



EVERMAN CITY COUNCIL REGULAR MEETING

Tuesday, January 14, 2025 at 6:00 PM

213 North Race Street Everman, TX 76140

AGENDA

1. MEETING CALLED TO ORDER

2. INVOCATION

3. PLEDGE OF ALLEGIANCE

4. PRESENTATIONS

A. Swearing In Ceremony - Mindy Henry - Animal Control Officer

5. CITIZEN'S COMMENTS

6. DISCUSSION ITEMS

A. Garbage, Waste, and Recycling Services for the City of Everman

B. ORDINANCE NO. 826 AN ORDINANCE OF THE CITY OF EVERMAN, TEXAS, AMENDING THE CODE OF ORDINANCES BY REPEALING AND REPLACING IN ITS ENTIRETY CHAPTER 3 TITLED "ANIMALS AND ANIMAL CONTROL REGULATIONS"; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

C. ORDINANCE NO. 827 AN ORDINANCE OF THE CITY OF EVERMAN, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING APPENDIX A TITLED "FEE SCHEDULE" BY ADDING A NEW SECTION ENTITLED "MUNICIPAL ANIMAL SERVICES FEES;" PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

D. Staff Report - January 2025 Winter Storm

7. CONSIDERATION AND POSSIBLE ACTION

A. RESOLUTION NO. 2025-01-01 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE EVERMAN POLICE DEPARTMENT AND THE FOREST HILL POLICE DEPARTMENT REGARDING COMBINING RESOURCES FOR A POLICE EXPLORER PROGRAM POST; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID MEMORANDUM OF UNDERSTANDING AND ALL OTHER NECESSARY AND RELATED DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE

B. RESOLUTION NO. 2025-01-02 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS, APPROVING AN INTERLOCAL AGREEMENT BETWEEN TARRANT COUNTY AND THE CITY OF EVERMAN TO PROVIDE FOR DRAINAGE IMPROVEMENTS AT CLYDE PITTMAN PARK; AND PROVIDING AN EFFECTIVE DATE.

C. RESOLUTION NO. 2025-01-03 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS, AUTHORIZING THE CITY MANAGER TO SUBMIT A LETTER OF

SUPPORT ON BEHALF OF THE CITY OF EVERMAN TO THE CITY OF FORT WORTH FOR THE "ALTAMESA EXPANSION" TRANSPORTATION PROJECT; AND PROVIDING AN EFFECTIVE DATE.

D. RESOLUTION NO. 2025-01-04 A RESOLUTION OF THE CITY OF EVERMAN, TEXAS, APPROVING AND AUTHORIZING THE CITY MANAGER TO SIGN THREE CONTRACTS WITH UTILITY SERVICE CO., INC., ALSO SOMETIMES REFERRED TO AS USG WATER SOLUTIONS, FOR WATER TANK MAINTENANCE FOR CITY WATER TANKS LOCATED AT 632 SHELBY ROAD AND 100 DAN MEYERS ROAD AND FOR STEEL TANK REPAIR AND DISINFECTION FOR A CITY WATER TANK LOCATED AT 619 TOWNLEY DRIVE FOR COMPENSATION AND ON TERMS AND CONDITIONS AS SET FORTH THEREIN;; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

E. Actions Concerning Appointments to Various Boards, Commissions, or Committees.

8. CITY MANAGERS REPORT

9. MAYOR'S REPORT

10. ADJOURN

I hereby certify that this agenda was posted on the City of Everman bulletin board at or before 5:00 p.m. on Friday January 10, 2025.

/s/ Mindi Parks
City Secretary

Citizens may watch city council meetings live on YouTube. A link to the City of Everman YouTube channel is provided on the city website at: www.evermantx.us/government/citycouncil/

Pursuant to Texas Government Code Sec. 551.127, on a regular, non-emergency basis, members may attend and participate in the meeting remotely by video conference. Should that occur, a quorum of the members, including the presiding officer, will be physically present at the location noted above on this Agenda.

Pursuant to Section 551.071, Chapter 551 of the Texas Government Code, Council reserves the right to convene into Executive Session(s) from time to time as deemed necessary during this meeting, to receive advice from its attorney on any posted agenda item, as permitted by Law. Additionally, Council may convene into Executive Session to discuss the following:

- A. Section 551.071 - Pending or Contemplated Litigation or to Seek Advice of the City Attorney.
- B. Section 551.072 - Purchase, Sale, Exchange, Lease, or Value of Real Property.
- C. Section 551.073 - Deliberation Regarding Prospective Gift.
- D. Section 551.074 - Personnel Matters.
- E. Section 551.087- Deliberation Regarding Economic Development Negotiations.
- F. Section 551.089 - Deliberations Regarding Security Devices or Security Audits.

Citizens wishing to submit written comments should e-mail the City Secretary at mparks@evermantx.net. Comments that are received at least one-hour prior to the start of the meeting will be provided to all council members.

According to the City of Everman Policy on Governance Process, individual citizen comments will be restricted to three (3) minutes unless otherwise determined by a majority vote of the Council. The mayor is responsible to enforce the time limit. Citizens may address City Council either during the Citizen Comments portion of the meeting or during deliberation of a listed agenda item. City Council is only permitted by Law to discuss items that are listed on the agenda. Citizens wishing to make comments should notify the City Secretary as soon as possible.

City Hall is wheelchair accessible. Parking spaces for disabled citizens are available. Requests for sign interpretative services must be made 48 hours prior to the meeting. To make arrangements, call 817.293.0525 or TDD 1.800.RELAY TX, 1.800.735.2989.

ORDINANCE NO. 558

FRANCHISE AGREEMENT

**FOR THE COLLECTION, HAULING AND DISPOSAL OF
MUNICIPAL SOLID WASTE AND CONSTRUCTION AND DEMOLITION WASTE
IN THE CITY OF EVERMAN, TEXAS**

APRIL 1, 2005

ORDINANCE NO. 558

FRANCHISE AGREEMENT
FOR THE COLLECTION, HAULING AND DISPOSAL OF
MUNICIPAL SOLID WASTE AND CONSTRUCTION AND DEMOLITION WASTE
IN THE CITY OF EVERMAN, TEXAS

STATE OF TEXAS

COUNTY OF TARRANT

THIS FRANCHISE AGREEMENT (this "Agreement") is made and entered into as of April 1, 2005, by and between IESI TX Corporation, a Texas Corporation (the "Service Provider"), and the City of Everman, Texas (the "City").

WHEREAS, the City, subject to the terms and conditions set forth herein and the ordinances and regulations of the City, desires to grant to the Service Provider a franchise, license and privilege to collect, haul and dispose of Municipal Solid Waste and Construction and Demolition Waste (as such terms are defined herein) within the City's corporate limits.

NOW, THEREFORE, in consideration of the premises and the mutual promises, covenants and agreements set forth herein, the Service Provider and the City hereby agree as follows:

SECTION 1. DEFINED TERMS.

The following terms, as used herein, will be defined as follows:

Bulky Item - Any item measuring in excess of either forty-eight (48) inches in length or fifty (50) pounds in weight, including, but not limited to, refrigerators, stoves, washing machines, water tanks, chairs, couches and tree trimmings.

Bundles - Items not measuring in excess of either forty-eight (48) inches in length or fifty (50) pounds in weight and which are securely fastened together, including, but not limited to, brush, newspapers and tree trimmings.

Business Day - Any day that is not a Saturday, a Sunday or holiday.

Commercial Unit - Any non-manufacturing commercial facility that generates and accumulates Municipal Solid Waste during, or as a result of, its business, including, but not limited to, restaurants, stores and warehouses.

Construction and Demolition Waste - Solid Waste resulting from construction or demolition activities or that is directly or indirectly the by-product of such activities, including, but not limited to, cartons, concrete, excelsior, gypsum board, metal, paper, plastic, rubber and wood products. Construction and Demolition Waste does not include Hazardous Waste or Municipal Solid Waste.

Container - Any receptacle, including, but not limited to, dumpsters and Roll-Offs provided to the City by the Service Provider and utilized by a Commercial, Industrial or Residential Unit for collecting Municipal Solid Waste or Construction and Demolition Waste. Containers are designed to hold between thirty (30) gallons and thirty (30) cubic yards of Municipal Solid Waste or Construction and Demolition Waste.

Hazardous Waste - Solid Waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency (EPA) under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, or so classified by any federal or State of Texas statute, rule, order or regulation.

Handicapped Residential Unit - Any residential dwelling that is inhabited by persons, all of whom are physically handicapped to the extent that they are unable to place Municipal Solid Waste at the curbside, and that generates and accumulates Municipal Solid Waste. The identities of the members of a Handicapped Residential Unit shall be certified by the City Manager and agreed to by the Service Provider.

Holidays - The following days:

- (1) New Year's Day (January 1st)
- (2) Memorial Day
- (3) Independence Day (July 4th)
- (4) Labor Day
- (5) Thanksgiving Day
- (6) Christmas Day (December 25th).

Industrial Unit - Any manufacturing, mining or agricultural facility that generates and accumulates Municipal Solid Waste during, or as a result of, its operations.

Landfill - Any facility or area of land receiving Municipal Solid Waste or Construction and Demolition Waste and operating under the regulation and authority of the Texas Department on Environmental Quality ("TDEQ") within the State of Texas, or the appropriate governing agency for landfills located outside the State of Texas.

Multi-Family Residential Unit - Any residential dwelling that is designed for, and inhabited by, multiple family units and that generates and accumulates Municipal Solid Waste.

Municipal Solid Waste - Solid Waste resulting from or incidental to municipal, community, commercial, institutional or recreational activities, or manufacturing, mining, or agricultural operations. Municipal Solid Waste does not include Construction and Demolition Waste or Hazardous Waste.

Residential Unit - Any residential dwelling that is either a Single-Family Residential Unit or a Multi-Family Residential Unit.

Roll-Off - A Container with twenty (20) cubic yards to thirty (30) cubic yards of capacity.

Single-Family Residential Unit - Any residential dwelling that is designed for, and inhabited by, a single person or family unit and that generates and accumulates Municipal Solid Waste.

Solid Waste - As defined by the EPA under 40 C.F.R. § 261.2(a)(1), or by the State of Texas under the Solid Waste Disposal Act § 361.003(38), regardless of whether such waste is mixed with or constitutes recyclable materials.

White Good - Any item measuring in excess of either three (3) cubic feet in size or fifty (50) pounds in weight and that is manufactured primarily from metal, including, but not limited to, a bath tub, heater, hot water heater, refrigerator, sink or washer and dryer.

SECTION 2. FRANCHISE GRANT.

The City hereby grants to the Service Provider, in accordance with the City's ordinances and regulations governing the collection, hauling and disposal of Municipal Solid Waste and Construction and Demolition Waste, a franchise, license and privilege to collect, haul and dispose of Municipal Solid Waste and Construction and Demolition Waste over, upon, along and across the present and future streets, alleys, bridges and public properties within the territorial jurisdiction of the City. The City agrees that it will not, throughout the term of this Agreement, issue a permit for the collection, removal, transportation or disposal of refuse within the City pursuant to Section 9-10 of the Everman Code to any person or entity other than the Service Provider unless the City reasonably determines that such action is necessary to ensure the welfare of its residents.

SECTION 3. TERM.

The term of this Agreement shall be for a period of five (5) years, commencing on April 1, 2005 and concluding on March 31, 2010.

SECTION 4. OPERATIONS.

A. **Scope of Operations.** It is expressly understood and agreed that the Service Provider will collect, haul and dispose of all Municipal Solid Waste and Construction and Demolition Waste (i) generated and accumulated by Commercial, Industrial and Residential Units, and (ii) placed within Containers by those Commercial, Industrial and Residential Units receiving the services of the Service Provider (or otherwise generated and accumulated in the manner herein provided by those Commercial Units, Industrial Units and Residential Units), all within the City's corporate limits, including any territories annexed by the City during the term of this Agreement (the "Services").

B. **Nature of Operations.** The City hereby grants to the Service Provider, in accordance with the City's ordinances and regulations governing the collection, hauling and disposal of Municipal Solid Waste and Construction and Demolition Waste, the title to all Municipal Solid Waste and

Construction and Demolition Waste collected, hauled and disposed of by the Service Provider over, upon, along and across the present and future streets, alleys, bridges and public properties within the territorial jurisdiction of the City. All title to and liability for materials excluded from this Agreement shall remain with the generator of such materials.

SECTION 5. SERVICE PROVIDERS DUTIES AND OBLIGATIONS.

It shall be the duty and obligation of Service Provider to perform the following services:

A. Provisions of Equipment and Facilities. Service Provider agrees to furnish trucks, equipment, machinery, tools, personnel, labor, disposal, and any and all other items necessary and sufficient to fulfill its obligations under this contract, at its own expense, to adequately, efficiently and properly collect and transport Municipal Solid Waste and Construction and Demolition Waste, Bulky Items and Bundles and other refuse from residential and commercial properties within the corporate limits of the City in a systematic, clean, healthful and sanitary manner.

B. Disposal of Refuse. Service Provider will dispose of in a legal manner all Municipal Solid Waste and Construction and Demolition Waste, Bulky Items and Bundles and other refuse collected. All vehicles used by Service Provider for the collection of Municipal Solid Waste and Construction and Demolition Waste, Bulky Items and Bundles and other refuse shall be protected at all times while in transit to prevent leakage or the blowing or scattering of refuse onto the public streets of City or property adjacent thereto. Further, such vehicles shall be clearly marked with Service Provider's telephone number and name in letters and numbers not less than four (4) inches in height.

C. Sanitation and Health. All collection equipment shall be washed and deodorized as necessary, but a minimum of once per week. Service Provider shall establish and enforce in its operations and among its employees such regulations in regard to cleanliness and disposal of refuse as will tend to prevent the inception and spread of infectious or contagious disease and to effectively prevent the creation of a nuisance on any property, either public or private.

D. Routes and Schedules. Service Provider agrees to establish daily routes and special schedules for the collection of Municipal Solid Waste and Construction and Demolition Waste, Bulky Items and Bundles and other refuse as necessary to fulfill the requirements of this contract. Further, Service Provider will utilize written route books for use in the collection of refuse from all customers. A copy of each route book currently in use by Service Provider will be provided to City upon request and updated monthly so that City shall at all times have full knowledge of the designated route to be followed by Service Provider. City shall have the right to require alteration of service to any premises where unsightly or unsanitary conditions have resulted from inadequate commercial containers or an insufficient number of collections.

E. Labor Force and Equipment. Service Provider shall employ only superintendents, supervisors, and workers who are careful, competent and fully qualified to perform the duties or tasks assigned to them and shall secure the summary dismissal of any person or persons

employed by the Service Provider in or about or on the work who shall misconduct themselves in the performance of their duties or who shall neglect or refuse to comply with or carry out the directions of Service Provider.

F. All workers shall have sufficient skill, ability, and experience to properly perform the work assigned to them and operate any equipment necessary to properly carry out the performance of their assigned duties.

G. Service Provider shall furnish and maintain all equipment as is considered to be necessary for performance of work other than that used for daily residential pick up in an acceptable manner and at a satisfactory rate of progress. Service Provider shall agree to furnish and maintain equipment for daily residential pick up. All equipment, tools, machinery used for handling materials and executing any part of the work shall be maintained in a satisfactory, safe, and efficient working condition. Service Provider's equipment shall be of a size and weight as to not adversely effect or create unnecessary damage to existing city streets and roadways.

H. Such equipment shall also be kept in a neat and sanitary condition. Service Provider shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work and services performed hereunder. Service Provider shall provide reasonable protection to prevent property loss or damage to both real and personal property and/or personal injury to persons, including but not limited to employees performing such work and all other persons who may be affected thereby.

SECTION 6. SINGLE-FAMILY RESIDENTIAL UNIT COLLECTIONS.

A. Single-Family Residential Units. The Service Provider will collect Municipal Solid Waste from Single-Family Residential Units twice per week on Tuesdays and Fridays; provided, that (i) such Municipal Solid Waste is placed at the curb in plastic bags and/or cans and (ii) such waste is placed within five (5) feet of the curbside or right of way adjacent to the Single-Family Residential Unit no later than 7:00 a.m. on the scheduled collection day.

B. Handicapped Residential Units. Notwithstanding anything to the contrary contained herein, the Service Provider agrees to assist Handicapped Residential Units with house-side collection of their bags and/or containers; provided, that the Service Provider receives prior written notice from the Handicapped Residential Unit of such special need.

SECTION 7. COMMERCIAL, INDUSTRIAL AND MULTI-FAMILY RESIDENTIAL UNIT COLLECTIONS.

The Service Provider will collect Municipal Solid Waste from Commercial, Industrial and Multi-Family Residential Units up to six times per week, as provided for in Attachment I. hereto. The Service Provider shall only be responsible for collecting, hauling and disposing of Municipal Solid Waste or Construction and Demolition Waste placed inside the Containers provided by the Service Provider. However, the Service Provider shall be obligated to offer and provide sufficient service to Commercial, Industrial and Multi-Family Residential Units, and to increase

or decrease, as necessary, the frequency of collection and the size or number of Containers so that Commercial, Industrial or Multi-Family Units' Municipal Solid Waste and Construction and Demolition Waste will be regularly contained. The Service Provider shall be compensated for these additional Services as provided for in Attachment 1 hereto.

SECTION 8. SPECIAL COLLECTIONS AND SERVICES.

A. City Landfill Use. The City is permitted to dispose 24 dump truck loads per year of Construction and Demolition Waste at the Fort Worth C & D Landfill at no cost to the City.

B. Residential Landfill Use. In addition, the Service Provider will allow each Residential Unit to deliver 4 loads of Construction and Demolition Waste per year to the IESI Fort Worth C&D Landfill at no charge to the resident. Each load shall not exceed (2) two cubic yards.

SECTION 9. BULKY ITEMS AND BUNDLES.

A. Pre-Arranged Collections. The Service Provider will collect Bulky Items and Bundles from Single-Family Residential Units at the time designated in the regular pick-up schedule, as designated by the Service Provider; provided, that (i) the Bulky Items or Bundles (A) are placed at the curbside no later than 7:00 a.m. on the scheduled collection day, (B) are reasonably contained, and (C) do not exceed two (2) cubic yards in total volume or have any individual item exceeding fifty (50) pounds in weight. The Service Provider shall only be responsible for collecting, hauling and disposing Bulky Items and Bundles from those Single-Family Residential Units that have complied with this Section 9.A.

B. Negotiated Collections. It is understood and agreed that the service provided under Section 9.A. does not include the collection of Bulky Items and Bundles comprised of Construction and Demolition Waste or any materials resulting from remodeling, general property clean-up or clearing of property for the preparation of construction. However, the Service Provider may negotiate an agreement on an individual basis with the owner or occupant of a Single-Family Residential Unit regarding the collection of such items by utilizing the Service Provider's Roll-Off Services.

SECTION 10. TITLE TO EQUIPMENT.

Notwithstanding anything to the contrary contained herein, it is expressly understood and agreed that all equipment, including, but not limited to, Containers, provided by the Service Provider in connection with the Services, shall at all times remain the property of the Service Provider.

SECTION 11. RATES AND FEES.

Subject to adjustment, as provided in Section 12 hereto, the rates and fees to be charged and received by the Service Provider are provided in Attachment 1:

SECTION 12. RATE ADJUSTMENT.

A. CPI-U Adjustment. After the expiration of the first twelve (12) months of this Agreement, the Service Provider shall have the right, in its sole discretion and upon giving sixty (60) days prior notice to the City, to increase or decrease the rates set forth in Section 11 hereto (the "Initial Rates") in accordance with the CPI-U. As used herein, "CPI-U" shall mean the revised Consumer Price Index rate for all urban consumers (all items included) for the nearest available metropolitan area, based on the latest available figures from the Department of Labor's Bureau of Labor Statistics (the "Bureau"). The CPI-U used will be the index entitled "CPI-U 'Dallas-Fort Worth, Texas area'" published by the Bureau during the month ninety (90) days preceding the adjustment under this Section 12.A. The amount of the increase or decrease under this Section 12.A. shall be equal to the percentage that the CPI-U has increased or decreased over the previous twelve (12) month period.

B. Operating Cost Adjustment. In addition to the rate adjustments provided for in Section 12.A., at any time during the term of this Agreement, the Service Provider may petition the City for additional rate and price adjustments at reasonable times on the basis of material or unusual changes in its cost of operations due to, or directly resulting from, increased fuel costs, ad valorem taxes, or revised federal, state or local laws, ordinances or regulations. Rates may be adjusted only to recover increased costs incurred by the Service Provider not offset by increased revenues. At the time of any such petition, the Service Provider shall provide the City with documents and records in reasonable form and sufficient detail to reasonably establish the necessity of any requested rate adjustment. The City Council shall have the right, in its sole discretion, to determine the validity of any request for a change in rates. No request for an increase in the rates may be submitted for a period of eighteen (18) months from the date this Agreement is executed.

C. Landfill Cost Adjustment. The parties acknowledge that the Municipal Solid Waste and Construction and Demolition Waste covered by this Agreement will be disposed of by the Service Provider at a Landfill(s) chosen by the Service Provider in its sole discretion (the "Initial Landfill(s)"). In the event that the Service Provider is unable to use the Initial Landfill(s) due to reasons out of its control, the Service Provider (i) shall have the right to dispose of the Municipal Solid Waste and Construction and Demolition Waste covered by this Agreement at another Landfill of its choosing, and (ii) shall have the right, upon giving sixty (60) days prior notice to the City, to increase the Initial Rates by an amount equal to the sum of (x) the amount, if any, that the disposal fees charged to the Service Provider at such other Landfill exceed those previously charged to the Service Provider at the Initial Landfill(s), and (y) the amount, if any, that the transportation costs incurred by the Service Provider in connection with transporting the Municipal Solid Waste and Construction and Demolition Waste to such other Landfill exceed those that would have been incurred by the Service Provider if such Municipal Solid Waste and Construction and Demolition Waste was transported to the Initial Landfill(s), provided however, if the increase in the Initial Rate in accordance with this paragraph 12.C. is unacceptable to the City, the City shall have the right to terminate this Agreement within sixty (60) days after receiving notice of the increase.

D. Governmental Fees. The parties acknowledge that the rates herein include all applicable fees, taxes or similar assessments incurred under federal, state and local laws, rules and ordinances (excluding taxes imposed on income) (the "Fees"). The parties acknowledge and understand that the Fees may vary from time to time, and, in the event any of such Fees are increased or additional Fees are imposed subsequent to the effective date of this Agreement, the parties agree that the rates herein shall be immediately increased by the amount of any such increase in Fees or additional Fees.

SECTION 13. EXCLUSIONS.

Notwithstanding anything to the contrary contained herein, this Agreement shall not cover the collection, hauling or disposal of any Hazardous Waste, animal or human waste, auto parts, used tires, concrete, dirt, gravel, rock or sand from any Container provided by the Service Provider located at any Commercial, Industrial or Residential Unit; provided, however, that the Service Provider and the owner or occupant of a Commercial, Industrial or Residential Unit may negotiate an agreement on an individual basis regarding the collection, hauling or disposal of auto parts, used tires, concrete, dirt, gravel, rock or sand by utilizing the Service Provider's Roll-Off Services.

SECTION 14. ENFORCEMENT.

During the term of this Agreement and any extension thereof, the City agrees to adopt and maintain ordinances that will enable the Service Provider to provide the Services set forth herein. If the Service Provider experiences recurring problems of damage or destruction to or theft of the Containers provided by the Service Provider pursuant to this Agreement, the Service Provider may, prior to replacing or repairing such Containers, require security deposits from the Commercial, Industrial or Residential Units utilizing such Containers. The City also hereby grants to the Service Provider the right of ingress and egress from and upon the property of Commercial, Industrial and Residential Units for the purposes of rendering the Services contemplated hereby.

SECTION 15. PROCESSING, BILLING AND FEES.

A. Residential Monthly Statement. On a monthly basis, the City agrees to bill and collect the rates and fees charged under Section 11 hereto from all Residential Units possessing active water meters within the City's territorial jurisdiction, as well as from all Residential Units requiring the collection, hauling and disposal of Municipal Solid Waste within the City's territorial jurisdiction (the "Residential Monthly Statement"). Thereafter, the City will remit to the Service Provider an amount equal to (x) the amount set forth in such Residential Monthly Statement, less (z) a franchise fee equal to ten percent (10%) of the amount set forth in the Residential Monthly Statement. Such remittance shall be made by the City on or before the 15th day of each month (for the immediately preceding month's service) commencing on April 15, 2005. Nothing herein shall prohibit the City from collecting sums in addition to those sums called for herein. The Service Provider shall not be held responsible for the collection of any "bad debt" billed by City to the Residential Units.

B. Commercial Monthly Statement. On a monthly basis, the Service Provider agrees to bill and collect the rates and fees charged under Section 11 hereto from all Commercial and Industrial Units requiring the collection, hauling and disposal of Municipal Solid Waste or Construction and Demolition Waste within the City's territorial jurisdiction (the "Commercial Monthly Statement"). Thereafter, the Service Provider will remit to the City an amount equal to (z) a franchise fee equal to ten percent (10%) of the amount set forth in the Commercial Monthly Statement. Such remittance shall be made by the Service Provider on or before the 15th day of each month (for the immediately preceding month's service) commencing on April 15, 2005. The City shall not be held responsible for the collection of "bad debt" relating to any amounts billed by the Service Provider to Commercial and Industrial Units.

SECTION 16. SPILLAGE.

It is understood and agreed that the Service Provider shall not be required to clean up, collect or dispose of any loose or spilled Municipal Solid Waste or Construction and Demolition Waste not caused by the Service Provider's rendering of the Services, or be required to collect and dispose of any excess Municipal Solid Waste or Construction and Demolition Waste placed outside of the Containers or bags by any Commercial, Industrial or Residential Unit. The Service Provider shall report the location of such conditions to the City so that the City can issue proper notice to the owner or occupant of the Commercial, Industrial or Residential Unit instructing the owner or occupant to properly contain such Municipal Solid Waste or Construction and Demolition Waste. Should excess Municipal Solid Waste or Construction and Demolition Waste continue to be placed outside of the Containers or bags, the City shall require the Commercial, Industrial or Residential Unit to increase the frequency of collection of such Municipal Solid Waste or Construction and Demolition Waste, or require the Commercial, Industrial or Residential Unit to utilize a Container with sufficient capacity so that the excess Municipal Solid Waste or Construction and Demolition Waste will be regularly contained. The Service Provider shall be compensated for these additional Services as provided for in Attachment 1 hereto, and shall be entitled to receive an extra collection charge for each additional Container requiring an extra collection.

SECTION 17. NON-COLLECTION NOTICE AND FOLLOW-UP.

A. Notice from the Service Provider. It is specifically understood and agreed that where the owner or occupant of a Commercial, Industrial or Residential Unit fails to timely place a Container or bag as directed in Sections 6 and 7 hereto, or is otherwise in violation of the City's ordinances and regulations, the Service Provider's reasonable rules adopted hereunder or the provisions of this Agreement relating to the nature, volume or weight of Municipal Solid Waste or Construction and Demolition Waste to be removed, the Service Provider may refrain from collecting all or a portion of such Municipal Solid Waste or Construction and Demolition Waste and will notify the City within eight (8) hours thereafter of the reason for such non-collection. The Service Provider will also provide written notice to the Commercial, Industrial or

Residential Unit of the reason for such non-collection, unless such non-collection is the result of the Commercial, Industrial or Residential Unit's failure to timely place the Containers, bags, Bulky Items or Bundles out for collection. Such written notice shall be attached to the Container or bag or the uncollected Municipal Solid Waste or Construction and Demolition Waste, shall indicate the nature of the violation and shall indicate the correction required in order that such Municipal Solid Waste or Construction and Demolition Waste may be collected.

B. Notice from a Commercial, Industrial or Residential Unit. When the City is notified by an owner or occupant of a Commercial, Industrial or Residential Unit that Municipal Solid Waste or Construction and Demolition Waste has not been removed from such Commercial, Industrial or Residential Unit and where no notice of non-collection or a change in collection schedule has been received by the City from the Service Provider, or the Service Provider has failed to collect Municipal Solid Waste or Construction and Demolition Waste from the Commercial, Industrial or Residential Unit without cause, as supported by notice as described herein, then the Service Provider will use all reasonable efforts to collect such Municipal Solid Waste or Construction and Demolition Waste on the day a collection order is issued by the City; provided, however, that if the Service Provider fails to make such collection on the same day that a collection order is issued by the City, the Service Provider shall make such collection no later than 12:00 p.m. on the following Business Day, and there shall be no charge to the Service Provider for any such original non-collection or late collection so long as the Service Provider makes such collection within such time.

C. Penalties for Noncollection. Failure to resolve a valid service complaint as determined by the Service Provider or the City Manager in the time prescribed shall subject the Service Provider to the penalties provided in this Section and it is agreed that the City may deduct from payments due or to become due to the Service Provider, the following amounts as liquidated damages:

1. Failure to clean up material amounts of spilled refuse – each incident: \$35.00.
2. Failure to neglect to collect refuse from any premises at those times as provided by the Agreement within 24 hours of the delivery of notice of such failure to the Service Provider: \$50.00.
3. Failure or neglect to correct chronic problem in any category avbove (chronic shall mean three or more similar incidents at the same premises within a three month period) – each instance: \$150.00.

SECTION 18. HOURS OF SERVICE.

For all the Services provided hereunder, the Service Provider's hours of service shall be between 7:00 a.m. to 7:00 p.m., Monday through Friday. The Service Provider will not be required to provide service on weekends or Holidays except during natural disasters or emergencies, and may, at its sole discretion, observe Holidays during the term of this Agreement.

SECTION 19. CUSTOMER SERVICE.

A. Office Hours. Service Provider's local office shall be open so that customers can make complaints, requests for information, requests for service, etc. during the hours of 8:00 a.m. through 5:00 p.m., Monday through Friday, excluding legal holidays. Service Provider agrees to secure an annual listing in the Fort Worth Telephone Directory under the name by which it conducts business in the community.

B. Office Personnel. Service Provider's local office shall have a responsible person in charge during collection hours on collection days and shall be equipped with sufficient attendants to receive telephone calls. Attendant(s) shall respond to calls in a courteous manner within the following twenty-four (24) hour period.

C. Managing Agent. Throughout the term of the Agreement, Service Provider shall establish and maintain an authorized Managing Agent and shall designate in writing to the City Manager the name, telephone number, and address of such agent to whom all notices may be served by the City of complaints received from citizens of the City.

D. Service Complaints. All service complaints shall initially be directed to Service Provider and shall be resolved within twenty-four (24) hours. Service Provider shall supply the City with copies of all complaints on a form approved by the City indicating the disposition of each complaint. The form shall indicate the day and hour on which the complaint was received and resolved. When a complaint is received on the day preceding a holiday or a weekend, it shall be serviced on the next working day.

E. Notification of Complaints. The City shall notify Service Provider of each complaint reported to the City in order for the Service Provider to take whatever reasonable steps are necessary to remedy the cause of the complaint. Service Provider shall notify the City of its disposition within twenty-four (24) hours after receipt of the complaint.

F. Explanation of disposition of Complaints. Service Provider shall provide the City with a full explanation of the disposition of any complaint involving a customer's claim of damage to private property as the result of actions of Service Provider's employees, agents, and subcontractors in connection with the performance of this Agreement.

G. Notification of Procedures. Service Provider shall notify all customers about procedures, rules and regulations, and days of collection on an annual basis and whenever there is a change in service, days of collection, procedures, etc. Notice is to be in the form of printed matter distributed by Service Provider to all premises served by Service Provider at least thirty (30) days prior to any change in the procedures, rules and regulations, days of collection, service, etc. Such notice must be approved by the City prior to distribution.

H. Noncollection. It is understood and agreed by and between the City and Service Provider that if any customer maintains improper or inadequate containers for the nature, volume, or weight of refuse to be removed from the premises, or if any customer improperly places debris or

Bulky Items for collection, Service Provider may refrain from collecting all or a portion of such refuse and shall notify the City and the customer of the reason for such non-collection. When the City is notified by a customer that refuse has not been removed from his or her premises on the scheduled collection day and where no notice of non-collection nor a change in collection schedule has been received from Service Provider, the City may investigate.

I. Dangerous Animals. Employees of Service Provider shall not be required to expose themselves to the danger of vicious animals in order to accomplish refuse collection in any case where the owner or tenants have animals at large, but Service Provider shall immediately notify the City, in writing, of such condition and of Service Provider's inability to make collection.

J. Hazardous Weather. Service Provider may cancel a portion or all of a scheduled service day due to hazardous weather conditions, and shall notify the City, in writing, of such cancellation.

SECTION 20. SERVICE PROVIDERS RELATION TO CITY.

A. Service Provider as Independent Contractor. It is expressly agreed and understood that Service Provider is in all respects an independent contractor as to the work, duties, and rights granted herein, notwithstanding the fact that Service Provider is bound to follow the direction of designated City officials, and that neither Service Provider nor any person performing any of the work covered under this contract is in any respect an agent, servant, officer, or employer of the City. This contract specifies the work to be done by Service Provider, but the method to be employed to accomplish this work shall be the exclusive responsibility of Service Provider, and under Service Provider's exclusive contract and right of control. The doctrine of *respondeat superior* shall not apply between the City and Service Provider, or any of Service Provider's agents, servants, employees, or subcontractor's and nothing herein shall be construed as creating a partnership or joint enterprise between the City and Service Provider.

B. Subletting and Assignment. This contract, or any portion thereof, shall not be sublet or assigned except with the prior written consent of the City Council of the City, which consent shall not be unreasonably withheld, conditioned or delayed.

No such consent will be construed as making the City a party to such subcontract or assignment, or as subjecting the City to liability of any kind to any subcontractor or assignee unless otherwise agreed to by the City. No subcontractor shall, under any circumstances, relieve Service Provider of its liability and obligation under this contract; and despite any such subletting, the City shall deal through Service Provider unless otherwise agreed by the City. Subcontractor will be dealt with as workers and representatives of Service Provider, and such shall be subject to the same requirements as to character and competence as are other employees of Service Provider.

C. Inspection of Performance. The City Manager may inspect Service Provider's operations, equipment, and performance at any reasonable time, and Service Provider shall furnish the City Manager with every reasonable opportunity to inspect Service Provider's operations or

equipment or for otherwise ascertaining whether or not the work is being performed in accordance with the requirements of this contract.

D. Insurance Coverage. The insurance coverage specified in Section 23 constitutes the minimum requirements and said requirements shall in no way lessen or limit the liability or responsibility of Service Provider under the terms of this contract. Service Provider shall procure and maintain, at its own cost and expense, any additional kinds and amount of insurance, that, in its own judgement, may be necessary for proper protection in the prosecution of its work under this Agreement.

SECTION 21. DUE CARE.

The Service Provider shall exercise due care and caution in providing the Services so that the City's public and private property, including streets and parking areas, will be protected and preserved.

SECTION 22. PERSONNEL AND PERFORMANCE STANDARDS.

The Service Provider shall not deny employment to any person on the basis of race, creed or religion, and will ensure that all federal and state laws pertaining to salaries, wages and operating requirements are met or exceeded. The Service Provider, its agents, servants and employees shall perform the Services in a courteous, competent and professional manner. During the term of this Agreement and any extension thereof, the Service Provider shall be responsible for the actions of its agents, servants and employees while such agents, servants and employees are acting within the scope of their employment or agency.

SECTION 23. INSURANCE COVERAGE.

Pursuant to this Agreement, the Service Provider shall carry the following types of insurance in an amount equal to or exceeding the limits specified below:

A. Insurance. Service Provider shall not commence work under this contract until Service Provider has obtained all the insurance required under this contract and certificates evidencing such coverage are received by the City, Service Provider shall be responsible for delivering to the City Service Provider's certificate of insurance for approval. Service Provider shall include the coverage of all subcontractors in any insurance policy it carries. The City also shall be named as an additional insured on each policy described in subsections 2 through 4 below. All insurance policies shall contain a provision that states that coverage under the policies will not be canceled until at least thirty (30) days prior written notice has been given to the City. The failure by the Service Provider to keep in full force and effect any insurance required by this contract shall be deemed a breach of this contract.

1. Workers Compensation Insurance- Service Provider shall maintain, during the life of this contract, Worker's Compensation Insurance in the statutory amounts on all employees to be engaged in work under this contract, and for all subcontractors. In case any classes of

employees engaged in hazardous work under this contract are not protected under the Worker's Compensation Statute, the Service Provider shall provide adequate employer's general liability insurance for the protection of such employees not so protected.

2. Comprehensive General Liability Insurance – Service Provider shall procure and shall maintain during the life of this contract Public Liability and Property Damage Insurance in an amount not less than \$5,000,000 covering each occurrence on account of bodily injury, including death, and in an amount not less than \$1,000,000 covering each occurrence on account of property damage.

3. Automobile Insurance- Bodily Injury and Property Damage- Service Provider shall procure and maintain during the life of this contract, Comprehensive Automobile Liability Insurance in an amount not less than \$500,000 for injuries including accidental death to any one person and, subject to the same limit for each person, an amount not less than \$1,000,000 on account of one accident, and automobile property damage insurance in an amount not less than \$500,000.

4. Additional Coverage- Any insurance coverage that is required by statute, which is not expressly stated herein, shall be maintained in accordance with statutory requirements.

5. Excess Umbrella Liability Insurance- \$5,000,000 per occurrence. Notwithstanding the above, the Service Provider may satisfy any of the above policy limits with excess coverage.

6. Scope of Insurance- The insurance required under the above paragraphs shall provide adequate protection for Service Provider and its subcontractors, respectively, against damage claims which may arise from operations under this contract, whether such operations be by the insured or by anyone directly or indirectly employed by the insured. All insurance requirements made upon Service Provider shall apply to a subcontractor's work operations.

7. Insurance and Bonding Companies- The insurance and bonding companies with whom Service Provider's insurance and performance bonds are written shall be authorized to do business in the State of Texas and shall be represented by a duly qualified agent or agents upon whom service of process may be had, and must have authority and power to act on behalf of the insurance and/or bonding company to negotiate and settle with the City, or any other claimant, any claims that the City or other claimant, or any property owner who has been damaged, may have against Service Provider or its insurance or bonding company. The name of the agent or agents shall be set forth on all such bonds and certificates of insurance. Service Provider shall keep the required insurance in full force and effect at all times during the term of this contract, and any renewals thereof. Service Provider shall furnish to the City a certificate of insurance, evidencing that Service Provider has obtained the required insurance coverage. All policies shall provide that they may not be changed or canceled by the insurer in less than five (5) days after the City has received written notice of such change or cancellation.

SECTION 24. INDEMNITY.

A. SERVICE PROVIDER ASSUMES ALL LIABILITY AND RESPONSIBILITY FOR AND HEREBY COVENANTS AND AGREES TO FULLY INDEMNIFY, HOLD HARMLESS, AND DEFEND CITY, ITS OFFICERS, AGENTS, SERVANTS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS, JUDGEMENTS, ASSESSMENTS, COSTS, AND EXPENSES (INCLUDING WITHOUT LIMITATION, REASONABLE FEES AND EXPENSES OF ATTORNEYS, EXPERT WITNESSES AND OTHER CONSULTANTS) FOR PROPERTY DAMAGE OR LOSS AND/OR PERSONAL INJURY, INCLUDING DEATH, TO ANY AND ALL PERSONS OF WHATSOEVER KIND OR CHARACTER ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE, ATTEMPTED PERFORMANCE OR NON-PERFORMANCE OF THE WORK AND SERVICES DESCRIBED HEREUNDER OR IN ANY WAY RESULTING FROM OR ARISING OUT OF THE COLLECTION, TRANSPORTATION, AND DISPOSAL OF SOLID WASTE OR REFUSE UNDER THIS CONTRACT, INCLUDING THE WORK, SERVICES, OPERATIONS, AND LEGAL DUTIES OF SERVICE PROVIDER, ITS OFFICERS, AGENTS SERVANTS, EMPLOYEES, SUBCONTRACTORS, LICENSEES, OR INVITEES, IF ANY. IN THE EVENT OF JOINT AND CONCURRENT RESPONSIBILITY OF SERVICE PROVIDER AND CITY, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE TEXAS LAW, WITHOUT WAIVING ANY DEFENSE OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY PERSON.

B. SERVICE PROVIDER SHALL LIKEWISE ASSUME ALL RESPONSIBILITY AND LIABILITY FOR AND SHALL INDEMNIFY AND HOLD HARMLESS THE CITY FOR ANY AND ALL INJURY OR DAMAGE TO CITY PROPERTY ARISING OUT OF OR IN CONNECTION WITH ANY AND ALL NEGLIGENT OR WILLFUL ACTS OR OMISSIONS OF SERVICE PROVIDER, ITS OFFICERS, AGENTS, SERVANTS, EMPLOYEES, SUBCONTRACTORS, LICENSEES, OR INVITEES, INCLUDING WITHOUT LIMITATION, REASONABLE FEES AND EXPENSES OF ATTORNEYS, EXPERT WITNESSES AND OTHER CONSULTANTS, EXPENDED BY THE CITY IN ANY SUIT OR CLAIM AGAINST THE SERVICE PROVIDER.

SECTION 25. MISCELLANEOUS.

A. Compliance with laws. Service Provider hereby agrees to comply with all applicable federal, state, and local laws including the Fair Labor Standards Act and rules, regulations orders and decrees of the Texas Department of Health, the Texas Commission on Environmental Quality (formerly the Texas Natural Resources Conservation Commission), and the United States Environmental Protection Agency. Service Provider shall indemnify and hold harmless the City, its officers, representatives, agents, and employees against any claim or liability arising from or based on the violation of any such laws, regulations, ordinances, order or

decree, whether such violation was by Service Provider, its agents or employees, or any subcontractor. Service Provider shall not be required to collect or dispose of any oil, sludge, fecal material or any radioactive, pathological, toxic, acidic or volatile material, or other hazardous waste or improper waste from any commercial or residential customer. Should Service Provider elect to dispose of such materials, Service Provider shall take such steps and precautions as are required by the applicable laws governing disposal of such material.

Service Provider shall at all times observe all City ordinances controlling or limiting those engaged performing work under this contract; provided, however, that nothing contained in any ordinance not in derogation of this Agreement now in effect or hereafter adopted pertaining to the collection of Municipal Solid Waste and Construction and Demolition Waste, Bulky Items and Bundles or other trash shall in any way be construed to affect, change or modify or otherwise alter the duties, responsibilities and operation of Service Provider in the performance of the terms of this Agreement. It is the intention hereof that Service Provider be required to perform the terms of this Agreement regardless of the affect of interpretation of any municipal ordinance not in derogation of this Agreement which in any way relates to brush, debris, garbage, hazardous waste, bulky items, refuse, bundled or boxed bundled items or trash.

B. Multiple Originals. This Agreement may be executed in multiple originals, each of which shall be deemed for all purposes to be an original, and all of which are identical.

C. Paragraph Headings. The paragraph headings contained herein are for the convenience in reference and are not intended to define or limit the scope of any provision of this Agreement.

D. Successors and Assigns. All of the terms, covenants, and agreements contained herein shall be binding upon and shall inure to the benefit of successors and assigns of the respective parties hereto.

E. Notices. Notices by either party to the other party shall be sufficient if sent by certified mail, postage paid, return receipt required, addressed to the other party at the addresses designated below each party's signature hereunder.

F. Venue. Should any action, whether real or asserted, at law or in equity, arise out of the terms and conditions of this Agreement, venue for said action shall be in Tarrant County, Texas.

G. Governmental Powers and Immunity. It is understood and agreed that by execution of this Agreement, City does not waive or surrender any of its governmental powers, or sovereign immunity.

H. Taxes. Subject to Section 12(d) above, Service Provider shall pay all federal, state, and local taxes including sales tax, social security, worker's compensation, unemployment insurance, and any and all other required taxes which may be chargeable against labor, material, equipment, real estate, and any other items necessary to and in performance of this contract.

I. Licenses, Permits, and Fees. Subject to Section 12(d) above, Service Provider agrees to obtain and pay for all licenses, permits, certificates, inspections and all other fees required by law or otherwise necessary to perform the services prescribed hereunder. Service Provider shall also pay, at Service Provider's own expense, all disposal fees associated with the collection, removal and disposal of refuse; provided, however, that nothing herein shall impede Service Provider's rights to adjust the rates hereunder as may be specifically set forth in this Agreement.

J. Performance Bond. Service Provider agrees that upon the execution of this Contract and before beginning work, it shall make, execute, and deliver to the City a good and sufficient surety bond, to secure the faithful performance of the terms and conditions herein. Such bond shall be in the amount of One Hundred Thousand Dollars (\$100,000), and signed by an authorized officer of the Service Provider, together with the signature of the corporate secretary and the corporate seal, if any. The surety shall be a surety company duly authorized to do business in the State of Texas, and approved by the City, which approval shall not be unreasonably withheld, conditioned or delayed.

K. Savings Provision. In the event that any term or provision of this Agreement shall be determined by a court of competent jurisdiction to be invalid or unenforceable, this Agreement shall, to the extent reasonably possible, remain in force as to the balance of its terms and provisions as if such invalid term or provision were not a part hereof.

L. Audit. Either Service Provider or the City may request an audit of all account records by the City's or, as applicable, Service Provider's outside, independent audit firm then engaged by the City or, as applicable, the Service Provider at the time of the request. Such audit shall be at the expense of the party requesting same. Further, supporting documentation of billings will be provided to the City or Service Provider upon request by the other party.

M. Force Majeure. The performance of this Agreement may be suspended and the obligations hereunder excused in the event and during the period that such performance is prevented by a cause or causes beyond the reasonable control of such party. The performance of this Agreement will be suspended and the obligations hereunder excused only until the condition preventing performance is remedied. Such conditions shall include, but not be limited to, acts of God, acts of war, accident, explosion, fire, flood, riot, sabotage, unusually severe weather, lack of adequate fuel, or judicial or governmental laws or regulations.

N. Attorneys Fees. The prevailing party in any suit, action or proceeding arising out of or involving the enforcement, interpretation or application of this Agreement shall be entitled to recover all reasonable attorneys' fees incurred in connection with such action, suit or proceeding.

SECTION 26. TERMINATION.

A. Any failure by the Service Provider or its successors and assigns to observe the terms and conditions of this Agreement shall, if continuing or persisting without remedy for more than thirty (30) days after the receipt of due written notice from the City (and signed by the City Manager), constitute grounds for forfeiture and immediate termination of all the Service Provider's rights that would have otherwise accrued

after the date of such termination under this Agreement, and all such rights shall become null and void.

- B. Any failure by the City to pay any amounts owed to Service Provider under this Agreement shall, if continuing or persisting without remedy for more than thirty (30) days after the receipt of due written notice from Service Provider, constitute grounds for forfeiture and immediate termination of all the City's rights that would have otherwise accrued after the date of such termination under this Agreement, and all such rights shall become null and void.

SECTION 27. ACCEPTANCE.

PASSED AND APPROVED BY THE CITY OF EVERMAN, TEXAS COUNCIL MEETING AT A TIME AND PLACE IN COMPLETE CONFORMITY WITH THE OPEN MEETING LAWS OF THE STATE OF TEXAS AND ALL OTHER APPLICABLE LAWS THIS 8th DAY OF MARCH, 2005.

IESI TX CORPORATION
2301 Eagle Parkway, Suite 200
Fort Worth, Texas 76177

By: Jeff Beckham
Jeff Beckham
Vice President

CITY OF EVERMAN
212 North Race Street
Everman, Texas 76140

By: Jim Stephenson
Name: Jim Stephenson
Title: Mayor

ATTEST:

By: Judy Thompson
Name: Judy Thompson
Title: City Secretary



WASTE CONNECTIONS LONE STAR, INC.

4001 Old Denton Rd, Haltom City, Texas 76117
 Contact: Marty Grant, District Manager
 Phone: (817) 222-2221

EXHIBIT A
City of Everman, TX
RATE SHEET

Effective: April 1st, 2020 BILLING

RESIDENTIAL CURBSIDE COLLECTION: \$18.97 per month, per residential unit
 Additional Cart: n/a per month, per residential unit per each additional Cart
 RESIDENTIAL RECYCLING CURBSIDE COLLECTION: \$4.00 per month, per Single-Family Residential Unit
 Additional Recycling Container: n/a per month, per residential unit per each additional Recycling Container
 Senior Citizen Rate: \$9.98 per month, per residential unit

COMMERCIAL RATE SCHEDULE

CONTAINER SIZE	Lifts Per Week						Extra-Lifts
	1	2	3	4	5	6	
95 gallon Cart		24.87					28.20
2 Cubic Yd	62.39	101.39	115.65	175.48	204.08	245.68	37.92
3 Cubic Yd	71.60	119.56	165.96	201.46	245.80	324.92	53.07
4 Cubic Yd	86.41	149.63	202.75	269.04	303.88	378.20	60.68
6 Cubic Yd	107.89	202.75	283.85	300.24	395.01	465.60	68.24
8 Cubic Yd	133.89	243.05	338.61	392.52	466.59	595.24	71.28

FRONT LOAD COMPACTOR RATES

6 Cubic Yd							
8 Cubic Yd							

Residential goes thru the City

FRONT LOAD RECYCLE RATES

6 Cubic Yd	89.68	162.78	215.98				31.81
8 Cubic Yd	94.83	163.31	226.52				31.69

We Bill all Commercial & Roll Off- Co Id 004 Srv Area is EVM

other commercial front load fees

Containers w/Casters	\$7.35	*Delivery and/or Removal Fee	\$57.95
Containers w/locks	\$7.35	Exchange Fee	\$79.02

*Delivery or Removal fees are not charged during the initial start-up or termination of the agreement

Temporary Front Load Rates

per lift DELIVERY DAILY RENT DISPOSAL

6 Cubic Yd	131.69	57.94	1.09	n/a			
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ROLL OFF RATE SCHEDULE

CONTAINER SIZE	HAUL	DELIVERY	DAILY RENT	DISPOSAL
20 Cubic Yd	303.99	82.90	5.25	n/a
30 Cubic Yd	392.43	82.90	5.25	n/a
40 Cubic Yd	421.52	82.90	5.25	n/a

ROLL OFF COMPACTOR RATE SCHEDULE

CONTAINER SIZE	HAUL	DELIVERY	DAILY RENT	DISPOSAL
20 Cubic Yd				
24 Cubic Yd				
30 Cubic Yd				
36 Cubic Yd				
40 Cubic Yd				
42 Cubic Yd				

Franchise and Billing Fees:

Residential: 10.0%
 Commercial: 10.0%

* All rates are inclusive of all franchise and billing fees

* Rates do not include any Sales Tax

* Rates do not include any Fuel Surcharges



WASTE CONNECTIONS
OF TEXAS

January 30, 2020

Honorable Mayor and Members of Council
City of Everman
212 Race Street
Everman, Texas 76140

Re: Contract Renewal Request:

Dear Honorable Mayor and Members of Council:

Waste Connections would like to take this opportunity to express our appreciation for your business. Waste Connections has been committed to giving the best service for your residents and commercial customers. As you know our current contract ends March 31, 2020. Please accept this letter as our request that this Contract be approved for renewal.

If you have any questions or need additional information, please feel free to contact me if you have any questions per this request.

Sincerely,

Norm Bulaich
Municipal Manager
Waste Connections, Inc
817-999-2584

FOURTH AMENDMENT TO CONTRACT

This Fourth Amendment to the Contract (the "Fourth Amendment") is entered into this 1st day of January, 2020, by and between Waste Connections Lone Star, Inc. (the "Service Provider") and the City of Everman, Texas (the "City"). The City and Contractor may be collectively referred to herein as the "Parties" and individually as a "Party", unless specifically identified otherwise. All capitalized terms not otherwise defined herein shall have the meanings set forth in the Agreement.

RECITALS:

WHEREAS, the City and IESI TX Corporation ("IESI") entered into that Franchise Agreement for the Collection, Hauling and Disposal of Municipal Solid Waste and Construction and Demolition Waste dated April 1, 2005 (the "Contract") to provide collection, hauling, and disposal services garbage and recycle collection throughout the City (as such terms are defined in the Agreement); and

WHEREAS, the City and IESI entered into that certain Amendment and Renewal Agreement dated November 10, 2009 (the "First Amendment");

WHEREAS, on June 20, 2012, IESI changed its name to Progressive Waste Solutions of TX, Inc.;

WHEREAS, on November 11, 2014, the Parties entered into a Second Amendment and Renewal Agreement (the "Second Amendment");

WHEREAS, the Parties then entered into that certain Third Amendment to Franchise Agreement dated 2015 (the "Third Amendment") (the Contract, First Amendment, Second Amendment and Third Amendment are hereinafter collectively referred to as the "Agreement");

WHEREAS, Progressive Waste Solutions of TX, Inc., did thereafter change its name to Waste Connections Lone Star, Inc.;

WHEREAS, the City and the Service Provider mutually desire to extend and amend the Contract as further described herein.

AGREEMENT:

NOW, THEREFORE, and in consideration of these premises and such other lawful consideration, the receipt and sufficiency of which each of the parties hereto acknowledge, the parties agree as follows:

- 1. **Term.** Upon execution of this Fourth Amendment, Section 3 of the Agreement is hereby modified by renewing the Agreement for an additional five (5) year term beginning on April 1, 2020 and terminating March 31, 2025:
- 2. **Rates.** Beginning April 1, 2020, all prior or previous rate sheets shall be deleted and replaced with the Rate Sheet attached hereto to this Fourth Amendment.
- 3. **CPI-U Rate Adjustment.** Upon execution of this Fourth Amendment, Section 12 of the Agreement shall be deleted in its entirety and replaced with the following:

“Beginning on April 1, 2021, and thereafter annually on each April 1, the Service Provider shall have the right, in its sole discretion and upon giving sixty (60) days prior notice to the City, to increase or decrease the rates set forth in Section 11 hereto (the “Initial Rates”) in accordance with the CPI-U. As used herein, “CPI-U” shall mean the revised Consumer Price Index rate for All Urban Consumers, Garbage and Trash Collection Services, CUSR0000SEHG02) for the nearest available metropolitan area, based on the latest available figures from the Department of Labor’s Bureau of Labor Statistics (the “Bureau”). The CPI-U used will be the index entitled “CPI-U ‘Dallas-Fort Worth, Texas area’” published by the Bureau during the month ninety (90) days preceding the adjustment under this Section 12.A. The amount of the increase or decrease under this Section 12.A. shall be equal to the percentage that the CPI-U has increased or decreased over the previous twelve (12) month period. Notwithstanding the foregoing, in no event shall the rate increases or decreases pursuant to this Section 12.A. be less than one percent (1%) or more than six percent (6%) for any given year.”

4. **Reaffirmation.** The parties hereby reaffirm their agreement with all the terms and provisions of the Agreement as amended by this Fourth Amendment.

5. **Entire Agreement.** The Agreement and this Fourth Amendment represents the entire agreement among the parties with respect to the matters that are the subject hereof

6. **Counterparts; Facsimile Signatures.** This Fourth Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which shall collectively constitute one and the same instrument representing this Fourth Amendment between the parties hereto, and it shall not be necessary for the proof of this Fourth Amendment that any party produce or account for more than one such counterpart. Facsimile signatures shall be given the same force and effect as original signatures and shall be treated for all purposes and intents as original signatures.

IN WITNESS WHEREOF, the undersigned have executed this Fourth Amendment as of the date first written above.

CITY OF EVERMAN, TEXAS

WASTE CONNECTIONS LONE STAR, INC.

By: _____
Title: _____
Date: _____

By: _____
Title: _____
Date: _____



WASTE CONNECTIONS LONE STAR, INC.
 4001 Old Denton Rd, Haltom City, Texas 76117
 Contact: Marty Grant; District Manager
 Phone: (817) 222-2221

EXHIBIT A
City of Everman, TX
RATE SHEET

Effective: April 1st, 2020 BILLING

RESIDENTIAL CURBSIDE COLLECTION: \$10.97 per month, per residential unit
 Additional Cart: n/a per month, per residential unit per each additional Cart
RESIDENTIAL RECYCLING CURBSIDE COLLECTION: \$4.00 per month, per Single-Family Residential Unit
 Additional Recycling Container: n/a per month, per residential unit per each additional Recycling Container
 Senior Citizen Rate: \$9.96 per month, per residential unit

COMMERCIAL RATE SCHEDULE

CONTAINER SIZE	Lifts Per Week						
	1	2	3	4	5	6	Extra-Lift
95 gallon Cart		24.87					28.20
2 Cubic Yd	62.39	101.39	115.68	175.46	204.08	245.66	37.92
3 Cubic Yd	71.50	119.56	155.96	201.46	245.80	324.92	53.07
4 Cubic Yd	88.41	149.53	202.75	269.04	303.86	378.20	60.66
6 Cubic Yd	107.89	202.75	263.85	300.24	386.01	466.60	68.24
8 Cubic Yd	133.89	243.05	336.61	392.52	466.59	595.24	71.28

FRONT LOAD COMPACTOR RATES

6 Cubic Yd							
8 Cubic Yd							

FRONT LOAD RECYCLE RATES

6 Cubic Yd	89.56	152.78	215.98				31.61
8 Cubic Yd	94.83	163.31	226.52				31.59

other commercial front load fees

Containers w/Casters	\$7.35	*Delivery and/or Removal Fee	\$57.95
Containers w/locks	\$7.35	Exchange Fee	\$79.02

*Delivery or Removal fees are not charged during the initial start-up or termination of the agreement

Temporary Front Load Rates

per lift **DELIVERY DAILY RE DISPOSAL**

6 Cubic Yd	131.69	57.94	1.09	n/a			
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ROLL OFF RATE SCHEDULE

CONTAINER SIZE	HAUL	DELIVERY	DAILY RE	DISPOSAL
20 Cubic Yd	303.99	82.90	5.25	n/a
30 Cubic Yd	352.43	82.90	5.25	n/a
40 Cubic Yd	421.52	82.90	5.25	n/a

ROLL OFF COMPACTOR RATE SCHEDULE

Franchise and Billing Fees:

Residential: 10.0%
 Commercial: 10.0%

- * All rates are inclusive of all franchise and billing fees
- * Rates do not include any Sales Tax
- * Rates do not include any Fuel Surcharges

THIRD AMENDMENT TO FRANCHISE AGREEMENT

This Third Amendment and Renewal Agreement (the "Amendment") is dated the ____ day of _____, 2015 and is by and between the City of Everman, Texas (the "City") and Progressive Waste Solutions of TX, Inc., a Texas corporation (the "Service Provider" or "PWS") (collectively "the Parties" or "Party").

RECITALS:

WHEREAS, the City and IESI TX Corporation entered into a Franchise Agreement for the collection, hauling and disposal of Municipal Solid Waste and Construction and Demolition Waste dated April 1, 2005 (the "Contract");

WHEREAS, the City and IESI TX Corporation entered into an Amendment and Renewal Agreement dated November 10, 2009 (the "1st Amendment") (the Contract and the 1st Amendment are hereinafter collectively referred to as the "Agreement");

WHEREAS, on June 20, 2012, IESI TX Corporation changed its name to Progressive Waste Solutions of TX, Inc.;

WHEREAS, on November 11, 2014 the Parties entered into a Second Amendment and Renewal Agreement.

WHEREAS, the Agreement will expire on March 31, 2020;

WHEREAS, the Parties desire to amend the Agreement as more fully described herein;

AGREEMENT:

NOW, THEREFORE, in consideration of the covenants, mutual promises, and agreements set forth herein and in the Agreement, Customer and Service Provider hereby agree as follows:

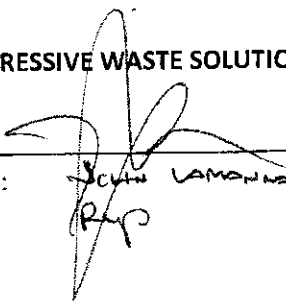
- I. **Defined Terms.** Section 1 of the Agreement is hereby modified by adding the definition of Recycle Waste to mean any used or non-hazardous waste materials suitable for reuse and recycling. Recycle Waste does not include Hazardous Waste or Municipal Solid Waste.
- II. **Operations.** Section 4 is amended to include Recycle Waste for Residential Units in 65 gallon Carts Curbside.
- III. **Rates and Fees.** The rate sheet attached to the Second Amendment and Renewal Contract is amended to include a Recycle Waste fee at \$4.00 per Residential Unit. The Parties are permitted to mutually agree upon reasonable increases during the Term of this Agreement.
- IV. **Reaffirmation.** The Parties hereto restate and reaffirm their agreement with all of the terms and provisions of the Agreement, as amended hereby.


V. **Counterparts; Facsimile Signatures.** This Second Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which collectively shall constitute one and the same instrument representing this Third Amendment between the Parties hereto, and it shall not be necessary for the proof of this Third Amendment that any Party produce or account for more than one such counterpart. Facsimile signatures shall be given the same force and effect as original signatures and shall be treated for all purposes and intents as original signatures.

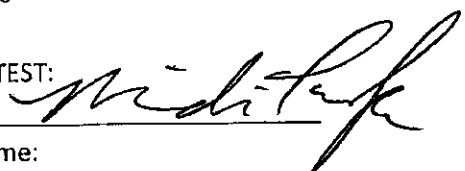
IN WITNESS WHEREOF, the undersigned have executed this Third Amendment as of the date first written above.

PROGRESSIVE WASTE SOLUTIONS OF TX, INC.

CITY OF EVERMAN, TEXAS

BY: 
Name: John Lamanna
Title: CEO

BY: 
Name: _____
Title

ATTEST: 
BY: _____
Name: _____
Title: City Secretary

SECOND AMENDMENT AND RENEWAL AGREEMENT

This Second Amendment and Renewal Agreement (the "Amendment") is dated the 11th day of November, 2014 and is by and between the City of Everman, Texas (the "City") and Progressive Waste Solutions of TX, Inc., a Texas corporation (the "Service Provider").

RECITALS:

WHEREAS, the City and IESI TX Corporation entered into a Franchise Agreement for the collection, hauling and disposal of Municipal Solid Waste and Construction and Demolition Waste dated April 1, 2005 (the "Contract");

WHEREAS, the City and IESI TX Corporation entered into an Amendment and Renewal Agreement dated November 10, 2009 (the "1st Amendment") (the Contract and the 1st Amendment are hereinafter collectively referred to as the "Agreement");

WHEREAS, on June 20, 2012, IESI TX Corporation changed its name to Progressive Waste Solutions of TX, Inc.;

WHEREAS, the Agreement will expire on March 31, 2015;

WHEREAS, the parties desire to amend, renew, and extend the Agreement as more fully described herein;

AGREEMENT:

NOW, THEREFORE, in consideration of the covenants, mutual promises, and agreements set forth herein and in the Agreement, Customer and Service Provider hereby agree as follows:

I. Term. Section 3 of the Agreement is hereby modified by renewing the Agreement for an additional five (5) year term beginning on April 1, 2015 and terminating on March 31, 2020.

II. Rates and Fees. The rate sheet attached to the 1st Amendment as Attachment 1 is hereby deleted in its entirety and replaced with the rate sheet attached hereto as Exhibit A. The new rates on Exhibit A shall become effective on November 1, 2014.

III. Franchise Grant. Section 2 of the Agreement is hereby amended by adding the following sentence to the end of it: "To alleviate any confusion, the Service Provider shall have the exclusive right to provide the collection of recyclable materials within the City. In the event that the City desires the collection of recyclable materials from Commercial, Residential or Industrial Units, the Service Provider and City shall mutually agree upon pricing and equipment for the collection of such recyclable materials."

III. Reaffirmation. The parties hereto hereby restate and reaffirm their agreement with all of the terms and provisions of the Agreement, as amended hereby.

IV. Counterparts; Facsimile Signatures. This Second Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which collectively shall constitute one and the same instrument representing this Second Amendment between the parties hereto, and it shall not be necessary for the proof of this Second Amendment that any party produce or account for more than one such counterpart. Facsimile signatures shall be given the same force and effect as original signatures and shall be treated for all purposes and intents as original signatures.

IN WITNESS WHEREOF, the undersigned have executed this Amendment as of the date first written above.

PROGRESSIVE WASTE SOLUTIONS OF TX, INC.

CITY OF EVERMAN, TEXAS

By: [Signature]
Name: John Gustafson
Title: Vice President

By: [Signature]
Name: RAY RICHARDSON
Title: Mayor

ATTEST:
By: [Signature]
Name: Mirdi Parks
Title: City Secretary

AMENDMENT AND RENEWAL AGREEMENT

This Amendment and Renewal Agreement (the "Amendment") is dated the 10th day of November, 2009 and is by and between the City of Everman, Texas (the "City") and IESI TX Corporation, a Texas corporation (the "Service Provider").

RECITALS:

WHEREAS, the City and Service Provider entered into a Franchise Agreement for the collection, hauling and disposal of Municipal Solid Waste and Construction and Demolition Waste dated April 1, 2005 (the "Agreement");

WHEREAS, the Agreement will expire on March 31, 2010;

WHEREAS, the parties desire to amend, renew, and extend the Agreement as more fully described herein;

AGREEMENT:

NOW, THEREFORE, in consideration of the covenants, mutual promises, and agreements set forth herein and in the Agreement, Customer and IESI hereby agree as follows:

I. Term. Section 3 of the Agreement is hereby modified by renewing the Agreement for an additional five (5) year term beginning on April 1, 2010 and terminating on March 31, 2015.

II. Rates and Fees. The rate sheet attached to the Agreement is hereby deleted in its entirety and replaced with the rate sheet attached hereto as Attachment 1. The new rates on Attachment 1 shall become effective on April 1, 2010.

III. Reaffirmation. The parties hereto hereby restate and reaffirm their agreement with all of the terms and provisions of the Agreement, as amended hereby.

IV. Counterparts; Facsimile Signatures. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which collectively shall constitute one and the same instrument representing this Amendment between the parties hereto, and it shall not be necessary for the proof of this Amendment that any party produce or account for more than one such counterpart. Facsimile signatures shall be given the same force and effect as original signatures and shall be treated for all purposes and intents as original signatures.

IN WITNESS WHEREOF, the undersigned have executed this Amendment as of the date first written above.

IESI TX CORPORATION

By: [Signature]
Name: John [Signature]
Title: VICE PRESIDENT

CITY OF Everman, Texas

By: Jim Stephenson
Name: Jim Stephenson
Title: Mayor

ATTEST:

By: TATIANA WOLF
Name: Tatiana Wolf
Title: City Secretary



WASTE CONNECTIONS LONE STAR, INC

4001 Old Denton Rd, Haltom City, Texas 76117
 Contact: Abel Moreno; District Manager
 Phone: (817) 222-2221

**City of Everman
 RATE SHEET**

Effective: April 2024 BILLING

RESIDENTIAL CURBSIDE COLLECTION: **\$12.84** per month, per residential unit
 Additional Cart: **n/a** per month, per residential unit per each additional Cart
 RESIDENTIAL RECYCLING CURBSIDE COLLECTION: **\$4.66** per month, per Single-Family Residential Unit
 Additional Recycling Container: **n/a** per month, per residential unit per each additional Recycling Container
 Senior Citizen Rate: **\$11.65** per month, per residential unit
 Out of Town Rate: **\$25.06** per month, per residential unit

COMMERCIAL RATE SCHEDULE

CONTAINER SIZE	Lifts Per Week						Extra-Lifts
	1	2	3	4	5	6	
95 gallon Cart		29.09					
2 Cubic Yd	72.98	118.59	135.31	205.23	238.71	287.33	44.35
3 Cubic Yd	83.63	139.85	182.42	235.64	287.50	380.04	62.08
4 Cubic Yd	103.40	174.90	237.14	314.68	355.42	442.37	70.96
6 Cubic Yd	126.19	237.14	308.62	351.18	451.51	545.76	79.82
8 Cubic Yd	156.60	284.29	383.72	459.12	545.75	696.23	83.37

FRONT LOAD COMPACTOR RATES

6 Cubic Yd						
8 Cubic Yd						

FRONT LOAD RECYCLE RATES

6 Cubic Yd	117.67	200.74	283.79			35.52
8 Cubic Yd	124.60	214.59	297.64			35.52

other commercial front load fees

Containers w/Casters	\$8.60	*Delivery and/or Removal Fee	\$67.79
Containers w/locks	\$8.60	Exchange Fee	\$92.43

*Delivery or Removal fees are not charged during the initial start-up or termination of the agreement

Temporary Front Load Rates

per lift DELIVERY DAILY RENT DISPOSAL

6 Cubic Yd	154.04	67.78	1.27	n/a		
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ROLL OFF RATE SCHEDULE

CONTAINER SIZE	HAUL	DELIVERY	DAILY RENT	DISPOSAL
20 Cubic Yd	355.57	96.97	6.15	n/a
30 Cubic Yd	412.22	96.97	6.15	n/a
40 Cubic Yd	493.04	96.97	6.15	n/a

ROLL OFF COMPACTOR RATE SCHEDULE

CONTAINER SIZE	HAUL	DELIVERY	DAILY RENT	DISPOSAL
20 Cubic Yd				
28 Cubic Yd				
30 Cubic Yd				
35 Cubic Yd				
40 Cubic Yd				
42 Cubic Yd				

Franchise and Billing Fees:

Residential: 10.0%
 Commercial: 10.0%

* All rates are inclusive of all franchise and billing fees

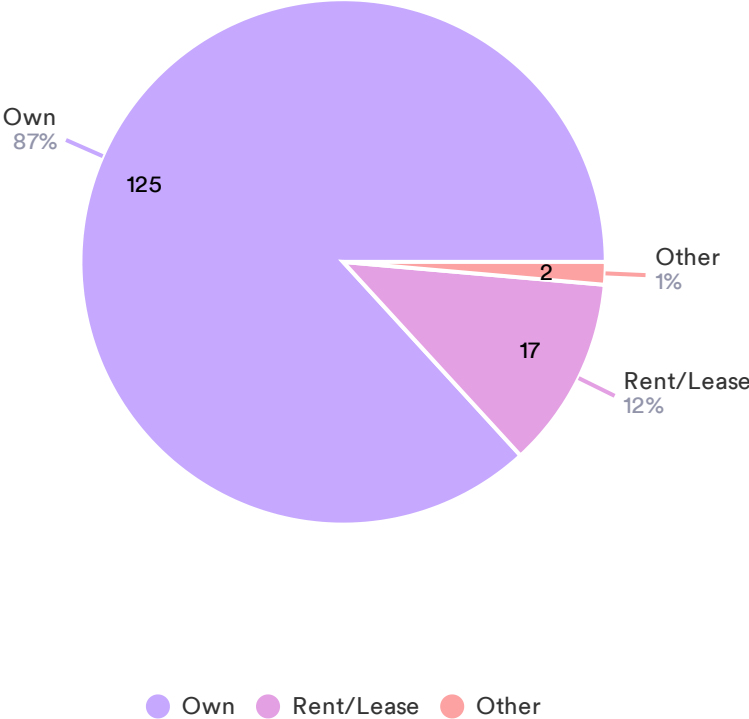
* Rates do not include any Sales Tax

* Rates do not include any Fuel Surcharges

Garbage & Recycling Collection Survey 2024

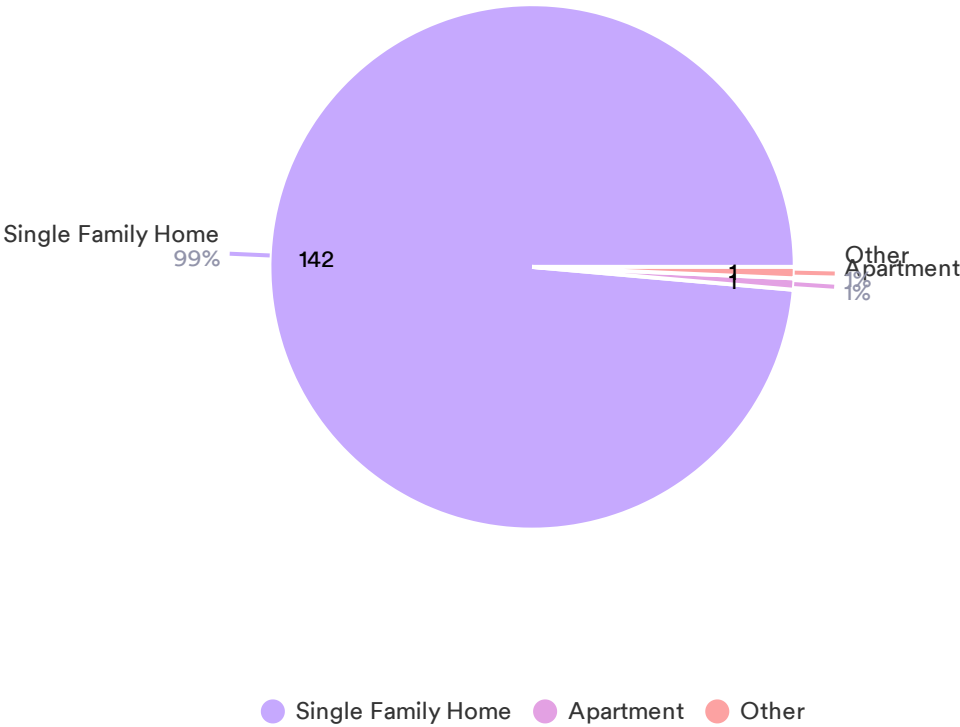
Do you rent or own your property?

144 Responses



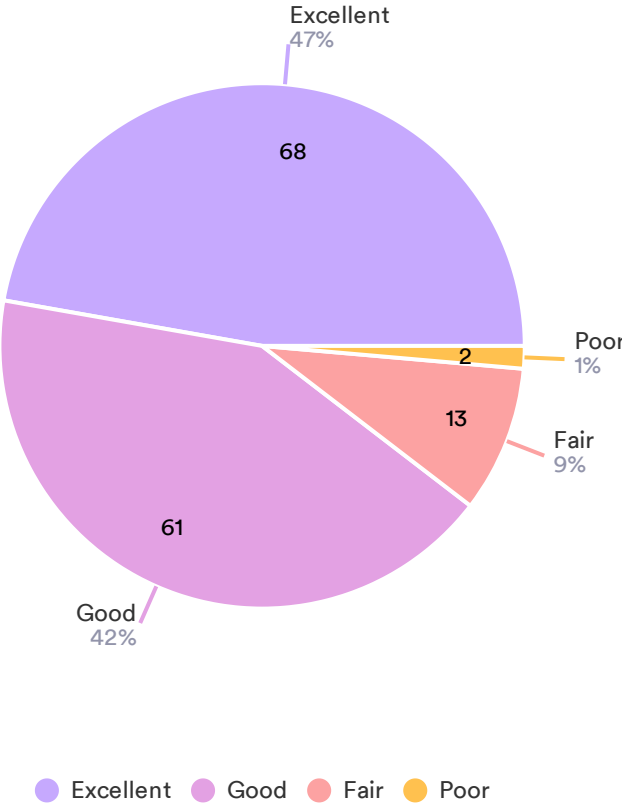
Which housing situation most accurately describes your situation?

144 Responses



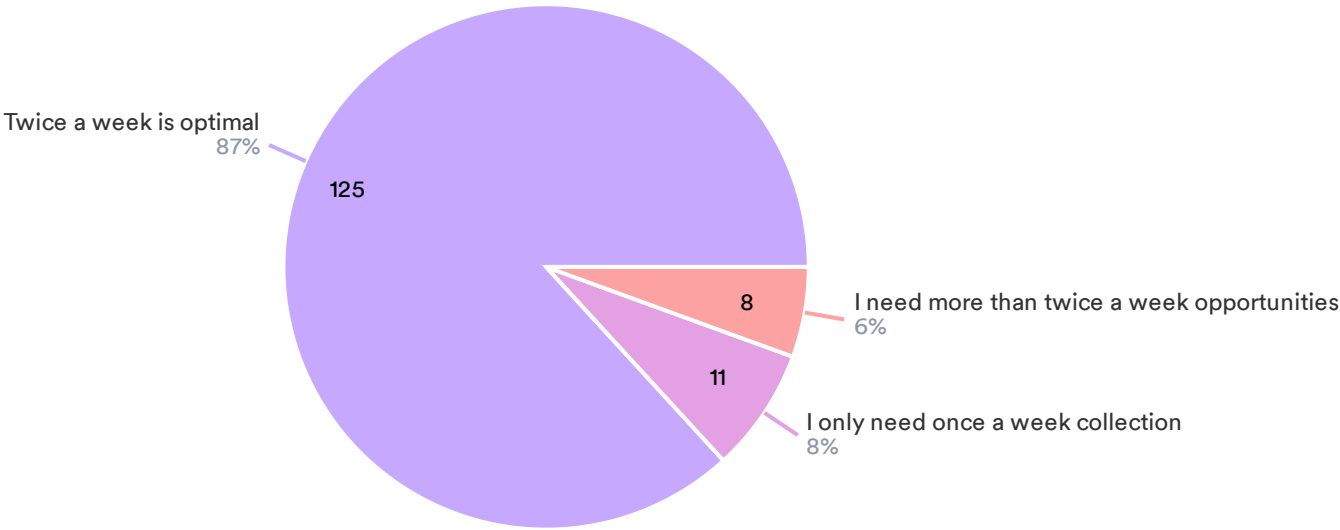
Overall, how would you rate current garbage and recycling collection services?

144 Responses



Which statement most accurately reflects your opinion about having collections twice a week?

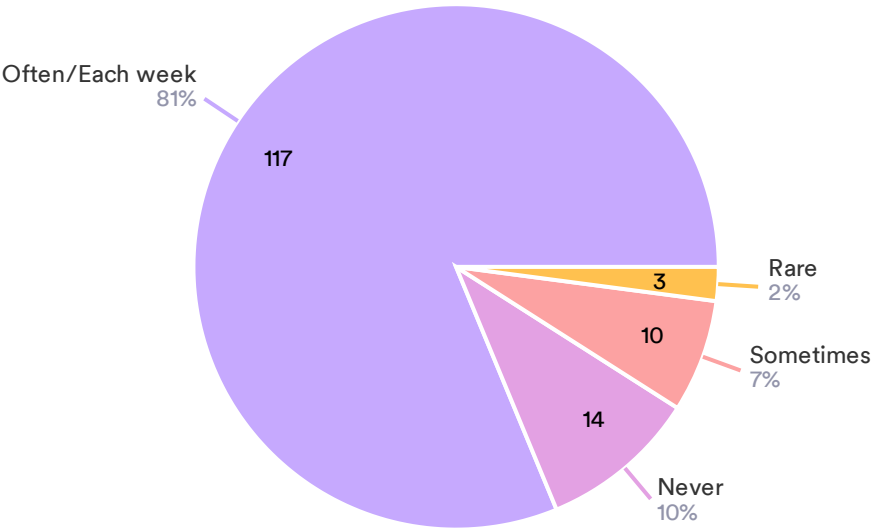
144 Responses



● Twice a week is optimal ● I only need once a week collection ● I need more than twice a week opportunities

How frequently do you utilize the city provided recycling bins exclusively for recycling material?

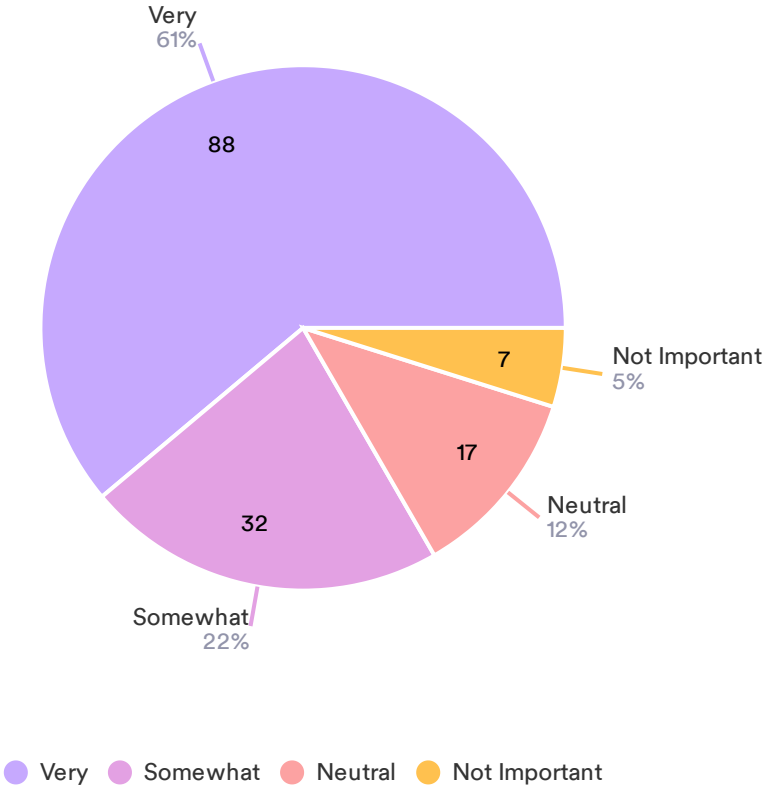
144 Responses



● Often/Each week ● Never ● Sometimes ● Rare

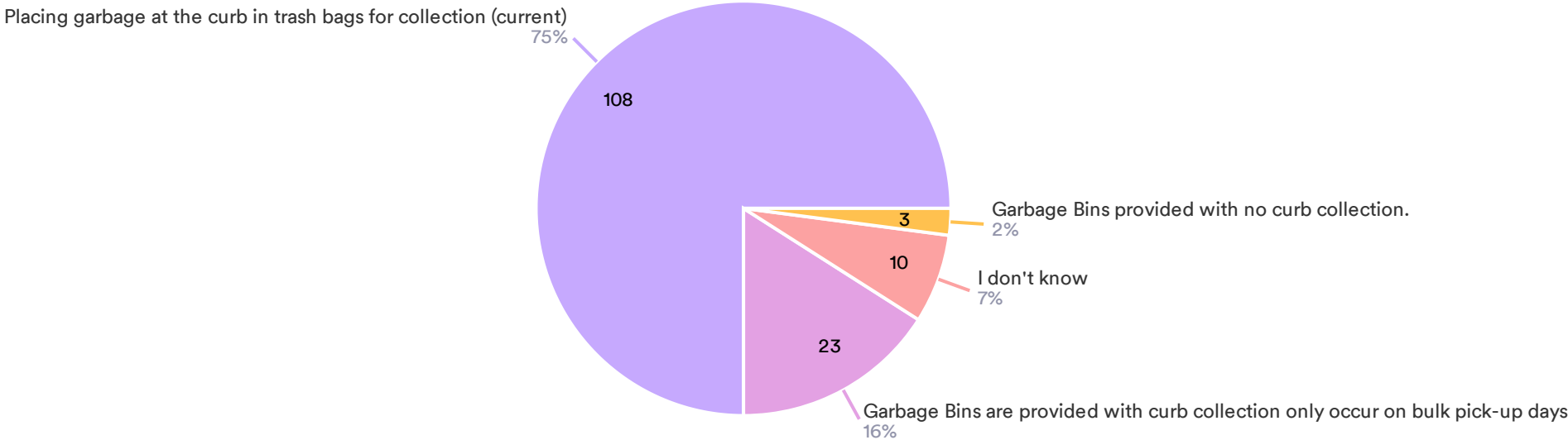
How important is recycling to you?

144 Responses



Which service type do you prefer?

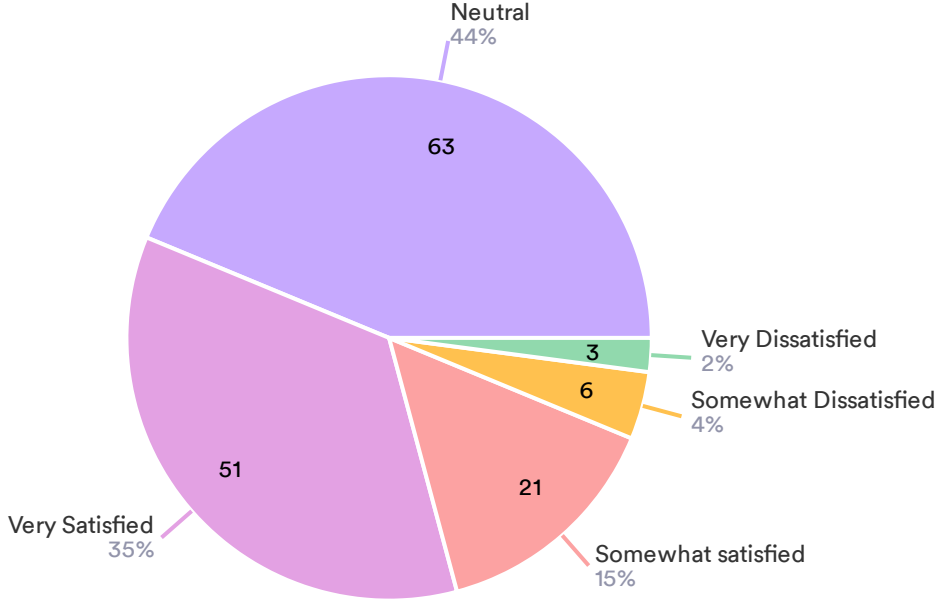
144 Responses



- Placing garbage at the curb in trash bags for collection (current)
- Garbage Bins are provided with curbside collection only occur on bulk pick-up days
- I don't know
- Garbage Bins provided with no curbside collection.

How satisfied are you with how complaints about garbage collection are handled?

144 Responses



● Neutral ● Very Satisfied ● Somewhat satisfied ● Somewhat Dissatisfied ● Very Dissatisfied

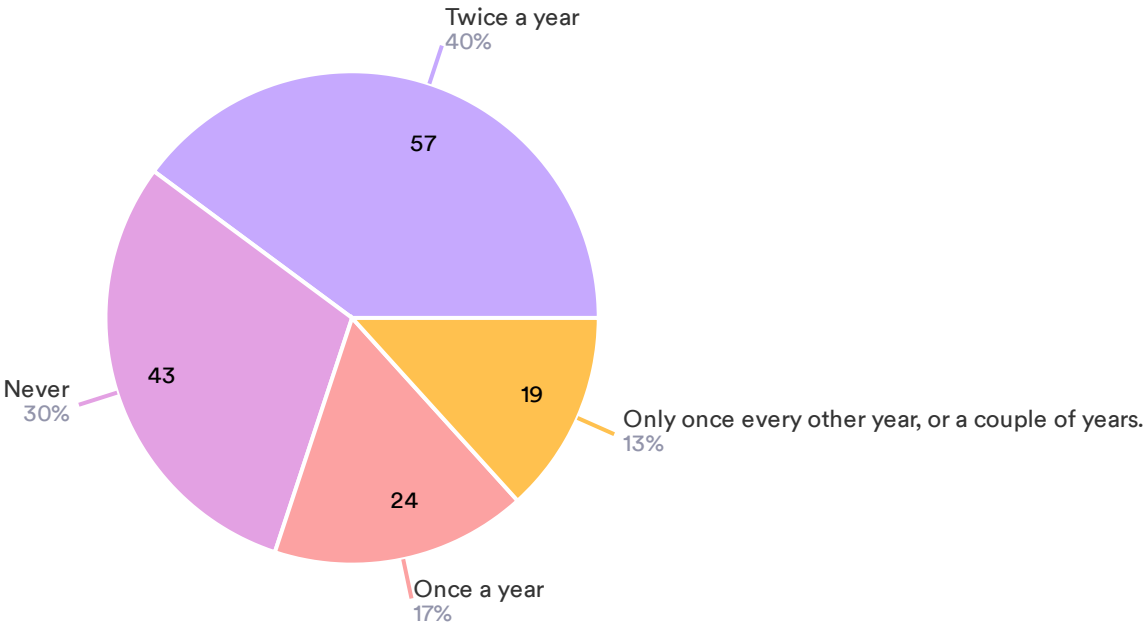
If you are dissatisfied, can you provide details?

8 Responses- 136 Empty

Data	Responses
The current company Could care less now.	1
The company sometimes cares about a complaint. When I filed complaints they make it sound they want to get back to you. They NEVER call back.	1
Porque estedes que tienen el control porque no ponen basura de cada mes de basura grande de ramas toda la basura grande no lo que es everman esta muy sucio por que porque ustedes no tienen ese servicio para everman de seguro los que se encargan de eso no viven en everman si no otra cosa seria	1
No immediate action. Prompts additional phone calls which could be avoided if matters are resolved when first reported.	1
Prefer to deal with city personel, usually told to call garbage company. Issues usually related to damaging cans or leaving in street or at neighbors.	1
Sometimes I come home from work I see my trash can in the middle of the street. This upsetting cars do not go over it they take that can with them	1
It's hard to get a hold of customer service when a pick up is missed	1
No action was immediatly taken after problem was reported	1

The City of Everman offers two City-Wide Cleanup days a year where residents can bring up and discard bulk materials at no cost. How often do you utilize this service?

143 Responses- 1 Empty



● Twice a year ● Never ● Once a year ● Only once every other year, or a couple of years.

Please provide any other comments, concerns, or ideas you would like for us to consider.

52 Responses- 92 Empty

Data	Responses
If we all had garbage bins it would make the city look a lot cleaner.	1
City provide containers for trash in bags as well.	1
It seems unfair for some of my neighbors who put out several bins of garbage twice weekly & over flowing recylce bins & recylce stacks weekly & pay the same fee as I do for 1 kitchen bag I recylce bin. Some of these homes have several families living together and 6 or 7 cars on driveway & yard. Against code!	1
I like the dump privileges	1
It is great to have the city-wide clean up offered twice a year. However, the notification s sent prior to the clean up needs to be more than a week. Plus, could it be possible to offer a different time slot? At least, a different time slot for each of the days offered. For example, on the first city wide clean up event, the times are from 8am to noon, the usual. And then on the second event offered later in the year, the times are from 10am to 2pm.	1
Making them not put the cans in the middle of the drive way . So we can get our car in the driveway.	1
I was a resident of Fort Worth recently. The bins provide would immediatly fill up with a family of 4. Im sure its more cost-effective once a week per bins but i don't see that enough one per week .	1
Though I have never used the Citywide Cleanup day they are valuable. Its just I wasn't available to use them.	1

Thank You!

Garbage & Recycling Collection Survey 2024

ORDINANCE NO. 826

AN ORDINANCE OF THE CITY OF EVERMAN, TEXAS, AMENDING THE CODE OF ORDINANCES BY REPEALING AND REPLACING IN ITS ENTIRETY CHAPTER 3 TITLED "ANIMALS AND ANIMAL CONTROL REGULATIONS"; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the ordinances governing the regulation of animals within the City are in need of updating in order to protect the health, safety and general welfare of humans and animals within the City; and

WHEREAS, Chapter 3 of the City of Everman Code of Ordinances provides for such regulation; and

WHEREAS, the City Council of the Everman desires to implement a new Chapter 3 providing updated animal regulation provisions;

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

Section 1 - The City of Everman Code of Ordinances is hereby amended by repealing and replacing in its entirety Chapter 3 titled "amending Chapter 7 titled "Animals and Animal Control Regulations" to read as follows:

"CHAPTER 3

ANIMALS AND ANIMAL CONTROL REGULATIONS

Sec. 3.1 Definitions

When used in this Chapter, the following words and terms, unless the context indicates a different meaning, shall be interpreted as follows:

"*Adequate shelter*" means a sturdy structure:

- (A) that provides the dog protection from inclement weather; and
- (B) with dimensions that allow the dog while in the shelter to stand erect, sit, turn around, and lie down in a normal position.

"*Animal*" means a living creature, including but not limited to dogs, cats, fish, reptiles, fowl, insects, mammals, marsupials, native or not, wild or domesticated, but specifically excluding human beings.

"Animal control authority" means a municipal or county animal control office with authority over the area in which the dog is kept or the county sheriff in an area that does not have an animal control office

"At large" shall mean:

(A) On Premises of Owner - Any animal not confined to the premises of the owner by some physical means of sufficient height, strength, length and/or manner of construction to preclude the animal from leaving the premises of the owner.

(B) Off Premises of Owner - Any animal which is not physically and continually restrained by some person by means of a leash or chain of proper strength and length that precludes the animal from making any unsolicited contact with any person, their clothing, their property and/or their premises.

(C) Provided, however, that any animal confined within a cage, automobile, truck or any other vehicle of its owner shall not be deemed at large.

"Bee" means any domesticated honeybee of the *Apis Mellifera* (western honeybee) species or subspecies thereof.

"Cat" means *Felis catus*.

"Collar" means a band of material specifically designed to be placed around the neck of a dog.

"Cruelly treated" includes tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, care, or shelter, cruelly confined, caused to fight with another animal, or subjected to conduct prohibited by Section 21.09, Penal Code.

"Dog" means *Canis familiaris*.

"Dangerous dog" means a dog that:

(A) makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or

(B) commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will

attack and cause bodily injury to that person.

"Dangerous wild animal" means:

- (A) a lion;
- (B) a tiger;
- (C) an ocelot;
- (D) a cougar;
- (E) a leopard;
- (F) a cheetah;
- (G) a jaguar;
- (H) a bobcat;
- (I) a lynx;
- (J) a serval;
- (K) a caracal;
- (L) a hyena;
- (M) a bear;
- (N) a coyote;
- (O) a jackal;
- (P) a baboon;
- (Q) a chimpanzee;
- (R) an orangutan;
- (S) a gorilla; or
- (T) any hybrid of an animal listed in this subdivision.

"Harness" means a set of straps constructed of nylon, leather, or similar material, specifically designed to restrain or control a dog.

"Inclement weather" includes rain, hail, sleet, snow, high winds, extreme low temperatures, or extreme high temperatures.

"Licensed veterinarian" means a veterinarian licensed to practice veterinary medicine in one or more of the 50 states.

"Livestock" means an animal raised for human consumption or an equine animal.

"Nonprofit animal welfare organization" means a nonprofit organization that has as its purpose:

- (A) the prevention of cruelty to animals; or
- (B) the sheltering of, caring for, and providing homes for lost, stray, and abandoned animals.

"Owner" includes a person who owns or has custody or control of an animal.

"Properly fitted" means, with respect to a collar or harness, a collar or harness that:

- (A) is appropriately sized for the dog based on the dog's measurements and body weight;
- (B) does not choke the dog or impede the dog's normal breathing or swallowing; and
- (C) does not cause pain or injury to the dog.

"Quarantine" means strict confinement of an animal specified in an order of the department or its designee:

- (A) on the private premises of the animal's owner or at a facility approved by the department or its designee; and
- (B) under restraint by closed cage or paddock or in any other manner approved by department rule.

"Rabies" means an acute viral disease of man and animal affecting the central nervous system and usually transmitted by an animal bite.

"Restraint" means a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system.

"Secure" means to take steps that a reasonable person would take to ensure a dog remains on the owner's property, including confining the dog in an enclosure that is capable of preventing the escape or release of the dog.

"Secure enclosure" means a fenced area or structure that is:

- (A) locked;
- (B) capable of preventing the entry of the general public, including children;
- (C) capable of preventing the escape or release of a dog;
- (D) clearly marked as containing a dangerous dog; and
- (E) in conformance with the requirements for enclosures established by the local animal control authority.

"Serious bodily injury" means an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment.

"Stray" means roaming with no physical restraint beyond the premises of an animal's owner or keeper.

"Trap-Neuter-Return Program" means a nonlethal population control practice in which an animal is:

- (A) trapped;
- (B) evaluated by a veterinarian;

- (C) if unvaccinated, vaccinated by a veterinarian;
- (D) if unsterilized, sterilized by a veterinarian;
- (E) marked by a veterinarian, whether by notching or tipping one ear or otherwise; and
- (F) returned to the trap location.

Sec. 3.2 Animal Control Duties and Enforcement

- A. There shall be and is hereby created the office of Municipal Animal Services for the City of Everman, Texas.
- B. The Municipal Animal Services Lead Animal Control Officer or, if none, the City Manager or his designee shall act as the local rabies control authority for the purposes of Chapter 826 of the Texas Health and Safety Code.
- C. The animal control officers of the city shall have the authority to issue citations for any violations of this chapter and any other powers or duty stated within the terms of this chapter.
- D. The local rabies control authority or any animal control officer, or any peace officer is authorized to:
 - (1) Kill an animal which poses an imminent danger to a person or property, or a real or apparent immediate necessity exists for the destruction of an animal;
 - (2) Impound an animal which is diseased or endangers the health of a person or another animal;
 - (3) Impound any animal found to be running at large or to be a stray within the city;
 - (4) Euthanize an impounded animal if the animal is suffering from injury, disease or illness;
 - (5) Euthanize any animal suspected animal of having rabies;
 - (6) Euthanize, adopt or give to a nonprofit humane organization any impounded animal that an owner has not been located after being impounded for seventy-two (72) hours; and
 - (7) Authorize the immediate euthanizing of any animal impounded considered by the animal control officer to be feral.
- E. The animal control officer(s) or peace officer(s) has the right to pursue and apprehend animals running at large onto private property while enforcing the provisions of this chapter.
- F. The Municipal Animal Services Lead Animal Control Officer shall employ officers to assist him in the carrying out of his duties.
- G. A person commits an offense if he knowingly prevents, interferes with, or obstructs the Municipal Animal Services Officer in the performance of his duties.
- H. Filing A False Claim

- (1) A person commits an offense if he knowingly initiates, communicates or circulates a claim of ownership for an animal with the Municipal Animal Services Officer that he knows is false or baseless.
 - (2) A person commits an offense if he knowingly initiates, communicates or circulates a report of a violation of City ordinance or State law with the Municipal Animal Services Officer that he knows is false or baseless.
- I. Authority to carry tranquilizer guns. When acting in the course and scope of his employment, the animal control officer shall be and is hereby authorized to carry on his person or in his city vehicle loaded tranquilizer guns approved by the lead animal control officer who oversees Municipal Animal Services.

3.03 - Animal Identification and Restraint

Sec. 3.03.01 Restraint, Impoundment and Disposition of Dogs and Cats

- A. Any dog or cat may be impounded by any Municipal Animal Services; Animal Control Officer in any of the following circumstances:
 - (1) Any dog or cat running at large;
 - (2) Any dog not having affixed to and wearing on a collar or harness a valid rabies vaccination tag furnished by a veterinarian showing that said dog is currently vaccinated against rabies;
 - (3) A dog or cat that is suspected of having inflicted bodily injury on any human being or animal, or poses a threat to public safety; or
 - (4) A dog or cat that has rabies or symptoms thereof, or that a person could suspect as having rabies, or that bites, scratches or otherwise creates a condition which may have exposed or transmitted the rabies virus to any human being or animal.
- B. Disposition of Impounded Dogs and Cats.
 - (1) If any dog or cat impounded under this Section is not called for by the owner within seventy-two (72) hours after notification of the impoundment or within seventy-two (72) hours of impoundment where the owner cannot be reasonably ascertained, the dog or cat shall be placed for adoption, transferred to a rescue organization or euthanized;
 - (2) Each stray dog or cat be declared a public nuisance;
 - (3) Each unrestrained dog or cat be detained or impounded by the local rabies control authority or that officer's designee;
 - (4) A humane disposition shall be made of each unclaimed stray dog or cat on the expiration of the required impoundment period.

Sec. 3.03.02 Defense to this section

It is a defense to prosecution under this section 3.03 that a cat at large is a part of a Trap-

Neuter-Return program.

Sec. 3.03.03 Restraint; Criminal Penalty.

A person commits an offense if the person fails or refuses to restrain a dog or cat owned by the person. An offense under this section is a Class C misdemeanor.

Sec. 3.04 Rabies and Zoonosis

Sec. 3.04.01 Adoption of State Standards

The City of Everman has, through adoption of this ordinance or otherwise, adopted the Texas Health and Safety Code 826, Texas Administrative Code Title 25 Part 1 Chapter 169A and the standards adopted by the executive commission of the Department of State Health Services.

Sec. 3.04.02. Vaccination of Dogs and Cats Required

- A. Except as otherwise provided by department rule, the owner of a dog or cat shall have the animal vaccinated against rabies by the time the animal is four months of age and at regular intervals thereafter as prescribed by department rule.
- B. A veterinarian who vaccinates a dog or cat against rabies shall issue to the animal's owner a vaccination certificate in a form that meets the minimum standards approved by the executive commissioner.

Sec. 3.04.03 Vaccination; Criminal Penalty

- A. A person commits an offense if the person fails or refuses to have each dog or cat owned by the person vaccinated against rabies and the animal is required to be vaccinated under Texas Health and Safety Code Section 826.021 and department rules.
- B. An offense under this section 3.04 is a Class C misdemeanor.
- C. If on the trial of an offense under this section 3.04 the court finds that the person has been previously convicted of an offense under this section, the offense is a Class B misdemeanor.

Sec. 3.04.04 Reports of Rabies

- A. A person who knows of an animal bite or scratch to an individual that the person could reasonably foresee as capable of transmitting rabies, or who knows of an animal that the person suspects is rabid, shall report the incident or animal to the local rabies control authority of the county or municipality in which the person lives, in which the animal is located, or in which the exposure occurs.
- B. The report must include:
 - (1) the name and address of the victim and of the animal's owner, if known; and
 - (2) any other information that may help in locating the victim or animal.

C. The local rabies control authority shall investigate a report filed under this section.

Sec. 3.04.05 Quarantine; Criminal Penalty

A. A person commits an offense if the person fails or refuses to quarantine or present for quarantine or testing an animal that:

- (1) is required to be placed in quarantine or presented for testing under Section 826.042 and department rules; or
- (2) is required to be placed in quarantine under ordinances or rules adopted under this chapter by a county or municipality within whose jurisdiction the act occurs.

B. An offense under this section is a Class C misdemeanor.

Sec. 3.05 Treatment of Animals and Unlawful Restraint

3.05.01 Care and Humane Treatment of Animals

A. A person commits an offense if he fails to continuously and routinely provide an animal, which is in his care, custody or control or which is owned or harbored by him, with:

- (1) good and wholesome food and potable water sufficient to maintain good health;
- (2) adequate shelter;
- (3) veterinary care when needed to prevent suffering; and
- (4) with humane care and treatment.

B. A person commits an offense if he causes or allows an animal, which is in his care, custody or control or which is owned or harbored by him, to be at risk of being:

- (1) beaten, tormented, mentally abused, overloaded, overworked, maimed, disfigured, burned or scalded, mutilated or needlessly killed; or
- (2) carried or transported in any vehicle or other conveyance in a cruel or inhumane manner; or
- (3) kept in its own filth; or
- (4) neglected or purposefully disregarded to the extent that the animal is significantly at risk for injury, illness, suffering or cruel treatment.

C. A person commits an offense if he crops a dog's ears, docks a tail, removes dew claws or performs other surgical procedures on a dog or cat except as provided by the Veterinary Licensing Act.

D. A person commits an offense if he uses a steel jaw or leg-hold trap to hold or capture an animal. The Animal Services Lead Animal Control Officer or designee may confiscate the trap or traps to be held as evidence in the case for the offense.

E. A person commits an offense if he abandons an animal which had been in his care, custody or control or owned or harbored by him. The offense of abandonment occurs at the location where the animal was abandoned and includes, but is not limited to, a

residence after the person was evicted or from which the person has moved.

- F. A person commits an offense if he causes or allows an animal, which is in his care, custody or control or which is owned or harbored by him, to be at risk for being trained or used for combat between animals or between animals and humans or if he has access to dog fighting or cockfighting equipment or paraphernalia causing the animal to be at risk for such combat.
- G. A person commits an offense if he transports or carries on any public roadway any animal in a motor vehicle unless the animal is safely enclosed within the vehicle; and if traveling in an unclosed vehicle (including but not limited to convertibles, pickup trucks, jeeps, and flatbed trucks), the animal is safely confined by a vented container or cage, by chain, rope or other device cross-tied to prevent the animal from falling or jumping from the motor vehicle or from strangling on a single leash.
- H. A person commits an offense if he leaves any animal in a standing or parked vehicle in such a way as to endanger the animal's health, safety, or welfare.

Sec. 3.05.06 Unlawful Restraint of Dog

- A. A person commits an offense if he uses a chain, rope, tether, leash, cable, or other device to attach a dog to a stationary object or trolley system. This section does not prohibit a person from walking a dog with a hand-held leash.
- B. It is a defense to prosecution under this section that:
 - (1) the dog is being tethered during a lawful animal event, veterinary treatment, grooming, training, or law enforcement activity; or
 - (2) the dog tethering is required to protect the safety or welfare of a person or the dog, and the dog's owner maintains direct physical control of the dog; or
 - (3) the dog tethering is due to force majeure and the dog is tethered for less than one hour within a twenty-four period; or
 - (4) the dog tethering:
 - (a) occurs while the dog is within the owner's direct physical control; and
 - (b) prevents the dog from advancing to the edge of any public right-of way.
 - (c) The defenses under this section are only available if the following specifications are met:
 - (1) The chain, rope, tether, leash, cable, or other device is attached to a properly fitted collar or harness worn by the dog;
 - (2) The chain, rope, tether, leash, cable, or other device is not placed directly around the dog's neck;
 - (3) The chain, rope, tether, leash, cable, or other device does not exceed 1/20th of the dog's body weight;
 - (4) The chain, rope, tether, leash, cable, or other device, by design and placement allows the dog a reasonable and unobstructed range of motion without entanglement; and
 - (5) The dog has access to adequate shelter and clean and wholesome water.

Sec.3.06 Dangerous Dogs

Sec. 3.06.01 Knowledge of Dangerous Animal

For purposes of this article, a person learns he is the owner of a dangerous dog when:

- A. The owner knows of an attack described in the definition of “dangerous dog;”
- B. The owner is notified by the Lead Animal Control Officer that the dog is a dangerous dog;
- C. The owner is notified by the Court that the dog is a dangerous dog; or
- D. The owner is notified by the Court that, after appeal, the Court has upheld the Lead Animal Control Officer determination that the dog is a dangerous dog.

Sec. 3.06.02 Dangerous Dog Report

- A. The Lead Animal Control Officer may receive a report concerning a dangerous dog. Such report and supporting witness statements shall be in writing and sworn to on a form prescribed by the Lead Animal Control Officer.
- B. The Lead Animal Control Officer shall investigate all reports filed under this section and may issue sworn reports based on the Lead Animal Control Officer or observation.

Sec. 3.06.03 Dangerous Dog Determination

The City of Everman Municipal Court may determine that a dog is a dangerous dog under Section 3.06.01 (A). The Lead Animal Control Officer may declare that an animal, including a dog, is a dangerous animal under Section 3.06.01 (B). Regarding a dangerous dog incident, the Lead Animal Control Officer has discretion to proceed under either Section 3.06.01(A) or 3.06.01(B).

A. Municipal Court:

- (1) The City of Everman Municipal Court may determine that a dog is a dangerous dog in compliance with Texas Health and Safety Code, Section 822.0422. The Animal Services Lead Animal Control Officer may file a sworn report describing a dangerous dog incident with the Court. The sworn report shall present probable cause that the dog described in the report committed an attack described in Definitions, “Dangerous Dog.”
- (2) The Lead Animal Control Officer shall furnish written notice to the owner of the animal, as identified in the complaint, to inform the owner that a dangerous dog report has been filed with the Court. The notice to the owner shall require the owner to deliver the dog immediately to the Lead Animal Control Officer upon receiving the notice, provided that the Lead Animal Control Officer may, in his discretion, accept proof that the animal is impounded with a licensed veterinarian according to the terms of Section

3.06.13(B). The notice to the owner shall have attached to it a copy of this Article. The notice to the owner shall also contain a statement that the owner will be notified by the Court of the date and time for the hearing. Notice to the owner by the Lead Animal Control Officer shall be provided as required by Section 3.06.03(B)(3).

- (3) If the owner fails to deliver the dog as required by Subsection (B)(2), the Court shall order the Lead Animal Control Officer to seize the dog and shall issue a warrant authorizing the seizure. The Lead Animal Control Officer shall seize the dog or order its seizure and shall provide for the impoundment of the dog in secure and humane conditions at the owner's expense until the Court orders the disposition of the dog. The Court shall determine, after notice and hearing as provided in Section 3.06.04, whether the dog is a dangerous dog.

B. Lead Animal Control Officer:

- (1) The Lead Animal Control Officer may determine that a dog is a dangerous dog after investigation of a dangerous dog incident. The Lead Animal Control Officer shall furnish written notice to the owner of the dog as identified in the complaint to inform the owner that a dangerous dog report has been received. The owner will have five (5) calendar days from the date the owner is notified to provide the Lead Animal Control Officer information regarding the report. The Lead Animal Control Officer may consider additional information from other sources in the course of the investigation.
- (2) If, after investigating a dangerous dog report, the Lead Animal Control Officer finds that the dog is a dangerous dog, the Lead Animal Control Officer shall provide notice to the owner of that fact. The notice to the owner shall also contain a statement that the owner has a right to appeal and shall have attached to it a copy of this article.
- (3) Notice to the owner shall be mailed certified mail, return receipt requested, to the owner's last known mailing address, or delivered in person by the Lead Animal Control Officer. If the notice is mailed to the owner and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered. If the notice is given by mail, the date of notice is the date of delivery. If the date of delivery is not known, then notice given by mail is deemed to be delivered three (3) days after the date it is placed in a mail receptacle of the United States Postal Service. Notice that is delivered in person is deemed received on the date of in-hand delivery or on the date that the notice is left firmly affixed on or near the front door of each building on the property at the owner's address.

- (4) An owner, not later than fifteen (15) calendar days after the date the owner is notified that a dog owned by him is a dangerous dog, may appeal the determination of the Lead Animal Control Officer to the City of Everman Municipal Court or as otherwise allowed by law. An owner may appeal the decision of the Municipal Court as allowed by law.

Sec. 3.06.04 Hearing

- A. After the Court receives a sworn report of an incident involving a dangerous dog under Section 3.06.03(A)(1) or a report of a dangerous dog's owner's non-compliance with requirements under Section 3.06.05, the Court shall set a time for a hearing to determine whether the dog is a dangerous dog or whether the owner of a dangerous dog has not complied with the requirements of Section 3.06.05. The hearing must be held not later than ten (10) calendar days after the date on which the dog or animal is seized or delivered.
- B. The Court shall give written notice of the time and place of the hearing to:
 - (1) The owner of the dog or the person from whom the dog was seized;
 - (2) The person who made the report; and
 - (3) The Lead Animal Control Officer.
- C. Any interested party, including the city attorney, is entitled to present evidence at the hearing.
- D. An owner or the person who made the report may appeal the decision of the Municipal Court as allowed by law.

Sec. 3.06.05 Requirements for Owners of Dangerous Dogs

- A. Not later than fifteen (15) calendar days after a person learns that he is the owner of a dangerous dog, the owner shall:
 - (1) Register the dangerous dog with the Lead Animal Control Officer and maintain current registration at all times;
 - (2) Restrain the animal in a secure enclosure inspected and approved by the Lead Animal Control Officer;
 - (3) Acquire and maintain liability insurance coverage that includes coverage for animal attacks in an amount of at least One Hundred Thousand Dollars and No Cents (\$100,000.00) to cover damages resulting from an attack by the dangerous dog and provide proof of the required liability insurance coverage to the Lead Animal Control Officer. The owner shall notify the Lead Animal Control Officer immediately if a lapse in insurance coverage occurs or if the coverage ceases or is reduced at any time for any reason. The owner shall include in the policy provisions requiring the insurance provider to provide notice to the Lead Animal Control Officer not less than thirty (30) days prior to cancellation or any material change in coverage, and naming the Municipal Animal Services as a certificate holder;

- (4) Microchip and register the dangerous dog for its life with a national registry, and present proof to the Lead Animal Control Officer. The cost shall be at the owner's expense. The owner of the dangerous dog shall microchip the dog by implanting a microchip identification device on the animal within seven (7) calendar days after being notified by the Lead Animal Control Officer or the Court that such dog is dangerous or within forty-eight (48) hours of an unsuccessful appeal;
 - (5) Present proof to the Lead Animal Control Officer that the animal has been sterilized so as to prevent reproduction;
 - (6) Comply with all applicable regulations, requirements, and restrictions on dangerous animals; and
 - (7) Obtain written extension from the Lead Animal Control Officer to complete the registration requirements if necessary. All requests for extensions shall be in writing and, if granted by the Lead Animal Control Officer, shall total no more than 30 additional days.
 - (8) The owner shall pay any cost or fee assessed by the Municipal Animal Services in the amount set by resolution that is related to the seizure, acceptance, impoundment, compliance inspection or re-inspection, or destruction of the dangerous animal.
- B. An appeal of a dangerous dog determination by the Court under 3.06.03(A) or of a dangerous dog declaration by the Lead Animal Control Officer under Section 3.06.03(B) shall not act to stay the requirements of Subsection (A) except regarding implantation of a microchip as noted in Subsection (A)(4).
- C. The owner of a dangerous dog shall deliver the dog to the Lead Animal Control Officer immediately upon learning that the animal is a dangerous animal, if the animal is not already impounded.
- D. The owner of a dangerous dog who falls out of compliance with an owner's requirement of Subsection (A) shall deliver the dog to the Lead Animal Control Officer immediately.
- E. The Court may issue a warrant to seize the subject animal at any time the Court finds that probable cause of violation or non-compliance exists, including any time otherwise allowed for voluntary compliance. If, on application of the Lead Animal Control Officer, the Court finds, after notice and hearing as provided by Section 3.06.04, that the owner of a dangerous dog has failed to comply with or has fallen out of compliance with an owner's requirement of Subsection (A), the Court shall order the Lead Animal Control Officer to seize the animal and shall issue a warrant authorizing the seizure.
- F. The Court shall order the Lead Animal Control Officer to humanely destroy the dangerous dog if the owner has not timely complied with Subsection (A) and no perfected appeal is pending.

H. The Court shall order the Lead Animal Control Officer to humanely destroy the dangerous dog if the owner falls out of compliance with an owner's requirement of Subsection (A) and fails to renew compliance within ten (10) calendar days after the dog is seized or delivered to the Lead Animal Control Officer and no perfected appeal is pending. The Court may order the Lead Animal Control Officer to return the dangerous dog to the owner if the owner renews compliance with Subsection (A) within said ten (10) calendar days or the Court may order the Lead Animal Control Officer to humanely destroy the dangerous animal if the owner falls out of compliance with an owner's requirement of Subsection 3.06.05, 3.06.07 or 3.06.08. No dangerous dog shall be returned to its owner after renewed compliance more than one (1) time.

Sec. 3.06.06 Registration

- A. The Lead Animal Control Officer shall annually register a dangerous dog if the owner is in compliance with the owner's requirements of Section 3.06.05. The owner shall present proof of compliance satisfactory to the Lead Animal Control Officer and shall pay an annual registration fee in accordance with the City of Everman Fee Schedule
- B. The Lead Animal Control Officer shall provide to the owner registering a dangerous dog a dangerous dog registration tag. Such tag shall be of a bright distinguishing color, shall contain the year of registration engraved on its face and shall be larger than a normal license tag issued to dogs and cats. A dangerous dog registration shall be valid for one (1) year from the date of issuance.
- C. The owner of a registered dangerous dog shall attach the tag to the dog's collar, or similar device, and shall place such collar or device on the dog. The owner of a registered dangerous dog shall display current registration on the dog in this manner at all times.
- D. If the owner of a registered dangerous dog sells or gives away the dog or moves the dog to a new address, the owner, not later than the fourteenth day after the date of the sale, gift or move, shall notify the Lead Animal Control Officer of the animal's new address and new owner if applicable.
- E. If the owner of a registered dangerous dog sells or gives the animal to another person, the owner shall notify the other person at the time of the sale or gift that the dog is a registered dangerous animal.
- F. If a new owner keeps the dog within the City of Everman, he shall register the dog with the Lead Animal Control Officer within ten (10) calendar days after receiving it.
- G. The owner of a dog, which has been deemed dangerous in another jurisdiction, shall

not harbor the animal within the territorial limits of the City of Everman.

- H. The Lead Animal Control Officer shall re-register a dangerous dog with a new owner if such owner is in compliance with this Chapter. Such owner shall present proof of compliance satisfactory to the Lead Animal Control Officer and shall pay a re-registration fee in accordance with the City of Everman Fee Schedule
- I. If a dangerous dog's registration is expired when a new owner attempts to re-register it, the new owner shall follow the owner's requirements of Subsection (A) of this section 3.06.06.
- J. A re-registration shall be valid only for the time remaining on the prior registration.
- K. When the Lead Animal Control Officer is informed that a dangerous dog has been moved to another jurisdiction, he should notify the animal control authority for such jurisdiction of this information.
- L. In the event that a registered dangerous dog dies, the owner must present dispositive proof to the satisfaction of the Lead Animal Control Officer or his designee or present written verification by a licensed veterinarian, in order to verify the identity of the dangerous animal by microchip.

Sec. 3.06.07 Owner Notifications of Attack

- A. The owner of a registered dangerous dog shall notify the Lead Animal Control Officer of all attacks the animal makes on humans.
- B. Additionally, the owner of a registered dangerous dog shall notify the Lead Animal Control Officer of all attacks made by the dog on domestic animals and domestic fowl.

Sec. 3.06.08 Offenses

- A. A person commits an offense if the person is the owner of a dangerous dog and the dog makes an unprovoked attack on another person outside the dog's enclosure, and the attack causes bodily injury to the other person.
- B. A person commits an offense if the person is the owner of a dangerous dog and the dog makes an unprovoked attack on a domestic animal or domestic fowl while said dog is at large, and the attack causes bodily injury or death to the domestic animal or domestic fowl.
- C. A person commits an offense if the person is the owner of a dangerous dog or the new owner of a dangerous dog and performs an act prohibited or fails to perform an act required by this Article.

Sec. 3.06.09 Defense and Affirmative Defenses

- A. It is an affirmative defense to prosecution under Section 3.06.08 that the person is a veterinarian, a peace officer, a person employed by a recognized animal services center or a person employed by the state or a political subdivision of the state to deal with stray animals and has temporary ownership, custody or control of the animal in connection with that position.
- B. It is an affirmative defense to prosecution under Section 3.06.08 that the person is an employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes.
- C. It is an affirmative defense to prosecution under Section 3.06.08 that the person is a dog trainer or an employee of a guard dog company under the Private Investigators and Private Security Agencies Act (Article 4413[29bb], Vernon's Texas Civil Statutes), and is not the actual owner of the dog.
- D. It is a defense to prosecution under Section 3.06.08 that the person injured was teasing, tormenting, abusing, or assaulting the animal or has, in the past, been reported to have teased, tormented, abused, or assaulted the animal.
- E. It is a defense to prosecution under Section 3.06.08 that the person injured was committing or attempting to commit a crime.
- F. It is a defense to prosecution under Section 3.06.08 that the animal was protecting or defending a person while in the person's control, from an unjustified attack or assault.

Sec. 3.06.10 Muzzle and Restraint of Dangerous Animals

An owner of a dangerous dog shall not permit a dangerous dog to be outside the secure enclosure unless the dog is muzzled and restrained by a substantial chain or leash, no longer than six (6) feet in length, and a capable person is in immediate physical control of the leash. Such dog shall not be leashed to any inanimate object such as a tree, post, building, or other object. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or dog.

Sec. 3.06.11 Additional Penalties for Violation of this Article

- A. If a person is found guilty of an offense under Section 3.06.08(A) or 3.06.08(B), the Court may order the Lead Animal Control Officer to impound and destroy the dog immediately in addition to other penalties.
- B. The Lead Animal Control Officer may obtain a search and seizure warrant if the owner of a registered dangerous dog falls out of compliance with the owner's requirements of Section 3.06.05. The dog will remain impounded until proof as

required by Section 3.06.055 has been satisfied and is approved by the Lead Animal Control Officer or the dog is destroyed.

- C. If impoundment of a dangerous dog is being attempted away from the premises of the owner and the impoundment cannot be made with safety, the dog may be destroyed without notice to the owner or harbinger. If an attempt is made to impound a dangerous animal from the premises of the owner or harbinger and the impoundment cannot be made with safety, the owner or harbinger will be given twenty-four (24) hours' notice that if said animal is not surrendered to Municipal Animal Services within said twenty-four (24) hour period, then the dog will be destroyed wherever it is found. After this notice, the dangerous dog may be destroyed during an attempt to impound if impoundment cannot be made with safety, wherever the impoundment is attempted. Notice under this Section shall be in writing. A written notice left at the entrance to the premise where the dangerous dog is harbored will be considered valid notice as of the date and time of posting. In lieu of surrendering the animal to Municipal Animal Services, an owner may permanently remove said animal from the City, if written proof of destination is provided to the Lead Animal Control Officer and transport is made in compliance with this Article.
- D. A dangerous dog impounded pursuant to this section and not reclaimed by its owner under the requirements of this section within ten (10) calendar days from the date of notice of impoundment shall be deemed abandoned and, at the discretion of the Lead Animal Control Officer, euthanized in a humane manner.
- E. In addition to criminal prosecution, a person who commits an offense under this section is liable for a civil penalty not to exceed \$10,000. An attorney having civil jurisdiction for a municipality where the offense occurred may file suit in a court of competent jurisdiction to collect the penalty. Penalties collected under this subsection shall be retained by the municipality.

Sec 3.06.12 Status of Animal

- A. The owner shall deliver the dog to the Lead Animal Control Officer immediately upon notification that a dangerous dog report has been filed with the Court under Section 3.06.03(A)(2).
- B. The owner shall deliver the dangerous dog to the Lead Animal Control Officer immediately upon notification that the Lead Animal Control Officer has declared that the animal is a dangerous animal under Section 3.06.03(B)(2).
- C. The owner shall deliver the dangerous dog to the Lead Animal Control Officer immediately upon notification that the animal is a dangerous animal, as required by Section 3.06.05(C).
- D. The owner shall deliver the dangerous dog to the Lead Animal Control Officer

immediately when the owner falls out of compliance with any requirement of an owner of a dangerous dog, as required by Section 3.06.05(D).

- E. If the owner fails to deliver the subject animal as required in this Article, the Court shall order the Lead Animal Control Officer to seize the dog and shall issue a warrant authorizing the seizure, as provided in Section 3.06.05(E).
- F. No dangerous dog shall be returned to its owner at any time unless authorized by this Article and all owner's requirements are fulfilled.

Sec. 3.06.13 Impoundment and Destruction of Dog

- A. The Lead Animal Control Officer shall seize the subject dog according to a warrant or shall order such seizure and shall accept the dog into custody when delivered by the owner.
- B. The Lead Animal Control Officer shall provide for impoundment of the subject dog in secure and humane conditions until the Court orders the disposition of the subject dog. The Lead Animal Control Officer may accept proof of impoundment from a licensed veterinarian if such proof and impoundment are satisfactory to the Lead Animal Control Officer.
- C. The owner shall pay any costs and fees incurred by the Municipal Animal Services related to the seizure, impoundment, and destruction of a dangerous animal.
- D. The Court shall order the Lead Animal Control Officer to humanely destroy the dangerous dog if the owner of the dog has not been located within ten (10) calendar days after the seizure and impoundment of the animal and if no other statute or ordinance has allowed or required the animal's earlier destruction.
- E. The Court shall order the Lead Animal Control Officer to humanely destroy the dangerous dog if the owner has not timely complied with the owner's requirements, according to Section 3.06.05(F).
- F. The Court shall order the Lead Animal Control Officer to humanely destroy the dangerous dog if the owner falls out of compliance with an owner's requirement and fails to renew compliance within ten (10) calendar days, according to Section 3.06.05(G).
- G. The Court shall order the Lead Animal Control Officer to humanely destroy a dangerous dog that can no longer be returned to its owner under this Article.

Section 3.06.14 Compliance Re-inspections

The owners of dangerous dogs shall comply with all applicable regulations, requirements and restrictions on dangerous animals and may be re-inspected four (4) times per year by the Lead Animal Control Officer for compliance. For each inspection, the owner shall

pay to the City a compliance re-inspection fee. The compliance re-inspection fee shall be in an amount set by resolution of City Council and is due to the City within thirty (30) days from the date of billing.

Section 3.07 Wild Animals / Bees

Sec. 3.07.01 Placement and baiting of animal traps and poison

- A. Humane traps shall be used to trap animals within the city, whether on public or private property.
 - (1) The person who places the trap, or who requests its placement, shall be responsible for checking the trap, the care of the animal while it is in the trap, and the notification to the department of any captured animal.
 - (2) All traps shall be checked at least daily.
 - (3) No traps shall be placed upon public property without written permission from the Municipal Animal Services. It shall be the responsibility of the person setting the trap to properly label the trap indicating the name and contact information for the owner and the date permission was obtained from the department.

- B. All captured domesticated animals shall be turned over to the department unless the animal is captured as part of a feral animal neutering program that has obtained written permission from the Lead Animal Control Officer to place traps within the city. All captured wild animals shall be turned over to the department, a wildlife educational center, or state-licensed wildlife rehabilitator within twenty-four (24) hours.

- C. Offenses A person commits an offense if he:
 - (1) Places, or places and baits, or allows the placing or placing and baiting, of an steel-jawed trap (commonly known as a "bear trap", "wolf trap", "leg hold trap", or "coyote trap"), a body hold trap (commonly known as "connibear trap"), any snare trap, any noose-type trap, or any other trap designed, used, or adapted to be lethal or cause serious bodily injury or death of an animal;
 - (2) Places or allows the placing of any substance, article, or bait that has in any manner been treated with any poisonous or toxic substance, including anti-freeze, or any drug in any place accessible to human beings, birds, dogs, cats, or other animals with the intent to kill or harm animals;
 - (3) Fails to check a trap he has placed, placed, and baited, or allowed to be placed or placed and baited at least once every twenty-four (24) hours;
 - (4) Places, or places and baits, or allows the placing or placing and baiting of any trap when the overnight low temperature is expected to be below forty (40) degrees Fahrenheit without first obtaining written permission from the department;

- (5) Places, or places and baits, or allows the placing or placing and baiting of any trap under conditions which may endanger the health of the animal due to exposure to rain, snow, extreme temperatures, lack of food or water, or under other circumstances that may cause bodily injury, serious bodily injury or death of the animal, whether or not such injury occurs;
 - (6) Euthanizes, kills, or attempts to euthanize or kill a trapped animal in a manner other than one specifically allowed in this chapter;
 - (7) Places or places and baits a trap or allows the placing or placing and baiting of any trap designed for trapping animals in any highway, street, alley, or other public place within the incorporated limits of the city unless specific written permission by the Lead Animal Control Officer has been granted. This subsection shall not apply to a city enforcement agent or an agency working in compliance with written permission from the department for placing the trap on public property;
 - (8) Removes, alters, damages, or otherwise tampers with a trap or equipment belonging to or placed at the request of the department; or
 - (9) Places, or places and baits a trap, other than a commercially available trap solely designed to exterminate mice, rats, or insects, for commercial profit, without identifying the trap with the name, telephone number, and Texas Department of Agriculture structural pest control applicator license number of the applicator who placed or placed and baited the trap.
- D. Any trap found to be set in violation of this chapter may be confiscated by a city enforcement agent and held as evidence in the case for the offense.
- E. This section shall not be interpreted to restrict the extermination of rats, mice, or insects, through the use of traps, poisons, or other commercially available means when used in that person's residence, property, accessory structure, or commercial establishment and in accordance with the manufacturer's directions as long as reasonable precautions are taken to ensure that no human, pet, or wild animal, other than the targeted species, comes into contact with the traps, poisons, or other means and that does not violate any other section of this chapter.

Sec. 3.07.02 Dangerous Wild Animals

- A. All dangerous wild animals as set forth in this chapter's definition are prohibited in the City of Everman.
- B. It is an affirmative defense to prosecution that:
 - (1) The person is or is acting on behalf of:
 - (a) A county, municipality, or agency of the state or an agency of the

- United States or an agent or official of a county, municipality, or agency acting in an official capacity;
 - (b) A research facility, as that term is defined by Section 2(e), Animal Welfare Act (7 U.S.C. Section 2132), and its subsequent amendments, that is licensed by the secretary of agriculture of the United States under that Act; or
 - (c) An organization that is an accredited member of the American Zoo and Aquarium Association.
- (2) The Dangerous Wild Animal is: a. injured, infirm, orphaned, or abandoned, and is being transported for care or treatment;
 - (3) The Dangerous Wild Animal is injured, infirm, orphaned, or abandoned, and is being rehabilitated, treated, or cared for by a licensed veterinarian, an incorporated humane society or animal shelter, or a person who holds a rehabilitation permit issued under Subchapter C, Chapter 43, Parks and Wildlife Code;
 - (4) The Dangerous Wild Animal is owned by and in the custody and control of a licensed circus, carnival, or zoo, acting in compliance with all city ordinances including but not limited to, the Zoning Chapter of the City Code of Ordinances; or
 - (5) The Dangerous Wild Animal is in the temporary custody or control of a television or motion picture production company during the filming of a television or motion picture production in this state.

Sec. 3.07.03 Bees

- (A) A person commits an offense if he keeps or allows bees, their hives, or any abandoned hives within the city limits not meeting any one or more of the following requirements:
 - a. All hives shall be surrounded by barriers placed at least ten (10) feet from the hive and not less than eight (8) feet in height that change the flight path of the bees as they leave the hives;
 - b. There shall be no more than three (3) hives per city lot;
 - c. There is an adequate source of water within twenty (20) feet of all hives;
 - d. There may be maintained one (1) nucleus for each two (2) colonies. The nucleus shall not exceed one (1) ten-frame hive body. Each nucleus shall be disposed of within sixty (60) days after it is acquired;
 - e. Each hive must be re-queened at least once every twenty-four (24) months; and
 - f. The owner notifies the city enforcement agent, in writing, of the location and number of hives in his possession. Additionally, the owner shall keep purchase receipts and written records of the exact dates he re-queens each hive for at least two (2) years.
- (B) A person commits an offense if he owns, harbors, or possesses bees and refuses, upon request by the department, to make his bees, premises, facilities, or equipment available for inspection during reasonable hours.

Section 3.08 Animal Nuisance

Sec. 3.08.01 Nuisances

The following shall constitute public nuisances when caused, allowed, maintained or suffered to exist within the territorial limits of the City of Everman:

- A. Any at large animal;
- B. Any animal that molests, chases or attacks passersby, passing vehicles or other animals;
- C. Any dog or cat over four (4) months of age that does not have a microchip implanted;
- D. Failing to confine a female dog or cat while in season in a building or secure enclosure in such a manner that she cannot come into contact with another dog or cat, or create a nuisance by attracting other animals; provided this section shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner of an animal which is being bred;
- E. Any prohibited animal as defined in this Chapter;
- F. Any dangerous animal as defined in this Chapter;
- G. Maintaining animals or property in an environment of unsanitary conditions or lack of cleanliness that results in offensive odor or is dangerous to the public health, welfare, or safety or a failure to maintain animals in a condition of good order and cleanliness so as to reduce the probability of transmission of disease;
- H. Harboring, breeding, keeping or raising any animal or bird which, by causing frequent or long-continued noise disturbs the peace and quiet of persons in the neighborhood or the occupants of adjacent premises who have and possess normal nervous sensibilities;
- I. Defecation - Removal and Disposal Required; Implements Required
 - (1) An owner or person who has care, custody or control of an animal commits an offense if, he permits or by insufficient control allows an animal to defecate on private property not his own or on property located in a public place without immediately removing and disposing of the defecation material in a sanitary and lawful manner.
 - (2) An owner or person who has care, custody or control of an animal commits an offense if, he permits or by insufficient control allows an animal to enter or remain on private property not his own or on property located in a public place without having in his possession materials or implements that, either alone or in combination with each other, can be used immediately in a sanitary and lawful manner to remove and dispose of defecation the animal

may deposit on such property.

- (3) It is an affirmative defense to prosecution under this section that:
 - (a) The animal is a police service animal under the supervision of a police officer in the performance of his official duties;
 - (b) The animal is a “service dog” performing duties of assisting the disabled;
 - (c) The animal is a waterfowl at a municipality owned facility; or
 - (d) The owner of the private property has given consent or permission for the animal to defecate on his property.

J. The keeping of more than the maximum number of animals permitted by this chapter, or the zoning ordinance, as amended, shall be a public nuisance.

K. It shall be unlawful to keep or harbor more than four (4) dogs and four (4) cats in the aggregate three (3) months of age or older on any premises used or zoned for residential purposes, unless otherwise restricted by the zoning ordinance.

Section 3.09 Miscellaneous Animal

Sec. 3.09.01 Disposal of Dead Animals

A. Dead animals, excluding those intended for human or animal consumption shall be disposed of as follows:

- (1) Animals weighing fifty (50) pounds or less may be buried on the owner's premises at a depth of not less than twelve inches (12”).
- (2) Animals weighing twenty (20) pounds or less may be placed for trash collection if they are first wrapped securely in newspaper and put in a bag of a type approved by the Lead Animal Control Officer.
- (3) Animals may be disposed of at the landfill, sold or given to a renderer, or buried in a properly zoned pet cemetery.
- (4) If requested by the owner, dogs and cats will be picked up by the City and disposed of at the landfill or incinerated. There shall be a fee for this service at an amount set by resolution of the City Council.
- (5) The Landfill Manager shall have the right to refuse a dead animal if placing such animal in the landfill would pose a health risk.
- (6) The Animal Services Lead Animal Control Officer shall have the right to refuse to accept any dead animal if he determines that transporting such animal would cause a health risk to humans or to animals at the Municipal Animal Services Shelter.

B. A person commits an offense if he disposes of a dead animal in a manner other than as provided by this Section.

C. The owner of an animal which has died commits an offense if he fails to properly dispose of such animal within twenty-four (24) hours of its death.

3.09.02 Dog and Cat Microchipping Required

A. The owner of any dog or cat must have the animal implanted with a registered microchip before the animal attains four (4) months of age.

- B. The owner of a microchipped dog or cat shall maintain current registration with a microchip registration company.
- C. If there is a change in contact information of an owner of a registered microchipped dog or cat, the owner shall update contact information, including new address or telephone number, with the microchip registration company within thirty (30) days of the date of the change in contact information.
- D. If there is a change in ownership of a registered dog or cat, the previous owner shall be responsible for ensuring that the microchip is no longer registered in the previous owner's name within thirty (30) days of the date of change in ownership. The new owner shall be responsible for re-registering the microchip to include any new address and telephone number and have the registration information transferred to the new owner's name within thirty (30) days after the change in ownership.
- E. A person commits an offense if the person owns, keeps, harbors or has custody of any dog or cat over four months of age without complying with this Ordinance.

3.09.03 Sale of Animals

- A. A person commits an offense if a person sells, exchanges, trades, barter, leases, rents, gives away, or displays, without a valid permit, any live animal on any roadside, public right-of-way, parkway, median, park, playground, swimming pool, other recreation area, or commercial or retail parking lot that is generally accessible by the public, regardless of whether such access is authorized.
- B. It is an affirmative defense to prosecution under subsection (A) that the person is an employee of or is acting in his or her capacity as an employee of: a veterinary clinic; an animal hospital; a business that has a certificate of occupancy from the building inspection division authorizing the occupancy of the premises purposes of operating a business selling pets; an animal shelter; an animal welfare, rescue, or adoption agency that is a registered non-profit entity; a bona fide zoological park; an educational institution; a museum; an event being conducted primarily for the sale of agricultural livestock such as hoofed animals or animals or fowl commonly raised for food, dairy, or fiber products; a licensed laboratory; a publicly owned nature center; a bona fide member of an educational or scientific association or society approved by the Lead Animal Control Officer; persons holding permits from an agency of the state or the United States for the care and keeping of animals for rehabilitative purposes; an animal establishment in compliance with the this Chapter; or a person caring for animals in his or her private residence in compliance with this Chapter.

3.09.04 Spay / Neuter of Animals

- A. All animals within the City of Everman are required to be spayed/neutered unless they are under the control of an individual.
- B. All impounded animals are required to be spayed/neutered within thirty (30) days of release from impoundment.
- C. It is an affirmative defense to prosecution under subsection (B) above that the owner of the animal has provided proof to the satisfaction of the Lead Animal Control Officer to establish that:
 - (1) The owner of the animal is a member of a club which is associated with a

national registry, a national breed club, or a local all-breed club; and the owner does not sell twelve (12) or more intact animals per year. Proof may be provided in the form of a sworn affidavit from an officer, director, or person of similar managerial authority in the organization, indicating that the organization falls under the criteria of the affirmative defense in this subsection, and that the owner does not sell twelve (12) or more intact animals per year.

- (2) The animal was at large and impounded due to force majeure.
- (3) The animal was at large and impounded due to fire, criminal or negligent acts of a third party who does not reside at the animal owner's residence. Additionally, verification of the incident must be presented to the Lead Animal Control Officer in the form of a police or fire report, or the sworn testimony or affidavit of police or fire personnel.”

Section 2. All ordinances of the City of Everman in conflict with the provisions of this ordinance be and the same are hereby repealed and all other ordinances of the City of Everman not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 3. An offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the Code of Ordinances and ordinances of the City, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

Section 4. If any section, paragraph, sentence, subdivision, clause, phrase or provision of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision hereof other than the part so decided to be unconstitutional, illegal, or invalid and shall not affect the validity of the remainder of this ordinance or any other provision of the ordinances of the City of Everman.

Section 5. This ordinance shall take effect immediately from and after its passage and the publication of the caption as the law and charter in such cases provide.

DULY PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS ON THIS THE _____ DAY OF _____, 2024.

APPROVED:

Ray Richardson, Mayor

APPROVED AS TO FORM:

ATTEST:

Victoria Thomas, City Attorney

Mindi Parks, City Secretary

ORDINANCE NO 827

AN ORDINANCE OF THE CITY OF EVERMAN, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING APPENDIX A TITLED “FEE SCHEDULE” BY ADDING A NEW SECTION ENTITLED “MUNICIPAL ANIMAL SERVICES FEES;” PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

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

SECTION 1. That the City of Everman Code of Ordinances is amended by amending Appendix A titled “Fee Schedule” by adding a new section entitled “Municipal Animal Services Fees” which shall read, in its entirety as follows:

Municipal Animal Services Fees	
Animal Registration	
Initial Registration (includes microchipping)	\$20.00
Annual Renewal Registration	\$10.00
Adoption Fees	
Dog (includes microchipping and 1 st year registration)	\$80.00
Cat	\$50.00
Impoundment	
First Impoundment	\$50.00
Second Impoundment	\$75.00
Third Impoundment	\$100.00
Quarantine (Shelter)	\$20.00/day
Quarantine (In Home for eligible animals only)	\$5.00/day
Miscellaneous	
Owner Surrender (Altered)	\$35.00
Owner Surrender (Unaltered)	\$50.00
Corpse Removal Fee (from residence)	\$20.00
Euthanasia at Owners Request	\$35.00
Corpse Disposal Fee	\$35.00
Kennel Permit Fee	\$25.00
Animal Trap Deposit (refundable upon return)	\$250.00
Return to Owner Microchip Fee	\$20.00
Dangerous Dog	
Dangerous Dog Inspections (Per Inspection) 4 per year)	\$37.50
Annual Dangerous Dog Registration	\$50.00
Dangerous Dog Holding (Shelter)	\$25.00/day

Acceptance of Dangerous Animal	\$100.00
Seizure of Dangerous Dog	\$400.00

SECTION 2. That all provisions of the ordinances of the City of Everman in conflict with the provisions of this Ordinance be and the same are hereby, repealed, and all other provisions of the ordinances of the City of Everman not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. That should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof other than the part thereof decided to be unconstitutional, illegal, or invalid.

SECTION 4. An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Ordinances of the City of Everman, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 5. This Ordinance shall take effect immediately from and after its passage and publication as may be required by law.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS ON THIS THE _____ DAY OF _____, 2024.

APPROVED:

Ray Richardson, Mayor

ATTEST:

Mindi Parks, City Secretary

APPROVED AS TO FORM:

Victoria Thomas, City Attorney

CITY OF EVERMAN, TEXAS

RESOLUTION NO. 2025-01-01

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE EVERMAN POLICE DEPARTMENT AND THE FOREST HILL POLICE DEPARTMENT REGARDING COMBINING RESOURCES FOR A POLICE EXPLORER PROGRAM POST; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID MEMORANDUM OF UNDERSTANDING AND ALL OTHER NECESSARY AND RELATED DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Police Explorer Program, created and offered through Boy Scouts of America, is a hands-on program open to young men and women who have completed the 6th grade through 20 years old who may be interested in a career in law enforcement or a related field in the criminal justice system; and

WHEREAS, the Police Explorer Program is an excellent tool for educating the youth of the City regarding the realities of law enforcement and fostering engagement and communication between police and youth; and

WHEREAS, the City Council of the City of Everman, Texas finds it to serve the general welfare and be in the best interest of the citizens of the City of Everman to support and approve the Memorandum of Understanding regarding the Police Explorer Program Post;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS, THAT:

SECTION 1. The Memorandum of Understanding between the Forest Hill Police Department and the Everman Police Department regarding combining resources for a Police Explorer Program Post, attached hereto and incorporated herein by this reference as Exhibit "A," is hereby approved and the City Manager is authorized to execute said Memorandum of Understanding and all other necessary and related documents regarding the Explorer Program Post.

SECTION 2. This Resolution shall become effective immediately upon passage.

PASSED AND APPROVED THIS ____ DAY OF JANUARY, 2025.

APPROVED:

Ray Richardson, Mayor

ATTEST:

Mindi Parks, City Secretary

APPROVED AS TO FORM:

**Victoria Thomas,
City Attorney**

Exhibit A

[Memorandum of Understanding between Everman PD and Everman PD regarding Explorer Program Post]

4918-4437-8121, v. 1

Memorandum of Understanding

Forest Hill Police Department
and
Everman Police Department

This Memorandum of Understanding (MOU) sets the terms of understanding between the Forest Hill Police Department and the Everman Police Department to combine resources into a single Police Explorer Program post.

Background

In this tumultuous time in our nation, we must educate our youth regarding the realities of law enforcement. The Police Explorer Program is an excellent tool for accomplishing this goal, and it allows officers to be a valuable part of youth development in the communities they serve. The program also introduces young citizens to the noble policing profession in a safe and controlled manner. To better accomplish this goal, the collaboration between the Everman Police Department and Forest Hill Police Department into a single Explorer post is not just beneficial, but it's a win-win situation. This will allow both agencies to pool resources, target a wider demographic of young people, and engage as many officers and members as possible.

Purpose

The purpose of this MOU is to formalize the authority, responsibility, and liability of both the Forest Hill Police Department and the Everman Police Department regarding the collaborative support of Police Explorer Post #175. This document is not intended to address operational procedures but to clearly establish the authority and responsibility of both Police Departments. It designates one Chief of Police from each department, with the Forest Hill Chief of Police having final decision-making authority and responsibility for the program. The Everman Chief of Police will serve in a supporting role, ensuring the smooth implementation of decisions. This document also specifies liability parameters for each agency, formally identifies representatives from both departments to serve on the administrative committee required by the Exploring Program, and fosters a collaborative relationship through consistent communication and shared responsibilities to ensure the program's success.

The above goals will be achieved through the following activities:

- Establishing a consistent and open communication channel between both departments will keep everyone connected and informed, facilitating effective coordination of efforts.
- Developing and maintaining a process to resolve scheduling conflicts and logistical issues for events involving Explorers will reassure the audience and instill confidence in the program's management.
- Ensuring that both parties mutually agree to comply with all requirements, rules, and policies established by Police Explorer Post #175.

This MOU serves to strengthen the cooperative efforts of the Forest Hill and Everman Police Departments in providing guidance, training, and opportunities to the members of Explorer Post #175. It does so by clearly outlining the shared responsibilities of both departments, which include but are not limited to, coordinating training sessions, managing Explorer activities, and ensuring the safety and well-being of all Explorers. This document also maintains clarity in roles, responsibilities, and accountability.

Reporting

All reporting for the Explorer Post will be conducted in accordance with Boy Scouts of America guidelines, which is the governing body for the Explorer program. Any issues an Explorer or Advising Officer encounters must be promptly submitted to the Post Commander, who will then inform administrative officials from both partner police departments and facilitate a mutually agreeable solution. Both parties mutually agree to comply with all requirements, rules, and policies established by Police Explorer post #175. Furthermore, it is expressly acknowledged that both agencies will be solely responsible for adhering to all Scouting rules and requirements as outlined.

Funding

While the majority of Explorer events are funded by the members, the post commander will submit a proposal for all other monetary needs for consideration of potential funding. This request will then be discussed between administrative officers of both departments until a solution is reached. No funding shall be authorized without the consent of a properly appointed representative of both departments. Both Organization’s agreeing to contribute equally (50/50) toward all funding requirements related to Scouting activities, programs, and administrative expenses, ensuring the financial sustainability of shared efforts.

Duration

This MOU is at will and may be modified by mutual written consent of authorized officials from the Forest Hill Police Department and the Everman Police Department. This MOU shall become effective upon signature by the Chief of Police for both partnering departments and will remain in effect until modified or terminated by any of the partners by mutual written consent. With mutual agreement by the authorized officials from both police departments indicated by their signatures below, this MOU shall go into effect, and Explorer Post # 175 shall remain supervised solely by the Forest Hill Police Department.

Contact Information

Forest Hill Police Department
David Hernandez, Chief of Police
3336 Horton Road
Forest Hill, Texas, 76119
817-531-5250
dhernandez@foresthilltx.org

Everman Police Department
Craig Spencer, Chief of Police
404 W. Enon Avenue
Everman, Texas, 76140
817-293-2923
cspencer@evermantx.net

Date: _____

Date: _____

Signature: _____

Signature: _____

APPROVED:

Date: _____

Venus M. Wehle, PCED
City Manager
City of Forest Hill

4930-3215-2585, v. 1

MOU- Explorer Post #175

THE STATE OF TEXAS

INTERLOCAL AGREEMENT

COUNTY OF TARRANT

This Interlocal Agreement is between Tarrant County, Texas (“COUNTY”), and the City of Everman, Texas (“CITY”)

WHEREAS, the CITY is requesting the COUNTY’s assistance with drainage improvements located within the City of Everman:

- Excavation, Grading and Reshaping of Pittman Park and adjacent drainage channels between Race Street and Wichita Street. The area is approximately 15,000 square yards

Collectively, hereinafter referred to as the “**Project**”

WHEREAS, the Interlocal Cooperation Act contained in Chapter 791 of the Texas Government Code provides legal authority for the parties to enter into this Agreement; and

WHEREAS, during the performance of the governmental functions and the payment for the performance of those governmental functions under this Agreement, the parties will make the performance and payment from current revenues legally available to that party; and

WHEREAS, the Commissioners Court of the COUNTY and the City Council of the CITY each make the following findings:

- a. This Agreement serves the common interests of both parties;
- b. This Agreement will benefit the public;
- c. The division of costs fairly compensates both parties to this Agreement; and
- d. The CITY and the COUNTY have authorized their representatives to sign this Agreement.

NOW, THEREFORE, the COUNTY and the CITY agree as follows:

TERMS AND CONDITIONS

1. COUNTY RESPONSIBILITY

The COUNTY will furnish the labor and equipment to assist the CITY in completing the Project:

COUNTY will utilize CITY vendor to deliver materials and to remove excess materials. The materials must be stockpiled or available within close proximity to the project.

2. CITY RESPONSIBILITY

- 2.1 The CITY will furnish and pay for the actual cost of the materials, including any delivery or freight cost, for the Project. The CITY will provide the COUNTY with a purchase order and will be billed directly by the material supplier. The COUNTY may accumulate and bill the CITY for incidental material cost.
- 2.2 The CITY will pay one-half of the COUNTY'S fuel cost incurred for the Project. The COUNTY will invoice the CITY for one-half of the cost of the fuel consumed at the conclusion of the project. If the COUNTY has begun work on the Project but the work has not been completed at the termination of this Agreement, the CITY is still obligated to pay its share of the COUNTY'S fuel cost incurred for the Project up to the date of termination of this Agreement.
- 2.3 The CITY will be responsible for all traffic control necessary to safely construct the project. This responsibility includes all advance notices, signage, barricades, pilot vehicles, and flagmen necessary to control traffic in and around the construction site. The CITY will be responsible for and will provide portable message boards to supplement traffic control as needed. The CITY will supply the COUNTY with a purchase order for the appropriate traffic control vendor to cover project needs prior to mobilization of any equipment.
- 2.4 The CITY will provide the COUNTY with a hydrant meter and all water necessary for construction of the Project at no cost to the COUNTY.
- 2.5 The CITY will furnish all rights of way, plan specifications, engineering drawings, survey required for construction of any and all parts of this Project.
- 2.6 CITY will notify and get clearance from other CITY utility departments and franchise utilities prior to entering into agreement. If any of the utilities are shallow and must be relocated, the CITY shall confirm the relocation is complete prior to scheduling the project.
- 2.7 The CITY will furnish a dump site within proximity to the Project for the COUNTY to dump all spoils and waste materials generated during construction of this Project as needed.
- 2.8 The CITY shall remove or trim any overhanging limbs or brush that may interfere with COUNTY equipment or progress prior to the start of the project.
- 2.9 If a Storm Water Pollution Prevention Plan ("Plan") is required, the CITY will be

responsible for the design and development of the Plan. CITY will pay for all cost (including subcontractor materials, labor and equipment) associated with the implementation and maintenance of the Plan.

2.10 CITY will provide a porta toilet, as required by the COUNTY.

Compliance with Laws. In providing the services required by this Agreement, City must observe and comply with all applicable federal, state, and local statutes, ordinances, rules, and regulations, including, without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and non-discrimination laws and regulations. CITY shall be responsible for ensuring its compliance with any laws and regulations applicable to its business, including maintaining any necessary licenses and permits.

3. PROCEDURES DURING PROJECT

- 3.1 If the CITY has a complaint regarding the construction of the project, the CITY must complain in writing to the COUNTY no later than 30 days of the date of project completion. If the complaint is found credible, the COUNTY will make said repair and bear the cost of the repair. COUNTY will make said repair as soon as reasonably possible.
- 3.2 Upon expiration of 30 days after the project completion, the CITY will be solely responsible for the maintenance and repairs of the entire project.

4. NO WAIVER OF IMMUNITY

This Agreement does not waive COUNTY rights under a legal theory of sovereign immunity. This Agreement does not waive CITY rights under a legal theory of sovereign or governmental immunity.

5. OPTIONAL SERVICES

- 5.1 If mutually agreed by the CITY and the COUNTY, the COUNTY will provide traffic control required for the Project. This responsibility includes all signage, barricades, pilot vehicles, and flagmen necessary to control traffic in and around the construction site with the exception of any portable changeable message boards which will be supplied by the CITY. Traffic control measures provided by the COUNTY will be billed at the actual labor cost plus 10% for use of the COUNTY traffic control devices.

6. TIME PERIOD FOR COMPLETION

The CITY will give the COUNTY notice to proceed at the appropriate time. However, the COUNTY is under no duty to commence construction at any

time. There is no deadline for completion of the Project

THIRD PARTY

This contract shall not be interpreted to inure to the benefit of a third party not a party to this contract. This contract may not be interpreted to waive any statutory or common law defense, immunity, including governmental and sovereign immunity, or any limitation of liability, responsibility, or damage of any party to this contract, party’s agent, or party’s employee, otherwise provided by law.

7. JOINT VENTURE & AGENCY

The relationship between the parties to this Agreement does not create a partnership or joint venture between the parties. This Agreement does not appoint any party as agent for the other party.

8. EFFECTIVE DATE

This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed.

9. TERMINATION OF AGREEMENT

This Agreement will automatically terminate on December 31, 2025, or on the date the project is completed, whichever occurs first. Notwithstanding the foregoing, or any other language to the contrary, either party may terminate this Agreement without cause upon thirty (30) days’ written notice to the other party prior to the intended date of termination. In the event of termination by either party, neither party shall have any further obligations to the other party under this Agreement, except that the CITY remains liable to the COUNTY for any outstanding invoice for materials that the COUNTY provides for the project, if any.

This Agreement may be renewed prior to its expiration upon the mutual written consent of the parties.

10. DISCLOSURE

The CITY acknowledges that it is a “governmental entity” and not a “business entity” as those terms are defined in Tex. Gov’t Code § 2252.908, and therefore, no disclosure of interested parties pursuant to Tex. Gov’t Code Section 2252.908 is required.

TARRANT COUNTY, TEXAS

CITY OF EVERMAN, TEXAS

Tim O'Hare
COUNTY JUDGE

MAYOR

Date: _____

Date: _____

Roy Charles Brooks
COMMISSIONER, PRECINCT 1

Date: _____

Date: _____

Attest:

APPROVED AS TO FORM*

APPROVED AS TO FORM AND LEGALITY

Craig Price

Criminal District Attorney's Office*

Douglas W. Black
Sr. Assistant City Attorney

* By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document as to form from our client's legal perspective. Other parties may not rely on this approval. Instead, those parties should seek contract review from independent counsel.

**CITY OF EVERMAN, TEXAS
RESOLUTION NO. 2025-01-02**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS, APPROVING AN INTERLOCAL AGREEMENT BETWEEN TARRANT COUNTY AND THE CITY OF EVERMAN TO PROVIDE FOR DRAINAGE IMPROVEMENTS AT CLYDE PITTMAN PARK; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Everman ("CITY") and Tarrant County ("COUNTY") desire to enter into an Interlocal Agreement ("AGREEMENT") for the purpose of undertaking drainage improvements at Pittman Park and the adjacent drainage channels; and

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, provides the legal authority for the CITY and COUNTY to enter into such an AGREEMENT; and

WHEREAS, the City Council is of the opinion that approval of the interlocal agreement with Tarrant County to provide for drainage improvements at Clyde Pittman Park serves the general welfare and the health and safety of the citizens of the City of Everman;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS, THAT:

SECTION 1. The City Council approves the Interlocal Agreement between the CITY and TARRANT COUNTY for drainage improvements at Pittman Park, as described in the AGREEMENT attached hereto as Exhibit A.

SECTION 2. This Resolution shall be effective immediately upon approval.

PASSED AND APPROVED this the _____ day of _____, 2025.

APPROVED:

Ray Richardson, Mayor

ATTEST:

Mindi Parks, City Secretary

APPROVED AS TO FORM:

Victoria Thomas
City Attorney

Exhibit A
[Interlocal Agreement with Tarrant County]

4875-7849-5878, v. 1

**CITY OF EVERMAN, TEXAS
RESOLUTION NO. 2025-01-03**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS, AUTHORIZING THE CITY MANAGER TO SUBMIT A LETTER OF SUPPORT ON BEHALF OF THE CITY OF EVERMAN TO THE CITY OF FORT WORTH FOR THE "ALTAMESA EXPANSION" TRANSPORTATION PROJECT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Everman ("CITY") recognizes the importance of regional cooperation in transportation infrastructure projects that benefit the residents of the CITY and the surrounding area; and

WHEREAS, the "Altamesa Expansion" Transportation Project proposed by the City of Fort Worth aims to enhance connectivity, reduce traffic congestion, and promote economic development in the region; and

WHEREAS, the City Council of Everman supports initiatives that contribute to the overall improvement of transportation networks and the well-being of its residents;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS, THAT:

SECTION 1. The City Council hereby authorizes the City Manager to submit a letter of support on behalf of the City of Everman to the City of Fort Worth for the "Altamesa Expansion" Transportation Project.

SECTION 2. The City Council recognizes the potential regional benefits of the "Altamesa Expansion" and endorses the efforts of the City of Fort Worth to advance this project.

SECTION 3. This resolution shall take effect immediately upon its passage

PASSED AND APPROVED this the _____ day of _____, 2025.

APPROVED:

Ray Richardson, Mayor

ATTEST:

Mindi Parks, City Secretary

APPROVED AS TO FORM:

Victoria Thomas
City Attorney

A RESOLUTION OF THE CITY OF EVERMAN, TEXAS

RESOLUTION NO. 2025-01-04

A RESOLUTION OF THE CITY OF EVERMAN, TEXAS, APPROVING AND AUTHORIZING THE CITY MANAGER TO SIGN THREE CONTRACTS WITH UTILITY SERVICE CO., INC., ALSO SOMETIMES REFERRED TO AS USG WATER SOLUTIONS, FOR WATER TANK MAINTENANCE FOR CITY WATER TANKS LOCATED AT 632 SHELBY ROAD AND 100 DAN MEYERS ROAD AND FOR STEEL TANK REPAIR AND DISINFECTION FOR A CITY WATER TANK LOCATED AT 619 TOWNLEY DRIVE FOR COMPENSATION AND ON TERMS AND CONDITIONS AS SET FORTH THEREIN;; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City owns water tanks located at 632 Shelby Road, 100 Dan Meyers Road, and 619 Townley Road within the City which require maintenance and, with regard to the water tank at 619 Townley, which is additionally in need of repair and disinfection; and

WHEREAS, Utility Service Co., Inc., sometimes referred to as USG Water Solutions, has agreed to provide water tank maintenance services for the tanks located at 632 Shelby Road and 100 Dan Meyers Road under an annual contract that will automatically renew for seven additional one year periods unless terminated by the City for compensation during the first year of \$44,760.00 and \$76,000.00 respectively; and

WHEREAS, Utility Service Co., Inc. has also provided an agreement by which it would perform steel tank repairs and disinfection of the City’s water tank located at 619 Townley Drive for compensation not to exceed \$48,574.00; and

WHEREAS, the City Council finds that it will serve the health, safety and general welfare of the citizens of the City to enter into these agreements and that approving and entering into these three contracts is necessary to preserve and protect the public health or safety of the city’s residents pursuant to Tex. Local Govt. Code 252.022(a)(1);

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS:

SECTION 1. The City Council of the City of Everman, Texas, hereby approves the three contracts between the City of Everman and Utility Service Co, Inc. sometimes referred to as USG Water Solutions, in substantially the form of those attached hereto and incorporated herein by this reference as collective Exhibit “A” and on the terms and conditions stated therein, and authorizes the City Manager to execute the same on behalf of the City.

SECTION 2. All resolutions of the City of Everman heretofore adopted which are in conflict with the provisions of this Resolution be, and the same are hereby repealed, and all resolutions of the City of Everman not in conflict with the provisions hereof shall remain in full force and effect.

SECTION 3. If any article, paragraph, subdivision, clause or provision of this Resolution, as hereby amended, be adjudged invalid or held unconstitutional for any reason, such judgment or holding shall not affect the validity of this Resolution as a whole or any part or provision thereof, as amended hereby, other than the part so declared to be invalid or unconstitutional.

SECTION 4. This Resolution shall take effect immediately from and after its passage, and it is accordingly so resolved.

PASSED AND APPROVED by the City Council of the City of Everman, Texas, this the ____ day of January 14, 2025.

APPROVED:

RAY RICHARDSON, MAYOR

ATTEST:

MINDI PARKS, CITY SECRETARY

APPROVED AS TO FORM:

VICTORIA THOMAS, CITY ATTORNEY
4905-2811-1885, v. 1

EXHIBIT “A”
Three Contracts with Utility Service Co., Inc.
[to be attached]

4905-2811-1885, v. 1



Thank you for your business. We look forward to working with you.

Utility Service Co., Inc., in accordance with ISO9000 requirements, requests that one complete copy of each fully executed contract be returned directly from our customer via email method to our Sales Administration office. Please email the contract to Lara Townsend / Contract Specialist at salesadmin@usgwater.com – she will send confirmation of receipt in a return email.

If unable to email, customers may send one complete copy of each fully executed contract via fax machine transmission method to Lara Townsend at 478-987-2991.

Please do not give or email the signed contract(s) to the Water System Consultant for delivery to our office.

If you have questions, please email Lara Townsend at salesadmin@usgwater.com - thank you!



USG WATER
— SOLUTIONS —

Utility Service Co., Inc.

Water Tank Maintenance Contract

Owner: City of Everman
Fort Worth, TX

Tank Size/Name: 750,000 Gallon Elevated - High School Elev Tank

Location: 100 Dan Meyers Road

Date Prepared: October 22, 2024

WATER TANK MAINTENANCE CONTRACT

This Water Tank Maintenance Contract (hereinafter, "the Contract") is entered into by and between the **City of Everman, whose business address is 212 N. Race Street, Fort Worth, TX 76140** (hereinafter, "the Owner") and Utility Service Co., Inc., whose business address is 535 General Courtney Hodges Boulevard, Post Office Box 1350, Perry, Georgia 31069 (hereinafter, "the Company"). The Owner and the Company shall be individually referred to herein as "a Party" or collectively referred to herein as "the Parties".

Therefore, in consideration of the mutual promises contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Owner and the Company, the Parties agree as follows:

1. Company's Engagement and Responsibilities. The Owner agrees to engage the Company to provide the professional services needed to maintain its **750,000** gallon water storage tank located at **100 Dan Meyers Road, Everman, TX 76140 (on the corner of Townley Drive and Dan Meyers Road)** (hereinafter, "the Tank"). This Contract outlines the Company's responsibility for the upfront renovation (hereinafter, the "Upfront Renovation") of the Tank and the care and maintenance of the Tank thereafter. The services (collectively, "the Services") that the Company will provide include the following:

- a. The Tank shall receive an Upfront Renovation, which will include: **a washout inspection and repairs prior to the end of Contract Year 1. An exterior renovation and interior renovation prior to the end of the Contract Year 4.** For purposes of this Contract, "Contract Year" shall mean the 12-month period which commences on the first day of the month when the Contract is executed by the Owner and each successive 12-month period thereafter (hereinafter, "Contract Year" or collectively, "Contract Years").
- b. The Company will annually inspect the Tank. The Tank will be inspected to ensure that the structure is in a sound, watertight condition. The Company will provide a written inspection report to the Owner following each inspection.
- c. Biennially, after the Tank is drained by the Owner, the Company will clean the interior of the Tank and perform a condition assessment on the Tank (hereinafter "Washout Inspection"). During each Washout Inspection, the Tank will be cleaned to remove all mud, silt, and other accumulations from the interior of the Tank. After a Washout Inspection is completed, the interior of the Tank will be thoroughly inspected and disinfected prior to returning the Tank to service; however, the Owner is responsible for draining and filling the Tank and conducting any required testing of the water before returning the Tank to service.
- d. The Company shall provide the engineering and inspection services needed to maintain and repair the Tank during the term of this Contract. The repairs include: the Tank's expansion joints, water level indicators, sway rod adjustments, vent screens, manhole covers/gaskets, and the Tank's other steel parts not otherwise excluded hereinafter.
- e. The Company will clean and repaint the interior and/or exterior of the Tank at such time as complete repainting is needed. The need for interior painting of the Tank is to be determined by the thickness of the existing liner and its protective condition. Only materials approved for use in potable water tanks will be used on any interior surface

area. The need for exterior painting of the Tank is to be determined by the appearance and protective condition of the existing paint. At the time that the exterior requires repainting, the Company agrees to paint the Tank with a coating that is the same color as the existing coating and to select a coating system which best suits the site conditions, environment, and general location of the Tank. When interior or exterior painting of the Tank is needed, all products and procedures as to coating systems will be equal to or exceed the requirements of the **State of Texas** and the American Water Works Association's D102 standard in effect as of the Effective Date (defined hereinafter).

f. The Company will install a lock on the roof hatch of the Tank; however, the provision of such lock does not guarantee the Tank's security during the term of the Contract. For the avoidance of doubt, security of the Tank and the site where the Tank is located (hereinafter, "Tank Site") are the responsibility of the Owner.

g. In the event of an emergency involving the Tank, the Owner shall provide written notice of such emergency to the Company via its email hotline at the following address: customerservice@usgwater.com. The Company will provide emergency services for the Tank, when needed, to perform all repairs covered under this Contract. Reasonable travel time must be allowed for the repair unit to reach the Tank Site.

h. When the Tank is taken out of service, the Company will furnish pressure relief valves, if requested by the Owner, so that the Owner can install the valves in its water system while the Tank is being serviced. The Owner assumes all risk and liability for the installation and use of the pressure relief valves.

i. The Company will furnish the Owner with current certificates of insurance, which will summarize the Company's insurance coverage.

2. Contract Price/Annual Fees. For the performance of the Services required by Section 1, the Owner shall pay the Company an Annual Fee (hereinafter, "Annual Fee") for each Contract Year of the Contract. The first **(1)** Annual Fee shall be **\$6,665.00** per Contract Year. The Annual Fees for **years 2 through 6 shall be \$76,000.00 per Contract Year.** The Annual Fee for Contract Year 7 shall be **\$33,945.00**. Each Contract Year thereafter, the Annual Fee shall be adjusted to reflect the current cost of service. The adjustment of the Annual Fee shall be limited to a maximum of 5% annually. All applicable taxes are the responsibility of the Owner and are in addition to the stated costs and fees in this Contract.

3. Payment Terms. The Annual Fee for Contract **Year 1**, plus all applicable taxes, shall be due and payable **within ninety (90) days of the Owner's execution of the Contract.** **Each subsequent Annual Fee, plus all applicable taxes, shall be due and payable on the first day of each Contract Year thereafter.** If the Annual Fee, plus all applicable taxes, are not paid within ninety (90) days of the date of invoice, the Company may charge the Owner a late fee on unpaid balances and may also terminate or suspend Services under this Contract without notice. The late fee will be 1.5% per month.

4. Changes or Delays to Services. For purposes of this Section 4, **"Unreasonable Delay" shall mean the Owner's delay in releasing the Tank or making the Tank available to the Company for the performance of any of the Services described herein for a period of twenty-four (24) months following the Company's written request for release or access to the Tank.** In the event of Unreasonable Delay, the Company reserves the right to recover its reasonable costs related to the Unreasonable Delay, and the Owner agrees to negotiate with the Company in good faith to determine the amount of its reasonable costs caused by such Unreasonable Delay. Furthermore, the Owner hereby agrees that the Company can replace a Washout Inspection of the Tank with a visual

inspection, remotely operated vehicle inspection (“ROV Inspection”), or unmanned aerial vehicle inspection (“UAV Inspection”) without requiring the modification of this Contract.

5. Structure of Tank and Tank Site Conditions. The Company is accepting this Tank to maintain pursuant to the requirements of this Contract based upon its existing structure and components as of the Effective Date (defined hereinafter). ***Any modifications to the Tank, including antenna installations, shall be approved by the Company, prior to installation and may warrant an increase in the Annual Fees.*** In addition, changes in the condition of the Tank Site and/or any adjoining properties (e.g., construction of a mall next to the Tank Site which significantly increases the risk of overspray claims, etc.) following the Effective Date, which cause an increase in the cost of the maintenance of the Tank, will be just cause for an equitable adjustment of the Annual Fees in this Contract.

6. Environmental, Health, Safety, Labor, or Industry Requirements. The Owner hereby agrees that the promulgation of, enactment of, or modification to any environmental, health, safety, or labor laws, regulations, orders, or ordinances (e.g., EPA or OSHA regulations or standards) following the Effective Date of this Contract, which cause an increase in the cost of the maintenance of the Tank, will be just cause for an equitable adjustment of the Annual Fees in this Contract. Furthermore, modifications to industry requirement(s) including, but not limited to, standard(s) or other guidance documents issued by the American Water Works Association, National Sanitary Foundation, and the Association for Materials Protection and Performance, which cause an increase in the cost of the maintenance of the Tank, will be just cause for an equitable adjustment of the Annual Fees in this Contract. Said equitable adjustment of the Annual Fees in this Contract will reasonably reflect the increased cost of the Services with newly negotiated Annual Fee(s).

The Parties agree that the Company’s Annual Fees are based on the Owner’s representation that the work to be performed under this Contract is not subject to prevailing wage requirements. The Owner agrees to notify the Company immediately, if the Company’s work is (or will become) subject to prevailing wage requirements, so that the Company may submit revised amounts for Annual Fees.

7. Excluded Items. This Contract does NOT include the cost for and/or liability on the part of the Company for: (i) containment of the Tank at any time during the term of the Contract; (ii) disposal of any hazardous waste materials; (iii) resolution of operational problems or structural damage due to cold weather; (iv) repair of structural damage due to antenna installations or other attachments for which the Tank was not originally designed; (v) resolution of operational problems or repair of structural damage or site damage caused by physical conditions below the surface of the ground; (vi) negligent acts of Owner’s employees, agents or contractors; (vii) damages, whether foreseen or unforeseen, caused by the Owner’s use of pressure relief valves; (viii) repairs to the foundation of the Tank; (ix) any latent defects or inaccessible areas of the Tank or its components (including, but not limited to, (a) corrosion from the underside of the floor plates, and (b) inaccessible areas of the Tank such as the area between the bottom of the roof plate and the top of the roof rafter); (x) the maintenance, repair or replacement of any electrical components (to include any lighting, such as aviation lights); (xi) the maintenance, repair or replacement of fill lines, insulation, and/or frost jackets; (xii) the maintenance, repair, or replacement of piping of any kind below ground level; and (xiii) other conditions which are beyond the Owner’s and Company’s control, including, but not limited to: acts of God and acts of terrorism. Acts of God include, but are not limited to, any damage to the Tank or Tank Site which is caused by seismic activity, hurricanes, and/or tornadoes. Acts of terrorism include, but are not limited to, any damage to the Tank or Tank Site which results from an unauthorized entry of any kind to the Tank or Tank Site.

8. Force Majeure. If the Company is prevented from performing any of its duties or obligations hereunder (other than duties or obligations with respect to payment) in a timely manner by reason of act of God or force majeure such as: (i) fire, (ii) war, (iii) earthquake, (iv) strike, (v) lock-out, (vi) labor dispute, (vii) flood, (viii) public disaster, (ix) pandemic or epidemic event (including COVID-19), (x) interruptions or delays in reasonably available means of transportation, (xi) acts of any government or its agencies or officers, or any order, regulation, or ruling thereof, (xii) equipment or technical malfunctions or failures, (xiii) power failures or interruptions, or (xiv) any other reason beyond its reasonable control, such condition shall be deemed to be a valid excuse for delay of performance or for nonperformance of any such duty or obligation for the period during which such condition exists.

9. Termination. **This Contract is an annual contract that shall automatically renew on an annual basis for successive Contract Years so long as:** (i) the Owner pays each Annual Fee to the Company in accordance with the terms herein and (ii) does not terminate the Contract pursuant to the terms of this Section. This Contract is subject to termination by the Owner only at the end of the then-current Contract Year if written notice of intent to terminate is received by the Company at least ninety (90) days prior to the first day of the upcoming Contract Year. If the notice of intent to terminate is not received at least ninety (90) days prior to the first day of the upcoming Contract Year, this Contract shall renew for an additional Contract Year and expire at the end of the upcoming Contract Year. In such an event, the Owner agrees that it shall be responsible to pay the Annual Fee for the upcoming Contract Year. The notice of intent to terminate must be sent by certified mail, with return receipt requested, to Utility Service Co., Inc., Attention: Customer Service, Post Office Box 1350, Perry, Georgia 31069, and signed by three (3) authorized voting officials of the Owner's governing body (e.g., commission or council). Notice of intent to terminate cannot be delivered electronically or verbally (e.g., email, text, phone call, etc.). The Owner acknowledges and agrees that the Company has advanced Services to the Owner, and the Company has not received full payment for the Services previously performed. Therefore, if the Owner elects to terminate this Contract prior to remitting the first **six (6)** Annual Fees, then the unpaid balance of the first **six (6)** Annual Fees shall be due and payable within thirty (30) days of the Owner's issuance of the notice of intent to terminate at the end of the then-current Contract Year.

10. Assignment. The Owner may not assign or otherwise transfer all or any of its interest under this Contract without the prior written consent of the Company. If the Company agrees to the assignment, the Owner shall remain responsible under this Contract, until its assignee assumes in full and in writing all of the obligations of the Owner under this Contract. Any attempted assignment by Owner in violation of this provision will be void and of no effect.

11. Indemnification. **THE COMPANY AGREES TO INDEMNIFY THE OWNER AND HOLD THE OWNER HARMLESS FROM CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY BY REASON OF AND TO THE EXTENT OF ANY NEGLIGENT ACT OF THE COMPANY OR ITS SUBCONTRACTORS, AGENTS, OR EMPLOYEES. IN TURN TO THE EXTENT ALLOWED BY APPLICABLE LAW, THE OWNER AGREES TO INDEMNIFY THE COMPANY AND HOLD THE COMPANY HARMLESS FROM CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY BY REASON OF AND TO THE EXTENT OF ANY NEGLIGENT ACT OF THE OWNER OR ITS CONTRACTORS, AGENTS, OR EMPLOYEES.**

12. Assignment of Receivables. The Company reserves the right to assign any outstanding receivables from this Contract to its banking institution as collateral for any loans or lines of credit.

13. Miscellaneous Items. No modifications, amendments, or alterations of this Contract may be made, except in a writing signed by the Parties. No failure or delay on the part of any Party hereto in exercising any power or right hereunder shall operate as a waiver thereof. The Parties expressly warrant that the individuals who sign below are authorized to bind them.

14. Visual Inspection Disclaimer. This Contract is based upon a visual inspection of the Tank. The Owner and the Company hereby acknowledge and agree that a visual inspection is intended to assess the condition of the Tank for all patent defects. If latent defects are identified once the Tank has been drained and is made available to the Company, the Owner agrees and acknowledges that the Company shall not be responsible to repair the latent defects unless the Owner and the Company re-negotiate the Annual Fees. The definition of a "latent defect" shall be any defect of the Tank which is not easily discovered (e.g., corrosion of the floor plates, corrosion of the roof plates or rafters, corrosion in areas inaccessible to maintain, damage to the roof of the Tank which is not clearly discoverable during the visual inspection, etc.).

15. Excessive Inflation. In the event that the aggregate of the Annual Inflation Rates (defined herein below) established for two (2) consecutive calendar years during the term of this Contract exceeds 12% in total, the Owner and the Company agree to renegotiate the Annual Fees and increase the Annual Fees throughout the remaining term of the Contract to compensate the Company for the excessive inflation. For purposes of this provision, the Annual Inflation Rate for each calendar year shall be established by the *Engineering News Report – Construction Cost Index ("ENR-CCI")*. In the event that the ENR-CCI index is discontinued, the Owner and the Company will negotiate and agree to an alternative index or methodology to address the excessive inflation. For illustrative purposes, if a Contract is executed in 2022, the first equitable adjustment could not be made until both the 2023 inflation rate and the 2024 inflation rate have been established. If the annual inflation rates for 2023 and 2024 are 5.0% and 7.1%, respectively, the Owner and the Company agree to renegotiate the current year's Annual Fee as well as the remaining Annual Fees for the remainder of the term of the Contract to address the excessive inflation.

16. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same Agreement. The Parties may utilize electronic means (including facsimile and e-mail) to execute and transmit the Agreement and all such electronically executed and/or transmitted copies of the Agreement shall be deemed as valid as originals.

17. Entire Agreement. This Agreement constitutes the entire agreement of the Parties and supersedes all prior communications, understandings, and agreements relating to the subject matter hereof, whether oral or written.

SIGNATURE PAGE TO FOLLOW

This Contract is executed and effective as of the date ("the Effective Date") that the last Party signs this Contract below.

OWNER:

City of Everman

By: _____

Title: _____

Print Name: _____

Date: _____

Witness: _____

Seal:

COMPANY:

Utility Service Co., Inc.

By: *[Signature]*

Title: Chief Operating Officer

Print Name: Jonathan Cato

Date: October 23, 2024

Witness: *Lara A. Townsend*





Proposal from
UTILITY SERVICE CO., INC.

Section 7, Item D.

535 Gen. Courtney Hodges Blvd · P O Box 1350 · Perry, GA 31069
 Toll-free: 855-526-4413 | Fax: 478-987-2991
 usgwater.com

Date: **10/28/2024**

Submitted by: **Shawn Keough**

Local Phone: 2145577695

SFID: **86530**

MP / CS Asset:

Entity Proposal Submitted To ("Customer"): The City of Everman, TX			Phone Number: 817-675-2134		Fax Number:	
Street Address: 212 N Race St			Description of Work to be Performed: Steel Tank Repairs and Disinfection			
City: Everman		State: TX	Zip Code: 76140	Asset Name: High School Galvanized GST		
Accounts Payable Contact Name: Gilbert Ramirez	Email: gramirez@evermantx.net			Job Site Address: 619 TOWNLEY DRIVE		
Job Contact (Inspection Reports): Gilbert Ramirez	Email: gramirez@evermantx.net			County / Parish: Tarrant	Asset Size: 100kg	Asset Style: GST

Utility Service Co., Inc. agrees to provide all labor, equipment, and materials needed to complete the following:

Please see attached Exhibit(s), which are incorporated herein by reference:

1. Exhibit A – Scope of Work
2. Exhibit B – Terms and Conditions

Please sign and date this proposal and fax one copy to our office.

Forty Eight Thousand Five Hundred Seventy Four and ----00 /100 Dollars **\$ 48,574.00**

Payment to be made as follows: **Payment Due in Full Upon Completion of Work – plus all applicable taxes**

Remittance Address: Utility Service Co., Inc., P O Box 207362, Dallas, TX 75320-7362

This Proposal, together with its Exhibit A – Scope of Work and Exhibit B - Terms and Conditions, and any additional exhibits that Utility Service Co., Inc. and the Customer agree to incorporate and attach to this Proposal (collectively, this "Proposal") constitutes the entire and exclusive agreement between Utility Service Co., Inc. (which for purposes herein shall collectively include its affiliate companies) and Customer (collectively, the "Parties"). This Proposal may be withdrawn by Utility Service Co., Inc. at any time prior to acceptance. Customer assents to the terms and conditions in Exhibit B and agrees that the terms and conditions in Exhibit B shall govern with respect to this Proposal and the services provided by Utility Service Co., Inc. No additional or conflicting terms or conditions included in any purchase order, hyperlink, acknowledgement or invoice of Customer not expressly incorporated into this Proposal shall be binding on the Parties or this Proposal.

Note: This proposal shall expire automatically
Ninety (90) days following the date of this Proposal.

Authorized
 USCI Signature 

Acceptance of Proposal The prices, scope of work, and terms and conditions of this Proposal are satisfactory and are hereby accepted. Payment will be made by Customer to Utility Service Co., Inc. as set forth herein.

Is Customer Exempt from Sales Tax? No Yes If Exempt, please provide Sales Tax Exemption Certificate.

Fiscal Year Beginning Month _____ Customer Signature _____

Date of Acceptance _____ Printed Name _____

FOR INTERNAL USE ONLY

SFID: CN: SO: MP / CS PN:



Proposal from

UTILITY SERVICE CO., INC.

535 Gen. Courtney Hodges Blvd · P O Box 1350 · Perry, GA 31069

Toll-free: 855-526-4413 | Fax: 478-987-2991

usgwater.com

Section 7, Item D.

Exhibit A – Scope of Work

Steel Tank Repairs and Disinfection

1. A date shall be coordinated by both parties for the Owner to drain the tank.
2. Surface Preparation: Prepare ferrous metals per SSPC-SP6
3. Primer: Apply one (1) coats of CIM EMT Primer at 15.0 to 20.0 mils DFT.
4. Finish: Apply one (1) coats of CIM 1061 at 60.0 to 70.0 mils DFT.
5. Apply one (1) coats of CIM 1000 Trowel Grade to build 1/2" x 1/2" cant cove at the base of the walls to floor around the interior of the tank.
6. This price does not include containment, testing, or off-site disposal of sediment or debris from the tank.
7. The above pricing is contingent on accessibility of the site and the ability of USCI to perform tasks required unobstructed, and to complete the task in one full work day. (\$1,500.00 for each additional day).



Proposal from

UTILITY SERVICE CO., INC.

535 Gen. Courtney Hodges Blvd · P O Box 1350 · Perry, GA 31069

Toll-free: 855-526-4413 | Fax: 478-987-2991

usgwater.com

Section 7, Item D.

Exhibit A – Scope of Work Continued

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Exhibit B – Terms and Conditions

A. GENERAL TERMS AND CONDITIONS

The Terms and Conditions (the "Terms") of this Proposal govern the sale of services (the "Services") by Utility Service Co., Inc. (which for purposes herein shall include its affiliates) to the Customer. All other terms, or variations to these Terms are excluded unless agreed explicitly in writing by a numbered amendment to this Proposal executed by Utility Service Co., Inc. and the Customer. Execution of the Proposal by the Customer, whether in writing, on the Internet, by electronic signature, or by e-mail transmission of a signed Proposal shall mean acceptance that these Terms are deemed incorporated into the Proposal and shall form the contract between the Customer and Utility Service Co., Inc. These Terms shall supersede all prior terms, understandings or Proposals between the Customer and Utility Service Co., Inc. If any part of the Terms should be found to be invalid or unenforceable by a court or other competent authority, then the remainder of the Terms shall not be affected. Any notice to be given with respect to these Terms by either of the Parties shall be in writing. Notices to the Customer shall be sent to the Customer's address on the Proposal, and any notices to Utility Service Co., Inc., including notice of warranty claims by the Customer, shall be sent to: Utility Service Co., Inc., ATTN: Customer Service Department, 535 General Courtney Hodges Boulevard, Post Office Box 1350, Perry, Georgia 31069.

This Proposal has been issued based on the information provided by the Customer and on information currently available to Utility Service Co., Inc. at the time of Proposal issuance. Any changes or discrepancies in site conditions, concealed conditions where the Services will be performed, changes in environmental, health, and safety regulations or conditions, changes in Customer's financial standing, Customer's requirements, or any other relevant change or discrepancy in the factual basis upon which this Proposal was created may lead to changes in the offering, including but not limited to, changes in pricing, warranties, quoted scope of work, and/or terms and conditions. Unless stated otherwise in the Proposal, performance and/or payment bonds are not included in the price. These bonds can be purchased on request but will be at an additional cost.

B. PRICES, PAYMENT TERMS, COMMITMENT OF CUSTOMER, CREDIT REPORTING AND TAXES

Prices, which are expressed in US Dollars, are only valid for the period stated in the Proposal. If not stated, the validity period is ninety (90) days. Unless otherwise stated in the Proposal, the full price shall be due and payable upon completion of the Services, which may or may not include the installation of Equipment. All of Utility Service Co., Inc.'s invoices are due and payable upon receipt. If any payment is not made by the Customer within sixty (60) calendar days following the date of the invoice, Utility Service Co., Inc. reserves the right to charge a late payment charge of one and one-half percent (1.5%) per month of the outstanding past due balance. Any failure by Customer to make timely payment of any obligation under this Proposal shall be deemed a breach. Customer agrees to reimburse Utility Service Co., Inc. for all charges, costs, expenses and attorney's fees incurred to enforce or collect the amounts due under this Proposal. In the event Customer has a valid dispute with any invoice or amount due, such dispute must be communicated in writing to Utility Service Co., Inc. within thirty (30) days of the invoice date, describing the amount, issue and the reason for any dispute. Any amounts not disputed within this time frame will be deemed to be valid. Utility Service Co., Inc. and Customer agree to work expeditiously to resolve any dispute. Customer agrees to notify Utility Service Co., Inc. within thirty (30) days of any change in Customer's name, address, or phone number. By executing this Proposal, Customer authorizes Utility Service Co., Inc. to periodically request your credit reports and bank and trade references. Upon your request, we will inform you of the name and address of the reporting agency from which we received such a report, if any. The price listed in the Proposal excludes all taxes unless specifically stated otherwise in the Proposal. The Customer is responsible for payment of all applicable taxes, however designated or incurred in connection with the transactions under this Proposal, and agrees to reimburse Utility Service Co., Inc. for any taxes paid on Customer's behalf.

C. DELIVERY OF SERVICES AND INSTALLATION OF EQUIPMENT

The provision of Services as contemplated herein might require the installation of certain equipment (the "Equipment") on the Customer's real property or on the improvements to the Customer's real property (e.g., water storage tank, etc.). All times and dates for the delivery of Services and/or installation of Equipment are approximate, but Utility Service Co., Inc. shall use its reasonable efforts to respect them. The Parties shall each make commercially reasonable efforts to schedule the Services after the date this Proposal is executed by the Customer. Utility Service Co., Inc. shall not be liable for any loss or damage resulting from late delivery of the Services or installation of Equipment.

D. ACCESS TO CUSTOMER'S FACILITY OR REAL PROPERTY

Customer hereby agrees to provide Utility Service Co., Inc. with reasonable access to its facility or real property to perform the Services. "Reasonable access" shall include passable roads for ingress and egress as well as sufficient usable ground space for Utility Service Co., Inc.'s equipment and materials needed to perform the Services. Unless otherwise provided in this Proposal, the price of this Proposal does not include the cost to lease additional real property so that Utility Service Co., Inc. will have sufficient usable ground space to stage its equipment and materials needed to perform the Services. Any such cost would be in addition to the price of the Proposal, and if needed, the Customer agrees to negotiate an amendment to this Proposal to modify the pricing in good faith.

E. RISK OF LOSS

Risk of loss or damage to the Equipment, if applicable to this Proposal, shall pass to the Customer upon delivery of the Equipment to the named place of destination.

F. TITLE TO EQUIPMENT

If the sale of Equipment is included in this Proposal, the title in the Equipment shall remain with Utility Service Co., Inc. until the price of the Proposal is paid in full. The Customer assents that Utility Service Co., Inc. may enter upon the Customer's real property and/or facility to repossess the Equipment if payment(s) are not received in full by their due date(s).

G. SCOPE OF WARRANTY

Subject to the limitations contained herein, Utility Service Co., Inc. represents that for a period of one (1) year from the earlier of: (i) the completion of the Services (to include the installation of the Equipment, if applicable to this Proposal) or (ii) the Customer's return to use of the asset that is the subject matter of this Proposal ("Warranty Period"), the Services and Equipment, if applicable, will be free from defects in materials and workmanship and will substantially conform to the specifications set forth in Exhibit A ("Warranty"). WITH THE EXCEPTION OF THE REPRESENTATION IN THE FOREGOING SENTENCE, UTILITY SERVICE CO., INC. MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES OF ANY KIND WITH RESPECT TO THE SUBJECT MATTER HEREOF AND ALL OTHER WARRANTIES ARE HEREBY DISCLAIMED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE.

H. NOTIFICATION OF WARRANTY CLAIM

All claims filed under the Warranty provided in Section G shall be made in writing by the Customer within thirty (30) calendar days of identifying a defect. Customer shall provide the written notice of the claim to Utility Service Co., Inc. pursuant to Section A above, and the Customer shall provide the following information in the written notice: (i) a description of the defect giving rise to the claim; (ii) photographs showing the defect; and (iii) if the claim is related to Equipment, the serial number(s) of the Equipment which is (are) the subject of the claim.

I. EXCLUSIONS FROM WARRANTY

Occurrence of any of the following, as reasonably determined by Utility Service Co., Inc., will void the Warranty: (i) unauthorized alteration of any component(s) of the Services or the Equipment, if applicable, originally supplied by Utility Service Co., Inc., or (ii) intentional or negligent damage to Utility Service Co., Inc.'s work product or the Equipment, if applicable to this Proposal, caused by any other person or entity, including but not limited to, the Customer and its officers, employees, agents, contractors, and assigns.

J. VERIFICATION OF WARRANTY CLAIM

Utility Service Co., Inc. shall contact Customer following its receipt of notice of a claim under the Warranty. Utility Service Co., Inc. reserves the right to request additional information from the Customer or to conduct an on-site inspection of its work or the Equipment, if applicable to this Proposal, before accepting a claim. The Parties agree to cooperate and work in good faith to provide any additional information needed or to schedule an on-site visit by Utility Service Co., Inc.'s personnel to visibly inspect the work and the Equipment, if applicable. Furthermore, Utility Service Co., Inc. reserves the right to have a third party participate in the inspection of the work to verify whether the work or Equipment, if applicable, is defective under the terms of the Warranty.



Exhibit B – Terms and Conditions (Continued)

K. SATISFACTION OF WARRANTY CLAIM

If Utility Service Co., Inc. verifies, in good faith, that a claim under the Warranty is valid and not subject to an exclusion pursuant to Section I above, Utility Service Co., Inc. agrees to repair or replace, without expense to the Customer, any workmanship, materials, and/or Equipment, if applicable, furnished hereunder that may prove defective within the Warranty Period. The Warranty provided in this Proposal shall be the sole and exclusive remedy of the Customer.

L. INDEMNIFICATION

Utility Service Co., Inc. shall indemnify and hold harmless Customer from all claims for physical damage to third party property or injury to persons, including death, to the extent caused by the negligence of Utility Service Co., Inc. or its officers, agents, employees, and/or assigns while engaged in activities under this Proposal. Customer shall likewise indemnify and hold harmless Utility Service Co., Inc. from all claims for physical damage to third party property or injury to persons, including death, to the extent caused by negligence of the Customer or its officers, agents, employees, and/or assigns. In the event such damage or injury is caused by joint or concurrent negligence of Utility Service Co., Inc. and Customer, the loss shall be borne by each Party in proportion to its negligence. For the purpose of this Section L, (i) "Third party" shall not include Customer or any subsequent owner of the property where the Services were performed or Equipment, if applicable, their subsidiaries, parents, affiliates, agents, successors or assigns including any operation or maintenance contractor, or their insurer; and (ii) no portion of the Equipment is "third party property".

M. FORCE MAJEURE

Utility Service Co., Inc. shall not be liable to the Customer for non-performance or delay in performance of any of its obligations under this Proposal due to: (i) acts of God (which include, but are not limited to, tropical storms, hurricanes, tornadoes, and earthquakes), (ii) failure of the Internet or another network, (iii) war, (iv) riot, (v) civil commotion, (vi) embargo, (vii) labor disputes, (viii) labor strikes, (ix) fire, (x) flood, (xi) theft, (xii) epidemic, (xiii) pandemic (including COVID-19), (xiv) delay in delivery of services, materials, or equipment by subcontractors, suppliers, or manufacturers, (xv) shortage of labor or materials, or (xvi) any other unforeseen event (whether or not similar in nature to those specified) outside the reasonable control of Utility Service Co., Inc.

N. LIMITATION OF LIABILITY

Neither the Customer nor Utility Service Co., Inc. shall be liable to the other for any economic (including, without limitation, loss of revenues, profits, contracts, business or anticipated savings), special, indirect, incidental, exemplary, punitive or consequential losses or damages or loss of goodwill in any way whether such liability is based on tort, contract, negligence, strict liability, product liability or otherwise arising from or relating to this Proposal or resulting from the use or the inability to use the Services or Equipment, if applicable to this Proposal, or the performance or non-performance of the Services or Equipment, if applicable. It is the responsibility of the Customer to insure itself in this regard if it so desires. The liability limit of Utility Service Co., Inc. and its affiliate companies under this Proposal, whether based in contract, warranty, tort (including negligence), strict liability, product liability or otherwise shall not exceed the price that the Customer agrees to pay Utility Service Co., Inc. in this Proposal.

O. GOVERNING LAW AND DISPUTE RESOLUTION

This Proposal and these Terms shall be construed in accordance with the laws of the state of Georgia without regard to the conflict of law principle. In the event of a dispute concerning this Proposal, the complaining Party shall notify the other Party in writing thereof. Management level representatives of both Parties shall meet at an agreed location and attempt to resolve the dispute in good faith. Should the dispute not be resolved within sixty (60) days after such notice, the complaining Party shall seek remedies exclusively through arbitration. The seat of arbitration shall be the federal district court closest to the location where the Services were performed or are scheduled to be performed, and the rules of arbitration will be the Commercial Arbitration Rules of American Arbitration Association, which are incorporated herein by reference into this Section O.



USG WATER
— SOLUTIONS —

Utility Service Co., Inc.

Water Tank Maintenance Contract

Owner: City of Everman
Fort Worth, TX

Tank Size/Name: 1,000,000 Gallon G.S.T. - Shelby Well Tank

Location: 632 Shelby Road

Date Prepared: October 22, 2024

WATER TANK MAINTENANCE CONTRACT

This Water Tank Maintenance Contract (hereinafter, “the Contract”) is entered into by and between the **City of Everman, whose business address is 212 N. Race Street, Fort Worth, TX 76140** (hereinafter, “the Owner”) and Utility Service Co., Inc., whose business address is 535 General Courtney Hodges Boulevard, Post Office Box 1350, Perry, Georgia 31069 (hereinafter, “the Company”). The Owner and the Company shall be individually referred to herein as “a Party” or collectively referred to herein as “the Parties”.

Therefore, in consideration of the mutual promises contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Owner and the Company, the Parties agree as follows:

1. Company’s Engagement and Responsibilities. The Owner agrees to engage the Company to provide the professional services needed to maintain its **1,000,000** gallon water storage tank located at **632 Shelby Road, Everman, TX 76140** (hereinafter, “the Tank”). This Contract outlines the Company’s responsibility for the upfront renovation (hereinafter, the “Upfront Renovation”) of the Tank and the care and maintenance of the Tank thereafter. The services (collectively, “the Services”) that the Company will provide include the following:

- a. The Tank shall receive an Upfront Renovation, which will include: **an interior renovation and repairs prior to the end of Contract Year 1. An exterior renovation prior to the end of the Contract Year 5.** For purposes of this Contract, “Contract Year” shall mean the 12-month period which commences on the first day of the month when the Contract is executed by the Owner and each successive 12-month period thereafter (hereinafter, “Contract Year” or collectively, “Contract Years”).
- b. The Company will annually inspect the Tank. The Tank will be inspected to ensure that the structure is in a sound, watertight condition. The Company will provide a written inspection report to the Owner following each inspection.
- c. Biennially, after the Tank is drained by the Owner, the Company will clean the interior of the Tank and perform a condition assessment on the Tank (hereinafter “Washout Inspection”). During each Washout Inspection, the Tank will be cleaned to remove all mud, silt, and other accumulations from the interior of the Tank. After a Washout Inspection is completed, the interior of the Tank will be thoroughly inspected and disinfected prior to returning the Tank to service; however, the Owner is responsible for draining and filling the Tank and conducting any required testing of the water before returning the Tank to service.
- d. The Company shall provide the engineering and inspection services needed to maintain and repair the Tank during the term of this Contract. The repairs include: the Tank’s expansion joints, water level indicators, sway rod adjustments, vent screens, manhole covers/gaskets, and the Tank’s other steel parts not otherwise excluded hereinafter.
- e. The Company will clean and repaint the interior and/or exterior of the Tank at such time as complete repainting is needed. The need for interior painting of the Tank is to be determined by the thickness of the existing liner and its protective condition. Only materials approved for use in potable water tanks will be used on any interior surface area. The need for exterior painting of the Tank is to be determined by the appearance

and protective condition of the existing paint. At the time that the exterior requires repainting, the Company agrees to paint the Tank with a coating that is the same color as the existing coating and to select a coating system which best suits the site conditions, environment, and general location of the Tank. When interior or exterior painting of the Tank is needed, all products and procedures as to coating systems will be equal to or exceed the requirements of the **State of Texas** and the American Water Works Association's D102 standard in effect as of the Effective Date (defined hereinafter).

f. The Company will install a lock on the roof hatch of the Tank; however, the provision of such lock does not guarantee the Tank's security during the term of the Contract. For the avoidance of doubt, security of the Tank and the site where the Tank is located (hereinafter, "Tank Site") are the responsibility of the Owner.

g. In the event of an emergency involving the Tank, the Owner shall provide written notice of such emergency to the Company via its email hotline at the following address: customerservice@usgwater.com. The Company will provide emergency services for the Tank, when needed, to perform all repairs covered under this Contract. Reasonable travel time must be allowed for the repair unit to reach the Tank Site.

h. When the Tank is taken out of service, the Company will furnish pressure relief valves, if requested by the Owner, so that the Owner can install the valves in its water system while the Tank is being serviced. The Owner assumes all risk and liability for the installation and use of the pressure relief valves.

i. The Company will furnish the Owner with current certificates of insurance, which will summarize the Company's insurance coverage.

2. Contract Price/Annual Fees. For the performance of the Services required by Section 1, the Owner shall pay the Company an Annual Fee (hereinafter, "Annual Fee") for each Contract Year of the Contract. The first **six (6)** Annual Fees shall be **\$44,760.00** per Contract Year. The Annual Fee for Contract Year 7 shall be **\$18,689.00**. Each Contract Year thereafter, the Annual Fee shall be adjusted to reflect the current cost of service. The adjustment of the Annual Fee shall be limited to a maximum of 5% annually. All applicable taxes are the responsibility of the Owner and are in addition to the stated costs and fees in this Contract.

3. Payment Terms. The Annual Fee for Contract **Year 1**, plus all applicable taxes, shall be due and payable **within ninety (90) days of the Owner's execution of the Contract.** **Each subsequent Annual Fee, plus all applicable taxes, shall be due and payable on the first day of each Contract Year thereafter.** If the Annual Fee, plus all applicable taxes, are not paid within ninety (90) days of the date of invoice, the Company may charge the Owner a late fee on unpaid balances and may also terminate or suspend Services under this Contract without notice. The late fee will be 1.5% per month.

4. Changes or Delays to Services. For purposes of this Section 4, "**Unreasonable Delay**" shall mean the Owner's delay in releasing the Tank or making the Tank available to the Company for the performance of any of the Services described herein for a period of **twenty-four (24) months following the Company's written request for release or access to the Tank.** In the event of Unreasonable Delay, the Company reserves the right to recover its reasonable costs related to the Unreasonable Delay, and the Owner agrees to negotiate with the Company in good faith to determine the amount of its reasonable costs caused by such Unreasonable Delay. Furthermore, the Owner hereby agrees that the Company can replace a Washout Inspection of the Tank with a visual inspection, remotely operated vehicle inspection ("ROV Inspection"), or unmanned aerial vehicle inspection ("UAV Inspection") without requiring the modification of this Contract.

5. Structure of Tank and Tank Site Conditions. The Company is accepting this Tank to maintain pursuant to the requirements of this Contract based upon its existing structure and components as of the Effective Date (defined hereinafter). ***Any modifications to the Tank, including antenna installations, shall be approved by the Company, prior to installation and may warrant an increase in the Annual Fees.*** In addition, changes in the condition of the Tank Site and/or any adjoining properties (e.g., construction of a mall next to the Tank Site which significantly increases the risk of overspray claims, etc.) following the Effective Date, which cause an increase in the cost of the maintenance of the Tank, will be just cause for an equitable adjustment of the Annual Fees in this Contract.

6. Environmental, Health, Safety, Labor, or Industry Requirements. The Owner hereby agrees that the promulgation of, enactment of, or modification to any environmental, health, safety, or labor laws, regulations, orders, or ordinances (e.g., EPA or OSHA regulations or standards) following the Effective Date of this Contract, which cause an increase in the cost of the maintenance of the Tank, will be just cause for an equitable adjustment of the Annual Fees in this Contract. Furthermore, modifications to industry requirement(s) including, but not limited to, standard(s) or other guidance documents issued by the American Water Works Association, National Sanitary Foundation, and the Association for Materials Protection and Performance, which cause an increase in the cost of the maintenance of the Tank, will be just cause for an equitable adjustment of the Annual Fees in this Contract. Said equitable adjustment of the Annual Fees in this Contract will reasonably reflect the increased cost of the Services with newly negotiated Annual Fee(s).

The Parties agree that the Company's Annual Fees are based on the Owner's representation that the work to be performed under this Contract is not subject to prevailing wage requirements. The Owner agrees to notify the Company immediately, if the Company's work is (or will become) subject to prevailing wage requirements, so that the Company may submit revised amounts for Annual Fees.

7. Excluded Items. This Contract does NOT include the cost for and/or liability on the part of the Company for: (i) containment of the Tank at any time during the term of the Contract; (ii) disposal of any hazardous waste materials; (iii) resolution of operational problems or structural damage due to cold weather; (iv) repair of structural damage due to antenna installations or other attachments for which the Tank was not originally designed; (v) resolution of operational problems or repair of structural damage or site damage caused by physical conditions below the surface of the ground; (vi) negligent acts of Owner's employees, agents or contractors; (vii) damages, whether foreseen or unforeseen, caused by the Owner's use of pressure relief valves; (viii) repairs to the foundation of the Tank; (ix) any latent defects or inaccessible areas of the Tank or its components (including, but not limited to, (a) corrosion from the underside of the floor plates, and (b) inaccessible areas of the Tank such as the area between the bottom of the roof plate and the top of the roof rafter); (x) the maintenance, repair or replacement of any electrical components (to include any lighting, such as aviation lights); (xi) the maintenance, repair or replacement of fill lines, insulation, and/or frost jackets; (xii) the maintenance, repair, or replacement of piping of any kind below ground level; and (xiii) other conditions which are beyond the Owner's and Company's control, including, but not limited to: acts of God and acts of terrorism. Acts of God include, but are not limited to, any damage to the Tank or Tank Site which is caused by seismic activity, hurricanes, and/or tornadoes. Acts of terrorism include, but are not limited to, any damage to the Tank or Tank Site which results from an unauthorized entry of any kind to the Tank or Tank Site.

8. Force Majeure. If the Company is prevented from performing any of its duties or obligations hereunder (other than duties or obligations with respect to payment) in a timely manner by reason of act of God or force majeure such as: (i) fire, (ii) war, (iii) earthquake, (iv) strike, (v) lock-out, (vi) labor dispute, (vii) flood, (viii) public disaster, (ix) pandemic or epidemic event (including COVID-

19), (x) interruptions or delays in reasonably available means of transportation, (xi) acts of any government or its agencies or officers, or any order, regulation, or ruling thereof, (xii) equipment or technical malfunctions or failures, (xiii) power failures or interruptions, or (xiv) any other reason beyond its reasonable control, such condition shall be deemed to be a valid excuse for delay of performance or for nonperformance of any such duty or obligation for the period during which such condition exists.

9. Termination. This Contract is an annual contract that shall automatically renew on an annual basis for successive Contract Years so long as: (i) the Owner pays each Annual Fee to the Company in accordance with the terms herein and (ii) does not terminate the Contract pursuant to the terms of this Section. This Contract is subject to termination by the Owner only at the end of the then-current Contract Year if written notice of intent to terminate is received by the Company at least ninety (90) days prior to the first day of the upcoming Contract Year. If the notice of intent to terminate is not received at least ninety (90) days prior to the first day of the upcoming Contract Year, this Contract shall renew for an additional Contract Year and expire at the end of the upcoming Contract Year. In such an event, the Owner agrees that it shall be responsible to pay the Annual Fee for the upcoming Contract Year. The notice of intent to terminate must be sent by certified mail, with return receipt requested, to Utility Service Co., Inc., Attention: Customer Service, Post Office Box 1350, Perry, Georgia 31069, and signed by three (3) authorized voting officials of the Owner's governing body (e.g., commission or council). Notice of intent to terminate cannot be delivered electronically or verbally (e.g., email, text, phone call, etc.). The Owner acknowledges and agrees that the Company has advanced Services to the Owner, and the Company has not received full payment for the Services previously performed. Therefore, if the Owner elects to terminate this Contract prior to remitting the first **six (6)** Annual Fees, then the unpaid balance of the first **six (6)** Annual Fees shall be due and payable within thirty (30) days of the Owner's issuance of the notice of intent to terminate at the end of the then-current Contract Year.

10. Assignment. The Owner may not assign or otherwise transfer all or any of its interest under this Contract without the prior written consent of the Company. If the Company agrees to the assignment, the Owner shall remain responsible under this Contract, until its assignee assumes in full and in writing all of the obligations of the Owner under this Contract. Any attempted assignment by Owner in violation of this provision will be void and of no effect.

11. Indemnification. THE COMPANY AGREES TO INDEMNIFY THE OWNER AND HOLD THE OWNER HARMLESS FROM CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY BY REASON OF AND TO THE EXTENT OF ANY NEGLIGENT ACT OF THE COMPANY OR ITS SUBCONTRACTORS, AGENTS, OR EMPLOYEES. IN TURN TO THE EXTENT ALLOWED BY APPLICABLE LAW, THE OWNER AGREES TO INDEMNIFY THE COMPANY AND HOLD THE COMPANY HARMLESS FROM CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY BY REASON OF AND TO THE EXTENT OF ANY NEGLIGENT ACT OF THE OWNER OR ITS CONTRACTORS, AGENTS, OR EMPLOYEES.

12. Assignment of Receivables. The Company reserves the right to assign any outstanding receivables from this Contract to its banking institution as collateral for any loans or lines of credit.

13. Miscellaneous Items. No modifications, amendments, or alterations of this Contract may be made, except in a writing signed by the Parties. No failure or delay on the part of any Party hereto in exercising any power or right hereunder shall operate as a waiver thereof. The Parties expressly warrant that the individuals who sign below are authorized to bind them.

14. Visual Inspection Disclaimer. This Contract is based upon a visual inspection of the Tank. The Owner and the Company hereby acknowledge and agree that a visual inspection is intended to assess the condition of the Tank for all patent defects. If latent defects are identified once the Tank has been drained and is made available to the Company, the Owner agrees and acknowledges that the Company shall not be responsible to repair the latent defects unless the Owner and the Company re-negotiate the Annual Fees. The definition of a "latent defect" shall be any defect of the Tank which is not easily discovered (e.g., corrosion of the floor plates, corrosion of the roof plates or rafters, corrosion in areas inaccessible to maintain, damage to the roof of the Tank which is not clearly discoverable during the visual inspection, etc.).

15. Excessive Inflation. In the event that the aggregate of the Annual Inflation Rates (defined herein below) established for two (2) consecutive calendar years during the term of this Contract exceeds 12% in total, the Owner and the Company agree to renegotiate the Annual Fees and increase the Annual Fees throughout the remaining term of the Contract to compensate the Company for the excessive inflation. For purposes of this provision, the Annual Inflation Rate for each calendar year shall be established by the *Engineering News Report – Construction Cost Index ("ENR-CCI")*. In the event that the ENR-CCI index is discontinued, the Owner and the Company will negotiate and agree to an alternative index or methodology to address the excessive inflation. For illustrative purposes, if a Contract is executed in 2022, the first equitable adjustment could not be made until both the 2023 inflation rate and the 2024 inflation rate have been established. If the annual inflation rates for 2023 and 2024 are 5.0% and 7.1%, respectively, the Owner and the Company agree to renegotiate the current year's Annual Fee as well as the remaining Annual Fees for the remainder of the term of the Contract to address the excessive inflation.

16. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same Agreement. The Parties may utilize electronic means (including facsimile and e-mail) to execute and transmit the Agreement and all such electronically executed and/or transmitted copies of the Agreement shall be deemed as valid as originals.

17. Entire Agreement. This Agreement constitutes the entire agreement of the Parties and supersedes all prior communications, understandings, and agreements relating to the subject matter hereof, whether oral or written.

SIGNATURE PAGE TO FOLLOW

This Contract is executed and effective as of the date ("the Effective Date") that the last Party signs this Contract below.

OWNER:

City of Everman

By: _____

Title: _____

Print Name: _____

Date: _____

Witness: _____

Seal:

COMPANY:

Utility Service Co., Inc.

By: _____ *[Signature]*

Title: Chief Operating Officer

Print Name: Jonathan Cato

Date: October 23, 2024

Witness: *Lara A. Townsend*

Seal:

