



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: K-1819-150

File ID: K-1819-150

Type: Contract

Status: Consent Item

Version: 1

Reference: Item 31

In Control: City Council

Department: Legal Department

Cost:

File Created: 06/20/2019

File Name: OU Transition Agreement

Final Action:

Title: CONTRACT K-1819-150: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND THE BOARD OF REGENTS OF THE UNIVERSITY OF OKLAHOMA, FOR THE UNIVERSITY OF OKLAHOMA TO PROVIDE TRANSPORTATION TRANSITION SERVICES FOR THE CITY OF NORMAN FROM JULY 1, 2019, THROUGH AUGUST 2, 2019, AT THE RATE OF SEVENTY DOLLARS (\$70.00) PER OPERATIONAL HOUR OF SERVICE.

Notes: ACTION NEEDED: Motion to approve or reject Contract K-1819-150 with the Board of Regents of the University of Oklahoma; and, if approved, authorize the execution thereof.

ACTION TAKEN: _____

Agenda Date: 06/25/2019

Agenda Number: 31

Attachments: K-1819-150

Project Manager: Kristina Bell, Assistant City Attorney

Entered by: kristina.bell@normanok.gov

Effective Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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Text of Legislative File K-1819-150

Body

BACKGROUND: In August, 2018, University of Oklahoma (University) officials notified City staff of its desire to transfer non-campus bus services in Norman to another operator by the end of the FYE 2019 fiscal year. Since that time, City staff has worked closely with representatives from the University, the Federal Transit Administration (FTA), and the Oklahoma Department of Transportation (ODOT) to determine and work through the process of transitioning these services from the University to the City. The FTA has expressed a desire for the City to become the designated recipient eligible to receive federal funds by July 1, 2019. The University notified the City on May 15, 2019, that the last day the University would operate its

transit service provider, Cleveland Area Rapid Transit (CART), was Friday, August 2, 2019. City staff is negotiating with University staff and an independent third-party contract operator to transition the provision of services from the University to the City by August 2, 2019. Contract K-1819-150 is a Service Agreement between the University and the City for the University to provide transportation transition services for the City from July 1, 2019, through August 2, 2019.

DISCUSSION: On August 28, 2018, University officials expressed in a meeting with City staff their desire to transfer non-campus bus services in Norman to another operator by the end of the FYE 2019 fiscal year. Staff relayed this message to City Council during a Study Session shortly thereafter about the concerns the University had regarding CART's short-term funding challenges and long-term operational challenges CART faced. City Council approved Contract K-1819-123 with CART on October 23, 2018, which secured the City's contribution for the current fiscal year. City Council met again in a Study Session on October 30, 2018, to discuss the long-term operational challenges and to develop a strategy for moving forward. City Council focused on three key premises: 1) Ensure there is no interruption or break in service during the transfer; 2) Maintain or improve the current level of service provided by CART; and 3) Although the City would officially be the recipient of federal funds, the City may contract with an independent third-party agency to operate the system.

Since November, 2018, City staff and University staff have worked closely with the officials from the FTA Regional 6 office located in Fort Worth, Texas. According to the FTA, the following steps need to take place to effectuate a system transfer of operation: 1) Notice of Intent to transfer transmitted from the current operator to the FTA; 2) FTA responds to Notice of Intent; 3) New recipient or operator asks to be designated as a direct recipient; 4) New recipient seeks formal approval of FTA to become an eligible recipient of FTA grant funding; and 5) Transfer of project assets from the University to the new grant recipient.

On December 20, 2018, the University submitted its Notice of Intent to transfer bus service to FTA. Due to the holidays and the partial government shutdown, a response from FTA was not received until February 1, 2019. Since that time, City staff has been working with partners at the University, ODOT, FTA, and the Association of Central Oklahoma Governments (ACOG), to execute the necessary steps in this process.

On May 15, 2019, the University notified the City that its last date of service by CART would be Friday, August 2, 2019.

On May 22, 2019, Governor Stitt designated the City to be the direct recipient of federal funds effective upon the date the FTA formally approves the City eligible to receive federal funds. The next two steps in the process are for the City to apply for formal approval from the FTA to be eligible to receive federal funds and then to work with the University to request that the FTA approve the transfer of project assets purchased with federal funds, including buses and other vehicles as well as open grants.

City staff is also simultaneously negotiating agreements with the University and with an independent third-party operator to effectuate the remaining aspects of a full transfer of operations from the University to the City.

Contract K-1819-150 is an agreement between the University and the City for the University to provide transportation services from July 1, 2019, through August 2, 2019, at the cost of seventy dollars (\$70.00) per operational hour of service, not to exceed three thousand five hundred (3,500) hours without prior consultation and approval by the City. Exhibit A outlines the service scope of work to include, to the extent possible, the University's provision of the same service routes provided prior to July 1, 2019, including both fixed-routes and CARTaccess. The contract includes reimbursement provisions in the event the University receives any federal funding for the services provided pursuant to the agreement.

This contract provides that the University will exercise reasonable care for the City's property entrusted to the University and acknowledges that both parties 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.* It also provides that the University will add the City as an additional insured on all insurance policies, including, but not limited to, State-mandated liability insurance, and provide proof of same. Such insurance policies are to be kept current and in effect throughout the term of the agreement. The University is charged with using reasonable efforts to provide the same quality of service it has provided under prior agreements with the City.

The contract provides that any disputes will be governed by Oklahoma law and in an Oklahoma court of competent jurisdiction and provides that any prevailing party would be entitled to reasonable attorneys' fees.

CONCLUSION: Staff recommends approval of Contract K-1819-150, providing for a service agreement between the University and the City for the provision of transportation services from July 1, 2019-August 2, 2019. This is a critical component of ensuring that there is no break in service while the parties continue negotiating and preparing the necessary agreements to effectuate a full transfer of operations from the University to the City.