



**SETTLEMENT AGREEMENT
UNDER THE AMERICANS WITH DISABILITIES ACT
BETWEEN
THE UNITED STATES OF AMERICA
AND
THE CITY OF KYLE, TEXAS
USAO # 2020V00958
DJ # 204-76-226**

BACKGROUND

1. The parties to this Settlement Agreement (“Agreement”) are the United States of America and the City of Kyle, Texas (“Kyle”).
2. The United States Department of Justice, through the United States Attorney’s Office for the Western District of Texas (“USAO”), opened an investigation of Kyle under Title II of the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§ 12131–12134, and Title II’s implementing regulation, 28 C.F.R. pt. 35, to determine whether Kyle’s “Uber Kyle \$3.14 Program” (the “Program”) with Uber Technologies, Inc. (“Uber”) to provide reduced-fare transportation for Kyle residents and visitors complies with Title II. Kyle is legally obligated under the ADA to provide services to individuals with disabilities, including individuals who use wheelchairs. 42 U.S.C. § 12143.
3. The parties agree that it is in their best interests, and the United States believes that it is in the public interest, to resolve this dispute without engaging in litigation. The parties have therefore voluntarily entered into this Agreement, as follows:

TITLE II COVERAGE AND FINDINGS

4. The Attorney General is responsible for enforcing Title II of the ADA, 42 U.S.C. §§ 12131–12134, and the relevant regulations implementing Title II, 28 C.F.R. pt. 35, including the Department of Transportation’s ADA regulations, 49 C.F.R. pt. 37.
5. Kyle is a “public entity” within the meaning of the ADA, 42 U.S.C. § 12131(1) and 28 C.F.R. § 35.104, and is, therefore, subject to Title II of the ADA, 42 U.S.C. §§ 12131–12134, and its implementing regulation 28 C.F.R. pt. 35.
6. When a public entity provides services, programs, or activities to the public, no qualified individual with a disability shall be excluded from participation in, be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity on the basis of disability. 28 C.F.R. § 35.130. A public entity, in

providing any aid, benefit, or service, may not enter into a contractual arrangement that denies qualified individuals with a disability an opportunity to participate in or benefit from the aid, benefit, or service. 28 C.F.R. § 35.130.

7. According to Kyle's Transportation and Rideshare Policies, the Program allows "[a]nyone in the City [to] travel on an UberX vehicle to anywhere in Kyle's city limits for as little as \$3.14. The City picks up the next \$10 for each one-way trip." The Program "also includes rides for people with disabilities via the Uber WAV (Wheelchair Accessible Vehicles) program." People with disabilities pay \$3.14, and Kyle subsidizes the next \$10 plus "any additional charges incurred that are specific to providing Uber WAV services to riders."
8. On October 26, 2020, a resident of Kyle who uses a wheelchair due to a mobility impairment complained to Kyle about the accessibility of the Program. The resident attempted to request an Uber WAV through the program, but Uber dispatched a vehicle that could not accommodate his electric wheelchair. As a result, this resident was not able to benefit from the program, services, and activities offered by the Program in the same manner as an ambulatory user.
9. Between December 2, 2020 and December 9, 2020, the USAO observed significant disparities in the availability of UberX vehicles and Uber WAV vehicles in Kyle. During this period, Uber WAV vehicles were not available more than 40% of the time. When an Uber WAV vehicle was available, the average wait time was substantially longer than the average wait time for an UberX vehicle.
10. The USAO's investigation determined that qualified individuals with disabilities are denied the opportunity to participate in or benefit from the Program. Although the Program serves individuals with disabilities who require WAVs, the Program provides no method to ensure that these individuals can receive timely WAV transportation.

ACTIONS TO BE TAKEN BY KYLE

11. Kyle shall not discriminate against any qualified individuals with a disability, on the basis of such disability, by excluding such individuals or denying them the benefits of its services, programs or activities, within the meaning of title II of the ADA, 42 U.S.C. §§ 12131–12134 and 28 C.F.R. pt. 35.
12. Within 30 days of the effective date of this Agreement, Kyle agrees to revise its contract(s) with Uber to require Uber to increase the share of WAVs in their fleet during all hours of operation so that Program participants with mobility disabilities, including participants who use wheelchairs, are able to equally participate in and benefit from the program. Each month, within the Program, Kyle will track response time details for requests for wheelchair-accessible service compared to requests for non-wheelchair-accessible service, will assess this data, and where response times are not equivalent will require Uber to add additional WAV vehicles.
13. Kyle will revise its contract(s) with Uber to require Uber to train drivers to proficiency, so that they operate WAV vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention

to the difference among individuals with disabilities, as required by the Department of Transportation's ADA regulations that apply to transportation providers, at 49 C.F.R. § 37.173.

14. Kyle will advertise that the Program is increasing accessibility to individuals with mobility disabilities, including those who use wheelchairs, in the following ways:
 - a. A post on the main page at www.cityofkyle.com/communications/uber-kyle-314, in the same font size as headings, which reads: "The Uber Kyle \$3.14 Program now provides greater wheelchair accessibility." This text will accompany a link, provided by the United States, to the Settlement Agreement posted on www.ada.gov.
 - b. A post on Kyle's Twitter account (currently @CityofKyleTX) each month at a date and time as provided by the United States, for at least six months, that reads: "After an Agreement with @USAO_WDTX our ridesharing program for resident commuters is now more accessible under the ADA." This text will accompany a link, provided by the United States, to the Settlement Agreement posted on www.ada.gov. These postings will be pinned on Kyle's twitter page and will not be deleted for the duration of this Agreement.
15. Kyle will notify the United States in writing when it has completed the actions described in paragraphs 12-14.

IMPLEMENTATION

16. In consideration for entering this Agreement, the United States will refrain from undertaking further enforcement action relating to this investigation of the Program or from filing a civil action alleging discrimination based on the allegations set forth above. However, the United States may review Kyle's compliance with this Agreement at any time. If the United States believes that any portion of this Agreement has been violated, the United States will so notify Kyle in writing and will attempt to resolve the issue in good faith. If the United States is unable to reach a satisfactory resolution of the issue within 30 days of the date it notifies Kyle, the United States may file a civil action in federal district court to enforce the terms of this Agreement, or take any other action to enforce Title II of the ADA.
17. Failure by the United States to enforce any provisions in this Agreement is not a waiver of its right to enforce other provisions of this Agreement.
18. If any term of this Agreement is determined by any court to be unenforceable, the other terms of this Agreement shall nonetheless remain in full force and effect, provided, however, that if the severance of any such provision materially alters the rights or obligations of the parties, the United States and Kyle shall engage in good faith negotiations in order to adopt mutually agreeable amendments to this Agreement as may be necessary to restore the parties as closely as possible to the initially agreed upon relative rights and obligations.
19. This Agreement is applicable to and binding on Kyle, including its officers, agents, employees, and assigns.

20. The signatory for Kyle represents that he or she is authorized to bind Kyle to this Agreement.
21. This Agreement is the entire agreement between the United States and Kyle on the matters raised herein and no other statement, promise or agreement, either written or oral, made by any party or agents of any party, is enforceable. This Agreement can only be modified by mutual written agreement of the parties.
22. This Agreement is not intended to remedy any other potential violations of the ADA or any other law that is not specifically addressed in this Agreement. Nothing in this Agreement relieves Kyle of its obligation to otherwise comply with the requirements of the ADA.
23. All documents and communications required to be sent to the United States under the terms of this Agreement shall be sent to the following individual by overnight courier or, where practicable, by e-mail:

Liane Noble
Assistant United States Attorney
U.S. Attorney's Office, Western District of Texas
903 San Jacinto Blvd., Suite 334, Austin, TX 78701
512.370.1252 (office), 512.481.8986 (mobile)
liane.noble@usdoj.gov

EFFECTIVE DATE/TERMINATION DATE

24. The effective date of this Agreement is the date of the last signature below.
25. The duration of this Agreement will be three years from the effective date.

AGREED AND CONSENTED TO:

UNITED STATES OF AMERICA

ASHLEY C. HOFF
UNITED STATES ATTORNEY
Western District of Texas

/s/Liane Noble

LIANE NOBLE
Assistant United States Attorney
U.S. Attorney's Office
Western District of Texas

10/24/2022
Date

/s/Thomas A. Parnham, Jr.

THOMAS A. PARNHAM, JR.
Assistant United States Attorney
U.S. Attorney's Office
Western District of Texas

10/24/2022
Date

/s/Travis Mitchell

Travis Mitchell, Mayor
CITY OF KYLE, TEXAS
100 W. Center Street Kyle, Texas 78640

10/24/2022
Date