



Legislation Details (With Text)

File #: 2020-728 **Version:** 1 **Name:**

Type: Consent **Status:** Agenda Ready

File created: 10/12/2020 **In control:** City Council

On agenda: 12/15/2020 **Final action:**

Title: CONSIDER APPROVING SETTLEMENT AGREEMENT WITH MV TRANSPORTATION, INC. FOR PAYMENT OF FIXED EXPENSES INCURRED DURING THE COVID-19 BUS SERVICE SUSPENSION (CITY COUNCIL)

Sponsors: Community Services

Indexes:

Code sections:

Attachments: 1. Exhibit 1 - MV Contract, 2. Exhibit 2 - MV Letter requesting payment of fixed costs, 3. Exhibit 3 - Modified MV Fixed Operating Costs, 4. Exhibit 4 - MV Settlement Agreement

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Report to Mayor and City Council

Tuesday, December 15, 2020

Consent

SUBJECT:

CONSIDER APPROVING SETTLEMENT AGREEMENT WITH MV TRANSPORTATION, INC. FOR PAYMENT OF FIXED EXPENSES INCURRED DURING THE COVID-19 BUS SERVICE SUSPENSION (CITY COUNCIL)

I. SUMMARY

The City’s fixed-route bus service, the Carson Circuit, was suspended effective March 28, 2020, out of safety concerns related to the COVID-19 pandemic and the possibility of spreading the virus to passengers and bus operators. The City had a contract with MV Transportation, Inc. (“MV”), providing for operation of the Carson Circuit. (Exhibit No. 1) (the “Contract”). MV adhered to the City’s notice of suspension of Carson Circuit operations (which was issued on March 24, 2020 with an effective date of March 28, 2020), ceasing bus operations as requested. During the suspension period (which ended on or about November 7, 2020, when the parties’ contract was terminated pursuant to a notice of termination issued by City on October 8, 2020), MV was not able to generate billable revenue, resulting in MV submitting a request to City on June 30, 2020 for financial assistance for its ongoing fixed expenses (Exhibit No. 2).

Staff engaged in discussions with MV in regard to MV’s request, and the discussions

resulted in the attached proposed settlement agreement, which was prepared by the City and which has been signed by MV. (Exhibit No. 4). The settlement agreement provides for City to make a one-time payment to MV in the amount of \$54,825 and for a mutual release of claims related to the suspension of services, the request for payment of fixed costs, and the termination of the contract.

Upon City Council approval and full execution of the settlement agreement, City would be obligated to make the one-time payment to MV within ten (10) City business days. City has grant funding available to cover the payment amount.

II. RECOMMENDATION

TAKE the following actions:

1. APPROVE the attached proposed settlement agreement with MV Transportation, Inc. (Exhibit No. 4).
2. AUTHORIZE the Mayor to execute the settlement agreement following approval as to form by the City Attorney.

III. ALTERNATIVES

1. TAKE another action the City Council deems appropriate.

IV. BACKGROUND

In response to safety concerns related to the COVID-19 pandemic, and the possibility of spreading the virus to passengers and bus operators, the Disaster Council suspended the Carson Circuit effective March 28, 2020. As a result of this action, staff directed MV to cease bus operations immediately until further notice. During this protracted suspension of services, MV reached out to the City for financial assistance. Specifically, MV requested City payment of its ongoing fixed expenses to maintain operational readiness in the event it was called back to resume services. MV's request for assistance includes vehicle leases, vehicles licenses, vehicle depreciation, monthly building rent, and insurance. The total amount of MV's request, as modified pursuant to discussions with staff, was \$29,051 per month. MV has confirmed that it has not received supplemental support from any other source to pay for these expenses.

To curb the additional accrual of fixed costs, and because it had become clear that, due to the continued effects of the pandemic, services would not be able to safely resume prior to the scheduled contract expiration date of December 31, 2020, the City transmitted a 30-day written notice of termination of the Contract to MV on October 8, 2020. The termination became effective on or about November 7, 2020. The notice also requested MV to avoid incurring any further fixed costs related to maintaining readiness to resume services pursuant to the Contract between the date of receipt of the notice and the effective date of termination.

The Contract is silent as to the payment of fixed costs during suspension periods. However, after discussions with City staff, MV has agreed to accept a one-time payment of \$54,825 as full satisfaction of its fixed-cost request. (Exhibit No. 3). This figure represents

payment of three months' worth of payment on MV's modified request, with the exception that the requested monthly vehicle lease expense of \$21,552 shall be split 50/50, thus excluding \$10,776 per month, for a revised monthly payment amount of \$18,275 (\$18,275 x 3 months = \$54,825).

It is important to note that Metro has provided staff with authorization to utilize Proposition A and/or C local return funds to make the payment contemplated by the proposed Settlement Agreement.

Contingent upon COVID-19 case numbers, fixed-route bus services may return in 2021 in the way of an interagency agreement with Long Beach Transit. Should additional services be deemed necessary in the interim to supplement the existing offerings via Dial-A-Ride and Lyft, staff has confirmed the ability to implement a City-operated on-demand bus shuttle service.

V. FISCAL IMPACT

Should the City Council approve the recommendation, funds for the one-time payment are fully budgeted in the Fiscal Year 2020-2021 accounts 218-90-940-180-6010 and 219-90-940-180-6010. There is no impact to the City's General Fund.

VI. EXHIBITS

1. MV Contract (pages 4-55).
2. MV Letter requesting payment of fixed costs (June 30, 2020) (pages 56-58).
3. Modified MV Fixed Operating Costs (page 59).
4. MV Settlement Agreement (pages 60-66).

Prepared by: Jason Jo, Transportation Supervisor