

INTERLOCAL AGREEMENT

This Interlocal Agreement (the “Agreement”) is entered into by and between the City of Fort Worth, Texas, hereafter referred to as “Fort Worth”, acting by and through its duly authorized assistant city manager, and the City of Everman, Texas, acting by and through its duly authorized city manager. Fort Worth and Everman may collectively be referred to herein as the “Parties” or individually as a “Party.”

WHEREAS, Everman is requesting Fort Worth’s assistance to design, construct, and install:

1. Various pedestrian, bicycle, and roadway multimodal safety improvements on the following facility limits:
 - a. Oak Grove Road from Forum Way to Everman Parkway
 - b. Everman Parkway from Oak Grove Road to Dan Meyer Road
 - c. Everman Parkway / Shelby Road from Dan Meyer Road to Forest Hill Drive
 - d. Everman Parkway / Shelby Rd from just west of Dollar General to Forest Hill Dr
 - e. Dan Meyer Road from Everman Parkway to Townley Drive
 - f. Townley Drive from Dan Meyer Road to Race Street
 - g. Race Street from Everman Parkway / Shelby Road from Townley Dr to Noble Dr (all collectively referred to herein as the “Project”); and

WHEREAS, pursuant to Chapter 791 of the Texas Government Code, the Texas Interlocal Cooperation Act, the Parties are authorized and agree to enter into this interlocal cooperation agreement for design, construction, and installation of the Project; and

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

WHEREAS, the City Council of Fort Worth and the City Council of Everman each make the following findings:

1. This Agreement serves the common interests of both Parties;
2. This Agreement will benefit the public;
3. The division of costs set forth in the Agreement fairly compensates both Parties to this Agreement;
4. The Parties have authorized their representatives to sign this Agreement; and
5. The Parties acknowledge that they are each a “governmental entity” and not a “business entity” as those terms are defined in Tex. Gov’t Code section 2252.908, and therefore, no disclosure of interested parties pursuant to section 2252.908 is required.

NOW, THEREFORE, the City of Fort Worth and the City of Everman agree as follows:

Section 1: RESPONSIBILITIES OF FORT WORTH

- 1.1 The City of Fort Worth agrees to provide all labor, materials, and equipment necessary for

the design, construction and installation of all elements of the Project, including actual costs for materials, including any delivery or freight costs, fuel costs, and costs of traffic control necessary for safe construction of the Project.

- 1.2 The City of Fort Worth will commence construction and installation of the Project within ninety (90) calendar days of receipt of Notice to Proceed from the City of Everman.
- 1.3 The City of Fort Worth agrees to be responsible for all traffic control necessary to safely construct the Project, including, but not necessarily limited to, all notices, signage, barricades, portable message boards, pilot vehicles, and flagmen necessary to control traffic in and around the construction site.
- 1.4 The City of Fort Worth agrees to be responsible for and will remove any existing surfaces required for the Project and make all necessary roadway repairs (including but not limited to provision of backfill materials) in accordance with the City's ordinances, rules, and regulations.
- 1.5 The City of Fort Worth agrees to be responsible for and will adjust all utilities, manholes, and valve boxes for this Project.
- 1.6 The City of Fort Worth agrees to be responsible for and will provide any engineering, survey, and laboratory testing required for the Project.
- 1.7 The City of Fort Worth will be responsible for and will provide a site for dumping all spoils and waste materials generated during the construction and/or installation of the Project.
- 1.8 The City of Fort Worth will provide design, construct and install the Project in accordance with federal, state, county, and city laws, rules, and regulations and agrees that City of Everman shall retain the right to inspect and provide feedback on all materials provided for this Project.

Section 2: RESPONSIBILITIES OF EVERMAN

- 2.1 The City of Everman agrees to provide transportation development credits to the City of Fort Worth valued at an amount up to \$450,000.00 as follows: \$225,000 in transportation development credits at commencement of installation and construction and the remaining transportation development credits at completion of installation and construction and acceptance of the Project by the City of Everman.
- 2.2 The City of Everman agrees to provide payment for a portion of the local participation amount up to \$263,655.00 plus any construction cost overruns for project areas within the City of Everman which are pre-approved in writing by the City of Everman. City of Everman agrees to provide its payments due hereunder half at commencement of installation and construction and the remainder at completion of installation and construction of the Project and acceptance thereof by the City of Everman.

2.3 The City of Everman will provide the City of Fort Worth with notice to proceed at the appropriate time.

~~2.4 The City of Everman shall be responsible for the application of any permanent striping that may be required for the Project.~~

Section 3: TERM AND TERMINATION

3.1 The Project must be completed on or before December 31st 2028.

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

3.3 The relationship between the Parties to this Agreement does not create a partnership or joint venture between the Parties. This Agreement does not appoint any Party as an agent of the other Party.

3.4 This Agreement shall become effective when signed by the last Party whose signature makes the Agreement fully executed.

3.5 This Agreement will automatically terminate on either December 31st, 2028, or on the date the Project is completed, whichever occurs first. Notwithstanding the foregoing, or any other language to the contrary, either Party may terminate this Agreement based on a default by the other Party, after having provided sixty (60) days written notice to the other Party of default and on the condition that the default remains uncured sixty (60) days thereafter. In the event of termination by either Party, neither Party shall have any further obligations to the other Party under this Agreement

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

3.7 This Agreement may be executed in one or more counterparts and each counterpart will, for all purposes, be deemed an original, but all such counterparts will together constitute one and the same instrument.

3.8 Each Party agrees to be solely liable for the actions, omissions, and negligent acts of its own employees, agents, and representatives engaged in the provision of services under this Agreement.

- 3.9 Everman assumes no responsibility or liability for payments, wages, income, and employment tax payments, pensions, benefits, or other payments accrued by or owed to Fort Worth employees who provide services pursuant to this Agreement.
- 3.10 This Agreement shall be construed in accordance with the laws of the State of Texas. If any action, whether real or asserted, at law or in equity, is brought on the basis of this Agreement, venue for such action shall lie in state courts located in Tarrant County, Texas or the United States District Court for the Northern District of Texas, Fort Worth Division.
- 3.11 Notices required pursuant to the provisions of this Agreement shall be conclusively determined to have been delivered when (1) hand-delivered to the other party, its agents, employees, servants or representatives, or (2) received by the other party by United States Mail, registered, return receipt requested, addressed as follows:

TO FORT WORTH: City of Fort Worth Attn: Assistant City Manager 100 Fort Worth Trail Fort Worth TX 76102	TO EVERMAN City of Everman Attn: City Manager 212 N. Race Street Everman, TX 76140
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Any notices given pursuant to this section shall be confirmed by email and sent to the following addresses:

IF TO FORT WORTH: Kelly Porter City of Fort Worth 100 Fort Worth Trail Fort Worth, TX 76102	IF TO EVERMAN Victoria Thomas Nichols Jackson LLP 500 North Akard St., Ste. 1800 Dallas, TX 75201
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- 3.12 The Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. No party may assign or transfer any of its rights or obligations under this Agreement without prior written consent of the other Party.
- 3.13 This Agreement, including any exhibits attached hereto and any documents incorporated herein by reference, contains the entire understanding and agreement between the Parties, their assigns and successors in interest, as to the matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with any provision of this Agreement.

(signature page follows)

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in multiples.

City of Fort Worth:

By: _____
Name: _____
Title: Assistant City Manager

Date: _____

CITY OF FORT WORTH INTERNAL ROUTING PROCESS:

Approval Recommended:

By: _____
Name: _____
Title: _____

Approved as to Form and Legality:

By: _____
Name: _____
Title: Assistant City Attorney

Contract Authorization:

M&C: _____

Contract Compliance Manager:

By signing I acknowledge that I am the person responsible for the monitoring and administration of this contract, including ensuring all performance and reporting requirements.

By: _____
Name: _____
Title: _____

City Secretary:

By: _____
Name: _____
Title: City Secretary

City of Everman: By: _____ Name: Craig Spencer Title: City Manager Date: _____	Attest By: _____ Name: Mindi Parks Title: City Secretary Date: _____
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