

**AMENDMENT NO. 1 TO
AGREEMENT NO. C-0-2067**

**AMENDMENT NO. 1 TO
SOFTWARE LICENSE AGREEMENT NO. C-0-2067
BETWEEN
ORANGE COUNTY TRANSPORTATION AUTHORITY
AND
BYTEMARK, INC.**

THIS AMENDMENT NO. 1 is effective this 6th day of July, 2022 (“Effective Date”), by and between the Orange County Transportation Authority (hereinafter referred to as “Authority” or “Customer”) and Bytemark, Inc. (hereinafter referred to as “Licensor”), each individually known as “Party” and collectively known as the “Parties.”

WITNESSETH:

WHEREAS, by Agreement No. C-0-2067 dated June 30, 2020, Customer entered into a contract for Licensor to develop and implement a new mobile ticketing application; and

WHEREAS, Customer and Licensor agree to reduce the License and Maintenance Fees for Year One and Year Two by Forty-Five Thousand Dollars (\$45,000.00) for a total decrease of Ninety-Thousand Dollars (\$90,000) to the maximum cumulative payment obligation; and

WHEREAS, Customer desires and Licensor agrees to amend the Agreement to support Vietnamese language at an increase of Five Thousand Dollars (\$5,000.00) to the maximum cumulative payment obligation;

NOW, THEREFORE, it is mutually understood and agreed by Customer and Licensor as follows:

1. Amend **Article 5.0 Compensation**, Page 3 and 4 of 15, to delete section 5.1 in its entirety and in lieu thereof insert the following:

5.1 “Fee Schedule

- a. For Licensor’s full and complete performance of its obligations under this Agreement and subject to the maximum cumulative payment obligation provisions set forth in Article 30, Customer shall pay Licensor on a firm-fixed price basis in accordance with the following provisions.
- b. The following schedule shall establish the firm-fixed payment to Licensor by Customer for each work task set forth in the Scope of Work. The schedule shall not include any Licensor expenses not approved by Customer, including, but not limited to reimbursement for local meals.

INITIAL TERM: Effective through May 31, 2025

<u>Tasks</u>	<u>Description</u>	<u>Firm-Fixed Price</u>
1	Project Management	\$ 49,392.00
2	Implementation/Deployment	\$218,245.00
3	Post Go-Live Warranty and Support	\$0.00
4	Next Fare Collection System Integration/Transition	\$11,000.00
5	Design Reviews	\$8,047.00
6	Testing	\$19,047.00
7	Pilot	\$28,337.00
8	Installation	\$0.00
9	Training and Documentation	\$0.00
10	Documentation and Manuals	\$0.00
TOTAL FIRM-FIXED PRICE PAYMENT		\$334,068.00

**AMENDMENT NO. 1 TO
AGREEMENT NO. C-0-2067**

License and Maintenance	Annual Fee
Year One	\$32,600.00
Year Two	\$34,928.00
Year Three	\$82,326.00
Year Four	\$84,796.00
Year Five	\$87,340.00
TOTAL LICENSE AND MAINTENANCE FEES	\$321,990.00

Commission Fees 1.5% with a not-to-exceed amount of \$360,000	\$360,000.00
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GRAND TOTAL	\$1,016,058.00
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Payment Processing

Variable Transaction Type	Pricing
Domestic Purchases	3% + \$0.15 per transaction
American Express	Pass thru to existing AMEX Account
International Purchases	3.2% + \$0.25 per transaction

Fixed Fees	Per Incident	Pricing
Chargeback	Per Chargeback	\$15.00
ACH Rejections	Per Failed Credit/Debit	\$65.00
Physical Statement (optional)	Per Month	\$25.00
Electronic Statement	Per Month	\$0.00

FIRST OPTION TERM: June 1, 2025 through May 31, 2027

License and Maintenance	Annual Fee
Year Six	\$89,961.00
Year Seven	\$92,660.00

Commission Fees 1.5%

SECOND OPTION TERM: June 1, 2027 through May 31, 2029

License and Maintenance	Annual Fee
Year Eight	\$95,440.00
Year Nine	\$98,304.00

Commission Fees 1.5%

- c. As partial security against Licensor's failure to satisfactorily fulfill all of its obligations under this Agreement, Customer shall retain ten percent (10%) of the amount of each invoice submitted for payment by Licensor. All retained funds shall be released by Customer and shall be paid to Licensor within sixty (60) calendar days of payment of final invoice, unless Customer elects to audit Licensor's records in accordance with 16.0 Audit and Inspection of Records of this Agreement. If Customer elects to audit, retained funds shall be paid to Licensor within thirty (30) calendar days of completion of such audit in an amount reflecting any adjustment required by such audit. During the term of the Agreement, at its sole discretion, Customer reserves the right to release all or a portion of the retained amount based on Licensor's satisfactory completion of

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AGREEMENT NO. C-0-2067**

certain milestones. Licensor shall invoice Customer for the release of the retention in accordance with 5.0 Compensation.”


The balance of said Agreement remains unchanged.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 1 to Agreement No. C-0-2067 to be executed as of the date of the last signature below.


BYTEMARK, INC.

By: 
Eric Reese
President/Chief Executive Officer

**ORANGE COUNTY TRANSPORTATION
AUTHORITY**

By: 
Georgia Martinez
Department Manager, Contracts and
Procurement

APPROVED AS TO FORM:

By: 
James M. Donich
General Counsel

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