



November 12, 2020

To: Transit Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Amendment to Agreement with MV Transportation, Inc. for the Provision of the OC ACCESS Service

Overview

On March 25, 2013, the Orange County Transportation Authority Board of Directors approved an agreement with MV Transportation, Inc., for the management and operation of OC ACCESS service. This agreement was subsequently extended through December 31, 2021, and compensation is based on a fixed rate and a variable rate driven by the number of revenue vehicle hours provided. The coronavirus pandemic and the Governor Newsom's stay-at-home orders have resulted in a significant reduction in OC ACCESS ridership of more than 80 percent. Consistent with the terms of the agreement, MV Transportation, Inc., has requested an adjustment to the variable hourly rate to relieve uncompensated expenses incurred as a result of the coronavirus pandemic. The Coronavirus Aid, Relief, and Economic Security Act of 2020 specifically provides funding for this relief with guidance from the Federal Transit Administration. Board of Directors' approval is requested to amend the agreement with MV Transportation, Inc., to adjust the variable hourly rate in order to relieve uncompensated expenses resulting from the coronavirus pandemic.

Recommendations

- A. Authorize the Chief Executive Officer to execute Amendment No. 10 to Agreement No. C-2-1865 between the Orange County Transportation Authority and MV Transportation, Inc., to revise the variable hourly rate for the period of April 2020 through December 2021, in the amount not to exceed \$10,548,201. This amount can be accommodated within the agreement's current cumulative maximum obligation of \$375,620,065.
- B. Amend the Orange County Transportation Authority Fiscal Year 2020-21 operating revenue and expense budget, in the amount of \$5,050,615, to

accommodate expenses related to the current coronavirus pandemic based on revised variable hourly rates.

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 coronavirus (COVID-19) pandemic. 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 includes 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 when appropriate.

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

Prior to the reduction in service levels resulting from the COVID-19 pandemic, MV Transportation, Inc. (MV) operated an average of 43,000 monthly revenue vehicle hours (RVH) and recorded an average of 124,000 monthly boardings for the OC ACCESS paratransit service between July 2019 and February 2020. Since the Governor's stay-at-home order went into effect on March 19, 2020, ridership has significantly decreased. MV operated an average of approximately 15,000 monthly RVH and recorded an average of 19,000 monthly boardings between April 2020 and August 2020. In response to the reduction, MV modified their work plan, which included laying off a portion of their staff, purchasing and distributing PPE, and enhancing cleaning/disinfecting of vehicles and employee work areas to help prevent the spread of COVID-19. As a result, MV is requesting relief from the Orange County Transportation Authority (OCTA) as provided under the CARES Act.

The agreement between OCTA and MV allows for a renegotiation of the variable hourly rates when RVHs change by more than ten percent from the

estimated annual totals. Since service decreased by more than the ten percent threshold due to the impacts of the COVID-19 pandemic, MV requested a renegotiation of the variable hourly rates. Staff entered into discussions with MV to identify and quantify appropriate workforce levels to maintain a state of readiness in response to the COVID-19 pandemic. Staff and MV agreed to revise the variable hourly rate compensation levels using a tiered approach as specified in Attachment B; this also includes estimated costs associated with the purchase and distribution of PPE, as well as continuing enhanced cleaning practices, such as regular disinfecting of vehicles and employee work areas for the provision of the OC ACCESS service.

Since the COVID-19 pandemic has made it challenging to predict the growth in trips over the next 15 months, a tier-pricing approach is being proposed where the variable hourly rate is adjusted as RVHs increase. Tiers one through three are structured in 100,000 RVH bands, and tier four covers 400,001 to 530,000 RVH. Tier five begins at 530,001 and represents a return to pre-COVID-19 levels and the current originally-approved agreement variable rate of \$61.29. The five tiers and the corresponding rates are detailed in Attachment B.

Staff proposes to amend the agreement with MV to revise the variable hourly rate compensation for the period of April 2020 through December 2021. The actual amount for the impact during the period of April 2020 through September 2020 is \$2,694,506, and the amount for future impacts during the period of October 2020 through December 2021 is estimated to be \$7,853,695, based on September 2020 actuals, for an amount not to exceed \$10,548,201.

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 25, 2013, the Board approved a contract with MV for a four-year initial term with two, two-year option terms, in the amount of \$156,690,376, from July 1, 2013 through June 30, 2017. The original agreement was awarded on a competitive basis and was previously amended as described in Attachment A.

The proposed Amendment No. 10 will reimburse MV, in the amount of \$2,694,506, for the impact related to COVID-19 expenses during the period of April 2020 through September 2020. The amount for future impacts during the period of October 2020 through December 2021 is estimated to be \$7,853,695, based on September 2020 actuals.

OCTA staff from the Contracts Administration and Materials Management, Financial Planning and Analysis, and Paratransit Services departments have reviewed all the itemized costs of eligible expenses, including salaries and benefits for contract employees due to reduced service, bus maintenance costs, PPE and cleaning supplies provided by MV. 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 total amount of \$10,548,201 to be fair and reasonable.

Fiscal Impact

A budget amendment to the OCTA Fiscal Year (FY) 2020-21 Budget, Operations Division, in the amount of \$5,050,615, is needed to accommodate the revision to the revenue vehicle hour rate in Agreement No. C-2-1865 as detailed in this report. This amendment will align the updated projected expenses in FY 2020-21 with the budget authority in the current FY. The cost associated with this amendment is fully reimbursable via the CARES Act.

Summary

Authorize the Chief Executive Officer to execute Amendment No. 10 to Agreement No. C-2-1865 between OCTA and MV, in the amount not to exceed \$10,548,201, to revise the variable hourly rate for the period of April 2020 through December 2021. This amount can be accommodated within the agreement's current cumulative maximum obligation of \$375,620,065.

Attachments

- A. MV Transportation, Inc., Agreement No. C-2-1865 Fact Sheet
- B. Revised Variable Hourly Rate Compensation Tiers for OC ACCESS Service, April 2020 – December 2021

Prepared by:

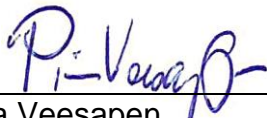


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