

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF EVERMAN, TEXAS AND THE CITY OF FOREST HILL, TEXAS**

WHEREAS, Chapter 791 of the Texas Government Code, also known as the Interlocal Cooperation Act, authorizes all local governments to contract with each other to perform governmental functions or services including administrative functions normally associated with the operation of government such as purchasing or the loan of necessary equipment and supplies, specifically as related to emergency fire services;

WHEREAS, the City of Everman, Texas (“Everman”) and the City of Forest Hill, Texas (“Forest Hill”) desire to enter into this Agreement for the purpose of fulfilling and implementing their respective public and governmental purposes, needs, objectives, programs, and services;

WHEREAS, it is deemed in the best interest of all participating governments that said governments do enter into a mutually satisfactory agreement for the purchase and/or loan of supplies and materials;

WHEREAS, the participating governments are of the opinion that cooperation in the purchasing or loan of equipment, supplies, and services will be beneficial to the taxpayers of the governments through the efficiencies and potential savings to be realized.

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants and conditions contained herein, promise and agree as to each of the other as follows:

1. Lease.

Everman hereby leases to Forest Hill, and Forest Hill hereby leases from Everman, the vehicle or equipment (also referred to in general as “Vehicles” or “Equipment”) described in Exhibit A, attached to and incorporated into this Lease by reference.

2. Term.

The term of this Lease will begin on _____, 2022, and is renewable every one hundred and twenty (120) days.

3. Use.

Forest Hill shall use the Vehicles in a careful and proper manner and shall comply with and conform to all national, state, municipal, police and other laws, ordinances, regulations, and contractual agreements between the Everman and Forest Hill in any way relating to the possession and safe use of the Vehicles. All considerations under this Lease have been previously agreed upon.

4. Right to Lease/Sublease.

TO THE EXTENT ALLOWED BY APPLICABLE LAW, EVERMAN WARRANTS THAT EVERMAN HAS THE RIGHT TO LEASE THE VEHICLES AND EQUIPMENT AS PROVIDED IN THIS LEASE. FOREST HILL MAY NOT SUBLEASE THE VEHICLES AND EQUIPMENT TO ANY THIRD PARTY WITHOUT THE PRIOR WRITTEN CONSENT OF THE EVERMAN.

5. General Maintenance, Repairs, and Replacement.

Forest Hill shall, at its own cost and expense, store, repair and maintain the Vehicles.

EVERMAN SHALL HAVE NO DUTY TO REPAIR OR MAINTAIN THE EQUIPMENT AS DEFINED IN EXHIBIT A, ATTACHED HERETO, WHILE THE EQUIPMENT IS WITHIN THE POSSESSION OF FOREST HILL. EVERMAN SHALL HAVE NO DUTY TO MAKE ANY REPLACEMENT OF ANY EQUIPMENT.

6. Loss and Damage.

To the extent any loss to the Vehicles, or personal or real property damage or loss, personal injury or death to any person, is not covered by the insurance required under this Lease, Forest Hill agrees to indemnify, defend and hold harmless Everman for any and all loss or damage to the Vehicles provided under this Lease and for any personal or real property damage or loss, personal injury or death caused to any employee of Forest Hill or any third party in connection with Forest Hill's use of the Vehicles.

7. Surrender.

Upon the expiration or earlier termination of this Lease, Forest Hill shall return the Vehicles to Everman in good repair, condition and in equal working order as was received, with exception of ordinary wear and tear resulting from proper use thereof, by delivering the Vehicles, at Forest Hill's cost and expense, to the place Everman specifies within the city or county in which the Vehicle was delivered to Forest Hill.

8. Insurance.

Liability Insurance. At all times during the Lease Term, Forest Hill, at its sole cost and expense, shall carry commercial general liability insurance coverage in a minimum amount of \$1,000,000 each occurrence; \$2,000,000 general aggregate, which policy shall insure against bodily injury, death and property damage and shall include (i) coverage for premises and operations; (ii) coverage for Everman's concurring negligence; and (iii) contractual liability coverage insuring the obligations of Forest Hill under the terms of this Lease, including but not limited to the indemnity obligations herein.

Insurance Certificates and Endorsements. All liability insurance policies required herein shall be with companies licensed by the Texas Department of Insurance and shall (i) be endorsed to include Everman as an additional insured; (ii) contain cross-liability and severability of interest endorsements; (iii) state that this insurance is primary insurance as regards other insurance carried by any Indemnified Party and shall be endorsed to state that such insurance will not be canceled, materially changed or subject to non-renewal without thirty (30) days prior written notice to Everman; and (iv) shall include waiver of subrogation endorsements in a form acceptable to Everman. Forest Hill shall also include waiver of subrogation endorsements in favor of Everman on any insurance coverages Forest Hill may carry in addition to that required herein for the Premises or activities conducted thereon, including but not limited to workers compensation insurance. Forest Hill shall furnish Everman with certificates of all coverage required herein and with copies of the required endorsements prior to the commencement of this Lease. Certificates of insurance shall specify the additional insured status mentioned above as well as the waiver of subrogation and shall contain any other endorsements required herein. Forest Hill shall provide to

Everman a certified copy of any and all applicable insurance policies upon request of Everman. Forest Hill's obligation to carry and pay for the insurance described in this Lease will continue beyond the term of this Lease in the event Forest Hill remains in possession of the Equipment for any reason until Everman deems such removal to be complete. If Forest Hill fails to have a certificate of any required policy of insurance on deposit with Everman at any time during the Lease Term or subsequent thereto in the event of any continued possession of the Equipment, or in the event the certificate fails to comply with the insurance company quality or coverage requirements hereof, such failure may be treated by Everman as a default by Forest Hill.

9. Taxes.

Forest Hill shall keep the Vehicles free and clear of all levies, liens and encumbrances. Forest Hill, or Everman at Forest Hill's expense, will report, pay and discharge when due all license and registration fees. However, Forest Hill will not be required to pay or discharge any other tax or assessments.

10. Everman's Payment.

In case of failure by Forest Hill to procure or maintain the insurance required by this Lease or to pay fees specified in this Lease, Everman will have the right, but not the duty, to procure the insurance or pay the required fees. In that event, Forest Hill shall repay Everman said costs within 10 days of demand. Any failure of Forest Hill to pay required amounts will constitute an event of default and will result in an additional charge to Forest Hill of interest at ten percent (10%) per annum, or the maximum amount allowed by law, whichever is lower. In addition, Everman reserves the right to any remedy provided in Section 12 of this Lease or under law or in equity.

11. Default.

If Forest Hill fails to pay any lease or other amount herein provided within ten (10) days after due and payable, or if Forest Hill fails to observe, keep or perform any other provision of this Lease required to be observed, kept or performed by Forest Hill, Everman will have the right to exercise any one or more of the following remedies:

- A. To declare the entire amount of lease hereunder immediately due and payable without notice or demand to Forest Hill.
- B. To sue for and recover all rents, and other payments, then accrued or thereafter accruing.
- C. To take possession of the Vehicles, without demand or notice, wherever same may be located, without any court order or other process of law. Forest Hill hereby waives any and all damages occasioned by such taking of possession.
- D. To terminate this Lease.
- E. To deduct any unpaid lease payments or other amounts herein provided from any monies payable to the Forest Hill.

Notwithstanding any repossession or any other action that Everman may take, Forest Hill will be and remain liable for the full performance of all obligations on the part of the Forest Hill to be performed under this Lease. All of Everman's remedies are cumulative and may be exercised concurrently or separately.

12. Ownership.

The Vehicles are, and will at all times remain, the sole and exclusive property of Everman; and the Forest Hill has no right, title or interest in the Vehicles, except as expressly set forth in this Lease.

13. Additional Documents.

If Everman requests, Forest Hill shall execute and deliver to Everman any documents Everman deems necessary or desirable for purposes of recording or filing to protect the interest of Everman in the Equipment or Vehicles, including, but not limited to, maintenance records of Vehicles.

14. Entire Agreement.

It is understood that this Agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements, or understandings between the parties relating to the subject matter. Nor oral understandings, statements, promises, or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally. No verbal agreement or conversation with any officer, agent, or employee of any party before or after the execution of this Agreement shall affect or modify any of the terms or obligations hereunder.

15. Amendment.

No Amendment to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of both parties.

16. Texas Law.

This Agreement has been made under and shall be governed by the laws of the State of Texas.

17. Authority to Enter Contract.

Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement. The persons executing this Agreement hereby represent that they have the authorization to sign on behalf of their respective corporations.

18. Waiver.

Failure of any party, at any time, to enforce a provision of this Agreement, shall in no way constitute a waiver of that provision, nor in anyway affect the validity of this Agreement, any part hereof, or the right of either party thereafter to enforce each and every provision hereof. No term of this Agreement shall be deemed waived or breach excused unless the waiver shall be in writing and signed by the party claimed to have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any other different or subsequent breach.

19. Written Notice.

Unless otherwise specified, written notice shall be deemed to have been duly served if delivered in person or sent by certified mail to the last business address as listed herein.

Forest Hill: **Sheyi Ipaye**
 City Manager
 3219 E. California Pkwy
 Forest Hill, Texas 76119

Everman: **Craig Spencer**
 City Manager
 404 W. Enon Avenue
 Everman, Texas 76140

20. Agreement Read.

The parties acknowledge that they have read, understand, and intend to be bound by the terms and conditions of this Agreement.

21. Assignment.

This Agreement and the rights and obligations contained herein may not be assigned by any party without the prior written approval of the other parties to this Agreement.

22. Multiple Originals.

It is understood and agreed that this Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

FOREST HILL

EVERMAN

BY: _____
Clara Faulkner, Mayor

BY: _____
Ray Richardson, Mayor

ATTEST:

ATTEST:

Amy Anderson, City Secretary

Mindi Parks, City Secretary

Exhibit A