



# REPORT TO THE BOARD OF AIRPORT COMMISSIONERS

DAVID REICH

DAVID REICH (May 27, 2022 11:09 PDT)

Reviewed by: David Reich, Deputy Executive Director

Brian C. Ostler

Brian C. Ostler, City Attorney

Justin Erbacci

Justin Erbacci (May 27, 2022 12:23 MDT)

Justin Erbacci, Chief Executive Officer

Meeting Date

6/2/2022

Needs Council Approval:  Y

<u>Reviewed for / by</u>	<u>Date</u>	<u>Approval Status</u>	<u>By</u>
Finance	5/23/2022	<input checked="" type="checkbox"/> Y <input type="checkbox"/> NA	JS
CEQA	4/29/2022	<input checked="" type="checkbox"/> Y	VW
Procurement	5/5/2022	<input type="checkbox"/> Y <input checked="" type="checkbox"/> Cond	QM
Guest Experience	5/20/2022	<input checked="" type="checkbox"/> Y	TB
Strategic Planning	5/19/2022	<input checked="" type="checkbox"/> Y	KC
City Attorney	5/25/2022	<input checked="" type="checkbox"/> Y	NK

## SUBJECT

Request for approval of a First Amendment to Contract DA-4999 with Pacific Coast Sightseeing Tours & Charters, Inc. to amend the financial terms, increase contract authority by \$5.2 million, for a total not to exceed \$81.4 million, and extend the term through October 31, 2022, for the provision of the Downtown Los Angeles Union Station and Van Nuys FlyAway bus service.

## RECOMMENDATIONS

Management RECOMMENDS that the Board of Airport Commissioners:

1. ADOPT the Staff Report.
2. DETERMINE that this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Article II, Section 2.f. of the Los Angeles City CEQA Guidelines and State CEQA Guidelines Section 15061 (b)(3).
3. FIND that the work can be performed more economically or feasibly by an independent contractor than by City employees.
4. APPROVE the First Amendment to Contract DA-4999 to amend the financial terms and extend the term through October 31, 2022.
5. AUTHORIZE the Chief Executive Officer, or designee, to execute the First Amendment after approval as to form by the City Attorney and approval by the Los Angeles City Council.

## DISCUSSION

### 1. Purpose

To extend the current contract with Pacific Coast Sightseeing Tours & Charters, Inc. (Pacific Coast) and ensure the continuity of the FlyAway bus service until a successor contract is fully approved by the Los Angeles Board of Airport Commissioners and the Los Angeles City Council, and the contractor is ready to commence operations under the terms of the new contract. Without this extension, the current agreement with Pacific Coast will end on July 10, 2022, and there is a risk that LAX will have no FlyAway service during the peak summer months as the new contractor may not have all resources ready to operate the service.

### 2. Prior Related Actions/History of Board Actions

- **May 25, 2015 – Resolution 25710**

The Board of Airport Commissioners (Board) awarded a seven-year agreement to Pacific Coast Sightseeing Tours & Charters, Inc. to operate Union Station, Van Nuys, and Metro Orange Line FlyAway scheduled buses. The contract term commenced July 11, 2015, and will terminate on July 10, 2022 without this extension.

### 3. Background

The Los Angeles International Airport (LAX) FlyAway buses provide scheduled ground transportation service to the traveling community and employees from Van Nuys and Downtown Los Angeles Union Station. The FlyAway Program's use of high occupancy vehicles mitigates traffic impacts in and around LAX and helps to reduce greenhouse gases.

Implemented in 1975, the FlyAway bus service has been successful in its current form of first-come, first-served, fixed route scheduled bus service. The modernization of LAX also demands the next generation of the FlyAway Program. The FlyAway Program will be modernized to integrate new customer-centric technology, enhance operations, improve the guest experience, and be flexible to respond to new transit options.

### 4. Current Action/Rationale

The enhanced features of the new FlyAway Program are innovative and complex. A procurement for new service is being concluded and negotiations with the highest ranking proposer are nearly complete, with a staff recommendation for award of the Request For Proposals (RFP) expected shortly. In addition to the need to secure Board and Los Angeles City Council approvals, the operator needs time to ensure it has the fleet, drivers, and processes in place to provide service as required by Los Angeles World Airports (LAWA) under the terms of the new contract.

A short extension of the current contract with Pacific Coast Sightseeing Tours & Charters (Pacific Coast) will provide a sufficient start-up and transition period for the operations under a new contract.

Due the short nature of the extension and the current challenge for operators to hire and retain bus drivers, LAWA will need to pay Pacific Coast a higher fee from what was set out in the agreement seven years ago, The Trip Fee under the extended agreement will be

higher than previously assessed under this contract, but it is offset partially by a lower Monthly Management Fee. The costs in the Amendment are restructured to be consistent with the latest RFP cost form for FlyAway. The expense for the procurement and maintenance of FlyAway buses, temporary buses and support vehicles is moved from the Monthly Management Fee into the route Trip Fee. This fee structure better accounts for the vehicle and staff costs of adding and removing trips for both the contractor and LAWA.

The overall monthly expense of the four month contract extension is approximately 67% higher per month than under the existing agreement, owing to the short term nature of the extension and the following industry conditions:

- Recurring retention and recruiting bonuses for local drivers, maintenance, operations and local management staff, necessary because of the state of the current labor market and the short term of the extension;
- Increases in benefits plan aimed at stemming local labor shortage;
- Increases in the City’s Living Wage Ordinance requirements effective July 1, 2022;
- The need to procure subcontracted drivers outside the local market to augment ongoing efforts to recruit, train and retain drivers on a short-term basis;
- Persistent inflationary cost pressure on maintenance parts and transportation; recurring operating expense.

The Amendment also provides for LAWA to reimburse Pacific Coast fuel costs based on the weekly average of diesel fuel costs in California as reported by the U.S. Energy Information Administration (EIA). Costs will be based on 6.03 miles per gallon and live miles per trip to/from Van Nuys at 23.5 miles and Union Station at 20.2 miles.

Contract expenditures for the extended term are projected as follows:

	Jul 1-10	Jul 11-31	Aug-22	Sep-22	Oct-22	Total
Total Current Financial Terms*	292,128	613,470	905,598	893,632	905,598	\$3,610,425
Proposed Financial Terms	292,128	958,059	1,414,278	1,381,178	1,414,278	\$5,459,921
Fuel Reimbursement		104,847	154,773	149,781	154,773	\$ 564,174
Total under Proposed	292,128	1,062,906	1,569,051	1,530,959	1,569,051	\$6,024,095
					<b>Difference</b>	<b>\$ 2,413,670</b>

*\*Because the existing contract will expire, there are no fees to compare other than a hypothetical comparison against the terms of the existing agreement were it not to terminate.*

Additional contract authority of \$5.2 million is needed for the management and trips fees; remaining authority exists in the contract to cover the fuel reimbursement estimate plus the contingency of any fuel price increases.

***How This Action Advances a Specific Strategic Plan Goal and Objective***

This action advances this strategic goal and objective: Deliver Facilities & Guest Experiences that are Exceptional: Develop, maintain and operate first class facilities. The FlyAway Program provides airport travelers an affordable ground transportation option, uses high occupancy vehicles, mitigates traffic impacts in and around LAX, and helps to reduce greenhouse gases.

## 5. Fiscal Impact

FlyAway Program revenues and expenses are as follows:

All Routes	Ridership	Revenues	Expense
FY 2019	1,919,822	\$16,436,707	\$16,286,351
FY 2020	1,498,884	\$12,460,418	\$15,557,576
FY 2021	544,115	\$4,471,000	\$12,143,860
FY 2022*	940,123	\$8,168,697	\$11,258,178
FY 2023^	410,333	\$3,200,000	\$6,845,563

*\*Actuals year-to-date through March 2022, projected through June 2022.*

*^Projected July-October 2022; ridership and revenue calculated as historic percentage of enplaned passengers multiplied by historic average revenue/passenger; LAWA Finance projects 33 million annual enplaned passengers for the total of FY 2023. Expense also includes historic 12% of budget for maintenance and security of the Van Nuys Terminal. Projection assumes no fare change.*

FlyAway Program overall ridership recovery from the COVID pandemic is at 49 percent of FY 2019 levels, which include the discontinued Hollywood and Long Beach routes. Recovery on the Union Station and Van Nuys routes is at 72.3 percent of FY 2019 levels.

## 6. Alternatives Considered

- **Take No Action**

Not approving the proposed amendment will result in a discontinuation of FlyAway bus service until a new contract is awarded and bus services reinstated.

## APPROPRIATIONS

Funding for this contract is available in the Fiscal Year 2022-2023 Los Angeles World Airports Operating Budget in LAX Cost Center 2001187 - LND Union Station FlyAway and 2001209 - VNY LND FlyAway Operations, Commitment Item 520 – Contractual Services.

## STANDARD PROVISIONS

1. This item, as a continuing administrative, maintenance and personnel-related activity, is exempt from California Environmental Quality Act (CEQA) requirements pursuant to Article II, Section 2.f. of the Los Angeles City CEQA Guidelines. And, the activity is exempt from CEQA requirements pursuant to State CEQA Guidelines Section 15061 (b)(3).
2. The proposed document(s) is/are subject to approval as to form by the City Attorney.
3. Actions taken on this item by the Board of Airport Commissioners will become final pursuant to the provisions of Los Angeles City Charter Section 373.
4. Pacific Coast Sightseeing Tours and Charters, Inc. will comply with the provisions of the Living Wage/Worker Retention Ordinances.
5. Procurement Services has reviewed this action (File No. 6906) and established a mandatory 15% Small Business Enterprise (SBE) participation for this project. Pacific Coast Sightseeing Tours & Charters, Inc. has committed to an overall 18.06 percent SBE participation. To-date, Pacific Coast Sightseeing, Inc. has achieved 20.728 percent of SBE participation.

6. Pacific Coast Sightseeing Tours and Charters, Inc. will comply with the provisions of the Affirmative Action Program.
7. Pacific Coast Sightseeing Tours and Charters, Inc. has been assigned Business Tax Registration Certificate Number 0002626523-0001-9.
8. Pacific Coast Sightseeing Tours and Charters, Inc. will comply with the provisions of the Child Support Obligations Ordinance.
9. Pacific Coast Sightseeing Tours and Charters, Inc. has approved insurance documents, in the terms and amounts required, on file with the Los Angeles World Airports.
10. Pursuant to Charter Section 1022, staff determined the work specified in the proposed contract can be performed more feasibly or economically by an Independent Contractor than by City employees.
11. Pacific Coast Sightseeing Tours and Charters, Inc. has submitted the Contractor Responsibility Program Questionnaire and Pledge of Compliance and will comply with the provisions of the Contractor Responsibility Program.
12. Pacific Coast Sightseeing Tours and Charters, Inc. must be determined by Public Works, Office of Contract Compliance, to be in full compliance with the provisions of the Equal Benefits Ordinance prior to executing the contract amendment.
13. Pacific Coast Sightseeing Tours and Charters, Inc. will be required to comply with the provisions of the First Source Hiring Program for all non-trade LAX Airport jobs.
14. Pacific Coast Sightseeing Tours and Charters, Inc. has submitted the Bidder Contributions CEC Form 55 and will comply with its provisions.
15. Pacific Coast Sightseeing Tours and Charters, Inc. has submitted the Municipal Lobbying Ordinance CEC Form 50 and will comply with its provisions.

FIRST AMENDMENT TO OPERATING AGREEMENT DA-4999  
BETWEEN THE CITY OF LOS ANGELES AND  
PACIFIC COAST SIGHTSEEING TOURS & CHARTERS, INC,  
FOR THE  
OPERATION OF VAN NUYS AND UNION STATION  
FLYAWAY BUS SERVICE  
AT LOS ANGELES INTERNATIONAL AIRPORT

THIS FIRST AMENDMENT TO OPERATING AGREEMENT NO. DA-4999, FOR THE OPERATION OF VAN NUYS AND UNION STATION FLYAWAY BUS SERVICE (this "Agreement") is made and entered into as of \_\_\_\_\_ 2022 (the "Effective Date") by and between THE CITY OF LOS ANGELES DEPARTMENT OF AIRPORTS, a municipal corporation ("City"), acting by order of and through its Board of Airport Commissioners ("Board"), and PACIFIC COAST SIGHTSEEING TOURS AND CHARTERS, INC. (hereinafter referred to as "Operator and /or Contractor"), with reference to the following:

**RECITALS:**

WHEREAS, City and Operator previously entered into Agreement No. DA-4999, commencing July 11, 2015 and expiring on July 10, 2022, unless the term of the Agreement is sooner terminated or extended in accordance with the provisions of the Agreement;

WHEREAS, City desires to extend the term of the Agreement; and

WHEREAS, City desires to adjust the financial terms of the Agreement in conjunction with the extended term.

NOW, THEREFORE, for and in consideration of the covenants and conditions hereinafter contained to be kept and performed by the respective parties hereto, IT IS MUTUALLY AGREED as follows:

**AMENDMENTS**

**Section 1.** Amend Section 1.1 of the Agreement by deleting it in its entirety, and in lieu thereof, inserting the following:

“1.1. The Term of this Agreement shall commence on the Commencement Date, which shall be established in a document (hereinafter referred to as "Commencement Date Memorandum") executed by both parties no later than

sixty (60) days after receipt of all required City approvals, and expiring October 31, 2022. thereafter (hereinafter referred to as "Expiration Date") subject, however, to earlier termination and in accordance with the terms of this Agreement. The Commencement Date Memorandum shall be incorporated herein upon its execution, as Exhibit A-1.”

**Section 2.** Amend the Agreement by deleting Section 8.2 in its entirety and in lieu thereof inserting the following:

“8.2. Effective July 11, 2022, City shall pay to Operator a fixed Monthly Management Fee in the amount of Three Hundred Eighty-eight Thousand, One Hundred Seventy-eight Dollars (\$388,178) per month. Operator acknowledges that the amount payable as the Monthly Management Fee is, among other things, inclusive of and constitutes the full and sole compensation that Operator is entitled to receive under this Agreement for the following:

- (a) Administration and overhead (including but not limited to, corporate management, local management (e.g., general manager, assistant manager, operations manager), accounting, audit and clerical support);
- (b) materials and supplies required for operation of FlyAway Bus Service including, but not limited to, ticketing equipment and infrastructure, FlyAway Bus Service ticket stock, receipt paper and employee FlyAway Bus Service pass cards; and
- (c) any insurance required to be maintained by Operator;
- (d) licenses, permits, and security instruments; and
- (e) profit”

**Section 3.** Amend the Agreement by deleting Section 8.3 in its entirety and in lieu thereof inserting the following:

“Trip Fees shall mean an amount equal to the Trip Rate (as defined in this section) multiplied by the number of Trips (as defined in Section 4.2) completed during such month, provided, however, that the number of Trips for such month shall not exceed the number of Trips authorized in Section 4.2 or otherwise authorized in writing by the Executive Director (it being understood that no compensation shall be paid to Operator for the performance of Trips in excess of such authorized number of Trips). Effective July 11, 2022, the FlyAway Operator’s Trip Rates shall be set by service location as follows: (1) Union Station Trip Rate is **One Hundred Sixty Dollars and Ninety-five cents (\$160.95)** and shall apply to each completed one-way trip in each direction, between Union Station Bus Terminal and Airport; and; (2) Van Nuys Trip Rate is **One Hundred Fifty-eight Dollars and zero cents (\$158.00)** and shall apply to

each completed one-way trip in each direction, between Van Nuys Bus Terminal and Airport, in accordance with **First Amendment-Exhibit B** and subject to Section 2.1.1.

8.3.1. City shall compensate the Operator for completed Repositioning Trips, defined in Section 8.3.2, provided however, Repositioning Trips shall not exceed five percent (5%) of the annual scheduled Trips authorized in Section 4.2 and specified in **First Amendment- Exhibit B**.

8.3.2. Operator acknowledges Repositioning Trips are defined as deadhead trips (those trips which contain no customer passengers) between Airport and either Union Station Bus Terminal or Van Nuys FlyAway Bus Terminal which are required to meet the service operation schedule published to the traveling public, and as determined in the sole discretion of the Executive Director.

**Section 4.** Amend the Agreement by adding a new Section 8.4.1 which shall be the following:

“Section 8.4.1 City will reimburse Contractor for actual fuel costs incurred for all bussing services in connection with the operation of the FlyAway Buses for the FlyAway Bus Service. Fuel costs will be based on the U.S. Energy Information Administration diesel fuel cost data for California. Fuel reimbursement will be calculated based on 6.03 miles per gallon and live miles per trip to/from Van Nuys at 23.5 miles and Union Station at 20.2 miles. Contractor will be required to provide detailed back-up documentation each month in a form that shall include a column with formula calculations to depict miles per gallon by vehicle and by route. These fuel usage, vehicle and mileage details shall be submitted to City each month on a spreadsheet form approved by City or electronically through a web-enabled database.”

**Section 5.** Amend the Agreement by attaching and incorporating into the Agreement the document, **First Amendment – Exhibit B**.

**Section 6.** Except as amended or modified by this First Amendment, the Agreement is hereby ratified and confirmed and all other terms of the Agreement shall remain in full force and effect, unaltered and unchanged by this First Amendment. If there is any conflict between the provisions of this First Amendment and the provisions of the Agreement the provisions of this First Amendment shall prevail. Whether or not specifically amended by this First Amendment, all terms and provisions of the Agreement are amended to the extent necessary to give effect to the purpose and intent of this First Amendment.



**Section 7.**     **No Third Party Beneficiaries.** No provisions of the Agreement or this First Amendment may be amended or added to except by a written agreement signed by the Parties or their respective successors-in-interest. This First Amendment is not intended to confer upon any person other than the Parties, any rights or remedies hereunder.

**Section 8.**     **Governing Law; Interpretation.** This First Amendment shall be governed by, and construed in accordance with, the laws of the State of California. The Agreement and this First Amendment are subject to the provisions of the Los Angeles Administrative Code. Each Party represents and warrants that this First Amendment has been negotiated and drafted at arms-length by equally sophisticated parties, and any ambiguity cannot be attributed to either Party hereto. If any provision of this First Amendment, or the application thereof to any persons or circumstances, shall be invalid or unenforceable, the remainder of this First Amendment shall not be affected thereby, and each provision of this First Amendment shall be valid and shall be enforceable to the fullest extent permitted by law.

**Section 9.**     **Electronic Signatures & Counterparts.** This First Amendment and any other document necessary for the consummation of the transaction contemplated by this First Amendment may be executed in counterparts, including counterparts that are manually executed and counterparts that are in the form of electronic records and are electronically executed. An electronic signature means a signature that is executed by symbol attached to or logically associate with a record and adopted by a party with the intent to sign such record, including facsimile or e-mail signatures. All executed counterparts shall constitute one agreement, and each counterpart shall be deemed an original. The parties hereby acknowledge and agree that electronic records and electronic signatures, as well as facsimile signatures, may be used in connection with the execution of this First Amendment and electronic signatures, facsimile signatures or signatures transmitted by electronic mail in so-called PDF format shall be legal and binding and shall have the same full force and effect as if a paper original of this First Amendment had been delivered that had been signed using a handwritten signature. All parties to this First Amendment (i) agree that an electronic signature, whether digital or encrypted, of a party to this First Amendment is intended to authenticate this writing and to have the same force and effect as a manual signature; (ii) intended to be bound by the signatures (whether original, faxed, or electronic) on any document sent or delivered by facsimile or electronic mail or other electronic means; (iii) are aware that the other party(ies) will rely on such signatures; and, (iv) hereby waive any defenses to the enforcement of the terms of this First Amendment based on the foregoing forms of signature. If this First Amendment has been executed by electronic signature, all parties executing this document are expressly consenting, under the United States Federal Electronic Signatures in Global and National Commerce Act of 2000 (“E-SIGN”) and the



IN WITNESS WHEREOF, City has caused this First Amendment to be executed by the Chief Executive Officer and Operator has caused the same to be executed by its duly authorized officers and its corporate seal to be hereunto affixed, all as of the day and year first hereinabove written.

APPROVED AS TO FORM:  
Michael N. Feuer, City Attorney

**CITY OF LOS ANGELES**

Date \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_  
Deputy/Assistant City Attorney

Chief Executive Officer  
Department of Airports

ATTEST:

**Pacific Coast Sightseeing Tours and Charters, Inc.**

By Jazmine Estacio  
Jazmine Estacio (May 26, 2022 18:56 EDT)  
Signature

By Greg Cain  
Greg Cain (May 26, 2022 15:47 PDT)  
Signature

Jazmine Estacio  
Print Name

Greg Cain  
Print Name

Secretary and General Counsel  
Print Title

VP / General Manger  
Print Title

**FIRST AMENDMENT - EXHIBIT B**  
**SERVICE OPERATIONS SCHEDULE FOR LAX FLYAWAY® SERVICE**  
**FLYAWAY - VAN NUYS & UNION STATION**  
 Schedule as of 11.10.21

VNY to LAX				
12:00 AM	1:00 AM	2:00 AM	3:00 AM	3:30 AM
4:00 AM	4:30 AM	5:00 AM	5:20 AM	5:40 AM
6:00 AM	6:20 AM	6:40 AM	7:00 AM	7:20 AM
7:40 AM	8:00 AM	8:20 AM	8:40 AM	9:00 AM
9:20 AM	9:40 AM	10:00 AM	10:20 AM	10:40 AM
11:00 AM	11:20 AM	11:40 AM	12:00 PM	12:20 PM
12:40 PM	1:00 PM	1:20 PM	1:40 PM	2:00 PM
2:20 PM	2:40 PM	3:00 PM	3:20 PM	3:40 PM
4:00 PM	4:20 PM	4:40 PM	5:00 PM	5:20 PM
5:40 PM	6:00 PM	6:20 PM	6:40 PM	7:00 PM
7:20 PM	7:40 PM	8:00 PM	8:20 PM	8:40 PM
9:00 PM	9:20 PM	9:40 PM	10:00 PM	10:20 PM
10:40 PM	11:00 PM	11:20 PM	11:40 PM	
LAX to VNY				
12:00 AM	12:20 AM	12:40 AM	1:00 AM	1:20 AM
2:30 AM	3:30 AM	4:30 AM	5:00 AM	5:30 AM
6:00 AM	6:20 AM	6:40 AM	7:00 AM	7:20 AM
7:40 AM	8:00 AM	8:20 AM	8:40 AM	9:00 AM
9:20 AM	9:40 AM	10:00 AM	10:20 AM	10:40 AM
11:00 AM	11:20 AM	11:40 AM	12:00 PM	12:20 PM
12:40 PM	1:00 PM	1:20 PM	1:40 PM	2:00 PM
2:20 PM	2:40 PM	3:00 PM	3:20 PM	3:40 PM
4:00 PM	4:20 PM	4:40 PM	5:00 PM	5:20 PM
5:40 PM	6:00 PM	6:20 PM	6:40 PM	7:00 PM
7:20 PM	7:40 PM	8:00 PM	8:20 PM	8:40 PM
9:00 PM	9:20 PM	9:40 PM	10:00 PM	10:20 PM
10:40 PM	11:00 PM	11:20 PM	11:40 PM	

US to LAX				
3:00 AM	4:00 AM	5:00 AM	5:30 AM	6:00 AM
6:30 AM	7:00 AM	7:30 AM	8:00 AM	8:30 AM
9:00 AM	9:30 AM	10:00 AM	10:30 AM	11:00 AM
11:30 AM	12:00 PM	12:30 PM	1:00 PM	1:30 PM
2:00 PM	2:30 PM	3:00 PM	3:30 PM	4:00 PM
4:30 PM	5:00 PM	5:30 PM	6:00 PM	6:30 PM
7:00 PM	7:30 PM	8:00 PM	8:30 PM	9:00 PM
9:30 PM	10:00 PM	10:30 PM	11:00 PM	11:30 PM
LAX to US				
5:40 AM	6:10 AM	6:40 AM	7:10 AM	7:40 AM
8:10 AM	8:40 AM	9:10 AM	9:40 AM	10:10 AM
10:40 AM	11:10 AM	11:40 AM	12:10 PM	12:40 PM
1:10 PM	1:40 PM	2:10 PM	2:40 PM	3:10 PM
3:40 PM	4:10 PM	4:40 PM	5:10 PM	5:40 PM
6:10 PM	6:40 PM	7:10 PM	7:40 PM	8:10 PM
8:40 PM	9:10 PM	9:40 PM	10:10 PM	10:40 PM
11:10 PM	11:40 PM	12:10 PM	12:40 AM	1:10 AM