



## COUNCIL COMMITTEE MEETING

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City Hall Council Chambers, 298 W Washington  
Tuesday, October 15, 2024 at 5:30 PM

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### AGENDA

#### CALL TO ORDER

#### NOMINATIONS COMMITTEE

Maddie Smith, chair; LeAnn Durfey, Lonn Reisman, Alan Nix

1. Consider Approval of Updates to Council Rules and Procedures

#### PUBLIC HEALTH AND SAFETY COMMITTEE

Dean Parr, chair; LeAnn Durfey, Lonn Reisman, David Basket

2. Consider Approval of Covered Applications and Prohibited Technology Policy

#### PUBLIC WORKS COMMITTEE

Alan Nix, chair; Gerald Cook, Dean Parr, David Basket

3. Review Proposed FY24-25 Rates for Upper Leon River Municipal Water District
4. Review Recommendation for FY25-26 CDBG Admin Services
5. Review Proposed Waste Connections Annual Rate Adjustment
6. Review Budgeted Design Services Proposal for Lillian 1MG Ground Storage Tank

#### ADJOURN

*Note: The Stephenville City Council may convene into Executive Session on any matter related to any of the above agenda items for a purpose, such closed session allowed under Chapter 551, Texas Government Code.*

*In accordance with the Americans with Disabilities Act, persons who need accommodation to attend or participate in this meeting should contact City Hall at 254-918-1287 within 48 hours prior to the meeting to request such assistance.*



# STAFF REPORT

**REPORT TYPE:** Nominations Committee Report

**DEPARTMENT:** Administration

**STAFF CONTACT:** Sarah Lockenour, City Secretary

## CONSIDER APPROVAL OF COUNCIL RULES OF PROCEDURE UPDATES

Staff presented updates to the Council Rules of Procedure as follows:

Section 3.7.C.2.a Committee Meetings and Reports of the Council Rules of Procedures currently reads:

*The Mayor shall serve as a non-voting member of all committees. The Mayor shall not serve as the chairman of any committee.*

Staff recommends revising to state:

- a. *The Mayor shall not serve as the chairman of any committee. The Mayor shall serve as a member of all committees and shall vote only when less than four members are present. There shall only be a maximum of four votes on any committee.*

## CITY OF STEPHENVILLE CITY COUNCIL RULES OF PROCEDURE

### PROLOGUE

These rules and procedures represent an effort to clarify unwritten policies, to expedite matters needing council attention, and to streamline agendas. They are intended to supplement the existing Code of Ordinances and City Charter by addressing areas either left unclear or not addressed at all. Unlike the Charter and Code of Ordinances, these rules and procedures can be modified to fit the personality of the Mayor and Councilmembers. No conflict with the Charter or the Code of Ordinances should exist.

It is the purpose of this document to present guidelines for the maintenance of decorum and presentation of a favorable impression to the public and press in attendance at the meetings of the City Council.

### SECTION 1. AUTHORITY

1.1 Charter. The City Council of the City of Stephenville shall establish its own rules of procedure for meetings as provided by City Charter. The following set of rules shall be in effect upon their adoption by the Council, and until such time as they are amended, or new rules adopted in the manner provided by these rules.

### SECTION 2. GENERAL RULES

- 2.1 Meetings to be Public. All official meetings of the Council shall be open to the public (except where State or local law allows Executive Sessions for certain limited topics). The journal of proceedings shall be open to public inspection.
- 2.2 Quorum. The presence of at least five (5) members of the Council shall constitute a quorum and be necessary for the transaction of business.
- 2.3 Compelling Attendance. The Council may adjourn from day to day to compel the attendance of absent members. The names of Councilmembers arriving late shall be noted upon the minute pages of the City Council.
- 2.4 Journal of Proceedings. An account of all proceedings of the Council shall be kept by the City Secretary and shall be entered in a book constituting the official record of the Council.
- 2.5 Right of Floor. Any member desiring to speak shall be recognized by the Chair and shall confine his or her remarks to one subject under consideration or to be considered.
- 2.6 City Manager. The City Manager shall attend all meetings of the Council unless excused. The City Manager may make recommendations to the Council and shall have the right to take part in all discussions of the Council but shall have no vote.
- 2.7 City Attorney. The City Attorney or his/her official designee shall attend all meetings of the Council unless excused and shall, upon request, give an opinion, either written or oral, on questions of the law. The City Attorney shall act as the Council's parliamentarian.
- 2.8 City Secretary. The City Secretary or his/her designee shall attend all meetings of the Council unless excused and shall keep the official minutes and perform such other duties as may be

requested by the Council.

- 2.9 Officers and Employees. Department Heads of the City, when there is pertinent business from their departments on the Council agenda, shall attend such Council meetings. Department Heads are encouraged to attend all meetings of the City Council as information, or their expertise may be required.
- 2.10 Rules of Order. "Roberts Rules of Order Revised" shall govern the proceedings of the Council in all cases unless they are in conflict with these rules.
- 2.11 City Stationery. City Stationery will be used for official business only and will be kept at City Hall. All Mayor and City Council correspondence will be handled through the City Secretary's office and kept on file in that office.
- 2.12 Compensation. The City Council shall be compensated at the rate of \$200.00 per month. The Mayor shall be compensated at the rate of \$400.00 per month.

### **SECTION 3. TYPES OF MEETINGS**

- 3.1 Regular Business Meeting: The Council shall meet in City Hall for Regular Business, Adjourned, and Special Meetings. The Regular Business Meetings are to commence at 5:30 p.m. on the first Tuesday of each month, unless otherwise specified in accordance with state law.
- 3.2 Special Meetings. Special meetings may be called by the Mayor or by a majority of the members of the Council. Any individual member may call a special meeting upon securing concurrence of four other members, whom he must personally contact and upon confirmation, each of the four concurring members must personally contact the City Secretary. Councilmembers may only state the reason for the called meeting when contacting other Councilmembers. No further discussion may take place regarding the subject(s) of the meeting.

The call for a special meeting shall specify the day, the hour, and the location of the special meeting and shall list the subject or subjects to be considered. No special meeting shall be held until at least seventy-two hours (72) after the call is issued. No item will be placed on the agenda unless submitted to the City Manager at least twenty-four (24) hours prior to the posting of the called meeting agenda.

- 3.3 Recessed Meetings. Any meeting of the Council may be recessed to a later date and time, provided that no recess shall be for a longer period than until the next Regular Meeting.
- 3.4 Emergency Meetings. The City Council may hold meetings dealing with emergency conditions as provided by state law.
- 3.5 Work Sessions. The Council may meet informally in Work Sessions (open to the public), at the call of the Mayor or of a majority of the Council, to review forthcoming programs of the City, receive progress reports on current programs or projects, or receive other similar information from the City Manager, provided that all discussions and conclusions thereon shall be informal. On-site inspections of project sites and facilities by individual Councilmembers are strongly encouraged. Department Heads will schedule times to accompany any councilmember who wishes to tour city facilities.

- 3.6 Executive Sessions. Executive Sessions or closed meetings may be held in accordance with the provisions of the Texas Open Meetings Act, Texas Government Code Chapter 551. Topics that may be discussed would include but are not limited to: (1) Consultation with Attorney, (2) Deliberations Regarding Real Property, (3) Deliberation Regarding Prospective Gift, (4) Personnel Matters, (5) Deliberation Regarding Security Devices, (6) Meeting Concerning a Municipally Owned Utility, (6) Deliberation Regarding Economic Development Negotiation. The City Council may convene into executive session on any matter related to agenda items for a purpose, such closed session allowed under Chapter 551, Texas Government Code.
- 3.7 Committee Meetings and Reports.
- A. The Committees shall meet in City Hall for their Committee Meetings. The Committee Meetings are to commence at 5:30 p.m. on the third Tuesday of each month, unless otherwise specified in accordance with state law.
  - B. Standing Committees shall be appointed annually following the City's General Election in May.
  - C. The Mayor shall submit suggestions for committee assignment and chairmanship designation to the City Council not later than the second regular council meeting following the City General Election in May. In formulating recommendations, the Mayor shall be guided by the following considerations:
    1. At the first regular council meeting following each council election, the Mayor shall request that each council member submit their prioritized request for committee assignments. These requests shall be submitted to the Mayor within 14 days of being requested.
    2. The Mayor shall consider each council member's request for committee assignments in arriving at a recommendation. In the event a council member fails to submit a committee assignment request, the Mayor shall attempt to make fair and equitable assignment recommendations for that council member. In arriving at recommendations, the Mayor shall consider the following factors in the priority listed:
      - a. ~~The Mayor shall serve as a non-voting member of all committees.~~ The Mayor shall not serve as the chairman of any committee. The Mayor shall serve as a member of all committees and shall vote only when less than four members are present. There shall only be a maximum of four votes on any committee.
      - b. Council members may serve as chairman of only one committee unless the number of standing council committees is expanded to more than eight.
      - c. Incumbent council members shall retain their current chairmanship assignments unless they request and receive assignment as chairman of another committee.
      - d. Open chairmanship recommendations shall be based on council member's seniority of total council service and prioritized written assignment requests, in that order.
      - e. Council members who are not selected as chairmen shall receive their first four prioritized committee assignment requests.

- f. The Mayor shall make committee assignment recommendations to achieve a fair and equitable distribution based on council member's prioritized written requests.
  - g. The assignments shall be approved by a majority vote of the City Council.
  - h. Special Committees may be appointed by the City Council as needs arise and the membership of such special committees shall remain intact until the committee's assignment is completed.
- D. It is the duty of the committee chairman to call meetings and see that the committee's assignment is completed. Each committee that has met since the last Regular Business Meeting shall be required to give a status report to the City Council at each monthly meeting. All final committee recommendations shall be filed in written form with the City Secretary and included with the Council's agenda packet.
- 3.8 Attendance of Media at Council Meetings. All official meetings of the City Council and its committees shall be open to the media, freely subject to recording by radio, television, and photographic services at any time, provided that such arrangements do not interfere with the orderly conduct of the meetings. Exceptions to this rule will apply to meetings or parts of meetings which are held in accordance with Vernon's Texas Civil Statutes regarding executive sessions.

#### **SECTION 4. CHAIRMAN AND DUTIES**

- 4.1 Chairman. The Mayor, if present, shall preside as Chairman at all meetings of the Council. In the absence of the Mayor, the Mayor Pro Tem shall preside. In the absence of both the Mayor and the Mayor Pro Tem, the Council shall elect a Chairman.
- 4.2 Call to Order. The meetings of the Council shall be called to order by the Mayor, or in his/her absence, by the Mayor Pro Tem. In the absence of both the Mayor and the Mayor Pro Tem, the meeting shall be called to order by the City Secretary for the election of a temporary Chairman.
- 4.3 Preservation of Order. The Chairman shall preserve order and decorum, prevent attacks on personalities or the impugning of members' motives, and confine members in debate to the question under discussion.
- 4.4 Points of Order. The Chairman shall determine all points of order, subject to the right of any member to appeal to the Council. If any appeal is taken, the question shall be, "Shall the decision of the Chairman be sustained?"
- 4.5 Questions to be Stated. The Chairman shall state all questions submitted for a vote and announce the result. A roll call vote shall be taken upon the request of any member, in the manner provided in Section 6.7 of these rules. Before taking a final vote, the Chairman shall ask for discussion on the motion.

#### **SECTION 5. ORDER OF BUSINESS AND AGENDA**

- 5.1 Order of Business. The general rule as to the order of business in regular meetings shall be as follows:

## AGENDA OF THE CITY COUNCIL

- I. Call to Order
- II. Pledges of Allegiance
- III. Invocation
- IV. Proclamations, Recognitions, and Presentations
- V. Citizens' General Discussion
- VI. Regular Agenda Items (these are items not discussed in committee)
- VII. Planning and Zoning Commission
- VIII. Reports from Boards and Commissions
- IX. Council Committee Reports
- X. Consent Agenda
  - i. Approval of Minutes
  - j. Bid Considerations
  - k. Resolutions
- XI. Comments by City Manager
- XII. Comments by Council Members and Items for Future Discussion
- XIII. Executive Session
- XIV. Action Taken on Items Discussed in Executive Session, if necessary
- XV. Adjourn

The Mayor may, at his/her discretion, limit the amount of time allowed for the agenda item, "Citizens' General Discussion".

- 5.2 Agenda. The order of business of each council meeting shall be as contained in the agenda prepared by the City Secretary. The Agenda shall be delivered to members of the Council at least seventy-two (72) hours preceding the meeting to which it pertains. The order of the agenda may be adjusted by the Mayor as situations warrant. The Mayor shall announce at the opening of the meeting any items which have been removed.

The order of business of the City Council shall include a Consent Agenda. The Consent Agenda is used as a tool to help shorten council meetings. It contains routine items which are not controversial in nature and do not need further discussion. The Consent Agenda can be handled with one motion from the City Council, "I move that the Consent Agenda be approved as presented." If an item needs to be removed from the Consent Agenda and discussed separately, a typical motion to affect this might be, "I move that we approve the Consent Agenda Items "A" through "D" with the exception of Item "C".

- 5.3 Comments by Council Members and Items for Future Discussion. The Agenda shall provide a time when the Mayor or any Councilmember may bring before the Council any business that he/she feels should be deliberated upon by the Council. These matters need not be specifically listed on the agenda, however, discussion and formal action on such matters shall be deferred until a subsequent council meeting.
- 5.4 Placing Items on the Agenda. Any member of the City Council or general public may place items on the agenda by submitting such items to the City Secretary, City Manager, Mayor or applicable Committee Chairman, in writing, by 5:00 p.m. seven (7) days preceding the Regular Business Council

Meeting or applicable committee meeting.

- 5.5 Reading of Minutes. Unless a reading of the minutes of a council meeting is requested by a member of the Council, such minutes may be approved without reading, if the City Secretary previously furnished each member with a copy.

## **SECTION 6. ORDINANCES, RESOLUTIONS, AND MOTIONS**

- 6.1 Form. Ordinances and resolutions shall be presented to the Council only in printed or typewritten form.
- 6.2 Funding. All ordinances authorizing an expenditure of money shall include the exact source of the funds to be expended.
- 6.3 City Attorney to Approve. All ordinances and resolutions shall be "Approved as to Form and Legality" by the City Attorney. Such approval shall be so indicated by signature on the last page of the ordinance or resolution. Ordinances or Resolutions shall not be presented to the Council without first being approved by the City Attorney.
- 6.4 City Manager to Review. All ordinances and resolutions shall be "Reviewed By" the City Manager. Such review shall be so indicated by signature on the last page of the ordinance or resolution.
- 6.5 Distribution of Ordinances. Copies of all proposed ordinances shall be distributed to all members of the Council at least twenty-four (24) hours before the council meeting as part of the agenda packet in which the ordinance is to be introduced. If the ordinance carries an emergency clause, copies of the ordinance must be distributed at least twelve (12) hours prior to the meeting of the Council at which said ordinance is to be considered.
- 6.6 Recording of Votes. The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the official record of the Council.
- 6.7 Majority Vote Required. Where a quorum of the City Council is present, a proposition is carried by a majority of the votes cast, although some of the members present refuse to vote. Where a member of the City Council is present, but has not voted on a matter, his or her silence shall be construed as concurring with the majority, at least where such concurrence is needed for adoption of the matter before the deliberative body. Abstaining votes shall therefore be construed as concurring with the majority favoring adoption of the matter. Councilmembers filing Conflict of Interest affidavits with the City Secretary shall be considered as not casting any vote on the issue at hand.

Exceptions to the majority vote rule shall apply where required by Charter, ordinance, or state law.

- 6.8 Voting. Two voting methods will be used by the City Council – voice votes and roll call votes. Voice votes are votes cast by the City Council in unison, either aye or nay, when requested by the Mayor. Roll call votes are votes which are cast individually. Voice votes will be used on all issues unless the Mayor or a councilmember requests a roll call vote. When roll call votes are used, the Mayor will be the last councilmember to vote.

When any vote is called, each Councilmember shall respond "yes (aye)", "no (nay)", "abstain", or



"pass". Any Councilmember who responds "pass" shall be given an opportunity at the end of the roll call to change his or her vote to "yes (aye)", "no (nay)", or "abstain". Any "pass" response not so changed shall be recorded as an abstention.

In the event of a tie in votes on any motion, the motion shall be considered lost.

- 6.9 Numbering Ordinances and Resolutions. Upon passage, a number shall be assigned to each ordinance or resolution by the City Secretary.
- 6.10 Ordinance Passage Procedure. When passed by the City Council, an ordinance shall be signed by the Mayor or Mayor Pro Tem and be attested by the City Secretary; and it shall be immediately filed and thereafter preserved in the office of the City Secretary. Ordinances shall be adopted in accordance with City Charter Article III, §19.

Any ordinance imposing a penalty, fine, or forfeiture for a violation of its provisions shall become effective not less than ten (10) days from the date of its passage. The City Secretary shall give notice of the passage of every ordinance imposing a penalty, fine, or forfeiture for a violation of the provisions thereof, by causing the caption or title, including the penalty, of any such ordinance to be published in a newspaper of general circulation in Stephenville at least within ten (10) days after the passage of said ordinance.

- 6.11 Requests for Ordinances or Legal Opinions. Any member of the City Council may request the City Manager to have prepared proposed ordinances with such ordinances to be placed on the agenda of the next scheduled Council meeting, provided the ordinance can be drafted and distributed to members of the Council in accordance with time schedules set forth in Section 6.5 of these rules. Any member of the City Council may request written legal opinions, relating to City business, from the City Manager. Upon receiving requests for a proposed ordinance or a written legal opinion, the City Manager shall forthwith request same from the City Attorney; and upon return receipt thereof, the City Administrator shall forthwith cause to have distributed the subject ordinance or written legal opinion to all members of the Council so that all members of the Council may be fully informed of the status of City affairs. Any member of the Council may, for purposes of inquiry, request verbal opinion or advice on City legal matters directly from the Attorney.

## **SECTION 7. CREATION OF COMMITTEES, BOARDS AND COMMISSIONS**

- 7.1 Citizen Committees, Boards and Commissions. The Council may create committees, boards, and commissions to assist in the conduct of the operation of the City government with such duties as the Council may specify not inconsistent with the City Charter or City Code.
- 7.2 Membership and Selections. Membership and selection of members shall be as provided by the Council if not specified by the City Charter or City Code. Any committee, board, or commission so created shall cease to exist upon the accomplishment of the special purpose for which it was created, or when abolished by a majority vote of the Council. No committee so appointed shall have powers other than advisory to the Council or to the City Administrator, except as otherwise specified by the City Charter or City Code.
- 7.3 Removal of Members of Boards and Commissions. The Council may remove any member of any board or commission which it has created or as created by the City Charter or by a vote of at least a majority of the Council.

**SECTION 8. CITIZENS' RIGHTS**

- 8.1. Addressing the Council During a Regular Business Meeting. Persons addressing the Council shall complete a Registration Form prior to the Call to Order and present it to the City Secretary. Questions from citizens will be directed to the Mayor, and the Mayor will inform the citizen that the question will be directed to the appropriate person, staff, or Councilmember.
- 8.2. Time Limit. Each person addressing the Council shall step up to the microphone, shall give his/her name and address in an audible tone of voice for the record. Individual citizen presentations shall be limited to three (3) minutes, and group presentations shall be limited to ten (10) minutes. At least three members of the group or organization shall be in attendance and their names shall be listed on the Registration Card. The Mayor, at his/her discretion, may reasonably extend these limits.
- 8.3. Manner of Addressing the Council. All remarks shall be addressed to the Council as a body, and not to any member thereof. No person, other than members of the Council and the person having the floor, shall be permitted to enter into any discussion, either directly or through the members of the Council. No questions shall be asked of the Councilmembers, except through the presiding officer.
- 8.4. Personal and Slanderous Remarks. The Mayor may, at his or her discretion, have removed any person making personal, impertinent or slanderous remarks while addressing the Council and may bar such persons from further audience before the Council.
- 8.5. Reading of Protests. Interested persons, or their authorized representatives, may address the Council for the reading of protests, petitions, or communications relating to any matter over which the Council has control when the item is under consideration by the Council, if a majority of the Council present agrees to let them be heard.
- 8.6. Mayor May Appoint Committee or Refer Citizen's Complaints. The Mayor may appoint a committee of three members of the City Council to hear citizens' complaints, or may refer citizens' complaints to an Executive Session of the City Council, whenever the subject would be appropriate.
- 8.7. Written Communications. Interested parties, or their authorized representatives, may address the council by written communication in regard to any matter concerning the city's business or over which the council has control at any time by mailing or emailing such communication to the City Secretary, or mailing or emailing such communication to individual Councilmembers. All members of the Council shall have an email address issued by the City.

**SECTION 9. SUSPENSION AND AMENDMENT OF THESE RULES**

- 9.1. Suspension of These Rules. Any provision of these rules not governed by the City Charter or City Code may be temporarily suspended by a vote of a majority of the Council. The vote on any such suspension shall be taken by ayes and nays and entered upon the record.
- 9.2. Amendment of These Rules. These rules may be amended, or new rules adopted, by a majority vote of all members of the council, provided that the proposed amendments or new rules shall have been introduced into the record at a prior council meeting.

Resolution No. 1986-3. Revised February 7, 1990; April 3, 1990; October 3, 1995; April 1, 1997; November 3, 1998; March 7, 2000; June 17, 2003; September 9, 2008; March 1, 2016, May 3, 2022.



# STAFF REPORT

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**SUBJECT:** TikTok Policy  
**DEPARTMENT:** Police  
**STAFF CONTACT:** Dan M. Harris, Jr.

## RECOMMENDATION:

Consider Approval of Covered Applications and Prohibited Technology Policy

## BACKGROUND:

Texas Legislature has passed SB 1983 requiring political subdivisions to adopt a policy: (1) prohibiting the installation of TikTok or another covered application on any device owned or leased by the government entity; and (2) requiring the removal of covered applications from those devices. The recommended policy provided was created using the template provided by the state.

## FISCAL IMPACT SUMMARY:

None

## ALTERNATIVES

N/A



## I. SCOPE AND DEFINITIONS

Pursuant to Senate Bill 1893, governmental entities, as defined below, must establish a covered applications policy:

- A department, commission, board, office, or other agency that is in the executive or legislative branch of state government and that was created by the constitution or a statute, including an institution of higher education as defined by Education Code Section 61.003.
- The supreme court, the court of criminal appeals, a court of appeals, a district court, or the Texas Judicial Council or another agency in the judicial branch of state government.
- A political subdivision of this state, including a municipality, county, or special purpose district.

This policy applies to all City of Stephenville full- and part-time employees, contractors, paid or unpaid interns, and other users of government networks. All City of Stephenville employees are responsible for complying with this policy.

A covered application is:

- The social media service TikTok or any successor application or service developed or provided by ByteDance Limited, or an entity owned by ByteDance Limited.
- A social media application or service specified by proclamation of the governor under Government Code Section 620.005.

## II. COVERED APPLICATIONS ON GOVERNMENT-OWNED OR LEASED DEVICES

Except where approved exceptions apply, the use or installation of covered applications is prohibited on all government-owned or -leased devices, including cell phones, tablets, desktop and laptop computers, and other internet-capable devices.

The City of Stephenville will identify, track, and manage all government-owned or -leased devices including mobile phones, tablets, laptops, desktop computers, or any other internet-capable devices to:

- a) Prohibit the installation of a covered application.
- b) Prohibit the use of a covered application.
- c) Remove a covered application from a government-owned or -leased device that was on the device prior to the passage of S.B. 1893 (88th Leg, R.S.).

- d) Remove an application from a government-owned or -leased device if the Governor issues a proclamation identifying it as a covered application.

The City of Stephenville will manage all government-owned or leased mobile devices by implementing the security measures listed below:

- a) Restrict access to “app stores” or unauthorized software repositories to prevent the installation of unauthorized applications.
- b) Maintain the ability to remotely wipe non-compliant or compromised mobile devices.
- c) Maintain the ability to remotely uninstall unauthorized software from mobile devices.
- d) Other Governmental Entity-implemented security measures.

**III. ONGOING AND EMERGING TECHNOLOGY THREATS**

To provide protection against ongoing and emerging technological threats to the government’s sensitive information and critical infrastructure, DPS and DIR will regularly monitor and evaluate additional social media applications or services that pose a risk to this state.

DIR will annually submit to the Governor a list of social media applications and services identified as posing a risk to Texas. The Governor may proclaim items on this list as covered applications that are subject to this policy.

If the Governor identifies an item on the DIR-posted list described by this section, then The City of Stephenville will remove and prohibit the covered application.

The City of Stephenville may also prohibit social media applications or services in addition to those specified by proclamation of the Governor.

**IV. BRING YOUR OWN DEVICE POLICY**

If the City of Stephenville has a “Bring Your Own Device” (BYOD) program, then the City may consider prohibiting the installation or operation of covered applications on employee-owned devices that are used to conduct government business.

**V. COVERED APPLICATION EXCEPTIONS**

The City of Stephenville may permit exceptions authorizing the installation and use of a covered application on government-owned or -leased devices consistent with the authority provided by Government Code Chapter 620.

Government Code Section 620.004 only allows [Governmental Entity] to install and use a covered application on an applicable device to the extent necessary for:

- 1. Providing law enforcement; or
- 2. Developing or implementing information security measures.

If the City of Stephenville authorizes an exception allowing for the installation and use of a covered application, the City of Stephenville must use measures to mitigate the risks posed to the

state during the application’s use including maintain the ability to remotely wipe non-compliant or compromised mobile devices. Maintain the ability to remotely uninstall unauthorized software from mobile devices.

The City of Stephenville must document whichever measures it took to mitigate the risks posed to the state during the use of the covered application.

The city of Stephenville will make an exception for law enforcement issued phones on an as needed basis to conduct investigations into alleged crimes involving these prohibited applications.

**VI. POLICY COMPLIANCE**

The City of Stephenville will verify compliance with this policy through various methods, including but not limited to, IT/security system reports and feedback to leadership.

An employee found to have violated this policy may be subject to disciplinary action, including termination of employment.

**VII. POLICY REVIEW**

This policy will be reviewed annually and updated as necessary to reflect changes in state law, additions to applications identified under Government Code Section 620.006, updates to the prohibited technology list posted to DIR’s website, or to suit the needs of the City of Stephenville.

# STAFF REPORT



**SUBJECT:** FY24-25 Upper Leon River Municipal Water District (ULRMWD) – Raw Water Charges  
**MEETING:** Public Works Committee Meeting - 15 OCT 2024  
**DEPARTMENT:** Public Works  
**STAFF CONTACT:** Nick Williams

## RECOMMENDATION:

Staff recommends authorization for the FY24-25 annual routine payments to the Upper Leon River Municipal Water District (ULRMWD) for raw water charges in the amount of \$185,269.00 per the agreement established in 1999.

## BACKGROUND:

The city entered into a Supplemental Water Service Agreement with the ULRMWD on July 26, 1999. The term of the agreement is fifty years ending on August 30, 2049. The annual Raw Water charge is the dollar-for-dollar pass thru cost from the Brazos River Authority (BRA) for Stephenville’s allocation of 1862 acre-feet (AF) of raw water as a part of a District contract with the BRA.

The annual notice (copy attached) from the ULRMWD, dated September 11, 2024, confirms the FY24-25 BRA System Rate was amended to \$99.50 per AF.

## FISCAL IMPACT SUMMARY:

The raw water charge for the period September 1, 2024 through August 31, 2025 is \$185,269.00. The approved FY24-25 budget allocated funds in the exact amount specifically for this routine, annual cost.

## ATTACHMENTS:

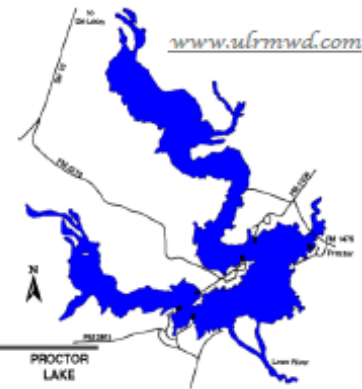
Attached is a copy of the ULRMWD FY24-25 notice.



# Upper Leon River Municipal Water District

2250 Highway 2861

Comanche, Texas 76442



Item 3.

September 11, 2024

**NICK WILLIAMS**

City of Stephenville  
298 West Washington  
Stephenville, Texas 76401

RE: ULRMWD Water Charges  
City Volumetric Rate  
Minimum Fee  
Raw Water Charge

Nick,

The Upper Leon River MWD Board adopted a rate for the member (constituent) cities of \$5.3390 per thousand gallons at their July 22nd, 2024, Board Meeting. When 2.5% is applied to the \$5.3390 it yields an adjusted **Volumetric Rate** to the City of Stephenville of **\$5.473 per thousand**; net change from the previous year will be \$0.2557 per thousand (up 4.9%).

The new volumetric rate would be effective for water metered for the period September 26<sup>th</sup> thru October 30<sup>th</sup>, 2024.

The **Minimum Fee** currently remains \$141,972 and the pay terms remain the same, i.e., paid monthly **\$11,831**, or it can be paid annually.

**Raw Water charge** is the dollar-for-dollar pass thru from Brazos River Authority (BRA) for 1862 A.F. of raw water that is a part of a District contract with BRA. As most are aware, the 1862 A.F. of water represents the drought-of-record, 31.4% reduction of the original 2714 A.F. of water contracted by the District from BRA for the benefit of the City. On July 29, 2024, the BRA Board of Directors set their System Rate at \$99.50 per Acre-Foot. This per AF rate, applied to the contract that was billed by BRA and already paid by the District, forms the City's Raw Water charge. The City's **Raw Water Charge for the period September 1<sup>st</sup>, 2024 through August 31<sup>st</sup>, 2025 is \$185,269**. This amount is due upon receipt; invoice accompanies.

Please contact us at your opportunity to discuss this or any other matters. The Office phone is 254-879-2258.

Thank you,

gary d. lacey

# Upper Leon River Municipal Water District

2250 Highway 2861 Comanche, Texas 76442



September 11, 2024

**NICK WILLIAMS**  
 City of Stephenville  
 298 West Washington  
 Stephenville, Texas 76401

RE: ULRMWD Raw Water Contract Invoice

Nick,

**Raw water charge** as shown below. This is for the period 09/01/23-08/31/24. Due upon receipt

A.F.	BRA/\$A.F.	Total
1862	\$99.50*	\$185,269.00

(\*BRA System Rate; Board adopted 07/29/2024)

Thank you,

gary d. lacy

# STAFF REPORT



**SUBJECT:** Administrative Services Selection for FY25-26 TxCDBG Application  
**MEETING:** Public Works Committee Meeting - 15 OCT 2024  
**DEPARTMENT:** Public Works  
**STAFF CONTACT:** Nick Williams

## RECOMMENDATION:

Staff recommends selection of Public Management, Inc. to assist the City of Stephenville in the no-cost application and, if awarded, the administration of a contract for the 2025-2026 Texas Community Development Block Grant (TXCDBG) Program operated by the Texas Department of Agriculture (TDA).

## BACKGROUND:

Staff issued a Request for Qualifications (RFQ) to assist the City of Stephenville in the administration of its CDBG projects. Most CDBG funds are used for public facilities such as water, wastewater, street, and drainage improvements. This year, the maximum available award amount from the TDA for the Community Development Fund is \$750,000.00. The deadline for submittal of the application is December 9, 2024.

The City of Stephenville issued an RFQ for consulting services to support the administration and implementation of its CDBG projects. The RFQ was advertised on August 1, 2024, and responses were received by August 27, 2024. The following three firms submitted their qualifications for consideration:

- Public Management, Inc.
- Grant Works
- Experience with CDBG projects

A review committee was formed to evaluate the submitted qualifications based on the criteria outlined in the RFQ. Selection criteria included: Experience with CDBG projects, Qualifications and expertise of the proposed team, Understanding of the project scope, Past performance and references, as well as Cost-effectiveness.

The review committee scored each submission. A summary of the scores signed by the selection committee is attached.

Based on the evaluation process, the review committee recommends the selection of Public Management, Inc. as the consultant for the CDBG projects. Public Management demonstrated extensive experience with similar projects with over \$1 billion in various funding initiatives, a highly qualified team including Certified Administrators, and a thorough understanding of the project scope. Their past performance and references were noted as exemplary.

If supported by committee and approved by council, staff would negotiate a contract with Public Management to provide for preparation of the grant application, and if selected, project management, financial management, environmental review, construction management, fair housing / equal opportunity, audit, and contract close out assistance. Any formal contract will be presented to council for final approval.

## FISCAL IMPACT SUMMARY:

If the city is not awarded or does not accept a grant, there are no fees to pay Public Management, Inc.

If the city is awarded and accepts the grant, Public Management Inc.'s not-to-exceed fee of \$60,000 is paid from the awarded grant amount.

While the grant itself has no matching requirement, the maximum scoring criteria points are awarded with a 15% match of \$112,500 for a full \$750,000 award amount.

## ALTERNATIVES:

The city could decline to participate in the grant program.

## ATTACHMENTS:

A copy of the signed evaluation criteria score sheet is attached to this memo.

A copy of the proposed contract with Public Management Inc. is attached to this memo.

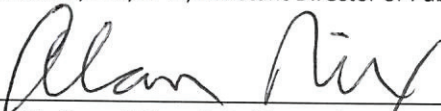
**City of Stephenville, Texas**  
2025/2026 TxCDBG Request for Proposal (RFP)  
**Administration/Professional Services Rating Summary**  
Friday, September 27, 2024

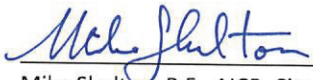
Firm Name	Location	Experience (30%)	Work Performance (30%)	Capacity to Perform (20%)	Proposed Cost (20%)	Total (100%)	Rank
Public Management	Cleveland	28.3	30.0	16.0	20.0	94.3	1
GrantWorks	Austin	27.8	30.0	14.8	19.3	91.8	2
Traylor and Assoc.	Tyler	23.3	29.5	13.8	16.0	82.5	3

Evaluator Name, Title, and Signature

  
\_\_\_\_\_  
Nick Williams, P.E., CFM, Director of Public Works

  
\_\_\_\_\_  
Barbara Horton, P.E., CFM, Assistant Director of Public Works

  
\_\_\_\_\_  
Alan Nix, City Council Place 6, Public Works Committee Chair

  
\_\_\_\_\_  
Mike Shelton, P.E., AICP, City Engineer

This contract (“Contract”) is made and entered effective \_\_\_\_\_, 2024 by and between **PUBLIC MANAGEMENT, INC.**, a Texas corporation, of Houston, Harris County, Texas (“Consultant”) and the **CITY OF STEPHENVILLE**, (“Client”) for the purpose of retaining Consultant to render **Application Preparation and Administration Services** to the Client for Texas Community Development Block Grant Program (TxCDBG) – Community Development Fund (CD Fund), administered by the Texas Department of Agriculture (TDA).

Client and Consultant agree that Consultant will provide services to Client on the terms and conditions outlined in this Contract.

**I.**

Consultant will provide Client with administrative services as follows:

PRE- FUNDING SERVICES:

**Application Preparation:** The Team will prepare the application as directed by the Client to apply for available funding sources adherent to the state and federal agencies guidelines. The Team will coordinate all activities and other service providers with regard to the preparation of the application, including, but not limited to:

- Review of proposed project for program compliance and will work with Client staff to provide an overview;
- Advise on important deadlines and procedures;
- Schedule project meetings with client staff to evaluate proposed project and timeframes.
- Prepare project description in conjunction with staff and project engineer;
- Evaluate project objective and develop timelines/milestones;
- Prepare project maps in ArcGIS and PDF format;
- Prepare necessary preliminary Environmental Compliance documentation;
- Conduct public hearings (as applicable) for application submission and attend Client meeting to address application development;
- Package complete application with all pertinent supplemental documentation for client to review prior to submission;
- Identify and document beneficiaries;
- Advise client on funding availability, anticipated scoring, selection and award process.

POST FUNDING SERVICES

**GENERAL ADMINISTRATION SERVICES**

**Administrative Duties:** The Team will coordinate, as necessary, between Client and any other appropriate service providers (i.e. Engineer, Environmental, etc.), contractor, subcontract and/or administrative agency to effectuate the services requested.

- Oversee the project and achieve all of the project goals within the constraints given by the funding agency;
- Develop and implement project phases to plan, budget, oversee, and document all aspects of the specific project;
- Coordinate all activities related to the project’s successful completion with all other professionals and organizations associated with this project.

**Recordkeeping:** The Team will assist the Client with maintaining all records generated by the program. This includes all records required by the funding agency and the Client (i.e. program management records).

- Complete filing system will be developed and maintained at Client's office;
- Both physical and electronic form of records will be developed and accessible;
- Records will be updated as necessary to ensure compliance with funding source and administrative agency;
- Records will be retained for the appropriate period of time as dictated by the funding agency, with electronic records available for perpetuity.

**Financial Management:** The Team will assist the Client in keeping the general journal, general ledger, cash receipts journal and all other necessary financial documents, as well as monitor the Client's financial system.

- Utilize and assist with the agency's system of record to complete milestones, submit documentation, reports, draws, change requests, etc.;
- Request fund expenditure in-line with project milestones;
- Develop a detailed Contract Ledger;
- Establish a filing system that accurately and completely reflects the financial expenditures of the program and project(s).
- Keep track of disbursement of funds and ensure that the vendors are paid within the required timeframe set out by the funding agency.

**Construction Management:** The Team will coordinate and supervise the project to ensure designated activities are realizing the intended outcomes as stated in contract documents. We will oversee specialized contractors and other personnel and allocate necessary resources.

- Assist the Client in submitting/setting up project applications in the Agency's system of record;
- Coordinate the development, completion, and execution of contract documents to ensure supporting documentation is in order;
- Conduct regular on-site visitations and assessments;
- Development and maintenance of construction management status log;
- Recommendation and development of scope realignments as prescribed by the project's complexities.

## CONTRACT ADMINISTRATION SERVICES

**Administrative Duties:** The Team will work with the Client's staff to provide the necessary administrative and planning services to see the project to completion. The Team will meet with officials on a regular basis to review progress on the objectives of the project and then take actions to see that those objectives are met.

- Act as the Client's liaison to the funding agency in all matters concerning the project;
- Coordinate communication via email, conference call, facsimile, and direct meetings to ensure the project is on schedule and all parties are properly informed;
- Prepare and submit any necessary reports required by the funding agency during the course of the project (i.e. Monthly/Quarterly Progress Reports, Project Monitoring Reports, Project Completion Reports, etc.);



- Provide Client staff specific instructions on the necessary administrative procedures that will assure a successful project;
- Establish and maintain record keeping systems;
- Assist with resolving monitoring and audit findings.

**Real Property Acquisition (as applicable):** The Team will assist the Client in the preliminary acquisition assessment as well as the development and/or coordination of acquisition of real property (real property in the context of acquisition refers to permanent interest in real property as well as certain less-than-full-fee interests in real property).

- Adherence to the Uniform Act (URA) which guides the acquisition of real property that may be necessary to the needs of the project;
- ***If it is determined that property needs to be acquired, Public Management, Inc. will perform the following services according to the URA for an additional fee.***
- Development and maintenance of appropriate file materials to ensure compliance with federal, state, and program requirements;
- Administrative coordination of parcels, values, correspondence;
- Coordinate property appraisals and determine just compensation;
- Ensure easement/right of way boundaries are in line with proposed project and survey;
- Completion and/or file closure of acquired property.

**Environmental Services:** The Team will prepare all documents and correspondence for environmental review and clearance as well as maintain close coordination with local officials, project engineer and other members of the project team to assure appropriate level of environmental review is performed. This project element will abide by the National Environmental Policy Act (NEPA) or any other Federal, State or local regulation as applicable.

- Review each project description to ascertain and/or verify the level of environmental review required: Exempt, Categorical Exclusion not Subject to 58.5, Categorical Exclusion Subject to 58.5, Environmental Assessment, and Environmental Impact Statements;
- Prepare and maintain a written environmental review record;
- Consult and coordinate with oversight/regulatory agencies to facilitate environmental clearance;
- Conduct site-visits as necessary to ensure environmental compliance;
- Prepare all responses to comments received during comment phase of the environmental review, including State/Federal Agency requiring further studies and/or comments from public or private entities during public comment period;
- Provide documentation of clearance for Parties Known to be Interested as required by 24 CFR 58.43;
- Advise and complete environmental re-evaluations per 24 CFR 58.47 when evidence of further clearance or assessment is required;
- Assist in compliance with flood plain and wetlands management review guidelines;
- ***Not included in this service are archeological, engineering, or other special service costs mandated by environmental review record compliance agencies.***

**Civil Rights Requirements:** The Team will structure the program so that all procurement procedures, contracts, and polices will be in accordance with state and federal regulations associated thereto. Ensure that the contractors make affirmative efforts to employ Section 3 Residents and Business Concerns, Minority Business Enterprises, Small Business Enterprises and Women Business Enterprises.

- Set up Civil Rights & Citizen Participation File;
- Designate a Civil Rights Officer (CRO);
- Adopt policies and grievance procedures regarding Citizen Participation;
- Adopt Policies and Pass Resolution/Proclamation/Ordinances regarding Civil Rights;
- Publish Citizen Participation and Civil Rights Notices;
- Place necessary documentation in Bid Packets for Contractors;
- Include required clauses in Construction Contracts between Grant Recipient and Contractor;
- Take action to Affirmatively Further Fair Housing;
- The Team will be diligent and consistent in implementing the project's civil rights responsibilities and will undertake further action and reporting requirements.

**Procurement/Bidding/Contracting:** Procurement is the process through which an entity obtains goods and services from vendors. The Team will assist the Client in following appropriate procurement procedures to obtain professional and construction services necessary to complete the project.

- Provide assistance to ensure compliance with Local Government Code Chapter 252 as applicable to goods and services;
- Provide assistance to ensure compliance with 2 CFR 200.320 (Methods of Procurement to be Followed).

**Labor Standards Monitoring:** The Team will ensure that all labor standards laws and regulations are observed during the course of the project. The Team will structure the program so that all procurement procedures and contracts will meet equal opportunity requirements. The Team will also ensure that the contractors make affirmative efforts to employ minority persons and minority subcontractors. Ensure compliance with laws regarding Labor Standards, which include:

- Davis-Bacon Act (40 USC Chapter 31, Subchapter IV);
- Contract Work Hours & Safety Standards Act (CWHSSA);
- Copeland (Anti-Kickback) Act (18 USC 874; 40 USC 3145);
- Fair Labor Standards Act.

**Force Account (as applicable):** The Team will assist the Client in preparing force account documentation for the project, if necessary, and will consolidate this information for suitable presentation to funding agency. ***Public Management, Inc. may consider an additional fee for these services depending upon the scope of Force Account activities.***

- Develop and maintain documentation of all associated costs;
- Using appropriate recordkeeping forms required by funding agency;
- Submit documentation upon completion of necessary milestones.

**Contract Close-out Assistance:** The Team will prepare any necessary reports required by the funding agency to close out the project. The Team will work with the Client in preparing the annual audits and necessary actions to ensure the project reaches the "Administratively Closed" status.

- Ensure projects outcomes are in line with contract documents and funding agency's goals and objectives;
- Ensure project beneficiaries are appropriately documented and reported;
- Develop, complete, and submit project completion report(s) and any other necessary administrative completion documents.



It is specifically agreed and understood that Consultant will not provide either personally or by contract any professional or technical services requiring a license by the State of Texas in any phase or aspect of the foregoing. Rather, Consultant will advise Client of the need of such services in furtherance of the planned objectives of Client's Program.

Client acknowledges that Consultant is providing Administrative Services only to Client and that Consultant is not responsible for any procurement activities for or on behalf of the Client. That is, Client, not Consultant, will advertise for and procure the services of any third party required to fulfill Program requirements. By way of example only, Client, not Consultant, must timely and properly post any advertisements necessary to fulfill Program requirements and Client, not Consultant, will enter into any required contracts with third parties necessary to fulfill Program requirements.

Client Initials \_\_\_\_\_

Consultant Initials \_\_\_\_\_

**II.**

Consultant hereby agrees that in the implementation of this Contract, Consultant will comply with the terms and conditions of **Attachment III**, which document is attached hereto and incorporated herein for all purposes, as if set out herein verbatim.

**III.**

Client is awarding this contract in accordance with the State of Texas Government Code 2254, Professional and Consulting Services.

**IV.**

It is agreed by the parties hereto that Consultant will, in the discharge of services herein, be considered as an Independent Contractor as that term is used and understood under the laws of the State of Texas and further for the purposes of governing Consultant's fees under the Procurement Standards of Title 2 CFR Part 200.

**V.**

For work associated to the **Texas Community Development Block Grant Program (TxCDBG)** and in consideration of the foregoing, Client agrees to pay Consultant a fee not to exceed **ZERO DOLLARS (\$0.00)** for **Application Preparation Services**.

For work associated to **Texas Community Development Block Grant Program (TxCDBG)** and in consideration of the foregoing, Client agrees to pay Consultant a fee of 8% of the grant request amount not to exceed **Sixty Thousand Dollars and Zero Cents (\$60,000.00)** for **Administrative Services**.

*The proposed fee is based on the submission and award of an application that requests the maximum grant funds allowable (\$750,000.00). Final administration fee will be the lesser of 8% of the request amount or \$60,000.*

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**VI.**

It is agreed that upon determination of total funding request amount Consultant and Client will execute the **Work Authorization (Attachment I)** that will detail final contract amount and cost for services. It is also agreed that payments to such Consultant shall be subject to adjustment where monitoring reviews or audits by the agency indicate that personal services were compensated at greater than reasonable rates.

Services that fall outside the regular scope and/or are not part of the proposed scope will be billed according to the hourly rate and fee schedule defined in **Corporate Hourly Rate and Fee Schedule (Attachment II)**. *Prior to Consultant performing any services which are not part of the proposed scope, Consultant shall submit to Client, per paragraph of this contract, a projected hourly schedule and projected total fee for approval.*

**VII.**

Payment of the fees associated with (“**Part V. and VI.**”) - Payment Schedule of this Agreement – shall be contingent upon funding award. In the event that grant funds are not awarded to the Client this agreement shall be terminated by the Client.

**VIII.**

For purposes of this Contract, the Mayor or equivalent authorized person will serve as the Local Program Liaison and primary point of contact for Consultant. All required progress reports and communication regarding the project shall be directed to this liaison and other local personnel as appropriate.

**IX.**

This Contract shall extend and be in full force until the Program has been fully closed out by the agency. Notwithstanding the foregoing, this Contract may be terminated by Consultant, with or without cause, on forty-five (45) days’ written notice to Client.

**X.**

**Termination for Cause by Client:** If Consultant fails to fulfill in a timely and proper manner its obligations under this Contract, or if Consultant violates any of the covenants, conditions, contracts, or stipulations of this Contract, Client shall have the right to terminate this Contract by giving written notice to Consultant of such termination and specifying the effective date thereof, which shall be at least five (5) days before the effective date of such termination. In the event of termination for cause, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by Consultant pursuant to this Contract shall, at the option of Client, be turned over to Client and become the property of Client. In the event of termination for cause, Consultant shall be entitled to receive reasonable compensation for any necessary services actually and satisfactorily performed prior to the date of termination.

Termination for Convenience by Client: Client may at any time and for any reason terminate Consultant's services and work at Client's convenience upon providing written notice to the Consultant specifying the extent of termination and the effective date. Upon receipt of such notice, Consultant shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement. Upon such termination, Consultant shall be entitled to payment only as follows: (1) the actual cost of the work completed in conformity with this Agreement; plus, (2) such other costs actually incurred by Consultant as are permitted by the prime contract and approved by Client; (3) plus ten percent (10%) of the cost of the work referred to in subparagraph above for overhead and profit. There shall be deducted from such sums as provided in this subparagraph the amount of any payments made to Consultant prior to the date of the termination of this Agreement. Consultant shall not be entitled to any claim or claim of lien against Client for any additional compensation or damages in the event of such termination and payment.

Resolution of Program Non-Compliance and Disallowed Costs: In the event of any dispute, claim, question, or disagreement arising from or relating to this Contract, or the breach thereof, including determination of responsibility for any costs disallowed as a result of non-compliance with federal, state or Program requirements, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, the parties shall consult and negotiate with each other in good faith within thirty (30) days of receipt of a written notice of the dispute or invitation to negotiate, and attempt to reach a just and equitable solution satisfactory to both parties. If the matter is not resolved by negotiation within thirty (30) days of receipt of written notice or invitation to negotiate, the parties agree first to try in good faith to settle the matter by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure. The parties may enter into a written amendment to this Contract and choose a mediator that is not affiliated with the American Arbitration Association. The parties shall bear the costs of such mediation equally. If the matter is not resolved through such mediation within sixty (60) days of the initiation of that procedure, either party may proceed to file suit.

#### **XI.**

Client, the agency, the U.S. Department of Housing and Urban Development (HUD), Inspectors General, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of Consultant which are directly pertinent to this Program, for the purpose of making audit, examination, excerpts, and transcriptions, and to close out the Client's contract. Consultant agrees hereby to maintain all records made in connection with the Program for a period of three (3) years after Client makes final payment and all other pending matters are closed. All subcontracts of Consultant shall contain a provision that Client, the agency, and the Texas State Auditor's Office, or any successor agency or representative, shall have access to all books, documents, papers and records relating to subcontractor's contract with Consultant for the administration, construction, engineering or implementation of the Program between the agency and Client.

**XII.**

If, by reason of force majeure, either party hereto shall be rendered unable, wholly or in part, to carry out its obligations under this Contract, then if such party shall give notice and full particulars of such force majeure in writing to the other party within a reasonable time after the occurrence of the event or cause relied on, the obligation of the party giving such notice, so far as it is affected by such force majeure, shall be suspended during the continuance of the inability then claimed, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

The term "force majeure" as employed herein shall mean acts of God, acts of public enemy, orders of any governmental entity of the United States or of the State of Texas, or any civil or military authority, and any other cause not reasonably within the control of the party claiming such inability.

**XIII.**

This document embodies the entire Contract between Consultant and Client. Client may, from time to time, request changes in the services Consultant will perform under this Contract. Such changes, including any increase or decrease in the amount of Consultant's compensation, must be agreed to by all parties and finalized through a signed, written amendment to this Contract.

**XIV.**

If a portion of this Contract is illegal or is declared illegal, the validity of the remainder and balance of the Contract will not be affected thereby.

**XV.**

Any provision of this Contract which imposes upon Consultant or Client an obligation after termination or expiration of this Contract will survive termination or expiration of this Contract and be binding on Consultant or Client.

**XVI.**

No waiver of any provision of this Contract will be deemed, or will constitute, a waiver of any other provision, whether or not similar, nor will any waiver constitute a continuing waiver. No waiver will be binding unless executed in writing by the party making the waiver.

**XVII.**

This Contract will be governed by and construed in accordance with the laws of the State of Texas.

**XVIII.**

Any dispute between Consultant and Client related to this contract which is not resolved through informal discussion will be submitted to a mutually agreeable mediation service or provider. The parties to the mediation shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

**XIX.**

The party who prevails in any legal proceeding related to this contract is entitled to recover reasonable attorney fees and all costs of such proceeding.

**XX.**

Consultant and Client, each after consultation with an attorney of its own selection (which counsel was not directly or indirectly identified, suggested, or selected by the other party), both voluntarily waive a trial by jury of any issue arising in an action or proceeding between the parties or their successors, under or connected with this contract or its provisions. Consultant and Client acknowledge to each other that Consultant and Client are not in significantly disparate bargaining positions.



\_\_\_\_\_  
PATRICK K. WILTSHIRE  
President/CEO

*Client*

\_\_\_\_\_  
Chief Elected Official

ATTEST:

\_\_\_\_\_

**Attachment I  
Work Authorization**

For work associated to City of Stephenville Contract No. XXXXX-XXXX and in consideration of the foregoing, Client agrees to pay Consultant a fee not to exceed:

**Sixty Thousand Dollars and 0/100 (\$60,000.00)**

The fees are payable upon receipt of invoice from Consultant in accordance with the following schedule for Administrative Services.

<b><u>ADMINISTRATIVE SERVICES</u></b>		
Preliminary Administrative Requirements	<b>25%</b>	<b>\$15,000.00</b>
Environmental Review	<b>25%</b>	<b>\$15,000.00</b>
Start of Construction	<b>20%</b>	<b>\$12,000.00</b>
Construction Completion	<b>20%</b>	<b>\$12,000.00</b>
Closeout Documents	<b>10%</b>	<b>\$6,000.00</b>
<b>TOTAL FEE</b>		<b>\$60,000.00</b>

It is also agreed that payments to such Consultant shall be subject to adjustment where monitoring reviews or audits by the client indicate that personal services were compensated at greater than reasonable rates.

\_\_\_\_\_  
PATRICK K. WILTSHIRE  
President/CEO

\_\_\_\_\_  
Chief Elected Official

ATTEST:  
  
\_\_\_\_\_

**Attachment II  
Corporate Hourly Rate & Fee Schedule**

PUBLIC MANAGEMENT, INC.  
2024 Hourly Rate

Principal Consultant	\$275.00/HR
Senior Consultant	\$250.00/HR
Senior Project Manager	\$225.00/HR
Environmental Specialist	\$200.00/HR
Project Manager	\$200.00/HR
Planner	\$200.00/HR
GIS Manager	\$200.00/HR
GIS Technician	\$185.00/HR
Assistant Project Manager/Planner	\$170.00/HR
Compliance Specialist	\$150.00/HR
Executive Assistant	\$125.00/HR

*Hourly rates for personnel not listed will be billed at direct payroll cost*

**REIMBURSABLE EXPENSES**

- Travel (vehicle miles traveled) at allowable IRS rate per mile, or at actual out-of-pocket cost.
- Actual cost of subsistence and lodging.
- Actual cost of long-distance telephone calls, expenses, charges, delivery charges, and postage.
- Actual invoiced cost of materials required for the job and used in drafting and allied activities, including printing and reproduction.

This rate schedule will be applicable through December 31, 2024. In January, 2025, if increases are necessary due to increases in wages or other salary related costs, the rates shown will be adjusted accordingly.

**ATTACHMENT III**  
**TERMS AND CONDITIONS**

I.

**Equal Employment Opportunity**

During the performance of this Contract, Consultant agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Contractor will not discourage or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for

purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant



agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(c) Subcontracts. Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.

(d) Incorporation by reference. The equal opportunity clause may be incorporated by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts and subcontracts as the Deputy Assistant Secretary may designate.

(e) Incorporation by operation of the order. By operation of the order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written.

(f) Adaptation of language. Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings. [43 FR 49240, Oct. 20, 1978, as amended at 62 FR 66971, Dec. 22, 1997; 79 FR 72993, Dec. 9, 2014; 80 FR 54934, September 11, 2015]

II.

Civil Rights Act of 1964

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

III.

Section 109 of the Housing and Community Development Act of 1974

The Contractor shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

IV.

Section 504 Rehabilitation Act of 1973, as Amended

The Contractor agrees that no otherwise qualified individual with disabilities shall, solely by reason of his/her disability, be denied the benefits of, or be subjected to discrimination, including

discrimination in employment, under any program or activity receiving federal financial assistance.

V.

Age Discrimination Act of 1975

The Contractor shall comply with the Age Discrimination Act of 1975 which provides that no person in the United States shall on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

VI.

Economic Opportunities for Section 3 Residents and Section 3 Business Concerns.

a) The work to be performed under this Contract is subject to the requirements of section 3 of the Housing and Urban Development (HUD) Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

b) The parties to this Contract agree to comply with HUD's regulations in 24 CFR part 75, which implement section 3. As evidenced by their execution of this Contract, the parties to this Contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.

c) The Contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.

d) The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR

part 75 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR part 75. Minimum expectations of effort to direct employment opportunities to such workers are identified in the TxCDBG Project Implementation Manual.

e) Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this Contract for default, and debarment or suspension from future HUD assisted contracts.

VII.

Section 503 of the Rehabilitation Act (the "Act") - Handicapped Affirmative Action for Handicapped Workers

a) Consultant will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. Consultant agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: Employment, upgrading, demotion or transfer, recruitment, advertising layoff or termination rates of pay or other forms of compensation, and selection for training, including apprenticeship.

b) Consultant agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

c) In the event of Consultant's non-compliance with requirements of this clause, actions for non-compliance may be taken in accordance with rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

d) Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

e) Consultant will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973 and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

f) Consultant will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary Issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor with respect to any subcontract or purchase order as the director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

VIII.

Interest of Members of Client

No member of the governing body of Client and no other officer, employee, or agent of Client who exercises any functions or responsibilities in connection with the planning and carrying out of the Program, shall have any personal financial interest, direct or indirect, in this Contract and Consultant shall take reasonably appropriate steps to assure compliance.

IX.

Interest of Other Local Public Officials

No member of the governing body of the locality and no other public official of such locality, who exercises any functions or responsibilities in connections with the planning and carrying out of the Program, shall have any personal financial interest, direct or indirect, in this Contract; and Consultant shall take appropriate steps to assure compliance.

X.

Interest of Consultant and Employees

Consultant covenants that he presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of its services hereunder. Consultant further covenants that in the performance of this Contract, no person having any such interest shall be employed.

XI.

Debarment and Suspension (Executive Orders 12549 and 12689)

The Consultant certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, or otherwise excluded from or ineligible for participation in federally-assisted programs under Executive Orders 12549 (1986) and 12689

(1989). The term "principal" for purposes of this Agreement is defined as an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Consultant. The

Consultant understands that it must not make any award or permit any award (or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

XII.

Copyrights and Rights in Data

FEMA has no regulations pertaining to copyrights or rights in data as provided in 24 CFR 85.36. FEMA requirements, Article 45 of the General Conditions to the Contract for Construction (form FEMA-5370) requires that contractors pay all royalties and license fees.

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All drawings and specifications prepared by the Design Professional pursuant to this contract will identify any applicable patents to enable the general contractor to fulfill the requirements of the construction contract.

XIII.

Clean Air and Water.  
(Applicable to contracts in excess of \$150,000)

Due to 24 CFR 85.36(i)(12) and federal law, the Design Professional shall comply with applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. § 1857h-4 transferred to 42 USC § 7607, section 508 of the Clean Water Act (33 U.S.C. § 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15), on all contracts, subcontracts, and sub grants of amounts in excess of \$100,000.

XIV.

Energy Efficiency

Pursuant to Federal regulations (24 C.F.R 85.36(i)(13)) and Federal law, except when working on an Indian housing authority Project on an Indian reservation, the Design Professional shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163 codified at 42 U.S.C.A. § 6321 et. seq.).

XV.

Retention and Inspection of Records

Pursuant to 24 CFR 85.26(i)(10) and (11), access shall be given by the Design Professional to the Owner, HUD, the Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers, and records of the Design Professional which are directly pertinent to that specific Contract for the purpose of making an audit, examination, excerpts, and transcriptions. All required records shall be retained for three years after the Owner or Design Professional and other sub grantees make final payments and all other pending matters are closed.

# Public Works Department

## STAFF REPORT

**SUBJECT:** Solid Waste Franchise Agreement – Annual Rate Adjustment Request  
**MEETING:** Public Works Committee – 15 OCT 2024  
**DEPARTMENT:** Public Works  
**STAFF CONTACT:** Nick Williams

### RECOMMENDATION:

Staff recommends review of the proposed rate adjustment for the collection, hauling, and disposal of municipal solid waste and construction and demolition waste in accordance with provisions of the existing exclusive franchise agreement.

### BACKGROUND:

The City of Stephenville entered into an exclusive franchise agreement with IESI, TX Corporation in January of 2005. The agreement is currently operated by Waste Connections Lonestar, Inc.

The exclusive franchise agreement was last updated and approved in August of 2023 where the agreement term was extended to December 31, 2028.

### PROPOSAL:

Attached is a copy of the rate adjustment request letter received from Waste Connections dated September 18, 2024. Attached is a copy of the proposed draft amendment. A copy of the existing agreement is also attached. The proposed rates, if approved by council, would become effective on January 1, 2025 in accordance with the agreement language.

### FISCAL IMPACT SUMMARY:

The requested adjustment results in a 2.27% CPI increase and a 15.23% disposal increase to the existing rate for a total 17.50% increase. The residential and commercial polycart rates would increase \$2.44 and \$3.97 per month respectively. This rate adjustment would equate to a 3.78 percent average annual increase over the last ten years, including 2015.

Waste Connections has agreed to increase the disposal fee paid to the Stephenville Landfill from **\$70.68 to \$83.05** per ton. Waste Connections disposed of 2,029 tons per year over a three-year average. The corresponding revenue, with an increase of \$12.37/ton, yields \$25,099 in annual increased revenue from the Waste Connections account.

Waste Connections has additionally agreed to delay the increased disposal fee per ton for the Stephenville Wastewater Treatment Plant until October 1, 2025 in order to maintain the budget previously established for the treatment plant.

The franchise agreement allows for the adjustment of rates. An excerpt from the agreement is included below:

#### "SECTION 10. RATE ADJUSTMENT.

A. CPI-U Adjustment. On each anniversary date of this Agreement, the Service Provider shall have the right, in its sole discretion and upon giving prior notice to the City, to increase or decrease the rates set forth in Section 8 hereof (the "Initial Rates") in accordance with the CPI-U. As used herein, "CPI-U" shall mean the revised Consumer Price Index rate for all urban consumers (all items included) for the nearest available metropolitan area, based on the latest available figures from the Department of Labor's Bureau of Labor Statistics (the "Bureau"). The following website (or any successor website) will be the source for such information:

[https://data.bls.gov/pdq/SurveyOutputServlet?data\\_tool=dropmap&series\\_id=CUUR0300SA0,CUUS0300SA0](https://data.bls.gov/pdq/SurveyOutputServlet?data_tool=dropmap&series_id=CUUR0300SA0,CUUS0300SA0). The CPI-U used will be the CPI-U published by the Bureau during the month ninety (90) days preceding the adjustment under this Section 10.A. The amount of the increase or decrease under this Section 10.A. shall be equal to the percentage that the CPI-U has increased or decreased over the previous twelve (12) month period.

B. Operating Cost Adjustment. In addition to the rate adjustments provided for in Section 10.A., at any time during the term of this Agreement, the Service Provider may petition the City for additional rate and price adjustments at reasonable times on the basis of material or unusual changes in its cost of operations not otherwise the basis of any other rate adjustments herein. At the time of any such petition, the Service Provider shall provide the City with documents and records in reasonable form and sufficient detail to reasonably establish the necessity of any requested rate adjustment. The City shall not unreasonably withhold condition or delay its consent to any requested rate increase. In the event the City fails or refuses to consent to any such requested rate increase and the Service Provider can demonstrate that such rate increase is necessary to offset the Service Provider's increased costs in connection with performing the services under this Agreement not otherwise offset by any previous rate adjustments hereunder, the Service Provider may, in its sole discretion, terminate this Agreement upon ninety (90) days written notice to the City."

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

**ALTERNATIVES:**

Item 5.

The following alternatives are provided for council consideration:

1. Do not approve the request as presented;
2. Recommend an alternative calculation methodology to be included in the contract.

**ATTACHMENTS:**

[2024\\_09-18 Exclusive Franchise Agreement – Waste Connections Transmittal Request](#)  
[2024\\_10-15 Amendment No. 8 – DRAFT](#)

**SUPPORTING DOCUMENTATION:****CPI for All Urban Consumers (CPI-U)**

[https://data.bls.gov/pdq/SurveyOutputServlet?data\\_tool=dropmap&series\\_id=CUUR0300SA0,CUUS0300SA0](https://data.bls.gov/pdq/SurveyOutputServlet?data_tool=dropmap&series_id=CUUR0300SA0,CUUS0300SA0)

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
2014	227.673	228.664	230.095	231.346	231.762	232.269	232.013	231.611	231.762	231.131	229.845	228.451	230.552
2015	226.855	227.944	229.337	229.957	230.886	232.026	231.719	231.260	230.913	230.860	230.422	229.581	230.147
2016	229.469	229.646	230.977	231.975	232.906	233.838	233.292	233.561	234.069	234.337	234.029	234.204	232.692
2017	235.492	236.052	236.154	236.728	236.774	237.346	236.942	237.892	239.649	239.067	238.861	238.512	237.456
2018	239.772	241.123	241.595	242.486	243.279	243.770	243.776	243.605	243.640	244.163	243.484	242.150	242.747
2019	242.547	243.856	245.554	246.847	246.667	246.515	247.250	246.953	246.891	247.423	247.385	247.289	246.265
2020	248.005	248.412	248.136	246.254	245.696	247.223	248.619	249.639	250.193	250.542	250.255	250.693	250.639
2021	252.067	253.386	255.319	257.207	259.343	261.668	263.013	263.728	264.593	267.160	268.360	269.263	261.259
2022	271.634	274.688	278.598	279.879	283.307	287.427	287.608	287.168	287.656	288.836	288.991	288.205	283.666
2023	290.438	292.285	293.358	295.315	295.889	296.789	297.279	298.975	299.657	299.394	298.930	298.754	296.422
2024	300.421	303.144	304.490	305.104	305.296	305.357	305.819	305.761					

**CPI RATE STRUCTURE**

August 2023 = 290.438

August 2024 = 300.421

$$\Delta = [(305.761 - 298.975) / 298.975] = \underline{2.27\%} \checkmark + \text{Disposal of } 15.23\% = \underline{17.50\%}$$

Roll Out Containers			Δ17.50%	
CURRENT RATES / MONTH		PROPOSED RATES / MONTH	Δ\$↑	
Residential Polycart	\$13.97	Residential Polycart	\$16.41	\$2.44
Residential Extra Polycart	\$6.98	Residential Extra Polycart	\$8.20	\$1.22
Commercial Polycart	\$22.68	Commercial Polycart	\$26.65	\$3.97
Commercial Extra Polycart	\$11.59	Commercial Extra Polycart	\$13.62	\$2.03

Open Top Roll Off Containers			Δ17.50%	
CURRENT RATES / MONTH		PROPOSED RATES / MONTH	Δ\$↑	
Haul Fee	\$245.31	Haul Fee	\$288.24	\$42.93
Disposal Fee per ton	\$70.68	Disposal Fee per ton	\$83.05	\$12.37
Delivery and Exchange	\$143.51	Delivery and Exchange	\$168.65	\$25.14
Daily Container Rental	\$6.74	Daily Container Rental	\$7.92	\$1.18



WASTE CONNECTIONS  
LONE STAR, INC.  
*Connect with the Future*

September 18, 2024

Attn: City Administrator  
City of Stephenville  
298 W Washington St.  
Stephenville, TX 76401

Dear City Administrator

Waste Connections appreciates the opportunity to serve the City of Stephenville this past year. We have made every effort to ensure that you receive great customer service with affordable rates.

As per our agreement, we must request from the City of Stephenville the annual Consumer Price Index (CPI) rate adjustment called for in our agreement. The percentage of the increase calculated by the mechanism within our agreement equals a 17.50% increase to your rates. Per our agreement, we are also requesting an insignificant increase; to help cover the disposal rate increases we have incurred this year. The total increase is 2.27%. The CPI and disposal rate increases would bring the total to 17.50%. I have enclosed the CPI information as well as a sheet with the revised rates for the services we provide. We ask that these new rates for services rendered become effective January 1, 2025.

Waste Connections is committed to maintaining the highest quality of service in the City of Stephenville. We would like to take this opportunity to thank the city staff, business community and residents for your continued patronage.

Respectfully,

Sean Dowden  
District Manager  
Waste Connections Lone Star, INC.

1291 N Bates St. Stephenville TX  
Phone 1.800.350.3024



City of Stephenville Solid Waste Pricing Comparison

Residential Adjustment	17.50%
Commercial Adjustment	17.50%
Roll Off Adjustment	17.50%

Current Pricing Schedule

Commercial	1 x Week	2 x Week	3 x Week	4 x Week	5 x Week	6 x Week	Locks	Extra Pickups
Size / Pickup								
2 Cu Yd	\$ 78.58	\$ 132.04	\$ 185.48	\$ 224.48	\$ -	\$ -	\$ 11.63	\$ 48.55
3 Cu Yd	\$ 107.29	\$ 143.83	\$ 216.33	\$ 268.27	\$ 307.17	\$ -	\$ 11.63	\$ 58.70
4 Cu Yd	\$ 117.70	\$ 169.15	\$ 237.64	\$ 401.64	\$ 504.44	\$ 607.62	\$ 11.63	\$ 66.83
5 Cu Yd	\$ 130.49	\$ 210.95	\$ 288.14	\$ 493.67	\$ 618.81	\$ 745.65	\$ 11.63	\$ 83.10
6 Cu Yd	\$ 187.64	\$ 268.64	\$ 428.75	\$ 572.53	\$ 720.67	\$ 868.64	\$ 11.63	\$ 99.15

Open Top Roll Off Container Rates	Residential/Polycart	Residential/Extra Polycart	Commercial/Polycart	Commercial/Extra Polycart
Haul Fee	\$ 245.31	\$ 13.07	\$ 6.98	\$ 22.09
Disposal Fee per Ton	\$ 70.69	\$ 6.98	\$ 143.51	\$ 6.74
Delivery and Exchange	\$ -	\$ -	\$ -	\$ -
Daily Container Rental	\$ -	\$ -	\$ -	\$ -

Proposed Pricing Schedule (effective January 1, 2025)

Commercial	1 x Week	2 x Week	3 x Week	4 x Week	5 x Week	6 x Week	Locks	Extra Pickups
Size / Pickup								
2 Cu Yd	\$ 92.79	\$ 156.11	\$ 217.63	\$ 224.48	\$ 419.98	\$ -	\$ 14.02	\$ 68.22
3 Cu Yd	\$ 126.06	\$ 195.00	\$ 257.71	\$ 338.71	\$ 479.98	\$ -	\$ 14.02	\$ 88.97
4 Cu Yd	\$ 138.29	\$ 198.75	\$ 348.72	\$ 471.21	\$ 592.70	\$ 714.17	\$ 14.02	\$ 78.82
5 Cu Yd	\$ 163.98	\$ 247.66	\$ 402.65	\$ 579.81	\$ 777.23	\$ 919.47	\$ 14.02	\$ 97.04
6 Cu Yd	\$ 185.23	\$ 326.14	\$ 603.78	\$ 672.71	\$ 846.77	\$ 1,018.28	\$ 14.02	\$ 116.90

Open Top Roll Off Container Rates	Residential/Polycart	Residential/Extra Polycart	Commercial/Polycart	Commercial/Extra Polycart
Haul Fee	\$ 268.23	\$ 82.05	\$ 189.82	\$ 7.92
Disposal Fee per Ton	\$ 82.05	\$ 82.05	\$ 189.82	\$ 7.92
Delivery and Exchange	\$ -	\$ -	\$ -	\$ -
Daily Container Rental	\$ -	\$ -	\$ -	\$ -

CPI calculation for Hauling Portion

August 2024	365,781
August 2023	298,976
Difference	6,796

Difference + 208,976 = 2.27%

Disposal Rate Adjustment

New rate	\$ 50.00	Tons Per Month	=	\$ 90,750	
Old rate	\$ 41.32	X	1,816.00	=	\$ 57,848
Difference	\$ 8.68	X	1,400.00	=	\$ 32,902
Current Revenue per month	\$ 216,074			15.23%	

CPI calculation for Hauling Portion

Disposal Rate Adjustment	
Total % Increase	2.27%
Total \$ Increase	15.23%
Total \$ Increase	17.88%
Total \$ Increase	\$ 37,826

% of Increase Amount:

Residential Revenue	\$ 82,325	17.50%	\$ 14,404
Commercial Revenue	\$ 133,749	17.50%	\$ 23,402
	\$ 216,074		\$ 37,806

Waste Connections Services and Rates

Municipality	Begin Date	End Date	Services Provided	#Homes	Times per week svc	Anniversary Date	Current Residential Rate	Effective 2025 Rate
Stephenville	1/1/1997	12/31/2028	Res, Comm, Rolloff	5,163	2	12/1	\$13.97	\$16.41
Carbon	12/1/2004	11/30/2025	Res, Comm, Rolloff	112	1	12/1	\$16.73	\$17.85
Cresson	12/1/2003	11/30/2026	Res, Comm, Rolloff	567	1	12/1	\$16.84	\$16.84
De Cordova Bend	1/1/2006	12/31/2026	Res, Comm, Rolloff	1,519	1	1/1	\$15.18	\$18.22
Dublin	2/1/2012	1/31/2027	Res, Comm, Rolloff	1,200	1	2/1/	\$15.42	\$15.42
Eastland	10/31/2002	11/30/2028	Res, Comm, Rolloff	1,263	1	12/1	\$13.33	\$14.48
Granbury	5/1/2003	4/30/2029	Res, Res Recyc, Comm, Rolloff	4,048	1	10/1	\$17.33	\$17.33
Millsap	5/1/2004	5/31/2027	Res, Comm, Rolloff	56	1	6/1	\$18.31	\$18.31
Pecan Plantation	1/1/2006	12/31/2025	Res, Comm, Rolloff	3,068	1	1/1	\$13.91	\$17.95
Tolar	11/1/2010	2/1/2025	Res, Comm, Rolloff	447	1	11/1	\$14.46	\$21.98

**Consumer Price Index for All Urban Consumers (CPI-U)  
Original Data Value**

Series Id: CUUR0300SA0, CUUS0300SA0  
 Not Seasonally Adjusted  
 Series Title: All items in South urban, all urban consumers, not  
 Area: South  
 Item: All items  
 Base Period: 1982-84=100  
 Years: 2014 to 2024

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2014	227.673	228.664	230.095	231.346	231.762	232.269	232.013	231.611	231.762	231.131	229.845	228.451	230.552	230.302	230.802
2015	228.855	227.944	229.337	229.557	230.885	232.026	231.719	231.260	230.913	230.860	230.422	229.581	230.147	229.501	230.793
2016	229.489	229.646	230.977	231.975	232.906	233.838	233.262	233.561	234.069	234.337	234.029	234.204	232.682	231.469	233.915
2017	235.482	236.052	236.154	236.728	236.774	237.348	236.842	237.962	239.849	239.067	238.881	238.312	237.455	236.424	238.487
2018	239.772	241.129	241.585	242.488	243.279	243.770	243.776	243.505	243.840	244.163	243.484	242.150	242.737	242.004	243.470
2019	242.547	243.856	245.564	246.847	246.667	246.515	247.280	246.953	246.891	247.423	247.385	247.280	246.285	245.331	247.199
2020	248.005	248.412	248.136	248.254	245.696	247.223	248.619	249.639	250.193	250.542	250.295	250.683	248.939	247.288	249.990
2021	252.067	253.396	255.319	257.207	259.343	261.668	263.013	263.728	264.593	267.160	268.360	269.263	261.259	256.468	266.020
2022	271.934	274.888	278.598	279.879	283.307	287.427	297.608	287.168	287.659	288.836	288.991	288.205	283.656	279.256	288.077
2023	290.438	282.285	293.358	295.315	295.883	296.788	297.279	299.975	299.657	299.657	298.930	298.754	296.422	294.012	298.832
2024	300.421	303.144	304.490	305.104	305.298	305.357	305.819	305.781						303.959	

**SECTION 10. RATE ADJUSTMENT.**

A. **CPI-U Adjustment.** On each anniversary date of this Agreement, the Service Provider shall have the right, in its sole discretion and upon giving prior notice to the City, to increase or decrease the rates set forth in Section 9 hereof (the "Initial Rates") in accordance with the CPI-U. As used herein, "CPI-U" shall mean the revised Consumer Price Index rate for all urban consumers (all items included) for the nearest available metropolitan area, based on the latest available figures from the Department of Labor's Bureau of Labor Statistics (the "Bureau"). The following website (or any successor website) will be the source for such information: [https://data.bls.gov/data/surveys/data\\_tools/announcements/id=CUUR0300SA0.C](https://data.bls.gov/data/surveys/data_tools/announcements/id=CUUR0300SA0.C). The CPI-U used will be the CPI-U published by the Bureau during the month ninety (90) days preceding the adjustment under this Section 10.A. The amount of the increase or decrease under this Section 10.A. shall be equal to the percentage that the CPI-U has increased

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



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

**JANUARY 1, 2014**

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

**STATE OF TEXAS**

**COUNTY OF ERATH**

THIS EXCLUSIVE FRANCHISE AGREEMENT (this "Agreement") is made and entered into as of January 1, 2014, by and between Progressive Waste Solutions of TX, Inc., a Texas Corporation (the "Service Provider"), and the City of Stephenville, Texas (the "City").

WHEREAS, the City and IESI TX Corporation ("IESI") entered into an Exclusive Franchise Agreement for the Collection, Hauling and Disposal of Municipal Solid Waste and Construction and Demolition Waste in the City of Stephenville, Texas dated as of January 1, 2005 (the "Original Contract");

WHEREAS, on December 2, 2008, the City and IESI entered into the First Amendment, (the "First Amendment"), where the parties amended and extended the Original Contract;

WHEREAS, the Original Contract and the First Amendment are hereby collectively referred to as the "Contract";

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

WHEREAS, the Contract is scheduled to terminate as of December 31, 2013;

WHEREAS the City and the Service Provider mutually desire to amend, renew and restate the Contract as further described herein; and

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

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

## SECTION 1. DEFINED TERMS.

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

**Bag** - Plastic sacks, secured at the top, designed to store refuse with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of a bag and its contents shall not exceed thirty-five (35) pounds.

**Bulky Item** - Any item not measuring in excess of either seventy-two (72) inches in length or one hundred fifty (150) pounds in weight, including, but not limited to, refrigerators, stoves, washing machines, water tanks, chairs, couches and other similar household items.

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

**Business Day** - Any day that is not a Saturday, a Sunday or other day on which banks are required or authorized by law to be closed in the City.

**Commercial Hand Collect Unit** - A small Commercial Unit that utilizes a Roll-Out(s) for the collection of its Municipal Solid Waste for its regularly scheduled collection days.

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

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

**Container** - Any receptacle, including, but not limited to, dumpsters, Roll-Offs and Roll-Outs, provided to the City by the Service Provider and utilized by a Commercial, Industrial or Residential Unit for collecting Municipal Solid Waste or Construction and Demolition Waste. Containers are designed to hold between thirty (30) gallons and forty (40) cubic yards of Solid Waste.

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

**Handicapped Residential Unit** - Any residential dwelling that is inhabited by persons, all of whom are physically handicapped to the extent that they are unable to place Municipal Solid

Waste at the curbside, and that generates and accumulates Municipal Solid Waste. The identities of the members of a Handicapped Residential Unit shall be certified by the City Administrator and agreed to by the Service Provider.

**Holidays** - The following days:

- (1) New Year's Day (January 1st)
- (2) Thanksgiving Day
- (3) Christmas Day (December 25th).

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

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

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

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

**Recyclable Materials** -

- (a) **Paper** - Newspapers, magazines, and catalogs, and other paper items such as mail, paper bags or other paper;
- (b) **Metal** - Metal cans composed of tin, steel or aluminum (excluding scrap metal); and
- (c) **Plastic** - Plastic containers including all varieties of the types designated as #1, #2, #3, #4, #5 and #7.

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

**Roll-Off** - A Container with twenty (20) cubic yards to forty (40) cubic yards of capacity.

**Roll-Out** - A Container with ninety-five (95) gallons of capacity.

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

**Solid Waste** - As defined by the EPA under 40 C.F.R. § 261.2(a)(1), or by the State of Texas under the Solid Waste Disposal Act § 361.003(34) whether such waste is mixed with or constitutes recyclable materials.

**White Good** - Any item not measuring in excess of either two (2) cubic yards in size or one-hundred fifty (150) pounds in weight and that is manufactured primarily from metal, including, but not limited to, a bath tub, heater, hot water heater, refrigerator, sink or washer and dryer.

## **SECTION 2. EXCLUSIVE FRANCHISE GRANT.**

The City hereby grants to the Service Provider, in accordance with the City's ordinances and regulations governing the collection, hauling and disposal of Municipal Solid Waste and Construction and Demolition Waste, the exclusive franchise, license and privilege to collect, haul and dispose of Municipal Solid Waste and Construction and Demolition Waste over, upon, along and across the City's present and future streets, alleys, bridges and public properties. In order to maintain the exclusive franchise in favor of the Service Provider contained herein, the City shall take any and all appropriate legal action against any company, customer or third party infringing upon the exclusive rights of the Service Provider. In the event that the City fails to pursue appropriate legal action in order to remedy an infringement on the Service Provider's exclusive-franchise rights, the Service Provider may retain a subrogation right from the City against any and all violations of the exclusive-franchise grant described herein and shall be entitled to any and all actual and consequential damages.

## **SECTION 3. OPERATIONS.**

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

B. **Nature of Operations.** The City hereby grants to the Service Provider, in accordance with the City's ordinances and regulations governing the collection, hauling and disposal of Municipal Solid Waste and Construction and Demolition Waste, the title to all Municipal Solid Waste and Construction and Demolition Waste collected, hauled and disposed of by the Service Provider over, upon, along and across the City's present and future streets, alleys, bridges and public properties. All title to and liability for materials excluded from this Agreement shall remain with the generator of such materials.

**SECTION 4. SINGLE-FAMILY RESIDENTIAL AND COMMERCIAL HAND COLLECT UNIT COLLECTIONS.**

A. Single-Family Residential Units. The Service Provider will collect Municipal Solid Waste from Single-Family Residential Units; provided, that (i) such Municipal Solid Waste is placed in Roll-Outs provided by the Service Provider, (ii) such Roll-Outs are placed within five (5) feet of the curbside or right of way adjacent to the Single-Family Residential Unit no later than 7:00 a.m. on the scheduled collection day and (iii) such Roll-Outs are placed no closer than five (5) feet from mailboxes, vehicles or other obstructions.

B. Commercial Hand Collect Units. The Service Provider will collect Municipal Solid Waste from Commercial Hand Collect Units; provided, that (i) such Municipal Solid Waste is placed in Roll-Outs provided by the Service Provider, (ii) such Roll-Outs are placed within five (5) feet of the curbside or right of way adjacent to the Commercial Hand Collect Unit no later than 7:00 a.m. on the scheduled collection day and (iii) such Roll-Outs are placed no closer than five (5) feet from mailboxes, vehicles or other obstructions; provided, however, the Service Provider and City agree to work together to determine a mutually agreeable procedure for the placement and collection of Roll-Outs from those Commercial Hand Collect Units located on the City Square.

C. Excess or Misplaced Municipal Solid Waste. The Service Provider shall only be responsible for collecting, hauling and disposing of Municipal Solid Waste placed inside the Roll-Outs provided by the Service Provider. Municipal Solid Waste in excess of the Roll-Outs' limits, or placed outside or adjacent to the Roll-Outs, will not be collected by the Service Provider. However, such excess or misplaced Municipal Solid Waste may be collected on occasion and within reason due to Holidays or other extraordinary circumstances as determined by the Service Provider in its sole discretion. If the excess or misplaced Municipal Solid Waste continues, the City shall require the Single-Family Residential or Commercial Hand Collect Unit to utilize an additional Roll-Out so that the excess or misplaced Municipal Solid Waste will be regularly contained. The Service Provider shall be compensated for these additional Services as provided for in Section 9 hereto.

D. Handicapped Residential Units. Notwithstanding anything to the contrary contained herein, the Service Provider agrees to assist Handicapped Residential Units with house-side collection of their Roll-Outs; provided, that the Service Provider receives prior written notice from the Handicapped Residential Unit of such special need. The customer shall be solely responsible for all other modifications and accommodations required by the Americans with Disabilities Act or any other applicable law or regulation in connection with the services provided hereunder to Single-Family Residential Units.

**SECTION 5. COMMERCIAL, INDUSTRIAL AND MULTI-FAMILY RESIDENTIAL UNIT COLLECTIONS.**

The Service Provider will collect Municipal Solid Waste from Commercial, Industrial and Multi-Family Residential Units, as provided for in Section 9 hereof. The Service Provider shall



only be responsible for collecting, hauling and disposing of Municipal Solid Waste placed inside the Containers provided by the Service Provider. However, the Service Provider shall be obligated to offer and provide sufficient service to Commercial, Industrial and Multi-Family Residential Units, and to increase or decrease, as necessary, the frequency of collection and the size or number of Containers so that Commercial, Industrial or Multi-Family Units' Municipal Solid Waste will be regularly contained. The Service Provider shall be compensated for these additional Services as provided for in Section 9 hereof. The parties acknowledge and agree that the Service Provider shall not be responsible for damage to any private pavement or accompanying sub-surface of any route reasonably necessary to perform the Services herein contracted and that the Commercial, Industrial or Multi-Family Residential Unit assumes all liabilities for damage to pavement or road surface.

**SECTION 6. SPECIAL COLLECTIONS AND SERVICES.**

A. Municipal Locations. The Service Provider will provide, at no cost to the City, up to an aggregate number of thirteen (13) Containers (each up to six (6) cubic yards in size) to collect Municipal Solid Waste at certain municipal locations within the City once or twice per week, as needed. Specifically, the provisions of this Section 6.A. shall apply to the following locations:

- Municipal Service Center – 2 dumpsters
- Public Safety Building – 2 dumpsters
- City Hall - 3 Roll-Outs
- Senior Citizens Center – 1 dumpster
- City Park/City Recreation Hall Building – 3 dumpsters
- Animal Shelter – 1 dumpster
- City Library – 1 dumpster

B. Recycling Drop-Off. The Service Provider will provide, at no cost to the City, up to three (3) Roll-Offs for citizens of the City to deposit Recyclable Materials for collection and processing by the Service Provider. Such Roll-Offs shall be located at the Service Provider's facility located at 1291 N. Bates, Stephenville, TX 76401 and shall be emptied on an as needed basis.

C. Annual City Report. Beginning on or before August 31, 2014, and on or before each August 31 of this Agreement thereafter, the Service Provider shall provide the City with a written annual report containing the following information: (i) a brief description of the Service Provider's community involvement within the City during the previous calendar year; (ii) a brief description of any governmental violations received by the Service Provider while performing the Services during the previous calendar year; (iii) tonnage of Municipal Solid Waste collected from within the City during the previous calendar year; (iv) tonnage of Recyclable Materials collected from within the City during the previous calendar year; (v) tonnage of Construction and Demolition Waste collected from within the City and the percentage hauled to the City of Stephenville Class IV Landfill during the previous calendar year; (vi) percentage of complaints resolved during the previous calendar year; and (vii) link to Service Provider's parent company's audited financial statement for the previous calendar year.

D. Quality Control/Assurances. The Service Provider will maintain a quality control program to ensure the Services are performed under commonly accepted industry standards as well as the provisions of this Agreement. As quality assurance, the City may assess liquidated damages against the Service Provider for the failures expressly provided for in Section 30 hereof. The Service Provider shall designate a point of contact that will be responsible for working with the City on any quality control issues.

**SECTION 7. BULKY ITEMS AND BUNDLES.**

A. Pre-Arranged Collections. The Service Provider will collect (i) one (1) Bulky Item and (ii) up to one (1) cubic yard of Bundles from Single-Family Residential Units once per week, as designated by the Service Provider; provided, that (i) the Single-Family Residential Units requiring such collections notify the Service Provider no later than the end of the Business Day the Friday prior to the scheduled collection day, and (ii) the Bulky Items and/or Bundles (A) are placed at the curbside no later than 7:00 a.m. on the scheduled collection day, (B) are reasonably contained, and (C) are as defined in Section 1 hereof. The Service Provider shall only be responsible for collecting, hauling and disposing Bulky Items and Bundles from those Single-Family Residential Units that have complied with Sections 1 and 7.A. hereof. White Goods containing refrigerants will not be collected by the Service Provider unless such White Goods have been certified in writing by a professional technician to have had all such refrigerants removed.

B. Negotiated Collections. It is understood and agreed that the service provided under Section 7.A. does not include the collection of Bulky Items and Bundles comprised of Construction and Demolition Waste, White Goods or any materials resulting from remodeling, general property clean-up or clearing of property for the preparation of construction. However, the Service Provider may negotiate an agreement on an individual basis with the owner or occupant of a Single-Family Residential Unit regarding the collection of such items by utilizing the Service Provider's Roll-Off Services.

**SECTION 8. TITLE TO EQUIPMENT.**

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

**SECTION 9. RATES AND FEES.**

Subject to adjustment, as provided in Section 10 hereof, the rates and fees to be charged and received by the Service Provider are as follows:

A. Single-Family Residential Unit Services. For the twice weekly collection Services provided to Single-Family Residential Units under Section 4.A. hereof, the Service Provider shall charge (i) \$11.34 per month for each Single-Family Residential Unit utilizing one Roll-Out, plus (ii) \$5.67 per month for each additional Roll-Out utilized by such Single-Family Residential



Unit. These rates apply to all Single-Family Residential Units that are located within the City's corporate limits and billed by the City for water and sewer services.

B. Commercial Hand Collect Unit Services. For the twice weekly collection Services provided to Commercial Hand Collect Units under Section 4.B. hereof, the Service Provider shall charge (i) \$18.81 per month for each Commercial Hand Collect Unit utilizing one Roll-Out, plus (ii) \$9.41 per month for each additional Roll-Out utilized by such Commercial Hand Collect Unit. These rates apply to all Commercial Hand Collect Units that are located within the City's corporate limits and billed by the City for water and sewer services.

C. Commercial, Industrial and Multi-Family Residential Unit Services. For the as needed/requested Services provided to Commercial, Industrial and Multi-Family Residential Units under Section 5 hereof, the Service Provider shall charge per month for each Container utilized the following rates:

Container Size	1 Collection per Week	2 Collections per Week	3 Collections per Week	4 Collections per Week	5 Collections per Week	6 Collections per Week
2 Cubic Yards	\$64.52	\$108.44	N/A	N/A	N/A	N/A
3 Cubic Yards	\$88.14	\$118.15	\$180.17	\$236.79	\$293.41	N/A
4 Cubic Yards	\$96.68	\$138.96	\$244.51	\$329.45	\$414.38	\$499.30
6 Cubic Yards	\$114.58	\$173.30	\$302.41	\$405.37	\$508.32	\$612.77
8 Cubic Yards	\$129.50	\$237.11	\$352.21	\$470.31	\$592.00	\$711.91

For any collection that the Service Provider is required to make in excess of the above weekly figures, the Service Provider shall charge the following rates, per Container.

Size of Container	Each Additional Collection
2 Cubic Yards	\$40.71
3 Cubic Yards	\$48.22
4 Cubic Yards	\$54.90
6 Cubic Yards	\$68.26
8 Cubic Yards	\$81.46

The foregoing rates apply to all Commercial, Industrial and Multi-Family Residential Units that are located within the City's corporate limits and billed by the City for water and sewer services.

D. Roll-Off Services. Subject to adjustment by the Service Provider in its sole discretion, for the Services provided under Sections 7.B. and 11 hereto, the Service Provider shall charge for each Roll-Off utilized the following fees:

Delivery or Exchange Fee	\$117.00 per delivery or exchange
Rental Fee	\$5.50 per day
Haul Fee	\$200.00 per haul
Disposal Fee	\$50.00 per ton (3 ton minimum required)

The Service Provider will negotiate agreements with each Commercial, Industrial or Residential Unit on an individual basis regarding the Roll-Off Services to be provided. The Roll-Off Services will be billed directly to such Commercial, Industrial or Residential Unit and will be collected by the Service Provider. The Roll-Offs provided pursuant to this Section 9.D. must be located within the City in accordance with City ordinances and policies. Notwithstanding anything to the contrary contained herein, the Franchise Fee (as defined below) shall not apply to the services set forth in this Section 9.D.

E. Sludge Services. The Service Provider will provide hauling and disposal services for sludge from the City's wastewater treatment plant; provided, that the sludge is accompanied by requisite documentation of the State of Texas and meets the TCEQ's disposal guidelines. The City agrees to assist the Service Provider and, if necessary, agrees to adjust and regulate load weights in order to comply with the Texas Department of Transportation's weight guidelines. For the sludge Services provided to the City under this Section 9.E., the Service Provider will charge \$365.00 for each Container hauled and emptied.

F. Stephenville Type IV Landfill. Subject to adjustment by the Service Provider, in its sole discretion, the Service Provider shall attempt to haul twenty-five percent (25%) of the Roll-Offs containing Construction and Demolition Waste that are generated within the City's corporate limits to the City's landfill located at 669 County Rd. 385, Stephenville, TX 76401.

**SECTION 10. RATE ADJUSTMENT.**

A. CPI-U Adjustment. On each anniversary date of this Agreement, the Service Provider shall have the right, in its sole discretion and upon giving prior notice to the City, to increase or decrease the rates set forth in Section 9 hereof (the "Initial Rates") in accordance with the CPI-U. As used herein, "CPI-U" shall mean the revised Consumer Price Index rate for all urban consumers (all items included) for the nearest available metropolitan area, based on the latest available figures from the Department of Labor's Bureau of Labor Statistics (the "Bureau"). The following website (or any successor website) will be the source for such information: [http://data.bls.gov/pdq/SurveyOutputServlet?data\\_tool=dropmap&series\\_id=CUUR0300SA0,CUUS0300SA0](http://data.bls.gov/pdq/SurveyOutputServlet?data_tool=dropmap&series_id=CUUR0300SA0,CUUS0300SA0). The CPI-U used will be the CPI-U published by the Bureau during the month ninety (90) days preceding the adjustment under this Section 10.A. The amount of the increase or decrease under this Section 10.A. shall be equal to the percentage that the CPI-U has increased or decreased over the previous twelve (12) month period.

B. Operating Cost Adjustment. In addition to the rate adjustments provided for in Section 10.A., at any time during the term of this Agreement, the Service Provider may petition the City for additional rate and price adjustments at reasonable times on the basis of material or unusual changes in its cost of operations not otherwise the basis of any other rate adjustments

herein. At the time of any such petition, the Service Provider shall provide the City with documents and records in reasonable form and sufficient detail to reasonably establish the necessity of any requested rate adjustment. The City shall not unreasonably withhold, condition or delay its consent to any requested rate increase. In the event the City fails or refuses to consent to any such requested rate increase and the Service Provider can demonstrate that such rate increase is necessary to offset the Service Provider's increased costs in connection with performing the services under this Agreement not otherwise offset by any previous rate adjustments hereunder, the Service Provider may, in its sole discretion, terminate this Agreement upon ninety (90) days written notice to the City.

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

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

E. Fuel Surcharge. The Service Provider shall (i) charge the City a Fuel Surcharge (as defined herein) for any month in which the average price of diesel fuel during the preceding month exceeded \$3.00 per gallon (the "Base Price") or (ii) credit the City with a Fuel Refund (as defined herein) for any month in which the average price of diesel fuel during the preceding month fell below \$2.50 per gallon (the "Refund Price") in accordance with this Section 10.E. In the event the Average Monthly Price (as defined herein) is (i) equal to or exceeds the Refund Price and (ii) equal to or lower than the Base Price, then there will be no Fuel Surcharge charged or Fuel Refund credited to the City for the next month. The average price of diesel fuel will be determined by reference to the U.S. Energy Information Administration's published price for diesel fuel – gulf coast region. The following website (or any successor website) will be the source for such information: <http://www.eia.gov/petroleum/gasdiesel/>. The average price of

diesel fuel for each month (each, an "Average Monthly Price") shall be the average of the weekly fuel prices published for each week during such month.

The Fuel Surcharge payable for any month (each, a "Fuel Surcharge") shall be determined by referring to the schedule attached hereto as Exhibit "A" in accordance with the Average Monthly Price. The Fuel Refund credited to the City during any month (each, a "Fuel Refund") shall be determined by referring to the schedule attached hereto as Exhibit "A" in accordance with Average Monthly Price. In the event the Average Monthly Price is greater than the Base Price, the applicable Fuel Surcharge will be included on the invoice to the City for the following month. In the event the Average Monthly Price is less than the Refund Price, the City will be credited with the applicable Fuel Refund on the following month's invoice. Notwithstanding anything to the contrary contained herein, the Franchise Fee shall not apply to the Fuel Surcharge or Fuel Refund.

#### **SECTION 11. EXCLUSIONS.**

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

#### **SECTION 12. TERM OF AGREEMENT.**

The term of this Agreement shall be for a period of five (5) years, commencing on January 1, 2014 and concluding on December 31, 2018. At the expiration of the term of this Agreement, the Agreement will be extended for successive periods of five (5) years; provided, that neither party provides the other party with written notice of intent to terminate this Agreement at least 90 days prior to the expiration date of this Agreement or 90 days prior to any of the then applicable individual five-year extension periods. If either party provides such notice, this Agreement will cease to be renewed and will terminate at the end of either this five (5) year Agreement, or at the end of the subsequent five (5) year extension period, as applicable.

#### **SECTION 13. ASSIGNMENT.**

This Agreement shall not be assignable or otherwise transferable by the Service Provider without the prior written consent of the City; provided, however, that the Service Provider may assign this Agreement to any direct or indirect affiliate or subsidiary of the Service Provider or to any person or entity succeeding to all or substantially all of the Service Provider's assets (whether by operation of law, merger, consolidation or otherwise) without the City's consent.



#### **SECTION 14. ENFORCEMENT.**

During the term of this Agreement and any extension thereof, the City agrees to adopt and maintain ordinances and revise existing ordinances so as to enable the Service Provider to provide the Services set forth herein. The City shall take any action reasonably necessary to prevent any other solid waste collection company from conducting business in violation of the exclusive franchise granted herein. If the Service Provider experiences recurring problems of damage or destruction to or theft of the Containers provided by the Service Provider pursuant to this Agreement, the Service Provider may, prior to replacing or repairing such Containers, require security deposits from the Commercial, Industrial or Residential Units utilizing such Containers. To the maximum extent allowed by applicable law, the City also hereby grants to the Service Provider the right of ingress and egress from and upon the property of Commercial, Industrial and Residential Units for the purposes of rendering the Services contemplated hereby.

#### **SECTION 15. PROCESSING, BILLING AND FEES.**

A. Monthly Statement. On a monthly basis, the Service Provider agrees to bill the City the rates and fees charged under Sections 9.A through 9.C. hereto for all Commercial, Industrial and Residential Units possessing active water meters within the City's corporate limits, as well as from all other Commercial, Industrial and Residential Units requiring the collection, hauling and disposal of Municipal Solid Waste within the City's corporate limits (the "Monthly Statement") on or around the 1<sup>st</sup> day of the month, immediately following the month in which such Services were provided, commencing on February 1, 2014. Thereafter, the City will remit to the Service Provider in arrears an amount equal to (y) the gross receipts collected from such Monthly Statement, less (z) a franchise fee equal to seven percent (7%) of the gross receipts collected from such Monthly Statement (the "Franchise Fee"). Such remittance shall be made by the City on or before the last day of each month (for the immediately preceding month's service) commencing on February 28, 2014. Along with each monthly remittance, the City shall provide the Service Provider with a report indicating the service type, size, location, and rate for Commercial Units and Industrial Units, as well as the number and rate of Residential Units which have been billed for that month. The City shall be solely responsible for billing and collecting such rates and fees from all Commercial, Industrial and Residential Units possessing active water meters within the City's corporate limits, as well as from all other Commercial, Industrial and Residential requiring the collection, hauling, recycling and disposal of Municipal Solid Waste within the City's corporate limits. Nothing herein shall prohibit the City from collecting sums in addition to those sums called for herein.

B. Taxes. In addition to the amounts billed and collected by the City under Section 15.A., the City shall also be responsible for billing, collecting and remitting/paying any and all sales, use and service taxes assessed or payable in connection with the Services.

C. Delinquent Accounts. Each month the City shall notify the Service Provider in writing of any Commercial, Industrial or Residential Unit that is thirty (30) or more days delinquent in paying the City for the Services provided by the Service Provider and billed by the City under this Agreement. Upon receipt of such written notice of delinquency, the Service Provider may

discontinue its Services to such delinquent Commercial, Industrial or Residential Unit. Upon further written notification by the City that such Commercial, Industrial or Residential Unit has paid the delinquent amount owed, the Service Provider shall resume its Services to such Commercial, Industrial or Residential Unit on the next regularly scheduled collection day.

D. Billings for Roll-Off Services. Notwithstanding the above, the Service Provider will bill and collect the rates and fees contained in Section 9.D. hereof, from all Residential, Commercial and Industrial Units for services performed with respect to Roll-Off Containers. The Service Provider shall also bill and collect the rates and fees contained in Sections 9.D. and 9.E. from the City for all services performed for the City with respect to Roll-Off Containers.

#### **SECTION 16. SPILLAGE.**

It is understood and agreed that the Service Provider shall not be required to clean up, collect or dispose of any loose or spilled Municipal Solid Waste or Construction and Demolition Waste not caused by the Service Provider's rendering of the Services, or be required to collect and dispose of any excess Municipal Solid Waste or Construction and Demolition Waste placed outside of the Containers by any Commercial, Industrial or Residential Unit. The Service Provider may report the location of such conditions to the City so that the City can issue proper notice to the owner or occupant of the Commercial, Industrial or Residential Unit instructing the owner or occupant to properly contain such Municipal Solid Waste or Construction and Demolition Waste. Should excess Municipal Solid Waste or Construction and Demolition Waste continue to be placed outside of the Containers, the City shall require the Commercial, Industrial or Residential Unit to increase the frequency of collection of such Municipal Solid Waste or Construction and Demolition Waste, or require the Commercial, Industrial or Residential Unit to utilize a Container with sufficient capacity so that the excess Municipal Solid Waste or Construction and Demolition Waste will be regularly contained. The Service Provider shall be compensated for these additional Services as provided for in Section 9 hereof, and shall be entitled to receive an extra collection charge for each additional Container requiring an extra collection.

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

A. Notice from the Service Provider. It is specifically understood and agreed that where the owner or occupant of a Commercial, Industrial or Residential Unit fails to timely place a Container as directed in Sections 4 and 5 hereof, or is otherwise in violation of the City's ordinances and regulations, the Service Provider's reasonable rules adopted hereunder or the provisions of this Agreement relating to the nature, volume or weight of Municipal Solid Waste or Construction and Demolition Waste to be removed, the Service Provider may refrain from collecting all or a portion of such Municipal Solid Waste or Construction and Demolition Waste and will notify the City within eight (8) hours thereafter of the reason for such non-collection. The Service Provider will also provide written notice to the Commercial, Industrial or Residential Unit of the reason for such non-collection, unless such non-collection is the result of the Commercial, Industrial or Residential Unit's failure to timely place the Containers, Bulky Items or Bundles out for collection. Such written notice shall be attached to the Container or the uncollected Municipal Solid Waste, shall indicate the nature of the violation and shall indicate

the correction required in order that such Municipal Solid Waste or Construction and Demolition Waste may be collected.

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

#### **SECTION 18. HOURS OF SERVICE.**

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

#### **SECTION 19. CUSTOMER SERVICE.**

The City agrees to field all inquiries and complaints from Commercial, Industrial and Residential Units relating to the collection, hauling and disposal of Municipal Solid Waste and Construction and Demolition Waste. The Service Provider and the City agree to cooperate with each other in the response to any such inquiries and the resolution of any such complaints. The Service Provider shall maintain an office or other facility through which it may be contacted. Such office shall be equipped with sufficient personnel and telephones and shall have a responsible person in charge from 8:00 a.m. to 5:00 p.m. on regular collection days. Calls received shall be responded to in a courteous manner, and calls received but not answered during normal office hours shall be responded to within twenty-four (24) hours.

#### **SECTION 20. COMPLIANCE WITH APPLICABLE LAWS.**

The Service Provider shall comply with all applicable federal and state laws regarding the collection, hauling and disposal of Municipal Solid Waste and Construction and Demolition Waste, including existing and future laws that may be enacted, as well as any regulations reasonably passed by the City that are not in derogation of this Agreement. Nothing in this

Agreement shall be construed in any manner to abridge the City's right to pass or enforce necessary police and health regulations for the reasonable protection of its inhabitants. The City shall have the right to make reasonable inspections of the Service Provider in order to insure compliance with this Agreement.

**SECTION 21. VEHICLES AND EQUIPMENT.**

Vehicles used by the Service Provider for the collection, hauling and disposal of Municipal Solid Waste and Construction and Demolition Waste shall be protected at all times while in transit to prevent the blowing or scattering of Municipal Solid Waste and Construction and Demolition Waste onto the City's public streets, or properties adjacent thereto, and such vehicles shall be clearly marked with the Service Provider's name in letters and numbers not less than two (2) inches in height. All collection vehicles used by the Service Provider shall be washed and deodorized once per week.

**SECTION 22. DUE CARE.**

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

**SECTION 23. PERSONNEL AND PERFORMANCE STANDARDS.**

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

**SECTION 24. INSURANCE COVERAGE.**

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

<u>Coverage</u>	<u>Limits of Liability</u>
(1) Worker's Compensation	Statutory
(2) Employer's Liability	\$500,000



- (3) Commercial General Liability \$1,000,000 per occurrence,  
\$2,000,000 in the aggregate,  
combined single limit for Bodily  
Injury and Property Damage Liability
- (4) Automobile Liability \$2,000,000 per occurrence combined  
single limit for Bodily Injury and  
Property Damage Liability
- (5) Pollution Legal Liability \$2,000,000 each loss
- (6) Excess or Umbrella \$5,000,000 per occurrence

To the extent permitted by law, any or all of the insurance coverage required by this Section 24 may be provided under a plan(s) of self-insurance, including coverage provided by the Service Provider's parent corporation. Upon the City's request, the Service Provider shall furnish the City with a certificate of insurance verifying the insurance coverage required by this Section 24.

**SECTION 25. INDEMNITY.**

To the extent covered by applicable insurance, the Service Provider assumes all risks of loss or injury to property or persons caused by its performance of the Services. The Service Provider agrees to indemnify and hold harmless the City and its agents, directors, employees, officers and servants from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, liabilities, losses or expenses (including, but not limited to, reasonable attorneys' fees) caused by a willful or negligent act or omission of the Service Provider, its officers and employees. However, the Service Provider shall not be liable for any legal proceedings, claims, demands, damages, costs, expenses and attorneys' fees caused by a willful or negligent act or omission of the City, its agents, directors, employees, officers and servants.

**SECTION 26. SAVINGS PROVISION.**

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

**SECTION 27. TERMINATION.**

Any failure by either party or its successors and assigns to observe the terms and conditions of this Agreement shall, if continuing or persisting without remedy for more than thirty (30) days after the receipt of due written notice from the other party, constitute grounds for forfeiture and immediate termination of all the defaulting party's rights under this Agreement, and all such rights shall become null and void.

**SECTION 28. FORCE MAJEURE.**

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

**SECTION 29. GOVERNING LAW.**

In the event of any controversy, claim or dispute between the parties hereto arising out of or relating in any matter whatsoever to this Agreement, such controversy, claim or dispute shall be governed in all respects, including as to validity, interpretation and effect, by the internal laws of the State of Texas, without giving effect to the conflict of laws rules thereof. The parties hereby irrevocably submit to the jurisdiction of the courts of the State of Texas and the Federal courts of the United States located in the State of Texas, for any controversy, claim or dispute between the parties hereto arising out of or relating in any matter whatsoever to this Agreement, and hereby waive, and agree not to assert, as a defense in any action, suit or proceeding, that it is not subject thereto or that such action, suit or proceeding may not be brought or is not maintainable in said courts or that the venue thereof may not be appropriate or that this Agreement may be enforced in or by said courts, and the parties hereto irrevocably agree that all controversies, claims or disputes arising out of or relating in any manner whatsoever to this Agreement shall be heard and determined in such a Texas State or Federal court. The parties hereby consent to and grant any such court jurisdiction over the person of such parties and over the subject matter of any such controversy, claim or dispute and agree that mailing of process or other papers in connection with any such action or proceeding to the addresses of the parties listed below, or in such other manner as may be permitted by law, shall be valid and sufficient service thereof.

**SECTION 30. LIQUIDATED DAMAGES.**

In the event the Service Provider fails to perform in accordance with the provisions of this Agreement, the City may withhold from any monies due to the Service Provider, not as a penalty but as liquidated damages for such breach of contract, the amounts defined herein for the failures provided in this Section 30.

Failure to clean any spill on the City's streets caused by a sudden and unforeseen mechanical failure resulting in oil, Solid Waste, or fluid loss from the Service Provider's collection vehicles within 24 hours of notification from the City	\$250.00 per incident, per day
--	--------------------------------

Failure to collect a missed collection within the  
cure period specified in Section 17 hereof

\$100.00 per day

Prior to the assessment of any liquidated damages, the City shall notify the Service Provider in writing of the liquidated damages to be assessed and the basis for each assessment, and allow a reasonable opportunity for the Service Provider to contest the assessment of such liquidated damages.

**SECTION 31. NOTICES.**

Any notices required or permitted to be delivered hereunder shall be in writing and shall be deemed to be delivered when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the respective party at the address set forth below:

If to the City:

City of Stephenville, Texas  
298 West Washington St.  
Stephenville, TX 76401  
Attn: City Administrator

If to the Service Provider:

Progressive Waste Solutions of TX, Inc.  
1291 N. Bates  
Stephenville, TX 76401  
Attn: District Manager

With a Copy to:

IESI Corporation  
2301 Eagle Parkway, Suite 200  
Ft. Worth, TX 76177  
Attn: Legal Department

or such other addresses as the parties may hereafter specify by written notice and delivered in accordance herewith.

**SECTION 32. ATTORNEYS' FEES.**

The prevailing party in any dispute between the parties arising out of the interpretation, application or enforcement of any provision hereof shall be entitled to recover all of its reasonable attorneys' fees and costs whether suit be filed or not, including without limitation costs and attorneys' fees related to or arising out of any trial or appellate proceedings.

**SECTION 33. ACCEPTANCE.**

PASSED AND APPROVED BY THE CITY OF STEPHENVILLE COMMISSION MEETING AT A TIME AND PLACE IN COMPLETE CONFORMITY WITH THE OPEN MEETING LAWS OF THE STATE OF TEXAS AND ALL OTHER APPLICABLE LAWS THIS 3RD DAY OF DECEMBER, 2013.

PROGRESSIVE WASTE SOLUTIONS  
OF TX, INC.

CITY OF STEPHENVILLE, TEXAS

By: \_\_\_\_\_  
John Gustafson, Vice President

By: Jerry K. Weldon  
Jerry K. Weldon, II, Mayor

ATTEST:

Cindy L. Stafford  
Cindy L. Stafford, City Secretary

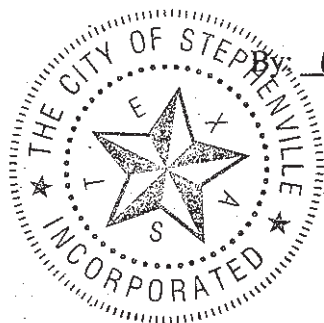


Exhibit "A"

City of Stephenville Fuel Surcharge/Refund Schedule

Average Monthly Price		Fuel Surcharge/Refund	
\$ 2.05	\$ 2.09	\$	(2,159.53)
\$ 2.10	\$ 2.14	\$	(1,919.58)
\$ 2.15	\$ 2.19	\$	(1,679.63)
\$ 2.20	\$ 2.24	\$	(1,439.68)
\$ 2.25	\$ 2.29	\$	(1,199.74)
\$ 2.30	\$ 2.34	\$	(959.79)
\$ 2.35	\$ 2.39	\$	(719.84)
\$ 2.40	\$ 2.44	\$	(479.89)
\$ 2.45	\$ 2.49	\$	(239.95)
\$ 2.50	\$ 2.54	\$	-
\$ 2.55	\$ 2.59	\$	-
\$ 2.60	\$ 2.64	\$	-
\$ 2.65	\$ 2.69	\$	-
\$ 2.70	\$ 2.74	\$	-
\$ 2.75	\$ 2.79	\$	-
\$ 2.80	\$ 2.84	\$	-
\$ 2.85	\$ 2.89	\$	-
\$ 2.90	\$ 2.94	\$	-
\$ 2.95	\$ 2.99	\$	-
\$ 3.00	\$ 3.04	\$	-
\$ 3.05	\$ 3.09	\$	239.95
\$ 3.10	\$ 3.14	\$	479.89
\$ 3.15	\$ 3.19	\$	719.84
\$ 3.20	\$ 3.24	\$	959.79
\$ 3.25	\$ 3.29	\$	1,199.74
\$ 3.30	\$ 3.34	\$	1,439.68
\$ 3.35	\$ 3.39	\$	1,679.63
\$ 3.40	\$ 3.44	\$	1,919.58
\$ 3.45	\$ 3.49	\$	2,159.53
\$ 3.50	\$ 3.54	\$	2,399.47
\$ 3.55	\$ 3.59	\$	2,639.42
\$ 3.60	\$ 3.64	\$	2,879.37
\$ 3.65	\$ 3.69	\$	3,119.32
\$ 3.70	\$ 3.74	\$	3,359.26
\$ 3.75	\$ 3.79	\$	3,599.21
\$ 3.80	\$ 3.84	\$	3,839.16
\$ 3.85	\$ 3.89	\$	4,079.11
\$ 3.90	\$ 3.94	\$	4,319.05
\$ 3.95	\$ 3.99	\$	4,559.00
\$ 4.00	\$ 4.04	\$	4,798.95
\$ 4.05	\$ 4.09	\$	5,038.90
\$ 4.10	\$ 4.14	\$	5,278.84
\$ 4.15	\$ 4.19	\$	5,518.79
\$ 4.20	\$ 4.24	\$	5,758.74
\$ 4.25	\$ 4.29	\$	5,998.69
\$ 4.30	\$ 4.34	\$	6,238.63
\$ 4.35	\$ 4.39	\$	6,478.58
\$ 4.40	\$ 4.44	\$	6,718.53
\$ 4.45	\$ 4.49	\$	6,958.48
\$ 4.50	\$ 4.54	\$	7,198.42
\$ 4.55	\$ 4.59	\$	7,438.37
\$ 4.60	\$ 4.64	\$	7,678.32
\$ 4.65	\$ 4.69	\$	7,918.27
\$ 4.70	\$ 4.74	\$	8,158.21
\$ 4.75	\$ 4.79	\$	8,398.16
\$ 4.80	\$ 4.84	\$	8,638.11
\$ 4.85	\$ 4.89	\$	8,878.06
\$ 4.90	\$ 4.94	\$	9,118.00
\$ 4.95	\$ 4.99	\$	9,357.95
\$ 5.00	\$ 5.04	\$	9,597.90

**NINTH AMENDMENT TO THE EXCLUSIVE FRANCHISE AGREEMENT  
FOR THE COLLECTIONS, HAULING AND DISPOSAL OF MUNICIPAL SOLID WASTE AND  
CONSTRUCTION AND DEMOLITION WASTE  
IN THE CITY OF STEPHENVILLE, TEXAS**

This Ninth Amendment to the Exclusive Franchise Agreement for the Collections, Hauling and Disposal of Municipal Solid Waste and Construction and Demolition Waste in the City of Stephenville, Texas (the "Amendment") is entered into this 5<sup>th</sup> day of November, 2024, by and between Progressive Waste Solutions of TX, Inc. d/b/a WC of Texas (the "Service Provider") and the City of Stephenville, Texas (the "City"). Service Provider and the City are each individually referred to herein as a "Party" and collectively as the "Parties". Any capitalized terms not otherwise defined herein shall be given the meaning ascribed to them within the Agreement (as defined below).

**RECITALS:**

**WHEREAS**, the City and the Service Provider entered into an Exclusive Franchise Agreement dated January 1, 2014 followed by a First Amendment dated January 6, 2015, a Second Amendment dated September 4, 2018 extending the term to December 31, 2023, a Third Amendment dated December 3, 2019, a fourth Amendment adjusting the rates, dated December 1, 2020, a Fifth Amendment adjusting rates, dated March 1, 2022, a Sixth Amendment updating the Fuel Surcharge Table, dated September 6, 2022, a Seventh Amendment adjusting the rates, dated March 7, 2023, an Eighth Amendment setting the term to December 31, 2028 (as amended, the "Agreement") to provide collection, hauling, and disposal services for Municipal Solid Waste and Construction Waste within the City (as such terms are defined in the Agreement); and

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

**AGREEMENT:**

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

1. **Rates and Fees**. Section 9 of the Agreement is hereby deleted in its entirety and replaced with the following:

Subject to adjustment, as provided in Section 10 hereof, the rates and fees to be charged and received by the Service Provider are as follows to be effective as of January 1, 2025:

A. **Single-Family Residential Unit Services**. For the twice weekly collection Services provided to Single Family Residential Units under Section 4.A. hereof, the Service Provider shall charge (i) \$16.41 per month for each Single-Family Residential Unit utilizing one Roll-Out, plus (ii) \$8.20 per month for each additional Roll-Out utilized by such Single-Family Residential Unit. These rates apply to all Single-Family Residential Units located within the City's corporate limits and billed by the City for water and/or sewer services.

B. **Commercial Hand Collect Unit Services**. For the twice weekly collection Services provided to Commercial Hand Collect Units under Section 4.B. hereof, the Service Provider shall charge (i) \$26.65 per month for each Commercial Hand Collect Unit utilizing one Roll-Out, plus (ii) \$13.62 per month for each additional Roll-Out utilized by such Commercial Hand Collect Unit. These rates apply to all Commercial Hand Collect Units that are located within the City's corporate limits and billed by the City for water and/or sewer services.

C. Commercial, Industrial and Multi-Family Residential Unit Services. For the as needed/requested Services provided to Commercial, Industrial and Multi-Family Residential Units under Section 5 hereof, the Service Provider shall charge per month for each Container utilizing the following rates:

COMMERCIAL MONTHLY RATE SCHEDULE

Collections Per Week

Size / Pickup	1 x Week	2x Week	3x Week	4x Week	5x Week	6 x Week	Extra Pickups
2 Cubic Yard	\$92.29	\$155.11	\$217.93	\$224.48	\$ -	\$ -	\$58.22
3 Cubic Yard	\$126.06	\$169.00	\$257.71	\$338.71	\$419.66	\$ -	\$68.97
4 Cubic Yard	\$138.29	\$198.75	\$349.72	\$471.21	\$592.70	\$714.17	\$78.52
6 Cubic Yard	\$163.88	\$247.86	\$432.55	\$579.81	\$727.08	\$876.47	\$97.64
8 Cubic Yard	\$185.22	\$339.14	\$503.78	\$672.71	\$846.77	\$1,018.28	\$116.50

Roll Out Containers

Residential Polycart	\$ 16.41
Residential Extra Polycart	\$ 8.20
Commercial Polycart	\$ 26.65
Commercial Extra Polycart	\$ 13.62

The foregoing rates apply to all Commercial, Industrial and Multi-Family Residential Units located within the City's corporate limits or billed by the City for water and/or sewer services.

Open Top Roll Off Containers

Haul Fee	\$ 288.23
Disposal Fee per Ton	\$ 83.05
Delivery and Exchange	\$ 168.62
Daily Container Rental	\$ 7.92

The Service Provider will negotiate agreements with each Commercial, Industrial or Residential Unit on an individual basis regarding the Roll-Off Services to be provided. The Roll-Off Services will be billed directly to such Commercial, Industrial or Residential Unit and will be collected by the Service Provider. The Roll-Offs provided pursuant to this Section 9.D. must be located within the City in accordance with City ordinances and policies. Notwithstanding anything to the contrary contained herein, the Franchise Fee (as defined below) shall not apply to the services set forth in this Section 9.D.

2. Stephenville Landfill Rates. The disposal rate for the Service Provider at the City of Stephenville Landfill will reflect the "Disposal Fee per Ton" rate reflected in the "Open Top Roll Off Containers" table above. The parties understand the rate to the Service Provider will remain in effect until such rates are modified by subsequent Amendment or new Agreement or until the public rates at the Stephenville Landfill exceed the figure above.
3. Stephenville Wastewater Treatment Plant. The current "Disposal Fee per Ton" rate of \$70.68 per ton shall remain in effect for the Stephenville Wastewater Treatment Plant until October 1, 2025, at which time the rate shall be adjusted to \$83.05 per ton.

- 4. Reaffirmation. The parties hereby restate and reaffirm their agreement with all the terms and provisions of the Agreement, as amended hereby.
- 5. Entire Agreement. The Agreement and this Amendment represent the entire agreement among the parties with respect to the matters that are the subject hereof.
- 6. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which collectively shall constitute one and the same instrument representing this Ninth Amendment between the parties hereto, and it shall not be necessary for the proof of this Fourth Amendment that any party produce or account for more than one such counterpart.

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

CITY OF STEPHENVILLE, TEXAS

WASTE CONNECTIONS LONE STAR, INC.

By: \_\_\_\_\_  
Doug Svien

By: \_\_\_\_\_  
Sean Dowden

Title: \_\_\_\_\_  
Honorable Mayor

Title: \_\_\_\_\_  
District Manager

ATTEST:

By: \_\_\_\_\_  
Sarah Lockenour

Title: \_\_\_\_\_  
City Secretary



# Public Works

## STAFF REPORT

**SUBJECT:** Lillian Pump Station – 1MG Ground Storage Tank  
**MEETING:** Public Works Committee Meeting – 15 OCT 2024  
**DEPARTMENT:** Public Works  
**STAFF CONTACT:** Nick Williams

### RECOMMENDATION:

Staff recommends entering into a professional services agreement with Provenance Engineering for design of the Lillian Pump Station – 1MG Ground Storage Tank Project as approved in the adopted FY24-25 budget.

### BACKGROUND:

The Lillian Pump Station receives and treats raw water and pumps potable water into the Stephenville distribution system.

### PROJECT:

A professional services proposal has been received from Provenance Engineering to provide plans and detailed technical specifications for construction of a one-million-gallon (1MG) ground storage tank (GST) at the Lillian Pump Station. The original layout of the pump station designated a location for a second 1MG ground storage tank and this proposal would provide the associated design services.

The proposal provides for the design, bidding, and construction phase services for the civil, mechanical, electrical, instrumentation, and geotechnical analysis for the 1MG, cast-in-place, concrete ground storage tank design.

The proposal indicates design phase services will be complete within a 9-month timeline. An additional 18-month timeline is anticipated for bid and construction phase services upon approved.

A copy of the proposed Professional Services Agreement is attached to this memo.

### FISCAL IMPACT SUMMARY:

The approved FY24-25 budget allocated \$275,000 for professional services for this project.

The agreement provides for the preparation of construction drawings and detailed specifications for \$183,250 as well as pre-bid and bidding assistance, contractor review and recommendation, and construction phase services for \$90,750, for a total fee of \$274,000.

The estimated construction cost for the tank and associated improvements is \$2,755,000.

Once the design is completed, the bid and construction phase services would only commence with written authorization.

### ALTERNATIVES:

The following alternatives are provided for consideration:

1. Delay the design.
2. Recommend a different firm.

#### ADVANTAGES:

Approval of the proposed agreement remains within the approved, allocated project budget. This agreement provides for the on-site services under a single contract.

#### DISADVANTAGES:

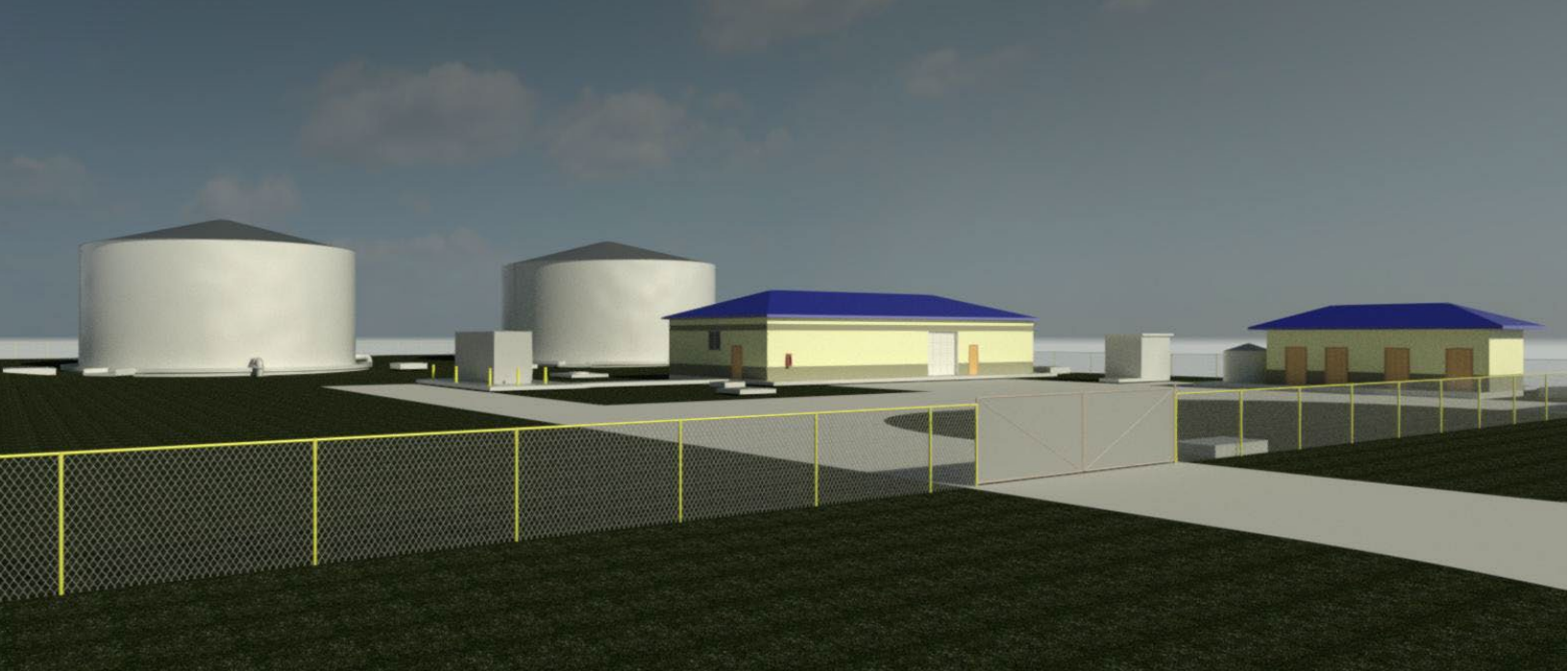
There are no known disadvantages to proceeding as described above.

### ATTACHMENTS:

[Lillian Pump Station – 1MG Ground Storage Tank Project – Professional Services Agreement](#)



# Lillian Pump Station Phase II Improvements – Contract Proposal



**PROVENANCE**  
ENGINEERING  
Rooted to Be *Uniquely Different*



November 8, 2024

Mr. Nick Williams, PE  
City of Stephenville  
298 W. Washington St.  
Stephenville, TX 76401

Subject: Lillian Pump Station Phase II Improvements – Contract Proposal

Dear Mr. Williams:

I am pleased to present our proposal for the Lillian Pump Station Phase II Improvements Project. I have prepared this proposal for your review and consideration based upon our discussions. Please find the attached items for your review and comment.

- Contract Agreement
- Exhibit A – Engineering Services Scope of Service
- Exhibit B – Professional Service Fee Summary
- Exhibit C – Opinion of Probable Construction Cost

I am excited about the opportunity to work with you and your staff on this project. Should you have questions or concerns regarding the proposal please feel free to contact me at (817) 694-6324.

Sincerely,

Kent Riker, PE  
President

Enclosure  
Contract Proposal



# Agreement





THIS IS AN AGREEMENT effective as of November \_\_, 2024 (“Effective Date”) between City of Stephenville (“Owner”) and Provenance Engineering, LLC. (“Engineer”).

Owner’s Project, of which Engineer’s services under this Agreement are a part, is generally identified as follows: Lillian Pump Station Phase II Improvements (“Project”).

Engineer’s services under this Agreement are generally identified as follows: Design, Bid and Construction Phase Services for the expansion of the Lillian Pump Station including a new 1 MG ground storage tank and expansion of the lower pressure plan (“Services”).

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Owner and Engineer further agree as follows:

**1.01 Basic Agreement and Period of Service**

- A. Engineer shall provide or furnish the Services set forth in this Agreement. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth above (“Additional Services”).
- B. Engineer shall complete its Services within the following specific time period: 27 months presuming there are no delays between each task.
- C. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer’s Services is impaired, or Engineer’s Services are delayed or suspended, then the time for completion of Engineer’s Services, and the rates and amounts of Engineer’s compensation, shall be adjusted equitably.

**2.01 Payment Procedures**

- A. *Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and submit the invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt. If Owner fails to make any payment due Engineer for Services, Additional Services, and expenses within 30 days after receipt of Engineer’s invoice, then (1) the amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day, and (2) in addition, Engineer may, after giving seven days written notice to Owner, suspend Services under this Agreement until Engineer has been paid in full all amounts due for Services, Additional Services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.
- B. *Payment:* As compensation for Engineer providing or furnishing Services and Additional Services, Owner shall pay Engineer as set forth in Paragraphs 2.01, 2.02 (Services), and 2.03 (Additional Services). If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and agrees to pay the undisputed portion.

**2.02 Basis of Payment—Lump Sum**

- A. Owner shall pay Engineer for Services as follows:



1. A Lump Sum amount of \$274,000.00 unless prior OWNER approval in writing. Additional Services may be performed only with prior OWNER approval in writing.
    - a. Payments to be made by Owner based on work progression.
  2. In addition to the Lump Sum amount, reimbursement for the following expenses: NONE
- B. The portion of the compensation amount billed monthly for Engineer's Services will be based upon Engineer's estimate of the percentage of the total Services actually completed during the billing period.

### 3.01 Termination

- A. The obligation to continue performance under this Agreement may be terminated:
1. For cause,
    - a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. Failure to pay Engineer for its services is a substantial failure to perform and a basis for termination.
    - b. By Engineer:
      - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
      - 2) upon seven days written notice if the Engineer's Services are delayed for more than 90 days for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern, as set forth in Paragraph 5.01.I. The Owner anticipates lead-based paint may be present and therefore shall not be consider a Constituent of Concern.
    - c. Engineer shall have no liability to Owner on account of a termination for cause by Engineer.
    - d. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Paragraph 3.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.
  2. For convenience, by Owner effective upon Engineer's receipt of written notice from Owner.
- B. In the event of any termination under Paragraph 3.01, Engineer will be entitled to invoice Owner and to receive full payment for all Services and Additional Services performed or furnished in accordance with this Agreement, plus reimbursement of expenses incurred through the effective





date of termination in connection with providing the Services and Additional Services, and Engineer's consultants' charges, if any.

#### 4.01 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 4.01.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise, nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.

#### 5.01 *General Considerations*

- A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer. Subject to the foregoing standard of care, Engineer and its consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- B. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a Constructor to comply with laws and regulations applicable to such Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- C. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform its work.
- D. Engineer's opinions (if any) of probable construction cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over



competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from opinions of probable construction cost prepared by Engineer. If Owner requires greater assurance as to probable construction cost, then Owner agrees to obtain an independent cost estimate.

- E. Engineer shall not be responsible for any decision made regarding the construction contract requirements, or any application, interpretation, clarification, or modification of the construction contract documents other than those made by Engineer or its consultants.
- F. All documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed. Owner shall have a limited license to use the documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all Services and Additional Services relating to preparation of the documents and subject to the following limitations:
  - 1. Owner acknowledges that such documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer;
  - 2. any such use or reuse, or any modification of the documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and consultants;
  - 3. Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the documents without written verification, completion, or adaptation by Engineer; and
  - 4. such limited license to Owner shall not create any rights in third parties.
- G. Owner and Engineer may transmit, and shall accept, Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol.
- H. To the fullest extent permitted by law, Owner and Engineer (1) waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, and (2) agree that Engineer's total liability to Owner under this Agreement shall be limited to \$40,000 or the total amount of compensation received by Engineer, whichever is greater.
- I. The parties acknowledge that Engineer's Services do not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an unknown or undisclosed Constituent of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of





Services on the portion of the Project affected thereby until such portion of the Project is no longer affected, or terminate this Agreement for cause if it is not practical to continue providing Services.

- J. Owner and Engineer agree to negotiate each dispute between them in good faith during the 30 days after notice of dispute. If negotiations are unsuccessful in resolving the dispute, then the dispute shall be mediated. If mediation is unsuccessful, then the parties may exercise their rights at law.
- K. This Agreement is to be governed by the law of the state in which the Project is located.
- L. Engineer's Services and Additional Services do not include: (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission; (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances; (3) providing surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements; or (4) providing legal advice or representation.
- M. Liquidated Damages - Failure to meet the time lines for completion of work identified in (the project schedule - or other appropriate language) will result in liquidated damages of \$50.00 per consecutive calendar day until the work identified in "Exhibit A" - Scope of Services is submitted. Liquidated damages are only applicable to items under the control of ENGINEER and will not be enforced due to circumstances out of the control of ENGINEER.

#### 6.01 *Total Agreement*

- A. This Agreement (including any expressly incorporated attachments), constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

#### *Definitions*

- B. *Constructor*—Any person or entity (not including the Engineer, its employees, agents, representatives, and consultants), performing or supporting construction activities relating to the Project, including but not limited to contractors, subcontractors, suppliers, Owner's work forces, utility companies, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
- C. *Constituent of Concern*—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, State, or local statute, law, rule,



regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

- Attachments:*
- “Exhibit A”, Engineer’s Scope of Services
  - “Exhibit B”, Fee Summary
  - “Exhibit C”, Opinion of Probable Construction Cost



IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

Owner: City of Stephenville

Engineer Provenance Engineering, LLC.

By: \_\_\_\_\_

By: \_\_\_\_\_

Print name: Doug Svien

Print name: Kent Riker, PE

Title: Honorable Mayor

Title: President

Date Signed: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Engineer License or Firm's Certificate No.: 20783

State of: Texas

Address for Owner's receipt of notices:

Address for Engineer's receipt of notices:

City of Stephenville  
298 W Washington Street  
Stephenville, Texas 76401  
254.918.1223

Provenance Engineering, LLC.  
2501 FM 1189  
Weatherford, Texas 76087  
817.775.7172

IN DUPLICATE



# "EXHIBIT A"





### Project Description

The following Scope of Service describes the services and project tasks to be performed and completed by the ENGINEER in association with the Lillian Pump Station Phase II Improvements Project. The OWNER desires a new 1,000,000-gallon concrete tank, site piping, controls for a new 1,200 GPM pump at the Lillian Pump Station to expand its storage capacity and pumping capacity to the low pressure zone in alignment with the Water Master Plan. The services necessary to design, bid, and construct the expansion project are listed herein. Listed below is a general description of work to be designed as part of the project.

- New 1,000,000-gallon concrete ground storage tank.
- Yard piping inside the pump station fence line.
- Bidding new pump control valve, pump drive, control panel, and instrumentation and controls to match existing.

Overview – Detail Design, Final Design, Bidding Services, and Construction Services for the following:

- Basic Services
  - Process mechanical – Design and TCEQ permitting; new tank and pump station expansion integration into existing water system hydraulics
  - Civil – site improvements; drainage; yard water process system piping
  - Geotechnical – New tank geotechnical report for foundation design
  - Survey – Site Survey
  - Electrical & Instrumentation – Instrumentation and electrical design

### Basic Services:

Upon receipt of notice to proceed, the ENGINEER will begin Basic Services as outlined herein. The scope of SERVICES includes the development of a detailed drawings set, front-end documents and technical specifications for the OWNER to bid and construct the designed improvements.

The Basic Scope of SERVICES is separated into the following phases:

- **Phase 1 Design Services**
- **Phase 2 Bidding Services**
- **Phase 3 Construction Services**

Listed below is a specific description to be performed as part of the project.

<b>Phase 1 Design Services</b>	<b>\$183,250.00</b>
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As part of the Design Services Phase, the ENGINEER will design Lillian Pump Station Improvements. Key aspects of Phase 1 are listed below.

- Deliverables: Kick-off meeting agenda and minutes  
Monthly project status reports  
Detail Design Submittal  
Final Design Submittal
- Meetings: Kick-off meeting and site tour of existing facilities  
Detail Design Submittal Review  
Final Design Submittal Review

Design services will generally include the followings tasks and sub-tasks:



### **Task 1.100 – Project Management**

The ENGINEER will manage the day-to-day progress of the project.

**101. Project Setup** –The ENGINEER will follow quality procedures to setup the project reporting and control structure internally.

**1.110. Communication with OWNER** – The ENGINEER will maintain consistent communication with the OWNER through the established protocol agreed upon in the Kick-off Meeting.

**111. Standing Conference Call** –The ENGINEER will have a standing monthly call with the OWNER’s Project Manager to discuss the current project status report.

**112. Invoice Management** – The ENGINEER will submit a monthly invoice to the OWNER with the current project status report to the OWNER.

**1.120. Progress Management** – During the course of the project, ENGINEER will manage the day-to-day progress of the project. The ENGINEER will track the scope, schedule and budget regularly. The ENGINEER will do the following sub-tasks.

**121. Documentation** – Develop document management protocols for processing and documenting design drawings, calculations, OWNER decisions, and communication.

**122. Project Status Report** – Develop a project status report highlighting current scope and schedule progress; identifying potential changes to the scope of services; invoice status; on-going list of outstanding issues; decision log; and action item log.

**1.130. Kick-off Meeting** – Conduct a project kick-off meeting with OWNER to review the project scope of services and schedule, define lines of communication and protocols, review deliverables, and develop success factors for completing the project. The ENGINEER will conduct site investigation tour of the OWNER’s facilities with the OWNER’s staff.

**1.140. Quality Assurance / Quality Control (QA/QC)** – The Engineer will follow internal QA/QC processes throughout the project. These processes include internal checking of calculations, review of documents, and checking of submittals. Deliverables will be submitted internally for Engineer’s QA/QC Review by a senior level Engineer(s).

### **Task 1.200 – Preliminary Design**

**1.210. Data Gathering** – The ENGINEER will collect, and review data required for the analysis from the OWNER and other agencies. The data gathering will include, at a minimum, the following:

- All facility record drawings related to infrastructure improvements within the project area for completed improvement projects, as well as any roadway, water, sanitary, sewer or storm water improvements pertinent to the project.
- OWNER’s existing GIS data including: plats, tract maps, or right-of-way maps and easements; utility maps (water, sanitary sewer, storm sewer); contour maps; and high-resolution aerial photography
- Projects in progress – OWNER will help identify and assist ENGINEER to coordinate with other proposed projects within project area currently under design or construction



**1.220. Geotechnical Analysis** – The ENGINEER will perform a geotechnical analysis of the proposed Ground Storage Tank area. The geotechnical analysis will include the following:

Subsurface exploration including up to three (3) sample bores at proposed new ground storage tank structure area to a depth of 30-ft. Laboratory tests for classification purposes and strength characteristics. Prepare a geotechnical report that presents the results of the field and laboratory data as well as analysis and recommendations. The data contained in the geotechnical report will be made available to contractors during the bidding process for information purposes.

**1.230. Survey** – The ENGINEER will perform a design level survey. The survey will include the locate visible topographic features such as marked and existing utilities and their appurtenances, iron pins (if found), edge of pavement, structures and fences. Establish control points at the site including up to three (3) permanent control points if none currently exist.

**1.240. Basis of Design Memorandum** – The ENGINEER will develop a preliminary design set of drawings.

#### **Task 1.300 – Detailed Design**

The detailed design includes tasks necessary to design the modifications and improvements as outlined in the preliminary design to the 60% level of detail. The design will incorporate the following disciplines: civil, geotechnical, electrical, instrumentation and control. The detailed design process will be conducted in the following tasks.

**1.310. Drawings** – The ENGINEER will develop design and details drawings to the 60% level of detail. The ENGINEER will perform the following sub-tasks.

**311. Suction Pipeline** – Develop plan, profile, and detail drawings for the suction pipeline from each ground storage tank.

**312. Pump Station Site Expansion** – Integrate existing plans and detail drawings for the pump station expansion into final project.

**313. 1.0MG Concrete Ground Storage Tank** – Develop plans and sections for the new 1.0MG ground storage tank including site grading and drainage.

**314. Submittal** – The ENGINEER will deliver five (5) sets of half-size Detail Design Drawings and one (1) electronic to the OWNER for review and comment.

**1.320. Specifications** – The ENGINEER will prepare detail specifications for use in bidding and constructing the project. The ENGINEER will do the following sub-tasks.

**321. Technical Specifications** – Develop detailed equipment, materials and all other specification sections generally considered to be necessary for detailing the construction.

**322. Submittal** – The ENGINEER will submit five (5) sets of the Specifications and one (1) electronic to the OWNER for review and comment.





**1.330. Opinion of Probable Cost** –The ENGINEER will prepare an opinion of probable cost for the project based upon the complete detail design documents.

**1.340. Detail Design Submittal Review Meeting** – The ENGINEER will conduct a review meeting with the OWNER two (2) weeks after the submission of the 60% Submittal.

#### **Task 1.400 – Final Design**

The final design includes those tasks necessary to finalize the design outlined in the Detailed Design Submittal. The final design will incorporate the following disciplines: civil, process mechanical, electrical, instrumentation and control. The final design process will be conducted in the following tasks.

**1.410. Drawings** – The ENGINEER will revise design and details drawings based on comments from the Review Meeting. The ENGINEER will do the following sub-tasks.

**411. Revise Drawings** – Revise drawings based on the comments from the OWNER.

**412. Details** – Develop project details to include in drawing set.

**413. Submittal** – Submit five (5) sets of half-size Final Design Drawings and one (1) electronic to the OWNER for review and comment.

**1.420. Specifications** – The ENGINEER will revise and prepare specifications for use in bidding and constructing the project. The ENGINEER will do the following sub-tasks.

**421. Front End Documents** – Include the Engineer’s standard General Conditions section of specifications and modify as necessary in Supplementary Conditions for the project. Documents shall include General and Special Conditions, Bid Proposal Forms, Instructions to Bidders, and all other sections generally considered necessary for solicitation of bids.

**422. Technical Specifications** – Revise equipment, materials and other specifications.

**423. Bid Tab** – Include equipment and material quantities in bid tab.

**424. Submittal** – Submit five (5) sets of the Specifications and one (1) electronic to the OWNER for review and comment.

**1.430. Opinion of Probable Cost** –The ENGINEER will prepare an opinion of probable cost for the project based upon the complete final design documents.

**1.440. Final Design Submittal Review Meeting** – The ENGINEER will conduct a review meeting with the OWNER two (2) weeks after the submission of the 100% Design Submittal.

#### **Task 1.500 – Permitting**

**1.510. TCEQ Regulatory Compliance** – The ENGINEER will coordinate with the TCEQ for required regulatory compliance.

**511. Submit Drawings and Specifications** – Submit final design drawings and technical specifications to the TCEQ on behalf of the OWNER. Respond to requests for additional information from TCEQ.



**512.Modifications to Design** – If required, update plans and specifications with any modifications requested by TCEQ prior to bidding.

**Phase 2 Bidding Services \$21,500.00**

The Bidding Phase services will include those tasks necessary to advertise, bid and recommendation of award of Construction Contract. Key aspects of Phase 2 are listed below.

- Deliverables: Project Advertisement  
Bid Documents  
Answer Bidder Questions  
Addenda (if necessary)  
Contractor Award Recommendation Letter  
Conform to Bid Documents
- Meetings: Pre-Bid meeting  
Bid Opening

Specific tasks to be performed for the Bidding Phase are listed below.

**Task 2.100 – Project Management**

**2.110. Communication with OWNER** – The ENGINEER will maintain consistent communication with the OWNER through the established protocol agreed upon.

**111. Standing Conference Call** –The ENGINEER will have a standing monthly call with the OWNER’s Project Manager to discuss the current project status report.

**112. Invoice Management** – The ENGINEER will submit a monthly invoice to the OWNER with the current project status report to the OWNER.

**2.120. Progress Management** – The ENGINEER will monitor the overall progress of Phase 2 services. The ENGINEER will do the following sub-tasks.

**121. Documentation** – Route Contracts for Execution and insertion into Conformed to Bid Documents. Document bid documents and communication.

**122. Project Status Report** – Develop a project status report highlighting current progress; distribution log; list of outstanding issues; and action item log.

**Task 2.200 – Contract Documents Bid Set**

**2.210. Seal and Sign** – The ENGINEER will incorporate the comments for the 100-percent review meeting. The ENGINEER will seal and sign the completed set of documents.

**2.220. Project Advertisement** – The ENGINEER will create and send bid advertisement to OWNER’s Purchasing Department. The ENGINEER will contact Contractors to help advertise the project.

**2.230. Contract Documents Distribution** – The ENGINEER will reproduce and distribute contract bid documents to prospective bidders and vendors and maintain a log of distribution. The ENGINEER will charge bidders and vendors a fee for Contract Documents. The ENGINEER will provide two (2) sets of half-size drawings and specifications for the OWNER.



**2.240. Clarifications to Prospective Bidders** – The ENGINEER will provide clarifications and answer questions from prospective bidders made during the bidding phase. Two (2) written clarifications and answers to questions will be distributed to perspective bidders.

**2.250. Addenda** – Modification(s), if necessary, to the Contract Bid Documents will be distributed to perspective bidders via addenda.

**2.260. Conform to Bid Documents** – Once the OWNER has accepted a bid, the ENGINEER will conform the Bid Documents to include all addenda issued to form the Conform to Bid set of Contract Documents. The ENGINEER will provide six (6) sets of half-size drawings and specifications for OWNER’s use.

**Task 2.300 – Meeting**

**2.310. Pre-Bid Meeting** – The ENGINEER will conduct one (1) pre-bid meeting. The pre-bid meeting will include a project overview presentation at a location designated by the OWNER and project site visit led by the ENGINEER with prospective bidders.

**2.320. Bid Opening Meeting** – The ENGINEER will attend the bid opening announcement led by the OWNER followed by a meeting to discuss the results.

**Task 2.400 – Evaluation of Bid Packets**

**2.410. Bidding Log** – The ENGINEER will review all submitted bids for compliance with Contract Documents and provide OWNER a log of all valid bidders.

**2.420. Review Bids** – The ENGINEER will review valid submitted bids and verify apparent low bidder’s references provide. The ENGINEER will make recommendations for contract award based upon ‘best value’ for the OWNER.

**Phase 3 Construction Services \*\$69,250.00**

*\*Phase 3 services are estimated at \$69,250.00 in 2024 dollars and are acceptable at least until January of 2026. The final amount will be finalized and agreed upon with written authorization to proceed.* The Construction services will include those tasks necessary to represent the OWNER during the project construction. Key aspects of Phase 3 are listed below.

- Deliverables: Construction meeting minutes  
Contractor Payment Application recommendations  
Shop drawing responses  
Request for Information responses  
Change Order recommendations, if required  
Field Order(s), if required  
Record Drawings
- Meetings: Construction Kickoff Meeting  
Construction progress meetings  
Substantial and Final completion inspection

During the Construction Phase, the following tasks will be provided.



### **Task 3.100 – Project Management**

**3.110. Communication with OWNER** – The ENGINEER will maintain consistent communication with the OWNER through the established protocol agreed upon.

**111. Standing Conference Call** – The ENGINEER will have a standing monthly call with the OWNER's Project Manager to discuss the current project status report

**112. Invoice Management** – The ENGINEER will submit a monthly invoice to the OWNER with the current project status report to the OWNER.

**3.120. Progress Management** – The ENGINEER will monitor the overall progress of Phase 3 services including tracking the scope, schedule and budget regularly. The ENGINEER will do the following sub-tasks.

**121. Documentation** – Develop document management protocols for processing and documenting shop drawings, request for information, operation and maintenance manuals, pay applications, field orders, change orders and as-built.

**122. Project Status Report** – Develop a project status report highlighting key issues; identifying potential changes to the scope of SERVICES; invoice status; active submittal(s) and log; active RFI(s) status and log; CMR status and log; list of outstanding issues; decision log; and action item log.

### **Task 3.200 – Submittals**

**3.310. Submittal Management** – The ENGINEER will use their FTP platform to log-in, track, and distribute submittals internally and provide review comments to Contractor and OWNER. It is assumed an average of no more than two (2) resubmittals will be required.

**3.320. Construction Execution Plan** – The ENGINEER will review the Contractor's execution plan and provide comments. The plan will be measured against the Contractors actual progress results.

**3.330. Shop Drawing** – The ENGINEER will perform technical and functional review of all shop drawings and other submittals and provide responses.

**3.340. Field Testing Reports** – The ENGINEER will review Field Test reports and flag any potential tests that do not conform to the Contract Document requirements.

**3.350. Contractor Payment Requests** – The ENGINEER will review of all Contractor Payment Request for accuracy and provide recommendations.

**3.360. Operation and Maintenance (O&M) Manuals** – The ENGINEER will review the O&M manuals for compliance with Contract Documents and provide comments.

### **Task 3.300 – Request for Information (RFI)**

The ENGINEER will review and respond to all RFIs, as necessary, submitted by the Contractor. The ENGINEER will coordinate with the OWNER on RFIs that requires information from the OWNER. Draft responses will be submitted to the OWNER for review and comment prior to submitting to the Contractor.



### **Task 3.400 – Contract Modifications Requests**

**3.410. Field Order (FO) Management** – The ENGINEER will provide direction to the Contractor, as necessary, for modifications to the Bid Documents through FO to complete the Scope of SERVICES identified herein. FO are used to address unforeseen issues. FO will be submitted to the OWNER for review and comment before submitting to the Contractor.

**3.420. Change Order (CO) Management** – The ENGINEER will review and provide recommendation to the OWNER on all Change Order requests received by the Contractor. The ENGINEER will work with the OWNER to properly facilitate CO requests when appropriate.

### **Task 3.500 – Construction Meetings**

**3.510. Construction Kick-off Meeting** – Conduct a construction kick-off meeting with the Contractor and OWNER to review the key construction processes outlined in Contract Documents, establish lines of communication and protocols, identify critical path of schedule. Provide four (4) Conform to Bid Documents to Contractor, and coordinate OWNER's Notice to Proceed along with executed Contracts to the Contractor.

**3.520. Construction Meetings** – The ENGINEER will attend monthly construction progress meeting with OWNER and Contractor. An estimate of eight (8) construction meetings are included, with one or two persons from the ENGINEER's project team attending.

**3.530. Site Visits** – The ENGINEER will make periodic visits, estimate of three (3), to the project site to observe the progress and quality of the various aspects of the Contractor's work.

**3.540. Substantial Completion Inspection** – The ENGINEER will participate in substantial completion inspection and provide list of noted items not in compliance with Construction Documents.

**3.550. Final Completion Inspection** – The ENGINEER will participate in final completion inspection and provide list of noted items not in compliance with Construction Documents.

**3.560. Equipment Start-up** – The ENGINEER will be on-site during equipment Start-up and witness field acceptance test. Up to two (2) site visits are included.

### **Task 3.600 – Record Drawings**

ENGINEER will develop As-Built drawings from the construction notes provided by the Contractor and OWNER. The OWNER will provide ENGINEER with all field changes and notes to be incorporated into the As-Built documents. The ENGINEER will provide four (4) sets of half-size drawings and specifications and one (1) electronic copy for OWNER's use.

### **Additional Services:**

Additional Services can be performed as requested in writing by the OWNER. A detailed scope, schedule and fee will be created upon request by the OWNER as these services are NOT included in the Scope of Work, Schedule, or Fee of this contract.

- In the field - SCADA wiring, termination, programming, integration





## Services Not Included

Any other services, including but not limited to the following, are not included in this Scope of SERVICES:

- Construction Staking.
- Geotechnical Construction Testing
- Professional services associated with re-bidding the project.
- Making significant modifications to the plans and specifications after the detailed design submittal has been approved by OWNER.
- Any additional changes to the Contract Documents necessary to break the project into phases.
- Establish new survey monuments for any of the proposed sites.
- Sampling, testing, or analysis beyond that specifically included in the Scope of Services referenced herein above.
- Assisting OWNER or Contractor in the defense or prosecution of litigation in connection with or in addition to those services contemplated by this Agreement. Such services, if any, will be furnished by the ENGINEER on a fee basis negotiated by the respective parties outside of and in addition to this Agreement.
- Appearing before regulatory agencies or courts as an expert witness in any litigation with third parties or condemnation proceedings arising from the development or construction of the Project, including the preparation of engineering data and reports for assistance to OWNER.
- Performance of miscellaneous and supplemental services related to the project as requested by OWNER, other than those described in Supplemental Services section.
- Professional services associated with re-bidding the project.
- "Value engineering" after bidding
- Subsurface Utility Engineering (SUE)
- Meetings beyond those identified in the scope.
- Deliverables beyond those identified in the scope
- Seismic structural design
- Any onsite construction inspection services.
- Any other services not listed in the Scope of Services.

## Information Needed from the OWNER

OWNER shall provide at a minimum to ENGINEER, the following items/information/assistance:

1. Furnish any existing data, reports, addresses, maps, plans, or construction drawings, etc. that may pertain to the project as requested.
2. Provide access to the pump station site by issuing keys, combinations and approval to enter facilities on as needed basis while under contract to inspect the facility.

## Time Period for Performance

Time periods for performance of the SERVICES are as follows:

<b>TASK 1.0</b>	<b>9 months</b>
<b>TASK 2.0</b>	<b>3 months</b>
<b>TASK 3.0</b>	<b><u>15 months</u></b>
<b>TOTAL</b>	<b>27 months</b>



## Assumptions

This Scope of SERVICES assumes the following:

- A two-week review period by OWNER for each submittal. All OWNER comments should be provided within the two-week review period. Any delays caused by the OWNER'S review shall be cause for an equitable extension of the design submittal timeline.

## Method of Payment

The Owner shall compensate Engineer on a lump sum basis in accordance with Exhibit B Fee Summary shown above for the provided Basic Services described herein and the approved Supplemental Services described herein. Invoices shall be submitted monthly by the Engineer, in a format acceptable to the Owner, based upon the percentage of SERVICES completed to date. The Engineer shall not exceed the stated fee amount without written approval from the Owner. The Engineer shall seek written approval for any SERVICES outside of the stated scope before performing said SERVICES.





# "EXHIBIT B"





**"EXHIBIT" B**  
**CITY OF STEPHENVILLE**  
**LILLIAN PUMP STATION IMPROVEMENTS PH 2**  
**PROFESSIONAL SERVICE FEE SUMMARY**



<b>Phase 1 Services</b>	<b>Phase 1 - Design Phase Services</b>	
	<b>Phase 1 - Design Phase Services</b>	
	Task 1.100 - Project Management	\$ 16,750
	Task 1.200 - Preliminary Design	\$ 42,500
	Task 1.300 - Detailed Design	\$ 57,800
	Task 1.400 - Final Design	\$ 66,200
	<b>Total fee for Design Phase 1 Services</b>	<b>\$ 183,250</b>
<b>Phase 2 and Phase 3</b>	<b>Phase 2 Bid Phase Services</b>	
	Tasks 2.100 - 2.400	\$ 21,500
	<b>Phase 3 Construction Phase - <i>Estimated Fee</i></b>	
	Tasks 3.100 - 3.600	\$ 69,250
		<b>Phase 1 Fee</b> \$ 183,250
		<b>Estimated Phase 2 &amp; 3 Fee</b> \$ 90,750
		<b>Estimated Total Fee Proposal</b> \$ 274,000
<b>Opinion Of Probable Construction Cost</b>		
		<b>Pump Station Expansion &amp; New GST OPC</b> \$ 2,755,000
		<b>Estimated Total Project Cost</b> \$ 3,024,000



# "EXHIBIT C"





**"EXHIBIT C"**  
**CITY OF STEPHENVILLE**  
**Lillian Pump Station Phase II Improvements**  
**Opinion Of Probable Construction Cost**



**PROVENANCE**  
ENGINEERING

ITEM	DESCRIPTION	UNIT	UNIT COST	QUANTITY	ITEM COST
1	Mobilization, Demobilization, Bonding and Insurance	LS	\$165,000	1	\$165,000
2	Split Case Pump	LS	\$75,000	1	\$75,000
3	Pump Control Valve	LS	\$30,000	1	\$30,000
4	Piping and Misc valves	LS	\$25,000	1	\$25,000
5	1MG Painted Concrete Ground Storage Tank with foundation	LS	\$1,250,000	1	\$1,250,000
6	Yard Piping and valve vault	LS	\$125,000	1	\$125,000
7	Instrumentation and Controls and electrical	LS	\$125,000	1	\$125,000
	SUB TOTAL				\$1,795,000
	CONTINGENCY		33%		\$600,000
	SUB TOTAL				\$2,395,000
	Contractor Profit		15%		\$360,000
	<b>TOTAL</b>				<b>\$2,755,000</b>

This Opinion of Probable Construction Cost was prepared by Kent W. Riker, P.E. # 103730, firm No. 20783, and shall not be used for construction, permitting or other construction purposes.