

SERVICE AGREEMENT

This **Agreement** forth the understanding between the Board of Regents of the University of Oklahoma (hereinafter referred to as **University**) and the City of Norman, a municipal corporation (hereinafter referred to as **City**), in regard to services to be provided by **University**.

WHEREAS, the **City** has been designated by the Governor of the State of Oklahoma as the appropriate recipient of federal funding for the City of Norman and surrounding areas; and

WHEREAS, the **City** has applied or will apply for Federal Transit Administration (hereinafter referred to as FTA) approval to operate public transit in the City of Norman and surrounding areas; and

WHEREAS, the **University** and the **City** are requesting that the FTA authorize the transfer of the federally-funded portion of the **University's** transit-related assets to the **City** for the purpose of transferring the role of operator from the **University** to the **City**; and

WHEREAS, the **City** desires the **University** to perform the following transition services as described herein on behalf of the **City**; and

WHEREAS, **University** wishes to provide transition services to the City.

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants, and promises herein set forth, the parties agree as follows:

1. SCOPE OF WORK

The services to be provided by **University** are specified in **Exhibit A** attached hereto and incorporated herein by reference. This **Agreement** shall take effect on the earlier of: July 1, 2019, or the date City is approved as a recipient of federal funding by FTA; and shall expire on August 3, 2019, unless earlier terminated as provided herein.

2. CONFIDENTIALITY

It is anticipated that no confidential and/or proprietary information will be disclosed between the parties in the performance of the services described in **Exhibit A**. However, if any confidential and/or proprietary information is disclosed and/or created as a result of this **Agreement**, it shall be identified as such to both parties and protected by a separate confidentiality agreement.

3. PAYMENT

For the services provided by **University** pursuant to this **Agreement**, **City** agrees to pay **University** seventy dollars (\$70.00) per operational hour of service. **University** agrees operational hours of service will not exceed three thousand five hundred (3,500) hours without prior consultation with and upon approval by **City**. **University** will invoice **City** after August 3, 2019, with payment due and payable not later than forty-five (45) days thereafter.

All monies due **University** under this **Agreement** shall be made payable to the University of Oklahoma.

If **University** receives federal funding from FTA for the services provided pursuant to this **Agreement**, the received amount will be deducted from the total owed by **City** (or reimbursed to **City**, as may be applicable).

4. USE OF NAMES

City shall not state or imply in any publication, advertisement or other medium that any product or service bearing any of **City's** names or trademarks and manufactured, sold, or distributed by **City**, has been approved or endorsed by **University**. **City** will not use the name of **University** nor any of its employees or agents, in any publicity, advertising or news release without the prior written approval of an authorized representative of **University**. **University** shall not use the name of **City**, nor any employee of **City**, in any publicity without the prior written approval of **City**. During the term of this **Agreement**, **University** will continue to use "CART" branding in conjunction with transit services.

5. LIABILITY AND INSURANCE

University agrees to use all reasonable efforts to provide services in accordance with **City's** instructions as specified in **Exhibit A** and accepted professional standards; however, **University** cannot, and does not, guarantee any level of service. The parties acknowledge that reductions in service caused as a result of a decrease in staffing levels are possible and are outside the **University's** control, and the **University** shall not be liable for damages resulting from a reduction in service. In the event **University** becomes aware of circumstances beyond its control necessitating such reduction in service, **University** shall notify **City** as soon as practicably possible after it becomes aware of such circumstances and, to the extent possible, shall notify **City** prior to any such reduction.

University will exercise reasonable care for **City's** property entrusted to **University**. **University** and **City** agree that each will be responsible for their own acts and omissions subject to the provisions and limitations of the Oklahoma Governmental Tort Claims Act, 51 O.S. § 151, *et seq.*

University shall provide **City** proof of adding **City** as an additional insured on all insurance policies, including, but not limited to, State-mandated liability insurance, of which certificates of proof were previously provided to **City** under the FYE 19 contract with **City**. **University** shall keep such insurance policies current and in effect throughout the term of this agreement.

6. TERMINATION

City and **University** shall each have the right to terminate this **Agreement** at any time. **City** and **University** shall provide notice of intent to terminate in writing to the other party as soon as practicably possible.

Termination by **University** will be subject to **University's** obligation to complete work in progress unless circumstances warrant otherwise.

**7. NO WARRANTIES AND REPRESENTATIONS; COMPLIANCE WITH
FEDERAL AND STATE LAWS AND REGULATIONS**

University makes no representations and extends no warranties of any kind, expressed or implied, on the services to be provided; however, **University** shall comply with all federal and state laws and regulations and use reasonable efforts to provide the quality of service it has provided under prior agreements with **City**.

8. NOTICES

Notices and communication shall be submitted to the offices identified below. **Agreement** notices and communications hereunder shall be deemed made as of the date of mailing if given by overnight courier service or by registered or certified mail, postage prepaid, and addressed to the party to receive such notice or communication at the address given below, or such other address as may hereafter be designated by notice in writing.

If to **City** (Administrative):

Name:	Kathryn L. Walker
Address:	City of Norman City Attorney's Office 201 W. Gray
City, State, ZIP Code:	Norman, OK 73069
Phone :	(405) 217-7700
E-mail:	Kathryn.walker@normanok.gov

If to **City** (Technical);

Name:	Shawn O'Leary
Address:	City of Norman Public Works Department 201 W. Gray, Building A
City, State, ZIP Code:	Norman, OK 73069
Phone:	(405) 366-5453
E-mail:	Shawn.oleary@normanok.gov

If to **University** (Administrative):

Name: Anil V. Gollahalli
 Address: The University of Oklahoma
 660 Parrington Oval
 City, State, ZIP Code: Norman, OK 73019
 Phone/Fax: (405) 325-4124
 E-mail: agollahalli@ou.edu

If to **University** (Technical):

Name: Kristopher Glenn
 Address: The University of Oklahoma
 510 E. Chesapeake
 City, State, ZIP Code: Norman, OK 73019
 Phone/Fax: (405) 325-3322
 E-mail: krisglenn@ou.edu

9. EQUAL OPPORTUNITY

As applicable, the provisions of Executive Order 11246, as amended by Executive Order No. 11375, Executive Order No. 11141, Executive Order No. 13665 and as supplemented in Department of Labor regulations (41 CFR Part 60-1.4(a), 60-300.5(a) and 60-741.5(a) et. seq.), are incorporated into this **Agreement** and must be included in any subcontracts awarded involving this **Agreement**. The parties represent that all services are provided without discrimination on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, national origin, disability, political beliefs, or veteran's status; they do not maintain nor provide for their employees any segregated facilities, nor will the parties permit their employees to perform their services at any location where segregated facilities are maintained. In addition, the parties agree to comply with the applicable provisions of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 701 and the Vietnam Era Veteran's Readjustment Assistance Act of 1974, 38 U.S.C. § 4212.

10. GENERAL

- a. Assignability: This **Agreement** may not be assigned by either party in whole or in part without the prior written permission of the non-assigning party.
- b. Governing Law and Jurisdiction: This **Agreement** shall be governed by the laws of the State of Oklahoma, without giving force and effect to its choice of law provisions, and the United States of America. Any legal action in connection with this **Agreement** shall be filed in a court of competent jurisdiction in the State of Oklahoma to which jurisdiction and venue all parties expressly agree. Communications of a legal nature should be submitted to the following: for **University**, the Executive Secretary of the Board of Regents of the University of Oklahoma, 600 Parrington Oval, Room 119, Norman, OK 73019; for **City**, City Clerk, 201 W. Gray, Norman, OK 73069.
- c. Legal Recourse and Attorneys' Fees: Should the parties to this **Agreement** be unable to resolve between themselves any dispute arising from any of the provisions within this **Agreement**, each party shall have recourse under applicable law. In the event that either party commences an action in law or equity to enforce any provision of this contract, the losing party shall pay to the prevailing party, reasonable attorneys' fees as fixed by a court of competent jurisdiction.
- d. Severability: If any provision(s) of this **Agreement** shall be held invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
- e. Entire Agreement: This **Agreement** constitutes the entire agreement and understanding between the parties and supersedes all prior and/or contemporaneous discussions, representations, or agreements of the parties relating to the work to be performed, whether written or oral. This **Agreement** may be extended, renewed, or otherwise amended at any time by the mutual written agreement of the parties.
- f. This **Agreement** may be executed in several counterparts, each of which shall be deemed the original, but all of which shall constitute one and the same instrument.
- g. Neither party is authorized or empowered to act for the other for any purpose and shall not enter into any contract, warranty, and/or representation as to any matter on behalf of the other. Neither shall be bound by the acts or conduct of the other.

IN WITNESS THEREOF, this agreement is entered into the _____ day of _____, 2019.

**BOARD OF REGENTS OF
THE UNIVERSITY OF OKLAHOMA**

CITY OF NORMAN, OKLAHOMA

Eric Conrad
Vice President for Operations

Mayor Lynne Miller

Attest: _____
Brenda Hall, City Clerk

APPROVED as to form and legality this 21st day of June, 2019.

Kristina L. Bell
Kristina L. Bell, Assistant City Attorney

Exhibit A

City of Norman Service Scope of Work | July 1, 2019 - August 2, 2019

University will operate **City** public transit service as a contractor from July 1, 2019, through August 2, 2019, at \$70 per service hour. That is a turnkey cost that includes everything it takes to operate both CART city routes and CARTaccess based on normal hours of operation.

Services to be provided during the transition period include operating transportation service to the following routes. To the extent possible, **University** intends to operate service at the same level and frequency as it did prior to July 1, 2019.

- 10 – Main Street
- 11 – Lindsey East
- 12 – Lindsey West
- 20 – West Norman Link
- 21 – Alameda/E. Norman
- 24 – Sooner Express
- CARTaccess

Without further additional cost, **University** will also assist **City** in planning to assume operational duties itself or through a third party by:

- Designating a liaison who can, upon request, assist **City** or operator personnel with understanding the federal TRAMS system for grant administration;
- Designating a liaison to assist with **University**-related facility questions, should **City** desire to lease space on **University** property for public transit purposes; and
- Designating a liaison to assist **City** or operator personnel with route planning and coordination with campus shuttle service;
- Ensuring reasonable access to inventory and facilities as **City** finds necessary throughout the transition.