

P.I.  
1-16-17

17-0048

**PARATRANSIT SERVICE AGREEMENT**

This Paratransit Service Agreement (AGREEMENT) is entered into by and between the County of Manitowoc (COUNTY) and the City of Manitowoc (CITY) acting under the authority of Wis. Stats. §§ 62.11(5) and 66.0301.

**1. JOINT PROGRAM.** COUNTY and CITY agree to cooperate under the terms of this AGREEMENT to provide special transportation services for elderly and disabled residents of rural areas in Manitowoc County (PARATRANSIT SERVICES) who meet the eligibility requirements for PARATRANSIT SERVICES under the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq. The joint program will be known as the Manitowoc Paratransit Program (MPP).

**2. TERM, RENEWAL, AND TERMINATION.** (a) The initial term of this AGREEMENT is for three years commencing at 12:01 a.m. on January 1, 2017 and ending at 12:01 a.m. on January 1, 2020.

(b) At the end of its initial term, this AGREEMENT will automatically renew for up to two successive one-year terms unless either party provides the other party with a notice of non-renewal at least 180 days before the end of the calendar year.

(c) Either party may, subject to the provisions contained in paragraph 12, terminate this AGREEMENT in the event of a default.

**3. CITY OBLIGATIONS.** (a) CITY agrees to provide or to contract with one or more third-party service providers (SERVICE PROVIDER) to provide quality PARATRANSIT SERVICES in Manitowoc County. If CITY elects to contract with a SERVICE PROVIDER, CITY agrees to provide COUNTY with a copy of any Request for Proposal (RFP) at the time the RFP is issued for review and comment. CITY agrees to provide COUNTY with a copy of any proposed contract or change to a contract with a SERVICE PROVIDER for review and comment. City agrees to include one COUNTY representative on the RFP Review Committee.

(b) CITY is responsible for MPP program definition, SERVICE PROVIDER contract negotiations, compliance checks, quality assurance, providing program information to citizens (including a notice of rights and information on the appeals process), certification of eligibility, customer satisfaction reviews, resolution of client complaints, attendance at all necessary meetings, and all other mutually agreed upon activities.

(c) CITY will determine eligibility for the MPP using guidelines established for the ADA and Wis. Stat. § 85.21 programs. CITY agrees to provide temporary certification of eligibility to any individual that COUNTY determines to be in immediate need of PARATRANSIT SERVICES, if that individual is eligible under Wis. Stat. § 85.21 programs.

(d) CITY agrees to include an estimate of MPP's cost in its annual budget. The parties believe that MPP may qualify as an eligible expense for federal and state subsidies or reimbursement and any imputed federal and state subsidies and reimbursements may be allocated

to MPP's cost based on the ratio of MPP's budgeted cost to CITY's total eligible transit costs under State and Federal Operating Assistance Contracts. CITY agrees that it is responsible for all payments due any SERVICE PROVIDER that are in excess of federal subsidies or reimbursement and funds received from COUNTY under this AGREEMENT.

**4. COUNTY OBLIGATIONS.** (a) COUNTY will provide and make available to City the 20% local match required to secure Wis. Stat. § 85.21 funding. COUNTY will transfer any state or federal funds received by COUNTY for transportation services under Wis. Stat. § 85.21 to CITY. The total county, state, and federal funding is expected to be approximately \$259,370 in 2017. CITY may use these funds to provide PARATRANSIT SERVICES or as CITY's local match for federal subsidies or reimbursements for the operation of MPP.

(b) COUNTY's Transportation Coordinating Committee will hear and decide appeals from eligibility decisions made by CITY if the appeal is from an individual who is applying for services under Wis. Stat. § 85.21

**5. ADMINISTRATIVE FEE AND ALLOCATION.** (a) CITY is authorized to retain an administrative fee from any federal subsidies or reimbursement that it receives as a result of the application of COUNTY funds. The maximum administrative fee that CITY may retain in each year is 10% of the Wis. Stat. § 85.21 Specialized Transportation Assistance Grant received by Manitowoc County and used to fund the MPP.

(b) Any federal subsidies or reimbursement remaining after CITY retains its administrative fee will be allocated between CITY and COUNTY based on the ratio of the funds required to provide the rides in each program.

**6. JOINT OBLIGATION.** If the cost of providing PARATRANSIT SERVICES under the ADA or Wis. Stat. § 85.21 exceeds the funding available under this AGREEMENT, COUNTY and CITY will establish mutually agreeable limits on PARATRANSIT SERVICES provided by the MPP that are consistent with any applicable funding source guidelines.

**7. RELATIONSHIP OF THE PARTIES.** CITY and COUNTY parties agree and understand that they shall perform their obligations under this AGREEMENT as independent contractors. Nothing in this AGREEMENT may be construed to make either party an agent, employee, employer, partner, or representative of the other party or to otherwise create any other association between the parties.

**8. CITY INSURANCE OBLIGATION.** (a) CITY agrees to obtain, pay for, and keep in force at all times during the term of this AGREEMENT public entity liability insurance covering personal injury and property damage. CITY agrees to maintain coverage with limits of \$1,000,000 for any number of persons injured or killed in any one occurrence. CITY agrees to maintain coverage with limits of at least \$100,000 for any property damage arising out of any one occurrence.

(b) CITY agrees to obtain, pay for, and keep in force at all times during the term of this AGREEMENT commercial automobile liability insurance with a combined single limit of \$1,000,000.

(c) CITY agrees to obtain, pay for, and keep in force at all times during the term of this AGREEMENT such workers compensation insurance as may be required by statute, employer's liability insurance of at least \$100,000 for each accident, and insurance covering directors and officers liability and providing errors and omissions coverage with limits of at least \$1,000,000 per occurrence.

(d) CITY is responsible for any and all premium and deductible payments.

(e) CITY agrees to provide COUNTY with certificates of insurance executed by CITY's insurance carrier within 10 days from the date of this AGREEMENT. CITY further agrees that it will provide COUNTY with evidence of renewal or of a new policy to take the place of the expiring policy prior to the expiration of any policy of insurance.

(f) CITY agrees to immediately notify COUNTY in the event that any policy required by this AGREEMENT is canceled or otherwise terminated at any time during the term of this AGREEMENT.

(g) If CITY fails to obtain, pay for, or keep in force the insurance coverage required by this AGREEMENT, COUNTY may, at its option and in its sole discretion, immediately terminate this AGREEMENT by providing written notice to CITY.

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**10. AUDIT AND RECORD DISCLOSURES.** (a) CITY agrees to maintain financial and accounting records, supporting documents, reports, and other materials pertinent to this AGREEMENT in accordance with Generally Accepted Accounting Principles. It shall also retain all other non-financial reports and records for a period of at least three years from the date of termination of this AGREEMENT.

(b) CITY agrees that it will allow representatives of the Aging and Disability Resource Center of the Lakeshore, Wisconsin Department of Transportation, and COUNTY, or their respective designees, to have access upon request to such records upon reasonable notice and during normal business hours as may be necessary to confirm compliance with this AGREEMENT.

(c) CITY agrees to submit a certified annual financial and compliance audit report to COUNTY upon request.

(d) If, after receiving the audit report, COUNTY determines that moneys are owed to it by CITY, COUNTY may deduct such sums from any funds approved for payment by COUNTY to CITY.

**11. NOTICE OF DEFAULT, OPPORTUNITY TO CURE, AND REMEDIES.**  
(a) If COUNTY determines that CITY has breached any of its obligations under this AGREEMENT, COUNTY may notify CITY of the default and require that CITY immediately take all necessary steps to comply with its obligations. Within five (5) working days of receiving notice of default, CITY will provide COUNTY with notice describing all steps taken or proposed to be taken to cure the default within a reasonable time. If CITY fails to respond to the notice of default or fails to take or arrange to take the steps necessary to perform its obligations within a reasonable time, COUNTY may take such action as it deems necessary to secure the performance of CITY OBLIGATIONS; to recover any costs incurred by COUNTY to secure the performance of CITY OBLIGATIONS; or terminate this AGREEMENT.

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to the notice of default or fails to take or arrange to take the steps necessary to perform its obligations within a reasonable time, CITY may take such action as it deems necessary to secure the performance of COUNTY OBLIGATIONS; to recover any costs incurred by CITY to secure the performance of COUNTY OBLIGATIONS; or terminate this AGREEMENT.

**12. INDEMNIFICATION.** (a) CITY agrees to defend, hold harmless, and indemnify COUNTY and its agents, boards, commissions, committees, departments, employees, officials, and officers for any and all liability of every kind and character, including liability arising from or for actions, causes of action, costs, charges, claims, damages, demands, expenses, fees, judgments, liens, losses, obligations, penalties, proceedings, reasonable attorney fees, settlements, and suits, for injury to persons, death, or damage to property (collectively "CLAIMS") arising in connection with or directly or indirectly out of this AGREEMENT. CITY agrees that its duty to defend, hold harmless, and indemnify COUNTY applies to all CLAIMS whether it is alleged that COUNTY was negligent and without regard to whether such claims are groundless, false, or fraudulent. In the event that COUNTY is determined to be negligent, CITY will be relieved of its duty to indemnify COUNTY only to the extent of COUNTY's negligence as determined by mutual agreement or by judgment entered by a court of competent jurisdiction. CITY agrees that its duty to defend, hold harmless and indemnify COUNTY will survive the termination of this AGREEMENT.

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(c) CITY shall secure an indemnification agreement with any third party provider, which states that the third party provider shall defend, hold harmless, and indemnify COUNTY to the same extent that CITY indemnifies COUNTY as provided in this AGREEMENT.

**13. NOTICE.** (a) Any notice given under this AGREEMENT must be in writing and may be delivered in person, by certified mail, or overnight delivery service as follows:

If to COUNTY:            Director, ADRC of the Lakeshore  
   4319 Expo Drive  
   P.O. Box 935  
   Manitowoc, WI 54221-0935

If to CITY: City Clerk  
City of Manitowoc  
900 Quay Street  
Manitowoc, WI 54220

(b) Notice in person is deemed given at the time of delivery. Notice by certified mail is deemed given when accepted for delivery by the U.S. Postal Service. Notice by delivery service is deemed given when accepted for delivery by the delivery service. The party giving notice has the burden of proving when notice was given.

(c) Either party may, in writing, designate another person or address where notice is to be given.

14. **AMENDMENT AND MODIFICATION.** This AGREEMENT may not be amended or modified except by a written agreement signed by a duly authorized representative of each party that expressly states that it is an amendment to this AGREEMENT.

15. **WAIVER.** No provision in this AGREEMENT may be waived unless the waiver is made in writing and is signed by a duly authorized representative of each party. The waiver of a breach of a provision does not constitute a waiver of the provision itself or of any subsequent breach of the same or any other provision contained in this AGREEMENT.

16. **ASSIGNMENT.** No party may assign, convey, license, sell, sublicense, or transfer this AGREEMENT or any duty, interest, or right under this AGREEMENT to any person, including a successor-in-interest, without the prior written consent of the other party.

17. **SEVERABILITY.** The provisions of this AGREEMENT are severable and if any provision is found to be invalid, unenforceable, or void by a court of competent jurisdiction, the remainder of the AGREEMENT will remain in full force and effect and will not be affected, impaired, or invalidated unless the effect of holding the provision invalid, unenforceable, or void defeats the entire purpose of the AGREEMENT.

18. **SIGNATURE AUTHORITY.** The persons signing this AGREEMENT warrant that they have been authorized to enter into this AGREEMENT by and on behalf of their respective parties and that they have full and complete authority to bind their respective parties by executing this AGREEMENT.

**IN WITNESS WHEREOF,** the parties, intending to be legally bound, have executed this AGREEMENT.

MANITOWOC COUNTY

MANITOWOC COUNTY

CITY OF MANITOWOC

By: \_\_\_\_\_  
Cathy Ley

By: \_\_\_\_\_  
Justin Nickels

ADRC Director

Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Lois Kiel  
County Clerk

By: \_\_\_\_\_  
Jennifer Hudon  
City Clerk

Date: \_\_\_\_\_

Date: \_\_\_\_\_