



NOTICE OF COMMISSION MEETING AND AGENDA
DES MOINES AREA REGIONAL TRANSIT AUTHORITY
DART MULTIMODAL ROOM, 620 CHERRY STREET
DECEMBER 6, 2016 – 12:00 PM

Page #

1. CALL TO ORDER
2. ROLL CALL AND ESTABLISHMENT OF QUORUM
3. NOTICE OF MEETING
4. APPROVAL OF DECEMBER 6, 2016 AGENDA
5. PUBLIC COMMENT (Limit 3 minutes)
6. CONSENT ITEMS
 - A. Commission Meeting Minutes – November 1, 2016
 - B. Des Moines MPO Representation
7. ACTION ITEMS
 - A. FY 2016 Audit
 - B. DART Mobile Ticketing Contract
 - C. October 2016 Financials
8. DISCUSSION ITEMS
 - A. Des Moines Public Schools Pilot Program
 - B. FY 2018 Budget Development
 - C. Performance Report – October 2016
9. DEPARTMENTAL MONTHLY REPORTS (By Exception)
 - A. Operations
 - B. Engagement
 - C. Procurement
 - D. Chief Executive Officer
10. FUTURE AGENDA ITEMS
11. COMMISSIONER ITEMS
12. OTHER – Communications
13. NEXT MEETING: Regular DART Meeting **Tuesday, January 10, 2017 – 12:00 p.m.**
14. ADJOURN

Language, visual, hearing and transportation services are available at meetings upon request. For requests, please call DART at 515.283.8100 at least 48 hours in advance of the meeting.



**DES MOINES AREA REGIONAL TRANSIT AUTHORITY
COMMISSION MEETING MINUTES
620 CHERRY STREET – DES MOINES, IOWA 50309
NOVEMBER 1, 2016**



ROLL CALL

Commissioners Present: Tom Gayman, Angela Connolly, Skip Moore, Chris Hensley, Steve Peterson, Skip Conkling, Steve Van Oort, and Gaye Johnson (arrived at 12:05 p.m.)

Commissioners Absent: Joann Muldoon

CALL TO ORDER

The meeting was called to order by Chair, Steve Van Oort at 12:00 pm. Roll call was taken and a quorum was present.

Notice of the meeting was duly published.

APPROVAL OF AGENDA

Chair, Steve Van Oort let us know that 9A – Weekend Service Performance under Discussion Items will be removed from the agenda. Commissioner Van Oort requested a motion to approve the agenda as presented.

It was moved by Ms. Hensley and seconded by Mr. Peterson to approve the November 1, 2016 Agenda as presented. The motion carried unanimously.

TRANSIT RIDERS ADVISORY COMMITTEE (TRAC) UPDATE

Mark Hutchens, Vice Chair, provided an update on the September meeting. DART IT Manager Todd Struthers talked about the mobile ticketing project and the Wi-Fi pilot project. DART Marketing & Communication Manger Erin Hockman talked about the FY2017 Marketing & Communications Plan, gave an overview of the Engagement team, and presented the FY2017 department strategy.

PUBLIC COMMENT

No comments.

CONSENT ITEMS

7A – Commission Meeting Minutes – October 4, 2016

7B – FY2021 Surface Transportation Block Grant (STBG)

This grant would authorize submission of an application to the DMAMPO for federal STBG funds.

It was moved by Mr. Peterson and seconded by Ms. Hensley to approve the consent items as presented. The motion carried unanimously.

**DES MOINES AREA REGIONAL TRANSIT AUTHORITY
COMMISSION MEETING MINUTES – NOVEMBER 1, 2016**



ACTION ITEMS

8A – Sale of Trolley Buses

Tim Sanderson, Chief Operating Officer, presented an action item to authorize staff to offer four (4) 2008 Specialty Vehicles Trolley buses for sale prior to full depreciation. These buses currently provide service for the D-Line and have significant deficiencies from an operating perspective. They lack reliability and have a high cost of operation.

It was moved by Mr. Peterson and seconded by Ms. Hensley to approve sale of four (4) 2008 Trolley buses.

8B – DART Property Tax Formula Change

Jamie Schug, Chief Financial Officer, presented the DART Formula Tax Formula Change. The DART Board of Commissioners approved plans to freeze the levy rates for several smaller member communities at FY17 levels for the next three fiscal years. The communities who would be included in the budget rate freeze are Alleman, Bondurant, Carlisle, Elkhart, Granger, Grimes, Mitchellville, Polk City, unincorporated Polk County and Runnells. Future levy rates for other cities will be considered as part of the FY18 budget process.

It was moved by Mr. Conkling and seconded by Ms. Hensley to approve plans to freeze the levy rates for several smaller member communities at FY17 for the next three fiscal years.

8C – September 2016 Financials

Ms. Amber Dakan, Finance Manager, gave a presentation on the September FY 2017 Financials. Fixed Route Operating Revenue is 3.61% above budget levels. Timing differences related to School Funding revenue has evened out as well as the addition of State Fair Revenue accounting for the change in performance levels. Fixed Route Non-Operating Revenue is 4.58% below budget levels year to date due to timing of Municipal Operating Assistance as well as grant projects. Paratransit Operating Revenue is 18.09% lower than budget expectations. Contracted trips are showing below budgeted levels. Paratransit Non-Operating Revenue is 0.75% lower than budget. Rideshare Revenues were 20.70% below budgeted levels for September. Rideshare revenue continues to cover expenses.

It was moved by Ms. Hensley and seconded by Mr. Peterson that the Commission approve the September 2016 Financials. The motion carried unanimously.

DISCUSSION ITEMS

9A – Weekend Service Performance

This was removed from the agenda.

9B – FY 2018 Budget Calendar

DART Chief Financial Officer Jamie Schug updated the Commission on the budget process for FY2018. The process begins this month and includes several meetings and a public hearing. The budget needs to be finalized by March 15, 2017.

**DES MOINES AREA REGIONAL TRANSIT AUTHORITY
COMMISSION MEETING MINUTES – NOVEMBER 1, 2016**



9C – Quarterly Investment Report

Mr. Dan Zomermaand, from Miles Capital presented the investment performance from July 1, 2016 – September 30, 2016. He reviewed 3rd quarter results with the commissioners.

9D– Quarterly Safety Report

Pat Daly, Safety and Training Manager, presented the 1st Quarter of FY2017 Safety Report. He reviewed the accidents by route, accidents by type, and accidents by chargeability code. We are now tracking everything so numbers may seem high until we have a year of data to review.

9E– Performance Report – September 2016

Elizabeth Presutti, Chief Executive Officer, reviewed the Performance Report for September 2016. There was a significant reduction in complaints this fiscal year versus last year at this time. There was nearly a 50% decrease in the numbers. Ridership is down by 3%, but are seeing growth in Route 5, Route 93, and Route 94.

MONTHLY REPORTS

10A – Operations

Tim Sanderson, Chief Operating Officer, shared that some of the new buses have started to arrive. DART has been invited by the FTA to participate in an audit of the Safety Management System. They will be here for a few days starting November 14 and then will provide their results to us. We also had a similar audit with TSA at the beginning of October and looked at all the security measures we have.

10B – Engagement

Amanda Wanke, Chief Engagement and Communications Officer, thanked everyone who made it to the Art Bus Unveiling on October 14. She shared that the marketing team received the Public Relations Society of America (PRSA) Prime Award. The marketing team is now focused on the November Service Change and the Broadlawns/Pleasant Hill Service Change. DART is also working with TPI in Newton, Iowa, to discuss a partnership that may result in up to 18 vans on the road. DART is now accepting applications for DART's donation of three retired RideShare vans to area nonprofit organizations. The annual donation program began in 2014, and assists organizations to provide transportation to individuals who cannot access public transportation.

10C - Procurement

No update.

10D - Chief Executive Officer

Elizabeth Presutti, Chief Executive Officer, gave each one of the commissioners a copy of an email from Katecho, Inc. They are requesting service for their employees. Elizabeth participated in the Westside Chamber Econ Dev Tour and the Polk County Bus Tour. She also shared that DART has been talking with Des Moines Public Schools and United Way to help with transportation for all students versus students that get transportation assistance.

DES MOINES AREA REGIONAL TRANSIT AUTHORITY
COMMISSION MEETING MINUTES – NOVEMBER 1, 2016



FUTURE AGENDA ITEMS

No update.

COMMISSIONER ITEMS

Commissioner Van Oort discussed all the recent public meetings that were recently held regarding the formula.

OTHER – COMMUNICATIONS

No update.

FUTURE 2017 MEETING DATES:

January 10, February 7, March 7, April 4, May 2, June 6, July 11, August 1, September 1, October 3, November 7 and December 5

A motion by Mr. Peterson and second by Mr. Gayman to adjourn the regular Commission Meeting was made at 12:55 pm. The motion carried unanimously.

Chair

Clerk

Date

*****OFFICIAL NOTICE OF THE NEXT DART COMMISSION MEETING DATE IS HEREBY PUBLISHED:**

The next regular DART monthly Commission Meeting has been scheduled for December 6, 2016 at 12:00 p.m. in the DART Multimodal Room at 620 Cherry Street, Des Moines, Iowa.



CONSENT ITEM



6B:	Des Moines Area MPO and CIRTPA Staff Representation for DART
Action:	Appoint DART Staff representatives to serve at certain MPO and CIRTPA meetings

Staff Resource: *Gina Good, Executive Coordinator*

Background:

- The Des Moines Area Metropolitan Planning Organization (MPO) and the Central Iowa Regional Transportation Planning Alliance (CIRTPA) require annual approval of staff representatives serving as:

MPO

- A voting member to the Policy Committee.
- A voting member to the Transportation/Technical Committee.

CIRTPA

- An advisory member on the Policy Committee
- A voting member on the Technical Committee

Recommendation:

- Appoint the following DART staff members to serve in 2017 on the MPO and CIRTPA Committees:

MPO:

- Voting Member on Policy Committee
 Representative: Elizabeth Presutti, General Manager
 Alternate 1: Jamie Schug, Chief Financial Officer
 Alternate 2: Amanda Wanke, Chief Engagement and Communications Officer
- Voting Member on Technical Committee
 Voting Member: DART Planning Manager
 Alternate 1: Amanda Wanke, Chief Engagement and Communications Officer
 Alternate 2: DART Transit Planner

CIRTPA:

- Advisory Member on Policy Committee
 Representative: DART Planning Manager
 Alternate: DART Transit Planner
- Voting Member on Technical Committee
 Voting Member: DART Planning Manager
 Alternate: DART Transit Planner



ACTION ITEM



7A: FY 2016 Audited Financial Statements

Action: Accept the FY 2016 Audited Financial Statements

Staff Resource: Jamie Schug, Chief Financial Officer

Background:

- Jodi Dobson, Partner with Baker Tilly Virchow Krause, LLP, DART's auditor, will summarize the findings and recommendations as part of their completed FY 2016 Annual Audit.
- The 28M Agreement creating the Regional Transit Authority requires such an annual audit be conducted per Iowa State Law. Additionally, the Federal Transit Administration requires such an audit.

Recommendation:

- Accept the FY 2016 Audited Financial Statements.



ACTION ITEM



7B:	Mobile Ticketing Software and Implementation Contract
Action:	Approve a Contract with Bytemark, Inc. for the Mobile Ticketing and Back Office Software at a cost Not to Exceed \$590,000.

Staff Resource: *Mike Tiedens, Procurement Manager*

Background:

- DART's current fare collection system is over 25 years old. The age of the system is causing maintenance problems on vehicles as well as issues at the back office where the obsolete data collection system has failed in the past.
- The main scope of the purchase is to procure a state-of-the-art hosted mobile ticketing system to augment the current flash pass and magnetic based fare products as well as introduce a new day pass option. The new system must facilitate and support DART's Fare Policy and requirements for functionality and security.
- Objectives of the new Mobile Ticketing System include:
 - Enable the adoption of emerging fare media technologies and automate the purchase of fare media.
 - Provide an enhanced user experience for DART customers.
 - Eliminate paper transfers and transfer cutters.
 - Accommodate DART's fare policy objectives.
 - Improve data collection and reporting.

Procurement:

- DART conducted a Request for Proposals for the Mobile Ticketing Software project. The RFP was published on June 17, 2016 and proposals were due on July 22, 2016.
- Five (5) proposals were received, but one was after the deadline so it was deemed non-responsive. The 4 responsive proposers were:
 - Bytemark, Inc.
 - Genfare
 - PassportParking, Inc.
 - Token Transit, Inc.
- DART conducted on-site interviews with all four proposers on August 10, 2016.
- Each vendor was ranked amongst multiple criteria with each score being weighted, based on the criteria set forth in the RFP. The aggregated scores represent a total of the proposers individual scores across all of the criteria identified (the lower ranking is more favorable).
- Bytemark, Inc. was the winning proposer and the scoring is as follows:



ACTION ITEM

8B: Mobile Ticketing Software and Implementation Contract

1. Bytemark, Inc. = 40.5
2. PassportParking, Inc. = 80.4
3. Genfare = 120.3
4. Token Transit, Inc. = 154.8

Cost:

- Total Not to Exceed Cost = \$590,000
- Software, System Implementation, Training = \$223,200
- Total cost for Hosting, Warranty and Maintenance (for Years 2 – 4) = \$183,600 (\$61,200 annual)
- Transaction Fee Estimate = \$87,500 for 4 years
 - Transaction Fee is calculated as 2% of mobile ticket sales
- Bytemark's proposal also included pricing for the following options:
 - Option 1: Validation System: \$24,000 (one time)
 - Option 2: Operating Cost for the Validation System: \$44,100 (\$14,700 annual X 3 years)

Funding:

- Funding is from the previously awarded farebox grant (5339), the local match, and operating funds.

Contract

- The final negotiated Contract with Bytemark, Inc. is attached.
- Key Contract Clauses (paraphrased):
 - Termination – DART reserves the right to terminate the Agreement for convenience or for cause (30 calendar days written notice is required)
 - Performance Schedule & Milestones – Bytemark has proposed a 190 day project schedule with the project kick off to be scheduled in January 2017; there are 6 total payment milestones tied to the project which must be completed and accepted before payment is made.
 - Disputes/Non-Performance – In the event of a dispute or non-performance, DART can file a claim for damages or withhold payments.
 - Training – Contractor will provide training to DART staff; DART staff will be provided the training plan and must approve it at least 6 weeks prior to the start of training.
 - Warranty – Contractor warrants that the software is free from defects in design, materials and workmanship, and that it functions properly and in conformance with the requirements of the Agreement.
 - Indemnification – Contractor and DART agree to mutually indemnify and hold each other harmless from any actions, omissions, damages, etc.



ACTION ITEM

8B: Mobile Ticketing Software and Implementation Contract

- o Limitation of Liability – If Contractor is found to be liable to DART for any damage or loss that arises with DART use of the platform, Contractor liability shall be limited to \$750,000 (notwithstanding other provisions of the Agreement).

Recommendation:

- The approval of a Contract with Bytemark, Inc. for the Mobile Ticketing Software for the amount not to exceed \$590,000. This amount is the total proposal cost for the software, installation, hosting, transaction fees, warranty, options and maintenance for 4 years.

CONTRACT BETWEEN
DES MOINES AREA REGIONAL TRANSIT AUTHORITY
AND
BYTEMARK, INC.
FOR
MOBILE TICKETING PLATFORM

THIS AGREEMENT ("Agreement") is entered into this ____ day of December, 2016 ("Effective Date") by and between Bytemark, Inc., a Delaware corporation, with a principle place of business at 268 West 44th Street, 3rd Floor, New York, NY 10036 ("Contractor") and Des Moines Area Regional Transit Authority, an entity organized under Chapter 28E of the Iowa Code, having an office at 620 Cherry Street, Des Moines, Iowa 50309, ("DART"). Collectively, Contractor and DART are hereinafter referred to as "Party" or "Parties".

WHEREAS, DART and Contractor desire to enter into an agreement setting forth terms and conditions for the provision, licensing, implementation, and support of a mobile ticketing platform (the "Platform"), as more specifically set forth below;

NOW, THEREFORE, in consideration of the following mutual covenants and conditions, including the above whereas provisions contained herein, which are made part of this Agreement, the parties hereto covenant and agree with each other as follows:

ARTICLE 1 SCOPE OF AGREEMENT AND TERMS

- 1.1. SCOPE OF SERVICES.** Contractor, at the direction of DART, shall provide to DART, services in conformance with the general scope of services set forth in the Statement of Work attached hereto as Exhibit A (the "Work"). DART will perform its contractual responsibilities in accordance with this Agreement. Whenever it is feasible to do so, Work performed under this Agreement shall be performed at DART's offices located at 620 Cherry Street, Des Moines, IA 50309.

- 1.2. AGREEMENT CHANGES.** Either Party may request changes in writing within the general scope of this Agreement. Oral changes are not permitted. If a requested, approved change causes an increase or decrease in the cost or time required to perform this Agreement, the Parties will agree to an equitable adjustment of the Contract Price (defined below), Performance Schedule (defined below), or both and will reflect the adjustment in a written change order signed by both Parties. Contractor shall not be entitled to any additional compensation for additional Work or goods or otherwise arising out of a change order that is not in writing or signed by DART prior to the performance of the Work or the delivery of the goods. Neither Party is obligated to perform requested changes unless both Parties execute a written change order. Contractor will not be compensated for any Work performed or goods delivered prior to the execution of written notification and acknowledgement by both Parties.

- 1.3. TERM OF AGREEMENT.** Unless terminated in accordance with other provisions of this Agreement or extended by mutual agreement of the Parties, the term of this Agreement begins on the Effective Date and continues until **the later of:** (i) the date of expiration of the Support and



Maintenance of Software and Solution 4th Year as set forth on Exhibit C (Price Sheet), or (ii) the date of the expiration of the final Service Credit, as set forth in Exhibit A (Statement of Work), Schedule I (Support and Maintenance Agreement).

- 1.4. CONTRACTOR SOFTWARE AND LICENSE.** Any Contractor software (the “Software”), including subsequent releases, is licensed to DART solely in accordance with the software license attached hereto as Exhibit E (the “Software License”). DART hereby accepts and agrees to abide by all of the terms and restrictions of the Software License.
- 1.5. NON-CONTRACTOR SOFTWARE.** Any non-Contractor software is licensed to DART in accordance with the standard license, terms, and restrictions of the copyright owner on the Effective Date unless the copyright owner has granted to Contractor the right to sublicense the non-Contractor software pursuant to a software license agreement, in which case it applies and Contractor will have all of licensor’s rights and protections under such software license agreement. Contractor makes no representations or warranties of any kind regarding non-Contractor software. Non-Contractor software may include open source software. All open source software is licensed to DART in accordance with, and DART agrees to abide by, the provisions of the standard license of the copyright owner and not the software license sections of this Agreement.
- 1.6. SUBSTITUTIONS.** At no additional cost to DART, Contractor may substitute any equipment, software, or services to be provided by Contractor, if the substitute meets or exceeds the specifications and is of equivalent or better quality to DART. Any substitution will be reflected in a change order and must have DART’s final approval before being substituted.
- 1.7. INTERCHANGEABILITY.** All units and components procured hereunder, whether from suppliers or manufactured by Contractor shall be duplicated in design, manufacture, and installation to assure interchangeability among equipment of the same make and model. Interchangeability shall extend to individual components as well as locations within the equipment, with the exception of installation components specific to a vehicle type.
- 1.8. ENTIRE AGREEMENT AND ORDER OF PRECEDENCE.** This Agreement contains the entire understanding of the Parties and supersedes all previous verbal and written agreements; there are no other agreements, representations or warranties not set forth herein. In the event any portion of this Agreement shall be declared by any court of competent jurisdiction to be invalid or unenforceable, then the Parties agree that such invalid or unenforceable portion shall be severable and the invalid or unenforceable portion shall be treated as though that portion had never been part of this Agreement. The following order of precedence shall apply to all documents, in descending order of precedence:
 - (A) The third-party contracting requirements in Federal Transit Administration (“FTA”) Circular 4220.1F as well as the applicable “Federally Required and Other Model Clauses” which are available on the FTA web site at http://www.fta.dot.gov/12831_6195.html;
 - (B) Change orders;
 - (C) This Agreement (including all exhibits attached hereto);
 - (D) Contractor’s Proposal dated July 21, 2016 (“Contractor’s Proposal”), a copy of which is attached hereto as Exhibit G; and
 - (E) DART’s Request for Proposal dated June 17, 2016, a copy of which is attached hereto as Exhibit H (“DART’s RFP”).



1.9. EXHIBITS: This Agreement incorporates by references each of the following Exhibits:

- (A) Exhibit A: Statement of Work
Schedule 1: Support and Maintenance Agreement
- (B) Exhibit B: Performance Schedule
- (C) Exhibit C: Price Sheet
- (D) Exhibit D: Payment Milestones
- (E) Exhibit E: Software License
- (F) Exhibit F: DART's Privacy and Security Provisions
- (G) Exhibit G: Contractor's Proposal
- (H) Exhibit H: DART's RFP

1.10. SCOPE OF THIS AGREEMENT. Effective from the date of the Agreement, the terms and conditions contained within this Agreement shall apply to any and all purchases by DART from Contractor through the term of this Agreement based upon the Statement of Work. Any terms and conditions included with documentation between the Parties including, but not limited to, purchase orders and Contractor's order acknowledgements are for administrative purposes only and shall not amend or alter the terms of this Agreement. The terms and conditions contained in this Agreement shall not be modified unless it is expressly agreed in writing and executed by DART and Contractor.

ARTICLE 2 PERFORMANCE SCHEDULE.

PERFORMANCE SCHEDULE. The Parties will perform their respective responsibilities in accordance with the performance schedule attached hereto as Exhibit B (the "Performance Schedule").

ARTICLE 3 CONTRACT PRICE, PAYMENT AND INVOICING

CONTRACT PRICE. DART agrees to pay Contractor the fees (the "Contract Price") as set forth in the price sheet attached hereto as Exhibit C (the "Price Sheet"), for the Work provided hereunder. DART agrees to pay Contractor the Contract Price in accordance with the payment milestones as set forth in Exhibit D attached here (the "Payment Milestones").

3.1. PRICING AND PAYMENT TERMS.

(A) **Milestone Payments:** Contractor shall submit an invoice once a fully signed approval is generated by DART and signed by both Parties indicating that a payment milestone has been achieved. Charges rendered by Contractor to DART are to be due and payable on terms of net thirty (30) days after proper and complete billing is received by DART. If DART determines that an invoice does not comply with the terms of this Agreement, DART shall notify Contractor in writing, via certified mail, within ten (10) business days of receipt of invoice. Contractor shall reissue an invoice for the undisputed portion of the submitted invoice within the payment terms stated herein.

(B) **Ongoing Cost Items:** Contractor shall send a summary transaction report to DART each day.



Contractor will invoice DART by the 1st day of every month for the hosting, maintenance, warranty and support fees.

- (C) **Invoice Disputes:** In the event of a good faith dispute as to the calculation of an invoice or other remuneration, DART shall immediately give written notice to Contractor stating the details of any such dispute and shall promptly pay any undisputed amount. The acceptance by Contractor of such partial payment shall not constitute a waiver of payment in full of the disputed amount. The Parties agree to use good faith to resolve any disputes regarding total number of tickets sold and transactional amounts subject to this Agreement. Contractor will not suspend access or any aspect of the Platform during any dispute occurring prior to the end of the term of this Agreement. Notwithstanding anything to the contrary, Contractor shall be entitled to suspend services for a violation of the conditions set forth in Article 3(a), (b), or (c) of the Software License, provided that Contractor has given DART written notice of the aforementioned violations of conditions set forth in Article 3(a), (b), or (c) of the Software License and given DART ten days to cure such a violation(s).
- (D) **Payment Processing:** Transactions completed through the Platform will be processed by a mutually agreed upon payment processor or processors.
- (E) **Taxes:** Except as otherwise specified, the prices stated do not include any state, Federal, or local sales, use or excise taxes, duties, or brokerage fees now in force or which may be enacted in the future, and may be applicable to the sale, delivery or use of goods. As of the date of this Agreement, DART is tax exempt. If requested by Contractor, DART shall provide a copy of the tax exemption certificate to Contractor within ten (10) calendar days of signing this Agreement. In the event DART loses the tax exempt status, DART expressly agrees to pay to Contractor, in addition to the prices stated, the amount of any such taxes which may be imposed upon or payable by Contractor. It is agreed that title to any product described herein shall pass to DART at the time and place at which Contractor completes performance with reference to the delivery of the product.
- (F) **Audit:** DART may, at any time, conduct an audit of any and/or all records kept by Contractor for this project. Any overpayment uncovered in such an audit may be charged against Contractor's future invoices.

3.2. SUBCONTRACTOR PAYMENT. Contractor agrees to pay each subcontractor under this Agreement for satisfactory performance of its contract no later than ten (10) business days from the receipt of each payment Contractor receives from DART. Contractor agrees further to return any retainage payments to each subcontractor within ten (10) business days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above-referenced timeframe may occur only for good cause following written approval of DART. This clause applies to both DBE and non-DBE subcontractors.

- (A) If Contractor fails to pay a subcontractor within ten (10) business days, Contractor must notify DART and the affected subcontractor, in writing, of its intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.
- (B) Contractor is obligated to pay interest to any subcontractor on all amounts owed by



Contractor that remain unpaid after ten (10) business days following receipt by Contractor of payment from DART for Work performed by a subcontractor under that contract, except for amounts withheld as allowed in subsection (A) of this section. Unless otherwise provided under the terms of the contract, interest shall accrue at the rate of one percent (1%) per month, except for the amounts withheld.

(C) Should either Contractor or subcontractor advise DART of a payment issue involving a DBE contractor, DART's DBE liaison officer shall be notified to investigate, as appropriate.

3.3. INVOICE ADDRESS. All invoices will be submitted to DART at the following address:

DART
Attn: Accounts Payable
620 Cherry St.
Des Moines, Iowa 50309

Any equipment will be shipped to DART at the following address:

DART
1100 DART Way
Des Moines, Iowa 50309

DART may change this information by giving written notice to Contractor.

ARTICLE 4 SITES AND SITE CONDITIONS

4.1. SITE CONDITIONS. DART will ensure that all worksites it provides will be safe, secure, and in compliance with all applicable industry and OSHA standards. To the extent applicable, DART will ensure that these worksites have adequate: physical space; air conditioning and other environmental conditions; electrical power outlets, distribution and equipment; and telephone or other communication lines (including modem access and adequate interfacing networking capabilities), all for the installation, use and maintenance of the Platform. Before installing the equipment or software, Contractor will inspect the worksite(s) and advise DART of any apparent deficiencies or non-conformities with the requirements of this Section. If Contractor does not notify DART within fifteen (15) business days of its inspection of any deficiencies or non-conformities of a specific site, Contractor will be deemed to have accepted that site and the worksite(s) will be deemed to meet all requirements of this Section. However, if after fifteen (15) business days, Contractor finds the site to be deficient in any way, Contractor will immediately notify DART and DART shall remedy the situation in an expedited manner. Contractor shall be granted an extension of time equal to the number of days in that DART used to remedy the deficiency. Contractor will follow DART's safety regulations while on the property.

4.2. SITE ISSUES. If a Party determines that the sites identified in the DART RFP are no longer available or desired, or if subsurface, structural, adverse environmental or latent conditions at any site differ from those indicated in the Statement of Work, the Parties will promptly investigate the conditions and will select replacement sites or adjust the installation plans and specifications as necessary. If change in sites or adjustment to the installation plans and specifications causes a



change in the cost or time to perform, the Parties will equitably amend the Contract Price, Price Sheet, and/or Performance Schedule, by a change order in accordance with Section 1.2 of this Agreement.

ARTICLE 5 TRAINING

- 5.1. TRAINING.** Contractor shall develop a training plan to be provided to DART at least six (6) weeks in advance of the start of training. The training plan must be approved by DART prior to the start of training. Contractor shall otherwise provide training to DART as described in the DART RFP.
- 5.2. MANUALS.** Contractor shall provide a document to DART at the completion of each deployment phase, which shall include: (1) all reference and user manuals for the Platform components, including those components supplied by third parties; (2) all warranties documentation, including that for components supplied by third parties; (3) a diagram indicating the as-built interconnections between components; and (4) the version number of all software, including that supplied by third parties. Each such document shall be provided in Microsoft and Adobe PDF formats on CD or DVD with permission to freely reproduce copies. In addition, Contractor shall provide manuals as specified in the DART RFP, including, but not limited to, maintenance manuals, user manuals, vehicle operator manuals and systems manuals.

ARTICLE 6 SYSTEM ACCEPTANCE

- 6.1. COMMENCEMENT OF ACCEPTANCE TESTING.** Contractor will provide an acceptance test procedures document (“Acceptance Test Procedures”) to DART at least three (3) weeks prior to the commencement of any acceptance testing set forth in this Agreement. Contractor shall be required to provide written notice to DART at least five (5) business days in advance of any acceptance testing, indicating the specific tests to be completed, as well as the date, time and location of the testing. If DART’s representatives cannot be present or if other circumstances prevent acceptance testing from taking place, Contractor shall reschedule the acceptance testing. Any acceptance testing conducted pursuant to this Agreement will occur only in accordance with the Acceptance Test Procedures.
- 6.2. SYSTEM ACCEPTANCE TEST.** The System Acceptance Test (“SAT”) will occur upon successful completion of the Vendor Acceptance Test (“VAT”). The Acceptance Test Procedures for the SAT shall be created by Contractor, with the approval of DART and will clearly address: (1) how each testable specification requirement will be demonstrated, including the method for performing the test; (2) the results that will constitute success for each test; (3) responsibilities of both Parties’ representatives during each test; and (4) a cross-reference to which contract requirements are being addressed for each test procedure. The SAT is performed in a test environment to verify the functionality of the Platform as set forth in the Statement of Work, including interfaces with software provided by third parties and/or subcontractors. In the event it is not feasible to test certain, defined functions in the operational environment, reasonable industry standard evidence shall be provided to DART demonstrating the software functionality conforms to the Statement of Work. DART shall be required to provide adequate resources to conduct and complete the SAT. Approval and/or acceptance of SAT shall not be unreasonably withheld, conditioned or delayed. Should any deficiencies, punch list items, or variances (“Variances”) be found during SAT, the Parties shall agree in writing to a list of all observed Variances within ten (10) business days of



completing the SAT. Contractor shall be required to correct the listed Variances during the first three (3) months of warranty. Corrections of the Variances shall be acknowledged by both Parties, in writing, as they are corrected or as otherwise resolved by the Parties. Acknowledgement of the corrections to the Variances shall not be unreasonably withheld, conditioned, or delayed. The results of each distinct testing stage must be approved before DART will grant Platform Acceptance (as hereinafter defined). Platform Acceptance shall be defined as the satisfactory completion of the SAT, as determined by DART. The initial Contractor support and maintenance period (the "First Support Period") shall commence upon satisfactory completion of the SAT. If DART fails to provide Contractor a list of Variances as defined above, Platform Acceptance shall be deemed to have commenced upon completion of the SAT without further action required by Contractor during the First Support Period.

ARTICLE 7 REPRESENTATIONS AND WARRANTIES

- 7.1. SYSTEM FUNCTIONALITY.** Contractor represents and warrants that the Platform will perform in accordance with the specifications set forth in the Statement of Work.
- 7.2. GENERAL WARRANTY.** Contractor warrants that it has reviewed and evaluated all information furnished by DART. Contractor warrants that the equipment and Software, including the initial supply of spare components and any spare components purchased at DART's option, (1) are free from defects in design, material and workmanship, and shall remain in good working order, and (2) function properly and in conformity with this Agreement. In addition, Contractor shall warrant that the documentation provided completely and accurately reflects the operation and maintenance of the equipment and Software, and provide DART with all information necessary to maintain the Platform. During the term of this Agreement, Contractor shall, at no cost to DART, furnish such materials, labor, equipment, software, documentation, services and incidentals as are necessary to maintain the Platform in accordance with the Statement of Work. Contractor shall provide any proprietary Software fixes or updates at no cost to DART.
- 7.3. SOFTWARE WARRANTY.** During the term of this Agreement, Contractor warrants that (i) Contractor will provide the Platform in a professional and diligent manner consistent with industry standards reasonably applicable to the performance thereof; (ii) the Software will be free from defects; (iii) the Work will not infringe any copyright, valid and issued U.S. patent or misappropriate any trade secret of any third party; and (iv) the Platform complies with all Americans with Disability Act standards and relevant Payment Card Industry standards, and that the Platform will remain in compliance during the term of this Agreement.

ARTICLE 8 DELAYS

- 8.1. FORCE MAJEURE.** Neither Party will be liable for its non-performance or delayed performance if caused by a Force Majeure Event (as hereinafter defined). A "Force Majeure Event" shall be defined as a condition beyond the performing Party's control including, but not limited to acts of God, governmental restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the Party whose performance is affected. A Party that becomes aware of a Force Majeure Event that will significantly delay performance will notify the other Party promptly in writing (but in no event later than ten (10) days) after it discovers the scope of the delay. If a Force Majeure Event



occurs, the Parties will execute a change order to extend the Performance Schedule for a time period that is reasonable under the circumstances. Contractor shall not be entitled to any claim for damages on account of hindrances or delays for any Force Majeure Event whatsoever. This includes, but is not limited to: any actions which result in delays of scheduling, changes in the scope of Work or increases in the cost of performance of the Work.

- 8.2. PERFORMANCE SCHEDULE DELAYS CAUSED BY DART.** If DART delays the Performance Schedule, it will make appropriate payments according to any invoices submitted by Contractor as if no delay occurred; and the Parties will execute a change order to extend the Performance Schedule and, if requested and approved by DART, compensate Contractor for all reasonable charges incurred because of the delay. Delay charges may include costs incurred by Contractor or its subcontractors for additional freight, warehousing and handling of equipment; extension of the warranties; travel; suspending and re-mobilizing the Work; additional engineering, project management, standby time calculated at then current rates; and preparing and implementing an alternative implementation plan. DART shall not deny Contractor's right to an adjustment of time of performance and price based solely on Contractor's failure to timely assert its rights under this provision.
- 8.3. NOTIFICATION OF DELAY BY CONTRACTOR.** Contractor will verbally and via email notify DART's project manager as soon as Contractor has knowledge that an event has occurred which will substantially delay completion of the project. Within five (5) business days, Contractor will confirm such notice in writing, furnishing as much detail as is available and, if applicable, Contractor shall suggest an extension of time for completion. DART will review the letter and suggested extension. DART shall respond to Contractor within ten (10) calendar days in writing. DART may withhold amounts necessary to cover any claims of which it has been notified of subcontractors, materialmen, or suppliers from final payment to Contractor. Both Parties shall keep in contact with each other as to the status of such delay and shall agree in writing to a restart date when the facts or matters giving rise to such delay have concluded and further delays are not foreseen.
- 8.4. NOTIFICATION OF DELAY BY DART.** DART will verbally and via email notify Contractor's project manager as soon as DART has knowledge that an event has occurred which will substantially delay completion of the project. Within five (5) business days, DART will confirm such notice in writing, furnishing as much detail as is available and, if applicable, DART shall suggest an extension of time for completion. Contractor will review the letter and suggested extension. Contractor shall respond to DART within ten (10) calendar days in writing. Both Parties shall keep in contact with each other as to the status of such delay and shall agree in writing to a restart date when the facts or matters giving rise to such delay have concluded and further delays are not foreseen.
- 8.5. UNAVOIDABLE DELAYS.** If delivery of items is unavoidably delayed, the Performance Schedule shall be extended an equivalent number of days as the unavoidable delay. A delay is unavoidable only if it was not reasonably expected to occur in connection with suppliers or their agents, and was substantial, and in fact, caused Contractor to miss delivery dates.

ARTICLE 9 DISPUTES

- 9.1. DISPUTES.** The Parties shall attempt to resolve any disputes arising in the performance of this



Agreement promptly by negotiation in good faith between executives who have the authority to settle the dispute. Either Party shall give the other Party written notice of any dispute not resolved in the ordinary course of business. Within seven (7) business days after delivery of such notice, the Party receiving notice shall submit to the other a written response thereto. All reasonable requests for information made by one Party to any other shall be honored in a timely fashion. All negotiations conducted pursuant to this Section (and any of the Parties' submissions in contemplation hereof) shall be kept confidential by the Parties and shall be treated by the Parties and their representatives as compromise and settlement negotiations under the Federal Rules of Evidence and any similar state rules. If the matter in dispute has not been resolved within thirty (30) calendar days of the initial dispute date, either Party (the "Claimant") may submit the dispute to binding arbitration to the State of Iowa office of the American Arbitration Association ("AAA") in accordance with the procedures set forth in the Commercial Arbitration Rules of the AAA. The Commercial Arbitration Rules of the AAA shall govern any arbitration proceeding hereunder. The arbitration shall be conducted by three (3) commercially-experienced arbitrators selected pursuant to the Commercial Arbitration Rules, and pre-hearing discovery shall be permitted if and only to the extent determined by the arbitrators to be necessary in order to effectuate resolution of the matter in dispute. The construction, interpretation and performance hereof and all transactions hereunder shall be governed by the laws of the State of Iowa, without giving effect to the principles of conflict of laws thereof. Equitable remedies shall be available from the arbitrators. Consequential, punitive, exemplary, indirect or similar damages shall not be awarded by the arbitrators, although attorneys' fees and the costs of arbitration may be assessed against either or both Parties. Any provisions of the award which are determined to be unenforceable in any jurisdiction, shall as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability, without invalidating the remaining provisions hereof. The arbitrators' decision shall be rendered within thirty (30) days of the conclusion of any hearing hereunder and the arbitrators' judgment shall be final and binding on the Parties. Any award and judgment may be entered and enforced in any court of competent jurisdiction. Resolution of disputes under the procedures of this Section shall be the sole and exclusive means of resolving disputes arising out of or relating to this Agreement.

- 9.2. PERFORMANCE DURING DISPUTE.** Unless otherwise agreed between the Parties in writing, Contractor shall continue performance under this Agreement while matters in dispute are being resolved.
- 9.3. CLAIMS FOR DAMAGES.** Should either Party to this Agreement suffer injury or damage to person or property because of any act or omission of the other Party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefore shall be made in writing to such other Party within a reasonable time after the first observance of such injury or damage.
- 9.4. REMEDIES.** Unless this Agreement provides otherwise, all claims, counterclaims, disputes and other matters in question between DART and Contractor arising out of or relating to this Agreement or its breach will be decided by arbitration, or in a court of competent jurisdiction within the State and County in which DART is located if the Parties mutually agree.
- 9.5. RIGHTS AND REMEDIES.** The duties and obligations imposed by this Agreement and the rights and remedies available hereunder shall be limited to the terms contained herein. No action or failure to act by DART or Contractor shall constitute a waiver of any right or duty afforded any of



them under this Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

ARTICLE 10 TERMINATION

- 10.1. TERMINATION.** Either party may terminate this Agreement, in whole or in part, for convenience and either Party may terminate this Agreement, in whole or in part, for the failure of the other Party to fulfill its obligations under this Agreement. This Agreement may be terminated by delivering to the other Party thirty (30) calendar days' prior written notice of termination specifying the nature, extent, and effective date of the termination. In the event of a notice of termination, Contractor shall immediately: (1) discontinue all services affected (unless the notice directs otherwise), and (2) deliver to DART's project manager all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Agreement, whether completed or in process.
- 10.2. OPPORTUNITY TO CURE.** The non-breaching party shall, in the case of a termination for breach or default, allow the breaching party no less than thirty (30) calendar days in which to provide a plan to cure the breach or default. If the breaching party fails to remedy to the non-breaching party's satisfaction the breach or default or any of the terms, covenants, or conditions of this Agreement within the time specified, the non-breaching shall have the right to terminate this Agreement without any further obligation to the breaching party. Contractor may terminate access to DART data if DART instructs Contractor to do so.
- 10.3. WAIVER OF REMEDIES FOR ANY BREACH.** In the event that either Party elects to waive its remedies for any breach by either Party of any covenant, term or condition of this Agreement, such waiver by either Party shall not limit either Party's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Agreement.

ARTICLE 11 INDEMNIFICATION

- 11.1. GENERAL INDEMNITY BY CONTRACTOR.** The Parties acknowledge that Contractor is an independent contractor. Contractor agrees to indemnify, hold harmless, and defend DART, its board, officers, employees, agents and attorneys of, from, and against all liability and expense, including reasonable attorneys' fees, in connection with any and all third party claims, demands, damages, actions, causes of action, and suits in law or equity, of whatever kind or nature, in any way relating to or arising out of the acts or omissions of Contractor, its officers, employees, representatives, assigns or subcontractors, in the performance of the Agreement. Contractor's obligations contained in this Section shall survive termination of this Agreement.
- 11.2. GENERAL INDEMNITY BY DART.** To the extent permitted by law, DART will indemnify and hold Contractor harmless from any and all liability, expense, judgment, suit, cause of action, or demand for personal injury, death, or direct damage to tangible property which may accrue against Contractor to the extent it is caused by the negligence of DART or its board, officers, employees, agents and attorneys while performing their duties under this Agreement; provided that Contractor gives DART prompt, written notice of the claim or suit and DART is allowed to control the defense or settlement of the claim or suit. This Section sets forth the full extent of DART's general indemnification of Contractor from liabilities that are in any way related to DART's



performance under this Agreement.

11.3. PATENT, INTELLECTUAL PROPERTY, AND COPYRIGHT INFRINGEMENT AND INDEMNIFICATION.

- (A) Contractor represents and warrants that it owns or has the absolute right to sell, license, or otherwise grant the rights in the Platform, including, without limitation, the equipment, hardware and Software, conveyed to DART pursuant to this Agreement, and that neither the Platform nor any of its components infringes any patent, copyrights, or other intellectual property right of, or misappropriates the trade secrets of any person or entity. Contractor is licensing use rights to DART pursuant to this Agreement but shall retain all rights in patents, copyrights, trademarks, trade secrets, and any other intellectual property. Software utilized under this Agreement is proprietary and ownership of the Software remains with Contractor and/or its subcontractors, as the case may be. DART agrees to: (1) take reasonable steps to maintain Contractor's and subcontractor's rights in the Software; (2) not sell, transfer, publish, display, disclose, or make available the Software, or copies of the Software, to third parties except where DART may disclose the Software to designated Federal representatives under a nondisclosure agreement executed by both parties, (3) not use or allow to be used, the Software either directly or indirectly for the benefit of any other person or entity, and (4) not use the Software, along with its Updates (as hereinafter defined), patches or Upgrades (as hereinafter defined), on any equipment other than the equipment on which it was originally installed, without Contractor's written consent. "Updates" are defined as bug fixes or patches. "Upgrades" are defined as any new feature or major enhancement to the Software or hardware.
- (B) Contractor will defend, at its expense, any suit brought against DART to the extent it is for infringement of any patent, copyright, or other intellectual property rights, which covers, or alleges to cover, the Platform or any components thereof or the products or equipment of any subcontractor that are part of the Platform, and Contractor will indemnify DART for damages and costs of DART for an infringement claim. Contractor shall not enter into any settlement that obligates DART to incur any expense, adversely impacts DART's rights under this Agreement or interferes with the operation of DART's business without DART's prior written consent.
- (C) If in any such suit so defended, the Platform or any components thereof are held to constitute an infringement and its use is enjoined, or if in light of any claim of infringement Contractor deems it advisable to do so, Contractor may at its option and expense (i) procure for DART the right to continue using the Platform and all components, or (ii) replace or modify it so that it becomes non-infringing while providing functionally equivalent performance.

ARTICLE 12 CONFIDENTIALITY AND PROPRIETARY RIGHTS

12.1. CONFIDENTIAL INFORMATION

- (A) **Definition.** "Confidential Information" as used herein shall mean any and all technical data, trade secret, know-how, and any and all confidential or proprietary information of either Party, including but not limited to information that is unique, not generally known in the industry, gives either Party a competitive advantage, and/or enhances either Party's



goodwill, whether or not reduced to writing and whether or not patentable or protected by copyright. Confidential Information includes (i) all written, visual and oral materials identified orally or in writing, as confidential at the time of their disclosure, and (ii) all written, visual and oral materials, whether designated as confidential or not at the time of disclosure, if such information is the type of information identified in this Agreement as confidential or would generally be considered to be confidential by a reasonable person aware of all the facts. Confidential Information includes but is not limited to business techniques and methods, pricing, technology, trade secrets, cost and financial information, software, including programs, methods of processing, program design and structure, the interaction and unique programming techniques employed, and performance data and test results, product improvements and advertising strategies, and all personal identifying data of either Party and/or affiliate clients, including the overall number of either Party and/or affiliate clients. Confidential Information shall not include information which: (i) is known to the receiving Party at the time of disclosure or becomes known to the receiving Party without breach of this Agreement; (ii) is or becomes publicly known through no wrongful act of the receiving Party or any subsidiary of the receiving Party; (iii) is independently developed by the receiving Party or any of its subsidiaries; (iv) is furnished to any third Party by the disclosing Party without restriction on its disclosure; (v) is approved for release upon a prior written consent of the disclosing Party, which consent shall not be unreasonably withheld; (vi) is disclosed pursuant to judicial order, requirement of a governmental agency or by operation of law. Any information that may have been shared between the Parties prior to the execution of this Agreement that would be Confidential Information under this Agreement shall be Confidential Information subject to the terms of this Agreement.

(B) Protection of Confidential Information. In the course of their dealings, each Party will acquire Confidential Information about the other, including Confidential Information regarding business activities and operations, technical information and trade secrets of the Party and its partners. This paragraph shall survive termination of this Agreement. The parties agree to handle Confidential Information as follows:

- a. Each Party will protect the Confidential Information with reasonable care and at least the same degree of care as it protects its own confidential, proprietary and trade secret information, and will take all measures necessary to prevent Confidential Information from falling into the public domain or into the possession of persons not bound to maintain the confidentiality of Confidential Information. Each Party will use the Confidential Information only to fulfill the purposes of this Agreement and not for any other purpose.
- b. Each Party agrees that Confidential Information shall remain the sole property of the disclosing Party. No license shall be granted by the disclosing Party to the receiving Party with respect to Confidential Information disclosed hereunder except insofar as the receiving Party's use of the Confidential Information is expressly provided herein. To that extent, and to that extent only, each Party grants a personal, nonexclusive, royalty-free, revocable, non-assignable (except



as otherwise described in this Agreement) , non-sub-licensable license to the other for each item of Confidential Information disclosed to the other Party. Such licenses automatically terminate upon the expiration or termination of this Agreement, without notice to the other Party.

- c. Each Party will promptly advise the other in writing of any misappropriation, misuse, or disallowed disclosure or use of Confidential Information by any person which may come to the Party's attention, and take all reasonable actions to minimize the impact of the disclosure.
- d. In the case of required court disclosure, the Party required to make the court disclosure will promptly notify the other of the proceeding and fully assist the disclosing Party in obtaining protective orders to maintain the confidentiality of the Confidential Information.
- e. Upon the request of the disclosing Party, the receiving Party will promptly return or certify the destruction of all Confidential Information furnished hereunder and all copies thereof.

(D) **Confidentiality of Agreement.** The parties agree that this Agreement constitutes Confidential Information. Neither Party may disclose the terms of this Agreement except as required by law (including but not limited to Iowa Code Chapter 22) or governmental regulation and in compliance with paragraph (B) above (Protection of Confidential Information), except, that the Parties may disclose this Agreement on a confidential basis to their accountants, attorneys, parent organizations, advisors and lenders.

12.2. PRESERVATION OF DART'S PROPRIETARY RIGHTS. Data from DART's systems or other similar customer-related data attained in connection with DART's use of the Platform, as well as all encoding format, bit definitions, bit layout, file organization, data definitions, security and encoding schemas, and the like is and shall at all times remain the property of DART, and no grant of any proprietary rights in such information is given or intended, including any express or implied license, other than to the extent expressly approved by DART in writing. DART does not grant to Contractor, either directly or by implication, estoppels, or otherwise, any right, title or interest in DART's proprietary rights or intellectual property.

12.3 PRESERVATION OF CONTRACTOR'S PROPRIETARY RIGHTS. Contractor, the third party manufacturer of any equipment, and the copyright owner of any non-Contractor software own and retain all of their respective proprietary rights, including, but not limited to, patents, copyrights, and intellectual property, in the Platform and components thereof, and nothing in this Agreement is intended to compromise their proprietary rights. All intellectual property developed, originated, or prepared by Contractor in connection with providing to DART the equipment, Software, or related services remain vested exclusively in Contractor, and this Agreement does not grant to DART any shared development rights of intellectual property. Except as explicitly provided in this Agreement, Contractor does not grant to DART, either directly or by implication, estoppels, or otherwise, any right, title or interest in Contractor's proprietary rights.



DART will not modify, disassemble, peel components, decompile, otherwise reverse engineer or attempt to reverse engineer, derive source code or create derivative works from, adapt, translate, merge with other software, reproduce, distribute, sublicense, sell or export the software, or permit or encourage any third party to do so.

Contractor grants DART a perpetual, non-exclusive license to use the Software. DART shall not transfer the license granted hereby or possession of the software except as part of or with the equipment, such transfer being subject to the restrictions contained herein. DART agrees that it will take appropriate action by instruction, agreement, or otherwise with its employees permitted access to licensed software to notify its employees of its obligation under these terms with respect to use, reproduction, protection and security.

ARTICLE 13 GENERAL

- 13.1. SUBCONTRACTING.** Contractor has identified the intended subcontractor(s) by name, type and percentage of the Work to be subcontracted, address, contact name and phone number in the Contractor's Proposal. Contractor is solely responsible for ensuring subcontractor(s) compliance with the terms and conditions of this Agreement.
- 13.2. DISCLOSURE.** Contractor shall not use or disclose data, designs, or information belonging to or supplied on behalf of DART, unless expressly authorized in writing by DART. Upon DART's request, such data, designs, or other information and any copies thereof shall be returned to DART. Where DART's data, designs, or other information are furnished to Contractor's supplier to procure supplies by Contractor for use in performing the Work, Contractor shall insert the substance of this provision in its contract with supplier.
- 13.3. CONTRACTOR RESPONSIBILITY.** Contractor shall provide services of first quality, and the workmanship must be the best obtainable in the various trades. The services must be industry standards in all material respects. No advantage will be taken by Contractor in the omission of any part or detail, which goes to make the services complete. All manner of workmanship and material used in the production of the services and not herein contained or specified shall be of the industry standard.
- 13.4. NOTICES.** Notices required under this Agreement to be given by one Party to the other must be in writing and either delivered personally or sent to the address shown below by certified mail, return receipt requested and postage prepaid (or by a recognized courier service, such as Federal Express, UPS, or DHL), and will be effective upon receipt:

Des Moines Area Regional Transit Authority
Attn: Chief Financial Officer
620 Cherry Street
Des Moines, Iowa 50309

With a required copy to:

Brick Gentry Law Firm
Attn: Margaret McCann



6701 Westown Parkway, Suite 100,
West Des Moines, IA 50266

To Contractor:

Bytemark, Inc.
Attn: Micah Bergdale
368 West 44th St., 3rd Floor
New York, NY

Contractor and DART shall support electronic mail (e-mail) correspondence between project participants for routine and informal correspondence. The use of e-mail is intended to provide for timely communication and document distribution among Contractor and DART personnel, but it is not to be a substitute for formal communications and submittals required by this Agreement.

- 13.5. ASSIGNABILITY.** The terms and provisions of this Agreement shall be binding upon DART and Contractor and their respective partners, successors, heirs, executors, administrators, assigns and legal representatives. The rights and obligations of Contractor under this Agreement may not be transferred, assigned, sublet, mortgaged, pledged or otherwise disposed of, by operation of law or otherwise, or encumbered in any way without DART's prior written consent. Contractor may subcontract a portion of its obligations to other firms or parties but only after having first obtained the written approval by DART of the subcontractor.

DART may assign its rights and obligations under this Agreement to any successor to the rights and functions of DART or to any governmental agency to the extent required by applicable laws or governmental regulations or to the extent DART deems necessary or advisable under the circumstances.

- 13.6. COVENANT AGAINST GRATUITIES.** Contractor warrants that it has not offered or given gratuities (in the form of entertainment, gifts, or otherwise) to any official or employee of DART with a view toward securing favorable treatment in the awarding, amending, or evaluating performance of this Agreement.

13.7. REPORTS AND RECORD RETENTION

(A) Reports. Contractor agrees to support DART in providing information required by the United States Department of Transportation (the "DOT") or the Federal Transit Administration (the "FTA") grant management rules and any other reports the Federal government may require.

(B) Record Retention. Contractor agrees that, during the term of this Agreement and for three (3) years thereafter, it will maintain intact and readily accessible all data, documents, reports, records, contracts, and supporting materials relating to the project as the Federal government, including, without limitation, the DOT and the FTA, may require for the project.

- 13.8. CONTRACTOR'S LIABILITY INSURANCE.** Contractor shall maintain such insurance as will protect it from claims under any applicable workers' compensation laws and other employee benefit laws; from claims for damages because of bodily injury, including death, to its employees and all others



and from claims for damages to property; any or all of which may arise out of or result from Contractor's operations and performance under this Agreement, or from any subcontractor or anyone directly or indirectly employed by either of them. This insurance shall be written for not less than the limits determined by DART. DART shall be named as an additional insured in respect to all liability insurance policies, except workers' compensation insurance. All policies shall contain an endorsement that written notice shall be given to DART prior to termination, cancellation or reduction in coverage in the policy. Certificates of such insurance shall be filed with DART prior to Contractor's performance of this Agreement.

- (A) Workers' compensation insurance shall be in the amount and coverage required by the State of Iowa to protect it from claims under any applicable workers' compensations laws and other employee benefit laws.
- (B) General comprehensive liability insurance, including bodily injury and death, and property damage insurance in the minimum amount of Two Million Dollars (\$2,000,000) per occurrence.
- (C) Automobile liability, including bodily injury and property damage, insurance in the minimum amount of One Million Dollars (\$1,000,000) per occurrence.
- (D) Professional liability insurance with limits for each claim of at least One Million Dollars (\$1,000,000) for Contractor and all subcontractors performing design work.

13.9. LICENSES AND PERMITS. DART agrees to secure all necessary licenses and permits. Contractor agrees to comply with all applicable Federal, state and local laws, ordinances, rules and/or regulations that in any manner relate to or affect the Work.

13.10. ATTORNEYS' FEES. DART is entitled to attorneys' fees and costs from Contractor in the event DART prevails in any action brought before a Court or arbitrator to enforce this Agreement.

13.11. INSTRUCTIONS BY UNAUTHORIZED THIRD PERSONS. DART's Chief Executive Officer or his /her authorized representatives are the only persons authorized to make changes on DARTs behalf within the general scope of this Agreement.

Any instructions, written or oral, given to Contractor by someone other than DART's Chief Executive Officer or his/her authorized representative, which are considered to be a change in this Agreement, will not be considered as an authorized amendment or modification of this Agreement. Any action on the part of Contractor taken in compliance with such instructions will not be grounds for subsequent payment or other consideration in compliance with the unauthorized change.

13.12. COMPLIANCE WITH LAWS AND REGULATIONS. Contractor will comply with all applicable Federal, state, and local laws, ordinances, rules, regulations, standards, and orders of any public authority bearing on the performance of this Agreement, including, but not limited to, the laws referred to in these general provisions of this Agreement (including the Exhibits to this Agreement). If this Agreement contravenes applicable law, the Parties shall make appropriate modification. Upon request, Contractor shall furnish to DART certificates of compliance with all



such applicable laws, orders and regulations.

13.13. NOTICE OF FEDERAL REQUIREMENTS. Contractor understands that Federal laws, regulations, policies, and related administrative practices applicable to this Agreement on the date this Agreement was executed may be modified from time to time. Contractor agrees that the changed requirements will apply to the project and this Agreement as required.

13.14. INTEREST OF MEMBERS OF OR DELEGATES TO CONGRESS. No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to receive any benefit from this Agreement.

13.15. LOBBYING CERTIFICATION. During the term of this Agreement, Contractor agrees to comply with the applicable provisions of 31 U.S.C. §1352, which prohibit the use of Federal funds for lobbying by any official or employee of any Federal agency, or member or employee of Congress; and requires Contractor to disclose any lobbying of any official or employee of any Federal agency, or member or employee of Congress in connection with Federal assistance. Contractor agrees to comply with the DOT regulations, "New Restrictions on Lobbying", 49 C.F.R. Part 20 and include these requirements in any subcontract which exceeds One Hundred Thousand Dollars (\$100,000).

If applicable, Contractor and all subcontractors in receipt of contracts exceeding One Hundred Thousand Dollars (\$100,000) shall submit Standard Form LLL quarterly to DART.

DART will not make any payment to Contractor or a subcontractor which: (1) does not comply with this Section, or (2) is not in compliance with the above-cited Federal requirements.

13.16. GOVERNING LAW, VENUE, AND JURISDICTION. The rights, obligations, and remedies of the Parties shall be governed by the laws of the State of Iowa. Venue for any action shall lie exclusively in Polk County, Iowa.

All Work done pursuant to this Agreement will be controlled and governed by the laws of the State of Iowa, and any arbitration or litigation related to this Agreement must be filed in Polk County, Iowa. The Parties submit to jurisdiction in the Polk County, Iowa.

13.17. PROHIBITED INTEREST. No DART employee, officer, or agent, including any member of an evaluation committee for a DART project, may participate in the selection, award, or administration of a DART contract if a real or apparent conflict of interest would exist. Such a conflict would exist when any of the parties set forth below has a material financial or other interest in a firm selected for award:

- (A) any employee, officer, or agent of DART;
- (B) any member of his/her immediate family;
- (C) his/her partner; or
- (D) an organization employing or about to employ any of the above.



Any interest as owner or stockholder of one percent (1%) or less in such a firm shall not be deemed to be a material financial interest, but serving as director, officer, consultant, or employee of such an organization would be deemed a material interest.

- 13.18. NON-EXCLUSIVE CONTRACT.** This Agreement shall impose no obligation on DART to utilize Contractor for all Work of this type, which may develop during the term of this Agreement. This is not an exclusive contract. DART specifically reserves the right to concurrently contract with other companies for similar work if it deems such action to be in DART's best interest.
- 13.19. NON-SOLICITATION.** During the term of this Agreement and for one (1) year after any termination of this Agreement, neither Party will, without prior written consent of the other Party, either directly or indirectly, on the Party's own benefit or in the service or on behalf of others, solicit or attempt to solicit, divert, hire away or accept service or work from any person employed by the other Party or their respective parent companies or subsidiaries. The Parties understand this is a material provision of this Agreement, and that any breach will cause significant damage to the non-breaching Party.
- 13.20. ADDITIONAL REQUIREMENTS.** DART reserves the right to request additional goods and/or services related to this Agreement from Contractor. When approved by DART as an amendment to this Agreement and authorized in writing, Contractor shall provide such additional requirements as may become necessary. Changes affecting the Contract Price, Performance Schedule, or Statement of Work must follow these guidelines for implementing the requested change:
- (A) DART's authorized representative may, at any time, make changes within the general scope of this Agreement by:
 - 1. Providing a written, detailed request for the change, and
 - 2. Upon receipt of DART's requested change order, Contractor shall provide DART's authorized representative a written, detailed proposal including updated price, schedule, and scope of work changes for Work to be performed.
 - (B) If the Contractor's Proposal includes the cost of property made obsolete by the change, DART's authorized representative shall have the right to prescribe the manner of the disposition of the property at DART's expense; and
 - (C) Failure to agree to any written change order from DART's authorized representative shall be a dispute under Article 9 of this Agreement.
- 13.21. SURVIVAL OF TERMS.** The invalidity or unenforceability of any provision of this Agreement shall not affect the remaining provisions hereof. The following provisions shall survive the termination of this Agreement for any reason: Section 1.4 (Contractor Software and License); Section 1.5 (Non-Contractor Software); Section 3 (Contract Price); Section 3.1 (Pricing and Payment Terms); Article 7 (Representations and Warranties); Article 9 (Disputes); Article 11 (Indemnification); Article 12 (Confidentiality and Proprietary Rights); Article 13 (General); and Article 15 (Limitation of Liability).



ARTICLE 14 LOCAL, STATE AND FEDERAL COMPLIANCE REQUIREMENTS

Contractor shall comply with all local, state, and Federal directives, orders and laws as applicable to this Agreement:

14.1. CIVIL RIGHTS REQUIREMENTS.

1. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:
 - A. Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq ., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
 - B. Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
 - C. Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.



3. The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

- 14.2. ACCESS FOR INDIVIDUALS WITH DISABILITIES.** At the time this Agreement is executed, Contractor agrees to comply with, and assure that any subrecipient, or third party subcontractor under this Agreement complies with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12101 et seq. and 49 U.S.C. § 322; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. app § 1612; and the following regulations and any amendments or successor laws thereto:
- (A) DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R., Part 37;
 - (B) DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or benefiting from Federal Financial Assistance," 49 C.F.R., Part 27;
 - (C) DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 49 C.F.R., Part 38;
 - (D) Department of Justice ("DOJ") regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R., Part 35;
 - (E) DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R., Part 36;
 - (F) General Services Administration regulations, "Construction and Alteration of Public Buildings," "Accommodations for the Physically Handicapped," 41 C.F.R., Part 101-19;
 - (G) Equal Employment Opportunity Commission (EEOC) "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act." 29 C.F.R., Part 1630;
 - (H) Federal Communications Commission regulations, "Telecommunications Relay Services and Related DART Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R., Part 64, Subpart F; and the FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R., Part 609; and
 - (I) The FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R., Part 609.
- 14.3. RECYCLED PRODUCTS.** The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.
- 14.4. ENERGY CONSERVATION.** The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.
- 14.5. ENVIRONMENTAL PROTECTION.** Contractor agrees to comply with applicable requirements of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 et seq.; Section 14 of the Federal Transit Act, as amended, 49 U.S.C. § 1610; Council on Environmental Quality regulations, 40 C.F.R. Part 1500 et seq.; and joint FHWA/FTA regulations, "Environmental Impact And Related Procedures" at 23 C.F.R. Part 771 and 49 C.F.R. Part 622.
- 14.6. CLEAN AIR REQUIREMENTS.** (1) The Contractor agrees to comply with all applicable standards,



orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. Contractor agrees to report each violation to DART and understands and agrees that DART will, in turn, report each violation as required to assure notification to the FTA and the appropriate EPA Regional Office. (2) The Contractor also agrees to include these requirements in each subcontract exceeding One Hundred Thousand Dollars (\$100,000) funded, in whole or in part, with Federal assistance provided by the FTA.

14.7. CLEAN WATER REQUIREMENTS. (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

14.8. MITIGATION OF ADVERSE ENVIRONMENTAL EFFECTS. Should the proposed project cause adverse environmental effects, Contractor agrees to take all reasonable steps to minimize such effects pursuant to 49 U.S.C. app. § 1610, all other applicable statutes, and the procedures set forth in 23 C.F.R. Part 771 and 49 C.F.R. Part 622. Contractor agrees to undertake all environmental mitigation measures that may be identified as commitments in applicable environmental documents (such as environmental assessments, environmental impact statements, memoranda of agreement, and statements required by 49 U.S.C. § 303) and with any conditions imposed by the government as part of a finding of no significant impact or a record of decision; all such mitigation measures are incorporated in and made part of this Agreement by reference. As soon as the government and Contractor reach agreement on any mitigation measures that have been deferred, those measures will then be incorporated into this Agreement. Such mitigation measures may not be modified or withdrawn without the express written approval of the government.

14.9. FALSE OR FRAUDULENT STATEMENTS AND CLAIMS. Contractor acknowledges and agrees as follows:

(A) Contractor recognizes that the requirements of the Program Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq. and the DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its activities in connection with the project. Accordingly, by signing this Agreement, Contractor certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make pertaining to this Agreement. In addition to other penalties that may apply, Contractor also acknowledges that if it makes a false, fictitious or fraudulent claim, statement, submission, or certification, the Federal government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, on Contractor to the extent the Federal government deems appropriate.

(B) Contractor also acknowledges that if it makes a false, fictitious or fraudulent claim, statement, submission, or certification to the Federal government in connection with an urbanized area formula project funded with Federal assistance authorized by 49 U.S.C. Section 5307, the government reserves the right to impose on Contractor the penalties of 18 U.S.C. Section 1001 and 49 U.S.C. Section 5307(n)(1).

(C) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall



not be modified, except to identify the subcontractor who will be subject to the provisions.

- 14.10. DEBARMENT AND SUSPENSION.** Contractor agrees to comply with applicable DOT regulations, “Government Debarment and Suspension (Non-procurement)”, 49 C.F.R. Part 29, and otherwise comply with the requirements of those regulations. This includes the requirement of Contractor to submit the Certification Of Primary Contractor Regarding Debarment, Suspension, And Other Responsibility Matter for all projects when the total aggregate value of the contract exceeds One Hundred Thousand Dollars (\$100,000) and to submit a Certification Of Lower Tier Participation Regarding Debarment, Suspension, and Other Ineligibility and Voluntary Exclusions for each subcontractor which will have a financial interest in this project which exceeds Twenty-Five Thousand Dollars (\$25,000) or will have a critical influence on or a substantive control over the project.

During the term of this Agreement, Contractor agrees to immediately notify DART of (1) any potential subcontractor that is subject to this provision and to submit the appropriate certification prior to award of a subcontract, (2) any information that its certification or certification of its subcontractors was erroneous when submitted, and (3) any information that certifications have become erroneous by reason of changed circumstances.

For each invoice in which a subcontractor has an interest of Twenty-Five Thousand Dollars (\$25,000) or more, Contractor shall submit with each request for payment a list of the applicable subcontractors. Contractor shall submit evidence that the appropriate debarment certificate has been submitted and that said certificate remains valid.

DART will not make payment to Contractor or a subcontractor that (1) does not comply with this Section, or, (2) is not in compliance with the above-cited Federal requirements.

- 14.11. DBE PARTICIPATION, PAYMENT AND REPORTING REQUIREMENTS.** Contractor, subrecipients or subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Contractor shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of DOT-assisted contracts. Failure by Contractor to carry out these requirements may result in the termination of this Agreement or such other remedy as DART deems appropriate.

A minimum of five (5) percent of the Contract Price, as awarded, shall be awarded to certified DBEs by Contractor. In the event Contractor is unable to meet five (5) percent, Contractor shall provide proof of good faith effort to DART.

- (A) Prompt Payment. Contractor agrees to pay each subcontractor under this Agreement for satisfactory performance of its contract no later than thirty (30) calendar days from the receipt of each payment Contractor receives from DART. Contractor agrees further to return retainage payments to each subcontractor within thirty (30) calendar days after subcontractor’s Work is satisfactorily completed. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval of DART. This clause applies to both DBE and non-DBE subcontractors.
- (B) Contractor Reporting Requirements. Contractor agrees to count only the value of the Work actually performed by the DBE firm toward its overall DBE goal. When a DBE performs as a participant in a joint venture, Contractor agrees to count the portion of the Work of the



contract that the DBE performs with its own forces toward its DBE goal only if the DBE is performing a commercially useful function of this Agreement. The factors listed in 49 C.F.R. Part 26 will be used to determine whether a DBE trucking firm is performing a commercially useful function. Contractor understands that expenditures with DBEs for materials or supplies toward DBE goals will be counted according to the factors listed in 49 C.F.R. Part 26. Contractor agrees to meet with DART's DBE liaison officer for the purpose of verifying Contractor's reporting requirements prior to the signing of a contract.

(C) Legal and Contract Remedies. Contractor agrees to report quarterly to DART's DBE liaison officer on all payments made to DBE subcontractors. Contractor understands that failure to report quarterly to DART's DBE liaison officer may result in the termination of this Agreement or such other remedy as DART deems appropriate.

1. Contractor understands that DART will bring to the attention of the DOT any false, fraudulent, or dishonest conduct in connection with the program, so that the DOT can take the steps (e.g., referral to the DOJ for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment of Program Fraud or Civil Penalties rules) provided in 49 C.F.R. § 26.109. Contractor understands that DART will consider similar action under their own legal authorities, including responsibility determinations in future contracts.

14.12. BUY AMERICA REQUIREMENTS. The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content. A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

14.13. FLY AMERICA. The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

14.14. CARGO PREFERENCE REQUIREMENTS. The contractor agrees: a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any



equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.) c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

14.15. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES (DART CONTRACTORS).

- (A) DART and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal government in or approval of the solicitation or award of this Agreement, absent the express written consent by the Federal government, the Federal government is not a party to this Agreement and shall not be subject to any obligations or liabilities to DART, Contractor, or any other party (whether or not a Party to this Agreement) pertaining to any matter resulting from this Agreement.
- (B) Contractor agrees to include the above clause in each subcontract funded, in whole or in part, with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

14.16. ACCESS TO RECORDS.

- (A) In accordance with 49 U.S.C. § 5325(a), Contractor agrees to provide DART, the FTA Administrator, the U.S. Secretary of Transportation, the Comptroller General of the United States, or their duly authorized representatives with reasonable access during normal business hours to all books, documents, papers and records of Contractor are directly pertinent to this Agreement, for the purposes of making audits, examinations, excerpts and transcriptions.
- (B) Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (C) Contractor agrees to maintain all books, records, accounts and reports required under this Agreement for a period of not less than three (3) years after the date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case Contractor agrees to maintain same until DART, the FTA Administrator, the U.S. Secretary of Transportation, the Comptroller General of the United States, or any of their duly authorized representatives have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 C.F.R. 18.39(i)(11).
- (D) Contractor agrees to include the above clauses in each subcontract funded, in whole or in part, with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.
- (E) Project close out does not alter these requirements.

14.17. FEDERAL CHANGES. Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by



reference in the Master Agreement between DART and FTA, as they may be amended or promulgated from time to time during the term of this Agreement and provided to Contractor by DART. Contractor's failure to so comply shall constitute a material breach of this contract.

- 14.18. PRIVACY ACT.** The following requirements apply to Contractor and its employees that administer any system of records on behalf of the Federal government under any contract:
- (A) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, as amended, 5 U.S.C. § 552a. Among other things, Contractor agrees to obtain the express consent of the Federal government before Contractor or its employees operate a system of records on behalf of the Federal government. Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.
 - (B) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal government funded, in whole or in part, with Federal assistance provided by the FTA.
- 14.19. INCORPORATION OF FTA TERMS.** The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any DART requests which would cause DART to be in violation of the FTA terms and conditions.
- 14.20. NOTIFICATION OF FEDERAL PARTICIPATION.** In the announcement of any third party contract award for goods or services (including construction services) having an aggregate value of Five Hundred Thousand Dollars (\$500,000) or more, Contractor agrees to specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express the amount of that Federal assistance as a percentage of the total cost of that third party contract.
- 14.21. CONTRACT WORK HOURS AND SAFETY STANDARDS.** Pursuant to regulations set forth in 29 C.F.R. Part 5, Contractor agrees to comply with applicable labor and safety provisions for non-construction contracts. Requirements for compliance are as follows:
- (A) Overtime Requirements. Neither Contractor nor any subcontractor contracting for any part of the Work under this Agreement that may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any work week in which he or she is employed on such Work to work in excess of forty (40) hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half (1 1/2) times the basic rate of pay for all hours worked in excess of forty (40) hours in such work week.
 - (B) Violation; Liability For Unpaid Wages; Liquidated Damages. In the event of any violation of the clause set forth in Subsection (b)(1), 29 C.F.R. Section 5.5, Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, Contractor and subcontractor shall be liable to the United States (in the case of Work done



under contract for the District of Columbia or a Territory, to such District or such Territory) for liquidated damages. Such liquidated damages shall be computed with respect to each employee in violation of the clause set forth in Subsection (b)(1) of 29 C.F.R., Section 5.5, in the sum of Ten Dollars (\$10) for each calendar day in which such individual was required or permitted to work in excess of the standard work week of forty (40) hours without payment of the overtime wages required by the clause set forth in Subsection (b)(1) of 29 C.F.R. Section 5.5.

- (C) Withholding For Unpaid Wages And Liquidated Damages. The FTA or DART shall, upon its own action or upon written request of an authorized representative of the DOL, withhold or cause to be withheld from any moneys payable on account of Work performed by Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same Contractor, such sums as may be determined to be necessary to satisfy any liabilities of Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in Subsection (b)(2) of 29 C.F.R. Section 5.5.
- (D) Subcontracts. Contractor or subcontractor shall insert in any subcontracts the clauses set forth in Subsections (A) through (D) of this provision and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in Subsections (A) through (D) of this Section.
- (E) Record Keeping Requirements. The requirements clauses contained in 29 C.F.R. Section 5.5 (b) or Subsections (A) through (D), are applicable to any contract subject to the overtime provisions of the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 C.F.R. Section 5.1. Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the Work and shall preserve them for a period of three (3) years from the completion of this Agreement for all laborers and mechanics, including guards and watchmen, working on this Agreement. Such records shall contain the name and address of each such employee, Social Security Number, correct classifications, hourly rates or wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records to be maintained under this Section shall be made available by Contractor or subcontractor for inspection, copying or transcription by authorized representatives of the FTA, the DOT, or the DOL, and Contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

14.22. PREVENTION OF SUBSTANCE ABUSE BY SAFETY SENSITIVE EMPLOYEES.

- (A) Drug Abuse. To the extent that Contractor, any subcontractor at any tier, or their employees, perform a safety sensitive function under this Agreement, Contractor agrees to comply with, and will flow down the compliance of each affected subcontractor at any tier, and their employees, DOT regulations, “Drug-Free Workplace Requirements (Grants),” 49 C.F.R. Part 29, Subpart F, as modified by 41 U.S.C. subsection 712 et seq.
- (B) Alcohol Abuse. To the extent that Contractor, any subcontractor at any tier, or their employees perform a safety sensitive function under this Agreement, Contractor agrees to comply with, and will flow down the compliance of each affected subcontractor at any tier and their employees, FTA regulations, “Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations,” 49 C.F.R. Part 655.



14.23. INTELLIGENT TRANSPORTATION SYSTEM (ITS). Intelligent Transportation System (ITS) property and service project, Contractor must comply with the National ITS Architecture and Standards to the extent required by Section 5307 of SAFETEA-LU, FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 FR 1455 et seq., January 8, 2001, and later published policies or implementing directives the FTA may issue. Contractor shall seek DART's clarification that the products and services contained within this Agreement conform to the Regional and Statewide ITS architecture.

ARTICLE 15 LIMITATION OF LIABILITY.

DART ACKNOWLEDGES AND AGREES THAT ANY USE OR DISSEMINATION BY DART OF THE PLATFORM OR ITS DATA IS DART'S SOLE RESPONSIBILITY AND AT DART'S OWN RISK. DART ACKNOWLEDGES AND AGREES THAT CONTRACTOR BEARS NO LIABILITY OR RESPONSIBILITY FOR SUCH USE OR DISSEMINATION. AS SUCH, EXCEPT WHERE PROHIBITED BY LAW, IN NO EVENT WILL CONTRACTOR BE LIABLE TO DART FOR ANY DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, TO INCLUDE DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL, EXEMPLARY, INCIDENTAL OR PUNITIVE DAMAGES, WHETHER RELATED TO BUSINESS INTERRUPTION/WORK STOPPAGE, LOST PROFITS, LOSS OF DATA, COMPUTER MALFUNCTION OR FAILURE OR OTHERWISE, EVEN IF CONTRACTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

IF, NOTWITHSTANDING THE OTHER PROVISIONS OF THIS AGREEMENT, CONTRACTOR IS FOUND TO BE LIABLE TO DART FOR ANY DAMAGE OR LOSS THAT ARISES OUT OF OR IS IN ANY WAY CONNECTED WITH DART USE OF THE PLATFORM OR ITS DATA, CONTRACTOR LIABILITY SHALL BE LIMITED TO THE GREATEST EXTENT ALLOWED BY THE LAW AND SHALL NOT EXCEED THE AMOUNT OF SEVEN HUNDRED FIFTY THOUSAND AND NO HUNDREDTHS U.S. DOLLARS (\$750,000.00).

ARTICLE 16 SEVERABILITY. If any provision of this Agreement is held to be invalid, illegal, void, or unenforceable, in any respect by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect and will not be affected as long as the Parties' basic intent under this Agreement can be achieved.

ARTICLE 17 ACCEPTABLE USE OF PLATFORM BY DART. DART may use the Platform only for lawful purposes and in accordance with the following provisions. DART shall not: (a) use the Platform in any way that violates any applicable federal, state, local or international law or regulation (including, without limitation, any laws regarding the export of data or software to and from the US or other countries); (b) use the Platform for the purpose of exploiting, harming or attempting to exploit or harm minors in any way by exposing them to inappropriate content, asking for personally identifiable information, or otherwise; (c) use the Platform to transmit, or procure the sending of, any advertising or promotional material, including any "junk mail", "chain letter", "spam" or any other similar solicitation; (d) impersonate or attempt to impersonate Contractor, a Contractor employee, another user or any other person or entity, including by utilizing another user's identification, password, account name or persona without authorization from that user; (e) use the Platform in any manner that could disrupt, disable, overburden, damage, or impair the Platform for DART or others (including the ability to send timely notifications through the Platform), via various means including overloading, "flooding," "mailbombing," "denial of service" attacks, or "crashing"; (f) use any robot, spider or other automatic device, process or means to access the Platform for any purpose, including monitoring or copying any of the material; (g) use any manual process to monitor or copy any of the material made available through the Platform or for any other unauthorized purpose without our prior written consent; (h) use any device, software or routine, including but not limited to, any viruses, trojan horses, worms, or logic bombs, that interfere with the proper working of the Platform or could be technologically harmful; (i) attempt to gain



unauthorized access to, interfere with, damage or disrupt any parts of the Platform, the server(s) on which the Platform is stored, or any server, computer or database connected to the Platform; (j) attempt to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without Contractor's express written consent; (k) take any action in order to obtain services to which DART is not entitled; (l) attempt any action designed to circumvent or alter any method of measuring or billing for utilization of the Platform; or (m) otherwise attempt to interfere with the proper working of the Platform. If DART becomes aware of any content or activity that violates this section, DART shall immediately notify Contractor.

ARTICLE 18 ABANDONMENT OF TECHNOLOGY. In the event that Contractor or any successor either elects, or is no longer able, to support the technology which is then deployed, then DART shall be entitled to a non-exclusive right to utilize the Software, hardware, and/or any other items needed to maintain business continuity.

ARTICLE 19 CHANGE OF OWNERSHIP. A material change in ownership of Contractor resulting in a sale or transfer of all or substantially all of the assets of Contractor or a change in the control or management of Contractor shall constitute a material breach of this Agreement, and DART shall have the right to terminate this Agreement as provided herein.

ARTICLE 20 DATA PRIVACY AND SECURITY. In addition to those provisions set forth in Article 12 above, Contractor shall abide by the terms and conditions of DART's data privacy and security provisions, attached hereto as Exhibit F ("DART Privacy and Security Provisions").

ARTICLE 21 EXECUTION AND COUNTERPARTS. This Agreement may be executed in multiple counterparts, each of which will be deemed an original and all of which will constitute together one Agreement. A counterpart delivered to a party by facsimile or other electronic means will be deemed an original, equivalent in all respects to a manually executed counterpart.

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IN WITNESS WHEREOF, the authorized signatories named below have executed this Agreement on behalf of the parties as of the Effective Date.

CONTRACTOR:
BYTEMARK, INC.

DART:
**DES MOINES AREA REGIONAL TRANSIT
AUTHORITY**

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____



OVERVIEW AND MISSION STATEMENT

Des Moines Area Regional Transit Authority (DART) is the regional transit authority governed by a nine (9) member independent commission. DART's service area includes the following communities: Alleman, Altoona, Ankeny, Bondurant, Carlisle, Clive, Des Moines, Elkhart, Granger, Grimes, Johnston, Mitchellville, Pleasant Hill, Polk City, Unincorporated Polk County, Runnells, Urbandale, West Des Moines and Windsor Heights. DART operates out of two facility locations and has 17 local fixed routes, 8 express routes, 2 flex routes and 3 On-Call zones. DART Paratransit provides both general public demand response transportation services well as ADA complimentary service. DART also has an extensive RideShare program that operates nearly 100 vans throughout the region serving more than 700 customers. The population of Des Moines is approximately 200,000 and the regional metro service area has a population of approximately 580,000. DART provides more than 4.8 million unlinked trips annually.

DART was formed under a 28E Governmental Agreement by state and local leaders out of the Des Moines Metropolitan Transit Authority in 2006. The change allows for the expansion of more regional services within the state of Iowa. The agency is a free-standing governmental entity and accounts for its activities in a governmental enterprise fund.

The DART Commission is the governing body, which establishes transit policy. The nine member Commission is composed of one representative for each of the seven Commission Districts and two members representing Polk County.

The General Manager oversees the operation of the transit system in accordance with the policy direction prescribed by the DART Commission and is responsible for the overall administration of the fixed route, paratransit and rideshare services. At present, the General Manager is supported by an administrative staff of approximately 75 employees. There are approximately 200 employees represented by two labor unions. Consultants are retained as needed to provide specialized technical assistance.

DART receives capital and operating assistance from a variety of sources, including the Federal Transit Administration (FTA) of the United States Department of Transportation, the State of Iowa, the Regional Transit Authority levy and a number of other fund sources.

The goal of this project is to develop an Open Architecture Mobile Platform to provide the basis for a number of applications including Mobile Ticketing, Real Time Information, Schedule Information, First & Last Mile Alternatives, Bikeshare, Parking, Wayfinding and other relevant information of interest to DART's customers. Also included in this project is a Mobile Ticketing Application and associated account based back office system. DART intends to also expand the back office application in the near future to support future applications as well.

DART's Mission Statement

Enriching Lives, Connecting Communities, Expanding Opportunities.



PROJECT DESCRIPTION

Background

DART currently has a mobile application RideTime by Logic Tree that provides real time route and stop information as well as schedule information for all DART fixed routes. This application is available for iOS, Android and Windows phones. Additionally, the DART mobile web site provides several tools to riders on their mobile platforms including: trip planning, real time map (real time route and stop information) and rider Alerts. DART also provides a Text service using SMS to inform riders when their bus is estimated to arrive based on real time location information at a specific bus stop. This service is used by entering a stop ID e.g. DART0000 to #64274.

DART currently has GFI Cents-a-Bill Fareboxes installed on the revenue vehicles that provide Fixed Route and On Call service and Diamond drop box Fareboxes on Paratransit services in the Des Moines metropolitan area and Polk County. Paratransit services are mainly billed to external agencies leaving very little cash handling, but Fixed Route services have several challenges including cash handling for approximately 15% – 20% of the fares (approximately \$3,000 to \$5,000 daily), and an employer/school pass program that requires operators to key into the Farebox a code to count these riders accurately and identify them by employer. The employer pass program is very successful but has an ever increasing impact on operator workload as the program expands to new employers. Employer/School Pass programs, Monthly and Weekly Passes account for roughly 60% – 70% of DART’s ridership. The remaining ridership is managed cash and tokens. DART would like to convert all or most of these riders to an electronic media to provide better visibility and accuracy of ridership data.

DART’s current fare collection system is over 25 years old. The age of the system is causing maintenance problems on vehicles as well as issues at the back office where the obsolete data collection system has failed and data was lost in the recent past. Also, key to this project are the following considerations to reduce operator workload and to provide robust data for planning purposes:

- Deploy technology to remove the need to key in employer codes
- Implement a fare policy and technology solution to remove transfer cutters from the vehicles
- Integrate any onboard mobile ticketing hardware (if applicable) with the Real Time Information System and Automatic Vehicle Location System (RTIS/AVL)
- Synchronize data from the new AFC and the RTIS/AVL
- Implementation of a system that is user friendly and is of a design that is able to evolve to take advantage of trends in the electronic payments and transit industries
- Additionally, DART would like to provide a means to remove or reduce paper passes from their operation to reduce cost, improve revenue, and provide a greener operation

Fare System Goals and Objectives

DART has experienced ridership growth over the last several years. The new system and any resulting new Fare Policies should encourage continued ridership growth.

Fare System Objectives

Provide solutions that:



- Automate and are scalable for recording and processing institutional (employer) passes
- Eliminate the need for paper transfers and transfer cutters
- Enable adoption of emerging fare payment technologies
- Align with capital and operating budget resources
- Improve fare collection equipment reliability and data security
- Encourage the use of fare media over cash
- Provide an enhanced User Experience for customers and operators
- Minimizes operator responsibility for handling payments and passenger counts

Automate fare collection that:

- Reduce human error and fare disputes
- Help reduce dwell times
- Improve data collection/reporting capabilities
- Realize operational efficiencies and reduce overall cost of operations
- Provide fare media that can be used to determine eligibility and/or provide fare payment for unlimited access (i.e., employer/school pass) programs, reduced fare programs, and if desired, Paratransit service

Accommodate fare policy objectives, such as:

- Fare structure simplification
- Alternative mix of fare products
- Elimination of paper transfers, weekly & monthly passes, and tokens
- Alternatives to paper transfers, tokens
- Rolling period passes
- Service-based fares
- Loyalty programs (e.g., fare accumulators, ride bonuses)

Project Scope

The goal of the project is to implement a new Open Architecture Mobile Platform. The first module shall provide a mobile ticketing system for an alternative electronic method to participate in DART's Unlimited Access Program, purchase monthly and weekly passes and introduce a day pass option. This mobile ticketing system shall include an account based back office application that will form the basis for cash ridership passenger counting to be deployed in a second phase along with new farebox technology to manage the remainder of DART's fare products and fare policy.

The main scope of this project is to implement a state-of-the-art hosted mobile ticketing system to augment current unlimited access (flash pass) and magnetic based fare products (monthly & weekly passes) as well as introduce a new day pass option. The system must facilitate and support DART's Business Rules and Fare Policies, including, DART's specific requirements for security and functionality. The first phase will consist of an open loop system using the mobile ticket as a flash pass to be visually inspected by the operator and the either the operator would key into the farebox to document the ride, or the mobile ticketing application would have a means to identify that a ride has been taken and would document the ride through their back office application. The second phase (separate from the first phase) will be a simple registering farebox. This unit will collect cash fares in the appropriate amount from the fare tables above. The farebox will be capable of getting login, network time and GPS location from the CAD/AVL system. The farebox should record stop level cash transactions and also take tokens. The farebox will report its ridership data to the Mobile ticketing



system for accounting. The goal is to have all ridership reporting in one system.

Current DART Fare Products and Costs

Product	Local	Express	Flex Route	Flex Zone	On-Call
Adult	\$1.75	2.00	\$1.75	\$3.50	\$3.50
Half Fare/Child 6-10	.75	.75	.75	.75	.75
Child 0-5	Free	Free	Free	Free	Free
Token	Token	Token+\$.25	Token	2 Token	2 Token
Half Fare Token	Token	Token	Token	Token	Token
Monthly/Weekly Pass	Pass	Pass+\$.25	Pass+\$1.75	Pass+\$1.75	Pass+\$1.75
Monthly/Weekly Half Fare Pass	Pass	Pass	Pass	Pass	Pass
Monthly Express Plus Pass	Pass	Pass	Pass	Pass	Pass
Unlimited Access	Pass	Pass	Pass	Pass	Pass
Day Pass	Pass	Pass	Pass	Pass	Pass

The DART Fare product system is fairly complex due to the added fares for express, Flex route and zones and On Call Services. With the current paper systems customers and operators must validate a number of different options of cash and paper fare products.

Duplicating this set of scenario’s using mobile ticketing without cash will require a variety of tickets and color coding or otherwise providing a discriminating way for operators to validate proper payment for initial rides and transfers, and especially for riders transferring to and from the five services.

There shall need to be some manner for the operator to do passenger fare type counting. This could be handled on the farebox, or alternatively, the TransitMaster system can be configured to do passenger type counting as well. It is anticipated that all mobile tickets will be counted as a single type by the operator. An alternative would be some of the newer technology that would allow the mobile ticketing system to communicate with a Bluetooth device or similar to validate the bus that the ticket is being used on. Contractor may provide a solution option for onboard validation that would be able to provide the usage data and also distinguish which type of pass and will provide statistical data down to the individual pass.

The basic system will be visual validation only and the Contractor will need to identify how DART operators can distinguish that the pass being presented is valid and proper for the route (e.g. color coding, animation, etc.). Contractor shall also recommend how passes could be validated on vehicle and how this system can also be used to track ridership and pass usage.

The system will need the ability to have an account based back end and will need to allow customers the ability to manage one mobile ticketing application or many under one account. Multiple ticketing applications will be needed for individuals who have more than one rider e.g. husband, wife, children. It will also be needed for groups such as unlimited ride accounts as well as other DART programs with multiple riders.

The Unlimited Access program also has the needs to capture ridership statistics. The mobile application shall have some method to detect when the pass is used by tying it to a bus stop and tracking usage in that manner. The systems must have a means to detect when the pass is opened in areas that are not on the system and also be able to filter out multiple usage e.g. the pass is opened multiple times at the same



geography and within a short (configurable) time frame.

The system shall be capable of loading cash value or fare products via the mobile application, the web, or through “J Hook” options such as gift card type applications that can be activated either by emailing and/or pairing with the phone. Additionally, DART customer service shall have the ability to load product or cash value onto an account using cash or a separate point of sale system.

Title VI Concerns

Title VI concerns with the originally planned smart card system were avoided by letting the customer go one ride negative, purchase of a day pass on the vehicle and providing a distributed sales network to allow the unbanked multiple paths to make sure they had equal access to the system and were not penalized by the fare system when free transfers will be removed for cash customers.

Using a mobile ticketing system only, without smart cards, would likely require additional considerations given to this demographic as the mobile ticketing system would require some sort of banking system be involved. The System could use J-hook purchased “cards” that could be purchased at retail outlets to provide a means for the unbanked to access the system and use the mobile ticketing system. This aspect of the system would act similar to gift cards that can be purchased at grocery store check-outs.

The Contractor shall include an optional method to handle the “un-Phoned” population e.g. non smart phone carrying customers if there are viable applications that can be used by feature phones and the newer phone technologies being developed for the elderly and cognitively disabled populations.

Implementation Tasks and Project Deliverables:

The following phases will result in specific tasks performed to produce the phase deliverables. These are required to be performed by the Contractor as part of delivering a fully functional and tested Mobile Ticketing System.

Project Management:

The project management phase will be continuous throughout the project beginning with the Notice to Proceed through Final Acceptance. The contractor shall:

- Be an active partner with DART in assuring project success
- Provide a single point of contact for all communication regarding work under this Contract
- Coordinate all tasks with the designated DART project manager
- Communicate regularly with the project manager and any other staff designated to discuss progress, critical risk factors that may affect the project schedule or other success factors, as well as unique issues that may surface
- Obtain signed DART acceptance for tasks and deliverables as outlined and agreed upon in the system implementation plan
- Specify the commitment of DART’s staff resources, which will be required for successful completion of the project

Startup:

Meet with DART project management and business area stakeholders for project planning, including review of proposed schedule, roles and responsibilities, conduct complete review of functionality to be delivered,



and other project activities. Deliverables to be produced:

- Project Organization
- Project Schedule (Draft)
- System Implementation Plan (Draft)
- Risk Management Plan
- Compliance Matrix
- Project Kick-Off Meeting

Design:

This phase will determine how the hardware and systems will be installed, application presentation to the customer, and how it will be managed in the back end. The Contractor will work with DART to develop materials that will provide a basis to help instruct DART customers in the easiest and most efficient way to use the system. Deliverables to be produced:

- On-site Assessment; documentation to findings
- Hardware Recommendations
- System Detailed Design
- System Implementation Plan (Final)
- Risk Management Plan
- Marketing & Customer Outreach Plan
- Baseline Project Schedule

Development:

Development of all applications as well as installation within a test environment so configuration and testing of the required functionality can be performed. This task will include setting the initial configuration values by the Contractor so they can be tested and changed if needed. During this step the rollout of the system must be worked on to include training IT, Maintenance, Fare Collection, Customer Service, and Operational staff who will have a role in the support of the system. Deliverables to be produced in both paper and electronic formats:

- Mobile Ticketing Application
- Ticket Validation Applications
- Test Environment
- Test Procedure/Plan including use cases; test scripts; acceptance test criteria (Draft)
- Training Plan (Draft)
- Maintenance & Support Responsibility Matrix (Draft)

Testing:

Testing will be performed to determine that all functionality required is in place and working as desired by DART. The testing phase will not be deemed complete until all functional requirements of the newly implemented Mobile Ticketing Application System have been fully tested and approved by the project team. The Contractor will provide test scripts and system documentation for review and acceptance by DART for all electronic ticket and customer service processes with the appropriate updates and/or revisions based on previous phase implementation findings. Deliverables to be produced:

- Test Procedure/Plan including use cases; test scripts; acceptance test criteria (Final)
- Test Results
- Test Failure Log & Remediation Plan
- Training Plan (Final)
- Delivery of all Documentation (Draft)



- Maintenance & Support Responsibility Matrix (Final)

Deployment Installation:

Once all the test failures have been corrected, the Contractor will install the hardware and software in the live environment and conduct training so that all supporting staff are knowledgeable and understand their role in managing the system. Deliverables to be produced:

- Deployment of all application software systems
- Contractor assistance with DART IT staff to ensure that all programs have been installed and verified as functioning within the production system
- Deployment of Validation Application(s)
- Delivery of all Documentation (Final)
- Go Live Schedule and Transition Plan
- Training Conducted

Go Live and Final Acceptance:

During this phase the system will be monitored for the first 30 days of revenue service. The Contractor will be required to participate in the monitoring of the system and respond to issues so they are quickly resolved. The project concludes after final acceptance and signoff by DART. Deliverables to be produced:

- Final Action Items & Issues Log showing all items have been closed
- Agreement from DART project team that the system is working as designed
- DART review of project plan and official sign-off that all deliverables have been completed
- Activation of Warranty & Maintenance processes and services has been completed

General Requirements

The Contractor shall deliver a technically proven, yet innovative, solution that incorporates the latest technical offerings from the Mobile Application Industry as well as a Mobile Payment and Transportation Industries that will provide a mobile application to support a variety of applications such as trip planning, parking, first/last mile alternatives, etc., and facilitate and support DART’s Business Rules and Fare Policies as well as DART’s overall technical requirements. The primary focus of the solution is to provide an alternative solution is to eliminate magnetic media (monthly and weekly passes), Unlimited Access program badge flash passes as well as cash. Additionally, the mobile ticketing system will introduce a day pass.

In general, the Contractor shall deliver a complete system, which incorporates all necessary design, furnishing, delivery, installation, testing, training, support, etc. The proposed mobile ticketing system shall incorporate all necessary Hardware (HW) and Software (SW). The following is a summary of the equipment and services that are to be provided in the execution of the work under this contract:

- The Contractor will deliver a Mobile Ticketing System with site licensing, based on a proven hosted Back Office, PCI compliant software system and a very simple to use mobile application
- Account based Back Office System including:
 - Unlimited Access Program Management
 - Individual Monthly, Weekly and Day Pass Management
 - Ability to provide a J hook option to add value or products to an account
 - Ability for Customer Service or other authorized person to perform account management, sell and distribute fare products and add value to customer accounts
- Prevalent Mobile device applications (iOS, Android, and Windows OS’s)



- Project Management/Training/Documentation/Installation/Testing
- Maintenance/Warranty
- The scope also includes recommendations by the Contractor for any associated hardware, software, or services needed to support a fully functional system

The Contract describes DART's minimal functional requirements for the planned Mobile Platform and Ticketing System. DART recognizes that the technology landscape is moving and the Contractor may have new products and ideas that provide a better methodology to meet DART's requirements. The Contractor is encouraged to inform DART of any new technology services, product, and/or processes they are developing or trends and directions of which they are aware of which may be relevant to DART's business. DART is consistently reviewing its processes for best practices and trying to use information to help improve service quality and the efficiency and effectiveness of operations. The system shall be capable of evolving as technologies in the transit industry change.

The design of the Mobile Ticketing system includes the technical requirements gathering and detailed design, beginning with on-site assessment and discussion with affected DART groups. This phase will determine how the hardware and systems will be installed, how the application will be presented to the customer, and how the system will be managed (back office applications). The Contractor will work with DART to develop materials that will provide a basis to help instruct DART customers on the easiest and most efficient way to use the system to their utmost advantage. Deliverables to be produced:

- On-Site Assessment; documentation of findings
- Hardware recommendations
- System Detail Design
- System Implementation Plan (Final)
- Risk Management Plan (Final)
 - Analysis – Impact and probability
 - Mitigation strategies
 - Periodic Risk Reviews
 - Break/Fix/Bug Fixes, review and testing methodology and plan
- Marketing & Customer Outreach Plan for both Fixed Route and Unlimited Access Partners
- Baseline Project Schedule

All products shall conform to the applicable federal, state and county laws and regulations in effect at the time of Notice to Proceed (NTP).

In addition, the systems should meet the following requirements:

- Operate initially as a standalone mobile ticketing solution with potential for future integration with DART's planned new fare collection system which is planned to be a simple cash farebox.
- Perform within the varying on-board environmental and lighting conditions experienced on transit vehicles
- Function within all environmental conditions experienced in the Des Moines region
- Be easily scalable to support growth and system integration based on customer adoption of the system
- Be able to process multiple payment types electronically via a mobile application and desktop portal
- Integrate with DART scheduling by supporting open standards integration using common data sets, such as GTFS
- Be cognizant of the technological divide of DART's ridership and provide a streamlined system that



will be accessible to all rider demographic groups

Security

Data security for the Mobile Ticketing application, system and interfaces shall employ the most current industry and U.S. government techniques such as AES, TLS, 3DES, etc. to ensure that all data is safeguarded from unauthorized access or use and programs are protected from cyber-attack or computer virus.

Bar code images shall be secured via encryption or other method to ensure the integrity of issued tickets. Additionally, the mobile ticketing application shall contain a variety of security features to allow for applicable Transit Agency personnel to easily visually identify invalid, expired or fraudulent mobile tickets.

All applications that process payments, and all communications and computer systems comprising the entire mobile ticketing system shall be in full compliance with the Payment Card Industry (PCI) standards (www.pcisecuritystandards.org) at the time of design approval.

Contractor shall identify and notify DART of any changes to the standards that are instituted between the time of Notice to Proceed (NTP) and implementation and certify that their software meets these requirements. Contractor shall furnish documentation not less than 30 days after NTP to provide full details for compliance with all aspects of applicable PCI standards. The Contractor shall remain PCI compliant at all times and annually provide certification of PCI compliance to DART.

In addition to the above, the system shall be compliant with all applicable PCI Information Supplements and Guidelines in force, or that have a known implementation date, at the time of NTP. The Contractor shall ensure that the application is compliant at all times and all costs associated with being PCI compliant will be that of the Contractor. At no time is any customer credit card information to be stored and/or maintained by DART's database. Contractor shall document if any proprietary information traverses DART's network as part of this design and discuss PCI compliance and needs associated with their design's use of DART's business network.

Contractor should use high security connectivity to all inbound and outbound communications, which should be AES-128 or AES-256 bit encryption, at minimum TLS 1.2 for all SSL communications, and support strong authentication protocols for password and user management in portals and logins. For the back office an Active Directory integration using SAML 2.0 would be the preferred login and authentication method for DART's internal users. Password reset protocols for customers or back office users should not email or use any plain text digital delivery method. Two-factor authentication for systems is preferred but not required.

DART Mobile Ticketing Software (Base Requirements):

Outlined below are the features and functionality that DART requires of the base Mobile Ticketing Application System.

Mobile Ticketing Customer Application:

The customer will have the ability to easily download and install on their internet enabled mobile smart device an application that includes the following functionality:

- Ticketing – allows customers to purchase fares of various types via their internet-enabled mobile smart device



- Website integration – allows customers to access the DART website link within their internet-enabled mobile smart device to access features such as route and schedule information, detours, notices, and other service information
- Notifications – provides the customer notifications of newly upgraded versions of their internet enabled mobile smart device when new upgrades by the manufacturer are being implemented
- Sell and issue a variety of tickets, both activated upon purchase and activated by the customer after purchase, but prior to riding DART's services
- Allow for a wide variety of payment options, including but not limited to, credit, debit, prepaid cards, bank accounts, and PayPal, all required for initial deployment
- Support a wide range of billing and pricing solutions, including all current DART fare products, reduced/concessionary fares, time of day peak hour pricing, and special event pricing
- Provide an easy to use mechanism for additional tickets, including fare products to be entered with future effective dates
- Allow for customer service issues (i.e., refunds or ticket re-issuance) to be resolved by the DART call center agents using comprehensive on-line web based tools
- Have the ability for on account manager to maintain multiple mobile ticketing applications e.g. Unlimited Access program & a parent needing to manage multiple children's accounts
- Capable of operating in an offline manner (without wireless connectivity), with the exception of customer purchases of fare products
- Capable of being loaded with value or a product via a J-Hook sold "card" that allows the product to be loaded to a phone; it is anticipated that J-Hook products will be made available to current DART customer service Pass Sales Outlets. (See <https://www.ridedart.com/fares/pass-sales-outlets>)
- Allow for reconciliation by DART for all fare products sold and for all products used
- Allow for quickly processing all transactions
- Allow for restricting fare products available to certain users

Aesthetic Requirements: The Mobile Ticketing user display instructions and selection keys shall be easy to read, understand and use. Screen layouts of the customer's mobile device shall be constructed to minimize the likelihood that a user will activate the incorrect key or more than one key with one touch. All graphics shall be in accordance with the graphics standards employed by the DART.

Mobile Ticketing Back Office Management:

- System Configuration will include setting up options for which tickets will be presented for purchase, what characteristics they possess, the cost as well as other parameters that need to be established
- Ticket Sales will entail information on tickets sold including other associated information such as purchase location, tickets not/never validated, etc.
- Customer Usage Statistics will include information on tickets used including other associated information such as validation location, route/block validated, date, time and GPS coordinate of boarding's
- An audit trail will be maintained of any patron eligibility and fare which were disabled/re-enabled by DART, to include the time, and reason of/for the disabling/re-enabling
- Provide a method for bulk sales to an organization such that the organization can distribute tickets to individuals
- Customer Information will include email address registered, profile information, etc.
- Reporting should include ad hoc reporting on all aspects of the system data



Ticket Validation Application:

As part of the DART fare collection system, hand held validators or validator applications (mobile device based) will be available for DART supervisors to use.

Support and Maintenance:

This Exhibit incorporates by reference the following Schedule:

- Schedule 1 – Support and Maintenance Agreement

Other Application Modules: (optional)

Contractor is encouraged to provide optional applications that are available to support DART's other interests such as trip planning tools that will integrate with DART scheduling by supporting open standards integration using DART's GTFS and GTFS-R data, first and last mile alternative's, wayfinding, etc.

Alternatives

As the mobile phone market place continues to evolve, DART is interested in innovative additions and ideas to expand its mobile ticketing operations. Alternatives to provide additional functionality should be provided as part of the proposal. These may include blue tooth low energy, coupons, advertising, revenue sharing, and others. The contractor should identify any alternatives that are potentially applicable and feasible to DART operations that that are part of your base product that can be included at no additional cost as part of the proposal. Please also identify any scalable enhancements or upgrades that could be incorporated in the future.

Support and Maintenance Agreement

1. **Services.** In accordance with the terms of this Support and Maintenance Agreement (this “SMA”), Contractor will furnish the Software and the services as described in this SMA (the “Services”).
2. **Definitions.** The following words shall be defined as set forth herein. Words not defined herein shall have the meanings as otherwise set forth in the Contract Between Des Moines Area Regional Transit Authority (“DART”) and Bytemark, Inc. for Mobile Ticketing Platform of even date herewith (the “Agreement”).
 - a. **Back Office** is defined as an Internet-accessible site for administration and reporting features available to the Client User. The Back Office is hosted by Contractor on one or more cloud-hosted servers.
 - b. **Client** is defined as DART.
 - c. **Client User** is defined as any staff member of Client who accesses the Back Office or a Client User App in order to perform his or her job responsibilities.
 - d. **Client User Apps** is defined as Contractor-developed mobile apps for Client Users such as a fare inspection app to identify if a ticket is valid. Client User Apps may be referred to by their functional name such as the ‘Fare Inspection App’.
 - e. **Contractor** is defined as Bytemark, Inc.
 - f. **Contractor Network Monitoring** is defined as a software solution that monitors network infrastructure and Internet connection for errors, intrusion detection and packet loss.
 - g. **Contractor System Backup Monitoring** is defined as a software solution which monitors for the successful creation of system and software backups on a schedule.
 - h. **Critical Updates** is defined as updates to the Services or Services’ infrastructure that are required to patch known security vulnerabilities or Software bugs.
 - i. **Downtime** is defined as an occurrence in which the Services are not performing at Basic Functionality.
 - j. **End User** is defined as anyone that accesses Contractor-provided services through a web browser or mobile app (e.g., a customer of Client that is accessing Client services through a mobile app or web portal). End Users may be referred to as Customers or Passengers.
 - k. **End User Apps** is defined as Contractor-developed mobile apps for End Users to access or use Client’s services. End User Apps may be branded for the Client’s services and be referred to as such. The primary function of the End User App is to facilitate the purchase and use of fare media for Client’s services. Additional functionality may be defined in Appendix A.
 - l. **End User Web Portal** is defined as a End User accessible website for managing End User account including account details, payment methods, and purchasing of fare media to be send to the End User Apps.
 - m. **External Interface** is defined as a third party’s software that communicates to the Services.

- n. **Health Monitoring** is defined as a services provided by Contractor whereby Contractor software monitors the Services' infrastructure logs for potential issues (e.g., a hard drive's available disk space).
- o. **Help Desk** is defined as a component of Client's customer service center focused on End User support and may include phone, email, and online support directly for End Users for issues and questions with use of Software. The Help Desk is typically regarded as the initial support level responsible for basic customer issues and troubleshooting before being escalated to the Service Desk.
- p. **Jailbreaking** is defined as the process of removing software restrictions imposed by a hardware or software manufacturer.
- q. **Monthly Uptime Percentage** is defined as the total number of minutes in the calendar month minus the number of minutes of Downtime suffered from all Downtime periods in the calendar month, divided by the total number of minutes in the calendar month.
- r. **Non-Critical Update** is defined as an update to the Services or Services' infrastructure which is recommended to patch a software bug which may or may not affect a small number of users or systems.
- s. **Network Operations Center (NOC)** is defined as the remote monitoring by Contractor of the Software.
- t. **Outage** is defined as the unavailability of the Basic Functionalities and shall include the unavailability of the website for customer service, management, finance staff, the inability for End Users to establish an account and purchase mobile tickets, or the inability of customers to redeem mobile tickets.
- u. **Patch Management** is defined as the process of managing recommended critical and non-critical updates while minimizing the effect to the Services.
- v. **Service Desk** is defined as the Contractor single primary point of contact for all issues and questions from Client. All issues are automatically logged and tracked by the Service Desk. Unresolved or ongoing issues are automatically escalated within the Service Desk to the appropriate resources and management. The Service Desk is available to Client according to the coverage schedule outlined in this SMA.
- w. **Software** is defined as the collective Contractor-provided solution, which includes, but is not limited to, the Back Office (including the Platform), Client Merchant App, and any other Contractor mobile apps for smartphones.
- x. **Trip Planner** is defined as a feature within the End User App providing door-to-door recommended travel directions and options.
- y. **Updates** is defined as Software modifications to maintain functionality or address bugs.
- z. **Upgrades** is defined as Software modifications which introduce new features or functionality.
- aa. **User Acceptance Testing** is defined as a phase of software development in which the Software is tested by Client Users prior to release to the production environment.
- bb. **Vulnerabilities** is defined as a weakness in the Software in which an attacker with knowledge and means *may* exploit.

- cc. **Workaround** is defined as a solution to remedy an issue in order that the Software can perform Basic Functionality.
3. **Support Services.** Contractor shall furnish (i) the supported systems and services as set forth in Appendix A and (ii) all of the following support services in connection with the Agreement (the “**Support Services**”):
- a. End User Support
- 1) End Users shall be directed to Client Help Desk for first level customer support. If the issue is found to be a technical issue related to the Software, the Client customer service representative should open a ticket by emailing: support@bytemark.co and, if necessary, Contractor shall engage with the End User directly.
 - 2) End User Support shall include verifying Trip Planner is functioning and information provided to the End User is accurate.
- b. Client User App Support
- 1) Client User support shall be provided as necessary via phone, email or web to the extent of troubleshooting the Client User App.
 - 2) Tablet operating systems and hardware support are not covered and should be directed to the manufacturer of the mobile device.
- c. Client User Support
- 1) Client User support shall be provided to the extent of troubleshooting functionality related to the Software.
 - 2) Client Users shall direct all support requests to support@bytemark.co. Such requests shall be resolved based on their priority level as defined below.
 - 3) Issues related to host hardware and operating systems is not covered and should be directed to Client’s internal IT resources.
4. **System Maintenance Services.**
- a. Maintenance Generally Maintenance will be routinely completed as needed for all hosted systems and infrastructure.
- b. Updates
- 1) Critical Updates to hosted systems shall be performed by Contractor as soon as possible, but not later than 48 hours after Contractor is notified of an issue.
 - 2) Non-Critical Updates will be performed on a pre-determined schedule to minimize impact to production environment.
 - 3) Health Monitoring shall be provided, including 24/7 systems monitoring of Contractor servers and network for status, errors and performance issues.
 - 4) Patch Management shall be provided, including critical security patch updates for Contractor server operating systems applied and managed, including scheduled server restarts.
 - 5) Contractor System Backup Monitoring shall be provided, including backup jobs

monitored for errors or problems.

- 6) Contractor Network Monitoring shall be provided, including router and firewall and Internet connection monitoring.

c. Basic Functionality

1) Contractor shall use all reasonable commercial efforts, being no less than accepted industrial standards in this regard, to ensure that the Software and Services described herein are available to Client 99.99% of the time, 24 hours per day, seven days per week, 365 days per year (“Basis Functionality”). Basic Functionality shall include:

- i. The ability for an End User to use mobile and desktop websites to establish an account and purchase mobile tickets for use on Client’s transit system.
- ii. The ability for an End User to redeem a mobile ticket for use on Client’s transit system.
- iii. The ability for a Client User to access a website and manage products and access the Back Office.
- iv. The ability for a Client User to access a website and access End User records for the purpose of providing customer service.
- v. The ability for Client management and finance staff to access and generate reports.

d. Service Level Objective (“SLO”): Contractor shall remedy any issues affecting Basic Functionality in accordance with the following guidelines:

Severity Level	Target Response Time	Target Workaround Time*	Target Resolution Time*
1 – Blocker	2 Hours	8 hours	24 hours
2 – Major	2 Business Hours	48 hours	Current planned release
3 – Medium	2 Business Days	5 business days	Scheduled as part of next release -
4 – Minor	5 Business Day	N/A	Incorporated into Future Release

Business hours are defined as 9 AM – 6 PM Eastern Time, Monday-Friday, excluding US National Holidays

*Target Workaround Time and Target Resolution Time do not include any third party delays outside the control of Contractor (e.g., iOS App release times are subject to Apple App approval before publishing to the App Store).

Target Response Time	The amount of time in which Bytemark will use commercially reasonable efforts to reproduce or verify a Client's reported issue via the Bytemark Support Portal. Client will make all reasonable efforts in assisting Bytemark with verifying or reproducing the issue.
Target Workaround Time	The amount of time in which Bytemark will use commercially reasonable efforts to provide a Work-around starting from the time when Bytemark is able to successfully reproduce the issue. If a workaround is not available, Bytemark will create a project plan with Client input to minimize impact to business operations.
Target Resolution Time	The amount of time in which Bytemark will use commercially reasonable efforts to provide a final resolution starting from the time when Bytemark was able to successfully reproduce the issue. Availability of functional workaround may result in the reclassification of the issue's severity level.

Severity Level Definitions

Severity Level	Issues Impacting System
1 - Blocker	<ul style="list-style-type: none"> • Significant percentage (more than 10%) of End Users cannot use or purchase fare media • Issue preventing validation of active fare media
2 - Major	<ul style="list-style-type: none"> • End Users cannot create an account or login • Financial reporting inaccuracies • Client User unable to issue refunds • Current Schedule inaccuracies • Ability to lookup End Users • Gateway Errors - incorrect billing and settlement • Prevents End User use of Trip Planner • Current Product Issues • Prevents Client User from distributing inventory to partner organization
3 - Medium	<ul style="list-style-type: none"> • Ticket activation and purchasing issues affecting minority percentage of End Users • Impacts normal operation of Trip Planner in End User App or Web • Client or End User App settings screen issues • Future Schedule Inaccuracies or errors • Prevents Client User from creating and managing notifications. • Prevents Client User from creating & listing orders • Prevents Client User from modifying End User details • Prevents Client User from managing and creating Products • Prevents Client User from managing and creating Campaigns • Prevents Client User from Client User App features • Prevents Client User from managing partner organization related features • Prevents Client User accessing stock reports • Reporting inaccuracies • Existing Data Export process fails to execute • Device management and monitoring issues • Client User Management • Impacts Third Party Access of Bytemark Systems
4 - Minor	<ul style="list-style-type: none"> • Value add functions are not accessible or result in errors • Cosmetic Defects • Feature functions, but fails on data variation

5. **Service Credits.** If Contractor does not meet the Service Level Objectives, DART shall be eligible to receive Service credits under the Agreement (the “Service Credits”) as follows:
 - i. One week credit: Includes seven (7) days of Services added to the end of the term of the Agreement, at no charge to Client, if the Monthly Uptime Percentage for any calendar month is between 99.9% and 99.0%;
 - ii. Two week credit: Includes fourteen (14) days of Services added to the end of the term of the Agreement, at no charge to Client, if the Monthly Uptime Percentage for any calendar month is between 98.9% and 98.0%;
 - iii. One month credit: Includes thirty (30) days of Services added to the end of the term of the Agreement, at no charge to Client, if the Monthly Uptime Percentage for any calendar month is less than 98.0%.
 - iv. Right to terminate: In the event the Monthly Uptime Percentage for any calendar month is less than 94.0%, Client shall have a right to terminate the Agreement with seven (7) days’ written notice to Contractor, or alternatively Client can opt to procure the One month credit outlined above.
 - v. Client Must Request Service Credit. In order to receive any of the Service Credits described above, Client must notify Contractor within thirty (30) days from the time Client becomes eligible to receive a Service Credit.

6. **Alterations.** If any End User or Client User alters his or her own equipment beyond the manufacturer’s or mobile operator’s operating system so as to constitute Jailbreaking or any other known or unknown hacking method, such End User or Client User does so at his or her own risk and expense. Contractor shall not be liable for problems or incompatibilities created as a result of any End User or Client User’s alterations of equipment and/or the End User or Client User’s network or systems.

7. **Exclusions and Limitations to this SMA.**
 - a. Exclusions. The following items are excluded under this SMA:
 - 1) **Software:** The following are excluded with respect to the Back Office and Software:
 - i. Feature requests or change orders are not included as part of the SMA; however resulting modifications would be incorporated into this SMA as necessary.
 - ii. Third party integration support or External Interface updates not specified in the Agreement;
 - iii. Report customization; and
 - iv. In-person third-party training.
 - 2) **Third Party Costs:** The following are excluded under the SMA:
 - i. Any Contractor parts, hardware, and software not covered under a Contractor warranty or the Agreement;

- ii. Any third party parts, hardware and software not covered under the Agreement;
- iii. Software licenses, subscription, or update fees not already set forth in the Agreement;
- iv. Manufacturer and vendor support fees;
- v. Consumable materials, including printer cartridges, paper rolls for receipt printing or removable storage tapes/disks;
- vi. Shipping and handling costs for any hardware and materials not covered under the Agreement;
- vii. Legal or insurance costs associated with data breaches or unauthorized access that is outside the Contractor network infrastructure or the Software, except as otherwise provided in the Agreement; and
- viii. Travel costs outside the Des Moines metropolitan area or travel costs incurred due to a failure to perform by Client.

b. Limitations.

1) **Patch Limitations:** Software maintenance required to maintain compatibility with future mobile operating systems may require significant changes to the Software known as Upgrades.

- i. Patch Management does not include Upgrades to support new features released as part of a new mobile operating system or hardware or changes to design or features with the Bytemark Merchant App.
- ii. Significant changes to the mobile operating system or software development kits may result in incompatibilities with current versions of a Client User App and are not supported under this SMA.

2) **Software Support Limitations:**

- i. The Back Office is a web-provided service and should not require significant information technology resources on the part of Client. However, access to the Back Office shall be limited to designated Client personnel. Any unauthorized access to the system via Client equipment or locations is not covered under this SMA.
- ii. Contractor does not provide any service or repair support for Client systems or Client network infrastructure, including but not limited to the following:
 - A. Service and repair of damage or problems caused by neglect, malicious activity, or misuse (including use of the system for purpose other than which it was designed by End Users, Client, its employees or third party contractors);
 - B. Service and repair by vendor/manufacturer made necessary by bugs released by vendors, adverse effects from installing Updates

8. **Payment Card Industry Data Security Standard (PCI DSS) Compliance**
 - a. PCI Coverage and Compliance. Contractor is responsible for maintaining PCI Compliance for Contractor Services. The Contractor will host the solution, keeping storage and transmission of card data and other sensitive financial data outside of the scope of the Client's PCI responsibility. If necessary, Contractor and Client will establish a PCI Responsibility Matrix between the two parties.
 - b. Vulnerabilities. Per PCI Level 1 rules and schedules, Contractor's systems are routinely scanned by an outside firm for Vulnerabilities. Any Vulnerabilities discovered shall be resolved as mandated by external auditors and notification of any potential data breach shall be communicated directly with Client per PCI DSS compliance requirements.

9. **Client Minimum Standards**
 - a. The Client environment must comply with the following minimum standards related to Back Office access:
 - 1) All operating system and Internet browser software shall be within two (2) major releases of the current version, except as expressly specified by Contractor and Client (e.g., if Internet Explorer 11 is the latest release, support will extend back to Internet Explorer 9). A list of current systems that shall be supported under the terms of this SMA is set forth in Appendix A attached hereto.
 - 2) Client will use best practices to protect their wireless network; at a minimum Client should utilize WPA2 or higher encryption on their wireless network.
 - 3) Active antivirus protection software licenses shall be provided for installation on all servers, desktops, and laptops. Antivirus software may not be turned off by End Users except for software installation purposes.
 - 4) Software shall be genuine, licensed, and vendor-supported.
 - 5) Operating Systems and browsers shall be fully updated and patched for all known critical vulnerabilities.
 - 6) All locations for Service and environments shall be in compliance with all applicable local, state, and federal laws.
 - 7) All Client systems shall be administered only by designated Client personnel.
 - 8) All commercially reasonable efforts shall be conducted by Client to reproduce reported errors and to collect information from Users including at a minimum: User contact details and description of issue.
 - 9) Client shall assign one employee to be the primary contact person to Contractor in order to make communications between both parties effective. A list of current Client Users and Contractor Designated Contacts is set forth on Appendix B and Appendix C attached hereto.

10. **Remedies**. For any breach of this SMA, the non-breaching party shall have the remedies available to it in the Agreement (unless otherwise set forth in this SMA).

Appendix A – Supported Systems and Services

Below is a list of all current systems that will be supported under the terms of the SMA.

System or Device Name	Name	Type	Notes
End Users Apps	Ride Dart App (or similar)	iOS and Android Apps	Maintain feature set of app(s) for the last two versions of iOS and Android OS. End User App Features: <ol style="list-style-type: none"> 1. Account Management 2. Ticket Purchasing and Management 3. Trip Planner <ol style="list-style-type: none"> a. Integration of Real Time Data b. Service Alerts based on Real Time Data 4. End User Notifications
End User Web Portal	Bytemark Marketplace	Web Portal	Maintain current feature set and compatibility of End User account management features for the last two versions of Safari, Firefox, and Chrome, Internet Explorer and Edge browsers.
Client User App	DART Fare Inspection App	Android App	Patch and update Client User App for all known security vulnerabilities and threats. Client User App Features: <ol style="list-style-type: none"> 1. Mobile Ticket Inspection 2. Client User Login and Management
Back Office	Bytemark Merchant Back Office (MBO)	Web Portal	Maintain feature set of Back Office for the last two version of Safari, Firefox, and Chrome, Internet Explorer and Edge browsers.

Appendix B – Client User Access & Roles

Below is a list of all current users that will be supported under the terms of the Agreement if applicable. Alternatively see attached spreadsheet of Supported Users.

Name	Email	Phone	Client Role

Appendix C – Bytemark Designated Contacts & Roles

Name	Email	Phone	Role
Alec Lawson	alec@bytemark.co	212-206-8719 x1	Support Manager
Vishal Arora	vishal@bytemark.co	646-285-6900	Development Manager
Nick Ihm	nick@bytemark.co	608-698-3940	CTO
Gregory Valyer	greg@bytemark.co	312-493-8618	Business Requirements for Enhanced & Expanded Solutions



D. PROJECT SCHEDULE

Task Name	Duration	Comments
SAMPLE SCHEDULE - TIMES MAY ADJUST BASED ON NTP		
DART PROJECT	191d	
Project Organization / Administration	176d	
NTP	1d	
Kick-off meeting and requirements gap analysis	5d	
Bytemark provide updated project schedule	10d	
Bytemark provide initial Client Onboarding Document	5d	
DART provide Branding Guidelines, logo files, app name	5d	
DART finalizes Client Onboarding Document	5d	
DART finalizes V3 calendars / specifications	5d	
Payment processor set-up	165d	
Bytemark provides sample trademark permission letter and bank letter	1d	
DART provides bank letter	5d	
DART provides trademark permission letter	5d	
Bytemark sends package to Pivotal	3d	
Set up Amex account	20d	
Pivotal setup	20d	
Add merchant ID to database	5d	
Set up Pivotal training with DART Finance	5d	
Platform Development	80d	
Add DART to Bytemark platform and Merchant Back Office	10d	
Create gateway account	10d	
Add base reports	10d	
Prepare package to send to client for UAT	5d	
Add products	10d	
Reporting Updates	30d	
Prepare package to send to client for UAT	5d	
Customer Mobile Development	115d	
Design Phase	60d	
Send R1 designs - iOS only	20d	



Client feedback initial - iOS only	5d	
Send R2 designs - iOS only	10d	
Client feedback	5d	
Send R3 designs - iOS final, Android and Windows initial	5d	
Client feedback	5d	
Final designs	5d	
Client approval	5d	
iOS Customer App	55d	
Project setup	10d	
Buy and use	20d	
Prepare package to send to client for limited UAT	5d	
Fine-tuning	20d	
Prepare package to send to client for limited UAT	5d	
Android Customer App	55d	
Project setup	10d	
Buy and use	20d	
Prepare package to send to client for limited UAT	5d	
Fine-tuning	20d	
Prepare package to send to client for limited UAT	5d	
Windows Customer App	55d	
Project setup	10d	
Buy and use	20d	
Prepare package to send to client for limited UAT	5d	
Fine-tuning	20d	
Prepare package to send to client for limited UAT	5d	
Android Merchant Mobile App	55d	
Add DART to Merchant Mobile	30d	
Prepare package to send to client for UAT	5d	
Bug fixes	20d	
Prepare package to send to client for UAT	5d	
Testing and Dry Run	103d	
UAT R1	65d	
UAT on Platform features	5d	
UAT on iOS Customer app	5d	
UAT on Android Customer app	5d	



UAT on Windows Customer app	5d	
UAT on Merchant Mobile app	5d	
UAT R2	40d	
UAT on Platform features	5d	
UAT on iOS Customer app	5d	
UAT on Android Customer app	5d	
UAT on Windows Customer app	5d	
UAT on Merchant Mobile app	5d	
Dry Run	53d	
Send prod builds of mobile apps to DART	3d	DART reports issues as they come in
Send list of known issues to DART	3d	
Pull Platform to prod	5d	
Employee dry run	10d	
DART collects and reports any outstanding issues	5d	Only showstopping items addressed before launch
Training	26d	
Prepare training materials	10d	
Provide training materials for DART feedback	0	Training materials include: PPT presentation; one-pagers / quick user guides; user manuals
Receive DART feedback	5d	Training materials include: PPT presentation; one-pagers / quick user guides; user manuals
Update training materials	5d	
Train-the-Trainer	6d	
Train-the-Trainer training - Drivers	1d	
Train-the-Trainer training - Fare Inspectors	1d	
Train-the-Trainer training - Customer Service	1d	
Train-the-Trainer training - Ticket Design	1d	
Train-the-Trainer training - Administration	1d	
Train-the-Trainer training - Finance	1d	
Delivery	12d	
Submit iOS to the store	1d	
Publish iOS	1d	
Submit Android to the store	1d	
Publish Android	0	
Submit Windows to the store	1d	
Publish Windows	0	
Push final Merchant app to hardware	1d	
Launch	0	
Optional HaCon Integration	20d	20 additional days for integration

NO.		NUMBER OF UNITS		EXTENDED PRICE	NOTES
Category A – Base System					
1.	Design, Development & Deployment of Software with one year of support and maintenance of Software Solution	1		\$ 174,000	
2.	Support and Maintenance of Software Solution 2nd Year	1		\$ 12,000	
3.	Support and Maintenance of Software Solution 3rd Year	1		\$ 12,000	
4.	Support and Maintenance of Software Solution 4th Year	1		\$ 12,000	
5.	TOTAL PROPOSAL PRICE			\$ 210,000	
6.	Optional Validation System			\$ 24,000	
7.	Operating Cost for the Optional Validation System (annual fee)			\$ 14,700	

NO.		NUMBER OF UNITS	UNIT PRICE	EXTENDED PRICE	NOTES
Category B – Ongoing Cost Detail - Provide breakout of major cost items for years 1-4 ongoing cost items e.g. hosting, transaction fees, maintenance, warranty, etc.					
1.	Bytemark Transaction Fees	1	\$ 2%	\$	Billed Monthly based on that months ticket sales.
2.	PayNearMe Transaction Fees	1	\$ 8%	\$	Based on the average sale price of \$2/transaction.

3.	Hosting	1	\$ 14,400	\$ 14,400	Annual Cost - billed monthly
4.	Warranty	1	\$ 34,800	\$ 34,800	Annual Cost - billed monthly
5.		1	\$	\$	
6.		1	\$	\$	
7.		1	\$	\$	
8.		1	\$	\$	
9.		1	\$	\$	
10.		1	\$	\$	
11.		1	\$	\$	
12.		1	\$	\$	
13.		1	\$	\$	
14.		1	\$	\$	
15.		1	\$	\$	
16.		1	\$	\$	



PAYMENT MILESTONES

Milestone	Description	Schedule	Amount	% of Total
1	Project Initiation/Onboarding	(Planned)	\$20,000	11.5%
2	Design Phase Completion and Acceptance		\$30,000	17.2%
3	UAT Completion and Acceptance		\$40,000	23.0%
4	Training Completion and Acceptance		\$30,000	17.2%
5	System Acceptance and Public Launch		\$42,000	24.1%
6	Maintenance		\$12,000	6.9%
Total			\$174,000	

Software License

1. **License Grant.** Subject to the terms and conditions of this Agreement, Contractor grants DART a limited, non-exclusive, non-transferable (except as described below), royalty-free, revocable license to access and use the Platform for the sole purposes of publishing DART approved data, including but not limited to contact information, transportation schedules and fares, other attraction and event information, for display on the Platform and the ability to facilitate DART's sale of tickets and other items through the Platform including, but not limited to, the DART mobile applications on iOS and Android.
2. **Modifications.** Contractor reserves the right to release modified versions of the Software and to require DART to use the most recent version, as long as the modified version(s) has no less functionality than the existing version. If a modification is unacceptable to DART, DART must discontinue use of the Platform. Contractor shall provide DART with at least ninety (90) days' notice prior to making a "Substantial Change" (as defined herein) to the Platform other than in the case of an "Unscheduled Change" (as defined herein), in which case either shorter or no notice may be provided. Anytime an Unscheduled Change occurs Contractor will notify DART within one hour of the change of knowledge that a change is necessary. An "Unscheduled Change" shall mean: (i) emergency (ii) unauthorized access, or (ii) for reasons of security. A "Substantial Change" shall mean: (i) the launch of a new or significantly altered Platform, (ii) substantial changes to the functionality of receiving and sending data with the Platform or format of the data to be sent or received, (iii) substantial changes to the ticket reservation functionality of the Platform, or (iv) changes to the fulfillment functionality of the Platform including ticket delivery. Notwithstanding the foregoing, Contractor agrees that it will obtain DART's prior written consent prior to making any substantial changes to the ticket reservation functionality of the Platform or to the fulfillment functionality of the Platform, including ticket delivery.
3. **Restrictions on Use.** DART acknowledges that the structure, organization and source code of the Platform and all associated data and any supporting materials or documentation constitute valuable trade secrets of Contractor. Operator agrees that it will not, and will not permit any user or third party to: (a) copy, modify, adapt, alter, scrape or translate the Platform; (b) sublicense, lease, rent, sell, loan, distribute, or otherwise transfer the Platform, including, as applicable, the documentation, software, associated user interfaces, help resources, and any related technology or services Contractor makes available, and all updates and upgrades thereto, if any, to any third party; or (c) modify, create derivative works, reverse engineer, decompile, disassemble, or otherwise derive or determine or attempt to derive or determine the source code (or the underlying ideas, algorithms, structure or organization) of the Platform.
4. **Conditions.**
 - a. DART agrees to take reasonable industry standard measures to prevent any unauthorized third party from accessing the Platform to obtain any unauthorized access to data. If DART is notified by Contractor that any unauthorized third party is obtaining data through the Platform they shall immediately take necessary steps to block such activity.
 - b. DART shall not modify, distribute or convey the Platform or any code contained therein so that such API, code or any application to which it links, or which it is a part of, becomes subject to an Excluded License. An "Excluded License" is defined as one that requires, as a condition of license, use, modification, distribution or conveyance, that (i) the code be disclosed or

distributed in source code form; (ii) others have the right to modify or create derivative works of it; or (iii) it becomes redistributable at no charge.

- c. DART shall not use the Platform to develop any application or program (i) containing viruses or code that is intended to damage or detrimentally interfere with or surreptitiously intercept or expropriate any system, data or information; (ii) that violates any law or regulation; or (iii) that technically interferes with the operation of Contractor's applications or products.

5. **Proprietary Rights.** The copyright and all other Intellectual Property Rights (defined below) in the Platform are the sole and exclusive property of Contractor. All rights not expressly granted to herein are reserved to Contractor. For purposes of this Agreement, the term "Intellectual Property Rights" means any and all now known or hereafter existing: (i) rights associated with works of authorship, including Preexisting Works (as defined below), Work Product (as defined below), copyrights, mask work rights, and moral rights; (ii) trademark or service mark rights (iii) trade secret rights; (iv) patents, patent rights, and industrial property rights; (v) layout---design rights, , and other proprietary rights of every kind and nature; and (vi) all registrations, applications, renewals, extensions, or reissues of the foregoing, in each case in any jurisdiction throughout the world. All aspects of Intellectual Property are Confidential Information and proprietary and will (i) remain the exclusive property of Contractor, (ii) not be used by except as permitted by this Agreement, and (iii) not be disclosed or otherwise communicated by Contractor, directly or indirectly, to anyone except as permitted by this Agreement.

6. **Preexisting Works and Work Product:**

- a. **Preexisting Works.** It is understood that Contractor may use its own previously developed data, documentation, software, ideas, concepts, materials, or information, in whatever form, in performing its obligations hereunder (collectively "Preexisting Works"). All Contractor Preexisting Works shall remain the sole, exclusive and unrestricted property of Contractor.
- b. **Work Product.** It is understood that in performing its obligations, Contractor may develop new and unique work product for use in conjunction with this Agreement. For the purpose of this Agreement, "Work Product" shall mean all data, documentation, software, ideas, concepts, materials, and information, in whatever form, produced or created by Contractor which may or may not relate solely and exclusively to the performance of work or the rendition of obligations under this Agreement (hereinafter "Work Product"). All Work Product shall remain the sole, exclusive and unrestricted property of Contractor.
- c. **Ownership Rights.** The ownership rights referenced above in this section include all rights (including title to physical objects) of whatever nature including without limitation any patent, URL website address, software, software design, domain name (whether registered or not), trade secret, trademark or service mark rights (and any goodwill appurtenant thereto), any "moral rights" of authors, any rights of publicity, and any right, title and interest in any copyright and any right that may affix under any copyright law now or hereinafter in force and effect. This also includes, without condition, limitation or reservation, the rights to copy, add to, subtract from, arrange, rearrange, revise, modify, change and adapt (collectively "Changes"), and the ownership of the results of any of these Changes with regard to the Preexisting Works and Work Products.



DATA PRIVACY AND SECURITY. The mobile ticketing solution could potentially involve the sharing of various elements of legally protected Personal Information such as Personally Identifiable Information (PII), Personal Health Information (PHI) and/or Personal Credit Information (PCI). The sharing of this information is necessary to enable the Contractor to provide the services relevant to this Contract. The privacy of Personal Information is governed by a number of laws including the Gramm-Leach-Bliley Act (GLBA), the Health Insurance Portability and Accountability Act (HIPAA), the Health Information for Economic and Clinical Health Act (HITECH), the Fair Credit Reporting Act (FCRA), and the Children’s Online Privacy Protection Act (COPPA); as well as other federal and state laws, regulations, common law privacy principles, and industry standards and guidelines. DART could face serious financial and/or reputational harm should there be an unauthorized use, security incident, or security breach. Therefore the Contractor shall conform to the following standards of care and obligations with respect to the treatment of Personal Information.

- A. **“Authorized Employees”** means the Contractor’s employees who have a need to know or otherwise access Personal Information to enable the Contractor to perform their obligations under this Contract.
- B. **“Authorized Persons”** means (i) Contractor’s Authorized employees; and (ii) Contractors independent contractors, vendors, agents, outsourcers, and auditors (as specified in EXHIBIT ____ to this Contract) who have a need to know or otherwise access Personal Information to enable the Contractor to perform their obligations under this Contract, and who are bound in writing by confidentiality obligations sufficient to protect Personal Information in accordance with the terms and conditions of this Contract.
- C. **“Highly Sensitive Personal Information”** means (i) an individual’s government-issued identification number (including social security number, driver’s license number, or other state-issued identification number); (ii) financial account number, credit card number, debit card number, credit report information, with or without any required security code, access code, personal identification number, or password that would permit access to an individual’s financial account; or (ii) biometric or health data.
- D. **“Personal Information”** means information provided to the Contractor by or at the direction of DART or to which access was provided to the Contractor at the Direction of DART, in the course of the Contractor’s performance under this Contract that: (i) identifies or can be used to identify and individual (including without limitation names, signatures, addresses, telephone numbers, e-mail addresses, and other unique identifiers); or (ii) can be used to authenticate an individual (including with limitation employee identification numbers, government issued identification numbers, passwords or personal identification numbers, financial account numbers, credit report information, biometric or health data, answers to security questions, and other personal identifiers); (iii) without limitation, all Highly Sensitive Personal Information. DART employees’ business contact information is not by itself deemed to be Personal Information.
- E. **“Security Incident”** means (i) any act or omission that compromises the security, confidentiality, or integrity of Personal Information, including any compromise of physical, technical, administrative, or organizational safeguards put in place by the Contractor or Any Authorized Persons which relate to the security, confidentiality, or integrity of personal information; or (ii) receipt of a complaint in relation to the privacy practices of the Contractor or any Authorized Persons; or a breach or alleged breach of this Contract relating to such privacy practices.



F. "Standards of Care" The Contractor agrees to abide by the following Standards of Care concerning the treatment of Personal Information:

1. Contractor acknowledges and agrees that, in the course of their engagement by DART, Contractor may receive or have access to Personal Information. Contractor shall comply with the terms and conditions set forth in this Contract in its collection, receipt, transmission, storage, disposal, use, disposal, and disclosure of such Personal Information under its control or in its possession by All Authorized Employees and Authorized Persons. Contractor shall be responsible for, and remain liable to, DART for the actions and omissions of all Authorized Persons that are not Authorized Employees concerning the treatment of Personal Information as if they were the Contractor's own actions and omissions.
2. Personal Information is deemed to be the Confidential Information of Dart and is not Confidential Information of the Service Provider. If the event of a conflict or inconsistency between this section and the confidentiality/compliance with laws sections of this Contract, the terms and conditions set forth in this Section shall govern.
3. In recognition of the foregoing, Contractor agrees and covenants that it shall:
 - a. Keep and maintain all Personal Information in strict confidence, using such degree of care as is appropriate to avoid unauthorized access or disclosure;
 - b. Use and disclose Personal Information solely and exclusively for the purposes for which the Personal information, or access to it, is provided pursuant to the terms and conditions of this Contract, and not use, sell, rent, transfer, distribute, or otherwise disclose or make available Personal Information for the Service Provider's own purposes or for the benefit of anyone other than DART, in each case without DART's prior written consent; and
 - c. Not, directly nor indirectly disclose Personal Information to any person other than the Contractor's Authorized Employees/Authorized Persons including any unauthorized employees, independent contractors, subcontractors, agents, outsourcers, or auditors (an "Unauthorized Third Party"), without the express written consent from DART unless and to the extent required by Government Authorities or as otherwise to the extent expressly required by applicable law. In such cases Contractor shall (i) use best efforts to notify DART before such disclosure as soon thereafter as reasonably possible; (ii) be responsible and remain liable to DART for the actions and omissions of such Unauthorized Third Party concerning the treatment of such Personal Information as if they were the Contractor's own actions and omissions; and (iii) require the Unauthorized Third Party that has access to Personal Information to execute a written Contract agreeing to comply with the terms and conditions of this Contract relating to the treatment of Personal Information.



G. Information Security Standards The Contractor agrees to abide by the following Information Security Standards concerning the treatment of Personal Information:

1. Contractor represents and warrants that its collection, access, use, storage, disposal and disclosure of Personal Information does and will comply with all applicable federal, state, and foreign privacy and data protection laws, as well as all other applicable regulations and directives.
2. Without limiting the Contractor's obligations, Contractor shall implement administrative, physical and technical safeguards to protect Personal Information that are no less rigorous than accepted industry practices including specifically the International Organization for Standardization's standards: ISO/IEC 27001:2005 – Information Security Management Systems – Requirements and ISO-IEC 27002:2005 – Code of Practice for International Security Management, the Information Technology Library (ITIL) standards, the Control Objectives for Information and related Technology (COBIT) standards, or other applicable industry standards for information security; and shall ensure that all such safeguards, including the manner in which Personal Information is collected, accessed, used, stored, processed, disposed of and disclosed, comply with applicable data protection and privacy laws, as well as the terms and conditions of this Contract.
3. If, in the course of its engagement by DART, Contractor has access to or will collect, access, use, store, process, dispose of or disclose credit, debit or other payment cardholder information, Service Provider shall at all times remain in compliance with the Payment Card Industry Data Security Standard ("PCI DSS") requirements, including remaining aware at all times of changes to the PCI DSS and promptly implementing all procedures and practices as may be necessary to remain in compliance with the PCI DSS, in each case, at the Contractor's sole cost and expense.
4. At a minimum, Contractor and its Authorized Persons' safeguards for the protection of Personal Information shall include: (i) limiting access of Personal Information to Authorized Employees/Authorized Persons; (ii) securing business facilities, data centers, paper files, servers, back-up systems and computing equipment, including, but not limited to, all mobile devices and other equipment with information storage capability; (iii) implementing network, device application, database and platform security; (iv) securing information transmission, storage and disposal; (v) implementing authentication and access controls within media, applications, operating systems and equipment; (vi) encrypting Highly-Sensitive Personal Information stored on any mobile media; (vii) encrypting Highly-Sensitive Personal Information transmitted over public or wireless networks; (viii) strictly segregating Personal Information from information of Contractor or its other customers so that Personal Information is not commingled with any other types of information; (ix) implementing appropriate personnel security and integrity procedures and practices, including, but not limited to, conducting background checks consistent with applicable law; and (x) providing appropriate privacy and information security training to Contractor's employees.
5. During the term of each Authorized Employee's employment by the Contractor, Contractor shall at all times cause such Authorized Employees to abide strictly by Contractor's obligations under this Contract [and Contractor's standard policies and procedures, a copy of which have



been provided to DART/are attached as Exhibit (EXHIBIT NUMBER___) to this Contract]. Contractor further agrees that it shall maintain a disciplinary process to address any unauthorized access, use or disclosure of Personal Information by any of Contractor's officers, partners, principals, employees, agents or sub-contractors. Upon Customer's written request, Contractor shall promptly identify for DART in writing all Authorized Employees as of the date of such request.

6. Upon Customer's written request, Contractor shall provide DART with a network diagram that outlines Contractor's information technology network infrastructure and all equipment used in relation to fulfilling of its obligations under this Contract, including, without limitation: (i) connectivity to DART and all third parties who may access Contractor's network to the extent the network contains Personal Information; (ii) all network connections including remote access services and wireless connectivity; (iii) all access control devices (for example, firewall, packet filters, intrusion detection and access-list routers); (iv) all back-up or redundant servers; and (v) permitted access through each network connection

H. Data Security Incident. The Contractor agrees to abide by the following standards governing Data Security Incidents:

1. In the event a Data Security Event occurs, the Contractor shall:
 - a. Provide DART with the name and contact information for an employee of Contractor who shall serve as DART's primary security contact and shall be available to assist DART twenty-four (24) hours per day, seven (7) days per week as a contact in resolving obligations associated with a Data Security Incident.
 - b. Notify DART of a Data Security Incident as soon as practicable, but no later than twenty-four (24) hours after the Contractor becomes aware of it.
 - c. Notify DART of any Data Security incidents by telephone at the following number: 515-283-5020/e-mailing DART with a read receipt at it@ridedart.com and with a copy by e-mail to Contractor's primary business contact within DART.
2. Immediately following Contractor's notification to DART of a Data Security Incident, the parties shall coordinate with each other to investigate the Data Security Incident. Contractor agrees to fully cooperate with DART in DART's handling of the matter, including, without limitation: (i) assisting with any investigation; (ii) providing DART with physical access to the facilities and operations affected; (iii) facilitating interviews with Contractor's employees and others involved in the matter; and (iv) making available all relevant records, logs, files, data reporting and other materials required to comply with applicable law, regulation, industry standards or as otherwise [reasonably] required by DART.
3. Contractor shall take reasonable steps to immediately remedy any Data Security Incident and prevent any further Data Security Incidents at Contractor's expense in accordance with applicable privacy rights, laws, regulations and standards. Service Provider shall reimburse DART for actual costs incurred by DART in responding to, and mitigating damages caused by, any Data Security Incident, including all costs of notice and/or remediation



4. Contractor agrees that it shall not inform any third party of any Security Breach without first obtaining DART's prior written consent, other than to inform a complainant that the matter has been forwarded to DART's legal counsel. Further, Contractor agrees that DART shall have the sole right to determine: (i) whether notice of a Security Breach is to be provided to any individuals, regulators, law enforcement agencies, consumer reporting agencies or others as required by law or regulation, or otherwise in DART's discretion; and (ii) the contents of such notice, whether any type of remediation may be offered to affected persons, and the nature and extent of any such remediation.
 5. Contractor agrees to fully cooperate at its own expense with DART in any litigation or other formal action deemed reasonably necessary by DART to protect its rights relating to the use, disclosure, protection and maintenance of Personal Information.
 6. In the event of any Data Security Incident, the Contractor shall promptly use its best efforts to prevent a recurrence of any such Security Breach.
- I. **Oversight of Security Compliance.** Upon DART's written request, to confirm Contractor's compliance with this Contract, as well as any applicable laws, regulations and industry standards, Contractor grants DART or, upon DART's election, a third party on DART's behalf, permission to perform an assessment, audit, examination or review of all controls in Contractor's physical and/or technical environment in relation to all Personal Information being handled and/or services being provided to DART pursuant to this Contract. Contractor shall fully cooperate with such assessment by providing access to knowledgeable personnel, physical premises, documentation, infrastructure and application software that processes, stores or transports Personal Information for DART pursuant to this Contract. In addition, upon DART's written request, Contractor shall provide DART with the results of any audit by or on behalf of Contractor performed that assesses the effectiveness of Contractor's information security program as relevant to the security and confidentiality of Personal Information shared during the course of this Contract.
- J. **Return or Destruction of Personal Information.** At any time during the term of this Contract at the DART's written request or upon the termination or expiration of this Contract for any reason, Contractor shall, and shall instruct all Authorized Persons to, promptly return to DART all copies, whether in written, electronic or other form or media, of Personal Information in its possession or the possession of such Authorized Persons, or securely dispose of all such copies, and certify in writing to DART that such Personal Information has been returned to DART or disposed of securely. Contractor shall comply with all reasonable directions provided by DART with respect to the return or disposal of Personal Information.
- K. **Equitable Relief.** Contractor acknowledges that any breach of its covenants or obligations set forth in this Section may cause DART irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, DART is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which DART may be entitled at law or in equity. Such remedies shall not be deemed to



be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Contract to the contrary.

- L. **Material Breach** Contractor's failure to comply with any of the provisions of this Section is a material breach of this Agreement. In such event, DART may terminate this Agreement in accordance with the procedures outlined in Section 10 of this Contract.



ACTION ITEM



7C: October FY2017 Consolidated Financial Report

Action: Approve the October FY2017 Consolidated Financial Report

Staff Resource: Timothy Ruggles, Staff Accountant

Year-to-Date Budget Highlights:

Revenue:

- Fixed Route Operating Revenue is 11.31% above budget levels. Other contracted services are currently exceeding budget expectations.
- Fixed Route Non-Operating Revenue is 5.08% above budget levels year to date due to timing of Municipal Operating Assistance and State Contracts.
- Paratransit Operating Revenue is 18.34% lower than budget expectations. Contracted trips are showing below budgeted levels.
- Paratransit Non-Operating Revenue is 0.75% lower than budget.
- Rideshare Revenues were 21.00% below budgeted levels for October. Rideshare revenue continues to cover expenses.

Operating Expense:

- Fixed Route Budget Summary – Operating expenses are 0.29% below budget projections year to date. Fuel and Lubricants are currently seeing the largest budget savings.
- Paratransit Budget Summary – Operating expenses are currently showing 16.30% budget savings. Many categories are continuing to show savings including Fuel and Lubricants and Equipment Repair Parts.
- Rideshare Budget Summary – Rideshare Expenses are below budgetary expectations by 36.64%. Many categories are also showing savings within this division and in alignment with the lower levels of revenue received versus budget.

Recommendation:

- Approve the October FY2017 Consolidated Financial Report.

**** TOTAL Un-Audited Year-End October FY2017 as Compared to Budget:**

Fixed Route	\$	580,441	Reserve for Accidents (See Balance Sheet):
Paratransit	\$	55,662	FY2017
Rideshare	\$	<u>46,914</u>	\$393,546.61
Total	\$	683,017	

FY2017 Financials:

October 2016

FIXED ROUTE	October 2016			Year-To-Date-(4) Months Ending 10/31/2016		
	Actual	Budgeted	Variance	Actual	Budgeted	Variance
Operating Revenue	574,402	423,250	151,152	1,884,539	1,693,000	191,539
Non-Operating Revenue	2,398,921	1,789,594	609,327	7,521,925	7,158,374	363,551
Subtotal	2,973,322	2,212,844	760,479	9,406,464	8,851,374	555,090
Operating Expenses	2,120,802	2,212,844	92,041	8,826,023	8,851,374	25,351
Gain/(Loss)	852,520	-	852,520	580,441	-	580,441

PARATRANSIT	October 2016			Year-To-Date-(4) Months Ending 10/31/2016		
	Actual	Budgeted	Variance	Actual	Budgeted	Variance
Operating Revenue	136,797	169,083	(32,286)	552,267	676,333	(124,066)
Non-Operating Revenue	110,888	111,722	(833)	443,554	446,887	(3,333)
Subtotal	247,686	280,805	(33,119)	995,821	1,123,220	(127,399)
Operating Expenses	270,245	280,805	10,560	940,159	1,123,220	183,062
Gain/(Loss)	(22,560)	-	(22,560)	55,662	-	55,662

RIDESHARE	October 2016			Year-To-Date-(4) Months Ending 10/31/2016		
	Actual	Budgeted	Variance	Actual	Budgeted	Variance
Operating Revenue	58,402	75,000	(16,598)	236,998	300,000	(63,002)
Non-Operating Revenue	-	-	-	-	-	-
Subtotal	58,402	75,000	(16,598)	236,998	300,000	(63,002)
Operating Expenses	37,758	75,000	37,242	190,084	300,000	109,916
Gain/(Loss)	20,645	-	20,645	46,914	-	46,914



DISCUSSION ITEM



8A: Des Moines Public Schools Pilot Program

Staff Resource: Elizabeth Presutti, Chief Executive Officer

- An update presentation on the Des Moines Public Schools Pilot Program will be provided at the meeting.



DISCUSSION ITEM



8B: FY 2018 Budget Development

Staff Resource: Jamie Schug, Chief Financial Officer

- A presentation on the FY 2018 Budget Development will be provided at the meeting.



System Summary Performance Report

October 2016

	April 2016	May 2016	June 2016	July 2016	August 2016	September 2016	October 2016	October 2015	October % Change FY17	FY17 October YTD	FY16 October YTD	YTD % Change FY17
Fixed Route												
Passengers	393,991	357,931	308,552	272,117	550,448	378,099	394,513	419,637	(5.99%)	1,595,177	1,662,087	(4.03%)
OTT Ridership	21,741	20,430	20,694	19,236	21,923	20,428	15,190	19,138	(20.63%)	76,777	88,298	(13.05%)
Unlimited Access Ridership	27,668	26,574	27,736	24,976	28,856	31,805	27,192	28,979	(6.17%)	112,829	119,607	(5.67%)
Bike Rack Usage	4,300	3,792	6,480	5,686	6,529	6,237	6,064	5,670	6.95%	24,516	24,413	0.42%
Passengers Per Revenue Hour	21.7	20.1	17.1	16.0	24.2	21.4	21.7	22.5	(3.32%)	21.1	21.8	(3.23%)
Average Passenger Trip Length	3.92	3.96	4.06	4.34	2.51	4.26	4.26	3.96	7.55%	3.67	4.76	(22.89%)
Complaints Per 100,000 Passengers	8.38	17.88	17.50	16.54	10.36	11.64	8.62	24.07	(64.19%)	11.28	23.40	(51.79%)
Commendations Per 100,000 Passengers	1.78	5.87	1.62	2.57	1.45	1.32	1.01	0.95	6.37%	1.50	2.47	(39.01%)
On-Time Performance	85.24%	83.59%	84.07%	85.67%	80.71%	81.31%	82.25%	82.05%	0.25%	82.40%	82.36%	0.05%
<u>Accident Frequency Rate by Service:</u>												
Preventable/100,000 Miles	0.72	2.53	1.10	1.56	0.58	2.94	1.43	1.04	36.40%	1.56	1.56	(0.15%)
Non-Preventable/100,000 Miles	3.95	2.53	1.83	2.73	1.45	2.94	2.85	1.74	63.68%	2.42	1.56	55.32%
<u>Maintenance:</u>												
Total Service Miles	278,281.8	276,149.6	273,656.5	256,449.0	345,381.6	272,492.7	280,699.5	287,166.1	(2.25%)	1,155,022.8	1,153,222.2	0.16%
Roadcalls/100,000 Miles	30.54	27.16	33.62	45.62	33.88	37.07	35.63	22.29	59.85%	37.66	19.51	93.03%
Active Vehicles In Fleet	126	126	126	126	123	123	126	124	1.61%	125	123	1.63%
Paratransit												
Passengers	10,065	9,624	9,737	8,903	10,134	8,625	9,212	10,682	(13.76%)	36,874	41,900	(12.00%)
Passengers Per Revenue Hour	2.7	2.6	2.6	2.6	2.6	2.7	2.6	2.8	(6.45%)	2.6	2.8	(5.08%)
Average Passenger Trip Length	8.86	8.89	8.87	9.05	9.09	9.08	9.08	8.85	2.55%	9.08	8.84	2.62%
Complaints Per 100,000 Passengers	39.74	20.78	71.89	44.93	29.60	57.97	43.42	93.62	(53.62%)	43.39	93.08	(53.38%)
Commendations Per 100,000 Passengers	19.87	41.56	10.27	0.00	0.00	0.00	0.00	9.36	(100.00%)	0.00	19.09	(100.00%)
On-Time Performance	92.79%	93.54%	92.15%	93.25%	93.15%	0.00%	0.00%	92.86%	(100.00%)	93.20%	92.18%	1.11%
<u>Accident Frequency Rate by Service:</u>												
Preventable/100,000 Miles	1.31	2.70	0.00	2.94	1.30	3.09	1.38	2.63	(47.43%)	2.13	2.68	(20.77%)
Non-Preventable/100,000 Miles	0.00	1.35	0.00	4.42	1.30	4.63	0.00	0.00	0.00%	2.48	0.67	269.72%
<u>Maintenance:</u>												
Total Service Miles	76,428.9	74,166.1	75,967.0	67,940.5	77,089.1	64,769.9	72,367.7	76,083.8	(4.88%)	282,167.2	298,066.9	(5.33%)
Roadcalls/100,000 Miles	3.93	4.05	5.27	14.72	6.49	9.26	9.67	2.63	267.97%	9.92	5.03	97.19%
Active Vehicles In Fleet	23	23	23	23	22	22	22	21	4.76%	22	21	5.95%
Rideshare												
Passengers	17,157	16,989	16,735	14,395	17,450	15,512	15,471	18,530	(16.51%)	62,828	70,607	(11.02%)
Passengers Per Revenue Hour	5.3	5.2	5.2	4.4	5.5	5.1	5.1	5.4	(5.57%)	5.0	5.6	(9.63%)
Rideshare Customers	594	604	608	558	566	561	561	635	(11.65%)	562	638	(12.03%)
Rideshare Vans In Circulation	88	87	87	84	85	84	83	88	(5.68%)	84	88	(4.55%)
Average Passenger Trip Length	40.34	41.41	39.83	40.18	40.33	39.91	39.98	41.14	(2.83%)	40.11	40.50	(0.97%)
<u>Accident Frequency Rate by Service:</u>												
Preventable/100,000 Miles	0.00	0.00	0.00	0.79	0.00	0.73	0.00	0.00	0.00%	0.37	0.17	114.36%
Non-Preventable/100,000 Miles	0.00	0.00	0.00	0.00	0.00	0.73	0.00	0.66	(100.00%)	0.18	0.51	(64.28%)
<u>Maintenance:</u>												
Total Service Miles	142,556.0	139,740.8	142,662.5	125,830.0	147,973.1	136,772.9	134,065.6	152,200.6	(11.92%)	544,641.6	583,614.6	(6.68%)
Roadcalls/100,000 Miles	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00%	0.00	0.00	0.00%
Active Vehicles In Fleet	97	96	108	108	108	108	108	94	14.89%	108	94	14.89%
System Total												
Farebox Recovery Ratio	20.74%	19.15%	15.68%	16.08%	21.96%	24.16%	26.38%	24.39%	8.14%	22.17%	22.12%	0.24%



System Performance Ridership Report

October 2016

	April 2016	May 2016	June 2016	July 2016	August 2016	September 2016	October 2016	October 2015	October % Change FY17	FY17 October YTD	FY16 October YTD	YTD % Change FY17
Fixed Route	393,991	357,931	308,552	272,117	550,448	378,099	394,513	419,637	(5.99%)	1,595,177	1,662,087	(4.03%)
1. Local:												
#1 - Fairgrounds	20,177	20,911	15,877	13,726	250,887	20,982	22,031	24,959	(11.73%)	307,626	325,627	(5.53%)
#3 - University	33,340	33,580	34,016	31,668	34,896	37,041	37,790	40,295	(6.22%)	141,395	144,115	(1.89%)
#4 - E. 14th	16,294	16,336	15,864	15,067	15,529	17,211	18,929	20,510	(7.71%)	66,736	72,968	(8.54%)
#5 - Franklin Ave	7,843	8,275	6,504	4,988	7,124	10,008	9,329	8,260	12.94%	31,449	26,268	19.72%
#6 - Indianola Ave	30,238	31,182	26,189	23,279	26,537	34,198	36,086	36,688	(1.64%)	120,100	120,517	(0.35%)
#7 - SW 9th St	35,861	36,851	27,252	24,286	28,616	36,835	38,889	41,193	(5.59%)	128,626	131,202	(1.96%)
#8 - Fleur Dr	5,016	4,776	1,924	1,534	2,987	5,836	5,364	5,973	(10.20%)	15,721	16,456	(4.47%)
#11 - Ingersoll Ave	1,954	2,340	2,229	2,133	2,582	2,445	2,161	2,066	4.60%	9,321	8,535	9.21%
#13 - Evergreen/SE Park Ave	7,304	7,234	1,044	427	2,656	8,284	8,157	8,735	(6.62%)	19,524	20,041	(2.58%)
#14 - Beaver Ave	20,925	20,151	14,625	12,575	16,182	22,767	24,042	26,183	(8.18%)	75,566	82,273	(8.15%)
#15 - 6th Ave	25,535	25,120	20,803	17,349	21,347	26,775	28,550	30,391	(6.06%)	94,021	101,135	(7.03%)
#16 - Douglas Ave	36,320	37,101	30,659	26,074	31,473	38,581	41,755	44,778	(6.75%)	137,883	149,073	(7.51%)
#17 - Hubble Ave	22,665	24,030	23,242	20,413	22,868	24,383	27,740	26,582	4.36%	95,404	94,583	0.87%
#52 - Valley West/Jordan Creek	14,927	13,905	15,026	13,798	15,035	14,250	15,275	17,308	(11.75%)	58,358	61,527	(5.15%)
#60 - Ingersoll/University	33,286	31,916	30,212	26,539	29,351	37,127	37,047	39,863	(7.06%)	130,064	134,219	(3.10%)
2. Shuttle:												
Dline	54,668	17,020	14,449	14,230	14,037	14,421	13,942	14,553	(4.20%)	56,630	57,180	(0.96%)
Link Shuttle	1,324	983	1,314	968	1,152	992	1,005	1,557	(35.45%)	4,117	4,971	(17.18%)
3. Express:												
#91 - Merle Hay Express	991	971	901	786	1,002	1,058	1,083	1,177	(7.99%)	3,929	4,420	(11.11%)
#92 - Hickman Express	2,734	2,725	2,921	2,447	2,831	2,536	2,557	2,888	(11.46%)	10,371	11,515	(9.93%)
#93 - NW 86th Express	3,316	3,260	3,565	3,143	3,607	3,468	3,777	3,104	21.68%	13,995	11,784	18.76%
#94 - Westtown	822	988	1,244	1,194	1,436	1,380	1,208	1,008	19.84%	5,218	3,590	45.35%
#95 - Vista	1,476	1,628	1,721	1,513	1,707	1,455	1,344	2,219	(39.43%)	6,019	8,524	(29.39%)
#96 - E.P. True	2,340	2,505	2,656	2,090	2,303	2,200	2,384	3,188	(25.22%)	8,977	12,438	(27.83%)
#98 - Ankeny	7,575	6,797	7,167	5,748	7,229	7,225	7,108	8,508	(16.46%)	27,310	31,067	(12.09%)
#99 - Altoona	1,348	1,524	1,556	1,285	1,648	1,690	1,862	1,616	15.22%	6,485	5,892	10.06%
4. Flex:												
#72 Flex: West Des Moines/Clive	4,081	4,172	3,750	3,398	3,845	3,635	3,824	4,308	(11.23%)	14,702	15,347	(4.20%)
#73 Flex: Urbandale/Windsor Heights	248	252	284	237	237	233	226	354	(36.16%)	933	1,334	(30.06%)
#74 Flex: NW Urbandale	576	637	610	428	578	436	482	610	(20.98%)	1,924	2,272	(15.32%)
5. On Call:												
On-Call: Ankeny	301	189	203	222	231	251	161	278	(42.09%)	865	1,091	(20.71%)
On-Call: Johnston/Grimes	290	345	263	209	276	271	276	219	26.03%	1,032	775	33.16%
On-Call: Regional	216	227	482	363	259	125	129	266	(51.50%)	876	1,348	(35.01%)
Paratransit	10,065	9,624	9,737	8,903	10,134	8,625	9,212	10,682	(13.76%)	36,874	41,900	(12.00%)
Cab	1,008	967	866	735	875	977	998	939	6.28%	3,585	3,430	4.52%
Bus/Van	9,057	8,657	8,871	8,168	9,259	7,648	8,214	9,743	(15.69%)	33,289	38,470	(13.47%)
Rideshare	17,157	16,989	16,735	14,395	17,450	15,512	15,471	18,530	(16.51%)	62,828	70,607	(11.02%)
Total Ridership	421,213	384,544	335,024	295,415	578,032	402,236	419,196	448,849	(6.61%)	1,694,879	1,774,594	(4.49%)



MONTHLY REPORT



9A: Operations

Staff Resources: Tim Sanderson, Chief Operating Officer

1100 DART Way Renovation:

The renovation project at 1100 Dart Way is entering the final stages and the project is progressing on schedule and on budget. Epoxy floors have been installed and the majority of the major work has been completed. Remaining items include carpeting, assorted finishes, appliances and furniture.

A grand opening of the newly renovated space has been scheduled for December 14, 2016 at 2:00PM and we are anticipated beginning our move in process on Friday, December 16.

New 40' Buses:

As of November 22, 2016 we had twelve of the twenty seven new 40' New Flyer buses in service with twenty-five on site. We are anticipating that all twenty five buses will be in service by early December.

FTA Voluntary Safety Audit:

From November 14-17, DART welcomed a team of FTA consultants to perform a voluntary audit of our safety program. DART volunteered to participate in this audit process in order to better position the organization as new Federal safety requirements come into force shortly. A large number of DART staff participated in this audit and we believe that it was extremely worthwhile and will provide us with solid recommendations going forward.



MONTHLY REPORT



9B:	Engagement
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Staff Resources: Amanda Wanke, Chief Engagement and Communications Officer

All Engagement:

- **DART Forward:** The engagement team continued promotion and outreach for the draft DART Forward 2035 plan. Efforts in November included:
 - Presentations and outreach throughout the community including:
 - 12 public meetings were held in October and early November
 - Presentations to most of DART's member city councils
 - Participation in the Jammin' in Johnston Business Expo where DART Forward materials were handed out to approximately 75 attendees
 - Stakeholder meetings including but not limited to:
 - Iowa Commercial Real Estate Association
 - Des Moines East & South Chamber
 - Downtown Chamber
 - Polk County Housing Continuum Service Council
 - Grab n Go's were held at Voya and Cognizant
 - Refugee Alliance Executive meeting
 - Lighthouse Community Church
 - Altoona Chamber
 - A new round of targeted Facebook advertisements generated nearly 2,500 click throughs to the DART Forward website.
 - Completed surveys as of Nov. 23 are as follows:
 - 2,060 people completed the transit priority ranking
 - 1,184 people completed the full survey on page 3
 - Respondents are about 70% non-riders and 30% riders

Marketing and Communications – Erin Hockman, Marketing and Communications Manager

- **Route 10 Promotion** – The marketing team is promoting the new Route 10 – East University through a mix of paid, earned and owned media. This includes direct mail, social media advertising, digital billboard, media outreach along with DART's regular rider communications. Messaging is focused on the free ride promotion, go-to destinations of Route 10, Pleasant Hill Park & Rides and the value of riding the bus instead of driving in the winter.
- **Thanksgiving and Black Friday service** – Rider and media communication was deployed to inform riders DART was not offering service on Thanksgiving Day, with regular service on Black Friday.
- **Fares for Food Day** – Marketing is preparing for and promoting the annual Fares for Food Day on Thursday, December 8. All cash into DART fareboxes that day will be donated to the Hunger Free Polk County initiative.

MONTHLY REPORT
9B: Engagement



Marketing Analytics Report

Metric	July 2016	August 2016	September 2016	October 2016	October 2015	% Change 2015 - 2016
Website Unique Visitors	30,544	41,167	32,172	32,619	36,643	-13.90%
Facebook	1,943	2,373	2,427	2,522	1,318	45.69%
Twitter	1,770	1,797	1,800	1,821	1,598	11.22%
Email Subscribers	3,580	3,590	4,000	4,090	3,191	20.23%
Trip Plans	9,191	12,192	10,083	10,628	13,161	-30.53%
Next Bus	2,477	2,320	3,108	3,292	2,836	8.75%
Schedules	1,778	2,237	1,588	2,038	2,663	-67.70%
RideTime App	26,719	24,664	30,030	31,689	16,788	44.10%
SMS Text Messaging	44,650	55,731	62,296	64,820	52,872	15.13%
IVR	7,948	10,408	9,543	9,897	9,400	1.50%

Planning

- **November Service Change** – Planning and marketing staff worked together to revise the Route 1 schedule and created the new Route 10 schedule. The service change was communicated to riders through email, social media, news media, as well as bus audio and flyers.
- **February Service Change** – Staff are reviewing rider and customer feedback to determine and prioritize changes that may be necessary for the February service change.

Community and Customer Relations – John Clark, Community and Customer Relations Manager

Community Relations

- Extreme Heat Community Partnership
- Refugee Summit (Plymouth Church)
- Customer Satisfaction Survey was conducted by the ETC Institute and results are being tabulated. The survey results will be presented to the Commission in January.

Customer Service

October 2016 Website Communication and Messages:

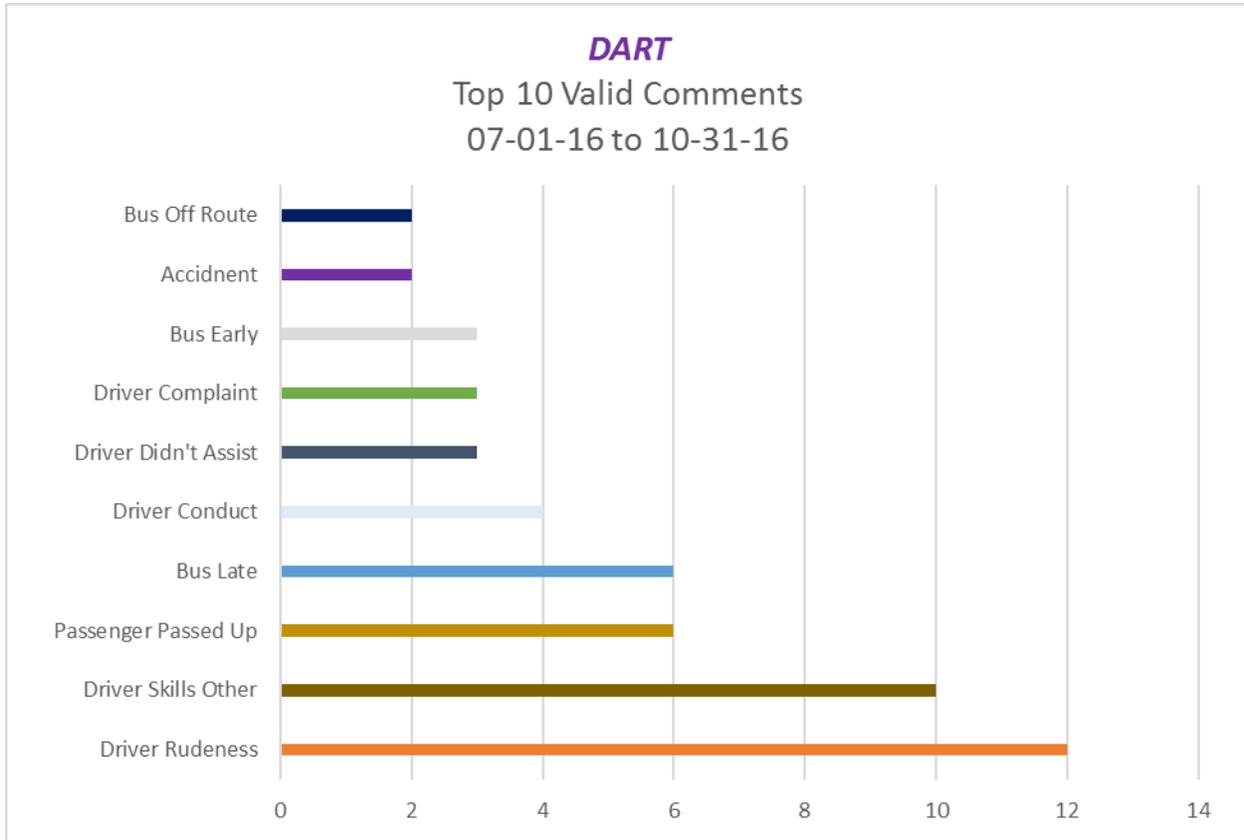
- Contact/Feedback Form – 75
- Bus Stop/Shelter Requests - 0
- Voicemails – 107, voicemails requiring response – 16 (15%)

October 2016 Calls:

- Schedule Information – 7,384
- Spanish Line – 72
- Receptionist – 751
- RideShare – 349



Top 10 Valid Complaints (per 100,00 passengers) as of October 2016



Mobility Coordination - October 2016 Activities

- NAACP Connecting to Care Health Expo
- How to Ride (DART (2))
- How to Ride (House of Mercy (11))
- 2016 Refugee Summit
- How to Ride (DMPS Alternative Campus (1))
- How to ride (Fort Des Moines (28))
- How to Ride (VA (12))
- How to Ride (Fresh Start Women's Facility (16))
- Youth Conference
- How to Ride (Des Moines Girls Alternative School (9))
- How to Ride/DART Forward (Kiwanis (30))
- How to Ride (Hoover High School (30))
- 2017 Homeless Connect
- Easter Seals Iowa Inclusive Health Coalition onsite assessment
- Opportunity Summit
- How to Ride (USCRI (32))

RideShare - October 2016

- Meeting with Broker's International to complete the final steps of a partnership.
- Meetings with TPI to finalize the trial of the RideShare Program.
- Van Donation Program information distributed.



MONTHLY REPORT



9C: Procurement

Staff Resource: Mike Tiedens, Procurement Manager

Upcoming Procurements:

Gates 1 & 2 Mechanism Replacement – DART is seeking quotes from qualified contractors to provide and install control mechanisms for two (2) automated slide entrance/exit gates located at DART's Operations and Maintenance Facility at 1100 DART Way.

- Request for Quotes published in November 2016

Contracts and Task Orders Approved Recently:

DCS West Hall Flooring

- *DART solicited quotes for a qualified firm to remove and replace carpet with a polished concrete floor finish. The West Hallway is a high traffic area and the existing carpet is showing significant wear. The replacement flooring will be more durable, easier to clean, and have a longer life.*
 - The contract price was \$4,293.88 and the vendor is Performance Finish, Inc.

Other Notes:

Procurement Training – Throughout the month of November, the DART Procurement Department has held procurement training sessions for the administrative staff. The training focuses on high level procurement requirements and information as well as resources available to assist in purchasing projects and activities.

Future Procurements:

- Fareboxes
- Taxi Cab Services
- Mystery Shopper Services
- Employment Services
- Armored Car / Courier Services
- Printing Services
- Bus Shelters



MONTHLY REPORT



9D: Chief Executive Officer

Staff Resource: Elizabeth Presutti, Chief Executive Officer

- **DART Forward 2035 Plan Update City Council Meetings:** We wrapped up making City Council Meeting Presentations on the DART Forward 2035 Plan in November to the following DART member cities:
 - Bondurant City Council, November 7th - Elizabeth Presutti
 - Windsor Heights City Council – November 7th - Amanda Wanke
 - West Des Moines City Council – November 14th - Elizabeth Presutti, Commissioner Connolly and Commissioner Peterson
- **State Legislative Meetings:** We met with our State Lobbying team and State Representative Kevin Koester and State Senator Brad Zaun. At the meeting we provided additional background on DART and discussed our current initiatives as well as our long-term financial outlook.
- **American Public Transportation Association (APTA) Meetings:** I was in Washington DC November 30th to December 2nd for an APTA CEO Taskforce, APTA Legislative Committee and APTA Board Meeting. While in DC I did meet with DART's Federal Lobbyist, Michael Esposito. We discussed opportunities and changes we could likely see with the new administration. Michael is planning to come and present to the DART Commission in February.
- **NEW DART Chief Human Resources Officer -** Katie Stull has been named DART's Chief Human Resources Officer. In this role, Katie will lead DART's Human Resources department and organizational development activities. She has more than 10 years of experience in human resources and comes to DART from the Willis Auto Campus, where she was Human Resources Manager. Katie's first day with DART will be Monday, December 12th.



FUTURE DART COMMISSION ITEMS



FUTURE AGENDA ITEMS:

January 10, 2017 – 12:00 P.M.	
Action Items	Information Items
<ul style="list-style-type: none"> • State of Good Repair Goals • Van Donation Program • RideShare Van Purchase 	<ul style="list-style-type: none"> • Participating Community Status • State of Good Repair (SGR) Requirements • Safety Management System (SMS) Requirements • Transit Asset Management (TAM) Requirements • FY 2018 Budget • Fare collection system project update • Paratransit software update • Customer Satisfaction Survey
February 7, 2017 – 12:00 P.M.	
Action Items	Information Items
<ul style="list-style-type: none"> • FY 2018 Budget Public Hearing Date • Business Fare Programs • Participating Community Status 	<ul style="list-style-type: none"> • TransTrack • Mobility Coordinator Update • Quarterly Investment Report • Quarterly Safety Report
March 7, 2017 – 12:00 P.M.	
Action Items	Information Items
<ul style="list-style-type: none"> • FY 2018 Budget • Fare Policy Update 	<ul style="list-style-type: none"> • Transit Ambassador Training Program • DART Cyber Security Program
April 4, 2017 – 12:00 P.M.	
Action Items	Information Items
<ul style="list-style-type: none"> • Occupational Medical Services • FY2018 State Application 	

Other DART Commission Meetings:

- December 13, 2016 at 11:15 AM: DART Commission Workshop