

STATE OF TEXAS § LOCAL AGREEMENT FOR THE DISPOSITION OF
§ FORFEITED CONTRABAND PURSUANT TO CHAPTER
COUNTY OF DALLAS § 59 OF THE TEXAS CODE OF CRIMINAL PROCEDURE

This Local Agreement (“Agreement”) is made by and between the Dallas County Criminal District Attorney’s Office (“District Attorney”) and the City of Lewisville on behalf of the Lewisville Police Department (Collectively, “THE PD”), pursuant to Chapter 59 of the Texas Code of Criminal Procedure. The District Attorney or THE PD may hereinafter be referred to individually as a “Party”, or collectively, the “Parties”.

RECITALS:

WHEREAS, Chapter 59 of the Texas Code of Criminal Procedure, entitled “Forfeiture of Contraband” provides for the forfeiture to the State of Texas of property determined to be “contraband” as defined therein; and

WHEREAS, Article 59.06 of Chapter 59 of the Texas Code of Criminal Procedure (“TCCP”) authorizes “local agreements” between the attorney representing the state and law enforcement agencies to effect the disposition of forfeited contraband; and

WHEREAS, the District Attorney represents the State of Texas in forfeiture proceedings involving contraband seized pursuant to Chapter 59 of the Texas Code of Criminal Procedure; and

WHEREAS, THE PD and District Attorney desire to enter into a “local agreement” regarding the disposition of contraband seized and forfeited under Chapter 59 of the Texas Code of Criminal Procedure; and

WHEREAS, Article 59.06 of Chapter 59 of the Texas Code of Criminal Procedure has authorized THE PD as the law enforcement agency and the District Attorney as the attorney representing the state to execute this Agreement; and

NOW, THEREFORE, THE PD and the District Attorney, in mutual consideration of the terms and conditions herein contained, hereby agree as follows:

SECTION 1: TERM/TERMINATION

The Term of this Agreement will commence on the Effective Date as defined herein, and will remain in effect through December 31, 2028, unless terminated earlier under any provision hereof (“Term”). After the initial term, this Agreement may be renewed for two (2) additional consecutive two (2) year terms with the written consent of all Parties and such renewals shall be in accordance with the terms of this Agreement unless amended. This Agreement may be terminated by either Party upon thirty (30) days prior written notice thereof to the other of its intention to terminate upon the date specified in such notice. Any pending forfeitures under this Agreement filed prior to the termination date, however, shall not be affected by such notices.

SECTION 2: CHAPTER 59 PROCEEDS DISTRIBUTION

A. In consideration for the services provided by THE PD and District Attorney associated with the forfeiture of contraband, THE PD and the District Attorney agree to the following obligations and disposition of proceeds from contraband seized and forfeited under Chapter 59 of the Texas Code of Criminal Procedure.

(1) **Currency**: THE PD will receive sixty-five percent (65%), and the District Attorney will receive thirty-five percent (35%) of the value all Normal Currency or Currency Equivalent.

(2) **Real Property**: Real Property is to be sold or auctioned by THE PD. THE PD will receive sixty-five percent (65%) and the District Attorney will receive thirty-five percent (35%) of the value of all Real Property.

(3) **Motor Vehicles**: Motor Vehicles are to be auctioned, sold, or kept for use by THE PD. Regardless of whether a Motor Vehicle is kept for use by THE PD or how much it is sold or auctioned for, the District Attorney will receive Seven Hundred and Fifty Dollars and Zero Cents (\$750.00) for each Motor Vehicle and The PD will receive any remaining proceeds.

(4) **Collectibles**: Collectibles are to be sold or auctioned by THE PD. THE PD will receive sixty-five percent (65%), and the District Attorney will receive thirty-five percent (35%) of the value of all Collectibles.

(5) **Personal Property**: Personal Property is to be sold or auctioned by THE PD. If an item of Personal Property is sold or auctioned for Five Hundred Dollars and Zero Cents (\$500.00) or more, then THE PD will receive sixty-five percent (65%), and the District Attorney will receive thirty-five percent (35%) of the value of the item of Personal Property. If an item of Personal Property is sold or auctioned for less than Five Hundred Dollars and Zero Cents (\$500.00), then the District Attorney will receive Fifty Dollars and Zero Cents (\$50.00) for each item of Personal Property and THE PD will receive any remaining proceeds.

(6) **Firearms and ammunition**: THE PD will be responsible for the ownership and disposition of all firearms, ammunition, and associated accessories and equipment that is seized and forfeited under Chapter 59, TCCP. The District Attorney will receive no percentage of any sales of firearms, ammunition, and associated accessories and equipment.

(7) **Precious Metals and Gemstones**: Precious Metals and Gemstones are to be sold or auctioned by THE PD. THE PD will receive sixty-five percent (65%) and the District Attorney will receive thirty-five percent (35%) of the value of all Precious Metals and Gemstones.

(8) **Buyback Agreement(s)**: If any Motor Vehicle, Real Property, Collectibles, Personal Property, or Precious Metals and Gemstones is returned pursuant to a Buyback Agreement, then THE PD will receive sixty-five percent (65%) and the District Attorney will receive thirty-five percent (35%) of the Buyback Agreement amount.

B. The proceeds from the sale or auction of all contraband forfeited under Chapter 59 of the Code of Criminal Procedure (including Normal Currency and Currency Equivalent) shall be received by THE PD and deposited with THE PD's treasury. THE PD will then transfer to the District Attorney all money and proceeds of forfeited contraband in accordance with Section 2 A.(1)-(8) above. Payments to the District Attorney shall be made in accordance with Sections 2 and 3 of this

Agreement.

C. In accordance with Article 59.06(c)(1), TCCP, all money and proceeds from the sale of contraband received by the District Attorney shall be deposited in a special fund in the County treasury for the benefit of the office of the District Attorney to be used by the District Attorney solely for the official purposes of the office.

D. In accordance with Article 59.06(c)(2), TCCP, all money and proceeds from the sale of contraband received by THE PD shall be deposited in a special fund to be used by THE PD solely for law enforcement purposes.

E. All auctions or sales shall be conducted in accordance with the policies and procedures of THE PD, Chapter 59 of the TCCP, and all applicable federal and state laws.

F. **Normal Currency Value.** Normal Currency under this Agreement includes but is not limited to the following: Negotiable Instruments, paper money, and coin money that is worth no more than their face value ("Normal Currency"). The value of Normal Currency and other negotiable instruments will be based on their face value.

G. **Currency Equivalent Value.** Currency Equivalent under this Agreement includes but is not limited to the following: Negotiable instruments worth more than their face value, gift cards, cryptocurrency, stocks, physical or digital tokens, non-metal commodities, bonds, and other negotiable instruments. The value of Currency Equivalents will be based on the net proceeds (after deduction of sale or auction expenses) from the sale or auction of Currency Equivalents.

H. **Collectibles Value.** Collectibles under this Agreement include but is not limited to the following: Paper money, coin money, and stamps that are worth more than their face value, sports cards, antiques, physical art, digital art, non-fungible token (NFT) art, and jewelry. The value of Collectibles will be based on the net proceeds (after deduction of sale or auction expenses) from the sale or auction of Collectibles.

I. **Real Property Value.** The value of Real Property will be based on the net proceeds (after deduction of sale or auction expenses) from the sale or auction of Real Property.

J. **Motor Vehicle(s).** Motor Vehicle(s) under this Agreement includes but is not limited to the following: Cars, trucks, all-terrain vehicles, boats, scooters, mopeds, tractors, jet skis, trailers, mobile homes, recreational vehicles (RV), campers, and motorcycles.

K. **Personal Property Value.** An item of Personal Property under this Agreement includes but is not limited to the following: televisions, monitors, computers, drones, cellular phones, clothes, tools, and other items not defined in Section 2 F, G, H, I, J, or L. The value of an item of Personal Property will be based on net proceeds (after deduction of sale or auction expenses) from the sale or auction of an item of Personal Property.

L. **Precious Metals and Gemstones Value.** Precious Metals and Gemstones under this Agreement includes but is not limited to the following: gold, silver, platinum, and precious or semiprecious stones. The value of Precious Metals and Gemstones will be based on net proceeds (after deduction of sale or auction expenses) from the sale of Precious Metals and Gemstones.

SECTION 3: PAYMENT TERMS AND OBLIGATIONS

A. This Agreement shall apply to any case which is administratively closed by the District Attorney during the Term of this Agreement. A case is considered administratively closed once the District Attorney has closed the case file. Contraband is to be considered forfeited once a forfeiture judgment has been executed, and the time to file a Motion for New Trial or Notice of Appeal has expired ("Final Judgment"). Within ten (10) business days from the entry of the Final Judgment, the District Attorney shall deliver to THE PD the Final Judgment. THE PD shall proceed to sell or auction the contraband in the manner set forth in Subsection 3C below. THE PD shall send notice to the District Attorney of the final auction or sale amount no later than five (5) business days after the sale or auction of Real Property, Collectibles, Personal Property, or Precious Metals and Gemstones. After receiving notice from THE PD, the District Attorney will issue an invoice to THE PD. Payments to the District Attorney for Normal Currency, Buyback Agreements, Motor Vehicles, Real Property, Collectibles, Personal Property, or Precious Metals and Gemstones shall be made no later than sixty (60) days after THE PD receives an invoice and Final Judgment from the District Attorney. All invoices will be submitted in a format that is in accordance with the District Attorney's internal processes and policies.

B. All payments made to the District Attorney shall be from money or proceeds from the sale or auction of contraband seized and forfeited pursuant to this Agreement. If applicable, THE PD will also pay the District Attorney any interest earned from the date of seizure until the date of payment on the District Attorney's portion of the forfeited contraband proceeds. All costs of court proceedings and related litigation expenses shall be paid by THE PD. All costs of title commitments, title searches, and title policies shall be paid by THE PD when the forfeiture of Real Property is involved. All expenses related to the appraisal or valuation of any contraband shall be paid by THE PD. Any pre or post judgment interest ordered by a Court shall be paid by THE PD.

C. All Real Property, Collectibles, Personal Property, or Precious Metals and Gemstones shall be sold or auctioned by THE PD within six (6) months after receiving notice of the Final Judgment. THE PD shall seek the best value for all contraband sold or auctioned.

D. If payment is not made by THE PD by the payment due date in accordance with Section 3A. then THE PD shall pay to the District Attorney forty percent (40%) of the Buyback Agreement amount, and forty percent (40%) of the value of the Normal Currency, Currency Equivalent, Real Property, Collectibles, Precious Metals and Gemstones, or Personal Property (over \$500.00) items forfeited pursuant to the Final Judgment ("Revised Distribution") and all interest earned on the Revised Distribution from the date of seizure until the date of payment.

E. If payment is not made by THE PD by the payment due date in accordance with Section 3A., then THE PD shall pay to the District Attorney Seventy-Five Dollar and No Cents (\$75.00) for each item of Personal Property (under \$500.00) forfeited pursuant to the Final Judgment and all interest earned on Seventy-Five Dollars and No Cents (\$75.00) from the date of seizure until the date of payment.

F. If payment is not made by THE PD by the payment due date in accordance with Section 3A., then THE PD shall pay to the District Attorney One Thousand One Hundred and Twenty-Five Dollars and No Cents (\$1,125.00) for each Motor Vehicle forfeited pursuant to the Final Judgment and all interest earned on One Thousand One Hundred and Twenty-Five Dollars and No Cents (\$1,125.00) from the date of seizure until the date of payment.

G. THE PD shall require its officers to cooperate with the District Attorney, including but not limited to, being available to testify at hearings and trials, providing offense reports to the District

Attorney upon request, and providing any and all additional evidence that may be necessary for any and all forfeiture cases and proceedings.

H. This Agreement shall not be construed to impose a duty on the District Attorney to file or institute forfeiture proceedings in any particular case or instance.

I. In accordance with Article 59.03(c), THE PD shall have custody and be responsible for any property or contraband that is seized pursuant to this Agreement until the property or contraband is returned to the defendant or finally forfeited and proceeds have been distributed.

J. In the event that an audit is conducted pursuant to Article 59.061 TCCP, THE PD shall cooperate with the District Attorney, including but not limited to, providing all records or information related to this Agreement or any forfeiture case filed pursuant to this Agreement.

SECTION 4: ADDENDUMS

In the event that the District Attorney determines in its sole discretion that significant time and effort is necessary for pre-seizure planning of a seizure and/or arrest, the case will be developed as a joint investigation with the percentage apportioned between the Parties commensurate with the time and effort required by each and an addendum to this Agreement will be executed by the Parties as it pertains to the particular seizure and/or arrest.

SECTION 5: LIABILITY

Neither Party shall be responsible for the alleged, presumed, or adjudged negligent acts or omissions, or other tortious conduct of the other Party in the course of performance of this Agreement. Nothing in this section is intended to waive any sovereign immunity, governmental immunity or other defenses available to the Parties under federal or state law. Nothing in this section shall be construed to create or grant any rights, contractual or otherwise, in or to any third persons or entities. All Parties agree that any such liability or damages occurring during the performance of this Agreement caused by the joint or comparative negligence of the Parties, or their employees, agents or officers, shall be determined in accordance with comparative responsibility laws of Texas. This Section shall survive termination of this Agreement.

SECTION 6: NOTICE

Any notice or certification required or permitted to be delivered under this Agreement shall be deemed to have been given when personally delivered, or if mailed, seventy-two (72) hours after deposit of the same in the United States Mail, postage prepaid, certified, or registered, return receipt requested, properly addressed to the contact person shown at the respective addresses set forth below, or at such other addresses as shall be specified by written notice delivered in accordance herewith:

If intended for the District Attorney:

Dallas County District Attorney's Office
Frank Crowley Courts Building
133 North Riverfront Blvd., LB-19
Dallas, Texas 75207
ATTN: Administrative Attorney

District Attorney – Civil Division
Administrative Building
500 Elm Street, Suite 6300
Dallas, Texas 75202
ATTN: Asset Forfeiture Attorney

If intended for THE PD, to:

The Police Chief
Lewisville Police Department
1187 W. Main Street
Lewisville, TX 75029

SECTION 7: MISCELLANEOUS PROVISIONS

A. ENTIRE AGREEMENT AND AMENDMENT. This Agreement constitutes the entire agreement between the Parties and supersedes any other agreements concerning the subject matter of this transaction, whether oral or written. This Agreement and the respective rights and obligations of the Parties hereto shall inure to the benefit and be binding upon the successors and assigns of the Parties hereto, as well as the Parties themselves. No modification, amendment, novation, renewal or other alteration of this Agreement shall be effective unless mutually agreed upon in writing and executed by the Parties. Any alterations, additions, or deletions to the terms of this Agreement which are required by changes in federal or state law or regulations are automatically incorporated into this Agreement without written amendment hereto and shall become effective on the date designated by such law or regulation.

B. COUNTERPARTS, NUMBER/GENDER AND HEADINGS. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same Agreement. The Parties shall be entitled to sign and transmit an electronic signature of this agreement (whether by facsimile, PDF or other email transmission), which signature shall be binding on the Party whose name is contained therein. A signed copy of this Agreement transmitted by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes. Words of any gender used in this Agreement shall be held and construed to include any other gender. Any words in the singular shall include the plural and vice versa, unless the context clearly requires otherwise. Headings are for the convenience of reference only and shall not be considered in any interpretation of this Agreement.

C. SEVERABILITY. If any provision of this Agreement is construed to be illegal, invalid, void or unenforceable, this construction will not affect the legality or validity of any of the remaining provisions. The unenforceable or illegal provision will be deemed stricken and deleted, but the remaining provisions shall not be affected or impaired, and such remaining provisions shall remain in full force and effect.

D. DEFAULT/CUMULATIVE RIGHTS/MITIGATION. It is not a waiver of default if the non-defaulting Party fails to immediately declare a default or delays in taking any action. Waiver of any term, covenant, condition or violation of this Agreement shall not be deemed or construed a waiver unless made in an authorized written instrument, nor shall such waiver be deemed or construed a waiver of any other violation or breach of any of the terms, provisions, and covenants herein

contained. The rights and remedies provided by this Agreement are cumulative, and either Party's use of any right or remedy will not preclude or waive its right to any other remedy. Pursuit of any remedy provided in this Agreement shall not preclude pursuit of any other remedies herein provided or any other remedies provided by law or equity, including injunctive relief, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any obligation of the defaulting Party hereunder or of any damages accruing by reason of the violation of any of the terms, provisions, and covenants herein contained. These rights and remedies are in addition to any other rights the Parties may have by law, statute, ordinance or otherwise. The Parties have a duty to mitigate damages.

E. SOVEREIGN IMMUNITY. This Agreement is expressly made subject to the Parties' Governmental Immunity, including, without limitation, Title 5 of the Texas Civil Practice and Remedies Code and all applicable state and federal laws. The Parties expressly agree that no provision of this Agreement is in any way intended to constitute a waiver of any immunities from suit or from liability, or a waiver of any tort limitation, that the Parties have by operation of law, or otherwise. Nothing in this Agreement is intended to benefit any third-party beneficiary.

F. COMPLIANCE WITH LAWS AND VENUE. In carrying out the obligations required by this Agreement, the Parties must observe and comply with all licenses, legal certifications, or inspections required for the services, facilities, equipment, or materials, and all applicable federal, State, and local statutes, ordinances, rules, and regulations. Texas law shall govern this Agreement and venue shall lie exclusively in state and federal Court physically located in Dallas County, Texas.

G. RELATIONSHIP OF PARTIES. Each Party is an independent contractor and not an agent, servant, joint enterpriser, joint venturer or employee of the other Party.

H. CONTRA PROFERENTEM. The doctrine of contra proferentem shall not apply to this Agreement. If an ambiguity exists in this Agreement, the Agreement shall not be construed against the Party who drafted the Agreement and such Party shall not be responsible for the language used.

I. ASSIGNMENT. Neither Party may transfer or assign its interest in this Agreement.

J. CONTINUING OBLIGATIONS. All obligations of this Agreement which expressly or by their nature survive the expiration, termination or transfer of this Agreement shall continue in full force and effect after and notwithstanding its expiration, termination or transfer until such are satisfied in full or by their nature expire.

K. SIGNATORY WARRANTY. THE PD and the District Attorney represent that each has the full right, power and authority to enter and perform this Agreement in accordance with all of the terms and conditions herein, and that the execution and delivery of this Agreement is made by authorized representatives of the Parties to validly and legally bind the Parties to all terms, performances and provisions set forth in this Agreement.

[Signatures on following page]

EXECUTED THIS _____ DAY OF _____. ("Effective Date")

DISTRICT ATTORNEY:

THE PD:

John Creuzot
Dallas County Criminal District Attorney

City Manager/Mayor

RECOMMENDED AND APPROVED:

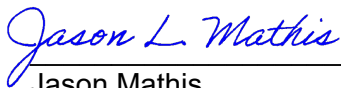
Brooks Rollins, Police Chief

APPROVED AS TO FORM*:

APPROVED AS TO FORM:

BARBARA NICHOLAS
CHIEF, CIVIL DIVISION

THE PD/CITY LEGAL ADVISOR



Jason Mathis
Assistant District Attorney

City Attorney

*By law, the District Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval by their own respective attorney(s).