

Date April 9, 2012

APPROVAL OF SECOND AMENDMENT TO AMENDED AND RESTATED AGREEMENT FOR THE DES MOINES REGIONAL TRANSIT AUTHORITY

WHEREAS, by Roll Call No. 05-3055 of December 19, 2005, the City Council of the City of Des Moines approved the Amended and Restated Agreement for the Des Moines Regional Transit Authority and by Roll Call No. 10-559 of April 12, 2010, the City Council approved the First Amendment to such Agreement; and

WHEREAS, the Second Amendment to the Amended and Restated Agreement has been prepared, which Amendment addresses the formation of new DART transit district boundaries and the selection of DART Commission representatives from each transit district; and

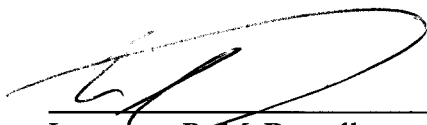
WHEREAS, the parties to the Amended and Restated Agreement consider it desirable to amend said Agreement by approval of the Second Amendment.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa:

1. That the Second Amendment to the Amended and Restated Agreement for the Des Moines Regional Transit Authority, on file in the Office of the City Clerk, is hereby approved.
2. That the Mayor is hereby authorized and directed to execute the Second Amendment to the Amended and Restated Agreement for the Des Moines Regional Transit Authority and the City Clerk is authorized to attest to his signature.
3. That the City Clerk is hereby directed to return the Second Amendment to DART for filing.

APPROVED AS TO FORM:

Moved by _____ to adopt.



 Lawrence R. McDowell
 Deputy City Attorney

(Council Communication No. 12-175)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED

 Mayor

 City Clerk

CITY ATTORNEY

Jeffrey D. Lester

DEPUTY CITY ATTORNEYSMark Godwin
Lawrence R. McDowell
Kathleen Vanderpool**ASSISTANT CITY ATTORNEYS**Angela T. Althoff
Roger K. Brown
Ann M. DiDonato
David A. Ferree
Glenna K. Frank
Gary D. Goudelock, Jr.Michael F. Kelley
Vicky L. Long Hill
Steven C. Lussier
Katharine J. Massier
Carol J. Moser
Douglas P. Philiph

April 4, 2012

HONORABLE MAYOR AND MEMBERS
OF THE DES MOINES CITY COUNCIL

RE: Second Amendment to DART 28E/28M Agreement

On the April 9, 2012 City Council agenda, the City Council will consider approval of the Second Amendment to the 28E/28M Agreement for DART. The Second Amendment addresses issues relating to the formation of new transit district boundaries and the selection of Commission representatives from each transit district. The City Manager and Legal Department have reviewed the Second Amendment and recommend its approval.

The primary revision in the Second Amendment provides that, after a legislative redistricting (following an official U.S. decennial census), the DART Service and Budget Review (SBR) Committee made up of member city managers will recommend to the DART Commission new transit district boundaries using state house districts or senate districts as a guide.¹ The proposed new transit districts will be voted on by the DART Commission with an affirmative vote of two-thirds of members required (six out of nine). The approval of the DART Commission will be final since there is no requirement that the new transit districts be approved by the governing bodies of the respective city or county members of DART.

The procedure for establishing new transit district boundaries set forth in the Second Amendment makes administrative sense and will not adversely affect continued representation of Des Moines on the DART Commission. The SBR Committee will make a professional recommendation using legislative districts as a guide. Following the recent redistricting, Des Moines will be well represented on the DART Commission with at least three representatives and potentially a fourth. Accordingly, it will be unlikely that following the 2020 census a recommendation on transit district boundaries adverse to Des Moines' interests could be approved. Use of a two-thirds Commission vote as opposed to a unanimous vote will avoid the potential problem of one Commission representative attempting to exert improper control.

¹ The recommended transit district boundaries following the 2010 census and legislative redistricting will provide for three districts with Des Moines representation (House Districts 36 and 41 – 100% Des Moines population; House Districts 34 and 35 – 100% Des Moines population; House Districts 31 and 32 – 84% Des Moines population, 16% Pleasant Hill population). Also, a fourth transit district could have Des Moines representation (House Districts 30 and 33 containing six cities and part of Des Moines - 54.4% Des Moines population, 45.6% other city population).

Another notable revision in the Second Amendment involves the selection of a Commission member and alternate from each transit district. If the Selection Committee consisting of the mayors from each city in the transit district cannot agree on a member or alternate by unanimous vote, the selection committee's selection will be resolved by use of a weighted vote based on population. The unanimous vote requirement will avoid the potential for a majority of small cities representing a small portion of population in a transit district from controlling the representation in the transit district.

The City Manager and Legal Department recommend approval of the Second Amendment to the DART 28E/28M Agreement. The Second Amendment must be approved by the city council of each member city and the Polk County Board of Supervisors.

Respectfully submitted,



Lawrence R. McDowell
Deputy City Attorney

cc: Richard Clark, City Manager
Jeff Lester, City Attorney