



JOINT MEETING OF THE EVERMAN ECONOMIC DEVELOPMENT CORPORATION AND THE EVERMAN CITY COUNCIL

Tuesday, May 07, 2024 at 6:00 PM
213 North Race Street Everman, TX 76140

AGENDA

1. **THE EVERMAN CITY COUNCIL MEETING IS CALLED TO ORDER**
2. **THE ECONOMIC DEVELOPMENT CORPORATION BOARD OF DIRECTORS MEETING IS CALLED TO ORDER**
3. **INVOCATION**
4. **PLEDGE OF ALLEGIANCE**
5. **PRESENTATIONS**
 - A. Honoring the Binions for their 70th Wedding Anniversary
 - B. Proclamation - National Police Week
 - C. Proclamation - National Public Works Week
 - D. Presentation of the Fiscal Year 2023 Financial Audit Report - Patillo, Brown & Hill, LLP
6. **CITY COUNCIL MEETING RECESSED**
7. **CONSIDERATION AND POSSIBLE ACTION BY THE ECONOMIC DEVELOPMENT CORPORATION**
 - A.** RESOLUTION # EDC 2024-05-01 - A RESOLUTION OF THE BOARD OF DIRECTORS OF THE EVERMAN ECONOMIC DEVELOPMENT CORPORATION APPROVING A FIRST AMENDMENT TO ECONOMIC DEVELOPMENT PERFORMANCE AND 380 AGREEMENT BETWEEN THE CITY OF EVERMAN, THE EVERMAN ECONOMIC DEVELOPMENT CORPORATION, AND MUNAY DEVELOPMENT PARTNERS, LLC AND AUTHORIZING THE EXECUTIVE DIRECTOR TO SIGN THE SAME; PROVIDING FOR A REPEALING CLAUSE; AND DECLARING AN EFFECTIVE DATE.
8. **ECONOMIC DEVELOPMENT CORPORATION IS ADJOURNED**
9. **EVERMAN CITY COUNCIL MEETING IS RECONVENED**
10. **PUBLIC HEARINGS**
 - A. PUBLIC HEARING - To receive citizen input, comments, and feedback related to a proposed application for the 50th Year Tarrant County Community Development Block Grant (CDBG) project for a watermain replacement along the 800 Block of Marlene Dr.
11. **CITIZEN'S COMMENTS**

12. DISCUSSION ITEMS

- A. Discussion related to the potential proposal for amending operational hours of certain city departments within the city and how such amendments may affect city services and operations.
- B. Discussion related to the proposed renaming of the Public Library Building
- C. Discussion related utility rates for FY2024-FY2025

13. CONSIDERATION AND POSSIBLE ACTION

- A. Consider Acceptance of the Fiscal Year 2023 Financial Audit Report as presented by Pattillo, Brown & Hill, LLP
- B. Consideration of nominations and appointments to the Animal Shelter Advisory Committee
- C. RESOLUTION # 2024-04-02 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS, APPROVING AN AMENDMENT TO THE CITY'S PERSONNEL MANUAL AT SECTION 9.01(e) REGARDING APPEAL PROCEDURE FOR EMPLOYEES APPOINTED BY THE CITY MANAGER; AND PROVIDING AN EFFECTIVE
- D. RESOLUTION # 2024-05-01 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS, AUTHORIZING THE SUBMISSION OF A PROJECT APPLICATION TO TARRANT COUNTY FOR THE 2024 FISCAL YEAR 50TH YEAR COMMUNITY DECELOPMENT BLOCK GRANT (CDBG) PROJECT FOR WATERMAIN REPLACEMENT ALONG 800 BLOCK OF MARLENE DRIVE; AND PROVIDING AN EFFECTIVE
- E. RESOLUTION # 2024-05-02 - A RESOLUTION OF THE CITY OF EVERMAN, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF EVERMAN AND TARRANT COUNTY FOR FOOD ESTABLISHMENT INSPECTION SERVICES; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT; AUTHORIZING THE AMENDMENT OF THE CITY'S MASTER FEE SCHEDULE TO REFLECT THE APPROVED FEES RELATED THERETO; PROVIDING FOR THE REPEAL OF ANY AND ALL RESOLUTIONS IN CONFLICT; PROVIDING FOR SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.
- F. RESOLUTION # 2024-05-03 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EVERMAN APPROVING A FIRST AMENDMENT TO ECONOMIC DEVELOPMENT PERFORMANCE AND 380 AGREEMENT BETWEEN THE CITY OF EVERMAN, THE EVERMAN ECONOMIC DEVELOPMENT CORPORATION, AND MUNAY DEVELOPMENT PARTNERS, LLC; APPROVING A FIRST AMENDED AND RESTATED RESTRICTION AGREEMENT BETWEEN THE CITY OF EVERMAN AND MUNAY DEVELOPMENT PARTNERS, LLC; AUTHORIZING THE CITY MANAGER TO SIGN THE SAME ON BEHALF OF THE CITY; PROVIDING FOR A REPEALING CLAUSE; AND DECLARING AN EFFECTIVE DATE.
- G. RESOLUTION # 2024-05-04 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS, AUTHORIZING THE PURCHASE OF AN UNMANNED AIRCRAFT (DRONE) FOR COMPENSATION IN AN AMOUNT NOT TO EXCEED \$3,000.00 TO BE FUNDED BY ASSET FORFEITURE FUNDS IN ACCORDANCE WITH THE CHAPTER 59 OF THE TEXAS CODE OF CRIMINAL PROCEDURE; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE.
- H. RESOLUTION # 2024-05-05 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS, APPROVING AN AMENDMENT TO THE CITY'S PERSONNEL

MANUAL AT SECTION 3.13(c) REGARDING MINIMUM TRAINING REQUIREMENTS; AND PROVIDING AN EFFECTIVE

- L. ORDINANCE #814 - AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF EVERMAN, TEXAS, CHAPTER 2 "ADMINISTRATION", ARTICLE II "COUNCIL", BY AMENDING SECTION 2-21 "MEETINGS", SUBSECTION (a); PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

14. CITY MANAGERS REPORT

15. MAYOR'S REPORT

16. 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 May 3, 2024.

/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.

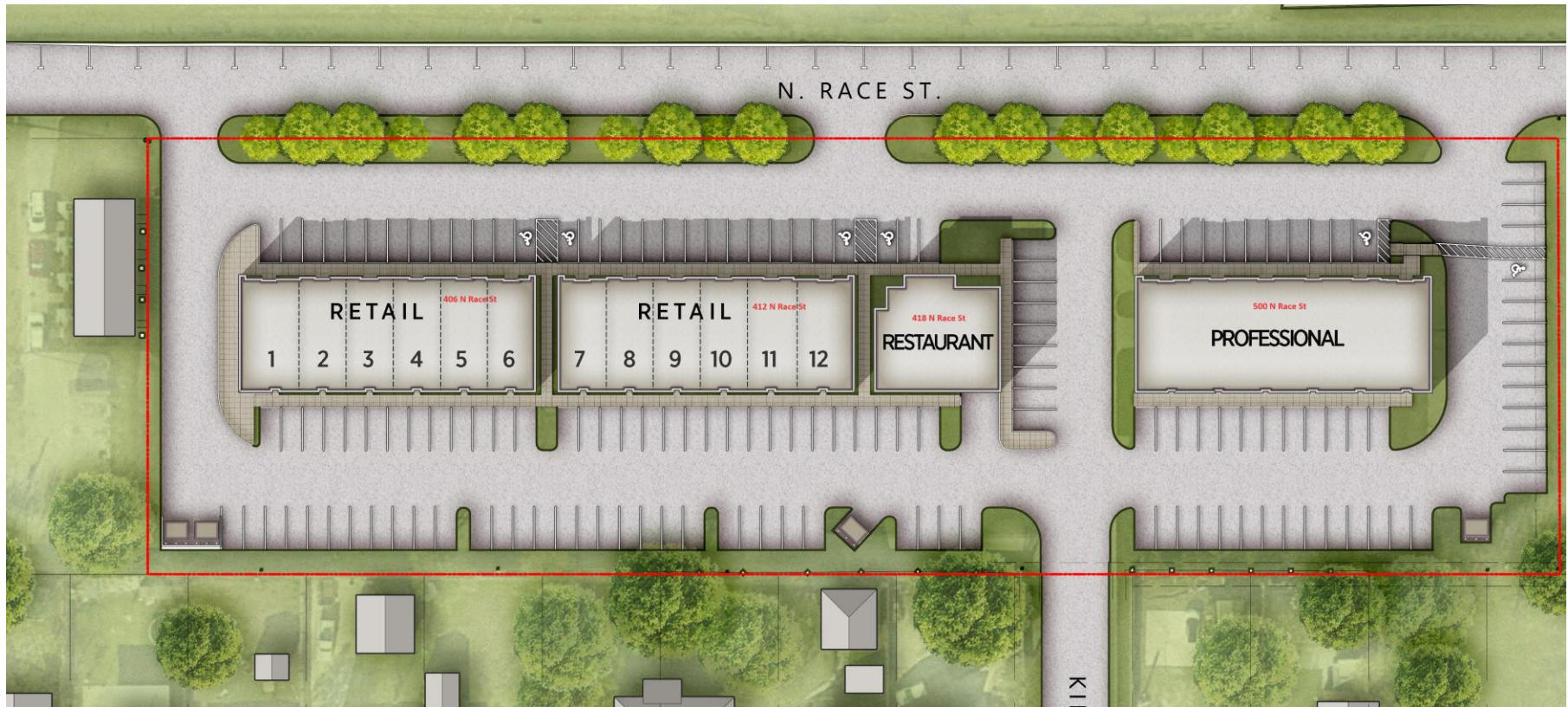
Pursuant to Section 551.071, Chapter 551 of the Texas Government Code, Council reserves the right to convene into Executive Session(s) from time to time as deemed necessary during this meeting, to receive advice from its attorney on any posted agenda item, as permitted by Law. Additionally, Council may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



RESOLUTION NO. EEDC 2024-05-01

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE EVERMAN ECONOMIC DEVELOPMENT CORPORATION APPROVING A FIRST AMENDMENT TO ECONOMIC DEVELOPMENT PERFORMANCE AND 380 AGREEMENT BETWEEN THE CITY OF EVERMAN, THE EVERMAN ECONOMIC DEVELOPMENT CORPORATION, AND MUNAY DEVELOPMENT PARTNERS, LLC AND AUTHORIZING THE EXECUTIVE DIRECTOR TO SIGN THE SAME; PROVIDING FOR A REPEALING CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the Board of Directors of the Everman Economic Development Corporation (“EEDC”) previously approved and entered into an Economic Development Performance and 380 Agreement Between the City of Everman, the Everman Economic Development Corporation and Munay Development Partners, Inc. (the “Agreement”); and

WHEREAS, the parties to the Agreement desire to amend that Agreement and approval of such First Amendment has been recommended by City and EEDC staff; and

WHEREAS, upon full review and consideration of the proposed First Amendment to the Agreement, the Board of Directors is of the opinion and finds that the terms and conditions thereof should be approved and that the Executive Director should be authorized to sign the First Amendment on behalf of the EEDC;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE EVERMAN ECONOMIC DEVELOPMENT CORPORATION:

SECTION 1. The First Amendment to Economic Development Performance and 380 Agreement Between the City of Everman, the Everman Economic Development Corporation, and Munay Development Partners, LLC, attached hereto and incorporated herein by this reference as Exhibit “A,” is hereby approved and the Everman Economic Development Corporation Executive Director is hereby authorized to sign said Agreement and all related and necessary documents on behalf of the Everman Economic Development Corporation.

SECTION 2. All resolutions in conflict with the provisions of this Resolution shall be, and the same are, hereby repealed, provided, however, that all other provisions of said resolutions that are not in conflict herewith shall remain in full force and effect.

SECTION 3. This resolution shall take effect immediately from and after its passage.

DULY RESOLVED AND ADOPTED by the Board of Directors of the Everman
Economic Development Corporation this the ____ day of _____, 2023.

APPROVED:

**EVERMAN ECONOMIC DEVELOPMENT
CORPORATION**

_____, Board Chairman

ATTEST:

_____, Board Secretary
4870-8340-8777, v. 1

EXHIBIT A
[First Amendment to Economic Development Performance and 380 Agreement
Between the City of Everman, the Everman Economic Development Corporation
and Munay Development Partners, LLC]

4870-8340-8777, v. 1

**FIRST AMENDMENT TO ECONOMIC DEVELOPMENT PERFORMANCE
AND 380 AGREEMENT BETWEEN THE CITY OF EVERMAN,
THE EVERMAN ECONOMIC DEVELOPMENT CORPORATION
AND MUNAY DEVELOPMENT PARTNERS, LLC**

This First Amendment to Economic Development Performance and 380 Agreement is made as of the date first signed by the authorized representatives of the Parties (the "Effective Date") by and between the City of Everman, ("City"), the Everman Economic Development Corporation ("EEOC"), and Munay Development Partners, LLC ("Munay"), each of which may be referred to herein as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, the Parties entered into that certain Economic Development Performance and 380 Agreement (the "Agreement") on September 21, 2022; and

WHEREAS, the Parties desire to amend the Agreement as set forth herein below through this First Amendment to Economic Development Performance and 380 Agreement Between the City of Everman, the Everman Economic Development Corporation, and Munay Development Partners, LLC (the "Amendment" or "First Amendment");

NOW, THEREFORE, in consideration of good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, the Parties agree as follows:

SECTION 1. Unless otherwise defined herein, the terms used herein with initial capital letters shall have the same meanings assigned to such terms in the Agreement.

SECTION 2. A new Exhibit "B" is added, attached, and incorporated by this reference to the Agreement. The new Exhibit "B," a site plan for the Development, is attached hereto and incorporated herein by this reference as "Exhibit "B".

SECTION 3. The Agreement is amended by repealing and replacing Article 1, "Definitions" in its entirety to read as follows:

**"ARTICLE I
DEFINITIONS**

1.01 "Agreement" means the Economic Development Performance and 380 Agreement between the City of Everman, the Everman Economic Development Corporation, and Munay Development Partners, LLC, as the same may be from time to time amended.

1.02 "Bankruptcy or Insolvency" shall mean the dissolution or termination of Munay's existence as a going business, insolvency, appointment of receiver for any part of Munay's property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Munay and such proceeding is not dismissed within ninety (90) days after the filing thereof.

1.03 "Capital Investment" means all costs paid and incurred by Munay relating to the design and construction of the Improvements on the Property, including the actual construction costs and other costs of all buildings, structures, infrastructure, fixed machinery and

equipment, utilities, landscaping, and onsite and offsite improvement. As to these elements, Capital Investment shall include without limitation all labor and materials, engineering costs, surveying costs, fees of consultants, designers and other professionals, landscape design, fees related to platting, inspections, reviews, and required permits, geotechnical investigation, and construction material testing. Capital Investment shall not include costs for purchase of the Property, nor for financing the construction or marketing of the Improvements.

1.04 “City” means the City of Everman, Texas.

1.05 “Closing Date” means the date the City and/or Everman Economic Development Corporation convey title to the Property to Munay Development Partners, LLC.

1.06 “Commencement Date” shall mean the date upon which completion of construction has been reached for Phase I Improvements, Phase II Improvements, and Phase III Improvements.

1.07 “Commencement of Construction of Phase I Improvements” means that for Phase I Improvements, as that term is defined herein, the (i) the detailed plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the Phase I Improvements, (ii) all necessary permits for the construction of the Phase I Improvements have been issued by the applicable governmental authorities, and (iii) grading of the Property and construction of the vertical elements of the Phase I Improvements (whether located above or below ground) has commenced.

1.08 “Commencement of Construction of Phase II Improvements” means that for Phase II Improvements, as that term is defined herein, the (i) the detailed plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the Phase II Improvements, (ii) all necessary permits for the construction of the Phase II Improvements have been issued by the applicable governmental authorities, and (iii) grading of the Property and construction of the vertical elements of the Phase II Improvements (whether located above or below ground) has commenced.

1.09 “Commencement of Construction of Phase III Improvements” means that for Phase III Improvements, as that term is defined herein, the (i) the detailed plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the Phase III Improvements, (ii) all necessary permits for the construction of the Phase III Improvements have been issued by the applicable governmental authorities, and (iii) grading of the Property and construction of the vertical elements of the Phase III Improvements (whether located above or below ground) has commenced.

1.10 “Completion of Construction of Phase I Improvements” shall mean substantial completion and issuance of a final certificate of occupancy by City for occupancy of the Phase I Improvements.

1.11 “Completion of Construction of Phase II Improvements” shall mean substantial completion and issuance of a final certificate of occupancy by City for occupancy of the Phase II Improvements.

1.12 “Completion of Construction of Phase III Improvements” shall mean substantial completion and issuance of a final certificate of occupancy by City for occupancy of the Phase III Improvements.

1.13 “Development” shall mean the design and construction of the Improvements, as that term is defined herein, on the Property.”

1.14 “EEDC” shall mean the Everman Economic Development Corporation.

1.15 “Effective Date” shall mean September 21, 2022.

1.16 “Expiration Date” shall mean the fifth (5th) anniversary of the Completion of Construction.

1.17 “Facilities” shall mean the Improvements, as that term is defined herein, on the Property.

1.18 “Grant” shall mean an economic development grant in the amount of \$330,000.00 provided by City and/or EEDC and applied as a credit at the closing of the purchase by Munay of the Property.

1.19 “Impositions” shall mean all taxes, assessments, use and occupancy taxes, charges, excises, license and permit fees, and other charges by public or governmental authority, general and special, ordinary and extraordinary, foreseen and unforeseen, which are or may be assessed, charged, levied, or imposed by any public or governmental authority on the Company or any property or any business owned by Company within the City.

1.20 “Improvements” shall mean (i) twelve (12) retail units of approximately 1,000 square feet each, (ii) one (1) restaurant facility of not less than 2,500 square feet, and (iii) either one (1) medical facility of approximately 6,000 square feet or an additional six (6) retail units of approximately 1,000 square feet each constructed on the Property along with all required driveways, parking areas, lighting, signage, landscaping, infrastructure, fencing, and related appurtenances and in accordance with the site plan attached hereto and incorporated herein as Exhibit “B.”

1.21 “Incentives” shall mean the Grant and other acts or items of value provided to Munay by EEDC and City.

1.22 “Munay” shall mean Munay Development Partners, LLC.

1.23 “Phase I Improvements” shall mean twelve (12) retail units of approximately 1,000 square feet each constructed on the Property along with all necessary and related driveways, parking lots, infrastructure, landscaping, signage, and a six (6’) foot high screening wall or fence to be constructed in accordance with the City’s Fencing and Screening requirements along the property lines along both sides and the rear of the property and composed of wood or masonry.

1.24 “Phase II Improvements” shall mean one (1) restaurant facility of not less than 2,500 square feet constructed on the Property along with all necessary and related driveways, parking lots, infrastructure, landscaping, and signage.

1.25 "Phase III Improvements" shall mean either one (1) medical facility of approximately 6,000 square feet or an additional six (6) retail units of approximately 1,000 square feet each along with all necessary and related driveways, parking lots, infrastructure, landscaping, and signage.

1.26 "Project" means provision of the Incentives by EEDC and City, the purchase of the Property by Munay, the design and construction of the Improvements thereon, and the continuous use and occupancy of the Improvements for the Required Use as set forth in this Agreement.

1.27 "Property" means the real property otherwise known as Block 3, Lot 3R (404 King Street), Block 2, Lot 11R (405 King Street), Block 3, Lot 2R (406 King Street), Block 3, Lot 1R (408 King Street), Block 2, Lot 12R (403 King Street), Block 2, Lot 6R (406 N. Race Street), Block 2, Lot 7R (408 N. Race Street), Block 2, Lot 8R (410 N. Race Street), Block 2, Lot 9R (412 N. Race Street), Block 3, Lot 4R (502 N. Race Street), and Block 2, Lot 10R (414 N. Race Street), all in the City of Everman, Tarrant County, Texas, as depicted in Exhibit "A"

1.28 "Related Agreement" shall mean any agreement, other than this Agreement, by and between Munay and EEDC and/or the City.

1.29 "Required Use" shall mean continuous occupancy of the Improvements by Munay for one or more of the following uses:

- (i) For the Phase I retail units and any Phase III retail units:
 - Bakery and confectionary shop – Non-industrial
 - Ice Cream and Frozen Yogurt Parlors or Shops
 - Restaurants, cafes, cafeterias, Drive Through Service
 - Package Liquor Stores, Cocktail Lounges and Taverns, and Breweries
 - Drug, Apothecaries, Pharmacies and Sundry
 - Book, Stationary, Newsstands, Gift, Tobacco, Souvenir & Novelty Shop
 - Arts, Crafts, Hobby and Fabric Shops
 - Household Furnishings and Fixture Stores
 - Antique Shop
 - Instructed Music, Dance, Art and Drama Studios
 - Fitness Center
 - Motion Picture Theaters
 - Bowling Alleys
 - Amusement, Arcade (also video arcade)
 - Amusement, Commercial Indoor
- (ii) For the Phase II restaurant facility:
 - Restaurant (dine-in)
- (iii) For the Phase III medical facility:
 - Medical, Dental, Chiropractic, Optometry, Podiatry, and Veterinarian Offices and Clinics
 - Hospital, Medical Clinics (providing acute/extended patient care)"

SECTION FOUR. The term "Opening Date", whenever and wherever used in the Agreement, shall mean the Commencement Date as that term is defined herein.

SECTION FIVE. Article 4, “Term” of the Agreement is repealed and replaced in its entirety to read as follows:

**“ARTICLE 4
TERM**

4.01 The term of this Agreement shall commence on the Effective Date and will terminate on the Expiration Date.”

SECTION SIX. Article 5, “Covenants of Munay Development Partners, LLC” of the Agreement is hereby renamed “Conditions to Grant and Incentives” and repealed and replaced in its entirety to read as follows:

**“ARTICLE 5
CONDITIONS TO GRANT AND INCENTIVES**

Munay shall during the term of the Agreement satisfy and comply with the terms and conditions of the Agreement and specifically, each term and condition of this Article 5. The obligations of EEDC and City to provide the Grant and the Incentives or any portion thereof shall be conditioned upon Munay’s compliance with and satisfaction of the terms and conditions of this Agreement and each of the conditions set forth in this Article 5.

5.01 Good Standing. Munay shall not have an uncured breach or default of this Agreement or a Related Agreement.

5.02 Replat of Property. On or before the Commencement of Construction of Phase I Improvements, Munay shall replat the parcels making of the Property into one parcel and file the plat of record in the Tarrant County Real Property Records.

5.03 Commencement of Construction of Phase I Improvements. Commencement of Construction of Phase I Improvements, as that term is herein defined, shall occur not later than March 1, 2024.

5.04 Commencement of Construction of Phase II Improvements. Commencement of Construction of Phase II Improvements, as that term is herein defined, shall occur not later than January 1, 2025.

5.05 Commencement of Construction of Phase III Improvements. Commencement of Construction of Phase III Improvements, as that term is herein defined, shall occur not later than January 27, 2026.

5.06 Completion of Construction of Phase I Improvements. Completion of Construction of Phase I Improvements, as that term is herein defined, shall occur not later than January 27, 2025.

5.07 Completion of Construction of Phase II Improvements. Completion of Construction of Phase II Improvements, as that term is herein defined, shall occur not later than January 1, 2026.

5.08 Completion of Construction of Phase III Improvements. Completion of Construction of Phase III Improvements, as that term is herein defined, shall occur not later than September 27, 2026.

5.09 Compliance with City Laws and Regulations. The Improvements shall be constructed, used, and maintained in accordance with all City of Everman ordinances, development regulations and standards, and adopted Building Codes, Fire Codes, and other relevant Codes adopted by the City and applicable to the Improvements.

5.10 Continuous Use and Occupancy for Required Use. During the term of this Agreement commencing on the Commencement Date and continuing thereafter until the Expiration Date, Munay shall continuously occupy or cause to be occupied by its lessee(s) and/or purchaser(s), the Property and the Improvements, all of which shall not be used during the term of the Agreement for any purpose other than the Required Use as defined herein. Further, during the term of this Agreement, such occupation and use shall not cease as to any unit, part, or portion of the Improvements, for more than thirty (30) days except in connection with, and to the extent of, an event of Force Majeure as defined in Article 12 of this Agreement.

5.11 Capital Investment. Munay’s Capital Investment for the Improvements as of the Completion of Construction of Phase III Improvements shall be not less than \$3,603,737.00, inclusive of hard and soft costs. Munay shall, not later than fifteen (15) calendar days after the date of Completion of Construction of Phase III Improvements or upon declaration of any default hereunder, deliver to EEDC and City copies of all records, contracts, receipts, invoices, bills, proofs of payment, and such other information as EEDC or City may reasonably request to document compliance with the required Capital Investment. In the event the total cost of the construction of the Improvements, as reasonably verified by EEDC, is less than \$3,603,737.00, Munay shall, within thirty (30) days of receipt by Munay of written demand by EEDC, pay the EEDC the difference in value between \$3,603,737.00 and the final total cost of the construction of the Improvements as reasonably verified by EEDC. Company’s obligations under this provision 5.10 survive termination of this Agreement.”

SECTION SIX. Article 8, “Incentives Provided by the EEDC to Munay” is hereby repealed and replaced in its entirety to read as follows:

“ARTICLE 8
GRANT BY EEDC

3.1 Grant. SEDC agrees, subject to the continued satisfaction of all the terms and conditions of this Agreement by Munay and the obligation of Munay to repay the value of the Grant and the costs incurred by EEDC, to provide the Grant to Munay as a credit to be applied to the purchase price of the Property at the closing of thereof.

3.2 Escrow and Closing Fees. EEDC will pay the closing costs associated with the purchase of the Property by Munay from EEDC and/or City and will pay one-half of the escrow fee related thereto.

3.3 Grant Limitations. Under no circumstances shall the obligations of EEDC hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. EEDC shall not be obligated to pay any commercial bank, lender or similar

institution for any loan or credit agreement made by Company. None of the obligations of EEDC under this Agreement shall be pledged or otherwise encumbered by Company in favor of any commercial lender and/or similar financial institution.

3.4 Current Revenue. The Grant made hereunder shall be paid solely from lawfully available funds that have been appropriated by EEDC. EEDC shall have no obligation or liability to provide any Grant except as allowed by law. EEDC shall not be required to provide any of the Grant if prohibited under federal or state legislation or a decision of a court of competent jurisdiction.”

SECTION SEVEN. Article 10 “Default and Remedies” is hereby repealed and replaced in its entirety to read as follows:

**Article V
Termination; Repayment**

10.1 Termination. This Agreement terminates on the Expiration Date, and may, prior to the Expiration Date, be terminated upon any one or more of the following:

- (a) by mutual written agreement of the Parties;
- (b) upon written notice by either Party, if the other Party defaults or breaches any of the terms or conditions of this Agreement or a Related Agreement and such default or breach is not cured within thirty (30) days after written notice thereof;
- (c) upon written notice by EEDC, if any Impositions owed to EEDC, City or the State of Texas by Munay shall have become delinquent (provided, however, Munay retains the right to timely and properly protest and contest any such taxes or Impositions), and such delinquency is not cured within thirty (30) days following Munay’s receipt of written notice thereof;
- (d) upon written notice by EEDC, if Munay suffers an event of Bankruptcy or Insolvency; or
- (e) upon written notice by either Party, if any subsequent Federal or State legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable.

10.2 Repayment Required Due to Breach of Section 10.1(b). In the event the Agreement is terminated by SEDC pursuant to Section 10.1 (b):

- (a) due to a breach of the obligation set forth in section 5.02 and/or 5.03 hereof, Munay shall immediately refund to the EEDC an amount equal to the one hundred percent (100%) of value of the Grant as defined herein;
- (b) due to a breach of the obligation set forth in section 5.04 and/or 5.06 hereof, Munay shall immediately refund to the EEDC an amount equal to eighty percent (80%) of the value of the Grant as defined herein;

- (c) due to a breach of the obligation set forth in section 5.05 and/or 5.07 hereof, Munay shall immediately refund to the EEDC an amount equal to seventy (70%) percent of the value of the Grant as defined herein;
- (d) due to a breach of the obligation set forth in section 5.08 hereof, Munay shall immediately refund to the EEDC an amount equal to sixty (60%) percent of the value of the Grant as defined herein;
- (e) due to a breach of the obligation set forth in section 5.01 that is not also a breach of section 5.02 through 5.11, Munay shall immediately refund to the EEDC an amount equal to fifty (50%) percent of the value of the Grant as defined herein; and
- (f) due to a breach of an obligation set forth in section 5.10 hereof, Munay shall immediately refund to the EEDC an amount as follows:
 - i. If the breach occurs on a date that is more than four years prior to the Expiration Date, Munay shall refund an amount equal to one hundred percent (100%) of the value of the Grant, as defined herein;
 - ii. If the breach occurs on a date that is more than three years, but less than four years, prior to Expiration Date, Munay shall refund an amount equal to eighty percent (80%) of the value of the Grant, as defined herein;
 - iii. If the breach occurs on a date that is more than two, but less than three years prior to the Expiration Date, Munay shall refund an amount equal to sixty percent (60%) of the value of the Grant as defined herein;
 - iv. If the breach occurs on a date that is more than one, but less than two, year(s) prior to the Expiration Date, Munay shall refund an amount equal to forty percent (40%) of the value of the Grant as defined herein; and
 - v. If the breach occurs on a date that is less than one year prior to the Expiration Date, Munay shall refund an amount equal to twenty percent (20%) of the value of the Grant as defined herein.

The repayment obligations of Munay set forth in this Section 10.2 shall survive termination of this Agreement.

10.3 Repayment Due to Breach of Section 10.1(c), (d), and/or (e). In the event the Agreement is terminated by EEDC pursuant to Section 10.1(c), (d), and/or (e), Munay shall immediately refund to EEDC an amount equal to the Grant, as defined herein, plus interest at the rate of interest periodically announced by the *Wall Street Journal* as the prime or base commercial lending rate, or if the *Wall Street Journal* shall cease to exist or cease to announce a prime or base lending rate, then at the annual rate of interest from time to time announced by Citibank, N.A. (or by any other New York money center bank selected by the SEDC) as its prime or base commercial lending rate from the date on which the Grant is provided (Closing Date) by EEDC until refunded by Munay. The repayment obligation of Munay set forth in this Section 10.3 shall survive termination of this Agreement.

10.4 Offsets. City and/or EEDC may, at its option, offset any amounts due and payable under this Agreement against any debt (including taxes) lawfully due to City and/or EEDC from Munay, regardless of whether the amount due arises pursuant to the terms of this Agreement, a Related Agreement, or otherwise, and regardless of whether or

not the debt due EEDC and/or City has been reduced to judgment by a court.”

SECTION EIGHT. The Parties agree that Munay shall be released from compliance with Exhibit A to the Commercial Contract -Unimproved Property executed between the Parties with regard to the Property to the extent that any of the terms thereof conflict with the Agreement and that the conflicting terms as set forth in the Agreement shall control as though set forth in full in said Exhibit A to the Commercial Contract – Unimproved Property.

SECTION NINE. The Agreement shall continue in full force and effect except as herein amended. If any terms or conditions contained in this First Amendment are inconsistent with the Agreement, the terms and conditions of this First Amendment shall be controlling.

EXECUTED this the ____ day of _____, 2023.

**MUNAY DEVELOPMENT PARTNERS, LLC,
a Texas Limited Liability Company**

By: _____
Alvaro Munoz, Managing Member

STATE OF TEXAS §
COUNTY OF TARRANT §

This instrument was acknowledged before me on the date set forth below by Alvaro Munoz for and on behalf of Munay Development Partners, LLC, who stated on his oath that he is a managing member of Munay Development Partners, LLC, a Texas limited liability company, and that on the date set forth above he signed the above and foregoing document on behalf of Munay Development Partners, LLC after having been first duly authorized so to do.

Witness my hand and seal this the ____ day of _____, 2023.

Notary Public

[Notary Seal]

My Commission Expires: _____

**MUNAY DEVELOPMENT PARTNERS, LLC,
a Texas Limited Liability Company**

By: _____
Fernando Enrique Urcelay-Torrada, Managing Member

STATE OF TEXAS §
COUNTY OF TARRANT §

This instrument was acknowledged before me on the date set forth below by Fernando Enrique Urcelay-Torrada for and on behalf of Munay Development Partners, LLC, who stated on his oath that he is a managing member of Munay Development Partners, LLC, a Texas limited liability company, and that on the date set forth above he signed the above and foregoing document on behalf of Munay Development Partners, LLC after having been first duly authorized so to do.

Witness my hand and seal this the ___ day of _____, 2023.

Notary Public

[Notary Seal]

My Commission Expires: _____

**MUNAY DEVELOPMENT PARTNERS, LLC,
a Texas Limited Liability Company**

By: _____
Juan Enrique Munoz, Managing Member

STATE OF TEXAS §
COUNTY OF TARRANT §

This instrument was acknowledged before me on the date set forth below by Juan Enrique Munoz for and on behalf of Munay Development Partners, LLC, who stated on his oath that he is a managing member of Munay Development Partners, LLC, a Texas limited liability company, and that on the date set forth above he signed the above and foregoing document on behalf of Munay Development Partners, LLC after having been first duly authorized so to do.

Witness my hand and seal this the ___ day of _____, 2023.

Notary Public

[Notary Seal]

My Commission Expires: _____

EXECUTED this _____ day of _____, 2023.

EVERMAN ECONOMIC DEVELOPMENT CORPORATION

By: _____
Michael Nicoletti, Executive Director

EXECUTED this _____ day of _____, 2023.

CITY OF EVERMAN, TEXAS

By: _____
Craig Spencer, City Manager

Approved as to form:

By: _____
Victoria W. Thomas, City Attorney
and EEDC General Counsel
4854-3904-5255, v. 1

EXHIBIT B
[Site Plan]

4854-3904-5255, v. 1

ORDINANCE NO. 808

AN ORDINANCE OF THE CITY OF EVERMAN, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF EVERMAN, TEXAS BY AMENDING CHAPTER 3, “ANIMALS AND ANIMAL CONTROL REGULATIONS” TO ADD A NEW ARTICLE X “ANIMAL SHELTER ADVISORY COMMITTEE” ESTABLISHING THE ANIMAL SHELTER ADVISORY COMMITTEE; ESTABLISHING TERMS AND RESPONSIBILITIES OF THE COMMITTEE; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. The Code of Ordinances of the City of Everman, Texas, be, and the same is hereby amended by amending Chapter 3, “Animals and Animal Control Regulations” to add a new Article X “Animal Shelter Advisory Committee” to read as follows:

“ARTICLE X. ANIMAL SHELTER ADVISORY COMMISSION

Sec. 3-213. Creation.

An animal shelter advisory commission is hereby created to assist the city and its health department in communicating awareness to the citizens of Everman and to the citizens of Forest Hill, as a neighboring city served by Everman’s Animal Control Services, regarding the services, procedures, and compliance with state regulations concerning the operation of animal shelters. The commission shall be advisory in nature and shall not have any responsibility or authority over any Committee, commission, public official or employee of the city.

Sec. 3-214. Composition.

The animal shelter advisory commission shall consist of seven (7) members appointed by the city council consisting of one (1) licensed veterinarian; one (1) City of Everman municipal official; one (1) City of Forest Hill municipal official; one (1) person whose duties include the daily operation of an animal shelter; one (1) representative from an animal welfare organization, one (1) citizen who is a resident of the City of Everman and one (1) citizen who is a resident of the City of Forest Hill. The City of Forest Hill municipal officer and citizen of the City of Forest Hill commission members shall be nominated by the City Council of the City of Forest Hill. If, at any time, the City of Everman ceases to provide animal control services to the City of Forest Hill, the

membership of the City of Forest Hill municipal official and City of Forest Hill resident on the Animal Shelter Advisory Commission shall terminate immediately without further action by the City Council.

Sec. 3-215. Terms.

The members shall be appointed by the city council for a term of two years and shall serve until their successor is appointed. To provide for staggered terms of office, the licensed veterinarian, the two municipal officials, and the person whose duties include the daily operation of an animal shelter shall be appointed for two (2) year terms and the representative from an animal welfare organization and the two citizens who are resident of Everman and Forest Hill shall be initially appointed for one (1) year terms. All subsequent appointments shall be for terms of two (2) years. The city council shall appoint the chairperson and a vice chairperson. The members of the animal shelter advisory commission may be removed at any time by the city council with or without cause.

Sec. 3-216. Meetings; quorum.

The animal shelter advisory commission shall meet at least three (3) times per year. Meetings shall be called as needed by the chairperson or vice chairperson of the commission. A simple majority of the commission shall constitute a quorum. A vote of the simple majority of the quorum shall be required for any action taken by the commission.

Sec. 3-217. Responsibilities.

The commission shall assist the Animal Services Department of the City in complying with requirements of Texas Health and Safety Code Chapter 823 and other applicable state and local laws by submitting recommendations to the Animal Services Department. The commission shall perform such other duties as the city council may prescribe by resolution or ordinance.”

SECTION 2. 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 3. 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 4. This Ordinance shall take effect immediately from and after its passage, as the law and charter in such case provide.

DULY PASSED by the City Council of the City of Everman, Texas, on the _____ day of _____, 2024.

APPROVED:

RAY RICHADSON, MAYOR

ATTEST:

MINDI PARKS, CITY SECRETARY

APPROVED AS TO FORM:

LAN'TIQUA BURKS, ASST. CITY ATTORNEY
4882-8727-7983, v. 1

**CITY OF EVERMAN, TEXAS
RESOLUTION NO. 2024-04-02**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS,
APPROVING AN AMENDMENT TO THE CITY’S PERSONNEL MANUAL AT SECTION
9.01(e) REGARDING APPEAL PROCEDURE FOR EMPLOYEES APPOINTED BY THE
CITY MANAGER; AND PROVIDING AN EFFECTIVE**

WHEREAS, the City has established and has put into effect a City Personnel Manual dated February, 2022 governing employment with the City of Everman; and

WHEREAS, pursuant to section 1.05 of that Personnel Manual, the Personnel Manual may be amended from time to time by action of the city Council; and

WHEREAS, City staff has recommended that section 9.01(e) should be amended to provide, for employees reporting directly to the City Manager, a right of appeal to the Mayor of a disciplinary action of dismissal, demotion, or suspension; and

WHEREAS, the City Council of the City of Everman finds it to be in the best interest of the City and of service to the general welfare to approve the recommended amendment;

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

SECTION 1. The City of Everman Personnel Manual, dated February, 2022 is hereby amended at section 9.01(e) thereof to read in its entirety as follows:

“Article IX. DISCIPLINE, APPEAL, AND GRIEVANCE PROCEDURES.

Sec. 9.01. Discipline Procedures

...

(e) Procedure for employees reporting directly to the city manager. The procedure shall be the same as above, except that the appeal shall be to the Mayor. The decision of the Mayor is final.”

SECTION 2. Within seven (7) working days of adoption of this resolution, the Human Resources Director is directed to disseminate the amended policy, section 9.01(e) set forth herein, to all City employees by one or more of the following means: (1) prominent posting in all City departments, (2) email transmission, (3) distribution by department heads to all department employee, and/or (4) such other means as will apprise employees of the amendment.

SECTION 3. This resolution shall become effective immediately upon its approval.

PASSED AND APPROVED this the _____ day of April, 2024.

City of Everman, Texas

Ray Richardson, Mayor

Attest:

Mindi Parks, City Secretary

Approved as to Form:

Lan'Tiqua Burks, Asst. City Attorney
4875-7414-0596, v. 1

**CITY OF EVERMAN, TEXAS
RESOLUTION NO. 2024-05-01**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS, AUTHORIZING THE SUBMISSION OF A PROJECT APPLICATION TO TARRANT COUNTY FOR THE 2024 FISCAL YEAR 50TH YEAR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROJECT FOR WATERMAIN REPLACEMENT ALONG 800 BLOCK OF MARLENE DRIVE; AND PROVIDING AN EFFECTIVE

WHEREAS, the City of Everman (the “City”) is qualified to receive Community Development Block Grants (“CDBG”); and

WHEREAS, the City Administration has determined that the replacement of an aging 6” water line with approximately 795 linear feet of 6” PVC water line along the north half of Marlene Drive from Christopher Drive east to Russell Road including new gate valves and fire hydrants (the “Project”) is needed and complies with the County’s CDBG criteria; and

WHEREAS, the City Council will on May 7, 2024, after posting of notice at least ten (10) business days prior thereto, hold a public hearing regarding the intended Project and the anticipated use of 50th Year Tarrant County CDBG funds for said Project; and

WHEREAS, the City Council of the City of Everman finds it to be in the public interest to concur in staff’s recommendation and to authorize submission of an application packet for the Project for 50th Year CDBG 2024 funding from Tarrant County;

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

SECTION 1. The Mayor and City Manager are each hereby authorized to sign and submit to Tarrant County, on behalf of the City of Everman, the Community Development Block Grant 50th YR Project Year 2024 Application Packet in substantially the form of the Application Packet attached hereto and incorporated herein by this reference as Exhibit “A” and they are each further authorized to sign and submit such other forms and information as may be required with respect to the application for and the acceptance of said grant.

SECTION 2. The funds allocated pursuant to the City’s application shall be used for the Project as set forth in the Application, Exhibit “A.”

SECTION 3. This resolution shall become effective immediately upon its approval.

PASSED AND APPROVED this the _____ day of May, 2024.

City of Everman, Texas

Ray Richardson, Mayor

Attest:

Mindi Parks, City Secretary

Approved as to Form:

Victoria Thomas, City Attorney
4855-7885-5094, v. 1

EXHIBIT A
Community Development Block Grant 50th YR Project Year 2024 Application Packet
[to be attached]

4855-7885-5094, v. 1

INTERLOCAL AGREEMENT

THE STATE OF TEXAS §
 §
COUNTY OF TARRANT §

This Interlocal Agreement is between **TARRANT COUNTY** (“**COUNTY**”), and the **CITY OF _____** (“**City**”).

WHEREAS, **CITY** is requesting the **COUNTY**’s assistance in providing

- Food establishment inspection program services
- Public swimming pool and spa inspection program services
- Both Food establishment and Public swimming pool and spa inspection program services

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.

WHEREAS, the Commissioners Court of the **COUNTY** finds this Agreement service a public purpose.

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

TERMS AND CONDITIONS

1. COUNTY RESPONSIBILITY

The **COUNTY** shall provide

Food establishment inspection program services:

- Provide services, through Tarrant County Public Health, to all public food establishment located within the corporate limits of the **CITY**;
- Plan review and conduct Health opening approval inspection, routine inspection, follow-up inspections, complaint investigations;
- Provide certification of establishment for issuance of health permits;
- Notify the **CITY** of violations of the current rules or rules as amended by the Executive Commissioner of Health and Human Services Commission found in 25 Texas Administrative Code, Chapter 228, regarding the regulation of food establishments;
- Provide appropriate signs to be posted at public food establishment that do not meet the required standards;
- Document program activities within the **CITY** via periodic reports;
- Collect fees from the inspected establishment; and
- When required by law, verify food establishment manager training and food handler training and certifications.

For Public swimming pool and spa inspection program services:

- Provide services, through Tarrant County Public Health, to all public and semi-public swimming pools, spas, and interactive water features located within the corporate limits of the **CITY**;
- Plan review and conduct Health opening approval inspection, routine inspection, follow-up inspections, complaint investigations;
- Provide certification of establishment for issuance of health permits;
- Notify **CITY** of violations of current rules or rules as amended by the Executive Commissioner of the Health and Human Services Commission for Standards for Public Pools and Spas (Texas Administrative Code, Title 25, Chapter 265, Subchapter L), Public Interactive Water Features and Fountains (Texas Administrative Code, Title 25, Chapter 265, Subchapter M) and Pool Yard Enclosures (Texas Health and Safety Code Chapter 757);
- Provide appropriate signs to be posted at public swimming pool and spa establishment that do not meet the required standards;
- Document program activities within the **CITY** via periodic reports;
- Collect fees from the inspected establishment; and
- When require by law, verify pool operator training certification.

2. CITY RESPONSIBILITY

For Food establishment inspection program services

- Adopt the current rules or rules as amended by the Executive Commissioner of the Health and Human Services Commission found in 25 Texas Administrative Code, Chapter 228, regarding the regulation of food establishments;
- Designate the Medical Director of Tarrant County Public Health Department as the Health Authority for the purposes of this agreement;
- Require all food establishments within the corporate limits of the **CITY** to maintain a valid health permit;
- Revise **CITY** code/ordinance, where applicable, to adopt changes;
- Inform Tarrant County Public Health Manager for Environmental Health when code/ordinance are modified and when the updates are complete;
- Assign Tarrant County Public Health authority to collect health permit fees from permit applicants; and
- When required by law, require facilities to have certified food mangers and food handlers.

For Public swimming pool and spa inspection program services

- Adopt the current Texas Health and Safety Code, Title 5, Subtitle A, Chapter(s) 341.064, 341.0645 and 341.0695; Texas Health and Safety Code, Title 1, Chapter 1 Section 1.005, and Texas Health and Safety Code, Tile 9, Subtitle A, Chapter 757;

- Adopt the current rules or rules as amended by the Executive Commissioner of the Health and Human Services Commission for Standards for Public Pools and Spas (Texas Administrative Code, Title 25, Chapter 265, Subchapter L), Public Interactive Water Features and Fountains (Texas Administrative Code, Title 25, Chapter 265, Subchapter M) and Pool Yard Enclosures (Texas Health and Safety Code Chapter 757);
- Designate the Medical Director of Tarrant County Public Health as the Health Authority for the purposes of this agreement;
- Require all public and semi-public swimming pools/spas within the corporate limits of the **CITY** to maintain a valid health permit;
- Revise **CITY** code/ordinance, where applicable, to adopt changes;
- Inform Tarrant County Public Health Manager for Environmental Health when code/ordinance are modified and when the updates are complete;
- Assign Tarrant County Public Health authority to collect health permit fees from permit applicants;
- Be responsible for enforcement of the **CITY**'s ordinances; and
- When required by law, require facilities to have certified pool/spa operators.

3. CITY ENFORCEMENT

If during an inspection of a food facility, pool or spa, Tarrant County Public Health Department personnel notices a violation of the **CITY**'s code, the Tarrant County Public Health Department shall notify the appropriate City official. The **CITY** shall be responsible for the enforcement of the **CITY**'s health ordinances. The **COUNTY** shall make available for testimony **COUNTY** personnel whose testimony may be required to support such enforcement action in accordance with the procedures established by CITY MUNICIPAL COURT for the appearance of law enforcement officers.

4. FEE SCHEDULE

- A copy of the fee schedule in effect as of the start date of this Agreement is attached hereto as Exhibit A. This fee schedule is subject to admendment, change, or update at any time without prior approval of **CITY**.
- A copy of the fee schedule shall be posted at <https://www.tarrantcountytx.gov/en/public-health/health-protection-and-response/environmental-health-promotion/environmental-health-fee-schedule.html> and the version of the fee schedule at this website shall be considered the fee schedule in effect at the time services are rendered by **County**.
- In the event **County** changes the fee schedule, written notice will be sent to the **CITY** within thirty (30) days of the change. A copy of the fee schedule following any admendment, change, or update shall be posted within thirty (30) days at

<https://www.tarrantcountytx.gov/en/public-health/health-protection-and-response/environmental-health-promotion/environmental-health-fee-schedule.html>

5. NO WAIVER OF IMMUNITY

This Agreement does not waive **COUNTY** rights under a legal theory of sovereign immunity.

6. THIRD PARTY

This Agreement shall not be interpreted to inure to the benefit of a third party not a party of this Agreement. This Agreement shall not be interpreted to waive any statutory or common law defense, immunity, or any limitation of liability, responsibility or damage of any party to this Agreement, party's agent or party's employee, otherwise provided by law.

7. EXCLUSION OF INCIDENTAL DAMAGES

Independent of, severable from, and to be enforced independently of any other enforceable or unenforceable provision of this Agreement, **NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY NOR TO ANY PERSON CLAIMING INCIDENTAL, CONSEQUENTIAL, SPECIAL PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND**, including lost profits, loss of business, or other economic damage and further including injury to property, mental anguish, or emotional distress.

8. JOINT VENTURE & AGENCY

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

9. GOVERNING LAW AND VENUE

This Agreement shall be interpreted under the laws of State of Texas. The venue for any lawsuit arising out of this Agreement will be in the Fort Worth Division of the Northern District of Texas if the lawsuit arises in Federal Court or Tarrant County, Texas if the matter arises in State Court.

10. ASSIGNMENT

This Agreement shall not be assigned or transferred and that any attempt to assign or transfer this Agreement or any of its rights or obligations shall be null and void.

11. SEVERABILITY

If any court determines any provision in this Agreement is invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect.

12. COMPLAINT WITH LAWS

In providing the services required by the Agreement, CITY must observe and comply with all applicable federal, state, and local statutes, ordinances, rules and regulations, including, without limitation, worker's 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.

13. EFFECTIVE DATE

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

14. TERM

This Agreement shall begin upon the approval of both the City Council and the Tarrant County Commissioner's Court and shall continue until canceled by either party with a minimum of 90 days written notice to the other party.

15. AMENDMENT

No amendment, modification or alternation of the terms of this Agreement shall be binding unless the same is in writing and signed by both parties.

16. TERMINATION

Either party may terminate this Agreement without cause by providing written notice of intent to terminate at least ninety (90) days prior to the intended date of termination. Written notice of intent to terminate shall be sent by certified mail, return receipt requested, to the other party at its address:

Addresses:

Tarrant County Public Health
Attn: Environmental Health Division Manger
1101 S. Main St.
Fort Worth, Texas 76104

CITY: _____
Attn: _____
Address: _____

Executed this _____ day of _____, 20__.

CITY of _____

STATE OF TEXAS
COUNTY OF TARRANT

By: _____
Name:
Title:

By: _____
Tim O'Hare
County Judge

Date:

Date:

APPROVED AS TO FORM:

By: _____
Name:
Title:
Date:

ATTEST:

By: _____
Name:
Title:
Date:

EXHIBIT A

<u>DESCRIPTION OF SERVICES</u>	<u>EH FEE SCHEDULE</u>
<u>CONSUMER HEALTH</u>	
	Special Fund: F223
Annual Public Pool & Spa permit fee	\$ 315.00
Pool Plan Review & Opening Inspection**	\$ 200.00
Contractual Inspections - School Districts (avg \$150 per site visit)**	\$ 150.00
Food Service Permit: less than 500 sq. ft.	\$ 400.00
Food Service Permit: >500 =<less than 1500 sq. ft.	\$ 500.00
Food Service Permit: >1500 =<less than 3000 sq. ft.	\$ 600.00
Food Service Permit: >3000=<less than 6000 sq. ft.	\$ 700.00
Food Service Permit: >6000 sq. ft. or above	\$ 800.00
Food Service Permit: Adjunct Food Service	\$ 500.00
Food Service Permit: Adjunct Food Store - <less than 5000 sq. ft.	\$ 500.00
Food Service Permit: Adjunct Food Store - >5000 sq. ft. or above	\$ 600.00
Food Service Permit: Catering Operation	\$ 700.00
Food Service Permit: Child Care Facility	\$ 500.00
Food Service Permit: School Cafeteria w/ Contract	\$ 250.00
Food Service Permit: Commissary (non-prep)	\$ 400.00
Food Service Permit: Commissary (prep.)	\$ 600.00
Food Service Permit: Food Court	\$ 600.00
Food Service Permit: Mobile Unit (prepackaged)	\$ 400.00
Food Service Permit: Mobile Unit (preparation of food)	\$ 600.00
Food Service Permit: Mobile Unit (push cart)	\$ 600.00
Farmers Market	\$ 100.00
Food Store: <less than 5000 sq. ft.	\$ 600.00
Food Store: >5000 sq. ft. or above	\$ 800.00
Food Late Fee: 1-30 days	10% of fee
Food Late Fee: 31-60 days	20% of fee
Food Late Fee: 61-90 days	30% of fee
Plan Review: >1500 sq. ft. or above	\$ 200.00
Plan Review: <1500 sq. ft. or below	\$ 100.00
Temporary Food Establishment 1-5 Days**	\$ 35.00
Temporary Food Establishment 6-14 Days	\$ 70.00
Required/Requested Reinspection	\$ 75.00
<u>MISCELLANEOUS - CONSUMER/ENVIRONMENTAL HEALTH</u>	
	No Fee Changes, Fund: PH-T04
Duplicate Permits**	\$ 15.00

**indicates no fee increase

A RESOLUTION OF THE CITY OF EVERMAN, TEXAS

RESOLUTION NO. 2024-05-02

A RESOLUTION OF THE CITY OF EVERMAN, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF EVERMAN AND TARRANT COUNTY FOR FOOD ESTABLISHMENT INSPECTION SERVICES; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT; AUTHORIZING THE AMENDMENT OF THE CITY’S MASTER FEE SCHEDULE TO REFLECT THE APPROVED FEES RELATED THERETO; PROVIDING FOR THE REPEAL OF ANY AND ALL RESOLUTIONS IN CONFLICT; PROVIDING FOR SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council for the City of Everman, Texas desires to enter into an Interlocal Agreement with Tarrant County for Food Establishment Inspection Services ("Agreement"); and

WHEREAS, pursuant to said Agreement, Tarrant County will perform, on behalf of the City, food establishment inspections from the date of execution of the agreement until termination by either party; and

WHEREAS, all inspections will be made by a Registered Professional Sanitarian employed by Tarrant County in compliance with all state laws and regulations promulgated by the Texas Board of Health; and

WHEREAS, the City Council for the City of Everman, Texas has reviewed the Interlocal Agreement and has determined it to be in the best interest of the City of Everman to enter into said Agreement for Food Establishment Inspections and Environmental Health Services.

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

SECTION 1. The City Council hereby approves the terms and conditions of the Interlocal Agreement, a copy of which is attached hereto and incorporated herein by this reference as Exhibit “1”, with Tarrant County for Food Establishment Inspection Services on the terms and conditions stated therein and hereby authorizes the City Manager to execute said agreement on behalf of the City.

SECTION 2. The City’s Master Fee Schedule shall be amended to include the fees for food establishment inspection services set forth in Exhibit A to the Interlocal Agreement that is attached hereto and incorporated herein by this reference as Exhibit 1.

SECTION 3. All resolutions of the City of Everman heretofore adopted which are in conflict with the provisions of this resolution, 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 4. 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 5. This resolution shall take effect immediately from and after its passage, and it is accordingly so resolved.

DULY RESOLVED by the City Council of the City of Everman, Texas, this the ____ day of May, 2024.

APPROVED:

RAY RICHARDSON, MAYOR

ATTEST:

MINDI PARKS, CITY SECRETARY

APPROVED AS TO FORM:

LAN'TIQUA BURKS, ASST. CITY ATTORNEY
4886-0472-9530, v. 1

EXHIBIT 1
[Interlocal Agreement with Tarrant County for Food Establishment Inspection Services]

4886-0472-9530, v. 1



RESOLUTION NO. 2024-05-03

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EVERMAN APPROVING A FIRST AMENDMENT TO ECONOMIC DEVELOPMENT PERFORMANCE AND 380 AGREEMENT BETWEEN THE CITY OF EVERMAN, THE EVERMAN ECONOMIC DEVELOPMENT CORPORATION, AND MUNAY DEVELOPMENT PARTNERS, LLC ; APPROVING A FIRST AMENDED AND RESTATED RESTRICTION AGREEMENT BETWEEN THE CITY OF EVERMAN AND MUNAY DEVELOPMENT PARTNERS, LLC; AUTHORIZING THE CITY MANAGER TO SIGN THE SAME ON BEHALF OF THE CITY; PROVIDING FOR A REPEALING CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Everman has previously approved an Everman Economic Development Corporation (“EEDC”) project and related Performance Agreement and simultaneously approved and entered into an Economic Development Performance and 380 Agreement Between the City of Everman, the Everman Economic Development Corporation and Munay Development Partners, Inc. (the ”Agreement”); and

WHEREAS, in connection with the Agreement, the City Council has also previously approved and entered into a Restriction Agreement with regard to the property that is the subject of the Agreement (the “Restriction Agreement”); and

WHEREAS, the parties to the Agreement and the Restriction Agreement desire to amend those agreements by entering into a First Amendment to the Agreement and an Amended and Restated Restriction Agreement and such amendments have been recommended by City and EEDC staff; and

WHEREAS, upon full review and consideration of the proposed First Amendment to the Agreement and the Amended and Restated Restriction Agreement, the City Council is of the opinion and finds that the terms and conditions thereof should be approved, that the EEDC Project as amended and stated therein should be approved, and that the City Manager should be authorized to sign the First Amendment to the Agreement and the Amended and Restated Restriction Agreement on behalf of the City of Everman.

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

SECTION 1. The First Amendment to Economic Development Performance and 380 Agreement Between the City of Everman, the Everman Economic Development Corporation, and Munay Development Partners, LLC, attached hereto and incorporated herein by this reference as Exhibit “A,” and the Everman Economic Development Corporation project set forth therein are hereby approved and City Manager is authorized to execute the First Amendment in

substantially the form attached hereto as Exhibit "A" and any necessary and related documents on behalf of the City of Everman.

SECTION 2. The Amended and Restated Restriction Agreement between the City of Everman and Munay Development Partners, LLC, attached hereto and incorporated herein by this reference as Exhibit "B" is hereby approved and the City Manager is hereby authorized to execute the Amended and Restated Restriction Agreement in substantially the form attached hereto as Exhibit "B" and all necessary and related documents on behalf of the City of Everman.

SECTION 3. All resolutions in conflict with the provisions of this Resolution shall be, and the same are, hereby repealed, provided, however, that all other provisions of said resolutions that are not in conflict herewith shall remain in full force and effect.

SECTION 4. This resolution shall take effect immediately from and after its passage.

DULY RESOLVED AND ADOPTED by the City Council of the Everman Economic Development Corporation this the ____ day of _____, 2023.

APPROVED:

CITY OF EVERMAN

Ray Richardson, Mayor

ATTEST:

Mindi Parks, City Secretary

APPROVED AS TO FORM:

Kyle Barry, Asst. City Attorney
4878-1354-5353, v. 1

EXHIBIT A
[First Amendment to Economic Development Performance and 380 Agreement
Between the City of Everman, the Everman Economic Development Corporation
and Munay Development Partners, LLC]

**FIRST AMENDMENT TO ECONOMIC DEVELOPMENT PERFORMANCE
AND 380 AGREEMENT BETWEEN THE CITY OF EVERMAN,
THE EVERMAN ECONOMIC DEVELOPMENT CORPORATION
AND MUNAY DEVELOPMENT PARTNERS, LLC**

This First Amendment to Economic Development Performance and 380 Agreement is made as of the date first signed by the authorized representatives of the Parties (the "Effective Date") by and between the City of Everman, ("City"), the Everman Economic Development Corporation ("EEOC"), and Munay Development Partners, LLC ("Munay"), each of which may be referred to herein as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, the Parties entered into that certain Economic Development Performance and 380 Agreement (the "Agreement") on September 21, 2022; and

WHEREAS, the Parties desire to amend the Agreement as set forth herein below through this First Amendment to Economic Development Performance and 380 Agreement Between the City of Everman, the Everman Economic Development Corporation, and Munay Development Partners, LLC (the "Amendment" or "First Amendment");

NOW, THEREFORE, in consideration of good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, the Parties agree as follows:

SECTION 1. Unless otherwise defined herein, the terms used herein with initial capital letters shall have the same meanings assigned to such terms in the Agreement.

SECTION 2. A new Exhibit "B" is added, attached, and incorporated by this reference to the Agreement. The new Exhibit "B," a site plan for the Development, is attached hereto and incorporated herein by this reference as "Exhibit "B".

SECTION 3. The Agreement is amended by repealing and replacing Article 1, "Definitions" in its entirety to read as follows:

**"ARTICLE I
DEFINITIONS**

1.01 "Agreement" means the Economic Development Performance and 380 Agreement between the City of Everman, the Everman Economic Development Corporation, and Munay Development Partners, LLC, as the same may be from time to time amended.

1.02 "Bankruptcy or Insolvency" shall mean the dissolution or termination of Munay's existence as a going business, insolvency, appointment of receiver for any part of Munay's property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Munay and such proceeding is not dismissed within ninety (90) days after the filing thereof.

1.03 "Capital Investment" means all costs paid and incurred by Munay relating to the design and construction of the Improvements on the Property, including the actual construction costs and other costs of all buildings, structures, infrastructure, fixed machinery and

equipment, utilities, landscaping, and onsite and offsite improvement. As to these elements, Capital Investment shall include without limitation all labor and materials, engineering costs, surveying costs, fees of consultants, designers and other professionals, landscape design, fees related to platting, inspections, reviews, and required permits, geotechnical investigation, and construction material testing. Capital Investment shall not include costs for purchase of the Property, nor for financing the construction or marketing of the Improvements.

1.04 "City" means the City of Everman, Texas.

1.05 "Closing Date" means the date the City and/or Everman Economic Development Corporation convey title to the Property to Munay Development Partners, LLC.

1.06 "Commencement Date" shall mean the date upon which completion of construction has been reached for Phase I Improvements, Phase II Improvements, and Phase III Improvements.

1.07 "Commencement of Construction of Phase I Improvements" means that for Phase I Improvements, as that term is defined herein, the (i) the detailed plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the Phase I Improvements, (ii) all necessary permits for the construction of the Phase I Improvements have been issued by the applicable governmental authorities, and (iii) grading of the Property and construction of the vertical elements of the Phase I Improvements (whether located above or below ground) has commenced.

1.08 "Commencement of Construction of Phase II Improvements" means that for Phase II Improvements, as that term is defined herein, the (i) the detailed plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the Phase II Improvements, (ii) all necessary permits for the construction of the Phase II Improvements have been issued by the applicable governmental authorities, and (iii) grading of the Property and construction of the vertical elements of the Phase II Improvements (whether located above or below ground) has commenced.

1.09 "Commencement of Construction of Phase III Improvements" means that for Phase III Improvements, as that term is defined herein, the (i) the detailed plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the Phase III Improvements, (ii) all necessary permits for the construction of the Phase III Improvements have been issued by the applicable governmental authorities, and (iii) grading of the Property and construction of the vertical elements of the Phase III Improvements (whether located above or below ground) has commenced.

1.10 "Completion of Construction of Phase I Improvements" shall mean substantial completion and issuance of a final certificate of occupancy by City for occupancy of the Phase I Improvements.

1.11 "Completion of Construction of Phase II Improvements" shall mean substantial completion and issuance of a final certificate of occupancy by City for occupancy of the Phase II Improvements.

1.12 “Completion of Construction of Phase III Improvements” shall mean substantial completion and issuance of a final certificate of occupancy by City for occupancy of the Phase III Improvements.

1.13 “Development” shall mean the design and construction of the Improvements, as that term is defined herein, on the Property.”

1.14 “EEDC” shall mean the Everman Economic Development Corporation.

1.15 “Effective Date” shall mean September 21, 2022.

1.16 “Expiration Date” shall mean the fifth (5th) anniversary of the Completion of Construction.

1.17 “Facilities” shall mean the Improvements, as that term is defined herein, on the Property.

1.18 “Grant” shall mean an economic development grant in the amount of \$330,000.00 provided by City and/or EEDC and applied as a credit at the closing of the purchase by Munay of the Property.

1.19 “Impositions” shall mean all taxes, assessments, use and occupancy taxes, charges, excises, license and permit fees, and other charges by public or governmental authority, general and special, ordinary and extraordinary, foreseen and unforeseen, which are or may be assessed, charged, levied, or imposed by any public or governmental authority on the Company or any property or any business owned by Company within the City.

1.20 “Improvements” shall mean (i) twelve (12) retail units of approximately 1,000 square feet each, (ii) one (1) restaurant facility of not less than 2,500 square feet, and (iii) either one (1) medical facility of approximately 6,000 square feet or an additional six (6) retail units of approximately 1,000 square feet each constructed on the Property along with all required driveways, parking areas, lighting, signage, landscaping, infrastructure, fencing, and related appurtenances and in accordance with the site plan attached hereto and incorporated herein as Exhibit “B.”

1.21 “Incentives” shall mean the Grant and other acts or items of value provided to Munay by EEDC and City.

1.22 “Munay” shall mean Munay Development Partners, LLC.

1.23 “Phase I Improvements” shall mean twelve (12) retail units of approximately 1,000 square feet each constructed on the Property along with all necessary and related driveways, parking lots, infrastructure, landscaping, signage, and a six (6’) foot high screening wall or fence to be constructed in accordance with the City’s Fencing and Screening requirements along the property lines along both sides and the rear of the property and composed of wood or masonry.

1.24 “Phase II Improvements” shall mean one (1) restaurant facility of not less than 2,500 square feet constructed on the Property along with all necessary and related driveways, parking lots, infrastructure, landscaping, and signage.

1.25 “Phase III Improvements” shall mean either one (1) medical facility of approximately 6,000 square feet or an additional six (6) retail units of approximately 1,000 square feet each along with all necessary and related driveways, parking lots, infrastructure, landscaping, and signage.

1.26 “Project” means provision of the Incentives by EEDC and City, the purchase of the Property by Munay, the design and construction of the Improvements thereon, and the continuous use and occupancy of the Improvements for the Required Use as set forth in this Agreement.

1.27 “Property” means the real property otherwise known as Block 3, Lot 3R (404 King Street), Block 2, Lot 11R (405 King Street), Block 3, Lot 2R (406 King Street), Block 3, Lot 1R (408 King Street), Block 2, Lot 12R (403 King Street), Block 2, Lot 6R (406 N. Race Street), Block 2, Lot 7R (408 N. Race Street), Block 2, Lot 8R (410 N. Race Street), Block 2, Lot 9R (412 N. Race Street), Block 3, Lot 4R (502 N. Race Street), and Block 2, Lot 10R (414 N. Race Street), all in the City of Everman, Tarrant County, Texas, as depicted in Exhibit “A”

1.28 “Related Agreement” shall mean any agreement, other than this Agreement, by and between Munay and EEDC and/or the City.

1.29 “Required Use” shall mean continuous occupancy of the Improvements by Munay for one or more of the following uses:

(i) For the Phase I retail units and any Phase III retail units:

Bakery and confectionary shop – Non-industrial
 Ice Cream and Frozen Yogurt Parlors or Shops
 Restaurants, cafes, cafeterias, Drive Through Service
 Package Liquor Stores, Cocktail Lounges and Taverns, and Breweries
 Drug, Apothecaries, Pharmacies and Sundry
 Book, Stationary, Newsstands, Gift, Tobacco, Souvenir & Novelty Shop
 Arts, Crafts, Hobby and Fabric Shops
 Household Furnishings and Fixture Stores
 Antique Shop
 Instructed Music, Dance, Art and Drama Studios
 Fitness Center
 Motion Picture Theaters
 Bowling Alleys
 Amusement, Arcade (also video arcade)
 Amusement, Commercial Indoor

(ii) For the Phase II restaurant facility:

Restaurant (dine-in)

(iii) For the Phase III medical facility:

Medical, Dental, Chiropractic, Optometry, Podiatry, and Veterinarian
 Offices and Clinics
 Hospital, Medical Clinics (providing acute/extended patient care)”

SECTION FOUR. The term “Opening Date”, whenever and wherever used in the Agreement, shall mean the Commencement Date as that term is defined herein.

SECTION FIVE. Article 4, “Term” of the Agreement is repealed and replaced in its entirety to read as follows:

**“ARTICLE 4
TERM**

4.01 The term of this Agreement shall commence on the Effective Date and will terminate on the Expiration Date.”

SECTION SIX. Article 5, “Covenants of Munay Development Partners, LLC” of the Agreement is hereby renamed “Conditions to Grant and Incentives” and repealed and replaced in its entirety to read as follows:

**“ARTICLE 5
CONDITIONS TO GRANT AND INCENTIVES**

Munay shall during the term of the Agreement satisfy and comply with the terms and conditions of the Agreement and specifically, each term and condition of this Article 5. The obligations of EEDC and City to provide the Grant and the Incentives or any portion thereof shall be conditioned upon Munay’s compliance with and satisfaction of the terms and conditions of this Agreement and each of the conditions set forth in this Article 5.

5.01 Good Standing. Munay shall not have an uncured breach or default of this Agreement or a Related Agreement.

5.02 Replat of Property. On or before the Commencement of Construction of Phase I Improvements, Munay shall replat the parcels making of the Property into one parcel and file the plat of record in the Tarrant County Real Property Records.

5.03 Commencement of Construction of Phase I Improvements. Commencement of Construction of Phase I Improvements, as that term is herein defined, shall occur not later than March 1, 2024.

5.04 Commencement of Construction of Phase II Improvements. Commencement of Construction of Phase II Improvements, as that term is herein defined, shall occur not later than January 1, 2025.

5.05 Commencement of Construction of Phase III Improvements. Commencement of Construction of Phase III Improvements, as that term is herein defined, shall occur not later than January 27, 2026.

5.06 Completion of Construction of Phase I Improvements. Completion of Construction of Phase I Improvements, as that term is herein defined, shall occur not later than January 27, 2025.

5.07 Completion of Construction of Phase II Improvements. Completion of Construction of Phase II Improvements, as that term is herein defined, shall occur not later than January 1, 2026.

5.08 Completion of Construction of Phase III Improvements. Completion of Construction of Phase III Improvements, as that term is herein defined, shall occur not later than September 27, 2026.

5.09 Compliance with City Laws and Regulations. The Improvements shall be constructed, used, and maintained in accordance with all City of Everman ordinances, development regulations and standards, and adopted Building Codes, Fire Codes, and other relevant Codes adopted by the City and applicable to the Improvements.

5.10 Continuous Use and Occupancy for Required Use. During the term of this Agreement commencing on the Commencement Date and continuing thereafter until the Expiration Date, Munay shall continuously occupy or cause to be occupied by its lessee(s) and/or purchaser(s), the Property and the Improvements, all of which shall not be used during the term of the Agreement for any purpose other than the Required Use as defined herein. Further, during the term of this Agreement, such occupation and use shall not cease as to any unit, part, or portion of the Improvements, for more than thirty (30) days except in connection with, and to the extent of, an event of Force Majeure as defined in Article 12 of this Agreement.

5.11 Capital Investment. Munay’s Capital Investment for the Improvements as of the Completion of Construction of Phase III Improvements shall be not less than \$3,603,737.00, inclusive of hard and soft costs. Munay shall, not later than fifteen (15) calendar days after the date of Completion of Construction of Phase III Improvements or upon declaration of any default hereunder, deliver to EEDC and City copies of all records, contracts, receipts, invoices, bills, proofs of payment, and such other information as EEDC or City may reasonably request to document compliance with the required Capital Investment. In the event the total cost of the construction of the Improvements, as reasonably verified by EEDC, is less than \$3,603,737.00, Munay shall, within thirty (30) days of receipt by Munay of written demand by EEDC, pay the EEDC the difference in value between \$3,607,737.00 and the final total cost of the construction of the Improvements as reasonably verified by EEDC. Company’s obligations under this provision 5.10 survive termination of this Agreement.”

SECTION SIX. Article 8, “Incentives Provided by the EEDC to Munay” is hereby repealed and replaced in its entirety to read as follows:

“ARTICLE 8
GRANT BY EEDC

3.1 Grant. SEDC agrees, subject to the continued satisfaction of all the terms and conditions of this Agreement by Munay and the obligation of Munay to repay the value of the Grant and the costs incurred by EEDC, to provide the Grant to Munay as a credit to be applied to the purchase price of the Property at the closing of thereof.

3.2 Escrow and Closing Fees. EEDC will pay the closing costs associated with the purchase of the Property by Munay from EEDC and/or City and will pay one-half of the escrow fee related thereto.

3.3 Grant Limitations. Under no circumstances shall the obligations of EEDC hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. EEDC shall not be obligated to pay any commercial bank, lender or similar

institution for any loan or credit agreement made by Company. None of the obligations of EEDC under this Agreement shall be pledged or otherwise encumbered by Company in favor of any commercial lender and/or similar financial institution.

3.4 Current Revenue. The Grant made hereunder shall be paid solely from lawfully available funds that have been appropriated by EEDC. EEDC shall have no obligation or liability to provide any Grant except as allowed by law. EEDC shall not be required to provide any of the Grant if prohibited under federal or state legislation or a decision of a court of competent jurisdiction.”

SECTION SEVEN. Article 10 “Default and Remedies” is hereby repealed and replaced in its entirety to read as follows:

**Article V
Termination; Repayment**

10.1 Termination. This Agreement terminates on the Expiration Date, and may, prior to the Expiration Date, be terminated upon any one or more of the following:

- (a) by mutual written agreement of the Parties;
- (b) upon written notice by either Party, if the other Party defaults or breaches any of the terms or conditions of this Agreement or a Related Agreement and such default or breach is not cured within thirty (30) days after written notice thereof;
- (c) upon written notice by EEDC, if any Impositions owed to EEDC, City or the State of Texas by Munay shall have become delinquent (provided, however, Munay retains the right to timely and properly protest and contest any such taxes or Impositions), and such delinquency is not cured within thirty (30) days following Munay’s receipt of written notice thereof;
- (d) upon written notice by EEDC, if Munay suffers an event of Bankruptcy or Insolvency; or
- (e) upon written notice by either Party, if any subsequent Federal or State legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable.

10.2 Repayment Required Due to Breach of Section 10.1(b). In the event the Agreement is terminated by SEDC pursuant to Section 10.1 (b):

- (a) due to a breach of the obligation set forth in section 5.02 and/or 5.03 hereof, Munay shall immediately refund to the EEDC an amount equal to the one hundred percent (100%) of value of the Grant as defined herein;
- (b) due to a breach of the obligation set forth in section 5.04 and/or 5.06 hereof, Munay shall immediately refund to the EEDC an amount equal to eighty percent (80%) of the value of the Grant as defined herein;

- (c) due to a breach of the obligation set forth in section 5.05 and/or 5.07 hereof, Munay shall immediately refund to the EEDC an amount equal to seventy (70%) percent of the value of the Grant as defined herein;
- (d) due to a breach of the obligation set forth in section 5.08 hereof, Munay shall immediately refund to the EEDC an amount equal to sixty (60%) percent of the value of the Grant as defined herein;
- (e) due to a breach of the obligation set forth in section 5.01 that is not also a breach of section 5.02 through 5.11, Munay shall immediately refund to the EEDC an amount equal to fifty (50%) percent of the value of the Grant as defined herein; and
- (f) due to a breach of an obligation set forth in section 5.10 hereof, Munay shall immediately refund to the EEDC an amount as follows:
 - i. If the breach occurs on a date that is more than four years prior to the Expiration Date, Munay shall refund an amount equal to one hundred percent (100%) of the value of the Grant, as defined herein;
 - ii. If the breach occurs on a date that is more than three years, but less than four years, prior to Expiration Date, Munay shall refund an amount equal to eighty percent (80%) of the value of the Grant, as defined herein;
 - iii. If the breach occurs on a date that is more than two, but less than three years prior to the Expiration Date, Munay shall refund an amount equal to sixty percent (60%) of the value of the Grant as defined herein;
 - iv. If the breach occurs on a date that is more than one, but less than two, year(s) prior to the Expiration Date, Munay shall refund an amount equal to forty percent (40%) of the value of the Grant as defined herein; and
 - v. If the breach occurs on a date that is less than one year prior to the Expiration Date, Munay shall refund an amount equal to twenty percent (20%) of the value of the Grant as defined herein.

The repayment obligations of Munay set forth in this Section 10.2 shall survive termination of this Agreement.

10.3 Repayment Due to Breach of Section 10.1(c), (d), and/or (e). In the event the Agreement is terminated by EEDC pursuant to Section 10.1(c), (d), and/or (e), Munay shall immediately refund to EEDC an amount equal to the Grant, as defined herein, plus interest at the rate of interest periodically announced by the *Wall Street Journal* as the prime or base commercial lending rate, or if the *Wall Street Journal* shall cease to exist or cease to announce a prime or base lending rate, then at the annual rate of interest from time to time announced by Citibank, N.A. (or by any other New York money center bank selected by the SEDC) as its prime or base commercial lending rate from the date on which the Grant is provided (Closing Date) by EEDC until refunded by Munay. The repayment obligation of Munay set forth in this Section 10.3 shall survive termination of this Agreement.

10.4 Offsets. City and/or EEDC may, at its option, offset any amounts due and payable under this Agreement against any debt (including taxes) lawfully due to City and/or EEDC from Munay, regardless of whether the amount due arises pursuant to the terms of this Agreement, a Related Agreement, or otherwise, and regardless of whether or

not the debt due EEDC and/or City has been reduced to judgment by a court.”

SECTION EIGHT. The Parties agree that Munay shall be released from compliance with Exhibit A to the Commercial Contract -Unimproved Property executed between the Parties with regard to the Property to the extent that any of the terms thereof conflict with the Agreement and that the conflicting terms as set forth in the Agreement shall control as though set forth in full in said Exhibit A to the Commercial Contract – Unimproved Property.

SECTION NINE. The Agreement shall continue in full force and effect except as herein amended. If any terms or conditions contained in this First Amendment are inconsistent with the Agreement, the terms and conditions of this First Amendment shall be controlling.

EXECUTED this the ____ day of _____, 2023.

**MUNAY DEVELOPMENT PARTNERS, LLC,
a Texas Limited Liability Company**

By: _____
Alvaro Munoz, Managing Member

STATE OF TEXAS §
COUNTY OF TARRANT §

This instrument was acknowledged before me on the date set forth below by Alvaro Munoz for and on behalf of Munay Development Partners, LLC, who stated on his oath that he is a managing member of Munay Development Partners, LLC, a Texas limited liability company, and that on the date set forth above he signed the above and foregoing document on behalf of Munay Development Partners, LLC after having been first duly authorized so to do.

Witness my hand and seal this the ____ day of _____, 2023.

Notary Public

[Notary Seal]

My Commission Expires: _____

**MUNAY DEVELOPMENT PARTNERS, LLC,
a Texas Limited Liability Company**

By: _____
Fernando Enrique Urcelay-Torrada, Managing Member

STATE OF TEXAS §
COUNTY OF TARRANT §

This instrument was acknowledged before me on the date set forth below by Fernando Enrique Urcelay-Torrada for and on behalf of Munay Development Partners, LLC, who stated on his oath that he is a managing member of Munay Development Partners, LLC, a Texas limited liability company, and that on the date set forth above he signed the above and foregoing document on behalf of Munay Development Partners, LLC after having been first duly authorized so to do.

Witness my hand and seal this the ___ day of _____, 2023.

Notary Public

[Notary Seal]

My Commission Expires: _____

**MUNAY DEVELOPMENT PARTNERS, LLC,
a Texas Limited Liability Company**

By: _____
Juan Enrique Munoz, Managing Member

STATE OF TEXAS §
COUNTY OF TARRANT §

This instrument was acknowledged before me on the date set forth below by Juan Enrique Munoz for and on behalf of Munay Development Partners, LLC, who stated on his oath that he is a managing member of Munay Development Partners, LLC, a Texas limited liability company, and that on the date set forth above he signed the above and foregoing document on behalf of Munay Development Partners, LLC after having been first duly authorized so to do.

Witness my hand and seal this the ___ day of _____, 2023.

Notary Public

[Notary Seal]

My Commission Expires: _____

EXECUTED this _____ day of _____, 2023.

EVERMAN ECONOMIC DEVELOPMENT CORPORATION

By: _____
Michael Nicoletti, Executive Director

EXECUTED this _____ day of _____, 2023.

CITY OF EVERMAN, TEXAS

By: _____
Craig Spencer, City Manager

Approved as to form:

By: _____
Victoria W. Thomas, City Attorney
and EEDC General Counsel
4854-3904-5255, v. 1

EXHIBIT B
[Site Plan]

4854-3904-5255, v. 1

EXHIBIT B
[First Amended and Restated Restriction Agreement]

4878-1354-5353, v. 1

and any subsequent owners of all or any part of the Property (as hereinafter defined) for the term specified in Section 6.3, subject to the terms of this Amended Restriction Agreement.

Article II Definitions

For purposes of this Amended Restriction Agreement, the following words and phrases shall have the following meanings unless the context clearly indicates a different meaning:

“City” means the City of Everman, Texas.

“Commencement Date” means the date upon which completion of construction has been reached for Phase I Improvements, Phase II Improvements and Phase III Improvements.

“Commencement of Construction of Phase I Improvements” means that for Phase I Improvements, as that term is defined herein, the (i) the detailed plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the Phase I Improvements, (ii) all necessary permits for the construction of the Phase I Improvements have been issued by the applicable governmental authorities, and (iii) grading of the Property and construction of the vertical elements of the Phase I Improvements (whether located above or below ground) has commenced.

“Commencement of Construction of Phase II Improvements” means that for Phase II Improvements, as that term is defined herein, the (i) the detailed plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the Phase II Improvements, (ii) all necessary permits for the construction of the Phase II Improvements have been issued by the applicable governmental authorities, and (iii) grading of the Property and construction of the vertical elements of the Phase II Improvements (whether located above or below ground) has commenced.

“Commencement of Construction of Phase III Improvements” means that for Phase III Improvements, as that term is defined herein, the (i) the detailed plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the Phase III Improvements, (ii) all necessary permits for the construction of the Phase III Improvements have been issued by the applicable governmental authorities, and (iii) grading of the Property and construction of the vertical elements of the Phase III Improvements (whether located above or below ground) has commenced.

“Completion of Construction of Phase I Improvements” shall mean substantial completion and issuance of a final certificate of occupancy by City for occupancy of the Phase I Improvements.

“Completion of Construction of Phase II Improvements” shall mean substantial completion and issuance of a final certificate of occupancy by City for occupancy of the Phase II Improvements.

“Completion of Construction of Phase III Improvements” shall mean substantial completion and issuance of a final certificate of occupancy by City for occupancy of the Phase III Improvements.

“Development” shall mean the design and construction of the Improvements, as that term is defined herein, on the Property.”

“EEDC” shall mean the Everman Economic Development Corporation.

“Effective Date” means the date this Amended Restriction Agreement is signed by the Parties.

“Eligible Costs” means the costs incurred and paid by Developer for the construction of the Improvements that have been established by copies of documents delivered by Developer to City and reasonably acceptable to City providing evidence that Developer has in fact incurred and paid (not been merely invoiced for) such costs which documentary evidence must include the details of the items constituting Eligible Costs for which such expenditures were made. Eligible Costs shall not include costs for the acquisition of the Property, architectural, engineering, surveying, legal, or other professional services costs or fees, interest, finance, or the cost of financing, construction management, management fees, consultant fees or other soft costs incurred by Developer and directly associated with the design and construction of the Improvements.

“Force Majeure” means any contingency or cause beyond the reasonable control of a Party including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, City delay of permits or other approvals, government or de facto governmental action (unless caused by acts of omissions of the Party), fires, explosions or floods, strikes, slowdowns or work stoppages, adverse weather conditions, transportation delays or difficulties, shortages of materials or labor, financial institution shutdowns, epidemic or pandemic, electronic funds transfer delays or difficulties, and economic disruptions.

“Improvements” shall mean (i) twelve (12) retail units of approximately 1,000 square feet each, (ii) one (1) restaurant facility of not less than 2,500 square feet, and (iii) either one (1) medical facility of approximately 6,000 square feet or an additional six (6) retail units of approximately 1,000 square feet each constructed on the Property along with all required driveways, parking areas, lighting, signage, landscaping, infrastructure, fencing, and related appurtenances and in accordance with the site plan attached hereto and incorporated herein as Exhibit “B” and for the Required Uses as defined in the Performance Agreement.

“Munay” shall mean Munay Development Partners, LLC.

“Option Price” means an amount equal to:

- (a) Three Hundred, Thirty Thousand and No/100 Dollars (\$330,000.00); plus
- (b) If Commencement of Phase I Improvements, Commencement of Construction of Phase II Improvements, and/or Commencement of Construction of Phase II Improvements has occurred, the amount of Eligible Costs paid by Developer as of the date of exercise of the Option by City; less

- (c) All closing costs and expenses paid or incurred by City and/or EEDC pursuant to the Purchase and Sale Agreement executed between the Parties regarding the Property and pursuant to the exercise of the option.

“Option Period” means that period of time commencing on **March 1, 2024** and ending on **November 27, 2026**.

“Phase I Improvements” shall mean twelve (12) retail units of approximately 1,000 square feet each constructed on the Property along with all necessary and related driveways, parking lots, infrastructure, landscaping, signage, and a six (6’) foot high screening wall or fence to be constructed in accordance with the City’s Fencing and Screening requirements along the property lines along both sides and the rear of the property and composed of wood or masonry.

“Phase II Improvements” shall mean one (1) restaurant facility of not less than 2,500 square feet constructed on the Property along with all necessary and related driveways, parking lots, infrastructure, landscaping, and signage.

“Phase III Improvements” shall mean either one (1) medical facility of approximately 6,000 square feet or an additional six (6) retail units of approximately 1,000 square feet each along with all necessary and related driveways, parking lots, infrastructure, landscaping, and signage.

“Property” means the real property otherwise known as Block 3, Lot 3R (404 King Street), Block 2, Lot 11R (405 King Street), Block 3, Lot 2R (406 King Street), Block 3, Lot 1R (408 King Street), Block 2, Lot 12R (403 King Street), Block 2, Lot 6R (406 N. Race Street), Block 2, Lot 7R (408 N. Race Street), Block 2, Lot 8R (410 N. Race Street), Block 2, Lot 9R (412 N. Race Street), Block 3, Lot 4R (502 N. Race Street), and Block 2, Lot 10R (414 N. Race Street), all in the City of Everman, Tarrant County, Texas, as depicted in Exhibit “A”

“Purchase Agreement” shall mean that certain Purchase and Sale Agreement, as amended or assigned, by and between City and/or EEDC and Developer, relating to the sale of the Property by City and/or EEDC to Developer.

“Required Use” shall mean continuous occupancy of the Improvements by Munay for one or more of the following uses:

- (i) For the Phase I retail units and any Phase III retail units:
 - Bakery and confectionary shop – Non-industrial
 - Ice Cream and Frozen Yogurt Parlors or Shops
 - Restaurants, cafes, cafeterias, Drive Through Service
 - Package Liquor Stores, Cocktail Lounges and Taverns, and Breweries
 - Drug, Apothecaries, Pharmacies and Sundry
 - Book, Stationary, Newsstands, Gift, Tobacco, Souvenir & Novelty Shop
 - Arts, Crafts, Hobby and Fabric Shops
 - Household Furnishings and Fixture Stores
 - Antique Shop
 - Instructed Music, Dance, Art and Drama Studios

- Fitness Center
- Motion Picture Theaters
- Bowling Alleys
- Amusement, Arcade (also video arcade)
- Amusement, Commercial Indoor
- (ii) For the Phase II restaurant facility:
 - Restaurant (dine-in)
- (iii) For the Phase III medical facility:
 - Medical, Dental, Chiropractice, Optometry, Podiatry, and Veterinarian Offices and Clinics
 - Hospital, Medical Clinics (providing acute/extended patient care)”

**Article III
City Repurchase Options**

3.1 Grant of Repurchase Options. In consideration of TEN AND NO/100 DOLLARS (\$10.00), in hand paid by City to Developer and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by Developer, and subject as hereinafter provided, Developer hereby grants to City during the Option Period an option to repurchase the Property (“**the Option**”).

3.2 Time for Exercising the Option. Subject to Section 3.3, below, the Option may be exercised by City in its sole discretion prior to the end of the Option Period by providing written notice to Developer any time on or after the following dates:

(a) **March 1, 2024**, if Developer has failed to cause Commencement of Construction of Phase I Improvements to occur on or before said date, which date shall be reasonably extended if delays are due to Force Majeure, provided Commencement of Construction has in fact still not occurred on the date of the exercise of the Option;

(b) **January 1, 2025**, if Developer has failed to cause Commencement of Construction of Phase II Improvements to occur on or before said date, which date shall be reasonably extended if delays are due to Force Majeure, provided Commencement of Construction has in fact still not occurred on the date of the exercise of the Option;

(c) **January 27, 2026**, if Developer has failed to cause Commencement of Construction of Phase III Improvements to occur on or before said date, which date shall be reasonably extended if delays are due to Force Majeure, provided Commencement of Construction has in fact still not occurred on the date of the exercise of the Option;

(d) **January 27, 2025**, if Developer has failed to cause Completion of Construction of Phase I Improvements to occur on or before said date, which date shall be reasonably extended if delays are due to Force Majeure, provided Completion of Construction has in fact still not occurred on the date of the exercise of the Option;

(e) **January 1, 2026**, if Developer has failed to cause Completion of Construction of Phase II Improvements to occur on or before said date, which date shall be reasonably extended if delays are due to Force Majeure, provided Completion of Construction has in fact still not occurred on the date of the exercise of the Option; and

(f) **September 27, 2026**, if Developer has failed to cause Completion of Construction of Phase III Improvements to occur on or before said date, which date shall be reasonably extended if delays

are due to Force Majeure, provided Completion of Construction has in fact still not occurred on the date of the exercise of the Option.

3.3 Force Majeure. In the event of Force Majeure, Developer shall have such additional time to cause Commencement of Construction for the current phase and, as may be applicable, any following phases, so long as Developer is diligently and faithfully pursuing the same. The commencement and termination dates of the Option Period(s) shall be extended for the same number of days that the performance of Developer with respect to Commencement of Construction is extended by Force Majeure.

3.4 Sole Remedy. Should City exercise its option hereunder, then and in that event, City’s sole and exclusive remedy for Developer’s failure to comply with the deadlines for the Commencement of Construction and/or Completion of Construction set forth herein shall be the exercise of the Option and repurchase of the Property or portion thereof in accordance with Article VI, below.

**Article IV
Right of First Refusal**

4.1 Grant. Subject to the terms and conditions hereinabove and hereinafter set forth, Developer hereby agrees that City shall have, and hereby grants to City, during the period commencing upon the Effective Date and ending upon the Commencement of Construction of Phase I Improvements (“**the ROFR Period**”), a right of first refusal (the “**ROFR**”) to purchase the Property on the terms and conditions set forth herein.

4.2 Notice of Third-Party Offer. If (i) Developer receives a bona fide offer for the purchase of any portion of Property that it intends to accept, or (ii) Developer receives any offer to purchase the Property or any portion thereof from any governmental exercise of the power of eminent domain with respect to the Property, Developer shall give notice thereof in writing to City (the “**Third Party Notice**”). The Third-Party Notice shall include a copy of any offer to be made or any offer received by Developer, the proposed purchaser, whether the purchase price is to be paid in cash, securities or evidenced by promissory notes, and the other material terms and conditions of such offer.

4.3 City’s Exercise of ROFR. For a period of thirty (30) days after receipt by City of the Third Party Notice, City shall have the right to repurchase the Property, or so much of the Property that is subject to the Third Party Notice, upon the same terms and price as set forth in the Third Party Notice or for the Option Price, whichever is deemed by City to be more favorable to City (the “**ROFR Price**”). The ROFR may be exercised by City by providing written notice to Developer not later than thirty (30) days after City’s receipt of the Third-Party Notice. City’s notice shall indicate acceptance of the terms set forth in the offer as recited in the Third-Party Notice or the Option Price, as applicable.

4.4 City Fails to Exercise ROFR. If City does not elect to exercise the ROFR during the thirty (30) day period following its receipt of the Third-Party Notice:

(a) Developer may sell the Property, or portion thereof, at the price and on the terms and conditions described in the Third-Party Notice during the one hundred eighty (180) day period following the date of the Third-Party Notice; and

(b) City shall execute and deliver an acknowledgement, in recordable form, evidencing its waiver of its ROFR with respect to such sale. Developer agrees not to sell the Property, or portion thereof, during the ROFR Period at any lower price, on any terms or conditions more favorable to the buyer than those set forth in the Third Party Notice, or at any time after expiration of the one hundred

eighty (180) day period described above, without first giving City the opportunity to exercise the ROFR at such different price, on such altered terms and conditions, or at such later time; and

(c) The ROFR shall remain in full force and effect with respect to any portion of the Property that is not sold by Developer following City’s failure to exercise the ROFR with respect to the portion of the Property described in the Third-Party Notice.

4.5 No Release of Restrictions Required. City’s failure to exercise the ROFR shall not constitute a release of the Option, City’s rights to repurchase the Property pursuant to the Option, or the obligations of any subsequent owner of the Property or portion thereof to comply with the obligations of this Restriction Agreement.

**Article V
Terms of Sale Upon Exercise of Right**

5.1 Effect of Exercise of the Right. Upon any timely exercise of the Option or ROFR (each being “the Right”) by City in accordance with the foregoing provisions, the conveyance of the Property, or portion thereof, as applicable to City shall be in accordance with the provisions in this Article V.

5.2. Title, Survey, and Environmental Reports.

(a) Not later than the fifteenth (15th) business day after the exercise of the Right, the Developer shall, at Developer’s expense, deliver or cause to be delivered to City:

(i) a current commitment for an Owner’s Policy of Title Insurance from the Title Company for the portion of the Property to be conveyed to City, setting forth the state of title to the Property or portion thereof together with any easements or restrictions (existing or created pursuant hereto) benefiting or burdening the Property, together with all exceptions or conditions to such title;

(ii) legible copies of all documents referenced in the Title Commitment;

(iii) any environmental studies or reports that Developer may have in its possession with respect to the Property;

(iv) copies of all leases and rental agreements creating a leasehold interest in any portion of the Property; and

(v) tax certificate(s) regarding the payment of ad valorem taxes for current and prior years.

(b) Upon any exercise of the Right, City shall have the right, at its sole discretion, to cause a boundary or “as-built” survey of the Property to be made by a registered professional land surveyor selected by City. Such survey shall be made at the sole cost and expense of City.

(c) Not later than twenty (20) days after City’s receipt of the last of the Title Commitment and the Survey (if applicable), City shall notify Developer and Title Company of any objections to the Survey or Title Commitment. If there are objections by City, Developer shall in good faith attempt to satisfy them prior to Closing, but Developer shall not be obligated to incur any cost in doing so. If Developer delivers written notice to City not later than the tenth (10th) calendar day after Developer’s receipt of City’s objections that Developer is unable to satisfy such objections, City may either waive

such objections and accept title as Developer is able to convey or terminate the exercise of the Right by written notice to Developer and the Title Company.

5.3 Closing.

(a) The closing of the sale of the Property or portion thereof identified in the notice exercising the Right shall occur not later than forty-five (45) calendar days following the date of exercise of the Right unless otherwise extended by written agreement of Developer and City.

(b) At the closing, Developer shall deliver to City:

(i) a special warranty deed in form and substance substantially similar to the form used to convey the Property and related rights and appurtenances from City to Developer, conveying good and indefeasible fee title to the Property described in the notice exercising the Right and/or the survey obtained by City (whichever is the most accurate description) to City, free and clear of any and all encumbrances except the Permitted Exceptions (as defined in Section 5.6), save and except such oil, gas, and other minerals as may have been reserved by prior grantors; and

(ii) possession of the portion of the Property described in the notice of the exercise of the Right, free of parties in possession.

(c) At closing, City shall pay the Option Price or the ROFR Price, whichever is applicable, out of which shall be paid all Closing Costs and other costs and expenses to be paid by Developer pursuant to this Article V.

5.4 Taxes. Developer shall pay at or before Closing all ad valorem taxes, plus any penalties, interest, court costs, and attorneys' fees, if any, due on delinquent amounts not paid, for tax years prior to the year in which Closing occurs assessed against the Property or portion thereof being repurchased. Developer will pay at Closing the pro-rated amount of ad valorem taxes for the Property for the calendar year of Closing in accordance with Texas Tax Code §26.11.

5.5 Closing Costs.

(a) Developer will pay and be responsible for the following closing cost:

(i) the cost of all tax certificates relating to all taxes and other assessments incurred or arising in relation to the Property;

(ii) all fees and premiums for Basic Owner's Title Policy, excluding any deletions from, or modifications of or endorsements, to the Basic Owner's Title Policy;

(iii) the Title Company's escrow fees;

(iv) all recording fees;

(v) all costs and expenses incurred by or on behalf of Developer, including Developer's attorney's fees;

(vi) all costs related to obtaining any releases of liens on the portion of the Property relating to any loans secured by a deed of trust lien on the Property; and

(vii) such other incidental costs and fees customarily paid by sellers of real property in Tarrant County, Texas, for transactions of a similar nature to the transaction contemplated herein.

(b) City will pay and be responsible for the following closing cost:

(i) all fees and premiums for the Survey;

(ii) all fees and premiums for any deletions from, or modifications of or endorsements, to the Basic Owner's Title Policy;

(iii) all costs and expenses incurred by or on behalf of City, including City's attorneys' fees; and

(iv) such other incidental costs and fees customarily paid by purchasers of property in Tarrant County, Texas, for transactions of a similar nature to the transaction contemplated herein.

5.6 Permitted Exceptions. City acknowledges and agrees that the Property conveyed pursuant to this Article V will be conveyed by Developer at closing subject only to such easements, conditions and restrictions as have been approved or deemed approved by City, including; (i) utility easements granted by subdivision plat or instrument subsequent to the purchase of the Property by Developer; and (ii) such other matters as City may waive, or as Developer is not otherwise obligated to cure or remove.

5.7 Conveyance as Is. City acknowledges and agrees that the Property conveyed pursuant to this Article V will be conveyed "AS IS" with all faults and defects, whether patent or latent, existing as of the Closing. Except with respect to the quality of the title being conveyed by Developer as set forth in the Special Warranty Deed, City acknowledges and agrees that Developer will be making no representations, warranties, guarantees, statements or information, express or implied, pertaining to the Property, its condition, or any other matters whatsoever, made to or furnished to City by Developer or any employee or agent of Developer, except as specifically set forth in this Restriction Agreement.

**Article VI
Restrictions**

6.1 Use of Property. No building or improvements shall be constructed, reconstructed, erected, altered, or placed on any portion of the Property or Developer's Property other than the Improvements or structures that will be used in conformance with the Required Use. The Property shall be used for no purpose other than the Required Use.

6.2 Term of Restrictions. The restrictions set forth in Section 6.1, above, shall commence on the Effective Date and continue thereafter until the expiration of five (5) years following the Commencement Date (the "**Restriction Period**").

6.3 Sale of Property. If Developer sells the Property within five (5) years of the Commencement Date, as defined herein, Developer agrees to pay City Sixty Thousand (\$60,000.00) and no/100 Dollars of the sales proceeds, less any property taxes and sales taxes paid to City for the time period between the Commencement Date and the date of closing of the sale of the Property.

**Article VII
Miscellaneous**

7.1 Enforcement. City shall have the right, but not the obligation, to enforce this Restriction Agreement and any covenants and restrictions contained herein, as the same may be amended as herein

provided. Subject to the limitation set forth in Section 6.1, above, enforcement of the provisions set forth in Section 6.1 contained herein may be exercised after failure of any person or persons violating or attempting to violate any covenants or restrictions to cure such violation or breach within two (2) thirty (30) day notice periods after receipt of written notice thereof, by proceeding at law or in equity, against any person or persons violating or attempting to violate any covenants or restrictions, to restrain violation and/or to recover damages, and failure to enforce any covenant, restriction or condition shall not be deemed a waiver of the right of enforcement either with respect to the violation in question or any other violation. This Restriction Agreement is not intended to restrict the rights of the City Council of the City of Everman to exercise its legislative duties and powers insofar as the Property is concerned. The rights of City under this Restriction Agreement may not be waived or released except pursuant to an amendment or termination approved in accordance with the provisions hereof, except by expiration of the Term.

7.2 Amendment. No amendment or termination of this Restriction Agreement shall be effective unless and until approved by Developer and City; provided, however, City may, without the consent of Developer, terminate and release the restrictions set forth in Section 6.1 and/or Section 6.2. In the event Developer, or subsequent owner of the Property desires to change, amend or alter the covenants, conditions or restrictions as set forth herein, Developer, or subsequent owner, as the case may be, shall file a written application for such change or amendment with City, which shall approve or deny such application in whole or in part within thirty (30) days after receipt of such application. Any change or amendment approved by City shall not be effective unless and until an instrument executed by City's Mayor or City Manager is recorded in the Official Public Records in the office of the Tarrant County Clerk in accordance with this Section.

7.3 Notices. All notices, requests, demands or other communications required or permitted hereunder shall be in writing and shall be deemed to have been fully and completely made when given by hand, by confirmed facsimile transmission, by overnight delivery by Federal Express or other reliable courier or the mailing of such by registered or certified mail, addressed as follows:

If intended for City, to:

City Manager
City of Everman
112 N. Race Street
Everman, Texas 76140

With a copy to:

Victoria Thomas
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
500 North Akard, Suite 1800
Dallas, Texas 75201

If intended for Developer, to:

Munay Development Partners, LLC
520 W. Kellis Street
Fort Worth, Texas 76115-1323

Any Party may at any time and from time to time by notice in writing to the other Party hereto change the name or address of the person to whom notice is to be given as hereinbefore provided.

7.4 Successors and Assigns. This Restriction Agreement shall bind, and inure to the benefit of, the Parties and their respective successors and assigns.

7.5 Governing Law. This Restriction Agreement is entered into and is intended to be performed in the State of Texas, and the validity, enforceability, interpretation and construction hereof shall be determined and governed by the laws (other than conflict of laws provisions) of the State of Texas.

Venue for any action under this Restriction Agreement shall be in the state district court of Tarrant County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

7.6 Recording. The Parties agree that City may record this Restriction Agreement in the Official Public Records in the office of the Tarrant County Clerk. City agrees to execute and file a release of this Restriction Agreement, or the Restriction, Option, ROFR or other applicable portion of this Restriction Agreement, as appropriate, in said records upon request of Developer after the expiration or termination of this Restriction Agreement, or the Restriction, Option, ROFR, or other applicable portion of this Restriction Agreement.

7.7 Covenants Run with the Property. This Restriction Agreement and the restrictions, covenants, and conditions set forth herein are for the purpose of protecting the value and desirability of the Property and accomplishing certain public purposes of the City of Everman and, consequently, shall run with the Property and be binding on Developer and all parties having all right, title, or interest in the Property, in whole or in part, and their heirs, successors and assigns. These covenants, conditions and restrictions shall be for the benefit of the City of Everman, Texas. This Restriction Agreement is binding upon Developer and each and every subsequent owner, tenant, subtenant, licensee, manager, and occupant of all or any portion of the Property, but only during the term of such party’s ownership, tenancy, license, management or occupancy of the Property, for which such party shall remain liable and shall be binding upon and inure to the benefit of City and its successors and assigns. It is expressly understood and agreed that acceptance of title to all or a portion of the Property shall automatically, and without further acknowledgement or confirmation from the owner, constitute such owner’s assumption of the obligations of Developer hereunder.

7.8 Severability. Invalidation of any one of these covenants, conditions, or restrictions by judgment or court order shall in no way affect any other provisions, and all other provisions shall remain in full force and effect.

7.9 Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof, and no statement, promise, representation, or modification hereof by any person, if any, and whether oral or written, shall be binding upon any Party.

7.10 Counterparts. This Agreement may be executed by the Parties in separate counterparts; each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of a number of copies hereof each signed by less than all, but together signed by all of the Parties.

(Signatures on Following Page)

City's Signature Page

SIGNED AND AGREED on this ____ day of _____, 2023.

CITY OF EVERMAN, TEXAS

By: _____
Craig Spencer, City Manager

ATTEST:

Mindi Parks, City Secretary

Developer's Signature Page 3 of 3

MUNAY DEVELOPMENT PARTNERS, LLC,
a Texas Limited Liability Company

By: Juan E Munoz

Juan Enrique Munoz, Managing Member

STATE OF TEXAS §
COUNTY OF TARRANT §

This instrument was acknowledged before me on the date set forth below by Juan Enrique Munoz for and on behalf of Munay Development Partners, LLC, who stated on his oath that he is a managing member of Munay Development Partners, LLC, a Texas limited liability company, and that on the date set forth above he signed the above and foregoing document on behalf of Munay Development Partners, LLC after having been first duly authorized so to do.

Witness my hand and seal this the 25 day of April, 2024.

Fatima Roman
Notary Public

[Notary Seal]

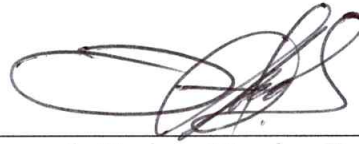


My Commission Expires: 02-13-2028

4873-2131-6745, v. 1

Developer's Signature Page 2 of 3

**MUNAY DEVELOPMENT PARTNERS, LLC,
a Texas Limited Liability Company**

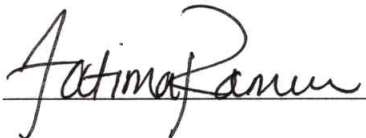


By: _____
Fernando Enrique Urcelay-Torrada, Managing
Member

STATE OF TEXAS §
COUNTY OF TARRANT §

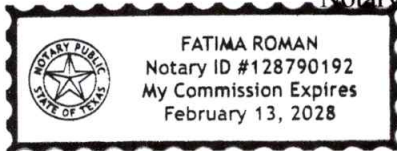
This instrument was acknowledged before me on the date set forth below by Fernando Enrique Urcelay-Torrada for and on behalf of Munay Development Partners, LLC, who stated on his oath that he is a managing member of Munay Development Partners, LLC, a Texas limited liability company, and that on the date set forth above he signed the above and foregoing document on behalf of Munay Development Partners, LLC after having been first duly authorized so to do.

Witness my hand and seal this the 25 day of April, 2024.



Notary Public

[Notary Seal]



My Commission Expires: 02-13-2028

Developer's Signature Page 1 of 3

MUNAY DEVELOPMENT PARTNERS, LLC,
a Texas Limited Liability Company

By: Alvaro Munoz
Alvaro Munoz, Managing Member

STATE OF TEXAS §
COUNTY OF TARRANT §

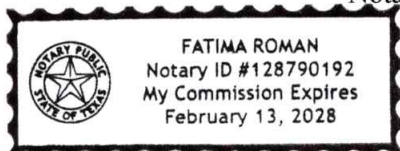
This instrument was acknowledged before me on the date set forth below by Alvaro Munoz for and on behalf of Munay Development Partners, LLC, who stated on his oath that he is a managing member of Munay Development Partners, LLC, a Texas limited liability company, and that on the date set forth above he signed the above and foregoing document on behalf of Munay Development Partners, LLC after having been first duly authorized so to do.

Witness my hand and seal this the 25 day of April, 2024

Fatima Roman

Notary Public

[Notary Seal]



My Commission Expires: 02-13-2028

CITY OF EVERMAN, TEXAS

RESOLUTION NO. 2024-05-04

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS, AUTHORIZING THE PURCHASE OF AN UNMANNED AIRCRAFT (DRONE) FOR COMPENSATION IN AN AMOUNT NOT TO EXCEED \$3,000.00 TO BE FUNDED BY ASSET FORFEITURE FUNDS IN ACCORDANCE WITH THE CHAPTER 59 OF THE TEXAS CODE OF CRIMINAL PROCEDURE; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Everman Police Department is an authorized Texas law enforcement agency that has conducted seizures in accordance with Chapter 59 of the Texas Code of Criminal Procedure; and

WHEREAS, in accordance with Chapter 59 of the Texas Code of Criminal Procedure, seized funds can only be authorized for expense for a law enforcement purpose, which includes an activity of law enforcement agency that relates to the criminal or civil enforcement of laws of this state; and

WHEREAS, the City Council of the City of Everman finds it to be in the public interest to authorize the above-described purchase;

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

SECTION 1. The City Manager is hereby authorized to purchase an unmanned aircraft (drone), for compensation in an amount not to exceed \$3,000.00, to be funded the City of Everman Asset Forfeiture Fund in accordance with Chapter 59 of the Texas Code of Criminal Procedure;

SECTION 2. The City Manager is authorized to execute all documents necessary for the purchase of the equipment.

SECTION 3. This Resolution shall take effect immediately upon passage.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS, ON THIS 7th DAY OF MAY, 2024.

APPROVED:

Ray Richardson, Mayor

ATTEST:

Mindi Parks, City Secretary

APPROVED AS TO FORM:

Victoria Thomas, City Attorney

**CITY OF EVERMAN, TEXAS
RESOLUTION NO. 2024-05-05**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS,
APPROVING AN AMENDMENT TO THE CITY’S PERSONNEL MANUAL AT SECTION
3.13(c) REGARDING MINIMUM TRAINING REQUIREMENTS; AND PROVIDING
AN EFFECTIVE**

WHEREAS, the City has established and has put into effect a City Personnel Manual dated February, 2022 governing employment with the City of Everman; and

WHEREAS, pursuant to section 1.05 of that Personnel Manual, the Personnel Manual may be amended from time to time by action of the city Council; and

WHEREAS, City staff has recommended that section 3.13(c) should be amended to allow for Sexual Harassment in the Workplace (TMLIRP) and Diversity in the Workplace to be completed upon appointment of a position and once every two years; and

WHEREAS, the City Council of the City of Everman finds it to be in the best interest of the City and of service to the general welfare to approve the recommended amendment;

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

SECTION 1. The City of Everman Personnel Manual, dated February, 2022 is hereby amended at section 3.13(c) thereof to read in its entirety as follows:

“Article III. CONDITIONS OF EMPLOYEMENT.

Sec. 3.13. Minimum Training Requirements

...

(c) Required Training. In addition to job specific training (see job descriptions for specific training requirements), all employees, staff and volunteers within the City must complete *TMLIRP Cyber Security Training* immediately upon appointment of their position and must retake the course annually. Additionally, all employees, staff and volunteers with the City must complete *Sexual Harassment in the Workplace (TMLIRP)* and *Diversity in the Workplace (TMLIRP)* immediately upon appointment of their position and must retake each course every two years.

SECTION 2. Within seven (7) working days of adoption of this resolution, the Human Resources Director is directed to disseminate the amended policy, section 3.13(c) set forth herein, to all City employees by one or more of the following means: (1) prominent posting in all City departments, (2) email transmission, (3) distribution by department heads to all department employee, and/or (4) such other means as will apprise employees of the amendment.

SECTION 3. This resolution shall become effective immediately upon its approval.

PASSED AND APPROVED this the _____ day of May, 2024.

City of Everman, Texas

Ray Richardson, Mayor

Attest:

Mindi Parks, City Secretary

Approved as to Form:

Victoria Thomas, City Attorney

CITY OF EVERMAN

ORDINANCE NO. 814

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF EVERMAN, TEXAS, CHAPTER 2 “ADMINISTRATION”, ARTICLE II “COUNCIL”, BY AMENDING SECTION 2-21 “MEETINGS”, SUBSECTION (a); PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 3.08 of the Home Rule Charter provides that the City Council shall hold at least one regular meeting each month with the time and place of that meeting to be established by ordinance or resolution; and

WHEREAS, in accordance with the Charter, the City Council previously adopted an ordinance, codified at section 2-21 which was subsequently amended by Ordinance 776 on December 14, 2021 to provide that the Council shall hold its regular monthly meeting on the first and third Tuesdays of each month at 6:30 p.m.; and; and

WHEREAS, the City Council of the City of Everman, Texas, has determined that it is in the best interest of the City and serves the general welfare of the citizens to amend the Code of Ordinances to change the date and time that regular Council meetings shall be held;

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

SECTION 1: That the Code of Ordinances of the City of Everman, Texas is hereby amended at Chapter 2 “Administration”, Article II “Council”, by amending Section 2-21 “Meetings” .02.001 “Meetings”, Subsection (a) to read as follows:

“CHAPTER 2 ADMINISTRATION

...

ARTICLE II COUNCIL

Sec. 2-21 - Meetings.

(a) The city council shall hold regular meetings on the second and fourth Tuesday of each month at 6:00 p.m. and may hold as many additional meetings and workshops as it deems necessary to transact business.

....”

SECTION 2: All ordinances, orders, or resolutions heretofore pass and adopted by the City Council of the City of Everman, Tarrant County, Texas are hereby repealed to the extent that said ordinances, orders, or resolutions, or parts thereof, are in conflict herewith.

SECTION 3: Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance, which shall remain in full force and effect.

SECTION 5. This ordinance shall be effective from and after its passage.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Everman, Tarrant County, Texas this the ____ day of May, 2024.

APPROVED:

Ray Richardson, Mayor

ATTEST:

APPROVED AS TO FORM:



Mindi Parks, City Secretary

Victoria W. Thomas, City Attorney
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