



May 13, 2021

To: Transit Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Amendment to the 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, Stationlink, and express bus services. The initial term of the agreement expired on May 31, 2019. The first option term was exercised in 2019 and will expire May 31, 2021. To ensure continuity of these services, staff seeks Board of Directors' approval to exercise the second and final, two-year option term and apply revised rates for the option term.

Recommendation

Authorize the Chief Executive Officer to negotiate and execute Amendment No. 13 to Agreement No. C-4-1737 between the Orange County Transportation Authority and First Transit, Inc., in the amount of \$87,515,543, to exercise the second two-year option term to provide contracted fixed-route services through May 31, 2023, with adjustment of the end date to June 10, 2023, and permit reimbursement of First Transit, Inc. expenses related to maintaining a state of readiness and eligible for federal funding at amounts not to exceed of \$5,000,000 for the first and \$3,000,000 for the second year of the option term, increasing the maximum obligation of the agreement to a total contract value of \$315,856,805.

Background

The Orange County Transportation Authority (OCTA) Board of Directors (Board) awarded a contract to First Transit, Inc. (First Transit) to provide management, operations, and vehicle maintenance of contracted fixed-route service in March 2015. First Transit began operating the service in June 2015, following the transition from the prior contractor. The original agreement was for an initial term of four years, with two, two-year options. The contract reimbursement

structure includes both a fixed rate and variable rate that are estimated based on an assumed number of revenue vehicle hours (RVH) to be operated during each year of the contract. This agreement has been amended 12 times to expand the scope of work to include providing iShuttle services and additional Measure M2 Project V-funded circulators on behalf of cities as well as to exercise the first option term and adjust reimbursement rates.

Discussion

The contract was most recently amended in June 2020 and December 2020, to provide financial relief related to the impacts of the coronavirus (COVID-19) pandemic for the period March 22, 2020 through May 31, 2021. Amendment No. 12, which was approved by the Board in February 2021, modified the current fiscal year rates and authorized payment of additional financial relief using federal funds for COVID-19 pandemic-related impacts. All amendments to this agreement are detailed in Attachment A.

Option Term: The maximum term for the agreement that encompasses the second and final option term currently expires on May 31, 2023. Staff seeks Board approval to exercise this option term with the addition of 11 days so the contract term will end on June 10, 2023, which aligns with the planned June 11, 2023 service change. A procurement will be conducted prior to this date to select a contractor to perform these services beginning June 11, 2023, and this 11-day period will facilitate an orderly transition to a new agreement.

Service Levels: OCTA has incrementally increased the amount of service provided by First Transit from 28 percent in March 2015 to 40 percent in June 2016. Service currently provided by First Transit remains at approximately 40 percent of OC Bus service. Staff anticipates this ratio to remain stable during the two-year option term regardless of the number of total revenue vehicle hours provided.

In March 2020, due to the COVID-19 pandemic and the State's stay-at-home order, OC Bus fixed-route service was reduced to Sunday service levels seven days a week, approximately 40 percent of service provided on weekdays prior to the COVID-19 pandemic. This reduced the amount of service provided by First Transit by more than 50 percent. In October 2020, a Saturday service was implemented six days a week, which resulted in a slight increase in the service levels operated by First Transit, increasing to approximately 67 percent of the service provided pre-pandemic. A small increase is expected in June 2021 and staff has developed a service level plan for contracted services through June 10, 2023.

From June 14, 2020 to June 13, 2021, First Transit will provide approximately 415,000 RVH. During the first year of the option-term, it is anticipated some level of additional bus service will be deployed to meet growing demands for service as COVID-19 pandemic restrictions continue to ease and weekday traffic patterns begin to return to pre-COVID-19 pandemic conditions. During the second year of the option term, the current service plan calls for the operation of up to 540,000 RVH by the contract operator, which is 40 percent of the 1.35 million total RVH for OC Bus in the fiscal year (FY) 2021-22 budget currently under development. During the first year of the option term, OCTA staff will begin work on a systemwide evaluation, analyzing current demand for OC Bus, and evaluating options to meet shifting mobility demands in the current service area. During the second year of the option term, OCTA will finalize the plan, develop recommendations to modify the OC Bus service plan, and conduct public outreach as appropriate. Adjustments to the service plan for contracted fixed-route levels of service as allowed in the adopted FY 2021-22 and FY 2022-23 budgets will be made as needed. Concurrently, staff will conduct a procurement for the operation of contract fixed-route services, which will provide the flexibility needed to reflect a revised OC Bus service plan.

Option Term Rates: The current agreement as written does not contain rates reflective of the magnitude of the decrease in service necessitated by the COVID-19 pandemic. Staff and First Transit have worked to develop rates for the final two-year option, from June 1, 2021 through June 10, 2023.

First Transit anticipates additional labor costs associated with the implementation of the State mandated \$1.00 increase in the minimum wage, effective January 1, 2022. Those costs are spread over the first and second years. Both years reflect a continued reliance on federal funding to off-set COVID-19 pandemic-related expenses and costs associated with maintaining a state of readiness. Reliance on the federal funding is anticipated to gradually reduce as the OC Bus service levels increase.

Based on 415,000 RVH, the proposed rates result in less than five percent increase in total annual cost in both years of the option term.

OC Bus Rates	Fixed Monthly Rate	Percent Increase	Variable Rate	Percent Increase	Annual Cost	Overall Percent Increase
Current Year	\$246,122		\$69.90		\$31,961,964	
Option Year 1	\$255,475	3.80%	\$73.40	5.01%	\$33,526,700	4.90%
Option Year 2	\$265,183	3.80%	\$76.92	4.80%	\$35,103,996	4.70%

To determine a reasonable level of cost increase to anticipate, staff surveyed transit operators who contract for the operation and maintenance of fixed-route service and have current competitive bid proposal results. Looking at the relationship of percent increase in the overall cost per RVH, the percentage increases range from two and a half percent to six percent.

Rates have also been developed to allow for greater flexibility in meeting growing demand for OC Bus service as the impacts of the COVID-19 pandemic begin to lessen. If the RVH operated by First Transit increases by greater than 20 percent, or 498,001 RVH or more using 415,000 RVH as the base, the variable rate will decrease. If the RVH should decrease by greater than 20 percent, or to a level of 331,999 RVH or less compared to the base of 415,000 RVH, the variable rate will increase. If OC Bus service levels provided by First Transit increase or decrease by greater than 20 percent, the applicable variable rate would become effective on the same date as the service change in which the change becomes effective.

OC Bus Rates	Base Variable Rate	RVH Increase Greater than 20%	RVH Decrease Greater than 20%
Current Year	\$69.90	\$69.22	\$72.96
Option Year 1	\$73.40	\$72.22	\$76.91
Option Year 2	\$76.92	\$76.51	\$80.08

The option term rates continue to be based on operational and maintenance costs, with all costs related to the COVID-19 pandemic handled separately. Costs incurred due to the COVID-19 pandemic will continue to be eligible for reimbursement with Coronavirus Aid, Relief, and Economic Security (CARES) Act funds following a careful review of actual costs incurred by First Transit. First Transit has estimated costs of \$6,000,000 and \$7,400,000 for the first and second year of the option term, respectively as potentially eligible for CARES Act funds. Initially, First Transit was authorized for the period of March 23, 2020 through June 13, 2020, to request reimbursement of COVID-19 pandemic-related expenses of \$1,750,555 (Amendment No. 10). For a 12-month period, that equates to \$7,000,000. However, review of COVID-19 pandemic-related expenses to date indicates actual eligible expenses will likely be less than the requested amounts. Staff is recommending inclusion of a \$5,000,000 not-to-exceed amount for the first year, and \$3,000,000 for the second year, dependent upon CARES Act eligibility.

iShuttle Rates: With the onset of the COVID-19 pandemic and issuance of the State's stay-at-home order, the iShuttle service was suspended in March 2020. The City of Irvine has requested that OCTA resume operation of four of the six routes on July 1, 2021, routes 400A, 401B, 403D and 405F. The remaining two routes (402C and 404E) may be resumed in fall 2021, but resumption will be dependent on service demands. The iShuttle hourly variable rates will match the OC Bus variable rate. The fixed monthly rates are specific to the iShuttle service and will be \$25,974 in year one, and \$29,478 per month in year two of the option term. Costs associated with this service are tracked and billed separately from the OC Bus service, since these costs are reimbursed by the City of Irvine and have alternative sources of funding. Similar to the OC Bus rates, if the iShuttle RVH increases or decreases by greater than 20 percent, the variable rate will be adjusted. Such a change in the iShuttle variable rate will be effective the same day as the service change that implements an iShuttle RVH increase or decrease of greater than 20 percent.

Procurement Approach

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

On March 23, 2015, the Board approved the award of the agreement with First Transit 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. 13 is to exercise the second two-year option term of the agreement through June 10, 2023. This amendment will also include the negotiated rates for the reduced service level as a result of the COVID-19 pandemic during the second option term, as well as the estimated additional pass-through reimbursement of COVID-19 pandemic-related expenses effective June 1, 2021 through June 10, 2023.

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 personal protective equipment (PPE) and cleaning supplies provided by First Transit. Based on the reduced service level, the total cost of PPE and cleaning supplies to meet safety requirements, and the level of efforts associated with maintaining the buses, as well as the cost to ensure a

state of readiness is maintained, staff found the hourly rates and the estimated pass-through total amount to be fair and reasonable.

Amending this agreement will increase costs by \$95,515,543. The prior maximum contract obligation was \$246,142,285. With the decrease in service and underrun of costs of \$25,801,023, the net impact is an increase of \$69,714,520, bringing the maximum contract obligation to \$315,856,805. The amendment will allow continued management, operation, and vehicle maintenance of contracted fixed-route service for two additional years through June 10, 2023.

	Two-Year Option Term
iShuttle, for two years	\$ 4,058,447
OC Bus, Year 1, 486,000 RVH and OC Bus, Year 2, 540,000 RVH	\$ 83,457,096
Sub-Total Fixed-Route Service:	\$ 87,515,543
CARES Act Funding for two years	\$ 8,000,000
Contract Increase for iShuttle and OC Bus:	\$ 95,515,543
Prior Contract Value	\$ 246,142,285
Net Contract Increase	\$ 69,714,520
New Maximum Contract Obligation:	<u>\$ 315,856,805</u>

Fiscal Impact

Funding for this project will be included in OCTA's Proposed FY 2021-22, Operations Division Budget.

Summary

Staff requests Board authorization for the Chief Executive Officer to negotiate and execute Amendment No. 13 to Agreement No. C-4-1737 between OCTA and First Transit in the amount of \$95,515,543, to exercise the second two-year option term to provide contracted fixed-route services through June 10, 2023.

Attachment

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

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