



June 11, 2020

To: Transit Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Amendment to Agreement with First Transit, Inc., for the Provision of Contracted Fixed-Route Service

Overview

On March 23, 2015, the Orange County Transportation Authority Board of Directors approved an agreement with First Transit, Inc., for the management and operation of contracted fixed-route service, which was extended through May 31, 2021. On March 23, 2020, as a result of the novel coronavirus pandemic, OC Bus fixed-route service was reduced to Sunday service levels seven days a week. This temporary, emergency action reduced the amount of service provided by First Transit, Inc. under this agreement by more than 50 percent. First Transit, Inc. has requested financial relief to cover expenses incurred related to employees and operations as the result of the novel coronavirus pandemic through June 13, 2020. The Coronavirus Aid, Relief, and Economic Security Act of 2020, specifically provides for this relief with guidance from the Federal Transit Administration. Staff requests approval of an amendment to the agreement with First Transit, Inc., to provide financial relief for costs related to the coronavirus pandemic through June 13, 2020, in an amount estimated to be \$1,750,555.

Recommendation

Authorize the Chief Executive Officer to negotiate and execute Amendment No. 10 to Agreement No. C-4-1737 between the Orange County Transportation Authority and First Transit, Inc., to allow reimbursement of specific expenses related to the novel coronavirus pandemic on a pass-through basis estimated to be \$1,750,555, for the period March 23 through June 13, 2020.

Discussion

The Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 specifies funds may be used to prevent, prepare for, and respond to the novel

coronavirus (COVID-19). With guidance from the Federal Transit Administration (FTA), this includes operating expenses defined as the costs necessary to operate, maintain, and manage a public transportation system, and other expenses such as driver salaries, fuel, and items having a useful life of less than one year, including personal protective equipment (PPE) and cleaning supplies.

Third-party contractors with more than 500 employees providing services on behalf of transit agencies are also eligible to receive CARES Act funds, working through the public transit agency.

Similar to the transit agency, contractor expenses covered by the CARES Act include salaries and benefits for contract employees on leave due to reduced service, provision of PPE and cleaning supplies, and other expenses related to maintaining a state of readiness so that the contractor can return to normal operation as necessary.

Under the federal guidance, transit agencies are permitted to modify existing contracts to pay for eligible expenses required to retain readiness through the CARES Act, even if service is reduced.

Prior to the March 23, 2020, reduction in OC Bus service in response to COVID-19, First Transit, Inc. (FT) provided approximately 40 percent of the total 1.6 million annual revenue vehicle hours for the system. With the implementation of the Sunday service schedule seven days a week, the amount of service provided by FT was reduced by more than 50 percent. This resulted in FT modifying their work plan, which included placing a portion of the staff on a furlough status, purchasing and distributing PPE, and enhanced cleaning/disinfecting for vehicles and employee work areas to help prevent the spread of COVID-19.

As a result, FT is requesting relief from the Orange County Transportation Authority (OCTA) as provided through the CARES Act. Staff met with FT to identify and quantify the costs associated with implementing additional safety precautions and a reduced service schedule in response to the COVID-19 pandemic. From March 2020 through June 13, 2020, the estimated financial impact to FT is \$1,750,555. Staff proposes to amend the agreement with FT to allow actual costs to be reimbursed for this period of time on a pass-through basis from OCTA. FT is responsible to provide detailed back-up documentation to justify the expenses related to COVID-19. Staff will continue discussions with FT related to COVID-19 impacts as service levels are adjusted to meet increasing demand.

Procurement Approach

This procurement was handled in accordance with OCTA Board of Directors (Board)-approved policies and procedures for professional and technical services.

On March 23, 2015, the Board approved a contract with FT for a four-year initial term with two, two-year option terms in the amount of \$143,487,171, from June 1, 2015 through May 31, 2019. The original agreement was awarded on a competitive basis and was previously amended as described in Attachment A.

The proposed Amendment No. 10 will be issued to include specific language in the agreement to allow reimbursement of certain expenses related to the current COVID-19 pandemic on a pass-through basis with a not-to-exceed amount as agreed upon through negotiations for the months starting from March 23, 2020 through June 13, 2020.

OCTA staff from the Contracts Administration and Materials Management, Financial Planning and Analysis, as well as Bus Operations departments have reviewed all the itemized costs of eligible expenses including salaries and benefits for contract employees on leave due to reduced service, bus maintenance costs, and PPE and cleaning supplies provided by FT. Based on the reduced service level, the total cost of PPE and cleaning supplies to meet the safety requirements, and the level of efforts associated with maintaining the buses, staff found the estimated pass-through total amount to be fair and reasonable.

Amending this agreement will increase the maximum cumulative obligation by \$1,750,555, bringing the total contract value to \$244,322,343.

Fiscal Impact

The cost associated with this amendment is fully reimbursable via the CARES Act.

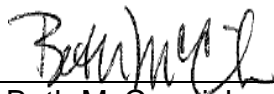
Summary

Based on the information provided, staff recommends award of Amendment No. 10 to Agreement No. C-4-1737 between OCTA and FT, in the amount of \$1,750,555, to allow reimbursement of specific expenses related to the current COVID-19 pandemic on a pass-through basis, for the period March 23 through June 13, 2020.

Attachment

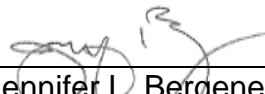
- A. First Transit, Inc., Agreement No. C-4-1737 Fact Sheet

Prepared by:

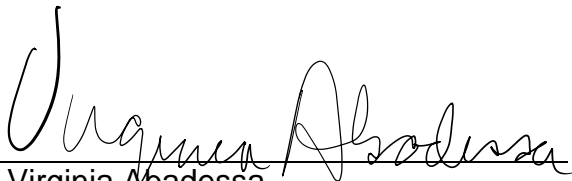


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