

***FRANCHISE AGREEMENT WITH THE CITY OF INDIANAPOLIS:
A NEW APPROACH TO PEOPLE MOVER IMPLEMENTATION
IN AMERICAN CITIES***

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Abstract

Under a Franchise Agreement with the City of Indianapolis, Indiana, Jakes Associates, Inc. (on behalf of Clarian Health Partner, Inc.) is implementing an urban private transit system on a public right-of-way. This project is a result of our three-year effort to transfer our Las Vegas transit implementation experience into a typical American downtown setting. The Health Care Transportation Franchise Agreement between the Consolidated City of Indianapolis, Marion County, Indiana and Clarian Health Partners, Inc. is the first ever conceived. There have been various franchises awarded over the years, but no one has ever attempted to enter into a long-term transportation Franchise Agreement with private industry other than a transit supplier or a consortium. This is a truly innovative approach that may result in bringing many People Mover systems to urban settings in a rapid manner without using public funding. This unique concept is based on economic vitality (through improving employee productivity) of cost efficient People Mover systems. The paper focuses on the political process including the Mayor's office, all local authorities having jurisdiction, and also neighborhood associations that have played important roles. It also presents the implementation concept of the system, including the unorthodox procurement method that allowed the introduction of new technologies. The system is under construction and will open in November 2002.

The Project

The merger between the Methodist and Indiana University Hospitals (in Indianapolis, Indiana, USA) has resulted in a complex medical campus separated by numerous physical barriers including circuitous roadways and a freeway. The campus has diversified staff, visitor, patient, and cargo transportation needs. Jakes Associates, Inc. has been retained to develop an Automated People Mover system that will link major hospital destinations, including the planned bio-medical research center. The alignment consists of an elevated, double guideway, bi-directional transit system which serves all hospital sites. All stations and connecting overhead walkways are elevated and fully enclosed.

One of the leading motivators driving the development of the People Mover System is its' ability to reduce unproductive staff labor time. The Clarian Health employment base is diverse and

comprised of 10,400 employees. Clarian Health's total 1997 payroll exceeded \$301 million. A significant amount of time is lost as a result of the currently ineffective transportation modes (such as the automobile and shuttle bus service) available to Clarian Health professionals and other staff.

It is estimated that an exclusive right-of-way, efficient People Mover system will reduce unproductive staff labor time, substantially resulting in annual multi-million dollar savings for Clarian Health. The People Mover investment of approximately \$33 million (including nearly \$29 million for the technology) will enhance overall medical complex image, strongly improve its economic performance (through considerable savings in staff time), and provide unparalleled staff, and visitor movement convenience.

The objectives of this project are to implement an Automated People Mover system between the Methodist, Riley and Indiana University Hospitals on a public right-of-way with expansion capabilities in downtown Indianapolis. The alignments and operational scenarios for the system reflect a compromise between overall rider convenience, hospital image, and the required level of investment. This approach requires a uniquely creative transportation solution.

The Technology

The Board of Directors of Clarian Health Partners, Inc. (the system sponsor) has selected transit technology from Silicon Valley, thus reviving the lost pride in American transit technologies. The contract for a fully automated, new generation monorail with three elevated, enclosed stations and walkways was executed with Schwager•Davis, Inc. (SDI), based in San Jose, California.

SDI conceived the technology known as Unitrak. Its successful operation has been demonstrated in Primm City, Nevada (another Jakes project) for over a year. The Indianapolis installation will be the next generation with several breakthroughs including guideway and train control. The concrete guideway will be the first design of its kind, further reducing the cost of infrastructure. It will maintain the increased gauge used at Primm; however, it will be an open type allowing the snow to go through the guideway rather than accumulating inside it. This will eliminate the need for guideway heating.

The automatic train control will be specially developed for this project by another Silicon Valley company, PCI (with support from the Swiss supplier Frey AG). It was purposely decided to ignore the typically used offshore technologies, as there is more control technology know-how in California than anywhere else in the world. It is time to capitalize on it. The train car body, however, will come from Switzerland as this is a nearly extinct specialty and the composite material technologies are still overly expensive for limited orders. Figure 1: "The Clarian Health People Mover in Front of the Lockefield Gardens Apartment Complex" illustrates the selected Unitrak technology.

The Legal Framework

The legal framework for the private project on public right-of-way is based on two Agreements as follows:

- Health Care Transportation System Franchise Agreement between The Consolidated City of Indianapolis, Marion County, Indiana and Clarian Health Partners, Inc. (executed May 2000)
- People Mover – State of Indiana Airspace Agreement and Lease (executed November 2000)

The Agreement between Clarian Health Partners, Inc. and the City of Indianapolis Marion County grants Clarian Health a renewable, multi-year franchise to provide health care transportation services within Marion County through the occupation and use of City-controlled, public right-of-way within the Center Township of Marion County.



Figure 1

The Clarian Health People Mover in Front of the Lockefield Gardens Apartment Complex

The Franchise Agreement provides Clarian Health access to the public right-of-way as necessary for the efficient construction, operation, and maintenance of a transportation system between its member hospitals for an initial term of 25 years. Clarian Health must construct and operate the system in accordance with all applicable laws, ordinances, rules, and regulations. Clarian Health has the option to renew the agreement for another 25-year term after the initial term has expired, if so desired. Figure 2: “Excerpt from the Franchise Agreement with the City” presents an excerpt from this historic document.

The Agreement between Clarian Health Partners, Inc. and the State of Indiana grants Clarian Health the use of State-controlled, public airspace right-of-way that is located around an elevated portion of Interstate 65. The required use of this airspace right-of-way for the construction and operation of the Health Care Transportation System is consistent with the continued operation, maintenance, and safety of Interstate 65 and its connecting arteries. Access to this airspace right-of-way is needed by the State for the inspection, maintenance, and repair of the interstate highway. The Airspace Lease Agreement provides for State access to this airspace for roadway upkeep. The duration of the Airspace Lease agreement is 25 years with an option to automatically renew the lease agreement for another 25-year term once the original term expires.

The Agreements between the City of Indianapolis, the State of Indiana, and Clarian Health were negotiated very rapidly in only a matter of a few weeks. This is remarkable considering their comprehensive nature.

The following describes the unique, pioneering nature of both agreements.

Franchise Agreement with the City

Accessibility

The Agreement requires that the Clarian Health Care Transportation System be accessible to the public with the same level of service and at the same times as authorized users like Clarian Health's physicians, patients and their families, staff, service providers, invitees and guests. Clarian Health has the right to adopt and enforce reasonable rules and regulations for use of, and access to, the system by members of the general public and its own authorized users. Clarian Health cannot charge a fare for use of the system unless it is reasonable in comparison to fares for other forms of public transportation within Marion County.

Terms and Conditions

The Franchise Agreement with the City includes numerous provisions to administer the Agreement and the Franchise it creates. Some of the more notable ones follow:

- Clarian Health has agreed to defend and indemnify the City, County, and State against all claims and judgments arising from its own actions and errors due to its activities on the public right-of-way
- The Franchise Agreement allows the City, County, and State to still maintain police and regulatory powers over the Health Care Transportation System by adopting necessary ordinances, rules, and regulations as deemed necessary; regulations will be in full force and effect. However, the agreement holds that these ordinances, rules, and regulations must be reasonable and not unconstitutionally in conflict with the rights granted to Clarian Health under the agreement
- There is no condition requiring a specific schedule of development. Development and construction schedules will be incorporated into the agreement as they relate to applicable permits

- The City council may terminate the Franchise Agreement if it finds that after reasonable notice, time for correction, and a hearing, that Clarian Health has abandoned the Franchise Agreement or has failed to comply with the terms of the Agreement. If Clarian Health is found to be in continued noncompliance and wishes to continue with the Agreement, it must submit a plan of corrective action to the City for approval. Once the corrective action plan is approved, Clarian Health must diligently work to pursue its implementation
- Clarian Health must remove the Health Care Transportation System once the Franchise Agreement ends. Clarian Health must also restore the public right-of-way to as near the original condition as practical
- All efforts and necessary facility relocations to comply with the requested City and State designation of the Health Care Transportation System's facilities on the public right-of-way will be at Clarian Health's sole expense
- Clarian Health is responsible for paying the fee of an independent City consultant in connection with the inspection of Health Care Transportation System work being performed on the public right-of-way
- The methods, standards, and requirements for construction of the Health Care Transportation System within the public right-of-way must comply with the procedures specified in the City Code
- The Health Care Transportation System must be constructed and operated in accordance with the Automated People Mover Standards published by the American Society of Civil Engineers

HEALTH CARE
TRANSPORTATION SYSTEM
FRANCHISE AGREEMENT

This Transportation System Franchise Agreement (this "Agreement") between the Consolidated City of Indianapolis, Marion County, Indiana, and Clarian Health Partners, Inc., an Indiana nonprofit corporation having its principal office at 1701 N. Senate Blvd., Indianapolis, Indiana 46202, grants a non-exclusive, renewable franchise to provide health care transportation services within Marion County.

WITNESSETH:

WHEREAS, the City-County Council of the Consolidated City of Indianapolis, Marion County, Indiana, recognizes that efficient and cost effective health care transportation services will promote the public health, safety, comfort, convenience and general welfare of the citizens of Marion County by, among other things, improving patient care, medical education and medical research within Marion County, reducing automobile congestion and emissions in public rights-of-way within Marion County, and providing an additional means of passage and travel for the citizens of Marion County;

WHEREAS, Chapter 645 of the Code of Indianapolis, Marion County, Indiana, authorizes the granting of franchises for the use and occupation of public rights-of-way and requires the holder of a franchise to execute a franchise contract;

WHEREAS, Section 645-228 of the Code of Indianapolis, Marion County, Indiana, requires that the terms of the franchise contract be approved and confirmed by ordinance; and

WHEREAS, the City-County Council of the Consolidated City of Indianapolis, Marion County, Indiana, enacted Special Ordinance No. 32, 2000, which approved and

Figure 2
Excerpt from the Franchise Agreement with the City

Franchise Fee

Clarian Health will pay the City an initial franchise fee of \$20,000 for a two-year improvement location permit. This two-year period will commence from the date the permit is obtained for the construction of all or any portion of the system. Afterwards, Clarian Health will pay the City an annual franchise fee in the form a “Linear Charge” for each linear foot of public right-of-way that the system occupies on the first day of the period to which the payment relates. The initial linear charge will be \$5.00 per foot and will be adjusted every five years by an amount equal to the rate of inflation.

Airspace and Lease Agreement with the State

The lease agreement grants Clarian Health the right to occupy the airspace right-of-way as necessary or advisable for construction, operation, and maintenance of the transit system. The lease agreement calls for Clarian Health to submit for State review and approval all maps, plans, and sketches of the proposed location of the transportation system facilities within the highway airspace right-of-way. Such plans are required to meet all applicable design criteria and safety requirements.

Clarian Health will pay the State an initial, fixed amount for use of the highway airspace right-of-way during the two-year period from which the improvement location permit is issued for the construction of the transportation system. Thereafter, Clarian Health will pay the State an annual lease payment of \$5.00 per foot (“Linear Charge”) for each linear foot of airspace right-of-way that the system occupies on the first day of the period to which the payment relates. The Linear Charge will be adjusted every five years by an amount equal to the rate of inflation.

Complex Approval Process

Clarian Health must submit its plans for the location of the health care transportation facilities to the City and State. When applying for a construction permit, Clarian Health must provide for City review a critical path schedule showing the interrelationship of project activities for all portions of work within the public right-of-way. The City will then decide to accept or reject the submitted schedule. The City may deny a permit for any reason allowed by the City Code. The City and the State, within reasonable discretion, may designate the location(s) within the public right-of-way along which Clarian Health’s transportation system facilities may be placed.

As the Franchise Agreement defines only an alignment corridor, the final placement of columns must undergo a public review and approval process. Prior to issuing any permits that will authorize the construction of any structural columns for the Health Care Transportation System in the public right-of-way, the City will hold a Public Hearing (televised live by a local TV station) to discuss the specific locations of such columns. Furthermore, approvals must be granted by the Historic Preservation Commission, University District (as the system enters the Indiana University Campus), Central Business District, utility companies, and other entities.

Summary

With the total support of the Mayor's office, the City of Indianapolis, the State of Indiana, and all related agencies, communities, and the private sector, the project is heading for an

unparalleled success story. All of this is at no cost to taxpayers and is being implemented at a fraction of the cost of other projects nationwide. This franchise scenario can be successfully repeated nationwide to lead American cities into rapid and innovative transit system implementation without years of studies and the enormous bureaucracy of transit agencies.

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- Andrew S. Jakes of Jakes Associates, Inc. is a strategic and procurement management consultant.