

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE REGIONAL
TRANSPORTATION DISTRICT AND THE CITY OF LONGMONT**

FOR

FARE REIMBURSEMENT

LONGMONT LOCAL ROUTES AND ACCESS-A-RIDE SERVICE

This Intergovernmental Agreement (“**Agreement**” or “**IGA**”) is made as of January 1, 2022 (“**Effective Date**”), between the Regional Transportation District, a political subdivision of the State of Colorado organized pursuant to the Regional Transportation District Act, C.R.S. § 32-9-101, et seq., (“**RTD**”), and City of Longmont, Colorado, a body corporate and politic (hereafter “**Longmont**” or the “**City**”). RTD and the City may also be referred to individually as a “**Party**” and together the “**Parties**”.

RECITALS

- A.** RTD is authorized by the Regional Transportation District Act, C.R.S. §§ 32-9-101, *et seq.* (the “**RTD Act**”), to develop, maintain, and operate a mass transportation system for the benefit of the inhabitants of its District, as defined by the RTD Act.
- B.** Pursuant to the Colorado Constitution, Article XIV, Section 18(2)(a), and C.R.S. §§ 29-1-203, *et seq.*, both RTD and the City may cooperate or contract with each other to provide any function, service, or facility lawfully authorized to each, and any such contract may provide for sharing of costs.
- C.** RTD and the City agree that RTD’s services provide attractive and effective transit service for people to work, live and recreate in the City.
- D.** Among the bus services provided by RTD within the City is RTD’s local fixed route services known as the routes 323, 324, 326 and 327 (collectively, the “**300 Series Services**”) and RTD’s complementary paratransit services in which any trip originates within Longmont (“**Longmont Access-a-Ride**”). The 300 Series Services and Longmont Access-a-Ride are defined in this Agreement collectively as the “**RTD Local Services**.”
- E.** To encourage transit ridership in Longmont, the City would like to continue to subsidize local RTD transit for its constituents for the 300 Series Services whereby passengers originating in Longmont would not pay a fare (the “**Program**”).
- F.** RTD agrees to provide the RTD Local Services free of charge to local customers and in exchange, the City agrees to compensate RTD for the incremental lost fare revenue resulting from this Program.

TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the promises and obligations set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **GENERAL.**

A. Exhibits. The following exhibits are attached and incorporated into this Agreement by this reference:

Exhibit A: Description of the Reimbursement Payment

B. Recitals. The recitals set forth above are incorporated herein by this reference.

2. **OPERATIONS, MANAGEMENT AND CONTROL OF THE TRANSIT SERVICES.** RTD shall continue to manage and operate, either directly or through its designated agent(s), its transit service including without limitation the RTD Local Services. RTD or its designated agent(s) are solely responsible for the operations, management, marketing (except as stated in Section 5, Marketing), administration, and service delivery functions, including provision of vehicles, vehicle maintenance, insurance, and accounting. The City has no responsibility for, nor authority or control with respect to, the supervision and management of any employees or contractors who work in connection with RTD transit services.
3. **PROGRAM.** RTD will not require passengers boarding the RTD Local Services during the Term (defined below) to pay the local RTD fare. RTD will provide a local transfer to any passenger who requests a transfer. Passengers who use RTD services that require a fare greater than the local fare must pay the cost of a fare upgrade, or the difference between the local fare and the higher fare.
4. **CITY FUNDING.** The City's incremental share of RTD's lost fare revenue is estimated based on the incremental increase in RTD fare revenue since free fares were initially offered in Longmont and what RTD's fare revenue would have been had it not been for the free fares and the associated increase in boardings (**Exhibit A**). The reimbursement payment from Longmont to RTD for 2022 is calculated based on 2019 and 2020 actual boarding and fare information. The amount payable by the City to RTD for reimbursement of 300 Series Services lost fare revenue will be \$224,668 for 2022. Any additional amounts actually charged by RTD for the Longmont Access-a-Ride trips will be incurred per (ii) below. The City shall pay RTD a total of \$224,668 for 2022 for the 300 Series Services (the "**Funding**") and actual amounts billed for the Longmont Access-a-Ride trips payable as follows of the service being offered:

(i) payable in advance: \$224,668 for the Program in 2022, which amount the Parties agree represents is the incremental lost-fare revenue from the 300 Series Services as a result of the Program; and

(ii) payable in arrears: \$5.00 for each Longmont Access-a-Ride trip originating in Longmont.

In addition, in the event the ridership of the 300 Series Services increases to the extent that RTD's service standards would require additional bus service, in terms of frequency or additional routes, the City and the RTD shall negotiate a written amendment in good faith to find funding or may agree to terminate this agreement. The Parties agree to cooperate with each other to find cost-effective solutions to maintain RTD service standards for the 300 Series Services; provided however that nothing in this Agreement guarantees or promises that RTD will provide certain routes or other transit services beyond that specifically identified in this Agreement as of the Effective Date.

5. **INVOICING AND PAYMENT.** RTD will send the City an invoice for that portion of the Funding concerning the 300 Series Services and that portion of the Funding concerning Access-a-Ride services. The City shall pay for the 300 Series Services in advance for each twelve-month period. Access-a-Ride costs will be invoiced in arrears. The City shall pay each invoice within 30 calendar days after receipt of the invoice.
6. **MARKETING.** If the City conducts a marketing campaign for the Program, it will be at its sole cost; provided that the City will submit any proposed marketing materials and strategies for RTD's review and collaboration before releasing them to the public. RTD will assess and recommend any and all appropriate promotional opportunities on RTD materials (if any) as they relate to the Program. RTD will ensure that its appropriate staff, specifically the RTD Telephone Information Center, Customer Service staff, bus operators and supervisors, are aware of the Program.
7. **TERM AND TERMINATION.** This Agreement commences on the Effective Date and remains in effect until December 31, 2022 (the "**Term**"), unless sooner terminated in writing by both Parties or by court order. Either Party may terminate this Agreement upon sixty (60) calendar days' written notice. All provisions of this Agreement that provide rights or create responsibilities for the Parties after termination shall survive termination of this Agreement.

8. **COMMUNICATION AND NOTICES.** Any notices, bills, invoices or reports required by this Agreement will be sufficiently delivered if sent by the Parties in the United States mail, postage prepaid, or by email to the Parties at the following addresses:

For the City:

City of Longmont
385 Kimbark Street
Longmont, CO 80501
Attn: Phil Greenwald
Phil.greenwald@longmontcolorado.gov

For RTD:

Regional Transportation District
1660 Blake Street
Denver, CO 80202
Attn: Fred Worthen
Assistant General Manager, Bus Operations
Fred.Worthen@rtd-denver.com

With a copy to:

RTD
1660 Blake Street
Denver, CO 80202
Attn: Erin Vallejos
erin.vallejos@rtd-denver.com

The addresses or contacts may be changed by the Parties by written notice.

9. **STATUS OF PARTIES.** Nothing contained in the Agreement creates any partnership, joint venture, or other association or relationship between RTD and the City. Neither Party has authorization, express or implied, to bind the other to any agreements, liability, or understanding, except as expressly set forth in this Agreement.
10. **LIABILITY AND IMMUNITY.** Without waiving the privileges and immunities conferred by the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.*, C.R.S., each Party shall be responsible for any claims, demands or suits arising out of its own negligence. It is specifically understood and agreed that nothing contained in this paragraph or elsewhere in this Agreement shall be construed as an express or implied waiver by RTD or the City of its governmental immunity, including limitations of amounts or types of liability or the governmental acceptance by RTD of liabilities arising as a result of actions which lie in tort or could lie in tort in excess of the liabilities allowable under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*

11. **NO EFFECT ON RTD RIGHTS OR AUTHORITY.** Nothing in this Agreement shall be construed to limit RTD's right to establish routes or services or perform any functions authorized by C.R.S. § 32-9-101, *et seq.*
12. **GENERAL PROVISIONS.**
- A. Authority.** The Parties represent that each has taken all actions that are necessary or that are required by its procedures, bylaws, or applicable law to legally authorize the undersigned signatories to execute this Agreement on behalf of the Parties and to bind the Parties to its terms.
 - B. Available Funding.** This Agreement does not contain any multiple-fiscal-year financial obligations by either Party that extend beyond its contract end date. The financial obligations of each Party under this Agreement shall be subject to and limited by the appropriation of sufficient funds therefore by its governing body. Funds for this Agreement have been authorized for the current fiscal year. Nothing herein obligates RTD or the City to budget, authorize or appropriate funds for any future fiscal year.
 - C. Merger.** This Agreement represents the entire agreement between the Parties with respect to the subject matter hereof and all prior agreements, understandings or negotiations shall be deemed merged herein. No representations, warranties, promises, or agreements, express or implied, shall exist between the Parties, except as stated herein.
 - D. Amendment.** No amendment to this Agreement shall be made or deemed to have been made unless in writing executed and delivered by the Party to be bound thereby.
 - E. Governing Law.** This Agreement shall be interpreted and enforced according to the law of the State of Colorado, the ordinances of the City of Denver, the applicable provisions of federal law, and the applicable rules and regulations promulgated under any of them. Venue for any action hereunder shall be in Denver District Court, Colorado.
 - F. Severability.** To the extent that this Agreement may be executed and performance of the obligations of the Parties may be accomplished within the intent of the Agreement, the terms of the Agreement are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other terms or provision hereof.
 - G. Waiver.** The waiver of any breach of a term hereof shall not be construed as a waiver of any other term, or the same term upon a subsequent breach.
 - H. No Third-Party Beneficiaries.** It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties hereto, and

nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person under this Agreement. It is the express intention of the Parties to this Agreement that any person or entity other than the Parties receiving services or benefits under this Agreement be deemed an incidental beneficiary only.

- I. Paragraph Headings.** The captions and headings set forth in this Agreement are for convenience of reference only and shall not be construed so as to define or limit its terms and provisions.
- J. Counterparts.** This Agreement may be executed in two counterparts. Signatures on separate originals shall constitute and be of the same effect as signatures on the same original. Electronic and faxed signatures shall constitute original signatures.
- K. Prohibited Interests.** No director, officer, employee, or agent of RTD shall be interested in any contract or transaction with RTD except in his or her official representative capacity unless otherwise provided by the RTD Code of Ethics.
- L. Assignment.** Other than as specifically provided herein, the Parties agree that they will not assign or transfer any of their rights or obligations under this Agreement without first obtaining the written consent of the other Party.
- M. No Agency.** It is expressly understood and agreed that RTD and the City to not intend to be and shall not in any respect be deemed agents of **each** other.
- N. Governmental Immunity.** It is specifically understood and agreed that nothing contained in this paragraph or elsewhere in this IGA shall be construed as an expressed or implied waiver by RTD or Longmont of its governmental immunity or the governmental acceptance by RTD on Longmont of liabilities arising as a result of actions which lie in tort or could lie in tort in excess of the liabilities allowable under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*
- O. Prohibited Interests.** No director, officer, employee, or agent of RTD shall be interested in any contract or transaction with RTD except in their official representative capacity unless otherwise provided by the RTD Code of Ethics.
- P. Changes in Law.** This Agreement is subject to such modifications as may be required by changes in City, state or federal law, or their implementing regulations. Any such required modification shall automatically be incorporated into and be part of this Agreement on the effective date of such change as if fully set forth herein.
- Q. Electronic Signatures.** This Agreement may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, “electronic signature” shall include faxed versions of an original signature, electronically scanned and transmitted versions of an original signature, and digital signatures.

WHEREFORE, the Parties have entered into this Agreement as of the date first set forth above.

REGIONAL TRANSPORTATION DISTRICT

By: _____
Debra Johnson
General Manager & CEO

Approved as to legal form for RTD:

Dana E. Steele
Sr. Associate General Counsel

CITY OF LONGMONT:

MAYOR

ATTEST:

CITY CLERK

DATE

APPROVED AS TO FORM:

ASSISTANT CITY ATTORNEY

DATE

PROOFREAD

DATE

APPROVED AS TO FORM AND SUBSTANCE:

ORIGINATING DEPARTMENT

DATE

CA File: 21-001492

EXHIBIT A

Exhibit A																	
Fares																	
					Cut the 325 Route *					Service Cut of 10% to sytem made *							
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Boardings	148,744	188,355	193,944	207,841	194,701	175,375	188,396	176,992	156,438	156,863	237,254	313,692	554,207	616,141	613,290	625,354	330,192
In-Service Hours	22,506	23,038	23,535	24,735	20,600	20,934	20,678	22,237	20,147	21,145	21,463	21,955	23,222	24,040	23,935	24,457	17,661
Operating Costs	\$2,114,252	\$2,589,545	\$2,606,814	\$2,793,057	\$2,519,247	\$2,373,965	\$2,379,586	\$2,505,436	\$2,436,501	\$2,595,535	\$2,670,291	\$2,973,439	\$3,225,680	\$3,753,959	\$3,726,597	\$3,999,118	\$4,022,978
Farebox Revenues	\$121,410	\$145,256	\$185,265	\$191,214	\$174,763	\$180,597	\$207,008	\$232,461	\$186,428	\$201,049	\$219,486	\$209,000	\$0	\$691,315	\$695,755	\$727,590	\$382,669
Boardings per in-service hour	6.61	8.18	8.24	8.40	9.45	8.38	9.11	7.96	7.76	7.42	11.05	14.29	23.87	25.63	25.62	25.57	18.70
Forecast Boardings per in-service hour											7.57	7.59	7.62	7.64	7.67	7.69	7.72
Cost Allocation																	
Boardings per in-service hour above forecast											3.49	6.70	16.25	17.95	17.95	17.87	10.98
In-service hours											21,463	21,955	23,222	24,040	23,935	24,457	17,661
Boardings above forecast											74,837	146,993	377,296	432,386	429,697	437,165	193,846
RTD System Fare Revenue per Boarding - Local Service																	
2017														\$1.122	\$1.122	\$1.122	\$1.122
2018														\$1.134	\$1.134	\$1.134	\$1.134
2019														\$1.163	\$1.163	\$1.163	\$1.163
2020														\$1.155	\$1.155	\$1.155	\$1.155
Longmont Payment Based on RTD System Fare Revenue per Boarding																	
2017														\$485,137	\$482,120	\$490,499	\$217,495
2018														\$490,326	\$487,276	\$495,745	\$219,821
2019														\$502,865	\$499,738	\$508,423	\$225,443
2020														\$501,135	\$498,019	\$506,674	\$224,668