



City of Phoenix

PUBLIC TRANSIT DEPARTMENT

June 1, 2017

Mr. Nick Promponas
First Transit, Inc. – Phoenix
405 N. 79th Avenue
Phoenix, AZ 85043

Sent via e-mail (nick.promponas@firstgroup.com) and Certified Mail

RE: City of Phoenix Agreement No. 135719 – Notice to Cure and Right to Assurance

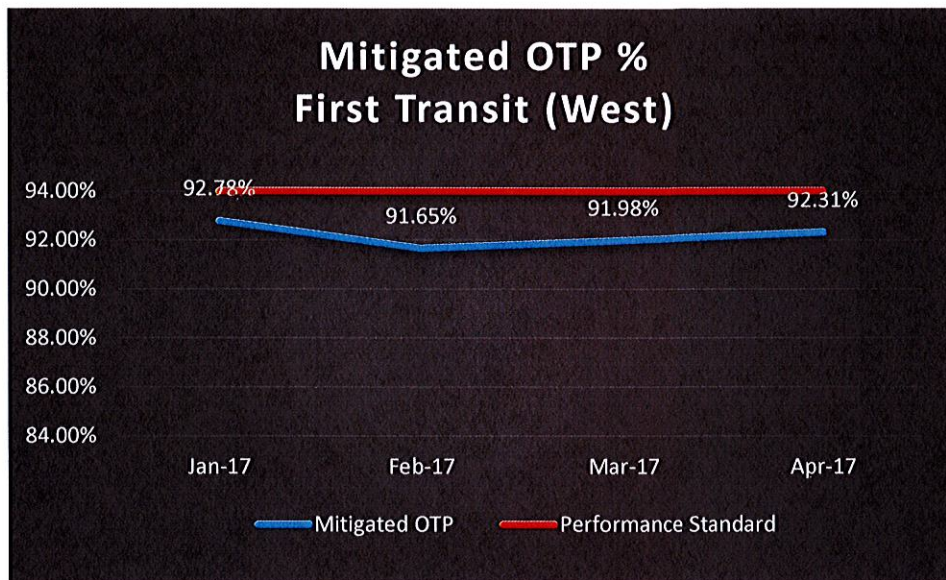
Dear Mr. Promponas:

First Transit, Inc. (FT) was awarded the fixed route transit services contract operating out of the West Transit Facility, resultant from RFP PT13-001, with the Contract services effective July 1, 2013. Subsequent to other communications and meetings held between the City and FT staff in recent months, this letter is a formal written Notice to Cure pursuant to the terms of the contract that FT is not performing duties as outlined in the contract. Specific contract violations identified by the City are outlined below:

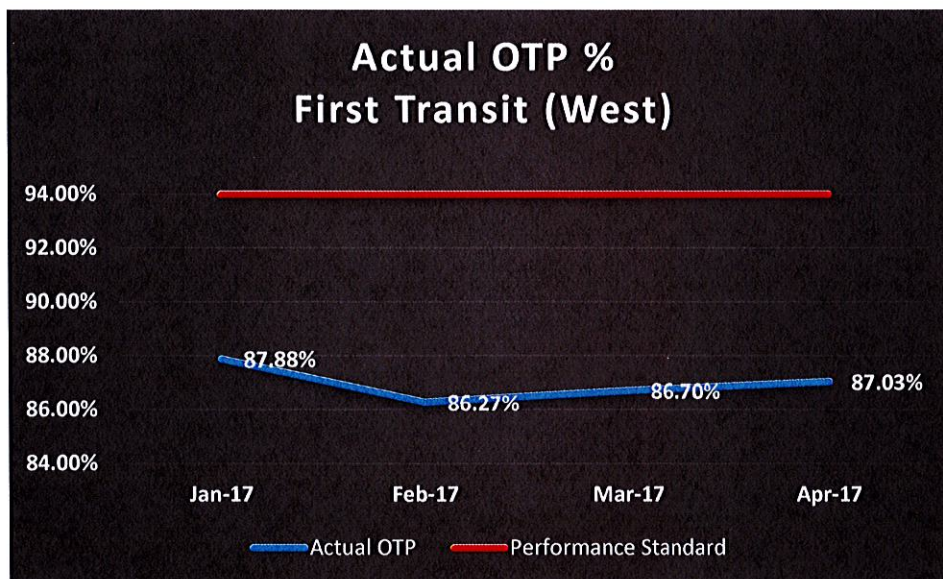
Contract Violation 1: Exhibit A, Scope of Work, Section 29.1 - On-time Performance (OTP). This section of the contract requires FT to maintain a per route on-time performance at 94% or higher. Below is a listing of routes out of compliance to this standard from January 2017 through April 2017, reflecting that a majority of FT-operated routes are under-performing.

Month/Year	# of Noncompliant Routes	Total Routes
January 2017	8	12
February 2017	10	12
March 2017	9	12
April 2017	9	12

Below is a graph of aggregate OTP as recorded by VMS and adjusted (mitigated) by FT.



Below is a representation of actual OTP (unmitigated) as recorded by VMS from January 2017 through April 2017, which is a better representation of on-time performance from the perspective of a transit passenger.



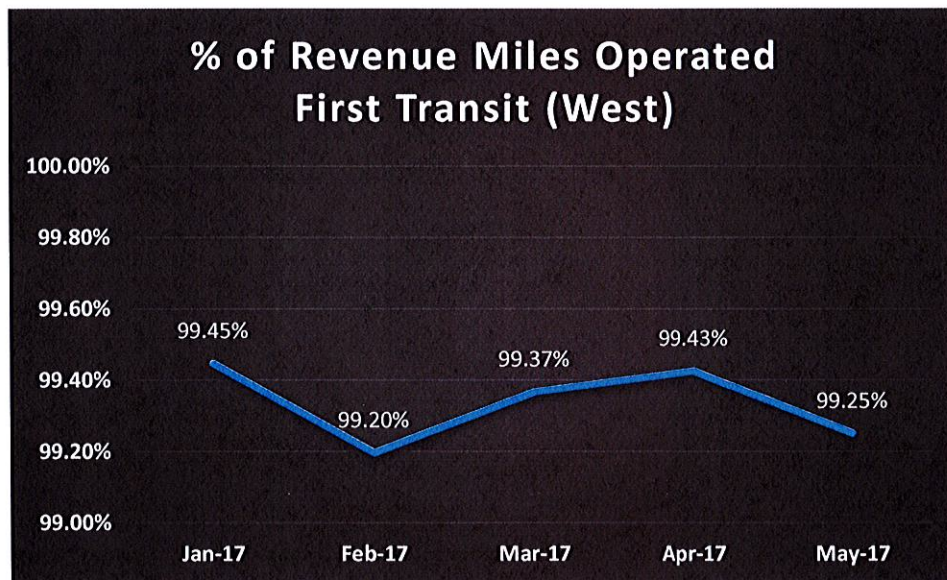
Contract Violation 2: Exhibit A, Scope of Work, Section 29.2 – Missed Service. “The City has a "NO MISSED TRIP" policy. This requires that the Contractor implement policies and procedures to monitor service delays, and if necessary, replace or insert a bus to fill in for a portion of a trip to ensure the timely completion of that trip. Buses involved in accidents or incapable of continuing service must be immediately replaced. Under any of the circumstances described above, the Contractor shall take appropriate action in order to minimize the disruption of service.”

Below is a table highlighting FT's missed miles for January through May 2017. You will note that February, March and May 2017 all convey significant increases in missed service.

Month/Year	Scheduled Miles	Missed Miles	Actual Miles Run
January 2017	492,253.00	2,723.08	489,529.92
February 2017	451,414.67	3,627.13	447,787.54
March 2017	494,932.00	3,132.29	491,799.71
April 2017	489,015.12	2,810.12	486,205.00
May 2017	538,564.00	4,034.10*	Pending

*Note: Missed miles indicated are representative of service from May 1-29, 2017. Missed service data for May has not been finalized.

Below is a graph of FT's percentage of revenue miles operated in relation to scheduled miles.



Note: May 2017 % of revenue miles is current as of May 29, 2017, but has not been finalized for the month.

Below is a sample of morning pull-out observations conducted by City staff. Observations noted are taken when the bus pulls out of the yard in relation to the scheduled time out of the yard as indicated on the bus assignment sheet.

- Jan 13, 2017
 - 18 buses pulled out 6 to 9 minutes late
 - 7 buses pulled out 10 to 15 minutes late
 - 4 buses pulled out 16 to 19 minutes late
 - 2 buses pulled out 20 or more minutes late
 - Out of the 31 buses that pulled out late, 3 buses did not contact the OCC

- April 28, 2017
 - 12 buses pulled out 6 to 9 minutes late
 - 2 buses pulled out 10 to 15 minutes late
 - 3 buses pulled out 16 to 19 minutes late
 - 4 buses pulled out 20 or more minutes late, with 28 minutes late being the latest pull out
 - Out of the 21 buses that pulled out late, only 7 buses contacted the OCC

Another key consideration in assessing FT's contractual compliance is in FT's ability to meet the Public Transit Department's key mission, as indicated in Exhibit A, Scope of Work, Section 1.9 Passenger Service and Community Engagement:

"The CITY's residents and transit passengers are not mere customers that consume a particular product or service (i.e., transit service). Such a view of residents and transit passengers devalues the very substantive, collaborative, and responsible role they play in co-creating the CITY's public transit services. The CITY's and the Valley's residents and passengers must be thought as partners, regardless of the nature of the interaction. This relationship enhances the standard principles that define good customer service and it seeks to forge a fuller, more equal, and more engaged relationship with residents and passengers. The Contractor's unequivocal mission is to ensure a pleasant, comfortable, safe, and engaging operating environment for passengers on-board buses."

FT's adverse performance in the areas of on-time performance and missed service, as well as highlighted in the preceding field observations, has negatively impacted the City's and the region's passengers, who count on reliable public transportation to reach their destinations on a daily basis. In compromising your relationship with our transit passengers, FT is also damaging the City's relationship and reputation with its passengers. Consequently, we request that FT diligently implement all necessary remediation steps to achieve compliance.

Required Cure and Assurances

The City issues First Transit, Inc. this letter in accordance with Contract Section 12. General Conditions and Section 13. D. Opportunity to Cure.

As stated above, we expect FT to diligently pursue all necessary cures immediately. In addition, no later than June 16, 2017, as assurance of FT's overall intent to cure and sustain contractually compliant performance, FT shall submit to the City the following plans:

- Cure Plan: The plan shall identify FT's short- and long-term plans to address OTP and missed service issues, including resource management strategies, planned and implemented efficiencies, and any other efforts that will result in positive performance.
- Assurance of Intent to Perform: The plan shall identify specific adjustments that FT will make and strategies FT will pursue to achieve sustained contractually compliant service.

The plans shall be submitted to Elizabeth Kellim at Elizabeth.kellim@phoenix.gov. Following receipt of these plans, the City will set up a meeting with FT to review and ensure a clear understanding of the plans and expectations for both the City and FT. Please bear in mind that it will be the City's acceptance, in its sole discretion, of a Cure Plan and the Assurance of Intent to Perform in order to ensure that FT is taking steps that will eventually make it compliant.

Mr. Nick Promponas
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The City is in support of FT's team and expects that FT will work to bring this contract into compliance. However, in the event that the City does not see a marked improvement in the aforementioned contract requirements by July 16, 2017, the City may, in its discretion, assess liquidated damages and proceed with any and all contractual and/or legal rights at its disposal.

Sincerely,



Maria Hyatt
Public Transit Director
Public Transit Department
302 N. 1st Avenue, Suite 900
Phoenix, AZ 85003

Cc: Contract File
Juan Antonio Lopez, First Transit, Inc., Regional Vice President
Allyn Keller, First Transit, Inc., General Manager
Jesus Sapien, PTD, Deputy Public Transit Director
Ted Mariscal, Law Department, Assistant City Attorney
Albert Crespo, PTD, Transit Superintendent
Edward Harrison, PTD, Transit Operations Contract Supervisor
Kim Hayden, PTD, Contract Specialist II - Lead
Elizabeth Kellim, PTD, Contract Specialist II
Roberto Valentin, PTD, Transit Field Operations Manager