

STATE OF TEXAS §
§ INTERLOCAL COOPERATION AGREEMENT
COUNTY OF COLLIN §

This Interlocal Cooperation Agreement (“Agreement”) is made by and between the City of Allen, Texas (“Allen”), and the City of Plano, Texas (“Plano”), (each a “Party” and collectively the “Parties”), acting by and through their authorized representatives.

RECITALS:

WHEREAS, Plano owns and operates a municipal jail and detention facility located in Plano, Texas (the “Plano Facility”); and

WHEREAS, Allen has previously contracted with Collin County for jail and detention services in the event the Allen municipal jail and detention facility (the “Allen Facility”) was unable to house certain persons arrested by the Allen Police Department (“Allen PD”); and

WHEREAS, Allen desires to use the Plano Facility for the handling, processing, housing and detention of persons arrested by the Allen PD for class C misdemeanor offenses in the event the Allen Facility is unable to house inmates due to an influx of inmates in the Allen Facility or other emergency situations; and

WHEREAS, Plano agrees to provide Allen with space in the Plano Facility to detain and house persons detained and arrested by Allen PD during emergency situations when the Allen Facility is unable to house the persons arrested, provided the Plano Facility has the capacity to house those persons; and

WHEREAS, the Interlocal Cooperation Act, Chapter 791, Texas Government Code authorizes units of government to contract with one or more units of local government to perform governmental functions and services; and

WHEREAS, police protection and detention services are governmental functions and services pursuant to § 791.003 of the Act; and

WHEREAS, it is mutually advantageous for Allen and Plano to enter into this Agreement; and

NOW THEREFORE, in consideration of ten dollars (\$10.00) and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

Article I
Definitions

Whenever used in this Agreement, the following terms shall have the following meaning ascribed to them:

“Effective Date” shall mean the last date of execution hereof.

“Force Majeure” shall mean any contingency or cause beyond the reasonable control of a Party, as applicable, including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, adverse weather, government or de facto governmental action or inaction (unless caused by negligence or omissions of such Party), fires, explosions, floods, strikes, slowdowns or work stoppages, or shortage of materials or labor, that directly and materially affect a Party’s performance under this Agreement.

“Plano” shall mean the City of Plano, Texas.

“Plano Facility” shall mean the Plano municipal jail and detention facility located in Plano, Texas.

“Plano PD” shall mean the Plano Police Department or detention officers employed by the City of Plano.

“Allen” shall mean the City of Allen, Texas.

“Allen Facility” shall mean the Allen municipal jail and detention facility located in Allen, Texas.

“Allen PD” shall mean the Allen Police Department.

“Allen PD Prisoners” shall mean persons detained or arrested by the Allen PD and who are placed into the Plano Facility.

Article II

Purpose

The purpose of this Agreement is to permit Allen to use the Plano Facility for the handling, processing, housing and detention of persons arrested for class C misdemeanor offenses by the Allen Police Department.

Article III

Term

3.1 The term of this Agreement shall be for a period of one (1) year commencing on December 1, 2017 (“Effective Date”) and shall automatically renew for successive terms of one (1) year each on the anniversary date of the Effective Date, unless either Party gives written notice to the other Party to terminate at least thirty (30) days prior to the expiration of the then current term.

3.2 Either Party may terminate this Agreement by giving the other Party at least thirty (30) calendar days prior written notice thereof. If applicable, any fees due and owing under this

Agreement as of the effective date of termination shall be paid by the Party owing the same within thirty (30) calendar days after receipt of a final invoice for services rendered.

Article IV Detention Operations

4.1 Plano Facility Rules. Placement of Allen PD Prisoners in the Plano Facility shall comply with the Plano PD rules, procedures, regulations and general orders relating to the detention and jailing of prisoners at the Plano Facility (the “Plano Procedures”). The Allen PD acknowledges it has reviewed and is familiar with the Plano Procedures. The Parties shall mutually develop and adopt a specific standard operating procedure concerning the booking and detention of Allen PD Prisoners and the responsibilities and duties of the Plano PD and Allen PD personnel (the “Standard Operating Procedure”). The care, custody and welfare of the Allen PD Prisoners shall be governed by the Standard Operating Procedure except as may be otherwise provided in this Agreement.

4.2 Plano PD Book-In of Prisoners.

(a) The Plano PD shall at all times be responsible for the book-in of Allen PD Prisoners placed into the Plano Facility. Plano PD shall designate an area(s) to complete book-in procedures for Allen PD Prisoners. The Allen PD shall be responsible for Allen PD Prisoners until such persons are released or transported to the Plano Facility. In the event that the Plano Facility lacks the capacity to house Allen PD Prisoners, Plano PD may refuse to accept such prisoners.

(b) The personnel transporting Allen PD Prisoners to the Plano Facility shall: (i) notify the Plano PD Communications and the Plano PD book-in personnel prior to arrival at the Plano Facility; (ii) deliver Allen PD Prisoners to the sally-port entrance of Plano PD at which time the Plano PD book-in personnel on duty shall complete the book-in of Allen PD Prisoners; (iii) search Allen PD Prisoners for weapons or contraband in the presence of Plano PD; and (iv) be responsible for the custody of any evidence or contraband found on any Allen PD Prisoner. Plano PD shall be responsible for custody and care of any personal property found on Allen PD Prisoner, which shall be returned to such person upon release from the Plano Facility.

(c) The Plano PD book-in personnel shall be responsible for the completion of Allen PD Prisoner book-in paperwork and taking a digital photograph of the Allen PD Prisoner. Plano PD personnel will complete courtesy hold paperwork for Allen PD inmates housed in the Plano Facility per Plano PD SOP.

(d) Allen PD shall provide Plano PD personnel a copy of the arrest report for each Allen PD Prisoner and a listing of any medical conditions, suicidal tendencies, or other special needs of the Allen PD Prisoner. The medical and mental health history is included in the courtesy hold paperwork. The Allen PD Prisoner arrest report shall be attached to the Plano PD courtesy hold paperwork. The Plano PD on-duty supervisor will maintain the right to refuse a prisoner with an existing medical condition which necessitates immediate transport to a mental health or medical facility.

(e) Plano PD personnel shall issue Allen PD Prisoners blankets and mattresses for use during the detention and assign a holding cell numbers, which shall be documented in the Allen PD Prisoner Log. Allen PD Prisoners shall be allowed to place local telephone calls within four hours of arriving in the Plano PD Facility as long as they are not a danger to themselves or Plano PD or Allen PD personnel. In such event, such Allen PD Prisoners will be allowed use of the telephone as soon as such persons are cooperative and no longer deemed dangerous. Telephone usage and number shall be documented on the applicable Prisoner Status Log.

4.3 Detention or Holding Cells. The Plano PD shall designate detention and holding cells for the housing of Allen PD Prisoners when possible depending on available space in the Plano Facility. The Allen PD shall use the designated detention and/or holding cells unless otherwise directed by the then on duty Plano PD supervisor of the Plano Facility.

4.4 Magistrate of Allen PD Prisoners.

(a) Plano shall ensure that all prisoners processed into the Facility are arraigned by a magistrate, and, when appropriate, provide an indigence hearing.

(b) Plano magistrates shall follow the Standard Operating Procedures and the Plano Facility Rules in regard to the safety and security of the Plano Facility and the prisoners when arraigning Allen PD Prisoners. The Plano magistrates shall not interfere with or direct Allen PD personnel at any time. The Plano PD book-in personnel shall maintain the original arraignment form and provide a copy to the Plano PD then on-duty-supervisor to be maintained with the Allen PD Prisoner custodial record form.

4.5 Meals. Plano PD shall be responsible for the standard meals and feeding of Allen PD Prisoners detained in the Plano Facility. Plano PD shall on the 5th day of each month send a monthly written invoice to the Allen PD for the costs of meals provided to Allen PD Prisoners for the previous calendar month. Allen PD shall pay such invoice within thirty (30) days after receipt thereof.

4.6 Medical Treatment. Plano PD shall be responsible for the care, custody and medical treatment of Allen PD Prisoners while housed in the Plano Facility. Allen PD shall be responsible for transporting Allen PD Prisoners to and from the Plano Facility for routine medical examination and treatment. In the event of a medical emergency, Plano EMS and Fire shall transport such Allen PD Prisoner. When an Allen PD Prisoner requests medical care, the Plano PD shall request the Plano Fire and/or EMS personnel evaluate such Allen PD Prisoner and Plano PD book-in personnel shall request a patrol officer from Allen PD be dispatched immediately to take custody of the Allen PD Prisoner, either at the jail or at the hospital. Plano Fire and/or EMS personnel shall transport any Allen PD Prisoner deemed in need of immediate emergency medical treatment. If a patrol officer has not arrived to escort the Allen PD Prisoner to the hospital with the ambulance, a Plano PD officer will ride with the Allen PD Prisoner in a medical emergency. Once at the hospital, Plano PD shall not be responsible for the custody or care of the Allen PD Prisoner. The patrol officer requested by Plano PD shall meet the arriving ambulance at the hospital to take custody of the Allen PD Prisoner. After Allen PD takes custody of the Allen PD Prisoner, Allen

PD will be responsible for the care and administration of approved medications or special diets deemed necessary for any Allen PD Prisoner.

4.7 Release and Transport.

(a) The Allen PD shall provide written documentation via TCIC Teletype to the Plano PD authorizing the release of any Allen PD Prisoner, a copy of which shall be attached to the Allen PD Prisoner custodial record form, and the Plano PD courtesy hold paperwork. Plano PD book-in personnel shall be responsible for any and all releases of Allen PD Prisoners.

(b) Except as provided in Section 4.6, Allen PD shall be responsible for any and all transports of all Allen PD Prisoners.

(c) All bonds and fines of Allen PD Prisoners shall be the responsibility of Plano PD book-in personnel and shall not be accepted by the Allen PD at the Plano Facility.

4.8 Service Fees.

(a) The base service fee under this Agreement shall be determined on a per inmate, per day, basis. The base service fee for each Allen PD Prisoner confined in the Plano Facility shall be seventy dollars (\$70.00) per inmate, per day. Allen shall further be responsible for the payment of the actual cost for additional special expenses incurred by Plano PD for Allen PD Prisoners, such as those incurred for administering approved inmate medications or dietary needs.

(b) On or before the fifth (5th) day of each month Plano PD shall send a written invoice to the Allen PD for the total service fees incurred for the previous calendar month. Allen PD shall pay each invoice within thirty (30) days after receipt and approval thereof.

Article V Liability/Immunity

5.1 Handling of Claims. Each Party agrees, to the extent authorized under the Constitution and the laws of the State of Texas, to be fully responsible for any and all claims for damages, costs, and expenses to a person or persons and property that may arise out of or be occasioned by this Agreement, including but not limited to its acts of negligence or omission in the arrest, book-in, and detention of their respective prisoners. Each Party, to the extent allowed by law and without waiving any rights, defenses, or protections provided therein, agrees to be responsible for its own acts of negligence.

5.2 Joint Liability. In the event of joint or concurrent negligence of the Parties, responsibility, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas without, however, waiving any governmental immunity or defense available to any Party individually under Texas law. Plano shall be responsible for its sole negligence. Allen shall be responsible for its sole negligence. The provisions of this section are solely for the benefit of the Parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

5.3 Immunity. It is expressly understood and agreed that, in the execution of this Agreement, no Party waives, nor shall be deemed hereby to have waived, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. 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 Parties not signatories hereto. To the extent authorized under the Constitution and laws of the State of Texas, and without waiving sovereign or governmental immunity, each Party shall be responsible for any and all claims, demands, suits, actions, damages, and causes for action related to, arising out of, or in any way connected with its own actions and the actions of its personnel rendered or performed pursuant to the terms and conditions of this Agreement. Each Party agrees to obtain general liability insurance, public official's liability insurance, if applicable, or maintain a comparable self-insurance program.

5.4 Insurance.

(a) Each Party shall, during the term hereof, maintain in full force and effect the following insurance:

- (i) commercial general liability insurance with a minimum limit of \$500,000 per occurrence and \$1,000,000 aggregate;
- (ii) commercial automobile insurance covering any automobile used in performance of this Agreement with a minimum limit of \$1,000,000 per accident;
- (iii) workers' compensation insurance at statutory limits;
- (iv) employer's liability insurance with minimum limits of \$1,000,000 per accident, \$1,000,000 each employee by disease and \$1,000,000 policy limit by disease; and
- (v) law enforcement liability insurance with minimum limits of \$5,000,000 for each wrongful act, \$1,000,000 aggregate, with a deductible not to exceed \$1,000.00.

(b) All insurance and certificate(s) of insurance shall contain the following provisions: (1) name the other Party, its officers, and employees as additional insureds as to all applicable coverage with the exception of Workers Compensation Insurance; (2) provide for at least thirty (30) days prior written notice to the other Party for cancellation or non-renewal of the insurance; (3) provide for a waiver of subrogation against the other Party for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance. Each Party shall provide written notice to the other Party of any material change of, or to, the insurance required herein.

(c) A certificate of insurance evidencing insurance coverage required by this section shall be submitted by each Party.

(d) Copies of all endorsements, additional insured endorsement, and waiver of subrogation endorsement shall be submitted by each Party as prescribed in Section 5.4 of this Agreement.

Article VI Miscellaneous

6.1 Binding Agreement; Assignment. The terms and conditions of this Agreement are binding upon the successors and assigns of all Parties hereto. This Agreement may not be assigned by a Party without the prior written consent of the other Party.

6.2 Notices. Any notice required or permitted to be delivered hereunder shall be deemed received three days thereafter sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the Party at the address set forth below or on the day actually received if sent by courier or otherwise hand delivered to the following addresses:

If intended for Allen, to:

Attn: City Manager
City of Allen
305 Century Parkway
Allen, Texas 75013

With copy to:

Attn: Chief of Police
City of Allen, Texas
205 W. McDermott
Allen, Texas 75013

Peter G. Smith
City Attorney
Nichols, Jackson, Dillard,
Hager & Smith, LLP
1800 Ross Tower
500 N. Akard
Dallas, Texas 75201

If intended for Plano, to:

Attn: City Manager
City of Plano, Texas
1520 Avenue K
Plano, Texas 75074

With copy to:

Chief of Police
City of Plano, Texas
909 E. 14th Street
Plano, Texas 75074

Paige Mims
City Attorney
City of Plano, Texas
1520 Avenue K
Plano, Texas 75074

6.3 Governing Law. This Agreement will be governed by the laws of the State of Texas, and venue for any action concerning this Agreement will be in the State District Court of Collin

County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

6.4 Legal Construction. In the event any one or more of the provisions contained in this Agreement are for any reason held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect other provisions, and it is the intention of the Parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

6.5 Recitals. The recitals to this Agreement are incorporated herein.

6.6 Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

6.7 Exhibits. Any exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

6.8 Amendment. This Agreement may be amended by the mutual written agreement of the Parties to it.

6.9 Authorization. Each Party represents that it has full capacity and authority to grant all rights and assume all obligations that are granted and assumed under this Agreement.

6.10 Funding Sources. Each of the Parties hereto paying for the performance of the governmental services provided are making those payments from current revenues available to each of the respective Parties.

6.11 Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

6.12 Entire Agreement. This Agreement is the entire Agreement between the Parties with respect to the subject matter covered in 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, except as provided in any Exhibits attached hereto.

(Signature Page to Follow)

EXECUTED on this _____ day of _____, 2018.

CITY OF ALLEN, TEXAS

By: _____
Peter H. Vargas, City Manager

Approved as to Form:

By: _____
Peter G. Smith, City Attorney
(WLW:1.29.18:94646v2)

EXECUTED on this _____ day of _____, 2018.

CITY OF PLANO, TEXAS

By: _____
Bruce D. Glasscock, City Manager

Approved as to Form:

By: _____
Paige Mims, City Attorney