™); and Equipment and data management software (SERVO™).	\$125,100.00	Four (4) (One per each software title).	\$125,100.00

Licensed Location: Hunt County, Texas.

NOTE: Hart and Client will update this Schedule as appropriate if Hart releases new Hart Proprietary Software that is made available to Client under the eSlate™ Warranty, Support, and License Agreement.

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SCHEDULE C
NON-HART SOFTWARE

Non-Hart Software Sublicensed to Client:

QUANTITY	MODEL	DESCRIPTION	UNIT PRICE	NUMBER OF LICENSES	TOTAL PRICE
Four (4).	Sybase Embedded Runtime Program.	Database Engine.	No Charge.	Four (4).	No Charge

NOTE: Hart and Client will update this Schedule as appropriate if Hart provides new or different Non-Hart Software to Client under this Agreement.

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SCHEDULE D
INITIAL ANNUAL FEE

Initial Annual Fee: \$19,550.00

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9449

FILED FOR RECORD
at 7 o'clock P M

JUN 13 2005

LINDA BROOKS
County Clerk, Hunt County, Tex.
By *[Signature]*

**Proclamation
that June 2005 is Safety Month**

The National Safety Council and its chapters around the country have designated June 2005 as National Safety Month, an annual observance aimed at promoting preparedness and helping Americans prevent injuries on the roads, in homes, communities and workplaces. The theme for this year is: Safety: Where we live, work and play.

According to statistics, when safety awareness is promoted, employee injuries are reduced. Safety is not just for National Safety Month, it's for life.

In conjunction with the National Safety Council, I urge the Commissioner's Court to proclaim the month of June 2005, National Safety Month in Hunt County.

Dated this 13 day of June, 2005

[Signature]
County Judge

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HUNT COUNTY

POST OFFICE BOX 1097 • GREENVILLE, TEXAS 75403-1097

JOE A. BOBBITT
HUNT COUNTY JUDGE
(903) 408-4146
(903) 408-4299 Fax

Proclamation of Audie Murphy Days June 17th & 18th, 2005

Whereas, Hunt County has a continuing sense of gratitude to those that served and gave their lives for the preservation of the American way, and

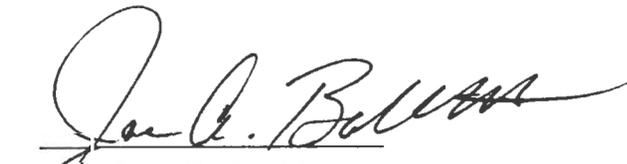
Whereas, Audie Murphy was the most decorated soldier of World War II, and

Whereas, Audie Murphy was a favorite son and hero of Hunt County, and

Whereas, Hunt County will preserve his memory and his history as a veteran and resident of Hunt County, and

Now, Therefore, I Joe A. Bobbitt, Hunt County Judge do hereby proclaim June 17th & 18th, 2005 as Audie Murphy Days in Hunt County.

In Witness Whereof, I have hereunto set my hand and caused the great seal of Hunt County to be affixed.


Joe A. Bobbitt
Hunt County Judge

9450
FILED FOR RECORD
at 7 o'clock P M
JUN 13 2005
LINDA BROOKS
County Clerk, Hunt County, Tex.
By: 

9451
FILED FOR RECORD
at _____ o'clock _____ M
JUN 13 2005
By County Clerk LINDA BROOKS
Hunt County, Tex
[Signature]

TAX ABATEMENT AGREEMENT

THE STATE OF TEXAS

COUNTY OF HUNT

This Tax Abatement Agreement (hereinafter referred to as the ("Agreement")) is made and entered into by and between Hunt County, Texas ("Governmental Unit") and Evergreen Real Estate, L.L.C. ("Owner") the owner of taxable real property in the City of Greenville and Hunt County, Texas ("Property").

WHEREAS, the City of Greenville, Texas has designated certain property as a Reinvestment Zone within it's city limits and located at the Greenville Business Air Park; and

WHEREAS, Owner is the owner of certain real property located within the Greenville Business Air Park; and

WHEREAS, Owner intends to construct a facility on such property; and

NOW, THEREFORE, in consideration of the mutual promises hereinafter contained:

I. AUTHORIZATION

This agreement is authorized by the Texas Property Redevelopment and Tax Abatement Act, Texas Tax Code, Chapter 312, as amended ("Act"), and is subject to the laws of the State of Texas and the charter, ordinances, and orders of the Governmental Unit.

II. DEFINITIONS

As used in this agreement, the following terms shall have the meanings set forth below:

1. "Abatement" means the full or partial exemption from ad valorem taxes of the Improvements on certain property in a zone designated for economic development purposes pursuant to the Act.
2. "Added Value" means the increase in the assessed value of the Eligible Property as a result of "expansion" or "modernization" of an existing facility or construction of a "new facility". It does not mean or include "deferred maintenance".
3. "Base Year Value" means the assessed value of the eligible property as certified by the Hunt County Appraisal District on January 1, 2004 preceding the execution of the Agreement plus the agreed upon value of Improvements



- made after January 1, 2004, but before the execution of this Agreement.
4. "Eligible Property" means the abatement may be extended to the value of buildings, structures, fixed machinery and equipment, and site improvements, installed, constructed, or added between January 1, 2005 and January 1, 2006, plus that office space and related fixed improvements necessary to the operation and administration of the facility.
 5. "Facility" means a Basic Manufacturing Facility, Petrochemical Facility, Regional Distribution Facility, or other Authorized Facility approved by the Governmental Unit(s) as set forth in the Guidelines and Criteria for Granting Tax Abatement adopted by the Governmental Unit(s).
 6. "Improvements" means the buildings or portions thereof and other improvements used for commercial or industrial purposes on the Property.
 7. "Ineligible Property" means the following types of property shall be fully taxable and ineligible for abatement: Land; inventories; supplies; tools; furnishings and other forms of movable personal property; vehicles; vessels; aircraft; housing; hotel accommodations; retail facilities deferred maintenance; investments; property to be rented or leased, except as provided; property owned or used by the State of Texas or its political subdivisions or by any organization owned, operated or directed by a political subdivision of the State of Texas.
 8. "Community Entities" means the Greenville Economic Development Corporation, the Board of Development of the City of Greenville, Texas, and any other similar organization within the City of Greenville, Texas which extends to Owner one or more incentives pursuant to this or other agreements.
 9. "Completion Agreement" means the Agreement by and between Greenville Economic Development Corporation, the Board of Development of the City of Greenville, Texas, and PST Services, Inc., containing agreements with respect to the Property and the Facility.

The Guidelines and Criteria for Granting Tax Abatement adopted by the Governmental Unit are incorporated as a part of this Agreement. Except as the same may be modified herein, all definitions set forth therein are applicable to this Agreement.

III. PROPERTY

The property is an area within Greenville, Hunt County, Texas located in whole or part within the jurisdiction of the Governmental Unit as more fully described in Exhibit "A" attached hereto and made a part hereof. Said property is located within an authorized zone for tax abatement. Established pursuant to Chapter 312 of the Texas Tax Code, as amended, by the Greenville City

Council on December 14, 2004

The Hunt County Appraisal District has established the following value for the Property, including improvements thereon, as of the January 1, 2004 valuation date prior to the date of execution of this Agreement and which is the last valuation record known by the parties.

Land and Improvements: To be determined

The Parties incorporate such value into this Agreement but agree to adjust such value as may be necessary upon adoption of the tax rolls for January 1, 2005. This is the Base Year Value.

The Governmental Unit and the Owner agree that the approximate value of any additions to the Property made after January 1, 2005 and for which abatement is sought and not otherwise reflected on the above valuation Property is \$ 2,734,000.00 and are referred to as "Eligible Property".

IV. TERM OF ABATEMENT AND AGREEMENT

The Governmental Unit agrees to abate the ad valorem taxes on the Eligible Property in accordance with the terms and conditions of this agreement. The Abatement shall be effective with the January 1 valuation date effective January 1, 2005. The Abatement shall continue for seven (7) years, expiring as of December 31 of the 2011 tax year. The years of Abatement provided herein shall in each instance coincide with the tax year commencing on January 1 and expiring on December 31, and in no event shall the Abatement extend beyond December 31 of the seventh (7th) tax year unless extended by agreement in compliance with local and state law.

The terms and conditions of this Agreement shall continue for the period of Abatement. All covenants and representations of the Owner herein shall continue throughout the term of this Agreement, and any defaults shall be subject to the recapture provisions provided in Part VII herein.

V. TAXABILITY

During the period that the Abatement is effective, taxes shall be payable as follows:

- (1) The value of the land comprising the Property shall be fully taxable;
- (2) The value of Ineligible Property shall be fully taxable;
- (3) The Base Year Value of existing Improvements comprising the Property shall be fully taxable;
- (4) The value of the personal property comprising the Property shall be fully taxable; and
- (5) The Added Value of the Eligible Property made a part of the Property shall be abated as set

forth in Part VI herein.

VI. AMOUNT OF ABATEMENT

The Abatement provided by this Agreement shall be based upon the added Value of Eligible Property made a part of the Property as a result of the project. Taxes shall be abated annually as follows:

Years 1, 2, 3, and 4	100% of added value.
Years 5 and 6	60% of added value.
Year 7	50% of added value.

At the time of execution of the Agreement, the Owner reasonably estimates that the Added Value of Eligible Property upon completion of the Construction Phase will be at least \$ 2,734,000.00 ("Estimated Added Value"), such figure being an estimate only and will be finally determined and Abatement will be based on the actual added value as determined in Article VIII for the completed project.

Upon completion of the Project if the Added Value, as determined by the Hunt County Appraisal District, shall at any time during the term of this Agreement be less than Estimated added Value to the extent that the percentage of Abatement shall be less than that allowed under the guidelines adopted by the Governmental Unit(s), the amount of Abatement shall be immediately adjusted or extinguished if the project is no longer eligible for abatement and any taxes previously abated shall be subject to recapture as provided in Part VIII herein.

VII. CONTEMPLATED IMPROVEMENTS

Owner represents that it will construct a facility at the cost, for the purpose, and in the manner as set forth in the Project Description attached as Exhibit "B". During the Construction Phase, the Owner may make such change orders as to the project as are reasonably necessary, provided that no such change order may be made which will change the qualification of the project as a "Facility" under the Guidelines for Granting Tax Abatement approved by the Governmental Unit. All improvements shall be completed in accordance with all applicable laws, ordinances, rules or regulations. During the term of this Agreement, use of the Property shall be limited to operation of the Facility described in the Project Description consistent with the general purpose of encouraging development or redevelopment of the zone during the period of this Agreement.

Owner represents and warrants that this project will: 1.) Add at least 10 additional permanent employees to the project site; 2) the project is not expected to solely or primarily have the effect of transferring employment from part of Hunt County to another; 3) increase value of property in the amount of \$1,000,000.00 with at least two-thirds of value of the total increase attributable to increase in value of building structures, site improvements and fixed equipment; and 4) be necessary to create capacity which cannot be provided efficiently utilizing existing improved property.

VIII. EVENTS OF DEFAULT AND RECAPTURES

A. 1) Discontinued or Reduced Operation During Term of Agreement. In the event that the facility is completed and begins operation but subsequently discontinues operation or in the event the minimum number of 10 new jobs is not created and maintained, for any reason except fire, explosion or other casualty or accident or natural disaster for a period of one year during the term of the Agreement, the Agreement may be terminated by the Governmental Unit and all taxes previously abated by virtue of the Agreement will be recaptured and paid within 60 days of the termination. Penalty and interest shall not begin to accrue upon such sum until the first day of the month following such sixty day notice, at which time penalty and interest shall accrue in accord with the laws of the State of Texas.

2) Removal of Eligible Property. In the event that fixed machinery or equipment is installed and becomes eligible property, but is subsequently removed from the facility or becomes ineligible property during the abatement period, and is not replaced with fixed machinery or equipment of like value within a reasonable time, then all taxes previously abated by virtue of the agreement for said machinery or equipment will be recaptured and paid within sixty (60) days from the date the machinery or equipment is removed from the facility or becomes ineligible property.

3) Delinquent Taxes. In the event that the that the company or individual (1) allows its ad valorem taxes owed the Governmental Unit or any affected jurisdiction to become delinquent and fails to timely and properly file the legal procedures for their protest and/or contest, or (2) violates any of the terms and conditions of the abatement agreement and fails to cure during the cure Period, the agreement then may be terminated and all taxes previously abated by virtue of the agreement will be recaptured and paid within sixty (60) days of the termination.

B. Notice of Default. Should the Governmental Unit, determine that the Owner is in default according to the terms and conditions of this Agreement, it shall notify the Owner that if such default is not cured within sixty (60) days from the date of such notice ("Cure Period"), then this Agreement may be terminated. In the event the Owner fails to cure said default during the Cure Period, the Agreement may be terminated and the taxes abated by virtue of the Agreement will be recaptured and paid as provided herein.

C. Actual Added Value. Annually, the Chief of the Hunt County Appraisal District or his/her designee, shall assess the real and personal property comprising the reinvestment zone. Should the Hunt County Appraisal District determine that the total level of Added Value during any year of the term of this Agreement after completion of the Construction Phase is lower than the Estimated Added Value such that a lower percentage of Abatement is applicable, for each year during which

an Abatement has been granted the difference between the tax abated and the tax which should have been abated based upon, the actual Added Value shall be determined and each Governmental Unit owner shall be notified. The taxes shall be paid within sixty (60) days of notification to the Owner of such determination. Penalty and interest shall not begin to accrue upon such sum until the first day of the month following such sixty (60) days notice, at which time penalty and interest shall accrue in accord with the laws of the State of Texas.

D. Continuation of Tax Lien. The amount of tax abated each year under the terms of this agreement shall be secured by a first and prior tax lien which shall continue in existence from year to year until such time as this Agreement between the Governmental Unit and Owner is fully performed by Owner, or until all taxes, whether assessed or recaptured, are paid in full.

If the Governmental Unit terminated this Agreement pursuant to this paragraph VIII, it shall provide Owner written notice of such termination. If Owner believes that such termination was improper, Owner may file suit in the Hunt County district courts appealing such termination within sixty (60) days after the written notice of the termination by the Governmental Unit. If an appeal suit is filed, Owner shall remit to the Governmental Unit(s), within sixty (60) days after the notice of termination, and additional and/or recaptured taxes as may be payable during the pendency of the litigation pursuant to the payment provision of Section 42.08, Texas Tax Code. If the final determination of the appeal increases Owner's tax liability above the amount of tax paid, Owner shall remit the additional tax to the Governmental unit(s) pursuant to Section 42.42, Texas Tax Code. If the final determination of the appeal decreases Owner's tax liability, the Governmental Unit(s) shall refund the Owner the difference between the amount of tax paid and the amount of tax paid and the amount of tax for which owner is liable pursuant to Section 42.43, Texas Tax Code.

X. ADMINISTRATION

The Owner shall allow employees and/or representative(s) of the Governmental Unit to have access to the Property during the term of this Agreement to inspect the facility to determine compliance with the terms and conditions of this Agreement. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the Facility. All inspections will be made with one or more representatives of the Owner and in accordance with Owner's safety standards.

Upon completion of construction, the affected jurisdiction shall annually evaluate each facility and report possible violations of the contract and agreement to the governing body and its attorney.

The Chief Appraiser of the Hunt County Appraisal District shall annually determine (i) the taxable value of the real and personal property comprising the Property taking in to consideration the Abatement provided by this Agreement, and (ii) the full taxable value without Abatement of the

real and personal property comprising the Property. The Chief Appraiser shall record both the abated taxable value and the full taxable value in the appraisal records. The full taxable value figure listed in the appraisal records shall be used to compute the amount of abated taxes that are required to be recaptured and paid in the event this Agreement is terminated in a manner that results in recapture. Each year the Owner shall furnish the chief Appraiser with such information outlined in Chapter 22, Texas Tax Code, as amended, as may be necessary for the administration of the Agreement specified herein.

X. ASSIGNMENT

The Owner may assign this Agreement to a new owner or lessee of the Facility with the prior written consent of the Governmental Unit, which consent shall not be unreasonably withheld. Any assignment shall provide that the assignee shall irrevocably and unconditionally assume all the duties and obligations of the assignor upon the same terms and conditions as set out in this Agreement. Any assignment of this Agreement shall be to an entity that will provide substantially the same improvements to the Property, except to the extent such improvements have been completed. No assignment shall be approved if the Owner or any assignee are indebted to the Governmental Unit for ad valorem taxes or other obligations.

XI. NOTICE

Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been deposited, with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, with the United States Postal Service, addressed to the Governmental Unit or Owner at the following addresses. If mailed, any notice or communication shall be deemed to be received three days after the date of deposit in the United States Mail. Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

To the Owner:	Evergreen Real Estate, L.L.C. 2107 Fifth Avenue North, Suite 301 Birmingham, Alabama 35203 Attention: Wade Cowden
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To the Governmental Unit(s)	Hunt County 2705 Lee Street Greenville, Texas 75401 Attention: County Judge
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Either party may designate a different address by giving the other party ten (10) days written notice.

This agreement has been executed by the parties in multiple originals or counterparts, each having full force and effect.

Executed this the 13 day of June, 2005.

WITNESS:

Linda Brooks
LINDA BROOKS
Hunt County Clerk

GOVERNMENTAL UNIT:

Joe A. Bobbit
JOE BOBBIT
Hunt County Judge

WITNESS:

[Signature]
Name: _____
Title: _____

OWNER:

By: Wade W. Cowman
Name: Wade W. Cowman
Evergreen Real Estate, L.L.C.

EXHIBIT "A"

All that certain lot, tract or parcel of land situated in the W.C. Hase Survey, Abstract No. 491 and the E.F. Anderson Survey, Abstract No. 24, City of Greenville, Hunt County, Texas, and being part of Lot 2, Block 1 of Greenville Air Park, Phase 1, an Addition to the City of Greenville, according to the Plat thereof recorded in Volume 400, Page 1441 of the Plat Records of Hunt County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2" iron rod with plastic cap stamped "STOVALL & ASSOC." set (hereinafter called 1/2" iron rod set) for corner in the Northeast line of F.M. Highway No. 1570 at the West corner of the above cited Lot 2;

THENCE N. 61 deg. 28 min. 09 sec. E. with the most Northerly Northwest line of said Lot 2 a distance of 409.62 feet to a 1/2" iron rod found for corner at the most Westerly North corner of said Lot 2;

THENCE S. 28 deg. 31 min. 51 sec. E. with an interior line of said Lot 2 a distance of 271.72 feet to a 1/2" iron rod set for corner;

THENCE S. 61 deg. 28 min. 09 sec. W. a distance of 409.62 feet to a 1/2" iron rod set for corner in the Northeast line of F.M. Highway No. 1570;

THENCE N. 28 deg. 31 min. 51 sec. W. with the Northeast line of F.M. Highway No. 1570 a distance of 271.72 feet to the POINT OF BEGINNING and containing 2.555 acres of land.

CASH SPECIAL UTILITY DISTRICT
P. O. BOX 8129
GREENVILLE, TEXAS 75404-8129

CSUD Map# _____ 557
Location _____
ACCT.# _____
Survey/Abstract: Wm. Birdwell Abst 50
Prop. I.D.# R108036
CR 2548: Parcel 1

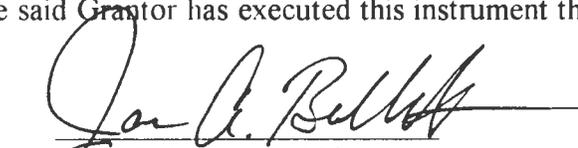
RIGHT OF WAY EASEMENT

STATE OF TEXAS §
KNOW ALL MEN BY THESE PRESENTS §
COUNTY OF HUNT §

THAT HUNT COUNTY, concerning former county school property, (hereinafter called "Grantor"), in consideration hereof and for one dollar (\$1.00) and other good and valuable consideration paid by Cash Special Utility District, (hereinafter called "Grantee"), the receipt and sufficiency of which are hereby acknowledged, do hereby grant, bargain, sell, transfer, and convey to said Grantee, its successors and assigns, a non-exclusive perpetual easement with the right to erect, construct, install, and lay and thereafter use, operate, inspect, repair, maintain, replace and remove a water line(s) over and across those portions of Grantor's property, 2.00 acres of land, more particularly described in an instrument recorded in Volume 329, Page 605, of the Deed Records of Hunt County, Texas which are either already within an area or easement in which there exists a waterline previously constructed by Grantee or contiguous at all points to a public road or right-of-way and/or necessary to the construction of the line herein contemplated, together with the right of ingress and egress over Grantor's adjacent lands for the purpose for which the above mentioned rights are granted; provided that Grantee shall minimize use of Grantor's adjacent lands and shall not interfere with. The easement hereby granted shall not exceed twenty feet (20') in width, and Grantee is hereby authorized to designate the course of the easement herein conveyed except that when the pipe line(s) is installed, the easement herein granted shall be limited to a strip of land twenty feet (20') in width the center line thereof being the original pipe line as installed.

The consideration recited herein shall constitute payment in full for all damages sustained by Grantor by reason of the installation of the structures referred to herein and the Grantee will maintain such easement in a state of good repair and efficiency so that no unreasonable damages will result from its use to Grantor's premises. This Agreement together with other provisions of this grant shall constitute a covenant running with the land for the benefit of the Grantee, its successors, and assigns. The Grantor covenants that it is the owner of the above described lands and that said lands are free and clear of all encumbrances and liens except the following:

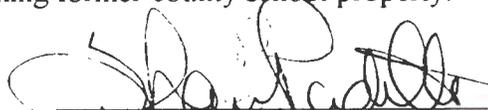
IN WITNESS WHEREOF, the said Grantor has executed this instrument this 13 day of June, 2005.


Judge Joe Bobbitt
County Judge of Hunt County, Texas

THE STATE OF TEXAS]
COUNTY OF Hunt]

This instrument was acknowledged before me on the 13 day of June, 2005, by JUDGE JOE BOBBITT, on behalf of Hunt County concerning former county school property.




Notary Public, State of Texas

My Commission Expires:

9155

INTERLOCAL AGREEMENT

**THE STATE OF TEXAS
COUNTY OF HUNT**

FILED FOR RECORD
at 7 o'clock PM
JUN 13 2005
By Linda Brooks
LINDA BROOKS
County Clerk, Hunt County, Tex.

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the City of Commerce, Texas and the Hunt County, Texas recognize the mutual benefits that arise from the operation of a regional animal shelter, and

WHEREAS, the City of Commerce, Texas, agrees to expand the capacity at the animal shelter it operates to accommodate the needs of the Hunt County;

NOW, THEREFORE BE IT AGREED AS FOLLOWS:

The City of Commerce, Texas, a Home-rule municipality, and Hunt County, hereby enter into a contract and agreement in accordance with the following terms:

I.

OBLIGATIONS OF THE CITY OF COMMERCE

The City of Commerce shall operate and maintain an animal shelter for the mutual and nonexclusive benefit of the City of Commerce and Hunt County, to include the following:

- a. Appropriately staff the animal shelter and operate the same in a manner that complies with all statutes, rules, regulations and ordinances that govern the operation thereof;
- b. Receive dogs and cats delivered to the animal shelter by designated employees of Hunt County and residents of Hunt County on a basis limited to the capacity of the animal shelter;

- c. Provide quarantine facilities for possible exposure to rabies cases on a basis limited to the capacity of the animal shelter; and
- d. Provide adoption services for animals surrendered to or delivered to the animal shelter. **The City of Commerce shall not provide any form of animal control patrol, pick-up, trapping or enforcement functions in an area outside of the incorporated City limits of the City of Commerce.**

II.

OBLIGATIONS OF HUNT COUNTY

Hunt County agrees to pay up to \$50,000 of the actual cost to expand the animal shelter by paying as follows: \$40,000.00 to be paid on or before October 1, 2005, \$5,000 on or before October 1, 2006 and \$5,000 on or before October 1, 2007. In the event that the actual costs to expand the shelter is less than \$50,000.00, Hunt County shall pay the actual costs to expand the shelter in accordance with the payment schedule set forth above, and the later payment amounts shall be reduced accordingly.

In addition to and annually, after the 1st day of October of each year while this Agreement is in force and effect, Hunt County shall pay to the City of Commerce, a prorata portion of the expenses of operation the animal shelter. The annual fees shall be shall be calculated as follows:

Hunt County will pay \$30,000.00 for the first year (FY 2006) and will be due and payable October 2005. After the first year the County's payment will be based on the on a pro rata basis for the previous year's usage and M&O cost, but not less than 30,000.00 per year. For example, if the pro rata usage of the animal shelter during FY 2006 were 35%, Hunt County's payment would be 35% of the City's M&O cost for the Animal

Shelter during FY 2006, and would be due and payable October 2006 (FY 2007).

Hunt County represents and confirms that the amount to be expended hereunder is available, unencumbered, current funds budgeted in the current year budget for Hunt County.

III.

CONTINUATION OF AGREEMENT

Either party to this Interlocal Agreement may terminate participation herein by giving notice to the other party on or before April 1 of the year preceding October 1 of the year the party intends to withdraw from the agreement. Otherwise, this Interlocal Agreement shall continue in force and effect from year to year until modified, canceled, amended or repealed as set forth herein.

IV.

LIABILITY

To the extent permitted by the Constitution and Laws of the State of Texas and the Charters of the City of Commerce and Hunt County, without waiving any limitation or immunity existing in favor of either party, each party agrees to hold the other harmless from any and all liability that may arise as a result of the indemnifying party's sole negligence unmixed with the fault or negligence of the indemnity or any other party.

V.

AMENDMENT

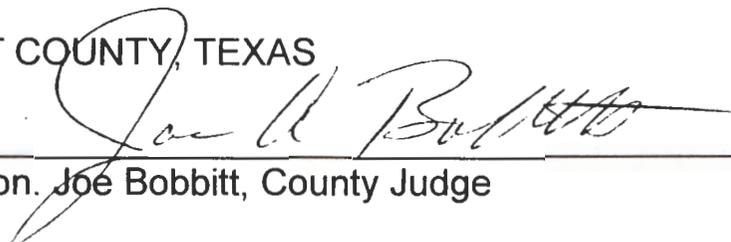
This Interlocal Agreement may be amended only upon written instrument approved by the governing body of each party hereto.

This agreement shall bind and inure to the benefits of the parties hereto, their successors and assigns.

Signed this _____ day of _____, 2005.

HUNT COUNTY, TEXAS

By: _____


Hon. Joe Bobbitt, County Judge

CITY OF COMMERCE, TEXAS

By: _____


Mr. Bill Shipp, City Manager

