

**CITY OF FERNDALE
REQUEST FOR COUNCIL ACTION**

FROM: Julie L. Hall, Recreation Director

SUBJECT: Recommendation to approve the Specialized Service Contract with Suburban Mobility Authority for Regional Transportation (SMART) for Fiscal Year 2010.

SUMMARY & BACKGROUND:

This is the contract between the City of Ferndale and the Suburban Mobility Authority for Regional Transportation (SMART). This contract facilitates our program which primarily services seniors and persons with disabilities as defined under Section 10e(4)(d)(ii) of Act 51, of the Public Acts of 1951, as amended.

The contract period is October 1, 2009 through September 30, 2010. The contract provides for \$13,892 in funding.

ATTACHMENTS: Contract Documentation and EEOC Report A

COUNCIL AGENDA DATE: November 23, 2009

CITY ATTORNEY REVIEW: P. Daniel Christ, 11/16/2009

FINANCE DIRECTOR REVIEW: JCHubanks, 11/16/2009

CITY MANAGER APPROVAL: Robert J. Bruner, Jr.

COMMENTS:

RECOMMENDED ACTION:

Moved by , seconded by , to approve the Specialized Services contract for Fiscal Year 2010 and authorize the Mayor or designate to sign the contract.

**SPECIALIZED SERVICES OPERATING ASSISTANCE PROGRAM
THIRD-PARTY CONTRACT**

-Subrecipient Provides the Transportation Service-

THIS AGREEMENT is made and entered into this _____ day of _____, 2009, by and between the Suburban Mobility Authority For Regional Transportation (hereinafter referred to as the **AGENCY**), and the City of Ferndale hereinafter referred to as the ("**SUBRECIPIENT**").

SECTION 1. - DEFINITIONS

| | |
|-----------------------------|--|
| PROGRAM | Means the Michigan Specialized Services Operating Assistance program designed primarily for seniors and handicappers as defined under Section 10e(4) (d) (ii) of Act 51, of the Public Acts of 1951, as amended. |
| DEPARTMENT | Means the Michigan Department of Transportation. |
| BUREAU | Means the Bureau of Urban and Public Transportation of the Michigan Department of Transportation. |
| AGENCY | Means the Suburban Mobility Authority for Regional Transportation. |
| PROJECT | Means the providing of SPECIALIZED SERVICES. |
| SPECIALIZED SERVICES | Means public transportation services primarily designed for persons who are handicappers or who are sixty-five (65) years of age or older. |
| STATE | Means the State of Michigan. |
| SUBRECIPIENT | Means the organization which will provide the transit services with funds received under this Contract. |
| APPLICATION | Means the AGENCY's application, submitted in cooperation with the cooperation with the SUBRECIPIENT, for funding from this PROGRAM for the period from October 1, 2009 to September 30, 2010. |

SECTION 2. - PURPOSE

The purpose of this Contract is to pass through operating assistance funding received from the DEPARTMENT PROGRAM, to the SUBRECIPIENT. The transit services provided shall be as described in the APPLICATION submitted by the SUBRECIPIENT through the AGENCY and approved for funding by the DEPARTMENT.

SECTION 3 - - FUNDING

The AGENCY is only obligated to provide funds under this Contract to the extent funds for the PROGRAM are made available to it by the DEPARTMENT. The AGENCY's maximum obligation for the provision of funds to the SUBRECIPIENT for eligible contract costs is Thirteen Thousand Eight Hundred Ninety Two Dollars (\$13,892) as determined by the DEPARTMENT as outlined in Attachment A.

The maximum amount of the AGENCY funds to be given the SUBRECIPIENT shall not be increased without a prior written amendment to this contract. DEPARTMENT funds made available to the AGENCY through legislative appropriation are based on projected revenue estimates. In the event that revenue actually received is insufficient to support the appropriation, it may necessitate a reduction in the maximum amount of said funds available to the SUBRECIPIENT. In such event, the AGENCY reserves the right, without notice, to reduce the maximum obligation of funds for the SUBRECIPIENT by the amount of any reduction by the DEPARTMENT to the AGENCY.

SECTION 4. - BUDGET ADJUSTMENTS

Budget adjustments must be requested in writing by the SUBRECIPIENT. Upon receipt of the request, the AGENCY shall have thirty-five (35) working days to provide written approval or disapproval of the budget adjustment. If no action is taken within thirty-five (35) working days, the budget adjustment shall be deemed approved.

Expenditure of funds in excess of any line-item will not be considered an eligible PROJECT cost. The addition of any new line-item, or any line-item changes which represent a deviation from the PROJECT as described in the APPLICATION, determined significant by the AGENCY, shall require a prior written amendment to this contract.

SECTION 5. - PROJECT COSTS AND REVENUES

The SUBRECIPIENT shall complete and submit to the AGENCY the information required by the DEPARTMENT on the quarterly reporting form (Attachment B) within ten (10) days after the end of each state fiscal year quarter. Failure to provide the quarterly report within thirty (30) days after the end of each State fiscal year quarter, may result in a loss of a portion of or all funding. The AGENCY reserves the right to withhold payment of PROJECT funds if the SUBRECIPIENT fails to file reports as required in this paragraph.

If the SUBRECIPIENT also receives funding under 1951 P.A. 51, Section 103(4)(a); MCL 247.660(e)(4)(a); MSA 9.1097(10)(f)(4)(a), as amended, or 1951 P.A. 51, Section 10(e)(4)(d)(iv); MCLA 247, 660(e)(4)(d)(iv); MSA 9.1097 (10) (f)(4)(d)(iv); as amended their cost allocation plans must be submitted to the Bureau of Urban and Public Transportation of the DEPARTMENT for approval. Any PROJECT costs in excess of revenues reported on Attachment B will not be eligible under any other state and federal program administered by the AGENCY or the DEPARTMENT.

Section 6. - BILLING, PAYMENTS AND QUARTERLY REPORTS

Except as provided in Section 3 of this contract, the AGENCY shall provide to the SUBRECIPIENT, the State funds designated for the eligible project costs incurred in performance of this contract within (10) working days of the receipt of said funds from the DEPARTMENT.

The AGENCY may appropriately reduce payments if written reports submitted by the SUBRECIPIENT as required under this section indicate that the level of service described in the APPLICATION has been reduced.

Actual reimbursement shall be based on a rate per mile, or one-way passenger trips of SPECIALIZED SERVICES up to the maximum amount provided for herein.

The actual reimbursement method selected by the SUB-RECIPIENT is \$1.20 per mile.

SECTION 7. - TERMINATION OR SUSPENSION

For any reason, the AGENCY or the SUBRECIPIENT may, by thirty (30) days written notice, suspend any and all of the rights and obligations under this contract until such time as the event or condition resulting in such suspension has ceased or been corrected, or the AGENCY may, by thirty (30) days written notice to the SUBRECIPIENT, terminate any and all of the rights and obligations under this contract.

SECTION 8. - ACCOUNTING RECORDS, AUDITS AND DOCUMENTATION

(a) Establishment and Maintenance of Accounting Records

The SUBRECIPIENT shall maintain books, records, documents, and other accounting records in accordance with generally accepted governmental accounting principles. Said records shall be sufficient to properly reflect all costs of whatever nature claimed to have been incurred or anticipated to be incurred in the performance of the identified PROJECT. To facilitate the administration of the PROJECT, separate records shall be established and maintained. The SUBRECIPIENT shall assure that the records to support the miles traveled and the passengers carried as reported on the Attachment B are established and maintained.

(b) Audit

The SUBRECIPIENT shall permit the AGENCY and/or the DEPARTMENT or the authorized representatives of the AGENCY and/or the DEPARTMENT to audit all data and

records relating to the performance of this contract. The SUBRECIPIENT shall retain and allow access to, and require its contractors to retain and allow access to all data and records pertaining to the PROJECT until after the expiration of three (3) years after the final payment by the AGENCY.

The period of access, examination, and retention of data and records which relate to litigation or the settlement, of claims arising out of the performance of this contract, or costs of this contract as to which exception has been taken by the AGENCY or the DEPARTMENT or the authorized representative of the AGENCY or the DEPARTMENT, shall continue until such litigation, claims, or exceptions have been disposed of.

(c) Costs Supported by Documentation

PROJECT costs shall be supported by properly executed canceled checks, invoices or vouchers evidencing the nature and propriety of the charges.

(d)

If a third party contract is required for rendering of the services herein, then the SUBRECIPIENT is responsible for the accuracy of the financial and non-financial data and reports submitted for reimbursement.

(e)

If the SUBRECIPIENT also receives funding under 1951 P.A. 51, Section 10e(4)(a); MCL 247.660(e)(4)(a); MSA 9.1097(10)(f)(4)(a), as amended or 1951 P.A. 51, Section 10(e)(4)(d)(iv); MCLA 247.660(e)(4)(d)(iv); MSA 9.1097(10)(f)(4)(d)(iv), as amended, determination of PROJECT costs shall be in conformity with the criteria set forth in "Local Public Transit Revenue and Expense Manual". All other providers of service shall use the "Revenue, Expense and Nonfinancial Data Definition Manual for Less Specialized Services Agencies".

(f)

The SUBRECIPIENT agrees to indemnify the agency, its agents, employees and assigns against all claims by the State or the department for loss, damage, or injury sustained as a consequence of the SUBRECIPIENT failing to comply with the terms of Section 8 (a) through (f) of this agreement.

SECTION 9. - THIRD-PARTY CONTRACT PROCEDURE

The SUBRECIPIENT shall not enter into contracts with third parties for provision of services herein unless such contract has been approved by the AGENCY. Approval does not constitute an assumption of liability, a waiver or an estoppel to enforce any of the requirements of this contract, nor shall any such approval by the AGENCY be construed as a warranty of the third-party's qualifications, professional standards, ability to perform the work being subcontracted, or financial integrity.

SECTION 10 - ACCESS

SUBRECIPIENT agrees to provide, and will require its contractors to provide, access by the AGENCY and/or the DEPARTMENT to all technical data, reports, documents and work in progress pertaining to the PROJECT. Copies of technical data and reports shall be provided by the SUBRECIPIENT or its contractors to the AGENCY upon request.

SECTION 11 - INDEMNIFICATION

(a) Insurance

The SUBRECIPIENT shall maintain the following insurance for the duration of the contract, and furnish certificates of insurance to the AGENCY prior to being eligible for the receipt of any funds hereunder:

- (i) Comprehensive General Liability - \$1,000,000 per occurrence, including contractual liability. SMART shall be named as Additional Insured.

- (ii) Automobile No-Fault Liability - \$250,000 per person/
\$500,000 per occurrence bodily injury and \$250,000
property damage. SMART shall be named as
Additional Insured.
- (iii) Worker's Compensation - Michigan Statutory coverage
and Employer's Liability - \$100,000.

SUBRECIPIENT's insurance policies shall provide for 30 days advance written notice to AGENCY in event of termination or reduction in coverage.

(b) Indemnification -

The SUBRECIPIENT, in addition to the policy of insurance provided for herein, agrees to indemnify and hold harmless the STATE, the DEPARTMENT and the AGENCY from any and all claims for damages of any kind and from attorneys fees and related costs arising out of, under, or by reason of this contract, except claims resulting from the sole negligence or willful act or omission of said indemnitee its agents or employees.

(c) No Assumption of Obligation

The AGENCY shall not be subject to any obligations or liabilities by contractors of the SUBRECIPIENT or their subcontractors, or by any other person not a party to this contract without its specific consent, and notwithstanding its concurrence in or approval of the award of any contract or subcontract or the solicitation thereof.

It is expressly understood and agreed that the SUBRECIPIENT shall take no action or, conduct which arises either directly or indirectly out of its obligations, responsibilities and duties under this contract which results in claims being asserted against or judgments being imposed against the AGENCY.

In the event that the same occurs, for the purposes of this contract, it will be considered as a breach of this contract thereby giving the AGENCY a right to seek and obtain any necessary relief or remedy, including, but not by way of limitation, a judgment for money damages.

SECTION 12. - PROHIBITED DISCRIMINATION

In connection with the acceptance of this contract, the SUBRECIPIENT (hereinafter in Appendix "A" referred to as the "Contractor") agrees to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts", as set forth in Appendix "A", dated August, 1985, attached hereto and made a part hereof. The SUBRECIPIENT further covenants that it will comply with the Civil Rights Act of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C. Sections 1971, 1975a-1975d, and 2000a-2000h-6 and will require similar covenants on the part of any contractor or subcontractor employed in the performance of the PROJECT for which this contract is made.

SECTION 13. - MBE/WBE

In accordance with 1980 P.A. 278, MCL 423, 321 at seq; MSA 17.458(21) et seq, the SUBRECIPIENT, in the performance of this contract, shall not enter into a contract with a subcontractor, manufacturer, or supplier listed in the register maintained by the STATE, Department of Labor, of employers who have been found in contempt of court by a federal court of appeals, on not less than three (3) occasions involving different violations during the preceding seven (7) years, for failure to correct an unfair labor practice, as prohibited by Section 8 of Chapter 372 of the National Labor Relations Act, 29 U.S.C. 158. The AGENCY may void this contract if the name of the SUBRECIPIENT, or the name of a subcontractor, manufacturer, or supplier utilized by the SUBRECIPIENT in the performance of this contract subsequently appears in the register during the performance period of this contract.

SECTION 14. - MISCELLANEOUS PROVISIONS

- (a) If any provision of this contract is held invalid, the remainder of this contract shall not be affected, if any such remainder continues to conform to the provisions and requirements of applicable law.

SECTION 15 - TERM OF CONTRACT

Upon execution, this contract shall cover the period commencing October 1, 2009, and extending through September 30, 2010.

The SUBRECIPIENT agrees to notify the AGENCY of any event which may have significant potential impact on PROJECT progress, direction, control or cost.

SECTION 16 - SIGNING

This Contract shall become binding on the parties hereto upon the signing thereof by the duly authorized official(s) for the SUBRECIPIENT and the AGENCY; and upon the adoption of a resolution approving said Contract and authorizing the signatures thereto of the respective official(s) of the SUBRECIPIENT, a certified copy of which resolution shall be attached to this Contract.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed.

THE FOREGOING IS HEREBY ACKNOWLEDGED AND AGREED TO:

CITY OF FERNDALE

_____ **By** _____

Date: _____ **Its** _____

Date: _____ **Its** _____

**SUBURBAN MOBILITY AUTHORITY
for REGIONAL TRANSPORTATION**

_____ **By** _____
Interim General Manager

Date: _____



Suburban Mobility Authority
for Regional Transportation

Office
Contract Compliance

Equal Employment Opportunity Compliance Report A

Bid / Project Name

Name of Firm CITY OF FERNDALE Employer I.D. Number 38-6004610

Address 300 E. NINE MILE RD

City FERNDALE State MI Zip 48220

- Independent firm, or
 Owned / controlled by:

Corporate address of parent
or affiliated company:

- Indicate the appropriate box for your reporting unit (Mark only one box):
- | | |
|--|--|
| <input type="checkbox"/> Consolidated Report | <input type="checkbox"/> Single Establishment Employer Report |
| <input type="checkbox"/> Headquarters Unit Report | <input type="checkbox"/> Individual Establishment Report (Submit one for each establishment) |
| <input checked="" type="checkbox"/> Special Report | |

Business Data

What is the major activity of this establishment (Be specific, i.e., manufacturing steel casings, retail grocer, wholesale plumbing supplies, title insurance)?

Include the specific type of product or type of service provided, as well as the principal business or industrial activity:

- Have all subcontractors been informed of their responsibility to file EEO Compliance Report A? Yes No
- Is an Affirmative Action Plan on file with SMARTs Office of Contract Compliance? Yes No If no, plan will be submitted by (indicate date):

An Affirmative Action Plan is on file with the following governmental agencies. Please list:

Employment Data Employment at this establishment - Report all permanent, temporary, or part time employees including apprentices and on-the-job trainees. Enter the appropriate figures on ALL lines and in ALL columns. Blank spaces will be considered as zero.

| Job Categories | Establishment | | | Minority Male | | | | Minority Female | | | |
|---------------------------|--------------------------------------|----------------------------------|------------------------------------|---------------|---------------|--------------|---------------|-----------------|---------------|--------------|---------------|
| | Total Employees Including Minorities | Total Males Including Minorities | Total Females Including Minorities | Black | Asian Pacific | Amer. Indian | Spanish Amer. | Black | Asian Pacific | Amer. Indian | Spanish Amer. |
| | Officials /Managers | 1 | | 1 | | | | | | | |
| Professionals | 1 | | 1 | | | | | | | | |
| Technicians | | | | | | | | | | | |
| Sales Workers | | | | | | | | | | | |
| Office and Clerical Staff | 2 | | 2 | | | | | 1 | | | |
| Craftsmen (Skilled) | | | | | | | | | | | |
| Operators (Semi-Skilled) | | | | | | | | | | | |
| Laborers (Unskilled) | 8 | 6 | 2 | | | | | | | | |
| Service Workers | | | | | | | | | | | |
| Journey Workers | | | | | | | | | | | |
| Apprentices | | | | | | | | | | | |
| Total | 13 | 6 | 7 | | | | | 1 | | | |

Employment Data (continued)

Employment at this establishment-Report all permanent, temporary, or part-time employees including apprentices and on-the-job trainees. Enter the appropriate figures.

| Job Categories | Current Workforce | | | | Under-utilization | | Estimated Number of Vacancies | 20____ Goals | | | | Ultimate Goals | | | | |
|---------------------------|-------------------|----------|-----|--------|-------------------|------|-------------------------------|--------------|----------|---|--------|----------------|----------|---|--------|---|
| | No. of Employees | Minority | | Female | | Min. | | Fem. | Minority | | Female | | Minority | | Female | |
| | | # | % | # | % | | | | # | % | # | % | Year | % | Year | % |
| Officials/Managers | 1 | | | 1 | 100 | | | 0 | | | | | | | | |
| Professionals | 1 | | | 1 | 100 | | | 0 | | | | | | | | |
| Technicians | | | | | | | | | | | | | | | | |
| Sales Workers | | | | | | | | | | | | | | | | |
| Office and Clerical Staff | 3 | 1 | 33% | 2 | 66 | | | 0 | | | | | | | | |
| Craftsmen (Skilled) | | | | | | | | | | | | | | | | |
| Operators (Semi. Skilled) | | | | | | | | | | | | | | | | |
| Laborers (Unskilled) | 8 | 2 | 25 | 2 | 25 | | | 0 | | | | | | | | |
| Service Workers | | | | | | | | | | | | | | | | |
| Journey Workers | | | | | | | | | | | | | | | | |
| Apprentices | | | | | | | | | | | | | | | | |
| Total | | | | | | | | | | | | | | | | |

Certification

Name of authorized official: JULIE L. HALL Title: DIRECTOR

Signature: Julie L. Hall Date: 11/16/09

Name of person to contact regarding this report: JULIE L. HALL Title: DIRECTOR

Address (number and street): 1201 LIVERNOIS ST City: FERNDALE

State: MI Zip Code: 48220 Area Code: 248 Telephone Number: 544-6767 Ext.: 3361

How was information as to race or ethnic group obtained? Visual Survey Employment Records

Do not write below this line. For SMART Only.

| Date | Awardable | | Signature | Comments |
|------|-----------|----|-----------|----------|
| | Yes | No | | |
| | | | | |
| | | | | |



Attorneys at Law

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November 17, 2009

Ms. Julie L. Hall, CPRP
Recreation Director
City of Ferndale
300 E. Nine Mile Road
Ferndale, Michigan 48220

Via E-Mail

**Re: *Specialized Services Operating Assistance Program Third-Party Contract
Municipal Credit and Community Credit Contract for FY - 2010***

Dear Ms. Hall:

Please be advised that I have reviewed the proposed Contract between the City of Ferndale and Suburban Mobility Authority for Regional Transportation concerning its public transportation program designed primarily for handicapped individuals and those individuals sixty-five years of age or older. I have also reviewed the proposed Municipal Credit and Community Credit Contract for FY-2010. The proposed Contracts are approved as to form and may be forwarded to Council for its consideration.

If you have any questions or comments regarding this matter, please do not hesitate to contact me.

Very truly yours,

P. Daniel Christ

PDC/bbo

cc: Ms. Cherilynn Tallman, City Clerk