

**INTERLOCAL AGREEMENT FOR
City of New Braunfels Demand-Response Route**

Article 1. Parties and Purpose

- 1.1 The Alamo Area Council of Governments ("AACOG") is a regional planning commission and political subdivision of the State of Texas, organized and operating under the Texas Regional Planning Act of 1965, as amended, Chapter 391 of the Local Government Code.
- 1.2 The City of New Braunfels (the "City") is a home rule municipality, located in Comal and Guadalupe Counties, Texas.
- 1.3 This Interlocal Agreement (the "Agreement") for provision of demand-response public transportation services by AACOG for the City is entered into by and between the City and AACOG, as authorized under Chapter 791 of the Texas Government Code. VIA Metropolitan Transit is providing Federal funding for the expanded San Antonio UZA, based on the 2010 census. This Agreement provides for the City's portion of local match required to supplement that funding.

Article 2. Definitions

- 2.1 Curb-to-curb. Picking up and discharging passengers at the curb or driveway in front of their home or destination. The driver does not assist or escort passengers to the door.
- 2.2 Demand-response. A non-fixed route system of transporting individuals in which individual passengers may, at least one day in advance, request a trip from one specific location to another specific location at a certain time.
- 2.3 Designated holidays. Christmas Day, Independence Day, Labor Day, Memorial Day, New Year's Day, and Thanksgiving Day.

Article 3. Goods and Services

- 3.1 For the City's financial commitment below, AACOG agrees to furnish the City with a demand-response, curb-to-curb, public transportation service in response to requests made by residents of City to AACOG's Alamo Regional Transit (ART). The service will be open to the public and run Monday through Friday from 7:00 a.m. to 6:00 p.m. for 52 weeks per year, excluding designated holidays as defined. AACOG will provide for the following:
 - a. Vehicles having wheelchair accessibility;
 - b. Necessary, trained personnel to operate the demand-response service;
 - c. Operating & administrative activities and expenses associated with operation of the demand-response transportation service;

- d. A quarterly status report; and
 - e. Ensuring all vehicles used in service to City are well maintained to afford comfortable, safe, and reliable transportation for the City's residents.
- 3.2 In return for provision of AACOG's demand-response transportation service, the City agrees:
- a. To provide AACOG with financial support for Fiscal Year 2014 operations in the amount of two hundred nine thousand, eight hundred, sixty dollars (\$209,860 -- the "Financial Contribution" -- see Attachment A) as local match to Federal funding provided by VIA Metropolitan Transit for the demand-response service;
 - b. To continue financial support of the demand-response service to AACOG in succeeding fiscal years, so long as the City wishes the transportation services to continue;
 - c. That the vehicles used shall not be for the exclusive use by or benefit of City's residents, residents shall have no expectation of riding alone or only with other City residents, and the City shall have no ownership right in the vehicles engaged in these services; and
 - d. The City shall, for both Fiscal Year 2014 and all subsequent years it may wish to continue this service, make contributions for performance of the transportation services from current revenues available to it.

Article 4. Agreement Sum and Payment Terms

- 4.1 The parties have agreed to the City's Contribution for Fiscal year 2014 as defined in Attachment A.
- 4.2 The City and AACOG agree to meet annually, at a mutually agreeable time sufficiently in advance of the City's budget cycle for the fiscal year to which the Financial Contribution is to apply, to negotiate and agree to the City's Financial Contribution for the next fiscal year.
- 4.3 The City shall contribute to AACOG the total Financial Contribution for FY 2014 by January 31, 2014. The City shall contribute all agreed upon Financial Contributions for succeeding years by October 15th of the applicable fiscal year.

Article 5. Effective Date and Term of Agreement

- 5.1 This Agreement shall be for a period of one (1) year, beginning October 1, 2013 and ending on September 30, 2014.
- 5.2 On or before June 1st of the then current term, the Parties shall initiate contact to discuss and seek mutual agreement on funding for demand-response transportation services for the City for the succeeding term. This Agreement shall

renew automatically for successive one-year periods unless either party notifies the other at the address provided at Article 9 at least sixty (60) days prior to the then current expiration date of its intention to not renew the Agreement.

Article 6. Nondiscrimination and Equal Opportunity

- 6.1. Neither AACOG nor the City shall exclude anyone from participating in and receiving benefits of the services provided under this Agreement, or otherwise unlawfully discriminate against anyone in carrying out this Agreement because of race, color, religion, sex, age, disability, veteran status, or national origin.

Article 7. Early Termination of Agreement

- 7.1 If either AACOG or the City breaches a material provision of this Agreement, the other party may notify the breaching party, describing the breach and demanding corrective action be taken. The breaching party shall have five (5) business days from its receipt of notice to correct the breach or to begin and continue with reasonable diligence and in good faith to correct the breach. If the breach cannot be corrected within a reasonable time, despite the breaching party's reasonable diligence and good faith effort to do so, the parties may agree to terminate this Agreement or either party may invoke the dispute resolution process of Article 8.
- 7.2 Termination for breach under Section 7.1 does not waive either party's claim for damages resulting from the breach.

Article 8. Dispute Resolution

- 8.1 The parties desire to resolve disputes arising under this Agreement without litigation. Accordingly, if a dispute arises, the parties agree to attempt in good faith to resolve the dispute among them. To this end, the parties agree not to sue one another, except to enforce compliance with this Article 8, until they have exhausted the procedures set out in this Article.
- 8.2 At the written request of a party, each party shall appoint one representative to negotiate informally and in good faith to resolve any dispute arising under the Agreement. The representatives appointed shall determine the location, format, frequency, and duration of the negotiations.
- 8.3 If the representatives cannot resolve the dispute within thirty (30) calendar days after the first negotiation meeting, the parties agree to refer the dispute to the Bexar County Dispute Resolution Center for mediation in accordance with the Center's mediation procedures. A mediator assigned by the Center will conduct the mediation. Each party participating in the mediation shall pay one-half the cost of the Center's mediation services.
- 8.4 Unless the dispute is for non-payment of funds due under the Agreement, the parties agree to continue performing their duties under the Agreement, which are unaffected by the dispute during the negotiation and mediation process.

- 8.5 All terms of this Agreement are to be construed in accordance with the laws of the State of Texas with venue lying exclusively in Bexar County.

Article 9. Notice to Parties

- 9.1 Notice to be effective under this Agreement must be in writing and received by the party against whom it is to operate. Notice is deemed received by a party as follows: (1) when delivered to the party personally; (2) on the date shown on the return receipt if mailed by registered or certified mail, return receipt requested, to the party's address specified in paragraph 8.2 and signed on behalf of the party; or (3) three business days after its deposit in the United States mail, with first-class postage affixed, addressed to the party's address specified in paragraph 9.2.
- 9.2 AACOG's address is 8700 Tesoro Drive, Suite 700, San Antonio, Texas 78217, Attention: Dean J. Danos, Executive Director. The City's address is 424 South Castell Avenue, New Braunfels, Texas 78130, Attention: Robert Camareno, City Manager.
- 9.3 A party may change its address or designated representative by providing notice of the change in accordance with paragraph 9.1.

Article 10. Limitation of Liability

- 10.1 AACOG agrees to maintain all vehicle, liability, and workers compensation insurance as legally required by the Texas Department of Transportation.
- 10.2 Damages. In no event shall AACOG be liable to the City for any indirect, special, incidental, punitive, or consequential damages, including, but not limited to, loss of profits, loss of business, or other loss arising out of or resulting from this agreement even if AACOG has been advised of the possibility of such damages.

Article 11. Miscellaneous

- 11.1 Each individual signing this Agreement on behalf of a party warrants that he or she is legally authorized to do so and that the party is legally authorized to perform the obligations undertaken.
- 11.2 This Agreement states the entire agreement of the parties, and an amendment to it is not effective unless in writing and signed by both parties.
- 11.3 This Agreement is binding on and inures to the benefit of the parties' successors in interest.
- 11.4 This Agreement is executed in duplicate originals.
- 11.5 The invalidity, illegality, or unenforceability of any provision of this Agreement shall not affect the validity, legality, or enforceability of any other provision of this Agreement.

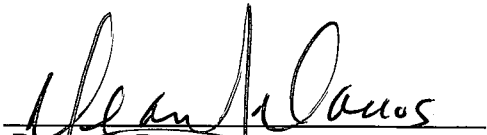
11.6 Nothing in this Agreement shall be construed as a waiver either Party's statutory or common law immunities.

CITY OF NEW BRAUNFELS

By 
ROBERT CAMARENO
CITY MANAGER

Date 1/21/14

ALAMO AREA COUNCIL OF GOVERNMENTS

By 
Dean J. Danos
Executive Director

Date 1-21-2014

Attachment A
Sources of City's Match Funding for FY 2014

For Fiscal Year 2014, the City of New Braunfels has forged agreements with Comal County and the McKenna Foundation to share in match funding for demand-response transportation service to the City in the following amounts:

| | |
|-----------------------|--------------------|
| City of New Braunfels | \$70,000.00 |
| Comal County | \$69,860.00 |
| McKenna Foundation | <u>\$70,000.00</u> |
| Total | \$209,860.00 |

As the McKenna Foundation is a non-profit, 501(c)(3) organization, the City has arranged for the McKenna Foundation to make their matching share contribution to AACOG through the Alamo Area Development Corporation, another 501(c)(3) non-profit organization.

Distribution of match contributions for service to the City, if applicable, for Fiscal Years 2015 and beyond shall be arranged annually by the City in accordance with Article 4.