

**City of Fayetteville Staff Review Form**

**2017-0755**

**Legistar File ID**

**1/2/2018**

City Council Meeting Date - Agenda Item Only  
N/A for Non-Agenda Item

Andrea Rennie

12/15/2017

PURCHASING (160)

**Submitted By**

**Submitted Date**

**Division / Department**

**Action Recommendation:**

An ordinance to waive the requirements of formal competitive bidding and to enter into an agreement with Ozark Regional Transit, Inc. (ORT) for a one-year contract, renewable for up to four additional one-year terms for transit services. City Council appropriations for 2018 included \$300,000 for this contract. Future renewals are subject to amounts appropriated by City Council for each budget year.

**Budget Impact:**

2100.410.4100-5723.00	Street
Account Number	Fund
40901.4001	Outside Agencies Funding / Ozarks Regional Transit
Project Number	Project Title
<b>Budgeted Item?</b> <u>Yes</u>	Current Budget      \$      300,000.00
<b>Does item have a cost?</b> <u>Yes</u>	Funds Obligated      \$      -
<b>Budget Adjustment Attached?</b> <u>No</u>	Current Balance <b>\$      300,000.00</b>
	Item Cost      \$      300,000.00
	Budget Adjustment
	Remaining Budget <b>\$      -</b>

V20140710

Previous Ordinance or Resolution #      See below

Original Contract Number: \_\_\_\_\_ Approval Date: \_\_\_\_\_

Comments:      Previous: Ordinance 4418 (September 17, 2002), Ordinance 5334 (July 06, 2010)



**TO:** Mayor Jordan and Fayetteville City Council

**THRU:** Don Marr, Chief of Staff  
Paul A. Becker, Chief Financial Officer

**FROM:** Andrea Rennie, Purchasing Manager

**DATE:** Friday, December 15, 2017

**SUBJECT: Renewable agreement with Ozark Regional Transit**

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**RECOMMENDATION:**

An ordinance to waive the requirements of formal competitive bidding and to enter into an agreement with Ozark Regional Transit, Inc. (ORT) for a one-year contract, renewable for up to four additional one-year terms for transit services. City Council appropriations for 2018 included \$300,000 for this contract. Future renewals are subject to amounts appropriated by City Council for each budget year.

**BACKGROUND:**

In 1999, the Fayetteville City Council authorized the transfer and sale of all City trolleys to Ozark Regional Transit in exchange for transportation services for Fayetteville citizens. In 2002, the Public Transit System Act enabled the City to become part of a public transit authority, known as Ozark Transit Authority, after approval of an interlocal agreement (Ordinance 4418). The 2002 agreement was amended in 2010 (Ordinance 5334) including items such as board terms, board structure and board member additions. A new agreement is needed at this time to address how annual payments are handled and to update the contract with ORT to language in line with the City's standard contract terms.

The Ozark Transit Authority currently operates transit services for Washington, Benton, Carroll, and Madison Counties. ORT's mission statement states it "is dedicated to providing safe, reliable and affordable public transportation to both the rural and urban residents of the four-county area within our jurisdiction."

Don Marr, Chief of Staff, currently serves as the representative for the City of Fayetteville through 05/31/2021.

**DISCUSSION:**

The recommended contract is for one-year with up to four one-year renewable terms. Subsequent renewals are subject to amounts appropriated by City Council for each budget year. Payments will be made at the beginning of each quarter.

**BUDGET/STAFF IMPACT:**

This is a budgeted expense and includes \$300,000 as appropriated by City Council for the 2018 budget.

**Attachments:**

Contract for Services with ORT (3 pages)



CITY OF  
**FAYETTEVILLE**  
**ARKANSAS**

Contract for Services  
Between the City of Fayetteville, AR  
and the Ozark Regional Transit  
Term: One year with four one-year renewals

This agreement is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ between the City of Fayetteville, hereinafter known as the "City" and the Ozark Regional Transit, Inc., hereinafter known as "ORT".

WHEREAS, the City has determined that a public need exists for fixed route public transit services within the city limits of Fayetteville;

WHEREAS, the Ozark Transit Authority was created in 2002 by Washington, Benton, Carroll and Madison counties and the cities of Fayetteville, Springdale, Rogers, and Bentonville;

WHEREAS, the City has an interlocal agreement providing for participation for the City of Fayetteville with Ozark Transit Authority;

WHEREAS, the Ozark Transit Authority contracts with Ozark Regional Transit, Inc. (ORT) for public transportation services;

WHEREAS, ORT is dedicated to providing safe, reliable and affordable public transportation to both the rural and urban residents of the four-county area within its jurisdiction; AND

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the City and ORT agree as follows:

1. This agreement shall cover the period of January 1, 2018 through December 31, 2022 unless terminated or amended.
2. ORT agrees to develop, operate and maintain a fixed route public transit system and allow Fayetteville residents use of the same system. ORT reserves the right to refuse service to anyone for violation of transit service rules. ORT reserves the right to determine the route structure of the transit system.
3. ORT agrees to provide written annual reports to the City that describe the activities undertaken during the preceding period concerning its public transit system and also report on the following performance measure: estimated number of passengers by route. The annual reports to be submitted to the Project Coordinator as soon as practical after the end of the year. The data will be reported for the current year and prior year.
4. ORT agrees to make available all records pertaining to public transit fixed route and paratransit service, except those restricted by federal regulations, for review by the City and City auditors as requested. ORT agrees to comply with the Arkansas Freedom of Information Act as applicable.
5. For the purpose of the Agreement, the Project Coordinator for the City will be the Mayor or his/her designee. The Project Coordinator for ORT will be the ORT Transit and Parking Director or his/her designee. Communications pertaining to this agreement will be through the respective Project Coordinators for the City and ORT.
6. **Terms of performance.** The term of performance for this agreement will expire December 31, 2018 but will automatically be renewed and extended for up to an additional four one- year terms if the City's budget containing funding for the service is approved by the City Council for the next year and the ORT agrees to continue the service.

7. **Budget.** The City agrees to pay ORT and ORT agrees to accept as payment in full for its services \$300,000 for 2018. The amounts to be paid for services in future budget years are dependent on the amounts appropriated by City Council for each budget year. It is understood that a reduction in City funding may require a reduction in transit service. Payments shall be made on a quarterly basis.
8. ORT shall provide and maintain in force at all times during the term of the agreement, for its own employees, coverage for worker's compensation to the extent required by law.
9. ORT shall render to the City a Request for Payment at the beginning of each quarter and the City shall pay the invoice within thirty (30) calendar days of invoice acceptance.
10. **Notices.** All notices required or permitted under this agreement will be submitted in writing to the other party in this agreement by personal delivery or the address below, or by certified mail, return receipt requested, in which case notice will be effective three (3) business days after deposit therein address to the following:

City of Fayetteville, AR  
Attn: Mayor  
113 Mountain  
Fayetteville, AR 72701

Ozark Regional Transit  
Attn: Executive Director  
2423 E. Robinson Ave.  
Springdale, AR 72764

11. Neither party may assign any of its rights or obligations under this agreement without the express written consent of the other, nor shall this agreement be construed to bestow any rights or benefits upon anyone other than ORT and the City.
12. The parties agree and understand that this Agreement is exclusive of any and all other agreements, and that it in no way alters, amends or abridges any rights, obligations or duties of the parties contained in such agreements.
13. A waiver by either party of any of the terms or conditions herein shall be limited to that particular instance and shall not be construed as a general waiver of any other breeches by either party.
14. This Agreement constitutes the entire understanding of the parties, and no modification or variation of the terms of this agreement shall be valid unless made in writing and signed by the duly authorized agents of ORT and the City.
15. **Severability.** Each paragraph of this agreement is severable from all other paragraphs. If any paragraph or subparagraph is found to be invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs will remain in full force and effect.
16. **Interpretation.** The contract shall be interpreted according to and enforced under the laws of the State of Arkansas, in Washington County.
17. **Non -Appropriation.** The parties recognize that performance of the Agreement by ORT may be dependent in whole or in part upon the appropriation of state or federal funds. If a state or federal legislative body fails to appropriate the necessary funds, then by written notice to City, ORT may cancel all or the remaining portion of the Agreement without further duty or obligation. In the event this agreement must be terminated prior to the end of the term pursuant to this clause, the amounts due to ORT by City shall be prorated. The parties recognize and understand the appropriation is a legislative act and is beyond the control of ORT.
18. If Ozark Transit Authority or ORT or its transit unit receives new or additional funding from a local sales tax, both parties shall meet to determine whether this agreement should be mutually terminated or amended because of

this new funding source. The City may elect to discontinue funding called for in this contract and terminate this contract without penalty if a new or additional local sales tax provides at least \$300,000.00 annualized funding to ORT.

19. The City or ORT may cancel this contract within thirty (30) calendar day notice.

IN WITNESS WHEREOF, we have hereunto set our hands on the date first written above.


**CITY OF FAYETTEVILLE, ARKANSAS**

**OZARK REGIONAL TRANSIT, INC.**

By: \_\_\_\_\_  
LIONELD JORDAN, MAYOR

By:  \_\_\_\_\_  
Printed Name: Joel Garner

ATTEST:  
By: \_\_\_\_\_  
Sondra E. Smith, City Clerk, Treasurer

ATTEST:  
By:  \_\_\_\_\_  
Printed Name: Melinda Campbell

Date: \_\_\_\_\_

Title: CFO  
Date: 12/5/17