



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY					
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory					
Council Meeting Date:		July 26, 2010			
Department:		Library Administration			
Department Head		Cathy Ziegler			
Agenda Coordinator (include phone #): Mary Ann Dunnivant (Ext. 4208)					
CAPTION					
A Resolution of the City Council of the City of Plano, Texas, terminating the Interlocal Cooperation Agreement By and Between the City of Plano, Texas and the City of Allen, Texas for library courier services; approving its execution by the City Manager or his authorized designee; and providing an effective date.					
FINANCIAL SUMMARY					
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	2009-2010	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	0	0	0
Encumbered/Expended Amount		0	0	0	0
This Item		0	0	0	0
BALANCE		0	0	0	0
FUND(S):					
COMMENTS: This item has no Fiscal impact.					
SUMMARY OF ITEM					
This recommendation is being made because once the Allen Interlocal Cooperation Agreement for library services is terminated, there will no longer be a need for Plano Public Library System to provide van courier service to Allen Public Library. The termination of this service will save the City wear and tear on the library vans and increase the time van drivers will have to do other PPLS or City projects.					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
1. Memo from Cathy Ziegler, Director of Libraries dated 07/13/2010.					



City of Plano
Library Administration
2501 Coit Road
Plano, TX 75075
Phone: 972.769.4208
Fax: 972.769.4269

Memorandum

Date: July 13, 2010

To: Mary Ann Dunnavant

From: Cathy Ziegler, Director of Libraries

Subject: Termination of Allen Interlocal Cooperation Agreement for Library Courier Services

I recommend that City Council approve this Resolution to terminate the Interlocal Cooperation Agreement by which Plano Public Library System (PPLS) provided Allen Public Library (APL) van service. This recommendation is being made because once the Allen Interlocal Cooperation Agreement for library services is terminated; there will no longer be a need for Plano Public Library System to provide van courier service to Allen Public Library.

By terminating the van service, Plano will no longer have the revenue Allen paid for this service (approximately \$2,100 per quarter). The termination of van service to Allen will save the City wear and tear on the library vans and increase the time the van drivers will have to do other PPLS projects.

A Resolution of the City Council of the City of Plano, Texas, terminating the Interlocal Cooperation Agreement by and between the City of Plano, Texas and the City of Allen, Texas, for Library Courier Services; approving its execution by the City Manager or his authorized designee; and providing an effective date.

WHEREAS, the City of Plano (PLANO) and City of Allen (ALLEN) entered into an interlocal cooperative agreement wherein PLANO agrees to provide library courier services to transport library resources to ALLEN ("Agreement"), a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference; and

WHEREAS, PLANO and ALLEN will no longer share the Polaris database for library automation services beginning January 31, 2011; therefore, the library courier services will no longer be necessary; and

WHEREAS, PLANO desires to terminate the Agreement between PLANO and ALLEN for library courier services effective January 31, 2011; and

WHEREAS, upon full review and consideration of the proposal to terminate the Agreement and all matters attendant and related thereto, the City Council is of the opinion that the termination should be approved.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. The City Council hereby finds and determines that the Interlocal Cooperation Agreement by and between the City of Plano, Texas and the City of Allen, Texas should be terminated effective January 31, 2011.

Section II. The Plano City Council hereby authorizes the City Manager or his authorized designee to take such action and execute such documents as necessary.

Section III. This Resolution shall become effective upon its passage.

DULY PASSED AND APPROVED this the 26th day of July, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane Wetherbee, CITY ATTORNEY

Exhibit "A"

**INTERLOCAL COOPERATION AGREEMENT BY AND BETWEEN
THE CITY OF PLANO, TEXAS AND THE CITY OF ALLEN, TEXAS
FOR
LIBRARY COURIER SERVICES**

THIS AGREEMENT is made and entered into by and between the **CITY OF PLANO**, a home-rule municipal corporation located in Collin and Denton Counties, Texas (hereinafter referred to as "**PLANO**"), and **CITY OF ALLEN**, a home-rule municipal corporation located in Collin County, Texas (hereinafter referred to as "**ALLEN**").

WHEREAS, PLANO and **ALLEN** are both engaged in the provision of library services and maintenance which are governmental functions and the parties frequently share library resources; and

WHEREAS, such sharing of library resources is possible by utilizing courier services to transport materials between libraries; and

WHEREAS, PLANO will provide courier service for the transportation of library resources and **ALLEN** will pay certain specified charges for these services and both parties agree to enter into a contract for these services pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code; and

WHEREAS, sharing of library resources by **PLANO** and **ALLEN** serves the welfare of the citizens, promotes efficiency and effectiveness of both local governments; and

WHEREAS, ALLEN has current funds available to satisfy any fees owed pursuant to this Agreement.

NOW, THEREFORE, PLANO and **ALLEN**, for the mutual consideration hereinafter stated, agree as follows:

**I.
TERM**

The initial term of this Agreement shall be for the period beginning September 1, 2006, and ending August 31, 2007. Thereafter, upon mutual agreement of the parties hereto, this Agreement may be renewed for five (5) successive one (1) year terms commencing on September 1 of each year.

II.
DUTIES OF PARTIES

Plano agrees to provide library courier services using its own personal equipment, between Allen Public Library located at 300 North Allen Drive, Allen, Texas and Haggard Library located at 2501 Coit Road, Plano, Texas, three times per week. This courier service is limited to transportation of books, films and other library materials and excludes the transportation of personnel. The number of van runs may be altered upon a mutual agreement of both library directors.

Upon termination of this Agreement, the courier service shall immediately be terminated.

III.
PAYMENT TERMS

The total compensation that **ALLEN** shall pay **PLANO** for the cost of the courier service will be based on a rate per mile. In the first year the total compensation is Two Dollars and Three Cents (\$2.03) per mile. A new rate will be determined each year beginning September 1 of that year. The total compensation each subsequent year will be based on the following formula:

Driver Annual Salary (including benefits) / total miles driven in a year = driver rate per mile

Driver rate per mile + Equipment Service on per mile basis (includes fuel costs, maintenance and vehicle depreciation) x 19.94 miles = total compensation.

The number of miles round trip from the Haggard Library to the Allen Public Library is not to exceed 19.94 miles. The number of miles is calculated by Mapquest.

ALLEN agrees to pay **PLANO** within thirty (30) days of receipt of the invoice. The Library Director for the City of Allen will be invoiced by Plano on a quarterly basis. Payments made pursuant to this Agreement shall be from current revenues available to each party.

**IV.
RELEASE AND HOLD HARMLESS**

Each party does hereby agree to waive all claims against, release, and hold harmless the other party and its respective officials, officers, agents, employees, in both their public and private capacities, from any and all liability, claims, suits, demands, losses, damages, attorneys fees, including all expenses of litigation or settlement, or causes of action which may arise by reason of injury to or death of any person or for loss of, damage to, or loss of use of any property arising out of or in connection with this Agreement.

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 available to either 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 paragraph 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.

**V.
FISCAL FUNDING**

ALLEN agrees that no payments owed by it to **PLANO**, including payment in advance for service charges or any sums of any character whatsoever, are or shall become delinquent or in arrears. Each party paying for the performance of governmental functions or services under this Agreement must make those payments from current revenues available to the paying party.

**VI.
ENTIRE AGREEMENT**

This Agreement represents the entire and integrated agreement between **PLANO** and **ALLEN** and supersedes all prior negotiations, representations and/or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both parties.

**VII.
VENUE**

This Agreement and any of its terms or provisions, as well as the rights and duties of the parties hereto, shall be governed by the laws of the State of Texas, and this Agreement is performable in Collin County, Texas. Exclusive venue shall be in Collin County, Texas.

**VIII.
SEVERABILITY**

The provisions of this Agreement are severable. In the event that any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement shall be found to be contrary to the law, or contrary to any rule or regulation having the force and effect of the law, such decisions shall not affect the remaining portions of this Agreement. However, upon the occurrence of such event, either party may terminate this Agreement by giving the other party sixty (60) days written notice of its intent to terminate.

**IX.
NONWAIVER**

It is expressly understood and agreed that, in the execution of this Agreement, **PLANO** does not waive nor shall **PLANO** be deemed hereby to have waived any immunity or defense that would otherwise be available to it. It is further agreed that one (1) or more instances of forbearance by Plano in the exercise of its rights herein shall in no way constitute a waiver thereof.

**X.
ASSIGNMENT AND SUBLETTING**

The parties each bind themselves, their respective successors, executors, administrators and assigns to the other party to this Agreement. Neither Plano nor Allen will assign, sublet, subcontract or transfer any interest in this Agreement without the written consent of the other party. No assignment, delegation of duties or subcontract under this Agreement will be effective without the written consent of Plano. Subject to the provision regarding assignment, this Agreement shall be binding on the administrators, legal representatives, successors, and assigns of the respective parties.

**XI.
INTERPRETATION OF AGREEMENT**

Although this Agreement is drafted by **PLANO**, this is a negotiated document. Should any part of this Agreement be in dispute, the parties agree that the Agreement shall not be construed more favorably for either party.

**XII.
REMEDIES**

No right or remedy granted herein or reserved to the parties is exclusive of any right or remedy given hereunder. No covenant or condition of this Agreement may be waived without the express written consent of the parties. It is further agreed that one (1) or more instances of forbearance by either party in the exercise of its respective rights under this Agreement shall in no way constitute a waiver thereof.

**XIII.
TERMINATION**

This Agreement may be terminated at any time, with or without cause, by either party giving 30(thirty) days advance written notice to the other party. In the event of such termination by either party, **ALLEN** shall pay immediately all fees which may be due and owing up to the effective date of termination of this Agreement.

**XIV.
NOTICE OF TERMINATION**

Notice as required by this Agreement shall be in writing delivered to the Director of Libraries via facsimile or certified mail at the addresses listed below:

PLANO

Joyce Baumbach
Director of Libraries
2501 Coit Road
Plano, Texas 75075
Telephone: 972.769.4208
Facsimile: 972.769.4269

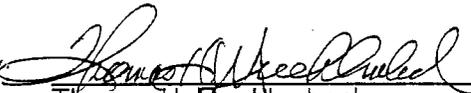
ALLEN

Barbara Buehler
Director of Allen Public Library
300 North Allen Drive
Allen, Texas 75013
214.509.4901
214.509.4950

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below.

CITY OF PLANO, TEXAS

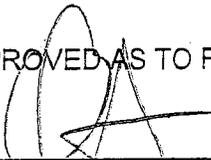
Date: 9/16/06

BY: 
Thomas H. Muehlenbeck
CITY MANAGER

ATTEST:

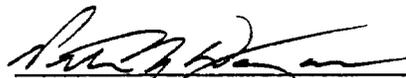

Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:


Diane C. Wetherbee, CITY ATTORNEY

CITY OF ALLEN, TEXAS

Date: 9/13/06

BY: 
Peter H. Vargas
CITY MANAGER

ATTEST:


Shelley B. George, CITY SECRETARY

APPROVED AS TO FORM:

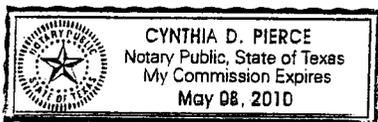

Peter G. Smith, CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the 16 day of August, 2006 by **THOMAS H. MUEHLENBECK**, City Manager of the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, on behalf of said corporation.

Cynthia D. Pierce
Notary Public, State of Texas



STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the 13th day of September, 2006 by **PETER H. VARGAS**, City Manager of **CITY OF ALLEN, TEXAS**, a home-rule municipal corporation, for and on behalf of said corporation.

Connie S. Schofield
Notary Public, State of Texas

