

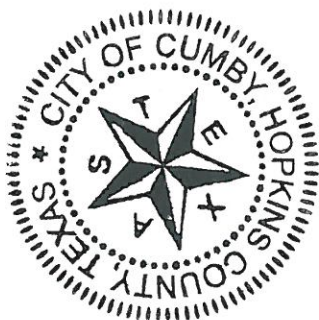
**Cumby City Council  
Special Meeting Agenda  
Tuesday October 22<sup>nd</sup>, 2019  
City Hall – 100 East Main Street, Cumby, Texas  
6:00 p.m.**

- I. Call to Order
- II. Establish quorum
- III. Invocation
- IV. Pledge of Allegiance
- V. Discuss and Consider possible action on Texas Tank Services Water Tower Annual Maintenance Contract.
- VII. Adjournment

*If during the course of the meeting, any discussion of any item on the agenda should be held in closed session, the Council will convene in such executive or closed session in accordance with the following: 1) VTCA Government Code 551.071 - Consultations with legal counsel concerning pending or threatened litigation or matters where counsel's duty to the City conflicts with the Open Meetings Act; 2) VTCA Government Code 551.072 - Deliberations regarding the purchase, sale, lease or exchange of real property; 3) VTCA Government Code 551.073 - Deliberations regarding prospective gifts or donations; 4) VTCA Government Code 551.074 - Deliberations regarding personnel of the City; 5) VTCA Government Code 551.076 - Deliberations regarding the deployment of security devices or the implementation of security policy; and VTCA Government Code 551.087 – Deliberations regarding Economic Development negotiations.*

**CERTIFICATION**

I, Codi Reynolds, City Secretary for City of Cumby, hereby certify that the above notice of meeting and agenda was posted on the Public Notice Board at Cumby City Hall, 100 East Main Street, Cumby, Texas on October 18, 2019 at 2 p.m.



*Codi Reynolds*  
Codi Reynolds, City Secretary

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## WATER TOWER ANNUAL MAINTENANCE CONTRACT

This Contract entered into by and between the City of Cumby, **whose business address is 101 E. Main St. Cumby, TX. 75433** (hereinafter referred to as "the Owner") and **JK Tank Services, LLC** whose business address is 103 Stacy Dr., Whitehouse, TX 75791 (hereinafter referred to as "the Company").

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

The Owner agrees to engage the Company to provide the professional service needed to maintain Owner's

### **(3) Potable Water Storage Facilities (hereinafter "tank").**

**1. Company's Services.** This Contract outlines the Company's responsibility for the care and maintenance (the "Services") of the following water tanks and/or towers (the "Facilities"):

#### **SEE APPENDIX 1**

The Services include the following:

The Company will provide annual inspections of the interior and exterior of each facility to insure the Owner is in compliance with the current TCEQ regulations. A report will be provided detailing the current condition of all components, water quality and security of the site.

**Rehab Services:** Any facility scheduled for Rehab Services must be dewatered by customer for access. All work performed will be in a professional manner to all current AWWA, TCEQ and federal guidelines and requirements. It is agreed that all coating systems will be Sherwin Williams or price equivalent.

**Diving Services:** All commercial diving services will be performed to AWWA standards for entry into potable water facilities

**Out-of-Service Repairs/Cleanings:** Any out-of-service repairs that require the facility to be drained must be dewatered by customer for access. Disinfection of facility will be Company responsibility.

**Bolted Tanks:** Bolted tanks by design require different maintenance schedules and have a higher leak probability than welded steel tanks. Due to the design of these vessels Texas Tank Services can not provide a warranty on leak repairs on bolted tanks.

**2. Contract Price/Payment Terms.** The terms of the contract are set forth below. Invoices will be sent to the address for the Owner listed above and shall be payable on or before thirty (30) days from the invoice date. Any unknown future regulation, labor laws or supply chain issues that adversely affect cost of the Services will require an adjustment in pricing to allow the costs to be included in the Contract Price.

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The Customer shall pay Texas Tank Services:

- **2019 \$10,996.50 due at start of project as down payment for rehabilitation of 100 TG Ground**
  - **2019 \$10,996.50 due at completion of 100 TG Ground rehabilitation**
    - **Year (1)-\$3,665.50 Monthly for 6 Months (Once Every 8 Weeks)**
      - **Year (2)-\$2,832.17 Monthly for 12 Months**
      - **Year (3)-\$2,832.17 Monthly for 12 Months**
      - **Year (4)-\$2,382.17 Monthly for 12 Months**
      - **Year (5)-\$1,998.84 Monthly for 12 Months**

3. **Term.** This contract is an exclusive services contract whereby for the term of this Contract, Owner agrees to exclusively use only Company for the Services on the terms and conditions set forth herein. This Contract shall terminate on **September 1, 2024**.

4. **Professional Engineering Services.** The Owner shall be responsible for any and all engineering services and the costs related thereto.

5. **Environmental, Health, Safety, or Labor Requirements.** The Owner hereby agrees that future mandated environmental, health, safety, or labor requirements as well as changes in site conditions at the tank site which cause an increase in the cost of maintenance will be just cause for a negotiation with Owner regarding a potential modification of this Contract. Said modification of this Contract may reflect any increased cost of the service with a newly negotiated annual fee.

6. **Excluded Items.** This Contract does NOT include the cost for and/or liability on the part of the Company for: (1) containment of the tank at anytime during the term of the Contract; (2) disposal of any hazardous waste materials; (3) resolution of operational problems or structural damage due to cold weather; (4) repair of structural damage due to antenna installations or other attachments for which the tank was not originally designed; (5) resolution of operational problems or repair of structural damage or site damage caused by physical conditions below the surface of the ground; (6) negligent acts of Owner's employees, agents or contractors; (7) damages, whether foreseen or unforeseen, caused by the Owner's use of pressure relief valves; (8) repairs to the foundation of the tank; (9) any latent defects of the tank or its components (i.e., corrosion from the underside of the floor plates or corrosion in areas not accessible to maintain); (10) payment of prevailing wages at any time during the term of the contract; and (11) other conditions which are beyond the Owner's and Company's control, including, but not limited to: acts of God and acts of terrorism. Acts of terrorism include, but are not limited to, any damage to the tank or tank site which results from unauthorized entry of any kind to the tank site or tank.

7. **Assignment.** The parties may not assign or otherwise transfer all or any of the party's interest under this Contract without the prior written consent of the other party. If the party agrees to the assignment, the assigning party shall remain responsible under this Contract, until its assignee assumes in full and in writing all of the obligations of the assigning party under this Contract. Any attempted assignment a party in violation of this provision will be void and of no effect.

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

9. CONTRACTORS, AGENTS, OR EMPLOYEES. THE INDEMNIFICATION PROVIDED IN THIS PARAGRAPH DOES NOT AFFECT EITHER PARTY'S LIMITATIONS OF LIABILITY SET FORTH IN OTHER PARAGRAPHS OF THIS CONTRACT.

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

11. **Entire Agreement.** This Contract constitutes the entire agreement of the parties and supersedes all prior communications, understandings, and agreement relating to the subject matter hereof, whether oral or written.

This Contract is executed and effective as of the date last signed by the parties below.

**OWNER:**

City of Cumby

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

**COMPANY:**

JK Tank Services, LLC  
dba: Texas Tank Services

By: \_\_\_\_\_  
Name: Jeffrey Kannard  
Its: Owner  
Date: \_\_\_\_\_

I, \_\_\_\_\_, a notary public, certify that this or the attached copy of the \_\_\_\_\_, dated \_\_\_\_\_, is an accurate, correct and complete copy of the original document presented to me by \_\_\_\_\_ on \_\_\_\_\_.

In witness whereof, I hereunto set my hand and official seal.

## City of Cumby

### APPENDIX 1

#### 100 Thousand Gallon Ground

- Annual TCEQ Inspection (2020, 2021, 2022, 2023, 2024)
- In-Service Cleaning (2021, 2023)
- Fall Protection Water Access Ladder (2021)
- Touch Up Areas of Corrosion (Interior Tank) (2022)
- Sandblast and Recoat interior of Facility (Sika guard floor plates; new coating sidewall and roofplates) **(2019)**
- Floran Chemical Wash (Includes Chemical) (2022)

#### 50 Thousand Gallon Ground

- Annual TCEQ Inspection (2020, 2021, 2022, 2023, 2024)
- In-Service Cleaning (2020, 2022)
- Enlarge/Replace Roof Ventilation Structure (2021)
- Install a safety gate on the center water riser pipe (2022)
- Fall Protection Water Access Ladder (2021)
- Sandblast and Recoat exterior of Facility (2023)
- Replace Penetration Sleeve for Water Level Indicator Probes (2021)
- Touch Up Areas of Corrosion (Exterior Tank) (2020)
- Sandblast and Recoat Interior of Facility (2021)
- Floran Chemical Wash (Includes Chemical) (2024)

#### 50 Thousand Gallon Elevated

- Annual TCEQ Inspection (2020, 2021, 2022, 2023, 2024)
- In-Service Cleaning (2020, 2022, 2024)
- Install a safety gate on the center water riser pipe (2022)
- Touch up Areas of Corrosion (Interior Tank) (2022)
- Floran Chemical Wash (Includes Chemical) (2024)