



February 10, 2021

To: Finance and Administration Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Amendment to Agreement for Renewable Natural Gas

Overview

On March 14, 2016, the Orange County Transportation Authority Board of Directors approved an agreement with Element Markets Renewable Energy, LLC, to provide renewable natural gas and consulting services for management of the Low Carbon Fuel Standard Program for a three-year initial term with two, two-year option terms. An amendment is required to exercise the second option-term.

Recommendation

Authorize the Chief Executive Officer to negotiate and execute Amendment No. 8 to Agreement No. C-5-3636 between Orange County Transportation Authority and Element Markets Renewable Energy, LLC, to exercise the second two-year option-term, in the amount of \$9,500,000, to provide renewable natural gas and consulting services for management of the Low Carbon Fuel Standard Program. This will increase the maximum obligation of the agreement to a total contract value of \$27,560,000.

Discussion

The Orange County Transportation Authority (OCTA) Board of Directors (Board) selected Element Markets Renewable Energy, LLC (Element Markets) to provide renewable natural gas and assist OCTA in managing two programs: the Low Carbon Fuel Standard (LCFS) generating LCFS credits at the state level and Renewable Fuel Standards (RFS) generating Renewable Identification Number (RIN) credits at the federal level.

California's LCFS Program was enacted to support the California Global Warming Solutions Act of 2006. The LCFS Program was designed to lower greenhouse gas emissions by requiring producers of petroleum-based fuels to reduce the carbon intensity of their transportation fuels. One of the ways that

producers of petroleum-based fuels can meet this requirement is to buy credits from entities who use low carbon fuels, such as OCTA.

As a consumer of natural gas for its bus operation, OCTA is able to receive revenue generated from its use of renewable natural gas based on programs at the state and federal level. The revenue OCTA receives from the sale of the credits, under these programs, more than covers the cost of the renewable natural gas required for fuel.

OCTA delegated its regulatory obligations to Element Markets to sell the LCFS and RIN credits and assume all responsibilities associated with LCFS and RFS program management, as well as regulatory and compliance issues. OCTA has steadily received revenue from the sales of these credits. As of November 1, 2020, OCTA has received approximately \$20.1 million from the sale of credits conducted by Element Markets since contract commencement.

Revenue received from the program is used to support bus operations. The cost for renewable natural gas in the same period through November 1, 2020, is approximately \$16 million. It is anticipated that the revenue generated from these programs will continue to fund the cost of renewable natural gas required as fuel for the OCTA fleet.

Procurement Approach

On March 14, 2016, the Board approved an agreement to provide natural gas and consulting services to manage the LCFS Program, for a three-year initial term, with two, two-year option-terms. This procurement was originally handled in accordance with the Board-approved policies and procedures for professional and technical services. The agreement was previously amended as described in Attachment A.

The first option-term of the agreement will expire March 31, 2021. The proposed amendment will exercise the second two-year option term for the purchase of natural gas and LCFS Program consulting services in the amount of \$9.5 million, to allow for a steady supply of natural gas over a 24-month period, starting April 1, 2021.

Fiscal Impact

The project is included in OCTA's Fiscal Year 2020-21 Budget, Account No. 0030-D0001-F30-6381 and is funded through the general inventory fund.

Summary

Based on the information provided, staff recommends the Board of Directors authorize the Chief Executive Officer to negotiate and execute Amendment No. 8 to Agreement No. C-5-3636 with Element Markets Renewable Energy, LLC, to exercise the second, two-year option term in the amount of \$9.5 million to provide renewable natural gas and consulting services for management of the Low Carbon Fuel Standard Program. This will increase the maximum obligation of the agreement to a total contract value of \$27,560,000.

Attachment

- A. Element Markets Renewable Energy, LLC Agreement No. C-5-3636, Fact Sheet

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