AGENDA

Public Affairs and Communication Committee Meeting
Tuesday, July 9, 2019, 12:30 p.m.
DART Conference Room C - 1st Floor
1401 Pacific Ave., Dallas, Texas 75202

1. Approval of Minutes: June 18, 2019
2. Approval of Interlocal Cooperative Agreement between DART and North Central Texas Council of Governments (NCTCOG) for the 2020 Regional Transit On-Board Survey Effort (Mark Enoch/Tim McKay)
3. +Discussion and Approval of an Exception to DART Board Policy III.07 Relating to the Interlocal Agreements with the Cities of Allen and Wylie and the Town of Fairview (Mark Enoch/Tim McKay)
4. +Approval to Execute an Agreement Between the Dallas Area Rapid Transit Mobility Service, LGC, and the City of Allen for the Continuation of Collin County Demand Responsive Service (Mark Enoch/Tim McKay)
5. +Approval to Execute an Agreement Between the Dallas Area Rapid Transit Mobility Service, LGC, and the City of Wylie for the Continuation of Collin County Demand Responsive Service (Mark Enoch/Tim McKay)
6. +Approval to Execute an Agreement Between the Dallas Area Rapid Transit Mobility Service, LGC, and the Town of Fairview for the Continuation of Collin County Demand Responsive Service (Mark Enoch/Tim McKay)
7. Approval of the GoLink On-Demand Site-Specific Shuttle Service Funding Agreement with Amazon Fulfillment Center FTW1 (Mark Enoch/Tim McKay)
8. Identification of Future Agenda Items
9. Adjournment

+Same Date Action Item for Approval by the Board of Directors

The Public Affairs and Communication Committee may go into Closed Session under the Texas Open Meetings Act, Section 551.071, Consultation with Attorney, for any legal issues arising or regarding any item listed on this Agenda.

This facility is wheelchair accessible. For accommodations for the hearing impaired, sign interpretation is available. Please contact Community Affairs at 214-749-2543, 48 hours in advance.

Chair – Mark Enoch
Vice Chair – Jon-Bertrell Killen
Members – Sue S. Bauman, Doug Hrbacek, Lissa Smith and Rick Stopfer
Staff Liaison – Gary Thomas, and Nicole Fontayne-Bárdowell
AGENDA ITEM NO. 1
MINUTES
DALLAS AREA RAPID TRANSIT
PUBLIC AFFAIRS AND COMMUNICATION COMMITTEE MEETING
June 18, 2019

The Dallas Area Rapid Transit, Public Affairs and Communication Committee meeting convened at 1:02 p.m. on Tuesday, June 17, 2019, at DART Headquarters, 1401 Pacific Avenue, Dallas, Texas, with Vice-Chair Killen presiding.

The following Committee members were present: Mark Enoch, Jon-Bertreil Killen, Rick Stopfer, Sue S. Bauman, Doug Hrbacek, and Lissa Smith.

Other Board members present: Michele Wong Krause, Dominique P. Torres, Paul N. Wageman, Gary Slagel, and Lee Ruiz.

Pursuant to Article V, Section 4 to the DART Board Bylaws, amended by Resolution No. 000159, dated September 12, 2000, Board Member Gary Slagel was hereby appointed to the Public Affairs and Communication Committee to serve as an alternate member of the committee for purposes of making a quorum. The above-named Board Member shall have all the privileges of other committee members so long as the Board Member's presence is necessary to maintain a quorum. This appointment shall be effective only until the adjournment of the meeting for which the appointment is made.

This appointment form shall be filed with the Office of Board Support prior to the convening of the Committee meeting.

Others Present: Gary Thomas, Nicole Fontayne-Bárdowell, Gene Gamez, Nevin Grinnell, Joseph Costello, Tina Morch-Pierre, John Rhone, Kay Shelton, Todd Plesko, Stephanie Schuchert, John Adler, Steve Salin, Tim McKay, Harlene Kennedy, Nancy Johnson, and Yvette Bayer.

1. **Approval of Minutes:** June 11, 2019

Hearing no objections, Vice-Chair Killen stated the June 11, 2019, Public Affairs and Communication Committee Meeting Minutes, were entered into record, as written.

Ms. Smith and Mr. Wageman entered the meeting at 1:04 p.m., creating natural quorum.

2. **Contract Award for Consulting Engagement for the Universal Payment Processing Platform (UP3) Feasibility Study**

Ms. Tina Morch-Pierre, Assistant Vice President of Payments and Statistical Reporting, briefed the Committee (slides on file with the Office of Board Support) as follows:

- Recommendation
- Evolution of GoPass
- Why Mobile First?
- Top Cultural Trends

Mr. Ruiz entered the meeting at 1:09 p.m.

- GoPass Journey
• MaaS – Roadmap Objectives

Ms. Stephanie Schuchert, Senior Project Manager, presided over the rest of the presentation.

• GoPass Expansion Benefits
• GoPass Expansion Opportunity
• Feasibility Study
• Procurement Process
• Contract Details
• Task Order #1 Product & Market Feasibility
• Task Order #2 Organizational & Financial Feasibility
• Task Order #3 Technical Review and Analysis
• Contract Pricing
• Recommendation

Ms. Torres questioned if the app is performing to a standard where this step makes sense. Ms. Morch-Pierre replied the issue is not with the app itself, but rather what it consumes to provide information.

Ms. Bauman entered the meeting at 1:26 pm.

Ms. Torres asked at what stage will the reduced fares be added to the app. Ms. Morch-Pierre replied introducing those fares is part of the app/tap card integration in Phase 1 or Phase 2. Ms. Torres inquired as to DART’s past history selling technology. Mr. Gary Thomas, President/Executive Director, reminded the committee that it does not own the app, but rather DART would be the licensee of the app for North America and would receive a fee.

Mr. Hrbacek asked if GoPass is producing revenue outside of the fare revenue. Ms. Morch-Pierre replied yes, explaining every time DART partners with an entity to sell passes and tickets, revenue is generated.

Mr. Ruiz questioned if there is a licensing agreement in place to be the licensee with the owner of the app. Mr. Thomas replied staff is working on the agreement.

Mr. Wageman asked what is the total ancillary revenue. Ms. Morch-Pierre replied she could return with the information. Mr. Wageman stated, without an agreement in place to be the licensee, he could not support this item. Mr. Thomas responded the thought is to bring a consultant onboard to see if licensing the app makes sense for the agency.

Vice-Chair Killen asked if DART has the manpower for expanding the app for customer purposes. Mr. Thomas replied staffing is adequate for DART’s needs to work with the app and staffing needs can be reassessed as needed.

Mr. Hrbacek moved to forward this draft resolution to the Committee-Of-The-Whole agenda, with a recommendation, stating the President/Executive Director, or his designee, is authorized to award a three-month contract for a consulting engagement with KPMG LLP to conduct a feasibility study exploring the expansion of the GoPass mobile application for a total authorized amount not to exceed $673,798.

Ms. Smith seconded and the item was approved unanimously.
3. Approval of Master Streetcar Interlocal Agreement (ILA) between DART and the City of Dallas

Mr. John Rhone, Vice President of Capital Design and Construction, briefed the Committee (slides on file with the Office of Board Support) as follows:

- Today’s Consideration
- Business Purpose
- City of Dallas Responsibilities
- DART Responsibilities
- Highlights of Master ILA (4)
- Next Steps

Ms. Bauman questioned how this plan fits into the possibility of streetcars in other service area cities. Mr. Rhone replied this ILA is part of the Master Streetcar Plan that Capital Planning is working through to incorporate other cities besides the City of Dallas.

Mr. Wageman stated, before budgeting is done for extensions, there needs to be deliberation if the Board wants to continue expansion and asked when this would happen. Mr. Tim McKay, Executive Vice President of Growth and Regional Development, replied the City of Dallas is reviewing the extension plan and once they make a decision, the DART Board will give input as to what can be done.

Chair Enoch entered the meeting at 1:53 p.m., however he allowed Vice-Chair Killen to continue with the chair responsibilities.

After some discussion, Mr. Wageman stressed the Board should provide input early into the decision process and not asked for approvals of something that has already been negotiated. He then inquired if the wording in Article VII indicates that the current Operations and Maintenance agreement will apply to future expansion. Mr. McKay explained the article states DART does not have funds in the financial plan for an expansion and that some type of funding will be needed. Mr. Wageman asked who receives the fare. Mr. McKay replied the fare goes to offset the Operations and Maintenance cost.

Ms. Torres questioned, if a customer has a day pass, will additional fare be required to ride. Mr. Rhone replied no.

Ms. Wong Krause asked how much work will be done by DART planning services. Mr. Steve Salin, Vice President of Capital Planning, replied it would be approximately $3M to advance the streetcar central link piece. He continued, staff is proposing to split the cost or use it as local match for federal funds.

Mr. Wageman inquired how the fare is bound in the ILA and if future expansions, or agreements, would work in the same way. Ms. Harlene Kennedy, Senior Assistant General Counsel, answered the ILA binds the dollar fare, and if a change is made, both parties must agree.

Ms. Bauman moved to forward this draft resolution to the Committee-Of-The-Whole agenda, with a recommendation, stating the President/Executive Director, or his designee, is authorized to execute a Master Streetcar Interlocal Agreement (ILA) between DART and the City of Dallas, substantially in the form shown as Exhibit 1 to the Resolution.
Ms. Smith seconded and the item was approved unanimously.

Vice-Chair Killen requested Mr. Todd Plesko, Vice President of Planning and Scheduling, to brief Agenda Items 4, Approval of the University of Texas Southwestern (UTSW) Medical Center Site-Specific Shuttle Service Agreement and Agenda Item 5, Approval of the First Amendment to the Agreement with Parkland Hospital for Site-Specific Shuttle Service, together.

4. Approval of the University of Texas Southwestern (UTSW) Medical Center Site-Specific Shuttle Service Agreement

Mr. Plesko briefed the Committee.

Mr. Stopfer moved to forward this draft resolution, and Agenda Item 5, to the Committee-Of-The-Whole agenda, with a recommendation, stating the President/Executive Director, or his designee, is authorized to execute a three-year agreement with the University of Texas Southwestern Medical Center, for funding and operation of a shuttle service in the Medical Center area, substantially in the form shown in Exhibit 1 to the Resolution, and subject to legal review, in a total authorized amount not-to-exceed $99,500 annually.

5. Approval of the First Amendment to the Agreement with Parkland Hospital for Site-Specific Shuttle Service

Moved to forward this draft resolution to the Committee-Of-The-Whole agenda, with a recommendation, stating the President/Executive Director, or his designee, is authorized to execute a three-year Amendment to the Interlocal Agreement with Parkland Hospital for the operation of a site-specific shuttle service, substantially in the form shown in Exhibit 1 of the Resolution, in the total authorized amount not to exceed $5,480,000.

Ms. Bauman seconded and the items were approved unanimously.

6. Approval of Vehicle Color Scheme for the Cotton Belt Regional Rail Corridor

Mr. Nevin Grinnell, Vice President/Chief Marketing Officer, briefed the Committee.

Mr. Enoch moved to forward this draft resolution to the Committee-Of-The-Whole agenda, with a recommendation, stating the President/Executive Director, or his designee, is authorized to designate the vehicle color scheme for the DART service that will run on the Cotton Belt Regional Rail Corridor, utilizing DART’s blue and yellow color scheme with the addition of silver.

Ms. Smith seconded and the item was approved unanimously.

7. *Briefing on the 2020 Regional Transit On-Board Survey Effort

Ms. Kay Shelton, Project Manager, briefed the Committee (slides on file with the Office of Board Support) as follows:

- Agenda
- Survey Background
- Survey Objectives
- How is Survey Data Used?
Vice Chair Killen asked for a cost estimate to add more questions and more days of survey during this round.

8. **Identification of Future Agenda Items**

Future agenda items for this committee were as follows:

Ms. Torres requested information on DART’s involvement on bus donated to UNT Dallas.

Ms. Torres requested staff look into the possibility of using a DART-owned field to convert into a community garden and relate the findings back to the Committee.

Ms. Torres requested a potential “State of DART” Luncheon.

Ms. Torres requested information, from DART’s Government Affairs Department, on what is the plan for city engagement with the City of Dallas council members.

Mr. Hrbacek requested a color sample of the silver paint on the Cotton Belt vehicles.

Vice-Chair Killen asked how the color will integrate into all of DART’s signs and collateral.

9. **Adjournment**

There being no further business to discuss, the meeting was adjourned at 2:34 p.m.

Yvette Bayer
Board Support Analyst

/ vb

+Same Night Item

*Briefing Item
Agenda Report

DATE: July 9, 2019

SUBJECT: Approval of an Interlocal Cooperative Agreement between DART and North Central Texas Council of Governments (NCTCOG) for the 2020 Regional Transit On-Board Survey Effort

RECOMMENDATION

Approval of a resolution authorizing the President/Executive Director or his designee to execute an Interlocal Cooperative Agreement (ILA) between DART and NCTCOG, substantially in the form shown as Exhibit 1 to the Resolution, for the 2020 Regional Transit On-Board Survey.

FINANCIAL CONSIDERATIONS

- Sufficient funding for this ILA is included in the Regional On-Board Survey Project approved FY 2019 budget.
- Sufficient funding for this ILA in the amount of $810,000 is included in both the Regional On-Board Survey Project budget and the Non-Operating line item of the FY 2019 Twenty-Year Financial Plan.

BUSINESS PURPOSE

- The ILA between DART and NCTCOG is needed to outline responsibilities and funding related to the Regional Transit On-Board Survey of DART services.
- This item will help achieve the Board Strategic Priority 2: Optimize and preserve (state of good repair) the existing transit system; and Priority 3: Optimize DART's influence in regional transportation planning.
- The Federal Transit Administration recommends completing a Regional Transit On-Board Survey every five years for the purpose of updating data inputs to the regional travel demand model, and for gathering data required to complete analyses related to Title VI, fare changes, and service planning.
- Prior Regional Transit On-Board Surveys were conducted in 2007 and 2014.
- On July 9, 2013 (Resolution No. 130074), the DART Board of Directors approved an Interlocal Cooperative Agreement between NCTCOG and DART for the 2014 Regional Transit On-Board Survey. This included funding from DART in the amount of $795,000 for survey efforts on DART services.
DART, Trinity Metro, and the Denton County Transportation Authority (DCTA) have started to coordinate planning with NCTCOG for the next survey to take place in 2020.

DART, Trinity Metro, DCTA, and NCTCOG will all contribute funds towards the implementation of the 2020 Regional Transit On-Board Survey.

The Interlocal Cooperative Agreement defines the terms and conditions for the transfer of DART local funds to NCTCOG for the implementation of the 2020 Regional Transit On-Board Survey efforts, as well as the duties and responsibilities of both agencies. Based on ridership of all three agencies, DART would provide $810,000 towards survey efforts associated with DART services.

LEGAL CONSIDERATIONS

Section 452.055 of the Texas Transportation Code authorizes DART to enter into contracts with any person.

Section 452.056(a) of the Texas Transportation Code authorizes DART to acquire, construct, develop, plan, own, operate and maintain a public transportation system.
DRAFT

RESOLUTION

of the

DALLAS AREA RAPID TRANSIT BOARD

(Executive Committee)

Approval of an Interlocal Cooperative Agreement between DART and North Central Texas Council of Governments (NCTCOG) for the 2020 Regional Transit On-Board Survey Effort

WHEREAS, the Federal Transit Administration recommends completing a Regional Transit On-Board Survey every five years for the purpose of updating data inputs to the regional travel demand model, and for gathering data required to complete analyses related to Title VI, fare changes, and service planning; and

WHEREAS, prior Regional Transit On-Board Surveys were conducted in 2007 and 2014; and

WHEREAS, on July 9, 2013 (Resolution No. 130074), the DART Board of Directors approved an Interlocal Cooperative Agreement between DART and NCTCOG for the 2014 Regional Transit On-Board Survey, which included funding from DART in the amount of $795,000 for survey efforts on DART services; and

WHEREAS, DART, Trinity Metro, and the Denton County Transportation Authority (DCTA) have started to coordinate planning with NCTCOG for the next survey to take place in 2020; and

WHEREAS, DART, Trinity Metro, DCTA, and NCTCOG will all contribute funds towards the implementation of the 2020 Regional Transit On-Board Survey; and

WHEREAS, the new Interlocal Cooperative Agreement is in development and defines the terms and conditions for the transfer of DART local funds to NCTCOG for the implementation of the 2020 Regional Transit On-Board Survey efforts, as well as the duties and responsibilities of both agencies; and

WHEREAS, based on ridership of all three agencies, DART would provide $810,000 towards survey efforts associated with DART services; and

WHEREAS, funding for this ILA is within current budget and FY 2019 Twenty-Year Financial Plan allocations.

NOW, THEREFORE, BE IT RESOLVED by the Dallas Area Rapid Transit Board of Directors that the President/Executive Director or his designee is authorized to execute an Interlocal Cooperative Agreement (ILA) between DART and the North Central Texas Council of Governments (NCTCOG), substantially in the form shown as Exhibit 1 to the Resolution, for the 2020 Regional Transit On-Board Survey.
Approval of an Interlocal Cooperative Agreement between DART and North Central Texas Council of Governments (NCTCOG) for the 2020 Regional Transit On-Board Survey Effort

Prepared by: Stephen L. Salin, AICP
Vice President
Capital Planning

Approved by: Timothy H. McKay, P.E.
Executive Vice President
Growth/Regional Development

Approved as to form: Gene Gamez
Interim General Counsel

Approved by: Gary C. Thomas
President/Executive Director
INTERLOCAL COOPERATIVE AGREEMENT
Between
DALLAS AREA RAPID TRANSIT
And
THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS
For
A REGIONAL TRANSIT ON-BOARD SURVEY

WHEREAS, the North Central Texas Council of Governments (NCTCOG) has been designated as the Metropolitan Planning Organization for the Dallas-Fort Worth Metropolitan Area by the Governor of Texas in accordance with federal law; and,

WHEREAS, the Regional Transportation Council (RTC), comprised primarily of local elected officials, is the regional transportation policy body associated with NCTCOG and has been and continues to be a forum for cooperative decisions on transportation; and,

WHEREAS, the RTC is committed to the development and implementation of policies, projects, and programs to improve regional travel model development, the long-range transportation plan, Transportation Improvement Program, congestion management process, Safety and Security Program, roadway and transit alternative analyses and subarea studies; and,

WHEREAS, Dallas Area Rapid Transit (“DART”) is a regional transportation authority created and existing under Chapter 452 of the Texas Transportation Code; and,

WHEREAS, the Federal Transit Administration recommends completing a Regional Transit On-Board Survey every five years; and,

WHEREAS, NCTCOG will receive Surface Transportation Block Grant Program funds to conduct travel survey efforts including completion of a Regional Transit On-Board Survey; and,

WHEREAS, the NCTCOG Executive Board will approve receipt of funds and execute of agreements for travel survey efforts; and,

WHEREAS, DART agrees to provide funding for travel survey efforts described herein; and,

WHEREAS, DART and the RTC desire to cooperate in providing funding for the effective implementation of a Regional Transit On-Board Survey; and,

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, provides authority for NCTCOG to enter into an agreement with DART for the provision of governmental functions and services of mutual interest; and,

WHEREAS, NCTCOG desires to provide controls sufficient to ensure that DART’s public purpose as authorized by Chapter 452 of the Texas Transportation Code is accomplished in the expenditure of funds for a Regional Transit On-Board Survey; and,
NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the receipt and sufficiency of which is acknowledged by the Parties, the Parties agree as follows:

1. PARTIES

1.1 This Interlocal Agreement, hereinafter referred to as the “Agreement”, is made and entered into by and between the North Central Texas Council of Governments (“NCTCOG”) and Dallas Area Rapid Transit (“DART”). NCTCOG and DART may each be referred to herein as a “Party” and may collectively be referred to herein as “Parties”.

1.2 Fort Worth Transportation Authority (“Trinity Metro”) and Denton County Transportation Authority (“DCTA”) will also participate in the Project (defined below) pursuant to separate agreements with NCTCOG.

2. PURPOSE

2.1 This Agreement defines the duties and responsibilities of each Party for implementation and completion of the travel survey efforts required for the regional transit on-board survey project (“the Project”) contemplated by this Agreement and further described in Exhibit “A”.

3. SCOPE OF SERVICES

3.1 The Scope of Services for the work to be performed hereunder (“Scope of Services”) will be developed for the Project as part of the RFP (defined below). The Scope of Services in Exhibit A is representative of the contemplated general scope necessary to complete the work required for the Project. The work described in the Scope of Services will be provided by a consultant under contract to NCTCOG.

4. PROJECT BUDGET

4.1 The Budget for the Project is set forth in Exhibit B. The budget represents a not-to-exceed amount. Should changes to the budget be proposed, DART and NCTCOG will review the changes and propose a modified budget as required.

4.2 Should the Parties agree to a change to the Project, Scope of Services, or contribution or share of agency causing a potential change to the Project budget, the change must be memorialized in writing executed by an authorized representative of each Party.
5. NCTCOG DUTIES

5.1 NCTCOG will serve as the contract manager and procurement administrator for the Project. NCTCOG will coordinate with DART to appropriately advertise the request for proposals (“RFP”) to obtain a consultant to perform the required work.

5.2 NCTCOG will designate a project manager (“Project Manager”) to work directly with DART to assist the Project consultant(s).

5.3 The Project Manager will oversee the consultant(s), review and approve invoices and progress reports, and coordinate with the Project Review Committee regarding meetings, schedules, deliverables, and other key project milestones and events. Progress reports and invoices will be provided to DART upon receipt by NCTCOG, but no less than quarterly. The Project Manager will coordinate communication with the consultant(s).

5.4 NCTCOG will review, approve, and pay consultant(s) invoices within 45 days of receipt of a complete invoice. NCTCOG’s payment of invoices is not contingent upon DART approval.

5.5 NCTCOG will deliver the DART preliminary expansion of the survey data to DART as soon as available, but no later than August 31, 2020. Delivery after this date must be mutually agreed upon by both parties.

6. DART DUTIES

6.1 The Parties shall participate and cooperate jointly in the creation/definition of a Scope of Work for the RFP. DART shall participate in the procurement of a consultant, through review of the RFP and participation in the consultant selection process, and other cooperative joint tasks. DART shall coordinate with the NCTCOG Project Manager on any Scope of Service modifications and additional final deliverables that may increase the cost of the consultant(s) contract.

6.2 DART agrees to pay NCTCOG an amount equal to $810,000 in DART local funds for the Project. These funds represent DART’s financial contribution towards the Project.

6.3 DART shall transfer $810,000 to NCTCOG within 30 days of award of a contract by NCTCOG’s Executive Board. NCTCOG’s execution of a consultant contract is contingent upon receipt of DART’s funding.

6.4 Each Party agrees to promptly notify the other in the event such Party becomes aware of any issues or circumstances that may impact or adjust the total cost of the Project. The Parties shall cooperate in resolving such issues or circumstances.
7. FUNDING OBLIGATIONS

7.1 NCTCOG will coordinate with Trinity Metro and DCTA to collect additional local contributions for the Project. NCTCOG shall obtain federal funding for the Project from TxDOT.

7.2 Payments made under this Agreement shall be from current revenues available to the paying Party.

7.3 Any local contribution received from the Trinity Metro, DCTA or DART may be used for the Project including for necessary Project expenses ineligible for federal reimbursement.

7.4 Any unused DART funds dedicated for completion of the Project shall be returned to DART.

7.5 The Parties agree that DART funds shall be expended only for the necessary Project expenses as described in this Agreement.

7.6 DART funds shall not be used for administrative overhead or similar fees for NCTCOG under this Agreement.

8. TERM

8.1 This Agreement shall take effect on the date executed by the Parties and shall remain in effect until it is terminated.

8.2 The Parties may terminate this Agreement by mutual written concurrence.

8.3 This Agreement shall automatically terminate upon completion of the Project. Project completion for these purposes shall be upon DART’s receipt of all final deliverables, including by example and without limitation, all DART survey data and the Project final report.

9. NCTCOG PROCUREMENT AND COMPLIANCE

9.1 NCTCOG shall ensure that the administration and procurement process for the Project complies with all applicable federal, state and local law. NCTCOG, for itself, its assignees, and successors agrees to comply with all applicable local, state, and federal regulations applicable to the Project.
10. OBLIGATIONS RELATED TO RECORDKEEPING, REPORTS AND AUDITS

10.1 NCTCOG shall provide invoices and reports necessary for DART’s accounting and finance purposes, as requested by DART.

10.2 NCTCOG shall provide DART with copies and recent updates of any draft documents or correspondence from the consultant related to the Project.

10.3 NCTCOG shall maintain a record keeping system for all activities, including program records and financial management records related to the Project. NCTCOG shall support and document all activities and expenditures of funds made under this Agreement in accordance with federal regulations, state rules, and this Agreement. This section shall not be interpreted to require maintenance of multiple exact duplicate copies of any record or document.

10.4 All records must be maintained for a minimum of three (3) years after Project completion. In the event that any litigation or claim is still pending before the expiration of the three-year period, these records shall be retained until resolution of the litigation or claim. Both Parties and their duly authorized agents shall have access to all records that are directly applicable to this Project or Agreement for the purpose of making audit(s) examination.

10.5 Each Party to this Agreement agrees to provide the other Party a copy of any audit received as a result of the policy of either Party or the policy of any other entity or individual with which either party has an Agreement related to the Project or to the expenditure of funds under this Agreement. Such audits shall include or be accompanied by any applicable audit management letter issued and applicable responses to the auditor's findings and recommendations. All audits shall be submitted to the other Party within thirty (30) days of receipt of each issued report.

10.6 Each Party reserves the right to conduct financial and program monitoring and an audit of all records relating to the Project. Audits by either Party may encompass an examination of all financial transactions, all accounts and reports, as well as an evaluation of compliance with the terms and conditions of this Agreement.

10.7 The consultant contract shall ensure that all required documents related to the Project elements or requirements, including but not limited to insurance certificates, performance or payment bonds, and required licenses and permits, be kept on file, current, and available to NCTCOG or DART upon request. Additionally, any relevant performance documents pertaining to the Project, such as correspondence, evaluations, reports submitted by a subcontractor, payment requests, and copies of invoices shall be provided to either Party upon request.

10.8 Nothing in this Agreement shall prevent NCTCOG from using a contractor or agent to perform the duties and responsibilities contemplated by this Agreement. If NCTCOG contracts with another entity or individual, including a subgrantee or recipient, to perform
any or all of its obligations under this Agreement, NCTCOG shall enter written contractual agreements requiring such entity or individual to comply with the provisions of this Agreement.

11. MISCELLANEOUS PROVISIONS

11.1 Indemnification. DART and NCTCOG agree that each party is responsible for its individual acts and deeds as well as the acts and deeds of their contractors, employees, representatives and agents. Nothing herein shall be deemed to diminish or waive any Party’s governmental immunities or defenses of any kind.

11.2 Force Majeure. Force Majeure means any circumstance that is reasonably beyond the control of the party obligated or permitted under this Agreement, and includes, but is not limited to reason of war, civil commotion, act of God, governmental restriction, regulation or interference, fire, explosion, hurricane, flood, failure of transportation, court injunction, or the action or failure to act of any person or entity that is not a Party to this Agreement. It is expressly understood and agreed by the Parties that if the performance of any duty or obligation under this Agreement is delayed by Force Majeure, the Party so obligated shall be excused from doing or performing such obligation during such period of delay.

11.3 Contractual Relationship. It is understood and agreed that the relationship described in this Agreement between the Parties is contractual in nature and is not to be construed to create a partnership, joint venture or agency relationship between the Parties. No Party be liable for any debts incurred by the other Party in the conduct of such other Party’s business or functions.

11.4 Captions. The captions, headings, and arrangements used in this Agreement are for convenience only and shall not in any way affect, limit, amplify, or modify its terms and provisions.

11.5 Disputes. DART and NCTCOG shall negotiate toward resolving any disputes that arise under this Agreement.

11.6 Notice. Notices to either Party by the other Party required under this Agreement shall be in writing and delivered by certified mail, return receipt requested or hand delivery with proof of delivery to the addresses shown below.

DART
Name: Stephen L. Salin, Vice President, Capital Planning
Address: P.O. Box 660163, Dallas, TX 76266-7213
Phone: 214-749-2828
11.8 Interest of Public Officials. No member, officer, or employee of the public body or of a local public body during his tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

11.9 Noncollusion. NCTCOG warrants that it has not employed or retained any company or person, other than a bona fide employee or agent working for it, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee or agent, any fee, commission, percentage, brokerage fee, gift or any other consideration contingent upon or resulting from the award or making of this Agreement. If NCTCOG breaches or violates this warranty, DART shall have the right to void this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, brokerage fee, gift or contingent fee.

11.10 Debarment/Suspension. NCTCOG is prohibited from making any award or permitting any award at any tier to any party which is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, Debarment and Suspension. NCTCOG and its subcontractors shall comply with federal and state regulations regarding debarment and suspension. NCTCOG shall include a statement of compliance with federal and state debarment and suspension.

11.11 DBE Program. NCTCOG shall comply with its DBE Program in carrying out this Agreement.

11.12 Assignment. Except as expressly provided for in this Agreement, neither Party may assign this Agreement in whole or in part, without first obtaining the written consent of the other Party.

11.13 Number and Gender. 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.

11.14 Severability. In the event anyone or more of the provisions contained in this Agreement shall be for any reason held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision(s) hereof, and this Agreement shall be revised so as to cure such invalid, illegal, or unenforceable provision(s) to carry out the original intent of the Parties as closely as possible.
11.15 Amendment. This Agreement may be modified or amended only in writing, signed by all parties hereto.

11.16 Agreement. This Agreement embodies all of the agreements of the Parties relating to its subject matter and supersedes all prior understandings and agreements regarding such subject matter.

11.17 Nondiscrimination. In its performance of this Agreement, DART and NCTCOG each warrant that it shall not discriminate against any person on account of race, color, sex, religious creed, age, disability, ethnic or national origin, or veteran status.

11.18 No Waiver. Neither party shall be deemed, by any act or omission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the waiving party, and then only to the extent specifically set forth in such writing. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event.

IN WITNESS HEREOF, the parties have executed this Agreement in duplicate original on the date indicated below.

DALLAS AREA RAPID TRANSIT

Gary C. Thomas
President/Executive Director

Date

NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS

R. Michael Eastland
Executive Director

Date
Project Description

This Project is called the “North Central Texas Regional Transit Travel Survey”. It is a transit passenger survey to be conducted while passengers are on-board the travel vehicle (bus or rail). The purpose of the survey is to provide updated information to use in the NCTCOG’s regional travel model and in the conduct of service planning, fare analyses, and Title VI analyses. NCTCOG’s regional travel model is the travel demand model used to make transit forecasts based on travel demand patterns identified in this survey.

Changed transit conditions in the region require that new and more informed data be applied to the regional transit model. The Federal Transit Administration recommends conducting on-board surveys every five years to gather data to be used in updating the regional transit model and for use in service planning and Title VI compliance programs.

A consultant(s) will be procured to complete the “Scope of Service” that may include: a sampling plan, survey instrument, pre-survey training and testing, actual survey, data collection, quality control, data processing, data expansion, analysis, and reporting the results of the Project. The pre-survey phase will be conducted in early 2020, and surveys will be conducted in the Spring of 2020 for DART and Fall of 2020 for other regional agencies. Expanded data from the Spring 2020 DART survey will be provided early to DART for their use. Supplemental DART surveys may also be done in Fall of 2020. Project completion of all surveys and final reports will occur by Summer 2021.

The Denton County Transportation Authority and Trinity Metro may also participate in this project but are not parties to this Agreement.
## PROJECT FUNDING BY AGENCY

<table>
<thead>
<tr>
<th>Agency (1)</th>
<th>Proposed Funding</th>
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<tr>
<td>DART</td>
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<tr>
<td>Total Project Funding</td>
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(1) Only DART and NCTCOG are parties to this Agreement.
(2) Other Transit Agencies include the Trinity Metro and Denton County Transportation Authority.
DATE: July 9, 2019

SUBJECT: Discussion and Approval of an Exception to the DART Board Policy III.07 Relating to the Interlocal Agreements with the Cities of Allen and Wylie and the Town of Fairview

RECOMMENDATION

Authorize an exception to the 36-month contracting limitation under Policy III.07, Section 3.04, to allow Allen, Wylie, and Fairview an additional 36 months to complete the service plan, financial plan and plan for membership.

FINANCIAL CONSIDERATIONS

. Agreements with non-service area entities will generate revenue which will offset direct and indirect costs and include Board-approved access and impact fees beneficial to the Agency.

BUSINESS PURPOSE

. This item will assist DART in achieving Board Strategic Priority 1: Continually improve service and safety experiences and perceptions for customers and the public.

. This agenda report summarizes the history of Policy III.07, which governs DART’s authority to provide public transportation services to governmental entities outside the boundary of the service area. The current version of Board Policy III.07 is included as Attachment 1.

. DART is authorized under Texas Transportation Code 452.056 (2) to contract with a municipality, county, or other political subdivision to provide public transportation services outside the authority. There are no limits to the public transportation services which may be provided or the term of the agreements.

. On April 25, 1995 (Resolution No. 950097), the DART Board approved the first Policy III.07 stipulating that “transit service will not extend beyond the DART Service Area.” This new policy was added to limit the broad authority to contract with governmental entities provided under the enabling legislation. Discussion by the Board at that time emphasized the policy objective to incentivize non-service area governmental entities to join DART by ending the ability for contracted service.

. On November 11, 1997 (Resolution No. 970226), the DART Board amended Policy III.07 to permit the extension of existing DART routes to serve universities and colleges outside the service area if the institution paid the full allocated cost of the service. The primary impact of this amendment was to permit Eastfield College to obtain the extension of a DART bus route.
onto the campus which benefited residents of the service area. The community college makes an annual payment to DART to offset the cost of the service to the Mesquite campus.

- On August 10, 2004 (Resolution No. 040098), Policy III.07 was modified to permit “the provision of commuter rail outside the service area under one or more service agreements with governmental entities.” This change was in support of a legislative effort which was presented to the Texas Legislature in 2009.

- In 2009, DART championed a large regional effort to obtain state legislative authority for municipalities to seek voter approval to raise the sales tax cap and authorize the additional 1% sales tax to be dedicated to DART. The sales tax increase did not obtain approval leading to an effort for an alternative strategy for different types of local option taxes to support public transit. Despite strong local support for the initiative, the proposed Texas Local Option Tax Act (TLOTA) legislation was not successful.

- On April 12, 2011 (Resolution No. 110037), the DART Board approved a modification of Policy III.07 again to permit “the provision of commuter rail and express bus service under one or more interlocal agreements with local governmental entities.” There was no limit on the duration of the contract. The City of Mesquite initiated the request for express bus service as an alternative to commuter rail.

- On March 5, 2013 (Resolution No. 130023), the DART Board approved an amendment to Policy III.07 as follows: 1) the policy was modified to permit contracting of all services including commuter rail, streetcar, bus, and paratransit (light rail was exempted); and 2) the amended policy limited the term to 48 months unless the municipality completed a transit system plan and passed a referendum to join the service area by contributing the full 1% sales tax to DART.

- On December 8, 2015 (Resolution No. 150123), the DART Board amended Policy III.07 to permit contracting for transit services if DART and the municipality completed a transit system plan, financial plan, and plan for DART membership within 36 months.

- While the term “member” of DART is often perceived to mean joining the agency through election and committing the full 1% sales tax to DART, the term “member” is not used within the DART enabling legislation. The lack of a definition has resulted in confusion by non-service area cities interested in contracting with DART and by the Board in interpreting the Policy.

- In 2015, 2016, 2017, and 2018, Board members and executive staff conducted meetings with elected officials and city management staff for nearly all of the municipalities surrounding the DART Service Area to explain the benefits of joining the DART Service Area through an election and the options of obtaining service under Policy III.07. The cities included the Best Southwest Cities, Mesquite, Balch Springs, Grand Prairie, Arlington, and the northern Collin County cities including McKinney, Frisco, Allen, Wylie and the Town of Fairview.

- The message received by DART from 100% of the elected officials and city managers during these meetings is that these cities are unwilling to hold an election for committing the 1% sales tax. Most cities have used the 1% sales tax for what would otherwise go to DART for other purposes under what are called 4A/4B taxes, entertainment districts, public investment and/or property tax abatement.

- All these cities have some public transportation for senior and disabled, but only Mesquite currently has any fixed route service. With the exception of McKinney, Allen, and Fairview, none of these cities have anticipated realistically a rail service. The mobility service interests that these cities have requested from DART include fixed route bus service, microtransit, paratransit, transit assistance programs (TAP), and shared ride services like UberPool. One of the largest
recent interests requested of DART include technology for GoPass, GoLink and TAP.

- Because the cities have not been willing to dedicate sales tax to a public transit system, many communities are pursuing contracting.

- The following cities have public transit service provided through contracting:

  - McKinney -- contract with DCTA for taxi voucher service
  - Celina -- contract with DCTA for taxi voucher service
  - Melissa -- contract with DCTA for taxi voucher service
  - Princeton -- contract with DCTA for taxi voucher service
  - Lowry Crossing -- contract with DCTA for taxi voucher service
  - Prosper -- contract with DCTA for taxi voucher service
  - Frisco -- contract with DCTA for senior & disabled paratransit and automated vehicles
  - Little Elm -- contract with SPAN for senior & disabled paratransit
  - Coppell -- contract with SPAN for senior & disabled paratransit
  - The Colony -- contract with SPAN for senior & disabled paratransit
  - Mesquite -- contract with STAR Transit for senior and disabled paratransit
  - Mesquite -- contract with DART for fixed route shuttle service
  - Balch Springs -- contract with STAR Transit for On Demand Service
  - Seagoville -- contract with STAR Transit for On Demand Service
  - DeSoto -- contract with STAR Transit for On Demand Service
  - Hutchins -- contract with STAR Transit and Federal Express for shuttle service
  - Arlington -- directly operating elderly and disabled paratransit
  - Arlington -- contract with Via for microtransit
  - Arlington -- contract with Drive.AI for automated shuttle service

- Under the current Policy III.07, the Dallas Area Rapid Transit Mobility Service, LGC (LGC), has contracts with four municipalities for public transportation services, which include:

  - Mesquite -- commuter bus service contract ends 9/30/19
  - Allen -- taxi subsidy for seniors and disabled ending 9/30/19
  - Fairview -- taxi subsidy for seniors and disabled ending 9/30/19
  - Wylie -- taxi subsidy for seniors and disabled ending 9/30/19

- Policy III.07 requires that a municipality contracting with DART prepare a transit system and financial plan and a plan for membership with DART. Mesquite has actually had service with DART under three variations of Policy III.07 beginning in 2011. Mesquite, in collaboration with DART, developed the transit plan and financial plan and their plan for membership. In April of 2018 Mesquite requested that DART accept a plan for membership based upon long term contracting with the LGC. The Mesquite Council said that the use of their current 1% sales tax, if dedicated, would be used for: 1) property tax abatement; and: 2) support of the park system. An election to shift that to DART would result in substantial property tax increases, so was deemed not feasible. Contracting would allow the council to use general revenue for the provision of public transit until new local option sources of revenue were allowed under Texas Law.

- Staff spoke to the Mesquite City Manager on May 8, 2019, to discuss options for dedicating sales tax revenue to support its public transportation plan. The City Manager explained that the mayor and council have changed since the planning effort began. The current council has asked its staff to evaluate non-traditional, mobility services like DART’s GoLink Microtransit as an...
alternative to traditional fixed route transit. In fact, the City is considering ending the Compass Route which has failed to attract acceptable ridership. He explained that Mesquite has been offered these services from other transit districts including STAR Transit and DCTA which have been promoting contract services for new mobility transit options.

. The City Manager explained that Mesquite could not commit significant funds like the 1% sales tax without new State Legislation like the failed Local Option Funding proposed in 2009. In the meantime, contract service was the only feasible solution to providing some public transit. Staff did discuss the idea of a 1/8 percent dedication of sales tax within a 15-year period. The City Manager said that would probably be the largest amount feasible, but even that amount would take many years to make the financial modifications of revenue sources to free up that amount of sales tax funding.

. In June 2019, the City of Mesquite Council directed Mesquite staff to contract exclusively with STAR Transit for the Compass Route and any future microtransit and fixed route transit service effective October 1, 2019. This change will eliminate the need for any exception to Policy III.07 for Mesquite. Mesquite, Rockwall and Kaufman County have requested that NCTCOG prepare a transit plan for those communities.

. STAR Transit will need to negotiate an amendment to their current DART access agreement for UNT Station to include Buckner and Lawnview Stations effective October 1, 2019.

. Allen, Wylie and Fairview are waiting for the North Central Texas Council of Governments (NCTCOG) to complete the Collin County Transit Plan. These cities originally planned to develop the plan with DART, but the Collin County Board of Commissioners requested that NCTCOG complete the county-wide plan rather than DART. Funding for this project is anticipated to be available in FY 2020 and should take 18 months to complete.

. It is proposed that the Board authorize an exception of Policy III.07 which requires completion of the service plan, financial plan and plan for membership within 36 months or contracted service would end. In the case of Allen, Wylie and Fairview, the exception would authorize an extension of the contracts until September 30, 2022. This would allow time for Allen, Wylie and Fairview to work with NCTCOG and DART to complete the service plan and work out options for compliance with Policy III.07 for an acceptable relationship with DART for longer term service when the community has accepted the service plan.

**LEGAL CONSIDERATIONS**

Section 452.056(a) of the Texas Transportation Code authorizes DART to exercise all powers necessary or useful in the construction, repair, maintenance or operation of the public transportation system.
Section 1.

Except for Charter and Special Events services as authorized by separate policy and other services as described in this policy, DART transit service will not extend beyond the boundaries of the DART Service Area. For the purposes of this policy, D/FW Airport is considered to be part of the DART Service Area.

Section 2.

Existing bus routes may be extended to service any publicly-funded, post-secondary educational institution whose campus is contiguous to the DART service area when the extension does not involve operation over the streets of a non-member jurisdiction and the institution enters into an interlocal agreement to pay DART the fully allocated cost of such service.

Section 3.

3.01 DART shall consider providing rail, bus or paratransit service outside the DART Service Area under one or more service agreements.

3.02 A service agreement under this section must be approved by the DART Board of Directors, shall not adversely impact or delay any transit service that is included in the then-current Transit System Plan and Twenty Year Financial Plan and shall not be inconsistent with any DART policy or program for paid parking at DART facilities. A service agreement under this section shall include the following elements:

a. Funding for the service shall be sufficient to pay for the fully burdened operating and capital cost of the service being provided for the duration of the contract.

b. The agreement shall require payment of a fee reflecting the value of any connection to the DART service area consumed by the non resident patrons and intangibles provided by DART to the contracting entity as approved by the DART Board of Directors.

c. The agreement shall require payment of an impact fee if the contracted service causes DART to incur additional direct operating or capital costs to accommodate patrons who live outside of the DART Service Area.

3.03 Within the first 36 months of service between DART and a municipality or county, DART shall prepare a transit system plan and a supporting financial plan for the municipality or county that includes projected costs and revenues and also includes a plan for becoming a DART member; the municipality or the county shall provide 1/2 of the funding for such transit system plan and supporting financial plan with payment of 1/4 of the estimated cost to be paid upon commencement of the work and the remaining balance of 1/2 of actual expense upon completion of the work. In the event that a municipality or county fails or refuses to agree to the plan to become a DART member and provide all or portion of the funding for the development of a transit system plan and
DART Services Outside the Service Area Boundary

twenty year financial plan, the service agreement shall terminate within thirty (30) days and DART shall cease service in the municipality or county being provided under the agreement.

3.04 Such service may be provided directly by DART or through a DART local government corporation in compliance with the transit system plan and twenty year financial plan prepared for the municipality or county.
DRAFT

RESOLUTION

of the

DALLAS AREA RAPID TRANSIT BOARD

(Executive Committee)

Approval of an Exception to the DART Board Policy III.07 Relating to the Interlocal Agreements with the Cities of Allen and Wylie and the Town of Fairview

WHEREAS, on April 25, 1995 (Resolution No. 950097), the DART Board approved the first Policy III.07 stipulating that “transit service will not extend beyond the DART Service Area”; and

WHEREAS, on November 11, 1997 (Resolution No. 970226), the DART Board amended Policy III.07 to permit the extension of existing DART routes to serve universities and colleges outside the service area if the institution paid the fully allocated cost of the service; and

WHEREAS, on August 10, 2004 (Resolution No. 040098), Policy III.07 was modified to permit “the provision of commuter rail outside the service area under one or more service agreements with governmental entities”; and

WHEREAS, on April 12, 2011 (Resolution No. 110037), the DART Board approved a modification of Policy III.07 again to permit “the provision of commuter rail and express bus service under one or more interlocal agreements with local governmental entities.” There was no limit on the duration of the contract. The City of Mesquite initiated the request for express bus service as an alternative to commuter rail; and

WHEREAS, on March 5, 2013 (Resolution No. 130023), the DART Board approved an amendment to Policy III.07 as follows: 1) the policy was modified to permit contracting of all services including commuter rail, streetcar, bus, and paratransit (light rail was exempted); and 2) the amended policy limited the term to 48 months unless the municipality completed a transit system plan and passed a referendum to join the service area by contributing the full 1% sales tax to DART; and

WHEREAS, on December 8, 2015 (Resolution No. 150123), the DART Board amended Policy III.07 to permit contracting for transit services if DART and the municipality complete a transit system plan, financial plan, and plan for DART membership within 36 months; and

WHEREAS, on September 12, 2017 (Resolution No. 170090), the DART Board authorized the extension of the agreement between the LGC, the City of Mesquite, and STAR Transit for the operation of Route 282 Compass through September 30, 2018; and

WHEREAS, DART has interlocal agreements with Allen, Wylie, Fairview and Mesquite which will expire on September 30, 2019; and

WHEREAS, the Collin County Board of Commissioners have asked the North Central Texas Council of Governments to prepare the transit system plan required under Section 3.04 of the Policy III.07 and this planning work will not begin until FY 2020 and may not be completed until late FY 2021; and
WHEREAS Mesquite has elected to end its contractual relationship with DART with the expiration of the current contract on September 30, 2019 and thereafter contract directly with STAR Transit; and

WHEREAS, DART Policy III.07 requires the completion of a service and financial plan as well as a plan for membership within the three-year period; and

WHEREAS, agreements with non-service area entities will generate revenue which will offset direct and indirect costs and include Board-approved access and impact fees beneficial to the Agency.

NOW, THEREFORE, BE IT RESOLVED that the Dallas Area Rapid Transit Board of Directors authorize an exception to the 36-month contracting limitation under Policy III.07, Section 3.04, to allow Allen, Wylie, and Fairview an additional 36 months to complete the service plan, financial plan and plan for membership.
Approval of an Exception to the DART Board Policy III.07 Relating to the Interlocal Agreements with the Cities of Allen and Wylie and the Town of Fairview

Prepared by:

Todd Flesko
Vice President
Planning and Development

Approved by:

Timothy H. McKay, P.E.
Executive Vice President
Growth/Regional Development

Approved as to form:

Gene Gamez
Interim General Counsel

Approved by:

Gary C. Thomas
President/Executive Director
Agenda Report

DATE: July 9, 2019

SUBJECT: Approval to Execute an Agreement Between the Dallas Area Rapid Transit Mobility Service, LGC, and the City of Allen for the Continuation of Collin County Demand Responsive Service

RECOMMENDATION

Approval of a resolution authorizing the President of the Dallas Area Rapid Transit Mobility Service, LGC (LGC), or his designee to execute an Interlocal Agreement between the Dallas Area Rapid Transit Mobility Service, LGC, and the City of Allen, substantially in the form shown in Exhibit 1 to the Resolution and subject to legal review.

FINANCIAL CONSIDERATIONS

- This agreement will generate revenue which will offset the direct and indirect costs of the service through the Dallas Area Rapid Transit Mobility Service, LGC.

BUSINESS PURPOSE

- Approval of this agreement will assist DART in achieving Board Strategic Priority 3: Optimize DART’s influence in regional transportation planning; and Priority 4: Expand DART’s transportation system to serve cities inside and outside the current service area.

- On November 17, 2015 (Resolution No. 150116), the DART Board authorized the Dallas Area Rapid Transit Mobility Service, LGC, (LGC) to execute an agreement with North Central Texas Council of Governments (NCTCOG) to restore demand responsive transit service for elderly and disabled persons in Collin County who lost service when Texoma Area Paratransit (TAPS) service was discontinued.

- On December 10, 2015, the Regional Transportation Council (RTC) approved federal and regional toll funding to reimburse the LGC for the replacement service. The City of Allen also contributed funding to NCTCOG to support the restored service.

- On February 29, 2016, LGC began demand responsive transportation service within Collin County that was available to residents of Allen, Fairview and Wylie through May 27, 2016.

- On April 12, 2016 (Resolution No. 160032), the DART Board authorized the LGC to accept a $1 million grant from Toyota Motor North America to assist with continuation of the demand responsive service in unserved areas of Collin County, and funding from this grant was available in FY 2018 and FY 2019.
In May 24, 2016 (Resolution No. 160048), the DART Board authorized the LGC to continue service for the elderly and disabled residents for the City of Allen through September 30, 2017.

This service is operated pursuant to Policy III.07, that was approved by the Board on December 8, 2015 (Resolution No. 150123) and which defines the conditions by which the LGC may provide service to non-service area cities. This policy requires that the City and DART develop a Transit System Plan, Financial Plan and a Plan for Membership within three years of initiation of the services. The policy does not require an election and there is no definition of membership (See Attachment 1).

On September 12, 2017 (Resolution No. 170083), the DART Board authorized the LGC to execute an agreement with Allen to provide public transportation services for elderly and disabled residents through September 30, 2019. From the original agreement with Allen initiating service on May 29, 2016, until September 19, 2019, the duration of the agreements with Allen will be 40 months.

In 2018, Collin County Commissioners Court requested the Collin County transit planning effort be funded and managed by the NCTCOG rather than DART. This request was approved and funded by the RTC in 2018, but the federal funding to hire planning and financial consultants will not be available until late 2019 or 2020, when the planning work will begin.

The Board was informed about this change in funding responsibility and the impact upon Allen’s ability to complete the Transit System Plan, Financial Plan, and Plan for Membership within the limits of Policy III.07. The City of Allen, however, paid DART its required obligation to fund the plans under the terms of Policy III.07 in the 36-month contract ending September 30, 2019.

In February 2019 the City of Allen staff informed DART staff that the City would like to extend the agreement for elderly and disabled transportation for an additional three years. Further, Allen senior staff expressed the sincere desire to participate with DART and NCTCOG to develop all of the plans required under Policy III.07 if the agreement is approved by DART. Allen staff was disappointed that the plans had not been completed within the original 36 months because the City wants an expanded transit system but needs the plans to build community consensus to obtain funding for the services.

For a three-year agreement, the proposed funding from Allen for FY 2020, FY 2021, and FY 2022, is summarized below:

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The interlocal agreement for Allen is attached as Exhibit 1 to the Resolution.

DART Board authorization of an exception to Policy III.07 relating to the three-year time line for a service plan will allow NCTCOG time to complete the required service plan. Approval of the agreement will allow service to continue while NCTCOG, Allen, and DART collaborate with other Collin County cities to complete the plans required under Policy III.07 in a manner consistent with the desires of Collin County Commissioners.
LEGAL CONSIDERATIONS

Article IV of the LGC Articles of Incorporation state that the LGC is created for the purpose of aiding and acting on behalf of DART in its governmental purpose of providing a public transportation system by contracting to provide a variety of public transportation services. Additionally, Article IV states that in the exercise of its powers, the LGC may enter into agreements that are necessary and appropriate to the fulfillment of the governmental purpose of the LGC.

The Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, authorizes the LGC to contract or agree with another local government to perform governmental functions and services.
Section 1.

Except for Charter and Special Events services as authorized by separate policy and other services as described in this policy, DART transit service will not extend beyond the boundaries of the DART Service Area. For the purposes of this policy, D/FW Airport is considered to be part of the DART Service Area.

Section 2.

Existing bus routes may be extended to service any publicly-funded, post-secondary educational institution whose campus is contiguous to the DART service area when the extension does not involve operation over the streets of a non-member jurisdiction and the institution enters into an interlocal agreement to pay DART the fully allocated cost of such service.

Section 3.

3.01 DART shall consider providing rail, bus or paratransit service outside the DART Service Area under one or more service agreements.

3.02 A service agreement under this section must be approved by the DART Board of Directors, shall not adversely impact or delay any transit service that is included in the then-current Transit System Plan and Twenty Year Financial Plan and shall not be inconsistent with any DART policy or program for paid parking at DART facilities. A service agreement under this section shall include the following elements:

- a. Funding for the service shall be sufficient to pay for the fully burdened operating and capital cost of the service being provided for the duration of the contract.

- b. The agreement shall require payment of a fee reflecting the value of any connection to the DART service area consumed by the non-resident patrons and intangibles provided by DART to the contracting entity as approved by the DART Board of Directors.

- c. The agreement shall require payment of an impact fee if the contracted service causes DART to incur additional direct operating or capital costs to accommodate patrons who live outside of the DART Service Area.

3.03 Within the first 36 months of service between DART and a municipality or county, DART shall prepare a transit system plan and a supporting financial plan for the municipality or county that includes projected costs and revenues and also includes a plan for becoming a DART member; the municipality or the county shall provide ½ of the funding for such transit system plan and supporting financial plan with payment of ¼ of the estimated cost to be paid upon commencement of the work and the remaining balance of ½ of actual expense upon completion of the work. In the event that a municipality or county fails or refuses to agree to the plan to become a DART member and provide all or portion of the funding for the development of a transit system plan and
DART Services Outside the Service Area Boundary

20 year financial plan, the service agreement shall terminate within thirty (30) days and DART shall cease service in the municipality or county being provided under the agreement.

3.04 Such service may be provided directly by DART or through a DART local government corporation in compliance with the transit system plan and twenty year financial plan prepared for the municipality or county.
DRAFT
RESOLUTION
of the
DALLAS AREA RAPID TRANSIT BOARD
(Executive Committee)

Approval to Execute an Agreement Between the Dallas Area Rapid Transit Mobility Service, LGC and the City of Allen for the Continuation of Collin County Demand Responsive Service

WHEREAS, on November 17, 2015 (Resolution No. 150116), the DART Board authorized the Dallas Area Rapid Transit Mobility Service, LGC (LGC) to execute an agreement with North Central Texas Council of Governments (NCTCOG) to restore demand responsive transit service for elderly and disabled persons in Collin County who lost service when Texoma Area Paratransit (TAPS) service was discontinued; and

WHEREAS, on December 10, 2015, the Regional Transportation Council (RTC) approved federal and regional toll funding to reimburse the LGC for the replacement service; and

WHEREAS, on February 29, 2016, the LGC began demand responsive transit service within Collin County that was available to residents of Allen, Wylie and Fairview through May 27, 2016; and

WHEREAS, on April 12, 2016 (Resolution No. 160032), the DART Board authorized the LGC to accept a $1 million grant from Toyota Motor North America, Inc. to assist with continuation of the demand responsive service in unserved areas of Collin County and funding from this grant was available in FY 2018 and FY 2019; and

WHEREAS, on May 24, 2016 (Resolution No. 160048), the DART Board authorized the LGC to continue the transportation services through September 30, 2017; and

WHEREAS, the LGC received additional federal grant funding from NCTCOG to support the continuation of transit service in Collin County in FY 2018 and FY 2019; and

WHEREAS, the Board desires to grant an exception to DART Board Policy III.07 and extend the agreement with the City of Allen for a period of three years; and

WHEREAS, the City of Allen has agreed to provide payments identified in the agreement for FY 2020, FY 2021, and FY 2022 to fund LGC transportation services including the taxi voucher program and a transportation system plan; and

WHEREAS, this agreement will generate revenue which will offset the direct and indirect costs of the service through the Dallas Area Rapid Transit Mobility Service, LGC.

NOW, THEREFORE, BE IT RESOLVED by the Dallas Area Rapid Transit Board of Directors that the President of the Dallas Area Rapid Transit Mobility Service, LGC (LGC), or his designee is authorized to execute an Interlocal Public Transit Service Agreement with the City of Allen, substantially in the form shown in Exhibit 1 to the Resolution, subject to legal review.
Approval to Execute an Agreement Between the Dallas Area Rapid Transit Mobility Service, LGC and the City of Allen for the Continuation of Collin County Demand Responsive Service

Prepared by: Todd Plesko
Vice President
Planning and Development

Approved by: Timothy H. McKay, P.E.
Executive Vice President
Growth/Regional Development

Approved as to form: Gene Gamez
Interim General Counsel

Approved by: Gary C. Thomas
President/Executive Director
INTERLOCAL PUBLIC TRANSIT SERVICE AGREEMENT

THIS AGREEMENT, ("Agreement") 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 Allen, Texas (hereafter referred to as “CITY”) a Texas municipal corporation whose address is 305 Century Parkway Allen, Texas 75013 (collectively, referred to as the “the Parties” or individually, as a “Party”).

WITNESSETH:

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

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

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

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, 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, 2019, and terminate at midnight on the 30th day of September, 2022, unless earlier terminated as herein provided ("the Term").

1.02. In addition to any other termination provision contained herein, either Party shall have the right to terminate this Agreement by giving the other Party one hundred twenty (120) calendar days advance written notice of termination.

1.03. 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.
1.04. In the event that CITY 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 CITY or require that residents of the CITY pay a higher fare or percentage share of taxi vouchers for the Service. The suspension or revised user fees may continue until payments from the CITY resume.

2. **Service Description**

2.01. Service includes weekday contract demand-responsive 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 CITY.

2.02. Except as may be limited in accordance with Section 1.04, 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 11:00 pm on Monday through Sunday.

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 may 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 demand-responsive 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 CITY with information regarding ridership, on-time performance of the Service, costs, and number of users, within thirty (30) days of receipt of such information from the contract provider.

3.06. LGC shall convene periodic meetings with CITY 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 Collin County Transit Service and Financial Plan, which will include CITY. This NCTCOG plan will meet the CITY 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 CITY shall develop a plan for CITY membership in DART.

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

4. **CITY Duties and Responsibilities**

4.01. CITY shall allow the LGC to operate the Service on CITY streets including contract demand-responsive service or taxi services.

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

4.03. CITY 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 CITY 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 September 1, 2019, and on the first day of every month thereafter during the Term hereof, CITY shall pay LGC CITY’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 Code of Criminal Procedure relating to judicial withholding of money shall apply to any money not paid hereunder, for the benefit of the CITY.
Government Code shall apply to payments under this Agreement. The amount due hereunder is subject to change in the event that CITY 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, 2022, LGC shall provide a projected pricing schedule for continuation of the Service beyond the Term. CITY shall notify DART in the event that, prior to July 1, 2022, CITY has determined not to continue funding for the Service after September 30, 2022.

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 CITY, 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, CITY 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 CITY, its agents, employees or contractors.
9.03. CITY 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 CITY 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.


10.01. 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: Todd Plesko
Vice President, Planning and Development

CITY:
City of Allen
305 Century Parkway
Allen, Texas 75013
Attention:
Assistant City Manager

With a copy to:

Peter G. Smith
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Ross Tower
500 N. Akard Street
Dallas, Texas 75201

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.** CITY is a political subdivision of the State of Texas (or creation thereof). CITY shall have the right, upon the failure of the governing body of CITY 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, CITY shall give notice to LGC of any such failure of funding at the earliest possible time.

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. **Exhibits and Attachments.** The exhibits attached to this Agreement are incorporated by reference as if written word for word herein. In the event of conflict between the exhibits and this Agreement, the terms of this Agreement shall prevail.

10.10 **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.

10.11 **Incorporation of Recitations.** The recitations and “whereas” provisions of this Agreement are incorporated herein as part of this Agreement for all purposes.
10.12 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 ____________, 2019.

DALLAS AREA RAPID TRANSIT MOBILITY SERVICE, LGC

By: _____________________
    _____________________
    _____________________

CITY OF ALLEN

By: _____________________
    _____________________
    _____________________

    City Manager
## Exhibit A

<table>
<thead>
<tr>
<th>Exhibit A</th>
<th>FY20 Monthly Amount</th>
<th>FY21 Monthly Amount</th>
<th>FY22 Monthly Amount</th>
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Agenda Report

Attachment: 1. Board Policy III.07
Voting Requirements: Majority

DATE: July 9, 2019
SUBJECT: Approval to Execute an Agreement Between the Dallas Area Rapid Transit Mobility Service, LGC, and the City of Wylie for the Continuation of Collin County Demand Responsive Service

RECOMMENDATION

Approval of a resolution authorizing the President of the Dallas Area Rapid Transit Mobility Service, LGC (LGC), or his designee to execute an Interlocal Agreement between the Dallas Area Rapid Transit Mobility Service, LGC, and the City of Wylie, substantially in the form shown in Exhibit 1 to the Resolution and subject to legal review.

FINANCIAL CONSIDERATIONS

. This agreement will generate revenue which will offset direct and indirect costs of the service through the Dallas Area Rapid Transit Mobility Service, LGC.

BUSINESS PURPOSE

. Approval of this agreement will assist DART in achieving Board Strategic Priority 3: Optimize DART’s influence in regional transportation planning; and Priority 4: Expand DART’s transportation system to serve cities inside and outside the current service area.

. On November 17, 2015 (Resolution No. 150116), the DART Board authorized the Dallas Area Rapid Transit Mobility Service, LGC (LGC), to execute an agreement with North Central Texas Council of Governments (NCTCOG) to restore demand responsive transit service for elderly and disabled persons in Collin County who lost service when Texoma Area Paratransit (TAPS) service was discontinued.

. On December 10, 2015, the Regional Transportation Council (RTC) approved federal and regional toll funding to reimburse the LGC for the replacement service. The City of Wylie also contributed funding to NCTCOG to support the restored service.

. On February 29, 2016, the LGC began demand responsive transportation service within Collin County that was available to residents of Allen, Fairview and Wylie through May 27, 2016.

. On April 12, 2016 (Resolution No. 160032), the DART Board authorized the LGC to accept a $1 million grant from Toyota Motor North America, Inc., to assist with continuation of the demand responsive service in unserved areas of Collin County, and funding from this grant was available in FY 2018 and FY 2019.
On May 24, 2016 (Resolution No. 160048), the DART Board authorized the LGC to continue elderly and disabled transportation services for the City of Wylie through September 30, 2017.

This service is operated pursuant to Policy III.07, that was approved by the Board on December 8, 2015 (Resolution No. 150123), and which defines the conditions by which the LGC may provide service to non-service area cities. This policy requires that the City and DART develop a Transit System Plan, Financial Plan and a Plan for Membership within three years of initiation of the services. The policy does not require an election and there is no definition of membership (See Attachment 1).

On September 12, 2017 (Resolution No. 170083), the DART Board authorized the LGC to execute an agreement with the City of Wylie to provide public transportation services for elderly and disabled residents through September 30, 2019. From the original agreement with Wylie initiating service on May 29, 2016, until September 19, 2019, the duration of the agreements with Wylie will be 40 months.

In 2018, Collin County Commissioners Court requested the Collin County transit planning effort be funded and managed by the NCTCOG rather than DART. This request was approved and funded by the RTC in 2018, but the federal funding to hire planning and financial consultants will not be available until late 2019 or 2020, when the planning work will begin.

The Board was informed about this change in funding responsibility for the planning effort and the impact upon Wylie’s ability to complete the Transit System Plan, Financial Plan, and Plan for Membership within the 36-month limits of Policy III.07. The City of Wylie, however, paid DART its required obligation to fund the plans under the terms of Policy III.07 in the 36-month contract ending September 30, 2019.

In February 2019 the City of Wylie staff informed DART staff that the City would like to extend the agreement for elderly and disabled transportation for an additional three years. Further, Wylie senior staff expressed the sincere desire to participate with DART and NCTCOG to develop all of the plans required under Policy III.07 if the agreement is approved by DART.

For a three-year agreement, the proposed funding from Wylie for FY 2020, FY 2021 and FY 2022, is summarized below:

<table>
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<th>Municipality</th>
<th>FY19</th>
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<th>FY21</th>
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<td>$31,930</td>
<td>$32,887</td>
</tr>
</tbody>
</table>

The interlocal agreement for Wylie is attached as Exhibit 1 to the Resolution.

DART Board authorization of an exception to Policy III.07 relating to the three-year time line for a service plan will allow NCTCOG time to complete the required service plan. Approval of the agreement will allow service to continue while NCTCOG, Wylie, and DART collaborate with other Collin County cities to complete the plans required under Policy III.07 in a manner consistent with the desires of Collin County Commissioners.
LEGAL CONSIDERATIONS

Article IV of the LGC Articles of Incorporation state that the LGC is created for the purpose of aiding and acting on behalf of DART in its governmental purpose of providing a public transportation system by contracting to provide a variety of public transportation services. Additionally, Article IV states that in the exercise of its powers, the LGC may enter into agreements that are necessary and appropriate to the fulfillment of the governmental purpose of the LGC.

The Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, authorizes the LGC to contract or agree with another local government to perform governmental functions and services.
Section 1.
Except for Charter and Special Events services as authorized by separate policy and other services as described in this policy, DART transit service will not extend beyond the boundaries of the DART Service Area. For the purposes of this policy, D/FW Airport is considered to be part of the DART Service Area.

Section 2.
Existing bus routes may be extended to service any publicly-funded, post-secondary educational institution whose campus is contiguous to the DART service area when the extension does not involve operation over the streets of a non-member jurisdiction and the institution enters into an interlocal agreement to pay DART the fully allocated cost of such service.

Section 3.

3.01 DART shall consider providing rail, bus or paratransit service outside the DART Service Area under one or more service agreements.

3.02 A service agreement under this section must be approved by the DART Board of Directors, shall not adversely impact or delay any transit service that is included in the then-current Transit System Plan and Twenty Year Financial Plan and shall not be inconsistent with any DART policy or program for paid parking at DART facilities. A service agreement under this section shall include the following elements:

a. Funding for the service shall be sufficient to pay for the fully burdened operating and capital cost of the service being provided for the duration of the contract.

b. The agreement shall require payment of a fee reflecting the value of any connection to the DART service area consumed by the non resident patrons and intangibles provided by DART to the contracting entity as approved by the DART Board of Directors.

c. The agreement shall require payment of an impact fee if the contracted service causes DART to incur additional direct operating or capital costs to accommodate patrons who live outside of the DART Service Area.

3.03 Within the first 36 months of service between DART and a municipality or county, DART shall prepare a transit system plan and a supporting financial plan for the municipality or county that includes projected costs and revenues and also includes a plan for becoming a DART member; the municipality or the county shall provide ½ of the funding for such transit system plan and supporting financial plan with payment of ¼ of the estimated cost to be paid upon commencement of the work and the remaining balance of ½ of actual expense upon completion of the work. In the event that a municipality or county fails or refuses to agree to the plan to become a DART member and provide all or portion of the funding for the development of a transit system plan and
DART Services Outside the Service Area Boundary

 twenty year financial plan, the service agreement shall terminate within thirty (30) days and DART shall cease service in the municipality or county being provided under the agreement.

3.04 Such service may be provided directly by DART or through a DART local government corporation in compliance with the transit system plan and twenty year financial plan prepared for the municipality or county.
DRAFT
RESOLUTION
of the
DALLAS AREA RAPID TRANSIT BOARD
(Executive Committee)

Approval to Execute an Agreement Between the Dallas Area Rapid Transit Mobility Service, LGC, and the City of Wylie for the Continuation of Collin County Demand Responsive Service

WHEREAS, on November 17, 2015 (Resolution No. 150116), the DART Board authorized the Dallas Area Rapid Transit Mobility Service, LGC (LGC) to execute an agreement with North Central Texas Council of Governments (NCTCOG) to restore demand responsive transit service for elderly and disabled persons in Collin County who lost service when Texoma Area Paratransit (TAPS) service was discontinued; and

WHEREAS, on December 10, 2015, the Regional Transportation Council (RTC) approved federal and regional toll funding to reimburse the LGC for the replacement service; and

WHEREAS, on February 29, 2016, LGC began demand responsive transportation service within Collin County that was available to residents of Allen, Wylie and Fairview through May 27, 2016; and

WHEREAS, on April 12, 2016 (LGC Resolution No. 160032), the DART Board authorized the LGC to accept a $1 million grant from Toyota Motor North America, Inc., to assist with continuation of the demand responsive service in unserved areas of Collin County and funding from this grant was available in FY 2018 and FY 2019; and

WHEREAS, on May 24, 2016 (Resolution No 160048), the DART Board authorized the LGC to continue the transportation services through September 30, 2017; and

WHEREAS, the LGC received additional federal grant funding from NCTCOG to support the continuation of transit service in Collin County in FY 2018 and FY 2019; and

WHEREAS, the Board desires to grant an exception to DART Board Policy III.07 and extend the agreement with the City of Wylie for a period of three years; and

WHEREAS, the City of Wylie has agreed to provide payments identified in the agreement for FY 2020, FY 2021, and FY 2022 to fund LGC transportation services including the taxi voucher program and a transportation system plan; and

WHEREAS, this agreement will generate revenue which will offset direct and indirect costs of the service through the Dallas Area Rapid Transit Mobility Service, LGC.

NOW, THEREFORE, BE IT RESOLVED by the Dallas Area Rapid Transit Board of Directors that the President of the Dallas Area Rapid Transit Mobility Service, LGC (LGC), or his designee is authorized to execute an Interlocal Public Transit Service Agreement with the City of Wylie, substantially in the form shown in Exhibit 1 to the Resolution, subject to legal review.
Approval to Execute an Agreement Between the Dallas Area Rapid Transit Mobility Service, LGC, and the City of Wylie for the Continuation of Collin County Demand Responsive Service

Prepared by: [Signature]
Todd Plesko
Vice President
Planning and Development

Approved by: [Signature]
Timothy H. McKay, P.E.
Executive Vice President
Growth/Regional Development

Approved as to form: [Signature]
Gene Gamez
Interim General Counsel

Approved by: [Signature]
Gary C. Thomas
President/Executive Director
INTERLOCAL PUBLIC TRANSIT SERVICE AGREEMENT

THIS AGREEMENT, (“Agreement”) 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 (hereafter referred to as “CITY”) 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”).

WITNESSETH:

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

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

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

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, 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, 2019, and terminate at midnight on the 30th day of September, 2022, unless earlier terminated as herein provided (“the Term”).

1.02. In addition to any other termination provision contained herein, either Party shall have the right to terminate this Agreement by giving the other Party one hundred twenty (120) calendar days advance written notice of termination.

1.03. 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.
1.04. In the event that CITY 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 CITY or require that residents of the CITY pay a higher fare or percentage share of taxi vouchers for the Service. The suspension or revised user fees may continue until payments from the CITY resume.

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3. LGC Duties and Responsibilities

3.01. LGC may 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 demand-responsive service.

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4. **CITY Duties and Responsibilities**

4.01. CITY shall allow the LGC to operate the Service on CITY streets including contract demand-responsive service or taxi services.

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

4.03. CITY 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 CITY 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 September 1, 2019, and on the first day of every month thereafter during the Term hereof, CITY shall pay LGC CITY’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

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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, 2022, LGC shall provide a projected pricing schedule for continuation of the Service beyond the Term. CITY shall notify DART in the event that, prior to July 1, 2022, CITY has determined not to continue funding for the Service after September 30, 2022.

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 CITY, 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, CITY 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 CITY, its agents, employees or contractors.
9.03. CITY 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 CITY 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.


10.01. 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: Todd Plesko
Vice President, Planning and Development

CITY:
City of Wylie
Country Club, Building 100
Wylie, Texas 75098
Attention:
City Manager

With a copy to:
City Attorney
City of Wylie
300 Country Club, Building 100
Wylie, Texas 75098

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.** CITY is a political subdivision of the State of Texas (or creation thereof). CITY shall have the right, upon the failure of the governing body of CITY 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, CITY shall give notice to LGC of any such failure of funding at the earliest possible time.

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. **Exhibits and Attachments.** The exhibits attached to this Agreement are incorporated by reference as if written word for word herein. In the event of conflict between the exhibits and this Agreement, the terms of this Agreement shall prevail.

10.10 **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.

10.11 **Incorporation of Recitations.** The recitations and “whereas” provisions of this Agreement are incorporated herein as part of this Agreement for all purposes.
10.12 **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 ____________, 2019.

DALLAS AREA RAPID TRANSIT MOBILITY SERVICE, LGC

By: _____________________
_____________________
_____________________

CITY OF WYLIE

By: _____________________
_____________________
_____________________

City Manager
### Exhibit A

<table>
<thead>
<tr>
<th>Exhibit A</th>
<th>FY20 Monthly Amount</th>
<th>FY21 Monthly Amount</th>
<th>FY22 Monthly Amount</th>
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Agenda Report

Attachment: 1. Board Policy III.07
Voting Requirements: Majority

DATE: July 9, 2019

SUBJECT: Approval to Execute an Agreement Between the Dallas Area Rapid Transit Mobility Service, LGC, and the Town of Fairview for the Continuation of Collin County Demand Responsive Service

RECOMMENDATION
Approval of a resolution authorizing the President of the Dallas Area Rapid Transit Mobility Service, LGC (LGC), or his designee to execute an Interlocal Agreement between the Dallas Area Rapid Transit Mobility Service, LGC, and the Town of Fairview, substantially in the form shown in Exhibit 1 to the Resolution and subject to legal review.

FINANCIAL CONSIDERATIONS
. This agreement will generate revenue which will offset the direct and indirect costs of the service through the Dallas Area Rapid Transit Mobility Service, LGC.

BUSINESS PURPOSE
. Approval of this agreement will assist DART in achieving Board Strategic Priority 3: Optimize DART’s influence in regional transportation planning; and Priority 4: Expand DART’s transportation system to serve cities inside and outside the current service area.

. On November 17, 2015 (Resolution No. 150116), the DART Board authorized the Dallas Area Rapid Transit Mobility Service, LGC (LGC), to execute an agreement with North Central Texas Council of Governments (NCTCOG) to restore demand responsive transit service for elderly and disabled persons in Collin County who lost service when Texoma Area Paratransit (TAPS) service was discontinued.

. On December 10, 2015, the Regional Transportation Council (RTC) approved federal and regional toll funding to reimburse the LGC for the replacement service. The Town of Fairview also contributed funding to NCTCOG to support the restored service.

. On February 29, 2016, the LGC began demand responsive transportation service within Collin County that was available to residents of Allen, Fairview and Wylie through May 27, 2016.

. On April 12, 2016 (Resolution No. 160032), the DART Board authorized the LGC to accept a $1 million grant from Toyota Motor North America, Inc. to assist with continuation of the demand responsive service in unserved areas of Collin County, and funding from this grant was available in FY 2018 and FY 2019.
In May 24, 2016 (Resolution No. 160048), the DART Board authorized the LGC to continue service for the elderly and disabled residents for the Town of Fairview through September 30, 2017.

The service is operated pursuant to Policy III.07, that was approved by the Board on December 8, 2015 (Resolution No. 150123), and defines the conditions by which the LGC may provide service to non-service area cities. This policy requires that the City and DART develop a Transit System Plan, Financial Plan and a Plan for Membership within three years of initiation of the services. The policy does not require an election and there is no definition of membership (See Attachment 1).

On September 12, 2017 (Resolution No. 170083), the Board of Directors authorized the LGC to execute an agreement with the Town of Fairview to provide public transportation services for elderly and disabled residents through September 30, 2019. From the original agreement with Fairview initiating service on May 29, 2016, until September 19, 2019, the duration of the agreements with Fairview will be 40 months.

In 2018, Collin County Commissioners Court requested the Collin County transit planning effort be funded and managed by the NCTCOG rather than DART. This request was approved and funded by the RTC in 2018, but the federal funding to hire planning and financial consultants will not be available until late 2019 or 2020, when the planning work will begin.

The Board was informed about this change in funding responsibility for the planning effort and the impact upon Fairview’s ability to complete the Transit System Plan, Financial Plan, and Plan for Membership within the 36-month limits of Policy III.07. The Town of Fairview, however, paid DART its required obligation to fund the plans under the terms of Policy III.07 in the 36-month contract ending September 30, 2019.

In February 2019 the Town of Fairview staff informed DART staff that Fairview would like to extend the agreement for elderly and disabled transportation for an additional three years. Further, Fairview senior staff expressed the sincere desire to participate with DART and NCTCOG to develop all of the plans required under Policy III.07 if the agreement is approved by DART.

For the three-year agreement, the proposed funding from Fairview for FY 2020, FY 2021 and FY 2022, is summarized below:

<table>
<thead>
<tr>
<th>Municipality</th>
<th>FY19</th>
<th>FY20</th>
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</table>

The interlocal agreement for Fairview is attached as Exhibit 1 to the Resolution.

DART Board authorization of an exception to Policy III.07 relating to the three-year time line for a service plan will allow NCTCOG time to complete the required service plan. Approval of the agreement will allow service to continue while NCTCOG, Fairview, and DART collaborate with other Collin County cities to complete the plans required under Policy III.07 in a manner consistent with the desires of Collin County Commissioners.
LEGAL CONSIDERATIONS

Article IV of the LGC Articles of Incorporation state that the LGC is created for the purpose of aiding and acting on behalf of DART in its governmental purpose of providing a public transportation system by contracting to provide a variety of public transportation services. Additionally, Article IV states that in the exercise of its powers, the LGC may enter into agreements that are necessary and appropriate to the fulfillment of the governmental purpose of the LGC.

The Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, authorizes the LGC to contract or agree with another local government to perform governmental functions and services.
Section 1.

Except for Charter and Special Events services as authorized by separate policy and other services as described in this policy, DART transit service will not extend beyond the boundaries of the DART Service Area. For the purposes of this policy, D/FW Airport is considered to be part of the DART Service Area.

Section 2.

Existing bus routes may be extended to service any publicly-funded, post-secondary educational institution whose campus is contiguous to the DART service area when the extension does not involve operation over the streets of a non-member jurisdiction and the institution enters into an interlocal agreement to pay DART the fully allocated cost of such service.

Section 3.

3.01 DART shall consider providing rail, bus or paratransit service outside the DART Service Area under one or more service agreements.

3.02 A service agreement under this section must be approved by the DART Board of Directors, shall not adversely impact or delay any transit service that is included in the then-current Transit System Plan and Twenty Year Financial Plan and shall not be inconsistent with any DART policy or program for paid parking at DART facilities. A service agreement under this section shall include the following elements:

a. Funding for the service shall be sufficient to pay for the fully burdened operating and capital cost of the service being provided for the duration of the contract.

b. The agreement shall require payment of a fee reflecting the value of any connection to the DART service area consumed by the non resident patrons and intangibles provided by DART to the contracting entity as approved by the DART Board of Directors.

c. The agreement shall require payment of an impact fee if the contracted service causes DART to incur additional direct operating or capital costs to accommodate patrons who live outside of the DART Service Area.

3.03 Within the first 36 months of service between DART and a municipality or county, DART shall prepare a transit system plan and a supporting financial plan for the municipality or county that includes projected costs and revenues and also includes a plan for becoming a DART member; the municipality or the county shall provide ½ of the funding for such transit system plan and supporting financial plan with payment of ¼ of the estimated cost to be paid upon commencement of the work and the remaining balance of ½ of actual expense upon completion of the work. In the event that a municipality or county fails or refuses to agree to the plan to become a DART member and provide all or portion of the funding for the development of a transit system plan and
DART Services Outside the Service Area Boundary

 twenty year financial plan, the service agreement shall terminate within thirty (30) days and DART shall cease service in the municipality or county being provided under the agreement.

3.04 Such service may be provided directly by DART or through a DART local government corporation in compliance with the transit system plan and twenty year financial plan prepared for the municipality or county.
DRAFT
RESOLUTION
of the
DALLAS AREA RAPID TRANSIT BOARD
(Executive Committee)

Approval to Execute an Agreement Between the Dallas Area Rapid Transit Mobility Service, LGC, and the Town of Fairview for the Continuation of Collin County Demand Responsive Service

WHEREAS, on November 17, 2015 (Resolution No. 150116), the DART Board authorized the Dallas Area Rapid Transit Mobility Service, LGC (LGC) to execute an agreement with North Central Texas Council of Governments (NCTCOG) to restore demand responsive transit service for elderly and disabled persons in Collin County who lost service when Texoma Area Paratransit (TAPS) service was discontinued; and

WHEREAS, on December 10, 2015, the Regional Transportation Council (RTC) approved federal and regional toll funding to reimburse the LGC for the replacement service; and

WHEREAS, on February 29, 2016, the LGC began demand responsive transportation service within Collin County that was available to residents of Allen, Wylie and Fairview through May 27, 2016; and

WHEREAS, on April 12, 2016 (LGC Resolution No. 160032), the DART Board authorized the LGC to accept a $1 million grant from Toyota Motor North America, Inc. to assist with continuation of the demand responsive service in unserved areas of Collin County and funding from this grant was available in FY 2018 and FY 2019; and

WHEREAS, on May 24, 2016 (Resolution No. 160048), the DART Board authorized the LGC to continue the transportation services through September 30, 2017; and

WHEREAS, the LGC received additional federal grant funding from NCTCOG to support the continuation of transit service in Collin County in FY 2018 and FY 2019; and

WHEREAS, the Board desires to grant an exception to DART Board Policy III.07 and extend the agreement with the Town of Fairview for a period of three year; and

WHEREAS, the Town of Fairview has agreed to provide payments identified in the agreement for FY 2020, FY 2021, and FY 2022 to fund LGC transportation services including the taxi voucher program and a transportation system plan; and

WHEREAS, this agreement will generate revenue which will offset the direct and indirect costs of the service through the Dallas Area Rapid Transit Mobility Service, LGC.

NOW, THEREFORE, BE IT RESOLVED by the Dallas Area Rapid Transit Board of Directors that the President of the Dallas Area Rapid Transit Mobility Service, LGC (LGC), or his designee is authorized to execute an Interlocal Public Transit Service Agreement with the Town of Fairview, substantially in the form shown in Exhibit 1 to the Resolution, subject to legal review.
Approval to Execute an Agreement Between the Dallas Area Rapid Transit Mobility Service, LGC, and the Town of Fairview for the Continuation of Collin County Demand Responsive Service

Prepared by:
Todd Piesko
Vice President
Planning and Development

Approved by:
Timothy H. McKay, P.E.
Executive Vice President
Growth/Regional Development

Approved as to form:
Gene Gamez
Interim General Counsel

Approved by:
Gary C. Thomas
President/Executive Director
THE STATE OF TEXAS

COUNTY OF DALLAS

INTERLOCAL PUBLIC TRANSIT SERVICE AGREEMENT

THIS AGREEMENT, ("Agreement") 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 Town of Fairview, Texas (hereafter referred to as “TOWN”) a Texas municipal corporation whose address is 372 Town Place, Fairview, Texas 75069 (collectively, referred to as the “the Parties” or individually, as a “Party”).

WITNESSETH:

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

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

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

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, 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, 2019, and terminate at midnight on the 30th day of September, 2022, unless earlier terminated as herein provided ("the Term").

1.02. In addition to any other termination provision contained herein, either Party shall have the right to terminate this Agreement by giving the other Party one hundred twenty (120) calendar days advance written notice of termination.

1.03. 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.
1.04. In the event that TOWN 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 TOWN or require that residents of the TOWN pay a higher fare or percentage share of taxi vouchers for the Service. The suspension or revised user fees may continue until payments from the TOWN resume.

2. Service Description

2.01 Service includes weekday contract demand responsive 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 TOWN.

2.02. Except as may be limited in accordance with Section 1.04, 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 11:00 pm on Monday through Sunday.

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 may 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 demand-responsive 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 Town with information regarding ridership, on-time performance of the Service, costs, and number of users, within thirty (30) days of receipt of such information from the contract provider.

3.06. LGC shall convene periodic meetings with TOWN 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 TOWN. This NCTCOG plan will meet the TOWN 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 TOWN shall develop a plan for TOWN membership in DART.

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

4. **TOWN Duties and Responsibilities**

4.01. TOWN shall allow the LGC to operate the Service on TOWN streets including contract demand responsive service or taxi services.

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

4.03. TOWN 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 TOWN 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 September 1, 2019, and on the first day of every month thereafter during the Term hereof, TOWN shall pay LGC TOWN’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 TOWN 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, 2022, LGC shall provide a projected pricing schedule for continuation of the Service beyond the Term. TOWN shall notify DART in the event that, prior to July 1, 2022, TOWN has determined not to continue funding for the Service after September 30, 2022.

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 TOWN, 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, TOWN 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 TOWN, its agents, employees or contractors.
9.03. TOWN 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 TOWN 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.


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

TOWN:
Town of Fairview, TX
Attention: Julie Couch, Town Manager
372 Town Place
Fairview, TX 75069

With a copy to:
Clark McCoy, Town Attorney
Town of Fairview
2591 Dallas Parkway, Suite 300
Frisco, TX 75034

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.

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(SIGNATURES ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, the parties hereto have executed this Agreement in multiple originals as of the _____ day of ____________, 2019.

DALLAS AREA RAPID TRANSIT MOBILITY SERVICE, LGC

By: _____________________

_____________________

_____________________

TOWN OF FAIRVIEW

By: _____________________

_____________________

_____________________

Town Manager
### Exhibit A

<table>
<thead>
<tr>
<th>Exhibit A</th>
<th>FY20 Monthly Amount</th>
<th>FY21 Monthly Amount</th>
<th>FY22 Monthly Amount</th>
<th>FY20 Total Annual Not to Exceed Amount</th>
<th>FY21 Total Annual Not to Exceed Amount</th>
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DATE: July 9, 2019
SUBJECT: Approval of the GoLink On-Demand Site-Specific Shuttle Service Funding Agreement with Amazon Fulfillment Center FTW1

RECOMMENDATION

Approval of a resolution authorizing the President/Executive Director or his designee to execute a GoLink On-Demand Site-Specific Shuttle Service Funding Agreement for one year with Amazon Fulfillment Center FTW1 for funding of 50% of the total cost for weekend and holiday services, substantially in the form shown in Exhibit 1 to the Resolution and subject to legal review, in a total authorized amount not to exceed $50,000.

FINANCIAL CONSIDERATIONS

. This agreement for On-Demand Site-Specific Shuttle Service is included in the Planning and Development Department's proposed FY 2020 operating budget.

. Sufficient funding for DART's portion of the GoLink On-Demand Site-Specific Shuttle Service Funding Agreement in the amount of $50,000 is included in both the Planning and Development Department's proposed FY 2020 Operating Budget and the Total Operating Expense line item of the proposed FY 2020 Twenty-Year Financial Plan.

. The funding agreement with Amazon Fulfillment Center FTW1 will provide 50% ($25,000) of the cost of the service.

BUSINESS PURPOSE

. Approval of this agreement will assist DART in achieving the Board Strategic Priority 1: Continually improve service and safety experiences and perceptions for customers and the public.

. On April 14, 1998 (Resolution No. 980078), the Board approved the DART Board Policy III.16, Site-Specific Shuttle Service Policy, that allows a city in the DART Service Area or private entity to provide funding to support DART fixed-route service (See Attachment 1).

. On August 14, 2018 (Resolution No. 180066), the Board approved the Site-Specific Shuttle Agreement with Amazon Fulfillment Center FTW1 for GoLink on-demand services that began October 1, 2018, and will end September 30, 2019, for the operation of weekend and holiday services. The service operates between 5:00 AM and 8:00 AM during morning peak hours and 5:00 PM to 8:00 PM during evening peak hours, meeting the shift time for Amazon.
. GoLink is a demand-response service, providing "last mile" access to and from the rest of the DART rail and bus network. Customers schedule their on-demand trips through GoPass to receive curbside service. The GoPass app is free from the Google Play Store or Apple Store.

. The Inland Port’s GoLink On-Demand Shuttle Service was first introduced in February 2018 serving the City of Dallas and parts of Southern Dallas County. The GoLink on-demand service shall be open to the public traveling within the Inland Port Zone during designated weekend and holidays (See Attachment 2).

. DART’s on-demand service, operated by MV Transportation, Inc., will include a mixed supply of vehicles consisting of transportation network companies (TNCs), taxi companies (UberPool), and other dedicated lift or ramp equipped vehicles for passengers seeking paratransit service. Any passenger boarding this service will be required to pay a valid local fare as established by the DART fare structure.

. Amazon is seeking to renew the Site-Specific Shuttle Service Funding Agreement for weekend and holiday services for FY 2020. The service will begin on October 1, 2019, and end September 30, 2020.

LEGAL CONSIDERATIONS

Section 452.056(a) of the Texas Transportation Code authorizes DART to construct, develop, plan, and operate a public transportation system within the service area.

DART Board Policy III.16, Site-Specific Shuttle Service Policy, allows for Board consideration of an agreement for a third party to subsidize a DART-operated route in order to support continuation of that service.
Attachment 1

Site Specific Shuttle Service Policy

DATE ISSUED: April 14, 1998
Resolution No. 980078
Amended by Resolution: 070120
Policy No. III.16 (Operations)

Section 1:

1.1 It is the policy of the DART Board to consider partial funding (up to 50%) of circulator/distributor shuttle services (bus or van) which connect to rail stations or transit centers and are operated by employers or other private entities. In order to be considered for funding, such services must enhance the DART system and must meet Board adopted standards for performance of circulator/distributor service (as provided for in the adopted Service Standards, Policy III.11). DART participation in support of such services should be commensurate with the degree of enhancement to the DART system. A process diagram is shown in Attachment 1.

1.2 Service proposals brought to the Board for consideration under this section of the Policy should at minimum, include:

A. A projection of new riders (passenger trips) attracted to the DART system through the provision of the proposed service. Evaluation of the degree to which a proposed service is an enhancement to the DART system will primarily be determined by the calculated subsidy per new rider.
B. A description of DART’s participation in the solicitation and selection of the contractor or operator of the proposed service.
C. The proposed routing and scheduling of the service (including how the service interfaces with DART rail or DART Transit Centers).
D. The proposed fare and fare media for the service.
E. Indemnification of DART relative to the liability associated with operation of the proposed service.
F. Proposed service quality standards, as well as a methodology for assuring attainment of standards.
G. Proposed service identification (identification of the service as being partially DART sponsored).
H. A description of how accessibility of the service will be provided.

1.3 A proposal for a service agreement with a college or university located within the DART Service Area and accredited by the Commission on Colleges of the Southern Association of Colleges and Schools that is brought to the Board for consideration under this section may include, as part of the consideration for entering the agreement, access to the DART fixed-route system for students, faculty and staff of the college or university.

Section 2:

2.1 Further, it is the policy of the DART Board to consider the initiation or continuation of DART-operated circulator/distributor shuttle services (bus or van) which connect to rail stations or transit centers where performance of the service is marginal, but where an employer or other entity agrees to subsidize the service. The amount of the subsidy will be determined in accordance with the performance standards for the Circulator/Distributor category of service as established within DART’s adopted Service Standards.

2.2 In keeping with the adopted Service Standards, route performance will be measured by three indicators; passenger/mile, passengers, trip and subsidy per passenger, and indexed within each service category. Service will only be initiated or continued under this section of the Policy if the subsidy provided by the employer or other entity results in the route meeting the minimum required performance level (an indexed score of 0.6, when all three performance indicators are considered). Performance of each route will be evaluated on a quarterly basis and adjustments made in the subsidy requirement, as necessary, to comply with the performance threshold established by the Service Standards. The route performance process is shown in Attachment 2.

2.3 This policy is intended to supplement DART initiated services and not limit the provision of any DART initiated services.

2.4 DART’s financial participation in services would be paid for through the incremental bus operations funding included in the financial bus plan. New service proposals under this policy will only be considered where “currently approved” funding exists to support them.
DRAFT
RESOLUTION
of the
DALLAS AREA RAPID TRANSIT BOARD
(Executive Committee)

Approval of the GoLink On-Demand Site-Specific Shuttle Service Funding Agreement with Amazon Fulfillment Center FTW1

WHEREAS, on April 14, 1998 (Resolution No. 980078), the Board approved the DART Board Policy III. 16, Site-Specific Shuttle Service Policy, that allows a city in the DART Service Area or private entity to provide funding to support DART fixed-route service; and

WHEREAS, in accordance with Policy III. 16, DART’s financial participation in this service agreement may be up to 50% of the shuttle service cost; and

WHEREAS, on August 14, 2018 (Resolution No. 180066), the Board approved the Site-Specific Shuttle Funding Agreement with Amazon Fulfillment Center FTW1 for GoLink on-demand services that began October 1, 2018, and will end September 30, 2019, for the operation of weekend and holiday services; and

WHEREAS, Amazon is seeking to renew the Site-Specific Shuttle Service Funding Agreement for weekend and holiday services for FY 2020. The service will begin on October 1, 2019, and end September 30, 2020; and

WHEREAS, DART will operate the GoLink On-Demand Site-Specific Shuttle Service between UNT Dallas Station and Amazon Fulfillment Center FTW1 for weekend and holiday services; and

WHEREAS, Amazon will pay 50% of the weekend and holiday service not to exceed $25,000; and

WHEREAS, DART will pay the balance of the cost of the weekend and holiday service, not to exceed $25,000; and

WHEREAS, funding for this service funding agreement is within proposed FY 2020 budget and proposed FY 2020 Twenty-Year Financial Plan allocations.

NOW, THEREFORE, BE IT RESOLVED by the Dallas Area Rapid Transit Board of Directors that the President/Executive Director or his designee is authorized to execute the GoLink On-Demand Site-Specific Shuttle Service Funding Agreement for one year with Amazon Fulfillment Center FTW1 for funding of 50% of the total cost for weekend and holiday services, substantially in the form shown in Exhibit 1 to the Resolution and subject to legal review, in a total authorized amount not to exceed $50,000.
Approval of the GoLink On-Demand Site-Specific Shuttle Service Funding Agreement with Amazon Fulfillment Center FTW1

Prepared by:
Todd Plesko
Vice President
Planning and Development

Approved by:
Timothy H. McKay, P.E.
Executive Vice President
Growth/Regional Development

Approved as to form:
Gene Gamez
Interim General Counsel

Approved by:
Gary C. Thomas
President/Executive Director
SHUTTLE SERVICE AGREEMENT

between
Dallas Area Rapid Transit
and
Amazon.com Services, Inc.

THIS AGREEMENT ("Agreement") is made and entered into by and between DALLAS AREA RAPID TRANSIT ("DART"), a regional transportation authority organized and existing pursuant to Chapter 452 of the Texas Transportation Code, and Amazon.com Services, Inc. ("AMAZON"), a Delaware entity authorized to do business in Texas.

WITNESSETH:

WHEREAS, DART, is willing to operate an “On-Demand” public shuttle service known as GoLink (hereafter “GoLink” or the “Service”) within the Inland Port Zone bounded by the UNT Dallas Station and Amazon Fulfillment Center FTW1 located at 3333 J. J. Lemmon Road, Dallas, TX 75241 (the “Facility”) as depicted in the map attached hereto as Exhibit 1 on the terms described herein; and

WHEREAS, AMAZON is willing to pay the cost of the Service, not to exceed $25,000 as further described below.

NOW THEREFORE, in consideration of the premises and other good and valuable consideration herein set forth, the receipt and sufficiency of which is hereby acknowledged, DART and AMAZON hereby agree as follows:

1. Service Description.

   1.01. The Service shall consist of On-Demand weekend service between DART’s UNT Station and the Facility every Saturday and Sunday from 5:00 AM to 8:00 AM and 5:00 PM to 8:00 PM within the boundaries described hereinabove.

   1.02. The Service shall include and operate on the following holidays: Memorial Day, July 4, Labor Day, Thanksgiving Day, the day after Thanksgiving, and New Year’s Day. No service will be provided on Christmas Day.

2. Term and Termination.

   2.01. The term of this Agreement shall begin on the 1st day of October 2019 and terminate at midnight on the 30th day of September 2020, unless terminated sooner as set forth herein.

   2.02. In the event a change in service causes an increase in the agreed upon cost of $25,000 for each entity, a written amendment and DART Board approval is required.
2.03. A party shall have the right to terminate this Agreement by giving the other party thirty (30) days notice.

2.04. In the event that AMAZON fails to make any payment required by this Agreement, DART may suspend or terminate the Service, at DART’s option, after ten (10) days advance written notice thereof to AMAZON.

3. DART Duties and Responsibilities.

3.01. DART shall provide the Service through a mixed supply of vehicles consisting of transportation network companies, taxi companies, and other dedicated lift or ramp equipped vehicles for passengers seeking paratransit service.

3.02. The vehicles shall be fully compliant with the American With Disabilities Act of 1990 (42 U.S.C. 12101-12213) and relevant regulations applicable thereto, licensed for passenger operations by the State of Texas and equipped with a two-way radio.

3.03. The operators of the vehicles shall be duly licensed by the State of Texas to operate vehicles of the type and size described herein.

3.04. No vehicle operator shall have had more than two moving violations within a one (1) year period.

3.05. Passengers will be required to pay DART’s current local fare, as established and published by DART from time-to-time.

3.06. DART’s contractor shall be responsible for monitoring vehicle maintenance.

3.07. DART’s contractor shall be responsible for the reasonable protection of the passengers during the Service.

3.08. DART shall comply with all laws, ordinances and regulations applicable to the Service.

3.09. DART shall provide AMAZON with reports detailing ridership, or other measures used by DART to measure performance of the Service.

4. AMAZON Duties and Responsibilities.

4.01. AMAZON shall reimburse DART for the cost of the Service (not to exceed $25,000 paid by Amazon) during the term of this Agreement, in accord with DART’s Policy III.16, as may be amended from time-to-time.

4.02. AMAZON releases DART from any responsibility or liability for wear and tear on pavement surfaces or other use of the Facility.
4.03. AMAZON hereby grants DART a right of access into the perimeter of the Facility for the purpose of pick-up and delivery of passengers as described herein. AMAZON shall ensure that the Facility is available for the Service and complies with all applicable law, including by example, and not limitation, the Americans with Disabilities Act.

4.04. AMAZON acknowledges the number of passengers desiring the Service may exceed vehicle capacity from time-to-time. In this event, the operator will unload the passengers at the desired destination and make an additional trip to accommodate the remaining passengers.

4.05. AMAZON acknowledges the Service is not exclusive for AMAZON employees and will be available to members of the public wishing to travel within the Inland Port Zone.

4.06. AMAZON shall promote the Service and provide relevant information to employees regarding use of the Service.

4.07. AMAZON acknowledges 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 registered marks, logos, and trade names (“Marks”) solely in connection with providing and promoting the Service and subject to advance written approval of the party owning the Marks.

4.08. AMAZON shall participate with DART in periodic planning Service evaluation meetings.

5. Force Majeure.

DART shall at all times use reasonable commercial efforts to provide or cause the Service to be provided, but DART 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 Service. The obligations of DART to perform under this Agreement shall be suspended to the extent that DART is unable to perform as a result of causes beyond the reasonable control and without fault or negligence of DART, its employees, agents or contractors, including, but not limited to, equipment breakdown, accidents acts of nature and governmental action. In such event, DART shall use reasonable efforts to eliminate the cause of the suspension as quickly as possible.


DART shall submit monthly invoices to AMAZON stating the amount due for Service for the upcoming month. AMAZON shall make payment of each invoice within thirty (30) days after receipt thereof. The provisions of Chapter 2251 of the Texas Government Code, Payment for Goods and Services, shall apply to payment under this Agreement. AMAZON shall send payments to DART electronically to an account identified by DART, or by US mail to the following address:

Upon reasonable advance notice to DART during the term hereof, AMAZON shall have the right to request an audit of DART’s records related to the operation of the Service. DART shall retain adequate records for auditing purposes for a period of three (3) years after finally payment hereunder.

8. Insurance.

DART shall, at all times during the term of this Agreement provide and maintain, a program of self-insured automobile and general liability insurance that meets its obligations as outlined in the Texas Tort Claims Act, Section 101.00 Civil Practice and Remedies Code. DART shall also maintain a program of self-insured worker’s compensation insurance and employer’s liability for the benefit of its employees that complies with the Texas Workers Compensation Act.


9.01. Nothing contained herein shall waive or limit DART’s governmental immunity defense or other available defenses to any claim hereunder or otherwise.

9.02. AMAZON shall defend, indemnify and hold DART, their 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 or misconduct on the part of AMAZON, its agents, employees, contractors, visitors or invitees.

9.03. In the event of joint and concurring negligence or fault of DART and/or AMAZON, responsibility and indemnity, 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 DART to assert any governmental immunity defense to any claim of such other party or entity.


10.1. Assignment. This Agreement shall not be assigned without the prior written consent of the parties, which may be withheld for any reason.
10.2. Notices. Any notice required or permitted to be given by either party to the other shall be in writing and shall be deemed to have been duly given when delivered personally or sent by certified mail, return receipt requested, in a postage paid envelope addressed to the party at the address set out below:

DART          Dallas Area Rapid Transit  
P.O. Box 660163  
Dallas, Texas 75266-7202  
Attention: Vice President, Planning and Development

AMAZON         Amazon Fulfillment Center FTW1  
33333 J. J. Lemmon Road, Dallas, Texas 75241  
Attention: Chad Buck, General Manager

10.3. Governing Law; Venue. This Agreement shall be construed and enforced in accordance with the laws of the State of Texas, and is entirely performable in Dallas County, Texas. Venue for any legal action arising by reason of this Agreement shall be in the courts of Dallas County, Texas.

10.4. Entirety and Amendments. This Agreement embodies the entire agreement between the parties and supersedes all prior agreements and understandings, if any, relating to the matters addressed herein, and may be amended or supplemented only by a written instrument executed by the party against whom enforcement is sought.

10.5. Parties Bound. This Agreement shall be binding upon and inure to the benefit of the executing parties and their respective successors and approved assigns.

10.6. Number and Gender. Words of any gender used in this Agreement shall be held and construed to include any other gender; and words in the singular shall include the plural and vice versa, unless the text clearly requires otherwise.

10.7. No Partnership or Joint Enterprise. The parties hereto acknowledge and agree that the relationship described herein between the parties is not intended to be a partnership, a joint enterprise or any other relationship wherein one party is the agent for the other or liable for the other’s obligations of any nature. Specifically, the parties disclaim that there is any common purpose, any equal right of control or pecuniary interest regarding their relationship described in this Agreement.

10.8. No Kickbacks. AMAZON warrants that no trustee, officer, employee, or agent of DART has been or will be employed, retained or paid a fee, or otherwise has received any personal compensation or consideration by or from AMAZON or any of AMAZON’s directors, officers, employees or agents in connection with the obtaining, arranging, negotiation or performance of this Agreement.

10.9. 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.
IN WITNESS WHEREOF, the parties have executed this Agreement in multiple originals as of the _____ day of ________, 2019.

DALLAS AREA RAPID TRANSIT

By: _____________________________
   Gary C. Thomas
   President/Executive Director

Date:____________________________

AMAZON.COM SERVICES, INC.

By: _____________________________

Name: ___________________________

Title: ___________________________

Date: ___________________________
Exhibit 1- INLAND PORT GoLink