



500 West Big Beaver
Troy, MI 48084
troymi.gov

CITY COUNCIL AGENDA ITEM



Date: September 16, 2020

To: Mark F. Miller, City Manager

From: Robert J. Bruner, Assistant City Manager
Rob Maleszyk, Chief Financial Officer
Lisa Burnham, Controller
Kurt Bovensiepe, Public Works Director

Subject: CARES Act Funding Agreement between SMART and City of Troy

History

The Coronavirus Aid, Relief, and Economic Security (CARES) Act provides grant opportunities to organizations that have been financially impacted by the pandemic. The Suburban Mobility Authority for Regional Transportation (SMART) received an allocated amount of CARES Act funds to assist in the loss of revenue that occurred since the pandemic began. The funds will allow SMART to recoup these losses and allow the organization to continue providing transportation in spite of the decline in revenue caused by lower ridership and free fares. SMART decided to extend a portion of these funds with its community partners. The CARES Act funding may be used for expenses incurred on or after January 20, 2020 to prevent, prepare for and/or respond to the COVID-19 pandemic. The City of Troy's allocated cap is \$62,880.

The community partnership program, Troy RYDE, has been in operation through the pandemic. Although services were reduced in the early stages of the pandemic we are experiencing an increase in demand for routes daily. This has been particularly challenging as we have reduced capacity on the busses to ensure proper social distancing. The service also requires regular cleaning and the use of personal protection equipment (PPE). The opportunity through SMART will allow the City of Troy to be reimbursed for some of these additional expenses.

Recommendation

City management recommends approving the Coronavirus Aid, Relief, and Economic Security (CARES) Act Funding Agreement between Suburban Mobility Authority for Regional Transportation (SMART) and The City of Troy for a maximum allowable reimbursement request of \$62,880.

Legal Review

This item was submitted to the City Attorney for review pursuant to City Charter Section 3.17.

CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT FUNDING AGREEMENT

**BETWEEN
SUBURBAN MOBILITY AUTHORITY FOR REGIONAL TRANSPORTATION
AND
The CITY of TROY**

This Coronavirus Aid, Relief, and Economic Security Act Funding Agreement (hereinafter “Agreement”) is made between the Suburban Mobility Authority for Regional Transportation (hereinafter “SMART”), an entity organized under the provisions of Act 204 of the Public Acts of 1967, as amended, of 535 Griswold, Suite 600, Detroit, Michigan 48226 and **the City of Troy** (hereinafter “Sub-recipient”), a municipality, whose address is **500 W. Big Beaver Road, Troy, MI 48083**, for the use of grant funding provided by the Federal Transit Administration (hereinafter “FTA”), pursuant to the Coronavirus Aid, Relief, and Economic Security Act (hereinafter “CARES Act”). SMART and Sub-recipient are collectively referred to as the “Parties” herein.

WHEREAS, SMART, pursuant to the provisions of Act 204, has been vested with the authority to acquire, plan, construct, operate and maintain transportation systems and facilities within its jurisdiction; and

WHEREAS, Sub-recipient is within SMART’s jurisdiction and desires to manage and operate certain public transportation services for purposes consistent with §5307; and

WHEREAS, the CARES Act provides emergency assistance and health care response for individuals, families and businesses affected by the COVID-19 pandemic, including funding for transportation to support capital, operating, and other expenses generally eligible under those programs to prevent, prepare for, and respond to COVID-19; and

WHEREAS, the purpose of this Agreement is to state the responsibilities and obligations of Sub-recipient and SMART, as well as the conditions for the Sub-recipient’s use of the CARES Act funding distributed by SMART; and

NOW THEREFORE, in consideration of the mutual covenants, and representations contained herein, the Parties agree as follows:

1. FUNDING

SMART, as a direct recipient of CARES Act funding, shall pass through designated CARES Act funding to Sub-recipient in the amount of **\$62,880**. This funding shall be spent in accordance to the CARES Act Budget in **Exhibit A**. The funding will be distributed as approved by the SMART Board of Directors and in accordance with federal regulations and SMART’s policies and procedures, and subject to the terms and conditions of this Agreement. The Parties agree that SMART’s disbursement of the CARES Act funding is contingent upon SMART receiving the funding from FTA. SMART will periodically reimburse communities for eligible CARES Act expenses upon receipt of Sub-recipient’s required Quarterly Expense Report, and as described in the Community Transit Manual, and/or any and all required supporting documentation.

Eligible CARES Act expenses are those that are normally eligible under the Section 5307 programs that are incurred on or after January 20, 2020 to be in response to economic or other conditions caused by COVID-

19. CARES Act funding must be spent on or before June 30, 2023. If the CARES Act funds allocated as above are not spent in their entirety on or before that date, SMART reserves the right to reallocate those funds.

If Sub-recipient has requested reimbursement of Municipal Credit or Community Credit (“MC/CC”) funding for expenses that are also eligible for CARES Act funding, Sub-recipient may request that the funds be re-allocated from their MC/CC funding to their SMART share of CARES Act funding. Sub-recipient shall submit the re-allocation request via an email to the following email addresses: (1) FinanceAdmin@smartbus.org; (2) HShepherd@smartbus.org; and (3) MColson@smartbus.org. Sub-recipient shall specify and include in the email the following: (1) a revised Quarterly Expense Report indicating the quarter in which the reimbursement was requested for MC/CC funds that the Sub-recipient would like to be reallocated to CARES Act eligible funds (i.e., April 2020 – June 2020; (2) all relevant CARES Act eligible revenues; (3) all relevant CARES Act eligible expenses; (4) all relevant CARES Act eligible non-financial data; and (5) the amount of the CARES Act Funding eligible expense, specifically stating the entire expense amount is not CARES Act eligible. SMART’s Finance Department shall review the originally submitted Quarterly Expense Report(s) against the revised Quarterly Expense Report(s) the Community submitted in re-allocating eligible CARES Act Funding expense. Upon completion of the review, SMART’s Finance Department shall determine if the request for reimbursement is CARES Act eligible and if a transfer of the funds is permitted. A template of the Quarterly Expense Report can be obtained by your County ombudsperson. CARES Act funding cannot supplant existing grant local contribution requirements. Eligible expenditures reimbursed under MC/CC cannot also be reimbursed under CARES Act funding.

The Parties agree that should the CARES Act funding amount be reduced by the FTA from that which is anticipated, SMART shall reduce the CARES Act funding amount passed through to Sub-recipient. SMART may make reductions by project, by line item expenditure, or by dollar amount. SMART retains sole discretion to budget and spend all CARES Act funding dollars it receives. If the expenses applied for by Sub-recipient are found to be ineligible for funding, SMART will immediately notify Sub-recipient. Within thirty (30) days, Sub-recipient shall return all CARES Act funding for the ineligible expenses to SMART.

2. TERM OF THE AGREEMENT

This Agreement shall remain in effect as long as Sub-recipient receives CARES Act funding provided by this Agreement. SMART shall have sole discretion to terminate this Agreement upon written notice to Sub-recipient. Within thirty (30) days of receipt of written notice, Sub-recipient shall return all CARES Act funding for the terminated program to SMART for repayment to the FTA.

3. RECORDS AND AUDITS

Sub-recipient shall keep accurate financial and operating records for the project for at least six (6) years from the date of expenditure or request for reimbursement, whichever is later. Such records including but not limited to: records of all expenses paid for its operations, records of the use of its services (ridership), all accident reports, maintenance records, dispatch records, personnel records, and all other supporting documents. SMART may request, and Sub-recipient shall permit, SMART or its designee to review all records relating to the project either by formal audit or periodic administrative review.

4. SUBRECEPIENT REPORTING AND MONITORING

Pursuant to 2 CFR Part 900 (hereinafter “Super Circular”) §200.331, Sub-recipient agrees to complete all available information required by **Exhibit B** of this Agreement at the time of the Agreement’s execution, and Sub-recipient further agrees to supplement all additional information required by **Exhibit B** immediately as it becomes available following the execution of the Agreement. **Exhibit B** may be completed in one or more

counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same document.

5. INDEMNIFICATION

Notwithstanding anything to the contrary contained herein, Sub-recipient shall indemnify, defend and save harmless SMART, its officers, agents, employees, and members of its Board of Directors from any and all claims, losses and damages, including costs and attorney fees occurring or resulting from any act or omission of the Sub-recipient or its officers, agents, employees, subcontractors, successors and/or assigns arising out of or pursuant to this Agreement without regard to the negligence of the Sub-recipient.

This Agreement is not intended to alter or increase SMART or Grantee's liability for tort claims, to other third-parties. Nor is this indemnity provision intended to be a third-party beneficiary contract, and therefore it confers no rights or third-party status on anyone other than the parties hereto.

6. PROCUREMENT

The Sub-recipient's procurement of any property, supplies, services, or equipment using CARES Act funds must comply with the FTA procurement requirements at 49 CFR Part 18 if Sub-recipient is, or established by, a State or Local Government and 49 CFR Part 19 if Sub-recipient is a private, non-profit entity, and the guidance contained in the current FTA Circular 4220.1.

7. GENERAL

This Agreement may be executed and delivered (including by facsimile transmission) in two or more counterparts, each of which when executed shall be deemed to be an original and all of which taken together shall constitute one and the same instrument. This Agreement constitutes the entire agreement between the parties and supersedes all previous understandings and agreements between the parties, whether oral or written. This Agreement may be modified by SMART at its sole discretion and written notice to Sub-recipient.

Should any part of this Agreement be declared to be invalid, unconstitutional or beyond the authority of either party to enter into or carry out, such decision will not affect the validity of the remainder of this Agreement, which will continue in full force and effect.

This Agreement is not intended to be a third-party beneficiary Agreement and confers no rights on anyone other than SMART and the Sub-recipient.

Parties' failure to exercise or delay in exercising any right, power or privilege under this Agreement shall not operate as a waiver; nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof.

The Parties agree that the responsibilities and benefits under this Agreement shall not be assigned unless such assignment is approved by SMART in advance in writing. This agreement does not and is not intended to confer any rights or remedies upon any person other than the parties.

The Sub-recipient shall, in the performance of this Agreement, comply with all applicable State, Federal and local statutes, ordinances and regulations. This Agreement shall be governed by the laws of the State of Michigan.

This Agreement shall become effective upon the date the Agreement is signed by SMART.

The Parties acknowledge and agree that this Agreement may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. The Parties agree that the electronic signatures appearing on this Agreement are the same as handwritten signatures for the purposes of validity, enforceability and admissibility. Without limitation, “electronic signature” shall include faxed versions of an original signature or electronically scanned and transmitted versions (e.g., via pdf) of an original signature.

THE PARTIES HEREBY ACKNOWLEDGE that they have read and understand this Agreement and that the signatories below have affixed their signatures and affirmed that they are authorized to execute this Agreement, for the purpose of binding their respective Parties.

**SUBURBAN MOBILITY AUTHORITY
FOR REGIONAL TRANSPORTATION**

The CITY of TROY

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

Date

EXHIBIT A
CARES ACT FUNDING BUDGET

Sub-recipient: **The City of Troy**
Contract Period: January 20, 2020 - June 30, 2023
Account Number: _____

CARES ACT SMART ALLOCATION **\$62, 880.00** _____

CARES ACT ANTICIPATED EXPENSES

OPERATING EXPENSES:

State Administrative Wages	_____
Driver Wages	<u>\$31,828.87</u>
Fringe Benefits	<u>\$ 4,737.89</u>
Gasoline & Lubricants	_____
Vehicle Insurance	_____
Parts, Maintenance Supplies and Contractual Services*	<u>\$ 13,126.27</u>
Mechanic Wages	_____
Fringe Benefits	_____
Dispatch Wages	_____
Other (Specify)	_____
COVID Administrative Leave	<u>\$ 750.00</u>
COVID Admin Leave Fringes	<u>\$ 61.21</u>
Schedulers and Coordinators Wages	<u>\$12,302.75</u>
Schedulers and Coordinators Fringes	<u>\$ 3,813.92</u>
Sub-Total	<u><u>\$ 66,620.91</u></u>

PURCHASED SERVICE:

Taxi Service	_____
Charter Service	_____
SMART Bus Tickets	_____
SMART Shuttle Service	_____
SMART Dial-A-Ride	_____
Other (Specify) _____	_____
Sub-Total	_____

CAPITAL EQUIPMENT:

(Only list purchases to be made with CARES Act Funding)

Computer Equipment	
Software	
Vehicle	
Maintenance Equipment	
Other (Specify)	
Sub-Total	
	\$66,620.91
<u>TOTAL EXPENSES:</u>	
<u>CARES ACT SMART</u>	
<u>ALLOCATION MINUS TOTAL</u>	\$ 3,740.91
<u>EXPENSES:</u>	

*Contractual Services– Please detail what services are being performed with an attachment to this budget.

Contractual services – Vehicle usage charges, Schedule Viewer and Verizon.

EXHIBIT B

- 1) **Sub-recipient Name:** City of Troy
- 2) **DUNS Number:** 076356302
- 3) **FAIN:**
- 4) **Fed Award Date:**
- 5a) **Sub-Award Start:**
- 5b) **Sub-Award End:**
- 6) **Fed Funds Obligated by this Action:**
- 7) **Total Fed Funds Obligated to Sub by FAIN:**
- 8) **Total Amount of Fed Award Committed:**
- 9) **Fed Award Project Description:**
- 10) **SMART Vehicle Number:**
- 11) **Name of Fed Awarding Agency:** Federal Transit Administration
- 12) **Name of Pass-Through Entity:** SMART
- 13) **Contact Information for Pass-Through Awarding Official:** Ryan Byrne, SMART Director of Finance
- 14) **CFDA Number & Name:** 20.507- Urbanized Area Formula Grants (CARES Act)
- 15) **R&D:** No
- 16) **Indirect Cost Rate for Federal Award:** N/A