

2019 OPERATIONS AGREEMENT BETWEEN THE CITY OF LA CROSSE
AND THE CITY OF LA CRESCENT, MINNESOTA
PERTAINING TO PUBLIC TRANSPORTATION BY BUS

THIS AGREEMENT is made by and between the City of La Crosse acting through the La Crosse Municipal Transit Utility, hereinafter referred to as "MTU", and the City of La Crescent, Minnesota, hereinafter referred to as "LA CRESCENT."

WITNESSETH

WHEREAS, La Crosse currently owns and operates a transit system.

WHEREAS, the purpose of this agreement is to set forth the terms and conditions under which transit service is provided by the City of La Crosse, through the MTU, to the City of La Crescent, Minnesota.

NOW, THEREFORE, the parties hereto agree as follows:

1. The MTU shall provide route deviation bus service in conformance with this agreement to the City of La Crescent. Routes, schedules, fare structure, and other policy issues will be as determined by the City of La Crosse and the MTU with input from the City of La Crescent.
2. The MTU shall be responsible to complete, with advice and assistance of La Crescent, any forms for federal assistance, assistance from the State of Minnesota, reports required by federal or state agencies, and all grant applications related to furnishing of bus service in the City of La Crescent.
3. La Crosse and La Crescent agree that each participating community will pay its portion of the local share of the operating costs of providing bus service. The number of hours of service and the local share cost shall be calculated on an annual basis as provided on attached Exhibit "A" which is incorporated herein by reference.
4. Any dollar amount over or under budget shall be distributed annually to each respective municipality based upon the cost per hour formula at the time the year end audit has been completed. If additional capital funding is made available after the budget has been approved and cost allocation has been determined, the funding must be approved by the MTU. The funding must then be approved by the governing bodies of La Crosse and La Crescent, respectively, before the capital grant application may proceed.
5. The services to be rendered hereunder shall commence on January 1, 2019 and terminate December 31, 2019, unless the parties hereto agree on or before September 1, 2019, to provide service beyond such date.
6. Payment of local share shall be made by La Crescent to the MTU on a quarterly basis. Such quarterly payments will be made on the 31st day of

March, the 30th day of June, the 30th day of September, and the 31st day of December.

7. **Interest of members of/ or Delegates to Congress:** No members of/ or delegates to the Congress of the United States shall be admitted to any share or part of this contract or to any benefit therefrom.
8. **Equal Employment Opportunity:** In connection with the execution of this contract, the MTU shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or nation of origin. The MTU shall take affirmative action to insure that applicants are employed and that employees are treated during their employment, without regard to their race, color, sex, or nation of origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or advertising; layoff, or termination; rates of pay, or other forms of compensation; and the selection for training.
9. **Audit and Inspection of Records:** MTU and La Crescent shall permit the authorized representatives of the City, the U.S. Department of Transportation; and the Comptroller General of the United States to inspect and audit all data and records of the MTU relating to this contract until the expiration of three (3) years after the final payment under this contract.
10. **Disadvantaged Business Enterprise:** In connection with the performance of this contract, the City of La Crescent will cooperate with the City of La Crosse in meeting its commitments and goals with regard to maximum utilization of disadvantaged business enterprises and will use its best efforts to insure that disadvantaged business enterprises shall have maximum practicable opportunity to compete for sub-contract work under the contract.
11. **To the extent applicable and in accordance with the attached September 21, 2018 communication from the U.S. Department of Labor, the parties hereto agree as a condition of the contract and a condition to the release of assistance with the terms and conditions contained in said certification letter and any corresponding protective arrangements. Said terms and conditions are incorporated as part of this agreement to the extent applicable.**

IN WITNESS WHEREOF, this agreement has been duly executed this 28th day of December, 2018.

WITNESS:

Bill Waller

Angela J. Brattner

CITY OF LA CRESCENT BY:

Mikel Poellinger
Mikel Poellinger, Mayor

Bill Waller
Bill Waller, City Administrator

WITNESSES:

Nikki M. Elsen
Nikki M. Elsen

Nikki M. Elsen
Nikki M. Elsen

CITY OF LA CROSSE
MUNICIPAL TRANSIT UTILITY

Tim Kabat
Tim Kabat, Mayor

Teri Lehrke
Teri Lehrke, City Clerk

Attachments

Exhibit A

EXHIBIT A

2019 MTU SERVICE TO LA CRESCENT, MINNESOTA

**THIRTEEN TRIPS (HOURS) DAILY, MONDAY - FRIDAY
EIGHT TRIPS (HOURS) DAILY, SATURDAY**

CALCULATION OF COST PER HOUR - La Crosse Municipal Transit Utility

MTU OPERATING COST	<i>MTU Budget - Specialized Transportation Cost</i>	\$5,581,819
CAPITAL COST	<i>Estimate of Local Share of Capital Cost</i>	\$249,736
TOTAL COST		\$5,831,555
TOTAL ROUTE HOURS		63,895
SERVICE COST PER HOUR		\$91.20

Prepared by: La Crosse MTU: 18-Dec-18

	Budget	
TOTAL ANNUAL LA CRESCENT HOURS	3,892	
TOTAL ANNUAL LA CRESCENT COST	\$354,950	
REVENUE	\$63,954	
<i>Estimated System Average</i>		
FEDERAL SHARE	\$115,908	
MINNESOTA STATE SHARE	\$108,421	\$108,421
GREATER MINNESOTA TRANSIT FUND	\$0	
<i>Local capital bus purchase rebusment (20% \$157,000 over 7 years =</i>	\$4,486	
LA CRESCENT LOCAL SHARE	\$62,182	

U.S. Department of Labor

**Office of Labor-Management Standards
Washington, D.C. 20210**



September 21, 2018

Kelly Brookins, Regional Administrator
Federal Transit Administration, Region V
200 West Adams Street, Ste. 320
Chicago, IL 60606-5232

Re: U.S. Department of Labor 49 U.S.C. § 5333(b) Certification
FTA Grant Application WI-2018-043-00
La Crosse Municipal Transit Utility

Dear Regional Administrator:

This is in reply to the U.S. Department of Transportation, Federal Transit Administration's request for certification of employee protective provisions for the above-referenced grant application under 49 U.S.C. § 5333(b). Revisions and/or amendments to this grant may be subject to additional certification in accordance with 29 C.F.R. § 215.

The protective arrangements identified below provide protections to employees of the Grantee, and other service area providers, that satisfy the requirements of 49 U.S.C. § 5333(b).

GRANTEE: La Crosse Municipal Transit Utility	
Employee Representation	Protections
Amalgamated Transit Union Local 519	Operating Assistance, if any: National Model Agreement dated 07/23/1975 as supplemented by Section 111.70 of the Wisconsin Municipal Employment Relations Act and the conditions below.
Amalgamated Transit Union Local 519	Capital Assistance, if any: Agreement dated 04/05/1974 as supplemented by Section 111.70 of the Wisconsin Municipal Employment Relations Act in lieu of paragraph 11, and by the conditions below.
Service Area Provider : City of Onalaska	
Employee Representation	Protections
N/A	Capital and Operating Assistance: See numbered conditions below.
Service Area Provider : La Crosse County	
Employee Representation	Protections
N/A	Capital and Operating Assistance: See numbered conditions below.

GRANTEE: La Crosse Municipal Transit Utility	
Employee Representation	Protections

The Department of Labor makes the certification called for under the statute for the instant project on condition that:

1. As a precondition to the release of assistance, this letter and the terms and conditions of the protective arrangements referenced above shall be made applicable to the instant project and made part of the contract of assistance between the Grantee and the U. S. Department of Transportation, by reference;
2. The term "project" as used in each of the respective protective arrangements referenced above shall be deemed to cover and refer to those portions of the instant project to which they have been applied;
3. The protective arrangements certified by the Secretary of Labor are intended for the primary and direct benefit of transit employees in the service area of the project. These employees are intended third-party beneficiaries to the employee protective arrangements referenced in the grant contract between the U.S. Department of Transportation and the Grantee, and the parties to the contract so signify by executing that contract. Such transit employees are also third-party beneficiaries to the protective arrangements incorporated in any subsequent contract(s) of assistance between the Grantee and any Recipient(s). Employees not represented by any labor organization, or if so represented through their representative on their behalf, may assert claims with respect to the protective arrangements under this provision. This clause creates no independent cause of action against the United States Government;
4. Disputes over the interpretation, application and enforcement of the terms and conditions of the certified protective arrangements, including those disputes arising out of this letter of certification, shall be resolved in accordance with the procedures specified in the aforementioned certified arrangements; and
5. Employees of mass transportation providers in the service area of the project who are not represented by a union designated above shall be afforded substantially the same levels of protections as are afforded to the employees represented by the union(s) under the above referenced protective arrangements and this certification. Such protections include procedural rights and remedies as well as protections for individual employees affected by the project.

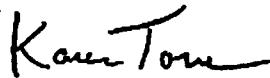
Should a dispute remain after exhausting any available remedies under the protective arrangements and absent mutual agreement to utilize another final and binding resolution procedure, any party to the dispute may submit the controversy to final and binding arbitration. With respect to a dispute involving a union not designated above, if a component of its parent union is already subject to a protective arrangement, the arbitration procedures of that arrangement will be applicable. If no component of its

parent union is subject to the arrangements, the Recipient or the union may request the American Arbitration Association to furnish an arbitrator and administer a final and binding resolution of the dispute under its Labor Arbitration Rules. If the employees are not represented by a union for purposes of collective bargaining, the Recipient or employee(s) may request the Secretary of Labor to designate a neutral third party or appoint a staff member to arbitrate and render a final and binding determination of the dispute.

6. For LaCrosse MTU: Absent written mutual agreement by the parties to the contrary, the terms and conditions of any expiring collective bargaining agreement shall remain in place following the expiration of such agreement until the effective date of a successor agreement between the parties, or completion of the dispute resolution procedures provided for under Section 111.70 of the Wisconsin Municipal Employment Relations Act, whichever is earlier; and

As a condition of this certification, the City of La Crosse and the La Crosse Municipal Transit Utility agree that the employer will bargain in good faith to impasse over all subjects which are proper subjects of collective bargaining under 49 U.S.C. Section 5333(b) (as measured against the requirements articulated in *Amalgamated Transit Union v. Donovan*, 767 F. 2d 939 (9th Cir 1985)). The employer will not object to the inclusion of such proper subjects of bargaining under Section 5333(b) in final offers pursuant to Section 111.70 (4) (cm) subd. 6.a. of the Wisconsin Municipal Employment Relations Act. Such subjects shall then be treated as a mandatory subject under the Wisconsin statute.

Sincerely,



Karen Torre, Chief
Division of Statutory Programs
Office of Labor-Management Standards
Department of Labor
Torre.Karen@dol.gov
(202) 693-1209

cc: Jim Krueger/LMTU
ATU/ATU L. 519

Attachments: Notice of Referral and Certification Format Changes.pdf



**Notice of Changes to
Attachment A of Employee Protection Referrals
and Certifications**

As shown in the attached sample, employee protections are now listed in a chart that identifies the grantee, its service area provider(s), and the applicable employee protections. Presenting the information in this format does not expand or contract the requirements of 49 U.S.C. § 5333(b). The new format is designed to provide clarity on a recipient's service area and the associated employee representation or lack thereof. It is also intended to provide a clearer basis for grantees, recipients, and labor organizations to review the protections and ensure the appropriate protections are applied to employees. While the identification of service area providers by name is new, coverage of the protections has not been expanded. The language of Item 5 in the attached sample has been included in every Department referral and certification for decades and has served and continues to serve as a catch-all provision to provide protections for non-represented employees and represented employees not otherwise identified. The Department's goal remains to ensure fair and equitable protections for employees are provided in accordance with 49 U.S.C. § 5333(b).

Notes on the chart and other changes:

- The *Employee Representation* field does not distinguish between direct employees of the listed grantee or service area provider and those of their contractors. Descriptions of an entity's status as successor to a labor organization or recipient have been omitted.
- The *Protections* field lists the applicable protections for both capital and operating funds regardless of the exact funding sought under the grant, consistent with the Department's practice since January 2016. In addition, the Department has endeavored to reduce unnecessary and ambiguous language that accumulated over the years while retaining the accuracy of the protective terms and agreements. For example, an executed agreement that had been referenced by multiple dates of signing will now be referenced by the latest date. In addition, in most cases, Department determinations and other documents forming part of the protections will only be referenced by their date without a description of the substance of the issues addressed.
- The *Service Area Provider* field lists public transit providers, whether publicly or privately owned, engaged in general or special service on a regular and continuing basis, including commuter bus and commuter rail, in the geographic area over which a provider operates and the area whose population it serves. Public transit does not include: school bus, charter or seasonal service, exclusive ride taxi, or service to individuals or groups that excludes use by the general public. The Department has relied on information provided by recipients, states, and labor organizations and its own research to establish the service area providers and their employee representation. The listed service area providers may not be exhaustive of the public transit providers in any given area.
- When a state Department of Transportation is a recipient, the *Service Area Provider* field will list only the labor organizations representing transit employees in the state, rather than list all public transit providers in the state.
- Special terms and conditions applicable to a recipient will now be listed after the Department's standard five conditions (six in pass-through situations).
- In pass-through situations, there will be a chart for each recipient under the grant.

Attachment A
DOL PROPOSAL FOR EMPLOYEE PROTECTIONS
EX-2018-001-00

GRANTEE: Acme City Transportation Authority	
Employee Representation	Protections
USA Transit Employee Union Local 100	Capital Assistance, if any: Executed Agreement dated 01/12/1980, as supplemented by 03/30/1985 side letter. Operating Assistance, if any: National Model Agreement, dated 07/23/1975, as addended by paragraph 6 of the 01/12/1980 agreement.
Acme City Workers Union Local 500	Capital and Operating Assistance: Determination, dated 09/09/1990, including Attachment A.
Service Area Provider : Apex County Transit	
Employee Representation	Protections
County Transit Employee Union Local 200	Capital and Operating Assistance: Unified Protective Arrangement, dated 11/23/2012.
Service Area Provider : Big City Transit	
Employee Representation	Protections
Public Transit Employees Union Local 3000; Commuter Rail Employees Union Local 3300; Engineers Union Local 400	Capital and Operating Assistance: Unified Protective Arrangement, dated 11/23/2012.
Service Area Provider : Central Region Transit	
Employee Representation	Protections
Intercity Transit Union Local 900	Capital and Operating Assistance: Unified Protective Arrangement, dated 11/23/2012, for any intermodal projects
Service Area Provider : Town Trolley	
Employee Representation	Protections
N/A	Capital and Operating Assistance: See numbered conditions below

The Department of Labor makes the certification called for under the statute for the instant project on condition that:

1. This letter and the terms and conditions of the above referenced agreements and/or arrangements shall be made applicable to the instant project and made part of the contract of assistance, by reference;
2. The term "project" as used in the above referenced agreements and/or arrangements shall be deemed to cover and refer to the instant project;

3. **The protective arrangements certified by the Secretary of Labor are intended for the primary and direct benefit of transit employees in the service area of the project. These employees are intended third-party beneficiaries to the employee protective arrangements referenced in the grant contract between the U.S. Department of Transportation and the Grantee, and the parties to the contract so signify by executing that contract. Such transit employees are also third-party beneficiaries to the protective arrangements incorporated in any subsequent contract(s) of assistance between the Grantee and any Recipient(s). Employees not represented by any labor organization, or if so represented through their representative on their behalf, may assert claims with respect to the protective arrangements under this provision. This clause creates no independent cause of action against the United States Government;**
4. **Disputes over the interpretation, application and enforcement of the terms and conditions of the certified protective arrangements, including those disputes arising out of this letter of certification, shall be resolved in accordance with the procedures specified in the aforementioned certified arrangements; and**
5. **Employees of mass transportation providers in the service area of the project who are not represented by a union designated above shall be afforded substantially the same levels of protections as are afforded to the employees represented by the union(s) under the above referenced protective arrangements and this certification. Such protections include procedural rights and remedies as well as protections for individual employees affected by the project.**

Should a dispute remain after exhausting any available remedies under the protective arrangements and absent mutual agreement to utilize any other final and binding resolution procedure, any party to the dispute may submit the controversy to final and binding arbitration. With respect to a dispute involving a union not designated above, if a component of its parent union is already subject to a protective arrangement, the arbitration procedures of that arrangement will be applicable. If no component of its parent union is subject to the arrangements, the Recipient or the union may request the American Arbitration Association to furnish an arbitrator and administer a final and binding resolution of the dispute under its Labor Arbitration Rules. If the employees are not represented by a union for purposes of collective bargaining, the Recipient or employee(s) may request the Secretary of Labor to designate a neutral third party or appoint a staff member to serve as arbitrator and render a final and binding determination of the dispute.