

STATE OF TEXAS
COUNTY OF TARRANT

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INTERLOCAL COOPERATION AGREEMENT
FOR POLICE MUTUAL AID

This **Interlocal Cooperation Agreement for Police Mutual Aid** (“**Agreement**”) is entered as of the Effective Date by and among the **City of Everman** (“**Everman**”), a Texas home rule municipality and the **City of Dalworthington Gardens** (“**Dalworthington Gardens**”), a Type A general law municipality. Everman and Dalworthington Gardens may be referred to hereafter collectively as “Parties” and separately as “Party.”

RECITALS

WHEREAS, it is the responsibility of the governments of Everman and Dalworthington Gardens to ensure the public safety of their residents by providing adequate levels of police services to address any foreseeable routine or emergency situation; and

WHEREAS, Everman and Dalworthington Gardens have determined it is to the mutual advantage and benefit of each Party to render police services to the other Party in the case of an emergency or when requested by a Requesting Party; and

WHEREAS, it is the desire of the Parties to enter into this Agreement for Mutual Aid pursuant to the provisions of Texas Government Code Chapter 791 (the Interlocal Cooperation Act) and contract pursuant thereto;

NOW, THEREFORE, for the mutual consideration hereinafter stated the Parties agree as follows:

AGREEMENT

1. **Definitions.** As used in this Agreement, the following words and phrases shall have the following meanings unless the context clearly indicates a different meaning:

Effective Date means the date on which this Agreement has been signed by authorized representatives of all of the Parties.

Emergency shall mean any occurrence, or threat thereof, which results in substantial injury or harm to the population, or damage to or loss of property.

District with respect to each Party means that Party’s incorporated city limits.

Mutual Aid shall have the meaning assigned to that phrase in Section 4, below.

Police Chief shall mean the person serving as Police Chief for each respective Party, and his or her authorized representative(s).

Requesting Party means the Party requesting Mutual Aid assistance under this Agreement.

Responding Party means the Party providing Mutual Aid assistance to a Requesting Party in response to a request made pursuant to this Agreement.

2. Term; Early Termination.

a. Term. The initial term of this Agreement shall begin on the Effective Date and end on September 30, 2024. The term of this Agreement shall be automatically extended for periods of one (1) year each beginning on October 1, 2024, and on each October 1st thereafter until terminated in accordance with this Agreement.

b. No-Fault Termination. In addition to such other means of termination set forth in this Agreement, any Party may terminate its participation in this Agreement at any time without cause by delivering written notice of termination to the other Party not later than ninety (90) days prior to the date of termination set forth in the notice.

3. Adequate Coverage for Own Jurisdiction. The Parties understand and acknowledge that each Party is responsible for providing adequate law enforcement coverage for its own Jurisdiction and that the foremost responsibility of each Party is to first ensure that the Party's law enforcement resources are devoted to providing adequate law enforcement services to its own residents. This Agreement shall not be construed as imposing an unconditional obligation on any Party to this Agreement to provide aid and assistance to a Requesting Party. When a Party is unable to honor a request for aid and assistance, the Party will immediately inform the Requesting Party that it will not be able to provide the requested Mutual Aid.

4. Mutual Aid. In the event a Party's Police Chief determines that an event, incident, emergency, or an eminent threat of emergency is such that the Party's available law enforcement resources will likely be inadequate to address the event, incident, or emergency (existing or threatened), the Police Chief of the Requesting Party shall notify the other Party. The Police Chief of the Responding Party shall evaluate the request and the Party's available resources and respond in a manner deemed appropriate. No Party shall be required to provide Mutual Aid unless it determines that it has sufficient resources to do so based on current or anticipated events within its own jurisdiction.

a. The Mutual Aid provided by the Responding Party may be recalled at the discretion of the Police Chief or of the Responding Party.

b. Officers of the Responding Party will work under their own supervisors and with their own equipment to the extent possible.

c. All general direction relative to the work will be given by the appropriate officers of the Requesting Party.

- e. Direction for the Responding Party's officers during regularly scheduled special events will be at the direction of the Requesting Party's designated Incident Commander.
- f. The Requesting Party will be responsible for arrests and detentions in the Requesting Party's Jurisdiction unless circumstances dictate otherwise.
- g. All follow-up investigations for all offenses will be conducted by the Requesting Party.
- h. If any police officer of a Responding Party responds to an Emergency or a Request within a Requesting Party's jurisdiction, the command authority shall be determined as follows:
 - i. The Requesting Party shall exercise command unless otherwise provided in Paragraph ii, below.
 - ii. If a police officer of a Responding Party is first on the scene, that officer shall assume command and secure the area, maintain the integrity of the crime scene, establish a perimeter, as required, and begin to gather victim and witness information until a police officer from the Requesting Party's department arrives on the scene. Upon arrival, the Requesting Party's police officer shall assume command of the scene. Once command is transferred, the Responding Party's police officer shall not remain on the scene unless requested to do so by the Requesting Party.

4. Authority of Responding Party's Officers.

- a. Police officers of a Responding Party shall exercise criminal law enforcement powers outside of the Responding Party's jurisdiction and within the jurisdiction of the Requesting Party to the same extent as police officers of the Requesting Party acting within the jurisdiction of the Requesting Party provided the police officers of the Responding Party are present in the Requesting Party's jurisdiction pursuant to a request from the Requesting Party.
- b. This Agreement shall not be construed as authorizing the police officers of the Responding Party to perform routine patrols in the jurisdiction of the Requesting Party or to conduct investigations therein unless said patrols or investigations are the subject of a Request for Mutual Aid.

5. Report Required. Whenever assistance is provided under the terms of this Agreement, the Responding Party shall be responsible for generating a report regarding the incident, if required, and shall provide a copy of the same to the Requesting Party.

6. Agency Policy and Procedures. When conducting law enforcement activities within the jurisdiction of a Requesting Party, including, but not limited to, the use of force, the officers

of the Responding Party shall adhere to the Responding Party's policies and procedures and use only those weapons and tactics for which said officers are qualified and authorized to use in accordance with the Responding Party's policies and procedures.

7. Party Liability.

- a. Everman.** To the extent allowed by law, and without waiving any immunity (governmental, official, qualified, or otherwise) available to Everman or its employees under Texas or Federal law, or any other defenses Everman or its employees are able to assert under Texas or Federal law, Everman agrees to and accepts full responsibility for claims arising from or related to the negligent acts and/or omissions of Everman's officers, employees and agents that occur in association with providing the services to the other Parties pursuant to this Agreement.
- b. Dalworthington Gardens.** To the extent allowed by law, and without waiving any immunity (governmental, official, qualified, or otherwise) available to Dalworthington Gardens or its employees under Texas or Federal law, or any other defenses Dalworthington Gardens or its employees are able to assert under Texas or Federal law, Dalworthington Gardens agrees to and accepts full responsibility for claims arising from or related to the negligent acts and/or omissions of Dalworthington Gardens's officers, employees and agents that occur in association with providing the services to the other Parties pursuant to of this Agreement.
- c. Joint Responsibility.** If a claim or liability shall arise from the joint or concurring negligence of the Parties, such shall be borne by the Parties comparatively in accordance with the laws of the State of Texas as determined by a final, non-appealable judgment of a court of competent jurisdiction or as agreed by the Parties.
- d. Damage to Equipment.** All damages or repairs to any equipment or apparatus shall be the responsibility of the Party that owns such equipment or apparatus. In the event that damages to equipment or apparatus occurs during a natural disaster or a state of emergency, as declared by a local, state, or federal governing authority ("a Disaster"), for which state or federal aid or grants may be sought in order to compensate the Party for the damages incurred or resources expended in in relation to the Disaster:

 - i. Except as provided in paragraph ii, below, each Party shall be responsible for making application for funds to compensate the Party for said Party's own damages or resources used as the result of the Disaster; and
 - ii. If only one Party is authorized to make application for recovery of damages that occurred in relation to the Disaster, inclusive of damages incurred by both Parties, the Party making the application agrees to distribute to the other Party the funds awarded to the Party making the application for that portion of the claim relating to the other Parties' damages or resources used;

provided, however, if the award is made in lump sum to the Party that made the application without stating the items within the claim application to which the award applies, the Parties agree that the award will be shared proportionately on a percentage basis based on the value of the damages incurred and resources spent during the Disaster as it relates to the entire claim for which the original application was made.

- e. **No Waiver of Immunity.** Notwithstanding any other provision of this Agreement, nothing in this Agreement shall or may be deemed or construed to be a waiver or relinquishment of any immunity, defense, or tort limitation to which a Party or the Parties, their officials, officers, employees, representatives, and agents are or may be entitled, including, without limitation, any waiver of immunity to suit. By entering this Agreement, the Parties do not create any obligations, express or implied, other than those set forth herein, and this Agreement shall not create any rights in any persons or entities who are not parties to this Agreement.

8. **Compensation.**

- a. **Employee Compensation.** A Requesting Party shall not be required to pay any compensation to the Responding Party under this Agreement for services rendered by the employees of the Responding Party pursuant to this Agreement. Employees of the Responding Party who are assigned, designated or ordered by proper authority to perform duties pursuant to this Agreement at the request of the Requesting Party shall continue to receive the same wages, salary, pension, and other compensation and benefits for the performance of such duties, including injury or death benefits, disability payments, and workers' compensation benefits, as though the service had been rendered within the limits of the Responding Party's jurisdiction where the employees are regularly employed.
- b. **Worker's Compensation.** Each Party to this Agreement shall comply with workers compensation laws of the State of Texas without any cost to the other Party.
- c. **Employee Injuries.** All medical expenses, wage and disability payments, pension payments, damage to equipment and clothing shall be paid by the Party by which the employee in question is regularly employed.

- 9. **Administration.** It is agreed by each of the Parties that for the purpose of liaison and administration, the Police Chief of the respective Party shall be responsible for serving as a liaison and for the purpose of administration of this Agreement on behalf of the Party with whom each Police Chief is employed.

10. **Miscellaneous.**

- a. **Notices.** Any notices or other communication required to be provided to a Party in this Agreement shall be in writing, addressed as provided hereinafter to the Party

to whom the notice or other communication is given, and shall be either (i) delivered personally (hand-delivered), (ii) sent by United States certified mail, postage prepaid, return receipt requested, or (iii) placed in the custody of Federal Express Corporation or other nationally recognized carrier to be delivered overnight. Notice shall be deemed given when received if delivered personally; 72 hours after deposit in the United States mail if sent by mail; and twenty-four (24) hours after deposit if sent by Federal Express or other nationally recognized carrier to be delivered overnight. Addresses for notices and/or other communications are as follows:

To Everman:

City of Everman, Texas
212 N. Race Street
Everman, Texas 76140
Attn: Police Chief

To Dalworthington Gardens:

City of Dalworthington Gardens, Texas

Dalworthington Gardens, Texas 766013
Attn: Police Chief

With Copy to:

Victoria W. Thomas
Nichols, Jackson
500 N. Akard, Suite 1800
Dallas, Texas 75201

With Copy to:

- b. **Governing Law, Venue.** This Agreement and performance hereunder shall be governed by and construed in accordance with the laws of the State of Texas, without regard to choice of laws rules of any jurisdiction. Any and all suits, actions or legal proceedings between the Parties relating to this Agreement shall be maintained in the state courts of Tarrant County, Texas, which courts shall have exclusive jurisdiction for such purpose.
- c. **Relationship.** It is understood and agreed that the relationship between the Parties described in this Agreement is contractual in nature between independent Parties and does not constitute, and shall not be construed, as creating a partnership or joint venture relationship between the Parties. By entering into this Agreement, the Parties do not create any obligations, express or implied, other than those set forth herein, and this Agreement shall not create any rights in any individual or entity that is not a signatory hereto.
- d. **Entire Agreement.** This Agreement represents the entire agreement between the Parties with respect to the subject matter covered by this Agreement. There is no other collateral, oral or written agreement between the parties that in any manner relates to the subject matter of this Agreement.

- e. **Amendment.** This Agreement may only be amended by written agreement of the Parties.
- f. **Headings; “Includes.”** The section and subsection headings contained herein are for convenience only, shall not be used in interpretation of this Agreement, and are not intended to define or limit the scope of any provision of this Agreement. For purposes of this Agreement, “includes” and “including” are terms of enlargement and not of limitation or exclusive enumeration and use of the terms does not create a presumption that components not expressed are excluded.
- g. **Severability.** The sections, subsection, and all provisions and portions of this Agreement are severable, and if any section, subsection, or other provision or portion hereof is held by a court of competent jurisdiction to be illegal, invalid or unenforceable under present or future laws, such section, subsection, or other provision or portion shall be fully severable and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable sections, subsection, or other provision or portion is not a part hereof, and the remaining sections, subsections, and other provisions and portions hereof shall remain in full force and effect.
- h. **Assignment.** No Party may assign, transfer, or otherwise convey this Agreement, or any of its rights, duties, or obligations hereunder without the written consent of the other Party.
- i. **Force Majeure.** No Party shall be liable to the other Parties for any failure, delay, or interruption in the performance of any of the terms, covenants, or conditions of this Agreement due to causes beyond the Party’s control or because of applicable law, including, but not limited to, war, nuclear disaster, strikes, boycotts, labor disputes, embargoes, acts of God, acts of the public enemy, acts of superior governmental authority, floods, riots, rebellion, sabotage, terrorism, or any other circumstance for which a Party is not legally responsible or which is not reasonably within its power to control. The affected Party's obligation shall be suspended during the continuance of the inability then claimed, but for no longer period. To the extent possible, the Party shall endeavor to remove or overcome the inability claimed with reasonable dispatch.
- j. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.
- k. **Authorized Signatories.** The person signing this Agreement on behalf of each Party has been properly authorized by the Parties’ respective governing body to sign this Agreement for that Party.
- l. **Payment with Current Funds.** Each Party represents that it will pay for the Party’s costs incurred in association with the Party’s provision of services pursuant to this Agreement from current funds available to the performing Party.

City of Everman Signature Page

SIGNED AND AGREED this ____ day of _____, 2023.

CITY OF EVERMAN

By: _____
Craig Spencer, City Manager

ATTEST

Mindi Parks, City Secretary

APPROVED AS TO FORM

John D. Oliver, Asst. City Attorney

City of Dalworthington Gardens Signature Page

SIGNED AND AGREED this ____ day of _____, 2023.

CITY OF DALWORTHINGTON GARDENS

By: _____
Lola Smith, City Administrator

ATTEST

Lola Smith, City Secretary

APPROVED AS TO FORM

City Attorney

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