



Date: May 28, 2019

To: Honorable Mayor and Councilmembers

From: Shawn O'Leary, Public Works Director
Kristina Bell, Assistant City Attorney

Re: Cleveland Area Rapid Transit (CART) Transfer Update

On August 28, 2018, University of Oklahoma (OU) 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 CART's short-term funding challenges and long-term operational challenges. City Council approved Contract K-1819-23 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 Tuesday, October 30, 2018, to discuss the long-term operational challenges and to develop a strategy for moving forward. Three key principles were expressed by the City Council as follows:

- Ensure that there is no interruption or break in service during the transfer
- Maintain or improve the current level of service provided by CART
- The City will officially receive the federal funds, but a contract agency may operate the system

For over 30 years, the Federal Grant Agreement with all of its statutory requirements has been between OU and the Federal Transit Administration (FTA). All assets acquired by OU with federal funds must either be transferred to the new operator or the funds must be repaid by OU to the federal government. Some of those assets include buses and facilities. For instance, the Theta Dempsey CART facility was constructed partially with federal funds. Federal funds were also used for the CART Transfer Station near the OU Duck Pond.

Since November, 2018, City staff and CART staff have worked closely with officials from the FTA Region 6 located in Fort Worth, Texas. Multiple conference calls have taken place. The original purpose of those meetings was to determine the federal protocol for the transfer of a transit operation. The federal register addresses this process, but all FTA officials agreed that this kind of transfer of operation has been rarely undertaken in the United States. The steps for a system transfer of operation relayed to the Parties include: 1) Notice of intent to transfer service 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 formally approved as an eligible recipient of FTA grant funding; and 5) Transfer of project assets from CART to new grant recipient.

On December 20, 2018, OU submitted their Notice of Intent to transfer bus service to FTA. Due to the holidays and the partial government shutdown, a response from FTA wasn't received until February 1, 2019. Since that time, Staff has been working with partners at OU, ODOT, FTA, and ACOG to determine the path forward. Ms. Ernestine Mbroh is the Director of the Transit Division at ODOT and effectively serves as the Oklahoma liaison to the federal government (FTA). Mr.

John Sharp is the Director of Transportation for ACOG, which is the metropolitan planning organization for the Oklahoma City metropolitan area and which serves to allocate federal funds to local government agencies providing transportation services. Additionally, Staff reached out to Embark in Oklahoma City and McDonald Transit in Edmond to learn more about their bus transit operations.

Staff met with City Council in a Study Session on March 12, 2019, to provide an update on this issue. Having completed Steps 1 and 2 in the FTA transfer process, City staff has focused its resources for the past 60 days on Steps 3-5 with particular attention to Step 3, the request from the City of Norman to the Governor's office to become the FTA grant recipient beginning on July 1, 2019. That process has involved lengthy negotiations between the FTA, OU, ACOG, ODOT and the City. Generally speaking, the Governor has delegated this responsibility to ODOT; however, § 730:45-1-2 of the Oklahoma Administrative Code states that the Governor's delegation of authority does not apply to the approval of these funds for Norman or Lawton. In fact, the rule explicitly states that the designee for these annual appropriations for Norman shall be the University of Oklahoma. On Wednesday, May 22, 2019, Governor Stitt authorized the City of Norman to become the FTA grant recipient and forwarded his recommendation to FTA officials in the attached letter.

The FFY 2019 FTA grant apportionment to Norman, which will be used for the City's bus transit operations in FFY 2020, was announced on March 13, 2019, in the amount of \$2,007,481. This is an increase of \$288,901 or 16.8% over the FFY 2018 appointment to Norman. Some elements of the grant are apportioned on an 80/20 basis while others are apportioned on a 50/50 basis.

With regard to Steps 4 and 5, on the advice of FTA officials, the City of Norman has selected Embark as the City's preferred contract transit operator because they are a public agency similar to the City of Norman. Embark is also the premier transit operator in Oklahoma, having received numerous national awards for excellence in service and innovation. The selection of an operator is critical to show FTA that the City has the legal, financial, and technical capacity to run a transit service. By selecting a not-for-profit operator, the City does not have to solicit proposals through a Request for Proposals (RFP) process, which saves significant time. FTA expressed in March, 2019, a strong preference for transferring service at the beginning of the fiscal year due to administration of the FTA grant funding, which is provided on a fiscal year basis beginning July 1.

When the City is designated by FTA as a direct recipient of the transit funds, the City can accept the transfer of project assets from CART. Given FTA's preference for transitioning service on July 1, much of the work to achieve these steps is being done simultaneously, even though the individual steps to be completed are sequential.

While the official FTA grant recipient transfer must be completed by July 1, 2019, City staff and OU staff have anticipated the possible need for a continuing month-to-month contract for service between the City of Norman and CART (University of Oklahoma). City staff was notified by OU officials on May 15, 2019, that OU is unwilling to operate CART after August 2, 2019.

The next step in this process is to complete the negotiations between the City of Norman and the University of Oklahoma as well as Embark. Council will be asked to review and approve each of these two contracts. The terms of the contracts are anticipated to be five (5) years. The City will be contracting with OU for the use of a portion of their transit facility for the continued operation of the bus system in Norman. The City/University contract will also address the permanent transfer of assets, such as buses and bus stops between OU and the City. The City/Embark contract will include the operation of the bus transit system, including the current CARTAccess system for customers with a disability who cannot use the fixed-route bus system; coordination with FTA, including grant management; customer service; accessibility services; marketing; and vehicle maintenance.

City Council has established a tentative FYE 2020 budget for this bus transit operation in the amount of \$1,135,000. Combined with the FTA appropriation of \$2,007,481, Staff is currently negotiating the fee structures with OU and Embark to operate the entire system for less than \$3,142,481. OU is currently operating the bus transit system for less than \$75 per service hour, which translates to an annual cost of \$2,981,700.

Staff will be available at the Council Conference on May 28, 2019, to discuss this process further and answer any questions you may have.