CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

ITEM: Contract with DART for Transportation of ESL Students

DATE: January 7, 2019

FINANCIAL IMPACT:
$3,600 per session x no more than 4 sessions/yr. or $14,400/max

BACKGROUND:
With the retirement of the Transportation Supervisor, a review of the Transportation Program has been undertaken according to the direction of the 2036 plan. It was determined that, due to the difficulty in hiring part-time drivers, DART would be an option to provide transportation for ESL students to and from class on Tuesday and Thursday mornings. The Human Services Department will determine who can ride and communicate with DART regarding rider confirmations and cancellations.

OUTSTANDING ISSUES (if any):
Initially, we will use DART on a trial basis to make sure it is feasible. These riders speak limited English, if at all, and we expect there to be some issues in making this change.

RECOMMENDATION:
Approve the contract

Lead Staff Member: Althea Folcomb

STAFF REVIEWS

Department Director	Althea Folcomb
Appropriations/Finance	
Legal	
Agenda Acceptance	(R)

PUBLICATION(S) (if applicable)

Published In	
Dates(s) Published	

SUBCOMMITTEE REVIEW (if applicable)

Committee			
Date Reviewed			
Recommendation	Yes	No	Split

CONTRACT

TRANSPORTATION SERVICES

THIS AGREEMENT is between the City of West Des Moines, Iowa through its Department of Human Services and the Des Moines Area Regional Transit Authority (DART) for Transportation Services to qualified residents of the City of West Des Moines.

DEFINITIONS. The terms listed below will be referred to throughout this agreement.

City of West Des Moines, Department of Human Services. Refers to the department within the City of West Des Moines, Iowa and the administrative entity responsible for this Service Agreement, (hereinafter "Human Services").

Des Moines Area Regional Transit Authority. Refers to an entity organized under the authority of Chapter 28E of the Code of Iowa (hereinafter "Provider").

SERVICES.

Provider shall:

1. Supply transportation services, either on the Provider's fixed route bus or on the Provider's on-call/paratransit bus, to clients designated by Human Services. The services will pick up clients at locations provided by Human Services and transport them to the City of West Des Moines Human Services at 139 6th Street, West Des Moines, Iowa 50265 to attend English as a Second Language (ESL) classes. Service assumptions are as follows:

    a. Up to five (5) class sessions per year
    b. Each class session is eight (8) weeks in length
    c. Transportation will be provided on Tuesday and Thursday of every week from 10:00 AM to 12:00 PM local time for every week that class is in session.

2. Supply an ADA equipped vehicle for clients identified as needing mobility assistance.

Human Services shall:

3. Compensate the Provider for the service at the rate specified in the Compensation section of this Agreement.

4. Notify the Provider of any changes in schedule or in number of clients/passengers.

5. Determine eligibility of each of its clients referred to the Provider for transportation services.

CONSIDERATION.

Invoices. The Provider shall submit an invoice to Human Services after each session, unless otherwise agreed to by the parties. All approved Provider invoices shall be paid

within thirty (30) days of receipt by Human Services. Human Services shall remit all payments to:

Des Moines Regional Transit Authority
Attn: Accounts Receivable
620 Cherry St.
Des Moines, IA 50309

COMPENSATION. Effective as of January 1, 2019.

SERVICES	UNIT	COST PER UNIT	ANNUAL COST
Group Transportation to ESL Class	Per Session	$3,600	Up to $18,000

RECORD KEEPING AND DOCUMENTATION.

1. **Compliance.** The Provider shall keep, and make available to Human Services, such client, financial, statistical, administrative, and personnel records as are necessary for Human Services to monitor the Provider's compliance with the terms of this Agreement and to evaluate the overall effectiveness of the Provider's program, including cost effectiveness. The Provider shall permit such on-site service monitoring by Human Services representatives as may be reasonably requested.
2. **Distribution.** When documents are generated by either the Provider or Human Services for distribution to any third party, individual client names and other personal information shall not be used, or if used, shall be removed prior to distribution.
3. **Requests.** From time to time, it will be necessary, for administrative or planning purposes, for either or both parties to request unscheduled reports or documentation from the other. Both parties shall be expected to cooperate in the preparation of such reports in a reasonable and timely manner given the constraints of any third party demands.
4. **Retention.** Records shall be kept for a period of (3) years. Storage and disposal of such records shall be accomplished in such a way as to ensure the continuous confidentiality of all client information.

BENEFITS. This is not a contract for employment. As an independent agency, the Provider shall be solely responsible for the designation and supervision of, personnel and for the employment of subcontractors, if any. The Provider shall hire, train, assign, schedule, supervise, and evaluate drivers and other personnel and shall have the sole right to control the performance of all such workers. The Provider shall comply with all workers' compensation, employer's liability, payroll tax and withholding and other Federal, State and local laws, ordinances, rules and regulations applicable to an employer. A portion of the Provider's duties may be subcontracted to qualified organizations with prior notice to and consultation with Human Services, but the Provider shall be fully responsible for the performance and actions of any such subcontractor.

CONFIDENTIALITY. The Provider and Human Services shall treat all information about individuals receiving services pursuant to this Agreement as confidential in accordance with applicable state and federal statutes, laws and regulations. The Provider and

Human Services shall use appropriate safeguards to maintain the security and privacy of any Personally Identifiable Information (PII) or Protected Health Information, as defined by the U.S. Department of Health and Human Services in its final regulations – pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and shall establish policies and procedures for ensuring the rights granted to consumers by HIPAA. The Provider shall report to Human Services any unauthorized use or disclosures of PII or Protected Health Information within five (5) days from the date the Provider becomes aware of the violation, as well as any sanctions or remedial actions taken with regard to the unauthorized use or disclosure. The parties agree to cooperate with each other in mitigating any harmful effects of such use or disclosure.

SERVICE OPEN TO THE PUBLIC. As a provision of providing public transportation service, the service rendered under this agreement shall be open to the general public. Human Services shall not incur any financial responsibility for ridership by the general public.

LICENSES AND COMPLIANCE. The Provider shall apply for, and maintain, all necessary and applicable licenses, certifications, and inspections relevant to current health, fire, safety, vehicle and professional standards. Any deficiencies or violations must be corrected immediately or immediate action taken to seek variances. All relevant reports, citations, complaints, corrective actions, or variances applied for, rejected, or granted, must be documented. The Provider shall ensure that its employees have all licenses and certifications necessary for the performance of their duties.

INDEMNIFICATION AND INSURANCE. To the fullest extent permitted by law, Human Services shall indemnify, defend and hold harmless each of the "Indemnitees" (as defined below) from and against any and all "Charges" (as defined below) paid or incurred by any of them as a result of any claims, demands, lawsuits, actions, or proceedings arising from any act of negligence or willful misconduct by Human Services or any of its agents, employees or subcontractors relating to this Agreement, including but not limited to any liability caused by an accident or other occurrence resulting in bodily injury, death, sickness or disease to any person(s) or damage or destruction to any property, real or personal, tangible or intangible. For the purposes of this Section: (a) the term "Indemnitees" means DART and each of the DART officers, board members, officials, employees, agents and independent contractors (excluding Human Services); and (b) the term "Charges" means any and all losses, damages, costs, expenses (including reasonable attorneys' fees), obligations, duties, fines, penalties, royalties, interest charges and other liabilities (including settlement amounts).

Additionally, to the extent allowed by law, DART shall defend, indemnify and hold harmless Human Services and its trustees, officers, employees, and agents **from and against any and all losses, damages, costs, expenses (including reasonable attorneys' fees), obligations, duties, fines, penalties, royalties, interest charges and other liabilities (including settlement amounts) paid or incurred by any of them as a result of any claims, demands, lawsuits, actions, or proceedings arising from any act of negligence or willful misconduct by DART or any of its agents, employees or subcontractors relating to this Agreement, including but not limited to any liability caused by an accident or other occurrence resulting in bodily injury, death, sickness or disease to any person(s) or damage or destruction to any property, real or personal, tangible or intangible,** provided that Human Services shall promptly notify DART of any claim or action brought which may result in a claim for indemnification under this Section.

The Provider shall acquire and retain throughout the term of this Agreement suitable and sufficient insurance, and where applicable, fidelity bonding, so as to protect the Provider, its entire staff, including contract employees, its volunteers, clients, Human Services, and the general public against any loss, injury, damage, or other liability arising from any negligent act or omission in connection with responsibilities assumed by the Provider under the terms of this Agreement. This insurance shall cover all space owned, leased, rented, or used gratis; all vehicles, both moving and standing; and all employees and volunteers of the Provider; and shall be in such amount and with such carrier as shall be approved by Human Services, except that a self-insurance program acceptable to Human Services may be substituted for coverage required by this paragraph.

NON-EXCLUSIVE. This Agreement is not exclusive. Human Services reserves the right to select other contractors to provide services/deliverables similar or identical to those described in this agreement during the entire term of the agreement, which includes any extensions or renewals thereof.

NON-DISCRIMINATION. The Provider shall not deny, restrict access to, or provide inferior services to any client or potential client, or deny or restrict employment opportunities, including promotional opportunities, to any applicant or current employee, solely upon the basis of race, color, creed, gender, age, physical or mental disability, sexual orientation, gender identity, religion, or national origin.

The Provider shall establish, maintain, and periodically update an Equal Employment Opportunity Plan for recruitment, hiring, training, education, and promotion of members of the protected classes.

CONFLICT RESOLUTION. In the event that Human Services, in its monitoring of the Provider's performance under this Agreement, alleges a deficiency in direct services, or a violation of the terms of this Agreement, Human Services shall notify the Provider in writing of the alleged deficiency or violation and of Human Services' recommended corrective action. If the Provider does not agree with the recommendation, Human Services and the Provider shall meet within five (5) working days following issuance of such notice. At such meeting, it shall be determined whether appropriate corrective action can be negotiated, or whether there is cause for Human Services to give notice to the Provider of termination of this Agreement.

TERM AND TERMINATION. This Agreement shall be effective for the period January 1, 2019 through December 31, 2019, but may be earlier terminated at any time by either party upon ninety (90) days prior written notice. In addition to the initial term, there shall be four (4) individual one (1) year options to renew.

NOTICES. Notices under this agreement shall be in writing and delivered to the representatives of the party to receive notice as it appears below:

If to City of West Des Moines:

Name, Title
Organization
Address
City, ST Zip

If to DART:

Jamie Schug, Chief Financial Officer
Des Moines Area Regional Transit Authority
620 Cherry St.
Des Moines, IA 50309

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.
SIGNATURE PAGE ON THE FOLLOWING PAGE.]

CITY OF WEST DES MOINES:	**DART:**
By:_____	By:_____
Name:_____	Name:_____
Title:_____	Title:_____