

Date April 12, 2010

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

WHEREAS, by Roll Call No. 05-3055 of December 19, 2005, the City Council of the City of Des Moines approved the Amended and Restated Agreement for the Des Moines Regional Transit Authority; and

WHEREAS, the First Amendment to the Amended and Restated Agreement has been prepared, which Amendment allows for the issuance of general obligation bonds under established conditions by the Des Moines Regional Transit Authority (“DART”); and


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

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

1. That the First Amendment to the Amended and Restated Agreement for the Des Moines Regional Transit Authority, on file in the Office of the City Clerk, is hereby approved.
2. That the Mayor is hereby authorized and directed to execute the First Amendment to the Amended and Restated Agreement for the Des Moines Regional Transit Authority and the City Clerk is authorized to attest to his signature.
3. That the City Clerk is hereby directed to assist as necessary with execution of the First Amendment by the other parties and with the filing of the First Amendment.

APPROVED AS TO FORM:

Moved by _____ to adopt.



 Lawrence R. McDowell
 Deputy City Attorney

(Council Communication No. 10-201)

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

CERTIFICATE

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

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

MOTION CARRIED APPROVED

 Mayor

 City Clerk

Date APR 12 2010

Agenda Item 60

Roll Call #

FIRST AMENDMENT TO THE
AMENDED AND RESTATED
AGREEMENT

for the

DES MOINES REGIONAL TRANSIT AUTHORITY

Dated as of April 1, 2010

FIRST AMENDMENT TO THE
AMENDED AND RESTATED AGREEMENT FOR THE
DES MOINES REGIONAL TRANSIT AUTHORITY

THIS FIRST AMENDMENT TO THE AMENDED AND RESTATED AGREEMENT FOR THE DES MOINES REGIONAL TRANSIT AUTHORITY (this “First Amendment”), is entered into as of the date set forth in Section 102 hereof, by and between the Participating Communities (as defined in the Amended and Restated Agreement for the Des Moines Regional Transit Authority (the “Original Amended and Restated Agreement”)).

WITNESSETH:

WHEREAS, the Des Moines Regional Transit Authority (“DART”) operates under the Original Amended and Restated Agreement, and pursuant to Chapter 28E and Chapter 28M of the Code of Iowa, 2009, as amended (collectively, the “Act”); and

WHEREAS, to better serve the citizens of the Participating Communities and to provide DART with the ability to manage its operations to the full extent permitted by the Act, the Participating Communities desire to amend the Original Amended and Restated Agreement; and

WHEREAS, this First Amendment is entered into pursuant to Article XIV, Section 1, of the Original Amended and Restated Agreement, to amend Section 2 of Article XI, as set forth below; and

WHEREAS, by their respective execution hereof, each of the Participating Communities adopts the changes set forth in this First Amendment; and

WHEREAS, all acts, conditions and things have been done and performed which are necessary to make this First Amendment a valid and binding agreement.

Section 101. Amendment to Article XI, Section 2. Pursuant to Article XIV, Section 1 of the Original Amended and Restated Agreement, the Participating Communities hereby agree to delete Section 2 of Article XI of the Original Amended and Restated Agreement in its entirety and replace said section with the following:

“Section 2. Obligations of RTA. Notwithstanding anything to the contrary contained herein, the RTA may issue its bonds in the types, for the purposes, and in the manner permitted by Chapter 28M of the Code, as amended; provided however, that general obligation bonds may only be issued (i) if the proceeds thereof are used to pay (whether directly or through refinancing of existing debt) obligations arising from accidents occurring on or prior to March 1, 2010, together with costs of issuance, (ii) with a term of not longer than ten years and (iii) in an aggregate principal amount which, when added to the principal amount of all other general obligation bonds issued pursuant to this provision, does not exceed \$3,500,000. Any excess proceeds from general obligation bonds remaining after paying or providing for the payment of such accident obligations shall be applied to the payment of debt service on the bonds.”

Section 102. Effective Date. This First Amendment is effective as of its date of execution by the last of the Participating Communities, which date shall be manually entered on the line set forth below.

Effective Date of First Amendment: _____

Attest:

City of Des Moines, Iowa

By: _____
City Clerk

By: _____
Mayor

STATE OF IOWA, COUNTY OF POLK, ss:

On this ____ day of _____, 2010, before a Notary Public in and for the City, personally appeared _____ and _____, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively of the City of Des Moines, Iowa, a Municipality, created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said Municipality, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.

Notary Public in and for the State of Iowa