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Public Works

City Transit  
263-8152

Equipment Maintenance  
Roadway Maintenance  
Collection & Drainage  
Building & Grounds  
Engineering

MEMORANDUM

To: Mayor and City Council Members  
CC: Gregg Mandsager, City Administrator  
Brian Stineman, Public Works Director  
FROM: Amy Fortenbacher, Transit Supervisor  
DATE: August 9, 2019  
RE: Approve and sign contract with Access2Care

INTRODUCTION:

The City of Muscatine Transit (MuscaBus) has received a contract from Access2Care to provide transportation to passengers with a waiver through the new managed care organization (MCO), Iowa Total Care. Access2Care handles all the transportation needs for Iowa Total Care.

BACKGROUND:

July 1, 2019, UnitedHealthcare ended its contract with the State of Iowa. Iowa Total Care replaced UnitedHealthcare. We have several passengers that were with UnitedHealthcare and are now a client with Iowa Total Care. The City Attorney has reviewed the contract and given their approval.

RECOMMENDATION/RATIONALE:

It is the recommendation of the Public Works/Transit staff to approve the contract with Access2Care to continue serving our passengers that depend on Access2Care for their transportation.

## SUBCONTRACTOR AGREEMENT

**THIS SUBCONTRACTOR AGREEMENT** is made between Access2Care, LLC (“A2C”) and the subcontractor City of Muscatine, DBA Muscabus set out on the signature page of this Agreement. This Agreement is effective as of the Commencement Date as defined in Schedule “A”.

**WHEREAS**, A2C on occasion needs subcontractors to provide medical transportation, non-medical transportation ambulance, paratransit and wheelchair services to A2C customers in various locations;

**WHEREAS**, A2C manages non-emergency transportation. As such we use subcontractors to provide non-emergency medical transportation for our clients who request such services;

**WHEREAS**, A2C wishes to retain Subcontractor to perform certain tasks in furtherance of this effort as set forth in this Agreement; and

**WHEREAS**, Subcontractor wishes to perform, and is capable of performing such tasks upon request by A2C.

**NOW THEREFORE**, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

- 1. Provision of Services.** Subcontractor will provide the transportation services described in Schedule “A” hereto (the “Services”) to Clients or Recipients (collectively referred to as “Recipients”) on the conditions, if any, described in Schedule “A” and in the service area(s) described in Schedule “A” (the “Service Area”), only when and as requested by A2C.
- 2. Compliance with Laws.** The parties will comply in all material respects with all applicable federal and state laws and regulations, including the federal Anti-kickback statute, and shall submit to the State all documentation necessary for Subcontractor to provide the services more

specifically described herein. Subcontractor’s vehicles will conform to applicable state regulations and be duly licensed for the transportation of Recipients. All Subcontractor personnel staffing vehicles that provide the Services will be licensed or certified as required by applicable law.

- 3. Term.** The initial term of this Agreement shall be one (1) year, commencing on the Commencement Date set out in Schedule “A” hereof, and this Agreement shall automatically renew for subsequent one-year periods thereafter, subject to the termination rights herein. The initial term and all renewal periods shall be cumulatively referred to as the “Term”.
- 4. Termination.** Each party may terminate this Agreement: (a) at any time without cause and at its sole discretion upon sixty (60) days written notice to the other party; or (b) upon the material breach of this Agreement by the other party if such breach is not cured within thirty (30) days of written notice thereof to the other party. Notwithstanding the foregoing, A2C may terminate this Agreement immediately upon: (i) the failure of Subcontractor to respond to requests by A2C for the provision of Services to Recipients within the Service Area or (ii) following Subcontractor’s loss or suspension of licensure necessary for the provision of the Services or reduction or loss of Subcontractor’s insurance coverage.
- 5. Scheduling of Services.** A2C shall schedule and request any and all Services to be provided by Subcontractor pursuant to this Agreement. All Services will be scheduled according to the procedures provided for in the Transportation Provider Manual, as modified from time to time by A2C in its sole discretion and attached hereto as Schedule “C” and incorporated herein by this reference.
- 6. No Utilization Obligation.** A2C does not guarantee any level of utilization of Subcontractor and A2C is under no obligation to utilize Subcontractor for any

Services.

7. **Standards for Services.** Subcontractor represents and warrants that (a) any and all Services shall be provided in accordance with prevailing industry standards of quality and care applicable to the Services provided; (b) any and all Services rendered shall be performed in a good and workmanlike manner; (c) Subcontractor shall comply with all requirements of A2C's Transportation Provider Manual may be modified by A2C from time to time; The parties acknowledge and agree that all references to specific sections of the Transportation Provider Manual are based on the requirements in place at the time of execution of this agreement. In the event a revision to the requirements causes those section references to change, the current and prevailing Transportation Provider Manual shall prevail.
8. **Trip Management.** Subcontractor acknowledges and agrees that they will satisfy all requirements outlined in the Transportation Provider Manual as it relates to the manner in which the services, activities, and tasks are to be performed as well as requirements for pickup and delivery of all participants.
9. **Compensation and Billing.** For any Services performed by Subcontractor pursuant to which A2C has provided Subcontractor with an authorization number, A2C shall pay Subcontractor within twenty-one (21) days of receipt of a "clean" invoice in a format approved by A2C which includes completed and accurate vendor set up for payment processing and additional requirements as defined in Transportation Provider Manual. Subcontractor shall submit its invoice within forty-five (45) days of the date that Services were provided by Subcontractor – failure to submit its invoice within this time period will result in non-payment by A2C to Subcontractor. Subcontractor shall not seek payment from A2C's customer, the Patient or any third-party payor for any such Services. A2C shall reimburse Subcontractor at the rates set forth in Schedule "B" and Subcontractor shall accept the rates in Schedule "B". Provided that A2C has authorized the Subcontractor to bill the Patient, the preceding sentence shall not preclude Subcontractor from billing a Patient for any Patient responsible amounts under the requirements of the Patient's applicable health plan membership agreement, e.g., co-payment, co-insurance or deductible.
10. **Record Retention.** Subcontractor will retain books and records respecting Services rendered to Patients for the greater of ten (10) years or the time periods required under all applicable laws (including the requirements of the Secretary of Health and Human Services ("HHS")) and allow access to such books and records by duly authorized agents of the Secretary of HHS, the Comptroller General and others to the extent required by law.
11. **Compliance with the terms of A2C's contract with the client.** Subcontractor acknowledges and agrees that Subcontractor shall comply with all mandatory terms and conditions of A2C's contract with the client.
12. **Injury to an A2C Passenger.** If an A2C passenger is injured while being transported, Subcontractor shall submit a claim through their insurance first, and through A2C's insurance if Subcontractor's insurance does not cover the costs associated with the incident.
13. **Audit Rights.** Subcontractor shall, within a reasonable amount of time after written notice from A2C provide representatives of A2C or the U.S. Government (as specified in the notice), grant access to all records, documents, fiscal and accounting data, and other information (whether in paper form, microform, electronic media or other form) that relate to this Agreement, Subcontractor shall comply with all requirements of A2C's Transportation Provider Manual which may be modified by A2C from time to time. This obligation of Subcontractor shall survive for a period of three (3) years following final payment under this Agreement or until such later

time as required under applicable law and regulation.

14. **Indemnity.** Each party will indemnify and hold the other party harmless from and against liability claims resulting from or alleged to result from any negligence or willful misconduct of the indemnifying party related to the performance of this Agreement.
15. **Dispute Resolution.** Subcontractor acknowledges and agrees that in the event of a dispute arising out of the relationship between A2C and the Subcontractor and the services provided for herein, Subcontractor shall look solely to A2C to resolve this dispute, and at no time, shall Subcontractor pursue a resolution of any dispute related to this Agreement with either the client or any agency thereof. All disputes involving payment of claims shall be resolved according to the procedure outlined in the Claims Appeals Process in the Transportation Provider Manual. If necessary, a dispute shall be resolved in a court of competent jurisdiction and according to the laws of the State.
16. **Default by A2C.** In the instance of default by A2C, the Agreements and all rights and obligations associated therewith shall pass to the client or its duly appointed agent for the continued provision of the services more specifically described herein. Subcontractor acknowledges and agrees that in the event the client assumes responsibility for this Agreement, all terms, conditions, and rates established herein shall remain in effect until or unless renegotiated by the client or its agent unless otherwise terminated immediately by the client in its sole discretion.
17. **Insurance.** Subcontractor currently maintains and will maintain during the Term of this Agreement liability insurance policies for claims that may be made against Subcontractor arising out of the Services under this Agreement. Subcontractor shall maintain comprehensive general and automobile liability coverage with limits no less than \$500,000 per occurrence and \$1,000,000 annual aggregate and other such coverage

as required by the State. Subcontractor shall maintain workers' compensation insurance in the statutory required amounts. Subcontractor shall cause A2C to be added as an additional insured to all such policies. Subcontractor shall provide to A2C upon execution of this Agreement certificates of insurance evidencing coverage. Coverage shall not be changed or modified without at least thirty (30) days prior written notice to A2C. Further, Subcontractor's insurance shall be primary in the event of any claim resulting from Services provided by Subcontractor and shall be exhausted in full prior to any contribution from any other source. Subcontractor shall also be solely responsible for any and all damages or repairs to its owned, leased or contracted vehicles used in providing Services under this Agreement.

18. **Notices.** Any notice required or permitted by this Agreement shall be in writing and shall be delivered as follows, with notice deemed given as indicated: (a) by personal delivery, when delivered personally; (b) by overnight courier, upon written verification of receipt; (c) by facsimile transmission, upon acknowledgment of receipt of electronic transmission; or (d) by certified or registered mail, return receipt requested, upon verification of receipt. Notice shall be sent to the following addresses:

#### IF TO SUBCONTRACTOR:

Amy Fortenbacher  
City of Muscatine  
DBA Muscabus  
215 Sycamore Street  
Muscatine, Iowa 52761

#### IF TO A2C:

Director of Contract Oversight  
Access2Care, LLC.  
6363 S. Fiddlers Green Cir, Ste 1400  
Greenwood Village, Colorado 80111

With Mandatory Copy to:

Legal Department  
American Medical Response, Inc.  
6363 S. Fiddlers Green Cir, Ste 1400  
Greenwood Village, Colorado 80111

19. **Confidentiality.** All information with respect to the operations and business of a party (including but not limited to the rates charged hereunder) and any other information considered to be and treated as confidential by that party gained during the negotiation or Term of this Agreement will be held in confidence by the other party and will not be divulged to any unauthorized person without prior written consent of the other party, except for access required by law, regulation and third party reimbursement agreements. The obligations under this section shall not apply to information which (a) at the time of disclosure is in the public domain or, after disclosure, enters the public domain other than by breach of this Agreement; or (b) is already in the possession of the recipient at the time of disclosure and is not acquired from the other Party; or (c) is later received on a non-confidential basis from a third Party having the right to impart such information; or (d) is independently developed by the recipient's employees who did not have access to such information in connection with this Agreement.
20. **HIPAA Compliance.** Each party shall comply with the privacy and security provisions of the *Health Insurance Portability and Accountability Act of 1996* and the regulations thereunder ("HIPAA"), and with such other requirements of HIPAA that may become effective during the Term. All patient medical records shall be treated as confidential so as to comply with all state and federal laws. The Subcontractor shall report in writing to A2C any use or disclosure of Protected Health Information ("PHI") not provided for or allowed by the SUBCONTRACTOR AGREEMENT immediately upon becoming aware of the same.
21. **CMS Required Contract Provisions-42 CFR 422.** (i) *Privacy and Accuracy of Records:* Providers and suppliers agree to

safeguard beneficiary privacy and confidentiality and assure the accuracy of beneficiary health records. 422.504(a)13. (ii) *Hold Harmless for MAs offering SNPs:* For all Medicare Advantage ("MA") organizations with enrollees eligible for both Medicare and Medicaid, such enrollees will not be held liable for Medicare Part A and B cost sharing when the State is responsible for paying such amounts, and inform providers of Medicare and Medicaid benefits and rules for enrollees eligible for Medicare and Medicaid. The MA plans may not impose cost sharing that exceeds the amount of cost sharing that would be permitted with respect to the individual under the XIX if the individual were not enrolled in such plan. Subcontractor will accept the MA plan payment as payment in full, or bill the appropriate State source.

22. **Relationship.** In the performance of this Agreement, each party shall be, as to the other, an independent contractor, and neither party shall have the right or authority, express or implied, to bind or otherwise legally obligate the other. Nothing contained within this Agreement shall be construed to constitute either party assuming or undertaking control or direction of the operations, activities or medical care rendered by the other. As to either party's employees, nothing contained herein shall be construed in such a manner as to give effect to the notion that either party shall in anyway assume responsibility for the oversight or provision of the other party's employee benefits, including but not limited to the payment of wages, provision of health insurance, or any and all other commonly accepted benefits of employment.
23. **Compliance Program and Code of Conduct.** A2C has made available to the Subcontractor a copy of its Code of Conduct, Anti-kickback policies and other compliance policies, as may be changed from time-to-time, at A2C's web site, located at: [www.Access2Care.net](http://www.Access2Care.net), and the Subcontractor acknowledges receipt of such documents. A2C warrants that its personnel shall comply with A2C's

compliance policies, including training related to the Anti-kickback Statute.

for re-employment for each employer for 7 years

24. **Non-Exclusion.** Each party represents and certifies that neither it nor any practitioner who orders or provide Services on its behalf hereunder has been convicted of any conduct that constitutes grounds for mandatory exclusion as identified in 42 U.S.C. § 1320a-7(a). Each party further represents and certifies that it is not ineligible to participate in Federal health care programs or in any other state or federal government payment program. Each party agrees that if OIG excludes it, or any of its practitioners or employees who order or provide Services, from participation in Federal health care programs, the party must notify the other party within five (5) days of knowledge of such fact, and the other party may immediately terminate this Agreement, unless the excluded party is a practitioner or employee who immediately discontinues ordering or providing Services hereunder.

- d. OIG List of Excluded Individuals/Entities
- e. Sex Offender Registry
- f. GSA List of Parties Excluded from Federal Programs
- g. Department of Motor Vehicle Driving History
- h. State and Local Licensure Verification
- i. Drug Screen

Refer to the Transportation Provider Manual for specific background requirements based on the State where the Subcontractor provides services.

Upon request and from time-to-time, Subcontractor shall provide A2C with a continuing certification.

25. **Vehicle and Personnel Requirements.** Subcontractor acknowledges and agrees that all vehicles and personnel utilized to provide the Services shall comply with the requirements included within the Transportation Provider Manual and any other applicable sections as may be added from time to time by A2C.

28. **Referrals.** It is not the intent of either party that any remuneration, benefit or privilege provided for under this Agreement shall influence or in any way be based on the referral or recommended referral by either party or its affiliated providers, if any, or the purchasing, leasing or ordering of any services other than the specific services described in this Agreement. Any payments specified herein are consistent with what the parties reasonably believe to be a fair market value for the services provided. Subcontractor represents and warrants that the rates and pricing that it has accepted do not place it in violation of any federal or state anti-kickback statute.

26. **Training Requirements.** Subcontractor acknowledges and agrees that all personnel shall be trained and oriented according to the Network Provider Manual.

27. **Background Investigation.** Subcontractor warrants and represents that it has performed a national background investigation on employees that provide patient care services or drive vehicles. The investigation report may include but not limited to the following:

- a. Social Security Number Verification
- b. Criminal Search
- c. Employment Verification to include reason for separation and eligibility

29. **Other.** During the term of this Agreement and for a period of six (6) months following termination of this Agreement: Subcontractor shall not provide transportation services to any A2C customer that Subcontractor has rendered Services to under this Agreement, either directly or through a network of providers

or intermediary other than A2C; or (ii) solicit any such A2C customer to obtain transportation services from Subcontractor either directly or through such other network or intermediary in the Service Area.

**30. Equal Employment Opportunity.** If the provisions of Executive Order 11,246 are applicable to this Agreement, the parties incorporate the equal employment opportunity clause set forth in 41 C.F.R. part 60-1. If the provisions of Executive Order 13,201 are applicable to this Agreement, the parties incorporate the equal employment opportunity clause set forth in 29 C.F.R. part 470.

**31. Miscellaneous.** This Agreement (including the Schedules hereto): (a) constitutes the entire agreement between the parties with respect to the subject matter hereof, superseding all prior oral or written agreements with respect thereto;

(b) may be amended only by written instrument executed by both parties; (c) may not be assigned by either party without the written consent of the other party, such consent not to be unreasonably withheld; (d) shall be binding on and inure to the benefit of the parties hereto and their respective successors and permitted assigns; (e) shall be interpreted and enforced in accordance with the laws of the state where the Services are performed, without regard to the conflict of laws provisions thereof, and the federal laws of the United States applicable therein; (f) may be executed in several counterparts (including by facsimile), each of which shall constitute an original and all of which, when taken together, shall constitute one agreement; and (g) shall not be effective until executed by both parties. In the event of a conflict between this Agreement and any Schedule hereto, the terms of this Agreement shall govern.

*[Signature Page To Follow]*



**IN WITNESS WHEREOF**, the parties have hereto executed this Agreement.

Access2Care, LLC

By: \_\_\_\_\_

Scott Anderson  
Regional Director, Central/NE

City of Muscatine, DBA Muscabus

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

## SCHEDULE "A"

### I. Services:

#### A. Transportation Services

If checked, Subcontractor shall provide the following transportation services (the "Services"):

- "Advanced Life Support" or "ALS";
  - "Basic Life Support Service" or "BLS";
  - "Specialty/Critical Care Transportation" or "SCT" or "CCT" or Neonatal Transports;
  - "Wheelchair Van" non-Ambulance ground transportation provided for non-ambulatory patients;
  - "Non-Medical Stretcher Van" non-Ambulance ground transportation provided for non-ambulatory patients;
  - "Ambulatory Services" non-Ambulance and non-Wheelchair transportation provided to ambulatory patients; or
  - "Other"
- 

### II. Service Area:

Services shall be provided in and around City of Muscatine.

### III. Commencement Date

The Commencement Date referred to in Section 3 of this Agreement shall be: **July 1, 2019.**

### IV. Scheduling Requirements

In accordance with Section 5 of the Agreement, different or additional Subcontractor scheduling requirements shall be:

None

## RATES

Transportation Services	Rate
Wheelchair Van (one way)	\$15.00
Wheelchair Van mileage	N/A
Ambulatory (one way)	\$15.00
Ambulatory mileage	N/A
Non-Medical Stretcher Van (one way)	N/A
Non-Medical Stretcher Van mileage	N/A

Ambulance Services	Rate
BLS Non-Emergency (one way)	N/A
ALS Non- Emergency (one way)	N/A
Specialty/Critical Care Transport-SCT/CCT (one way)	N/A
Mileage, per urban mile	N/A
Other	N/A

A2C does not pay for “No Shows”, “Dry Runs” or “Deadhead” miles.

## SCHEDULE "C"

### TRANSPORTATION PROVIDER MANUAL

#### 1.0 Transportation Provider Manual

- 1.1 Transportation Provider agrees to adhere to the requirements outlined in the Transportation Provider Manual Version 2019, Iowa
- 1.2 Revision to the requirements in the Transportation Provider Manual causes section references to change, the current and prevailing Transportation Provider Manual shall prevail.
- 1.3 Transportation Provider will be notified of the revised Transportation Provider Manual within 30 days of final approval from Access2Care.
- 1.4 Transportation Providers must comply with revised Transportation Provider Manual with 20 days of receipt.

#### 2.0 Transportation Provider Manual Attestation

- 2.1 Transportation Provider attests that the Transportation Provider Manual Version 2019, Iowa was received from Access2Care Network Specialist.
- 2.2 Transportation Provider attests that the Transportation Provider Manual Version 2019, Iowa was reviewed.

Date Provider Manual Received: \_\_\_\_\_

City of Muscatine, DBA Muscabus

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Faith Gruis, Network Specialist Central/NE

Faith.Gruis@amr.net