



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 06/27/2023

REQUESTER: Taylor Johnson, Transit and Parking Program Manager

PRESENTER: Shawn O'Leary, Director of Public Works

TITLE: CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2223-162: AN INTERLOCAL AGREEMENT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND THE CENTRAL OKLAHOMA TRANSPORTATION AND PARKING AUTHORITY (COTPA) D/B/A EMBARK TO PROVIDE TRANSIT SERVICES FOR THE CITY OF NORMAN FROM JULY 1, 2023, THROUGH JUNE 30, 2024, IN AN AMOUNT NOT TO EXCEED \$4,321,304.

BACKGROUND:

On August 28, 2018, University of Oklahoma officials advised City staff of their desire to transfer non-campus bus and paratransit services in Norman to another operator by June 30, 2019 (the end of the FYE 2019 fiscal year).

On May 22, 2019, Governor Stitt designated the City to be the direct recipient of federal transit funds effective upon the date the Federal Transit Administration (FTA) formally approves the City eligible to receive federal transit funds. That formal designation from the FTA occurred on June 27, 2019.

Unfortunately, the complete transition of operations and maintenance of the transit services was not able to be accomplished by July 1, 2019. Thus, on June 25, 2019, the City approved contract K-1819-150 with the University to continue operating and maintaining the transit services from July 1, through August 2, 2019 as the City's contractor.

Throughout the transition, the City and the Central Oklahoma Transportation and Parking Authority (COTPA) D/B/A EMBARK collaborated on an agreement to provide the City's transit services as an independent contractor. This came to fruition with Contract K-1920-30, which was approved by City Council on July 20, 2019. Contract K-1920-30 is an Interlocal Agreement between the City and EMBARK, for EMBARK to provide transit services for the City. The Interlocal Agreement included the operation of the fixed routes, operation of paratransit services, collaborative assistance with federal and state grant administration, compliance with federal and state laws and regulations, collaborative assistance with marketing and advertising, and

additional start-up costs anticipated with the transition of services. The term of this first agreement with EMBARK was from August 3, 2019, through June 30, 2020.

EMBARK began operating the fixed route services on August 3, 2019; however, the City and EMBARK were not able to hire the staff and assemble the necessary resources to maintain the public transit fleet and to operate the paratransit service at that time. On July 30, 2019, City Council approved Amendment 1 to contract K-1819-150 which extended the University's agreement to operate the paratransit services and to maintain the public transit fleet for an additional 60 days. On October 1, 2019, the City took over the maintenance of the public transit fleet and EMBARK began operating the paratransit service.

For fiscal year 2020-2021, City staff worked with EMBARK staff to create an updated Interlocal Agreement, K-1920-137, the term of which was from July 1, 2020, through June 30, 2021. The core of the agreement remained the same: that EMBARK would provide transit services for the City, including the operation of the fixed routes, operation of paratransit services, collaborative assistance with federal and state grant administration, compliance with federal and state laws and regulations, and collaborative assistance with marketing and advertising. However, the following were key changes/updates:

- Since the City had successfully operated the transit system for a fiscal year, there were less references and language referring to transition items.
- Operation of Saturday service began August 15, 2020. This included University of Oklahoma Football game days, with operations out of a temporary hub due to street closures and traffic conditions around the current transfer station on Brooks Street.
- Combination of Norman Route 124 and EMBARK OKC Route 024 effective August 10, 2020
 - This "Norman Express" commuter route was previously split between two transit service providers. Consolidating to a single entity operating the entire route resulted in less customer confusion and an increase of operation efficiencies.
- Official adoption of key EMBARK policies: *Rider Conduct and Exclusion Policy*, *EMBARK Norman Plus ADA Guide*, and *EMBARK Advertising Policy*.

The fiscal year 2021-2022 Interlocal Agreement, contract K-2021-128, had a term from July 1, 2021, through June 30, 2022. K-2021-128 maintained the same key elements of EMBARK providing transit services for the City, however, the following were key changes/updates:

- Clarifying language regarding the transition from utilizing the OU facility the City was leasing, to the new City facility built on Northbase.
- Added language regarding advertising on the buses providing for the City to utilize EMBARK's contractor to sell and produce advertisements. EMBARK then credits the City's monthly invoice with any revenue due to this arrangement.
- Additional, clarifying language regarding insurance and liability between the two entities.

On January 18, 2022, Council approved by resolution an amendment to K-2021-128 which increased the contract amount to transition the night services (vehicle cleaning, washing, and fueling) from the City of Norman responsibilities to EMBARK.

The fiscal year 2022-2023 Interlocal Agreement, contract K-2122-131, had a term from July 1, 2022, through June 30, 2023. K-2021-131 maintained the same key elements of EMBARK providing transit services for the City, however, the following were key changes/updates:

- Integration of night services (vehicle cleaning, washing, and fueling) to be performed by EMBARK to the primary agreement rather than by amendment.
- Deleted language referencing the usage of the OU facility and made additional references to both agencies operating out of the City's new facility on Northbase.

DISCUSSION:

Over the past few months, City staff have been working with EMBARK staff to create an updated Interlocal Agreement for the FYE 2024 fiscal year. Contract K-2223-162 will maintain the core elements of the interlocal agreement including the operation of the fixed routes, operation of paratransit services, collaborative assistance with federal and state grant administration, compliance with federal and state laws and regulations, and collaborative assistance with marketing and advertising.

The following are some key changes and updates proposed for the 2023-2024 fiscal year:

- Clarifying language regarding the upcoming transition from utilizing the OU Brooks Street Transfer Station, to the newly renovated Norman Transit Center located at 320 E Comanche and planned fixed-route service altered routes.
- Transitioning from the City providing funding to EMBARK to purchase an insurance policy to the City providing funding a Risk Assumption Fee to cover claims of up to \$200,000 the fiscal year. The agreement outlines that 50% of the remaining fee will be reimbursed to the City about the statutory limitations are passed for anyone to file a claim.

The term of this agreement will be from July 1, 2023, through June 30, 2024, subject to annual appropriation of sufficient funding by Council. This agreement is integral to the consistent provision of public transit services in the City of Norman. The total annual cost of the agreement is estimated to be \$4,321,304, or approximately \$360,109 per month. In comparison, the total estimated operating costs for FYE 2023 with EMBARK (Contract K-2122-131) was \$3,560,195, or \$296,683 per month (prior to amendments). The increase this year is in large part due to anticipated union negotiation wage increases for FY24, as well as expected back pay for FY23 that will occur in FYE24. In addition, there were increases in wages due to union negotiations that occurred for FYE23 after the FY23 budget was created. While this has been absorbed into the current budget, the proposed budget for FY24 reflects this increase as well.

Fiscal Year 2024 funds are available in Miscellaneous Services – Transit Operating Contract (Account Number 27550277-44766).

RECOMMENDATION:

Staff recommends that City Council approve Contract K-2223-162, providing for an Interlocal Agreement between the City of Norman and the Central Oklahoma Transportation and Parking Authority (COTPA) d/b/a EMBARK for the provision of public transportation services from July 1, 2023, through June 30, 2024.