

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

INTERLOCAL AGREEMENT FOR PUBLIC TRANSIT SERVICE

This Interlocal Agreement (the “Agreement”) is made by and between Dallas Area Rapid Transit Mobility Service, LGC (“LGC”), a Texas local government corporation organized and existing pursuant to Subchapter D of Chapter 431 of the Texas Transportation Code and the City of Wylie, Texas (“WYLIE”) a Texas municipal corporation whose address is 300 Country Club, Building 100, Wylie, Texas 75098 (collectively, referred to as the “the Parties” or individually, as a “Party”).

RECITALS

WHEREAS, the LGC began a demand responsive transportation program within Collin County that is available to residents of WYLIE who are 65 years of age or older or who have a disability (the “Service”); and

WHEREAS, WYLIE has provided funding to support the operation of this Service since 2016 and has determined that the Service is beneficial to the residents of WYLIE; and

WHEREAS, WYLIE may modify the amount that the WYLIE residents pay for the Service through this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants, terms and conditions set forth herein, the mutual benefits to each Party, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Term and Termination

1.01. The term of this Agreement shall begin on the 1st day of October 2022, and terminate at midnight on the 30th day of September 2023, (“the Term”). Notwithstanding the foregoing to the contrary or any other termination provisions contained herein, either Party may terminate this Agreement by giving the other Party one-hundred twenty (120) calendar days advanced notice of termination.

1.02. In the event that either Party shall fail to perform any of their respective material obligations under this Agreement, the non-defaulting Party shall have the right to terminate this Agreement if the defaulting Party has not cured any such failure to perform within thirty (30) calendar days following written notice by non-defaulting Party of such failure.

1.03. In the event that WYLIE fails to make any payment required by Section 4.04 of this Agreement, LGC shall have the option, at its sole discretion, to suspend such Service within WYLIE or require that residents of WYLIE pay a higher fare or percentage share of taxi vouchers

for the Service. The suspension or revised user fees may continue until payments from WYLIE resume.

1.04. If program costs are greater than the WYLIE Not to Exceed amount, any cost overruns shall be the responsibility of the WYLIE.

2. Service Description

2.01. Service includes weekday contract dedicated service as operated by the LGC contractor. During the Term of this Agreement, the Service may be replaced with a transportation assistance program to provide accessible public transportation services for the eligible residents of Collin County, including WYLIE.

2.02. Except as may be limited in accordance with Section 1.03, Service shall be available to residents of Collin County who are 65 years of age or older or who have a disability and who have no access to alternative private or public transportation.

2.03. Eligible users of Service provided under this Agreement will be required to pay a fare per trip and/or percentage share of the subsidy value provided for the Service.

2.04. Eligible users of Service shall be required to schedule ride requests and rides will be available on-demand between the hours of 5:00 am and 12:00 am (midnight) on Monday through Saturday and 7:00 am and 12:00 am (midnight) on Sundays and holidays.

2.05. Users of Service who fail to cancel a previously scheduled or regularly scheduled trip at least one hour in advance of the pickup time shall pay a fee in an amount as required by the LGC.

3. LGC Duties and Responsibilities

3.01. LGC shall cause a contractor to provide the Service, including vehicles, drivers, supervisors, call center and scheduling staff, and any other staff or services required to provide the Service.

3.02. LGC may cause its contractor to clean, fuel and otherwise maintain any vehicles needed to provide a dedicated service.

3.03. LGC may cause a taxi or other transportation service to provide voucher management services, technology, software or other services, supplies, or equipment necessary to operate a user transportation assistance program.

3.04. LGC shall be responsible for the call center, customer information, complaint resolution, data collection, accounting, passenger ridership, invoicing, reconciliation of all invoices, and payment of contractors and suppliers.

3.05. Performance Measures and Reporting. LGC shall provide WYLIE with information regarding ridership, on-time performance of the Service, costs, and number of users, within thirty (30) calendar days of receipt of such information from the contract provider.

3.06. LGC shall convene quarterly meetings with WYLIE staff to discuss the Service.

3.07. LGC shall cause to be prepared planning, engineering, and financial planning services and data required by the North Central Texas Council of Governments (“NCTCOG”). NCTCOG is responsible for funding and managing the development of the County Transit Service and Financial Plan, which will include WYLIE. This NCTCOG plan will meet the WYLIE obligations as required by Policy III.07 to develop a 20-year transit service and financial plan during the Term of this Agreement. Following the completion of the transit service and financial plan by NCTCOG, the WYLIE shall develop a plan for WYLIE membership in DART.

3.08. LGC shall distribute to WYLIE and analyze any available surveys of the Service. WYLIE may provide input regarding the design of the survey instruments if any are used.

4. WYLIE Duties and Responsibilities

4.01. WYLIE shall allow the LGC to operate the Service on WYLIE streets including contract dedicated service or taxi services.

4.02. WYLIE shall assist in marketing and communications of Service to residents, using the WYLIE website, resident newsletters, or other methods of communication controlled by WYLIE to inform residents about the Service.

4.03. WYLIE shall cooperate with the NCTCOG, NCTCOG consultants, and LGC to prepare a Collin County Service and Financial Plan, as required by DART Policy III.07. Cooperation shall include, by example and not limitation, participating on policy, stakeholder and technical advisory committees, providing information about WYLIE economic development, demographic projections, financial projections, and reviewing and commenting on the Collin County Service Plan as required under DART Policy III.07. The cost of the planning prepared by NCTCOG will be the responsibility of NCTCOG.

4.04. Commencing October 1, 2022, and on the first day of every month thereafter during the Term hereof, WYLIE shall pay LGC WYLIE’s share of the Service as shown in Exhibit A to the following address:

Dallas Area Rapid Transit
Accounts Receivable
P.O. Box 840009
Dallas, TX 75284-0009

The final monthly payment of each year will be adjusted to reflect the annual total Not-To-Exceed amount shown in Exhibit A. Any payments made under this Agreement shall be made from revenues currently available to the Parties. The provisions of Chapter 2251 of the Texas

Government Code shall apply to payments under this Agreement. The amount due hereunder is subject to change in the event that WYLIE requests a change in the program or LGC grant funds are depleted.

5. Joint Marketing and Communications. The Parties acknowledge that marketing and communications regarding the Service may require the use of marks and logos that are owned by each of the Parties. The Parties agree to such limited use of their individually owned or registered marks, logos, and trade names in connection with providing and promoting the Service under this Agreement. Any right to use such marks and logos shall terminate upon the termination or expiration of this Agreement.

6. Force Majeure. LGC shall at all times use reasonable commercial efforts to provide or cause the Service to be provided continuously, however, LGC does not warrant or guarantee uninterrupted Service and shall not be liable for any special, direct or consequential damages relating to or arising from an interruption in the Service. The obligations of the Parties to perform under this Agreement shall be suspended to the extent that either or both are unable to perform as a result of causes beyond the respective Party's reasonable control and without such Party's fault or negligence, including but not limited to, equipment breakdown, accidents, acts of nature and governmental action. In such event, the affected Party shall use reasonable efforts to eliminate the cause as quickly as possible.

7. Planning. On July 1, 2023, LGC shall provide a projected pricing schedule for continuation of the Service beyond the Term. WYLIE shall notify DART in the event that, prior to July 1, 2023, WYLIE has determined not to continue funding for the Service after September 30, 2023.

8. Audit and Retention of Records. Any Party shall have the right to request an audit of another Party's records related to the operation of the Service. The Parties shall retain adequate records for auditing purposes for a period of three years after final payment hereunder.

9. Indemnifications

9.01. To the extent permitted by applicable law, LGC shall defend, indemnify and hold WYLIE, and its officers, employees, visitors and contractors, harmless from all loss, cost and expense by reason of injury (including death), to any person, or damage to property, arising out of or from any accident or other occurrence taking place during the performance of this Agreement, which injury or damage results from negligence on the part of LGC, its agents, employees, or contractors.

9.02. To the extent permitted by applicable law, WYLIE shall defend, indemnify and hold LGC, its directors, officers, employees and contractors, harmless from all loss, cost and expense by reason of injury, (including death), to any person, or damage to property, arising out of or from any accident or other occurrence taking place during the performance of this Agreement, which injury or damage results from negligence on the part of WYLIE, its agents, employees or contractors.

9.03. WYLIE hereby releases, indemnifies, defend, and holds DART harmless from all loss, cost and expense by reason of injury, (including death), to any person, or damage to property, arising out of or from any accident or other occurrence taking place during the performance of this Agreement, which injury or damage results from any negligence or misconduct on the part of the indemnifying Party or its agents, employees or contractors, whether now known or otherwise. In the event of any third-party claim against DART arising out of the terms of this Agreement, the Parties shall jointly provide any necessary defense with counsel reasonably acceptable to DART, so as to eliminate liability on the part of DART, it being acknowledged that DART is not a Party to this Agreement.

9.04. In the event of joint or concurring negligence or fault of both Parties, liability, if any, shall be apportioned comparatively in accordance with the law of the State of Texas. The provisions of this section are solely for the benefit of the Parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity, nor limit the right of LGC or WYLIE to assert any governmental immunity defense to any claim of another Party or entity. The provisions of this section shall survive termination or expiration of this Agreement.

10. Miscellaneous Provisions.

10.01. Notices. Any notice by any Party shall be in writing and shall be deemed to have been duly given only if delivered personally or sent by United States mail, certified, return receipt requested, in a postage paid envelope addressed to the Parties as set out below:

LGC:

c/o DALLAS AREA RAPID TRANSIT
P.O. Box 660163
Dallas, Texas 75266-7213
Attention: Rob Smith
Vice President, Planning and Development

WYLIE:

City of Wylie
Attention: Brent Parker, City Manager
300 Country Club Road, Building 100
Wylie, Texas 75098

With a copy to:

Abernathy, Roeder, Boyd, and Hullett, P.C.
Attention: Richard Abernathy, City Attorney
1700 N. Redbud Blvd., Ste. 300
McKinney, TX 75069

A Party may designate another address by giving notice thereof to the other Parties.

10.02. Binding Effect. The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. There shall be no third-party beneficiaries of this Agreement.

10.03. Fiscal Funding. WYLIE is a political subdivision of the State of Texas (or creation thereof). WYLIE shall have the right, upon the failure of the governing body of WYLIE to appropriate sufficient finances to fund of this Agreement, to terminate this Agreement as of the effective date of such lack of fiscal funding. When exercising this right, WYLIE shall give notice to LGC of any such failure of funding within thirty (30) calendar days of the ordinance passage.

10.04. Construction and Drafting. The paragraph headings in this Agreement are intended for convenience only and shall not be taken into consideration in the construction or interpretation of this Agreement. Whenever used herein, unless the context otherwise provides, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all other genders. Both Parties have participated in the drafting hereof and accordingly no party shall be given credit therefor in the interpretation of this Agreement.

10.05. Partial Invalidity. Any portion of this Agreement being declared by law to be invalid shall not invalidate the remaining provisions which shall remain in full force and effect.

10.06. Merger and Amendment. This instrument constitutes the entire agreement of the Parties with respect to matters contemplated herein, and it may be modified or amended only in writing, signed by all Parties hereto and in accordance with the terms hereof.

10.07. No Partnerships or Joint Enterprise. It is mutually understood and agreed that this Agreement is intended by the Parties to establish only an independent contractual relationship and is not intended to create a partnership or joint venture between the Parties.

10.08. Use of Contractors. Nothing in this Agreement shall prevent a Party from using a contractor or agent to perform the duties and responsibilities contemplated by this Agreement.

10.09 Assignment. No Party may assign its rights and obligations or either under this Agreement, in whole or in part, without first obtaining the prior written consent of the other Party, which consent may be withheld for any reason. No assignee or successor may further assign, in whole or in part, its rights and obligations without prior written consent of the other Party to this Agreement at the time of further assignment.

10.10 Entire Agreement. The recitals and exhibits to this Agreement are incorporated herein for all purposes. This Agreement constitutes the entire agreement of DART and TOWN with respect to the subject matter hereof. In the event of conflict between the exhibits and this Agreement, the terms of this Agreement shall prevail.

10.11 DART Board Policy III.07. The Provisions of the DART Board Policy are incorporated herein and binding on the Parties hereto. Any renewal of this Agreement must be approved by each Party and the DART Board of Directors.

(SIGNATURES ON THE FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in multiple originals as of the _____ day of _____, 2022.

DALLAS AREA RAPID TRANSIT MOBILITY SERVICE, LGC

By: _____

CITY OF WYLIE

By: _____

City Manager

Exhibit A

Participant Projection FY23	
Program Participants	125
Fares Projection FY23	
Trip Projections (Quantity)	2,562
Fares	\$ 44,041.13
Avg. Cost/Trip	\$ 17.19
Program Expenses Projection FY23	
Fare Expense	\$ 44,041.13
DART Staff	\$ 19,727.12
Purchased Transportation Fxd. Cost	\$ 22,859.98
G & A - 10%	\$ 6,690.11
Program Expenses	\$ 93,318.34
Revenue Projection FY23	
Participant Fare Contribution (25%)	\$ 11,010.28
LGC Service Fee	\$ 14,105.08
Cities Required Revenue	\$ 96,413.14
Total Revenues	\$ 107,423.42
Total ILA Revenue From Cities	\$ 48,207.00
Grant funding	\$ 48,207.00
Total Revenues	\$ 107,423.00